

**COUNTY OF MONROE  
OFFICE OF THE SHERIFF  
ROCHESTER, NEW YORK**

<b>GENERAL ORDER Multi-Bureau</b>	<b>DATE OF ISSUE May 6, 2024</b>	<b>EFFECTIVE DATE May 6, 2024</b>	<b>No. 060-24</b>
<b>SUBJECT: GENERAL ORDER  Sex Offender Registration Act Policy</b>		<b>DISTRIBUTION  All Personnel</b>	<b>AMENDS</b>
<b>REFERENCE: SEX OFFENDER REGISTRATION ACT OF 1995; NYS Correction Law Article 6, C, Section 168; NYSLEAP 29.6</b>			<b>RESCINDS 060-17</b>

**Purpose:** To establish and define agency policy regarding registration procedures for convicted sex offenders as defined in the **Sex Offender Registration Act of 1995**.

\* **Policy:** The Sheriff's Office will be responsible for assisting sex offenders in the Sheriff's service area as promulgated by the **Sex Offender Registration Act**. Further, the Sheriff's Office will release information on the Sheriff's Webpage using Offender Watch regarding such offenders to the public as is appropriate by law and outlined in this Order.

**Definitions:** **Level One Offender** - An individual deemed to be a low risk to the community.

**Level Two Offender** - An individual deemed to be a moderate risk to the community.

**Level Three Offender** - An individual deemed to be a high risk to the community.

\* **Note:** All levels of risk are determined by use of the guidelines established by the **New York State Department of Criminal Justice Services (DCJS)**.

**Sexual Predator** - A sex offender who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes him or her likely to engage in predatory sexually violent offenses.

**Sexually Violent Offender** - A sex offender who has been convicted of a sexually violent offense as defined in **168(a) Subdivision 3 of the Correction Law**.

**Predicate Sex Offender** - A sex offender who has been convicted of a sex offense and who also has a prior conviction(s) of a sex offense.

\* **Agency Sex Offender Registry Coordinator** – A sworn member assigned to CIS who is responsible for maintaining an active list of all sex offenders on Offender Watch and to ensure that offenders are complying with New York State requirements in changes of address, annual verification, and photo updates.

**OffenderWatch**- A sex offender management and community notification tool that the Agency Sex Offender Registry Coordinator utilizes to manage and monitor the whereabouts, conduct, and compliance status of registered offenders within MCSO's jurisdiction.

**Cosmetic Lenses:** Costume contact lenses – also known as cosmetic or decorative contact lenses, are any type of contact lenses that are meant to change the appearance of your eyes. They include colored contacts, fashion lenses and lenses that can make your eyes look like vampires, animals or other characters.

## I. General Provisions

### A. Sex Offender Registration Act

- \* 1. **The Sex Offender Registration Act (SORA)** requires anyone convicted of a “sex offense” or a “sexually violent offense” as those terms are defined in §168-a of SORA on Parole or Probation or imprisoned for a sex offense or sexually violent offense on or after January 21, 1996, to register with the Division of Criminal Justice Services. In addition, sex offenders sentenced to probation, local jail, or state prison after that date must register upon their return to the community. New legislation between 1999 and 2002 included that additional offenses be added to the original list of registered offenses. The law is amended periodically by the **New York State Legislature** to add additional registered offenses.
- 2. Offenders who are convicted in other jurisdictions and reside or plan to reside in New York State are required by law to notify the **Division of Criminal Justice Services Sex Offender Registry** and the Division will notify the **Board of Examiners of Sex Offenders** which will determine whether registration is required.
- 3. The sentencing court determines an offender's risk level at the time of sentence (in probation, conditional/unconditional discharge cases). When the offender is released from custody (jail or prison) the **NYS Board of Examiners of Sex Offenders** evaluates these cases and makes a risk level recommendation to the court.
- 4. In addition to the risk level, the court also determines whether the offender should be designated a sexual predator, a sexually violent offender, or a predicate sex offender. This designation will govern the duration of the registration. All sex offenders are required to annually register, by mail, on the anniversary of the sex offender's initial registration date.
  - a. Sex offenders who have been designated as sexual predators, sexually violent offenders, or predicate sexual offenders, and who are classified as a Level 1, Level 2, or Level 3 risk remain on the **Sex Offender Registry (SOR)** for life.
  - b. Level 1 sex offenders with no designation must register for a period of twenty (20) years.
  - c. Level 2 sex offenders must register for life. A sex offender who is classified as a Level 2 risk and who is not designated a sexual predator, a sexually violent offender, or a predicate sex offender, and who has been registered for a minimum period of thirty (30) years may be relieved of any further duty to register upon the granting of a **Petition for Relief** by the sentencing court or by the court which made the determination regarding duration of registration and level of notification.

- d. Level 3 sex offenders must register for life. In addition to annual verification, Level 3 sex offenders must verify their address in person every ninety (90) days for life with a supervising agency.
  5. Failure to register is a class E felony. If convicted, each subsequent offense of failing to register is a class D felony.
  6. A Subdirectory of all sex offenders, an alphabetical list, and photos of high-risk offenders categorized by county and zip code, is supplied to local law enforcement agencies by the DCJS.
  7. The DCJS has established an informational phone number that the public may call for information regarding a specific offender.
  8. As of November 2002, New York State participates in the **National Sex Offender Registry**. Information on all registrants convicted of a qualifying offense in New York State is provided to the National Registry.
- B. Responsibilities of Authorities
1. Definite (Local) Sentences
    - a. The MCJ Rehabilitation Unit will identify offenders in custody who are required to register pursuant to the **NYS SORA**. This Unit will also be responsible to notify the **Board of Examiners of Sex Offenders** of such offender at least 120 days prior to the offender's expected release date. If an offender is sentenced to a term of less than 120 days, the facility must notify the Board of the offender's expected release date as soon as possible.
    - b. The MCJ Rehabilitation Unit will ensure that registration information is completed on all offenders who have been sentenced to local jail time and submitted to the **Division of Criminal Justice Services (DCJS)**.
    - c. A sex offender who is incarcerated will be registered fifteen (15) days prior to release. The facility will provide the offender with the registration form and a photograph of the offender will be taken at the time of registration for inclusion in the completed package prior to it being forwarded to the DCJS.
    - d. A copy of the form will be retained by the facility, a copy will be given to the offender at least ten (10) calendar days prior to the offender's release, and a copy will be submitted to the **Sex Offender Registry**.
  2. Change of Address
    - a. It is the responsibility of the offender to change their address within 10 days of moving. The Jail Rehabilitation Unit and the Booking Staff will assist incarcerated individuals where possible to complete Change of Address forms and to remain in compliance with the act.
    - \* b. Incarcerated Individuals coming into the jail who advise booking staff that they are a Registered Sex Offender will be advised that the Rehabilitation

Unit will notify the Sex Offender Registry of their change of address to the Monroe County Jail. The Rehabilitation Unit will then notify the Sex Offender Registry.

- c. Incarcerated Individuals who are Registered Sex Offenders who are being released will be provided with a Sex Offender Change of Address form prior to release. The incarcerated individual will complete the form to the best of their ability, at a minimum indicating the address he/she will be relocating to, and signing and dating the form. The completed form will be forwarded to the Director of Rehabilitation's office to be logged, and forwarded to the Sex Offender Registry.
- d. The Rehabilitation Directors Office will provide the Change of Address Form to the agency Sex Offender Registry Coordinator.

### 3. Probation Sentences

The court must advise offenders of their duty to register prior to sentencing. The law encourages the court to have the offender complete this registration at the time of sentencing. The court will determine the offender's risk level and advise the appropriate law enforcement agency. The DCJS has assumed responsibility for such notices.

### 4. State Prison Cases

These procedures are similar to those of definite (local) sentences. The **Department of Correctional Services (DOCS)** will notify the **Board of Examiners** who will, in turn, assess the risk level of the offender. This information will be passed on to the court as a recommendation. The court will determine the risk of the offender within thirty (30) days of the release. The DOCS will notify offenders of their duty to register within fifteen (15) days of release. The DOCS will also notify the local law enforcement agency of the offender's release.

### \* 5. Responsibilities of Director of Rehabilitation

- \* a. On a weekly basis, notifies DCJS, Monroe County Sex Offender Coordinator, and Rochester Police Department Sex Offender Coordinator of sex offenders who are being held in the Monroe County Jail.
- \* b. Upon an incarcerated individual's release. He/she is required to complete a change of address form. Jail records staff will forward the form to the Director of Rehabilitation, who will then send it to DCJS, Monroe County Sheriff's Office Sex Offender Coordinator, and RPD's Sex Offender Coordinator.
- \* c. Act as a liaison between the MCJ and other law enforcement agencies with regards to sex offenders who are or have been in custody.

### 6. Responsibilities of Sex Offender Coordinator- Criminal Investigations Section;

- a. Assist Level 3 offenders in meeting the ninety (90) day verification requirement and maintain record of such verification on a form signed by the offender.

- b. Ensure timely submission of address changes for all levels of offenders are completed and forwarded to the DCJS.
- c. Notify Zone Captains of new offenders in their respective zone and prepare community notification flyers as permitted by law and department guidelines.
- d. Immediately investigate all jurisdictional sex offenders that fail to report address changes or fail to comply with other registry requirements.

**Note:** When a sex offender is found to be noncompliant after an investigation by the coordinator, proper paperwork will be completed for an arrest. When the offender cannot be located, a warrant will be requested.

- e. Schedule an appointment with the sex offender for capture of photos at any of the Sheriff's Office Booking Stations.
- f. Actively monitor sex offenders that fall within the Sheriff's primary jurisdiction.
- g. Be provided a password by the DCJS and have access to all level registered sex offenders listed on the **NYS Sex Offender Registry** (via e-justice).
- h. Enter new sex offenders and update existing sex offender's information into the OffenderWatch software, but not limited to;
  - 1. Sex Offender's Name.
  - 2. Sex Offender's current address.
  - 3. Sex Offender's current level of risk.
  - 4. Area of responsibility (Agency responsible for tracking sex offender).
  - 5. Photos of the sex offender.
  - 6. Notes and/or incident reports for investigations.
  - 7. Crime and conviction the sex offender was convicted of committing.
  - 8. Any applicable reports can be uploaded and attached.

\* C. In the agency's effort to comply with current legislation, Data Works Plus will allow for the electronic transmission of photographs to the DCJS in Albany. Under the "Sex Offender" tab, staff will now have the ability to book "new sex offenders" in a similar fashion to an "arrest booking". Personnel who are currently certified to conduct arrest bookings have been granted access to the **Sex Offender Booking Rights**.

- 1. The DCJS will mail notice to the sex offender that the offender must report to the law enforcement agency where they reside to provide photos. The law enforcement

agency will also receive written notice of the sex offender's mandate to report.

**Note:** A Level 1 or Level 2 sex offender is required to personally appear at the law enforcement agency having jurisdiction within twenty (20) days of the third anniversary of their initial registration and every three (3) years thereafter to provide a current photograph.

A Level 3 sex offender is required to personally appear at the law enforcement agency having jurisdiction within twenty (20) days of the anniversary of the sex offender's initial registration and every year thereafter to provide a current photograph. All Level 2 and Level 3 offenders are also required to notify the DCJS, in writing, of his or her employer's name and address.

2. The Sex Offender is required to complete the photo within twenty (20) days of their anniversary date (initial registration date). A Sheriff's Office employee will refer the subject to the agency designated Special Operations Sex Offender Coordinator.

In the event that the sex offender is in the Monroe County Jail, the Sex Offender Coordinator will notify Jail Administration to coordinate the capture of the photos and prints.

3. The prisoner will be required to submit to retina photographs which will be submitted to the Incarcerated Individual Recognition Identification System (IRIS) which enables law enforcement agencies to enroll and positively identify individuals using biometric recognition technology. Individuals previously enrolled by a participating law enforcement agency can be identified as well as a partial criminal background of an individual.

**Note:** The prisoner cannot wear cosmetic lenses as this causes an inaccurate scan. Standard contact lenses may be worn.

- \* 4. Any time a sex offender has their photos captured pursuant to the law, the state will automatically upload the updated photograph onto the ejustice site from Data Works Plus. The state will also notify the MCSO CIS Sex Offender Coordinator and advise that photos are due for processing to ensure proper tracking.
5. Out of State/County Transfers which are within the Sheriff's Primary Jurisdiction.

D. Paperwork Distribution

- \* 1. Two forms are used by New York State for sex offender documentation:
  - a. **Sex Offender Registration Form (DCJS 3230).**
  - b. **Sex Offender Change of Address Form (DCJS 3231).**

\* Note: Form will be forwarded to DCJS. Offender may request a copy. Coordinator will update Offender Watch.

- \* 2. All agency records will be kept on file in Offender Watch.

E. Access to Files and Subdirectory

1. All citizen requests to review the **New York State Subdirectory** will state a purpose in writing and will be maintained by C.I.S. Subdirectory access will be made available during normal business hours. In cases with extenuating circumstances, alternate arrangements may be made.
2. Department members (or members of other law enforcement agencies) may also view the Subdirectory. However, the Directory will remain within the confines of C.I.S.
3. Each local law enforcement agency receives from the **New York State Division of Criminal Justice Services** a copy (electronically or on a CD ROM) of the Subdirectory of Level 2 & 3 Sex Offenders. Local law enforcement is required to maintain the Subdirectory for the public to view upon request.

Access to the sex offender registry for all levels will require a password provided by the DCJS.

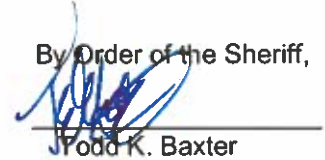
- a. All Level 2 sex offenders will now be included in the Subdirectory on the DCJS public website, in addition to Level 3 offenders who have been listed in the website's Subdirectory since 2000. The exact residence addresses of Level 2 offenders and employment addresses, if available, will be listed.
- b. Law enforcement agencies will be able to provide community notification regarding Level 1 offenders, similar to what is currently allowed for Level 2 offenders. This information includes a name, photograph, approximate address by zip code, offense description, and their Probation or Parole condition.
4. In May 1998, the **United States District Court for the Southern District of New York** issued an injunction prohibiting the State from classifying any sex offender who committed his or her crime prior to January 21, 1996 to a risk level higher than a Level 1 for purposes of community notification, unless the offender has had an opportunity to avail himself or herself of a hearing to contest the higher risk level. Accordingly, while the injunction remains in effect, Level 3 sex offenders who committed their crime prior to January 21, 1996 cannot be included in the Subdirectory at this time.

F. Notification Process

1. Relevant information regarding Level 1 offenders may be released pursuant to New York State Law. An offender's zip code may be released at this level along with their name, crime of conviction, modus operandi, photograph, and any special conditions of release.
- \* 2. Information regarding Level 2 and Level 3 offenders may include the offender's exact address, as well as the information described above regarding Level 1 offenders. As with Level 1 offenders, all appropriate agencies and areas will be notified of the presence of an offender.
- \* 3. Citizens can sign up for free email alerts by accessing the Offender Watch which notifies them of offenders that are within a 1 mile radius of their location.

4. Although the responsibility is placed on the offender to meet registration requirements, it is to the benefit of the Monroe County Sheriff's Office and the community to assist sex offenders in these requirements. By doing so, the agency is able to maintain a more updated and accurate listing of sex offenders in our community.

By Order of the Sheriff,



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J. Todd K. Baxter

- \* Indicates changes from the original and any previous versions of this General Order.
- \* NYS Penal Law Statutes- See Pages 9 & 10 below

The following list contains the **New York State Penal Law Statutes** for which registration as a sex offender is

required. Registration as a sex offender is required upon a conviction of a listed offense, a conviction for an attempt to commit a listed offense, a conviction of/or a conviction for an attempt to commit a listed offense as a hate crime or a crime of terrorism.

Penal Law Statute	Offense Class	Offense
130.20	A Misdemeanor	Sexual Misconduct.
130.25	E Felony	Rape in the third degree.
130.30	D Felony	Rape in the second degree.
130.35	B Felony	Rape in the first degree.
130.40	E Felony	Criminal sexual act in the third degree.
130.40	E Felony	Sodomy in the third degree.
130.45	D Felony	Criminal sexual act in the second degree.
130.45	D Felony	Sodomy in the second degree.
130.50	B Felony	Criminal sexual act in the first degree.
130.50	B Felony	Sodomy in the first degree.
130.52*	A Misdemeanor	Forcible touching.
130.53	E Felony	Persistent sexual abuse.
130.55*	B Misdemeanor	Sexual abuse in the third degree.
130.60	A Misdemeanor	Sexual abuse in the second degree.
130.65	D Felony	Sexual abuse in the first degree.
130.65-a	E Felony	Aggravated sexual abuse in the fourth degree.
130.66	D Felony	Aggravated sexual abuse in the third degree.
130.67	C Felony	Aggravated sexual abuse in the second degree.
130.70	B Felony	Aggravated sexual abuse in the first degree.
130.75	B Felony	Course of sexual conduct against a child in the first degree.
130.80	D Felony	Course of sexual conduct against a child in the second degree.
130.90	D Felony	Facilitating a sex offense with a controlled substance.
135.05**	A Misdemeanor	Unlawful imprisonment in the second degree.
135.10**	E Felony	Unlawful imprisonment in the first degree.
135.20**	B Felony	Kidnapping in the second degree.
135.25**	A-1 Felony	Kidnapping in the first degree.
230.04***	A Misdemeanor	Patronizing a prostitute in the third degree.
230.05	E Felony	Patronizing a prostitute in the second degree.
230.06	D Felony	Patronizing a prostitute in the first degree.
230.30(2)	C Felony	Promoting prostitution in the second degree.
230.32	B Felony	Promoting prostitution in the first degree.
235.22	D Felony	Disseminating indecent material to minors in the first degree.
250.45(2), (3) and (4)****	E Felony	Unlawful surveillance in the second degree.
250.50	D Felony	Unlawful surveillance in the first degree.
255.25	E Felony	Incest.
263.05	C Felony	Use of a child in a sexual performance.
263.10	D Felony	Promoting an obscene sexual performance by a child.
263.11	E Felony	Possessing an obscene sexual performance by a child.

263.15	D Felony	Promoting a sexual performance by a child.
263.16	E Felony	Possessing a sexual performance by a child.

- \* A registerable offense only if the victim is less than eighteen (18) years old or where the defendant has a prior conviction for forcible touching or sexual abuse in the third degree or an attempt thereof even if registration was not required for the prior conviction; regardless of when the prior conviction occurred.
- \*\* A registerable offense only if the victim is less than seventeen (17) years old and the offender is not the parent of the victim.
- \*\*\* A registerable offense only if the person patronized is in fact less than seventeen (17) years old.
- \*\*\*\* A registerable offense unless the trial court finds that registration would be unduly harsh and inappropriate. Unlike the other registerable offenses, the attempt version of an unlawful surveillance offense is not registerable.