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## I. Background

In order to put its Response in context, the GBI is providing certain background information and supporting documents. Additionally, the GBI encloses an Appendix A that contains clarification regarding a few incomplete or inaccurate statements in the Draft Audit Report that have not been specifically addressed in the Response.

### A. The Statute and the 2006 Amendment

In 1996, the Georgia General Assembly enacted the “State Sexual Offender Registry,”<sup>1</sup> codified at O.C.G.A. § 42-1-12 et seq. In 2006, the Georgia General Assembly passed House Bill 1059 (hereinafter the “2006 Amendment”), which significantly changed O.C.G.A. § 42-1-12 et seq. The statute places significant responsibilities on the GBI, as well as other agencies; however, the General Assembly has never funded the changes required by the amendments to O.C.G.A. § 42-1-12, including the 2006 Amendment. The Draft Audit Report focuses on “registry activity between July 2006 and December 2009, because legislation effective in 2006 brought about many changes in the responsibilities of various state and local entities.”<sup>2</sup> For the most part, the GBI will also focus on this time period in its Response.

### B. GBI Management’s Efforts to Improve the Sex Offender Program

In some sense, many of the findings in the Draft Audit Report are old news to the GBI as it has been documenting these same problems for years. This section will provide a summary and supporting documentation regarding GBI management’s efforts to improve the program.

Prior to the passage of the 2006 Amendment, GBI management prepared a document entitled “Georgia Sex Offender Registry System Replacement/Enhancement” in November

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<sup>1</sup> The Draft Audit Report incorrectly describes it as the “Georgia Bureau of Investigation’s Sexual Offender Registry” on the unnumbered first page.

<sup>2</sup> Draft Audit Report at 35.

2005.<sup>3</sup> It recommended “full system replacement” to resolve the issues that had already been identified by both criminal justice and public users. Specifically, the benefits of replacing or enhancing the system were explained as follows:

requested enhancements that would improve record data quality, expand input capabilities, create additional notification and search capabilities, improve flagging capabilities, automate manual processes, and provide better tracking features for local jurisdictions would be possible. Access to the public registry would be real time instead of 24 hours old as with the current process of providing a daily update to GTA for web presentation.

After the passage of the 2006 Amendment, GBI management prepared a comprehensive review of the program in a document entitled “Georgia’s Sex Offender Registry” in July 2006.<sup>4</sup> According to this review, “[t]he program began with a staff of one GBI employee and one temporary employee. Ten years, 12,307 offenders later, the program is staffed with two GBI employees and one temporary.” The review also explained that the GBI website became operational in 1998.

In August 2006, GBI management wrote a paper for the Governor’s Office entitled “Proposal to Improve Georgia’s Sex Offender Registry” in order to provide information regarding the implementation of the requirements of the 2006 Amendments.<sup>5</sup> This proposal explained the additional requirements, summarized their impact and proposed a solution as follows:

Legislation passed by the 2006 Georgia General Assembly amended O.C.G.A. §42-1-12 related to sexual offender registration requirements. These additional registration requirements greatly affect operation of the Registry.

Specifically, GBI is required to make changes to the sex offender database in order to collect additional descriptive data on the offender, vehicle information, and addresses of all permanent or temporary residences. The GBI must also make

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<sup>3</sup> A copy of the Georgia Sex Offender Registry System Replacement/Enhancement (Nov. 2005) is attached as Exhibit 1.

<sup>4</sup> A copy of the Georgia Sex Offender Registry (July 2006) is attached as Exhibit 2.

<sup>5</sup> A copy of the Proposal to Improve Georgia’s Sex Offender Registry (August 2006) is attached as Exhibit 3.

programming changes to accommodate the registration notification, which is now based on the offender's birth date. Finally, the GBI faces both programming and operational impact to accommodate the change in the requirement to register for life instead of ten years, especially as the number of registered offenders continues to increase. However, the GBI must make changes to the database and registry before any of this newly required information can be entered and shared with other criminal justice entities, or posted to the public registry, when appropriate. The current database is in the original format created in 1996 after the initial legislation. Major modifications to this database are time consuming and costly.

To remedy the current database limitations, the GBI seeks to modernize and replace the Registry using web technologies, which will allow GBI to accommodate requests from Sheriff's and other customers. Moving to web technologies will ensure greater flexibility for the State to incorporate future updates or enhancements as dictated by state or federal legislation, operational needs, or public demands. Increased capabilities would also allow the sex offender database to link to other databases to help improve record accuracy or offender tracking, such as address verification or developing a link with the Department of Corrections for information on re-incarceration of offenders.

On September 20, 2006, Director Keenan had then GCIC Assistant Deputy Director Terry Gibbons<sup>6</sup> provide a briefing on the revised statute for the Board of Public Safety.<sup>7</sup> ADD Gibbons presented a PowerPoint presentation of the highlights of the 2006 amendments.<sup>8</sup> She explained that there are 12,358 offenders in the registry and that all will now be required to register for life. Prior to the 2006 amendment, there were only 747 offenders required to register for life. The law now required all sex offenders currently incarcerated and all sentenced after July 1, 2006 to be reviewed by the Sexual Offender Review Board and designated as a Level 1 or 2 offender, or sexual predator. She also reviewed the responsibilities of the GBI, the Department of Corrections, and the Sheriffs.

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<sup>6</sup> Assistant Deputy Director Gibbons has been promoted to the position of Deputy Director and is responsible for the operation of the Georgia Crime Information Center (GCIC), one of the three divisions of the GBI. She is also the primary author of Exhibits 1-3 and 5-7 and provided the management oversight over the sex offender program during the majority of the period reviewed. Despite the conclusions regarding the lack of effective management of the program, Deputy Director Gibbons was never interviewed by the audit team.

<sup>7</sup> A copy of the September 20, 2006 Board of Public Safety Minutes is attached as Exhibit 4.

<sup>8</sup> A copy of the PowerPoint presentation entitled "Georgia's Sexually Violent Offender Registry" is attached as Exhibit 5.

The next portion of the briefing was devoted to identifying the challenges the 2006 amendment poses to the Sheriffs, the Department of Corrections and the GBI. As a result of the challenges facing the Sheriffs, a Sex Offender Registration Task Force was created. It is a division of the Georgia Sheriff's Association and comprised of sheriffs' office personnel from Georgia's nine regions. Its mission is to provide technical assistance to sheriffs' offices; provide consistency in the law enforcement interpretation of the laws; and to identify issues or problems. Prior to the 2006, the GBI had assumed the role of training and providing technical assistance to the sheriffs. The GBI was instrumental in transitioning this responsibility to the Georgia Sheriffs' Association and the Registration Task Force.

With regard to the challenges faced by GBI, the presentation identifies the following challenges:

#### Challenges Identified by GBI

Requires revision/rewrite of sex offender data base and programs to capture new registration requirements, but no funding received

No funds received for additional operational costs and staff (currently staffed by two state employees and one contract employee)

GBI has revised the Sexual Offender Notification Form and provided [it] to DOC, Board of Pardons and Paroles, and Georgia Sheriff's Association. This allows each entity to begin collection of all required offender data in paper format

Changes must be made to the database and registry before the collected information can be entered and shared with other criminal justice agencies, or posted to the public registry when appropriate

All other changes required of GBI to bring the State Registry in compliance cannot be accomplished in a timely manner without additional funding

To remedy the current database limitations and provide capabilities requested by Sheriffs and DOC, GBI seeks to modernize and replace the Registry using web technologies<sup>9</sup>

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<sup>9</sup> Exhibit 5 at slides 21-23.

GBI's need for additional funding is also reported in the September 20, 2006 Minutes: "All other changes required of GBI to bring the Registry in compliance cannot be accomplished without additional funding."

At the September 20, 2006 meeting, Board Attorney Joe Drolet<sup>10</sup> provided an update on the litigation involved in the new sex offender legislation. It was summarized as follows in the Board Minutes:

He stated there is a federal class action lawsuit pending in Northern District of Georgia, wherein all sex offenders are members of the Class Plaintiffs; with Governor Perdue, Attorney General Thurbert Baker, as well as all Sheriffs, as Class Defendants. The Attorney General's office has filed a motion to dismiss the case, which raises the issue of which portions of the law are valid. Mr. Drolet stated that they are hoping that the court will pare down the litigation to find the particular [problems]. Meanwhile, people are bringing suits in superior courts around the state. There are 38 or 39 as of today that have been brought in particular counties, either against probation officers or sheriffs or against the State of Georgia or the Department of Corrections, even one naming Vernon Keenan as a defendant. A lot of these lawsuits have been dismissed on procedural grounds; on others, there are hearings coming up on issues of whether people should be on the Registry at all; on the school bus stop provision; on the swimming pool provision; and on the church provision. There are cases pending all over the state right now on this legislation. Mr. Drolet stated he has taken a great deal of time to stay on top of these issues and to meet all the deadlines of these various lawsuits, which can be very intensive on filing briefs and answers. Many motions to dismiss are being filed to bring the issues to a head in the various courts.

In November 2006, GBI management prepared yet another document entitled "Georgia Sex Offender Registry Proposed Enhancements/Features."<sup>11</sup> Reviewing this document as well as the November 2005 "Georgia Sex Offender Registry System Replacement/Enhancement" shows that GBI has been aware of the audit recommendations for over four years. Among others, GBI management identified the following needed enhancements in November 2006:

- (1) Ability to capture additional data fields as allowed by the NCIC's National Convicted Sex Offender file to include such data as driver and vehicle information,

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<sup>10</sup> As well as acting as the Board of Public Safety's Attorney, Mr. Drolet is the Senior Assistant Attorney General responsible for the Public Safety section of the Georgia Attorney General's Office.

<sup>11</sup> A copy of the Georgia Sex Offender Registry Proposed Enhancements/Features is attached as Exhibit 6.

- additional offender information such as alias information and telephone number, active warrant number, and additional information about the offense, place of crime and county of conviction, as well as additional information about the victim (sex and race);
- (2) Explore capabilities to map offender address locations as well as residence locations in relation to schools, churches, etc.;
  - (3) Place all available offender management reports on the GCIC internal web so the sheriff can retrieve reports at any time; or create capability for sheriff to create and request same reports for any month or time frame by month(s) as desired.
  - (4) Create an audit log for each offender record of all previous addresses, employers and schools for access only by sheriffs and probation officers as an investigative tool for tracking and locating offenders;
  - (5) Increase automated notification capabilities to sheriffs to include notifications such as “Annual Registration Letter Returned Undeliverable”, “Record Now Delinquent”, or “Record Never Verified”. This would eliminate the current manual notifications to sheriffs ensuring more timely notice, savings in manpower hours, supplies, postage, etc.;
  - (6) Ability for Department of Corrections (including probation officers) to modify record entries for purposes of address updates, DNA, and aggravated/multiple offender flags. This would eliminate duplicate entries GCIC currently receives and has to research;
  - (7) Develop automated process to set aggravated and multiple offender flags based on offense code or multiple receipts of registration records from appropriate state officials. Currently these flags are set after manual review of the record during continuous quality assurance audits;
  - (8) Ability for sheriff to submit and update photos directly to the web. Currently, photos must be sent with the initial record entry or must be e-mailed or faxed to GCIC for conversion to the web. This would require local jurisdictions purchase digital camera; and
  - (9) Create additional search capabilities for sheriffs to include allowing them to search for delinquent records, absconders, etc., to assist them in monitoring offenders and local record keeping.

In addition to Georgia’s enactment of the 2006 Amendment, Congress passed the Adam Walsh Child Protection and Safety Act of 2006 on July 27, 2006. Title I of the Adam Walsh Act is entitled the Sex Offender Registration and Notification Act (SORNA). With the passage of

SORNA, GBI management proactively responded by preparing an Executive Summary regarding SORNA Requirements and Compliance Status/Impact for Georgia dated September 18, 2007.<sup>12</sup> It painstakingly reviews SORNA's requirements and then analyzes the Compliance Status/Impact for Georgia in the following areas:

- (1) Covered Jurisdictions;
- (2) Definitions;
- (3) Juveniles;
- (4) Classes of Sex Offenders;
- (5) Required Registration Information;
- (6) Disclosure and Sharing of Information (addresses the public website as well as other areas);
- (7) Where Registration is Required;
- (8) Initial Registration;
- (9) Keeping Registration Current;
- (10) Verification/Appearance Requirements; and
- (11) Enforcement of Registration Requirements.

This document was provided to the Governor's Office, as well as the Attorney General's Office and utilized as the seminal document in the work of the Georgia Adam Walsh Act Work Group led by the Criminal Justice Coordinating Council. The Draft Audit Report clearly summarizes the creation, formation and purpose of the Georgia Adam Walsh Act Work Group.

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<sup>12</sup> A copy of the Executive Summary and SORNA Requirements and Compliance Status/Impact for Georgia is attached as Exhibit 7.



In sum, GBI management has proactively analyzed the problems and proposed solutions for the past five years. Regrettably, its requests for resources have not been heeded. Hopefully, the Department of Audits and Accounts will have more success.

C. Requests for Federal Grants

As the GBI was unsuccessful in obtaining any state funding, GBI management decided to pursue federal funds as well. On February 5, 2007, the GBI requested grant funds from the National Criminal History Program (NCHIP)<sup>13</sup> for improvements for the Sexual Offender Registry, as well as the Protective Order Registry and Uniform Crime Reporting projects.<sup>14</sup> The request sought \$153,000 for a web-based application and \$141,960 for personnel costs (\$117,000/computer programmer and \$24,960/analyst). The FY07 NCHIP Grant described the request relating to the Sexual Offender Registry as follows:

GBI is requesting \$294,960 in funds to move the current system to a web-based application and in order to facilitate this change an analyst and a programming position will need to be funded. Through the establishment of web technologies GBI will ensure greater flexibility for the State to incorporate future updates or enhancements as dictated by state or federal legislation, operational or customer needs, and public demands. With the new system, capabilities would also exist to link the sex offender database to other databases to help improve record accuracy and offender tracking, such as address verification or developing a link with the Department of Corrections for information on re-incarceration of offenders. Access to the public registry would be real time instead of 24 hours old as with the current process of providing a daily update to the Georgia Technology Authority for web presentation. The cost includes a web programmer to enhance the current SOR system to migrate the application to a web hosted environment, an analyst to assist with the development and enhancement of the program and the purchase of hardware and software.

This grant request was denied.

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<sup>13</sup> According to the Bureau of Justice Statistics website, “National Criminal History Improvement Program (NCHIP) provides financial and technical support to States in improving the accuracy, utility, and interstate accessibility of criminal history records and enhancing records of protective orders involving domestic violence and stalking, sex offender records, automated identification systems and other State systems supporting national records systems and their use for background checks” (quoted from <http://bjs.ojp.usdoj.gov/index.cfm?ty=fun#programs> and retrieved on July 5, 2010).

<sup>14</sup> A copy of the February 5, 2007 NCHIP Grant Request is attached as Exhibit 8.

On September 4, 2007, the GBI requested grant funds from the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART)<sup>15</sup> to modernize and replace the current state Sexual Offender Registry.<sup>16</sup> The request was for \$294,960.00 in funds.

The Program Abstract described the request as follows:

Georgia's Sex Offender Registry will require modernization into a system that allows additional system modifications to meet the federal requirements as well as any further changes to Georgia laws without extensive and continuous funding.

GBI is requesting \$294,960.00 in grant funds to modernize and replace the current state Registry using web technologies, which will allow GBI to incorporate the requirements of the Adam Walsh Act and future updates or enhancements as dictated by state or federal legislation, operational needs, or public demands. Increased capabilities would also allow the sex offender database to link to other databases to help improve record accuracy or offender tracking, such as address verification or developing a link with the Department of Corrections for information on re-incarceration of offenders. Offender images would be stored in a format allowing sharing with the FBI's National Crime Information Center (NCIC) Convicted Sex Offender File for use by all criminal justice agencies throughout the United States. Access to the public registry would be real time instead of 24 hours old as with the current process of providing a daily update to GTA for web presentation.

GBI will create the framework for an enhanced process that will result in reduced costs for future changes as well as result in optimal customer service delivery through process improvements and easier access to information for both criminal justice agencies and the public.

This request for grant funds was denied.

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<sup>15</sup> According to its website, "the SMART Office was authorized in the Adam Walsh Child Protection and Safety Act of 2006, which was signed into law on July 27, 2006. The responsibilities of the SMART Office include providing jurisdictions with guidance regarding the implementation of the Adam Walsh Act, and providing technical assistance to the states, territories, Indian tribes, local governments, and to public and private organizations. The SMART Office also tracks important legislative and legal developments related to sex offenders and administers grant programs related to the registration, notification, and management of sex offenders" (quoted from <http://www.ojp.usdoj.gov/smart/> and retrieved on July 5, 2010).

<sup>16</sup> A copy of the September 4, 2007 email regarding the grant and the attached grant documents is attached at Exhibit 9.

On May 7, 2008, the GBI again requested grant funds from the SMART office to modernize and replace the state Sexual Offender Registry.<sup>17</sup> The same documents were used to support the 2008 request as were used in 2007. The 2008 request was also denied.

#### D. Sex Offender Program Staffing

The GBI has made great efforts to utilize its limited manpower to fulfill its statutory responsibilities for the state Sexual Offender Registry; however, the GBI has never had the funding to staff the program to the level contemplated by the Draft Audit Report. In the section of the Draft Audit Report regarding the Sex Offender Review Board, the auditors recognize “size obviously limits the number of assessments that can be completed.”<sup>18</sup> Yet the Draft Audit Report makes no mention of the staffing for the GBI’s program. Hence for the sake of completeness, the GBI requests that the Draft Audit Report include information regarding GBI staff, which was provided to the auditors.<sup>19</sup>

At inception, the program was staffed with one GBI employee and one temporary worker. In 2006, ten years after the enactment of the Registry, the program was staffed with two GBI employees and one temporary. In February 2007, the GBI decided to use \$50,000 in 2006 NCHIP grant funds to hire 3.5 temporary workers to convert paper files that contained registration forms and other documents related to the sex offender program in the image archive system. The image archive project was not completed when the grant funds expired; however the GBI continued to staff the program with the 3.5 temporary workers.

In August and September of 2008, the GBI discontinued its utilization of temporary workers due to budget shortfalls. In recognition of the importance of the Sex Offender Program,

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<sup>17</sup> A copy of the March 7, 2008 Grant Request is attached as Exhibit 10.

<sup>18</sup> Draft Audit Report at 28.

<sup>19</sup> A copy of the October 8, 2009 email and accompanying “Sex Offender Program Personnel Analysis” is attached hereto as Exhibit 11.

two fulltime GBI employees were moved to the Sex Offender Program for budget purposes on December 1 and 16, 2008, respectively.<sup>20</sup> These two employees split their time between the Protective Order Program and the Sex Offender Program. Essentially, these two fulltime employees spend approximately 40 to 50% of their time on the Sex Offender Program. Consequently for the remainder of FY 2009, there were 2 employees responsible for the Sex Offender Program and two fulltime employees who spend approximately 50% of their time on the Protective Order Program as opposed to 6.5 people.<sup>21</sup>

During the first quarter of FY 2010 on September 16, 2009, the Program Manager, Laura Tate, was promoted and placed in charge of the entire Criminal Justice Information Systems (CJIS) Program. The Program Analyst, Mr. Melvin Jones was promoted to the position of Sex Offender Program Manager on October 16, 2009. His position as an analyst supporting the program remained vacant until May 1, 2010 when another GCIC employee was promoted into the position. GBI was able to assign a temporary worker to the program effective February 1, 2010.

In sum, the following summarizes the fluctuation in staffing for the Sex Offender Program.

	<u>State Employees</u>	<u>Temporary/Contract Workers</u>	<u>Total Staff</u>
July 1996	1	1	2
July 2006 <sup>22</sup>	2	1	3
February 2007	2	4.5	6.5

<sup>20</sup> Of course, this is an example of robbing Peter to pay Paul. The other programs, the Protection Order Registry and the NCIC programs had their staffing decreased.

<sup>21</sup> Exhibit 11.

<sup>22</sup> The GBI has not researched the exact staffing for the period from July 1, 1996 to July 1, 2006 because the Draft Audit Report focuses on the period from July 1, 2006 to the present. The inclusion of the information from July 1, 1996 is merely to provide a baseline and was obtained from Exhibit 2.

August 2008	3	0	3
September 2009	2	0	2
January 2010	2	1	3
May 2010	3	1	4

E. GCIC Positions

In addition to the lack of funds to staff the sex offender program, GCIC as a division has lost a significant number of its positions, as well as the employees assigned to those positions (see Table 1 below). As of July 1, 2006, GCIC had 125 total positions and 113 of the positions were filled. As of July 1, 2010, GCIC has 91 total positions and 85 are filled. GCIC has lost 27% of its positions and 25% of the employees who perform the work.

Fiscal Year	Total Positions	Filled	Vacant
2006	125	113	12
2007	125	108	17
2008	125	107	18
2009	115	94	21
2010	91	85	6

Table 1

F. Audit

On January 21, 2009 Director Leslie McGuire notified GBI Director Vernon M. Keenan that the Department of Audits and Accounts would be starting a performance audit of the State

Sex Offender Registry around late January.<sup>23</sup> On January 29, 2009, Department of Audits' staff met with GBI personnel to discuss the performance audit. At the meeting, GBI was advised that the performance audit would take from three to six months to complete and that the primary purpose of the audit was to assess the reliability of data.

Four months later on May 7, 2009, Director McGuire provided an update on the performance audit.<sup>24</sup> She advised that the auditors had completed the background work and developed a "project plan." On June 2, 2009, Senior Management Analyst JoAnn Paxson sent an email message advising that they had decided to "temporarily stop work on our review of the SOR" due to a "significant number of assignments we have received in the form of legislative requests."<sup>25</sup> After this interruption, the performance audit resumed at some point during September of 2009. On September 10, 2009, Ms. Paxson and other members of the team met with GBI personnel to discuss the status of the project and what remained to be done at GBI.

On June 23, 2010, eighteen months after the initial letter, GBI received a letter dated June 21, 2010 enclosing the Draft Audit Report.<sup>26</sup> It requested a response by July 5, 2010. GBI requested and received an extension for its response. Accordingly, the GBI response due date was extended to July 12, 2010, giving the GBI twelve work days to respond to an audit that took approximately thirteen months to complete.<sup>27</sup>

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<sup>23</sup> A copy of the January 21, 2009 letter is attached as Exhibit 12.

<sup>24</sup> A copy of May 7, 2009 letter from Director McGuire is attached as Exhibit 13.

<sup>25</sup> A copy of the June 2, 2009 email from Ms. Paxson is attached as Exhibit 16.

<sup>26</sup> A copy of the June 21, 2010 letter from Director McGuire and attached Draft Audit Report is attached as Exhibit 14.

<sup>27</sup> This is an estimate as GBI does not know the exact dates that the auditors worked on the project. The estimate was calculated using the following approximations: work on the audit began on February 2 and continued through June 2, 2009 (four months) and then resumed on September 21, 2009 to June 21, 2010 (nine months).

## II. Response

### A. The Computer system

The GBI agrees with the Draft Audit Report's conclusion that the "computer system used to store the state's SOR is outdated and inflexible to the extent that it must be replaced."<sup>28</sup> The GBI is in agreement with the majority of the Recommendations regarding the system<sup>29</sup> and will indicate in its response where it has previously made the same recommendations.

The following list has the Draft Audit Report Recommendation in italics and the GBI Response (including previous recommendations) in regular type.

1. *GBI management should pursue the development or purchase of a new system that considers both state statute and the needs of SOR users, such as sheriffs' office, GDC, and the Sex Offender Registration Review Board.*

The GBI agrees with Recommendation 1.

2. *GBI should ensure its new system balances the need to maintain data security with the functional needs of the system's users. Access to the system should be tiered based on the user's role and the user's need to retrieve or submit relevant information.*

The GBI agrees with Recommendation 2; but notes that the ability to submit information directly into the Registry is limited by federal and state law to authorized users (known as terminal operators) who have been trained and certified to utilize the Criminal Justice Information System (CJIS). The Draft Audit Report states that access to the SOR is "limited to a small number of staff in sheriffs' offices" and then states that an "efficient system would give access to the users who most need the information."<sup>30</sup> Every sheriff's office in the state has staff members who are trained and certified as terminal operators. These terminal operators access the CJIS network to obtain criminal history record information, request information on arrest warrants, and enter stolen property and vehicles into the CJIS system. They are also

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<sup>28</sup> Draft Audit Report at 10.

<sup>29</sup> Draft Audit Report at 15.

<sup>30</sup> Draft Audit Report at 11.

authorized to update a registered sex offender record; however it may be that they are not assigned to the program or have too many other duties to assume an additional duty. This is a resource issue at the sheriff's office and not a barrier imposed by GBI.

3. *GBI should ensure that any new system addresses the problems identified in this finding, and includes the following attributes:*
  - a. *Flexibility to add or modify fields as required*

The GBI agrees and notes its statement from November 2006.

[**GBI Nov. 2006**] Ability to capture additional data fields as allowed by the NCIC's National Convicted Sex Offender file to include such data as driver and vehicle information, additional offender information such as alias information and telephone number, active warrant number, and additional information about the offense, place of crime and county of conviction, as well as additional information about the victim (sex and race).

- b. *Ability to accept additions or updates transmitted by other systems in real time*

The GBI agrees and notes its statement from November 2005.

[**GBI Nov. 2005**] With the system replacement, requested enhancements that would improve record data quality, expand input capabilities, create additional notification and search capabilities, improve flagging capabilities, automate manual processes, and provide better tracking features for local jurisdictions would be possible. Access to the public registry would be real time instead of 24 hours old as with the current process of providing a daily update to GTA for web presentation.

- c. *Enhance validation process, such as edit checks and address validations*

The GBI agrees and notes its statements from November 2005 and 2006.

[**GBI Nov. 2005**] Capabilities would also exist with this upgrade to link the sex offender database to other databases to help improve record accuracy or offender tracking, such as address verification or develop link with Department of Corrections for information on re-incarcerations of offenders.

[**GBI Nov. 2006**] Explore capabilities to map offender address locations as well as residence locations in relation to schools, churches, etc.

- d. *Documentation of content changes with their sources identified by user and effective date*

The GBI agrees and notes its statements from November 2006.



[GBI Nov. 2006] Place all available offender management reports on the GCIC internal web so the sheriff can retrieve reports at any time; or create capability for sheriff to create and request same reports for any month or time frame by month(s) as desired.

[GBI Nov. 2006] Create an audit log for each offender record of all previous addresses, employers and schools for access only by sheriffs and probation officers as an investigative tool for tracking and locating offenders.

*e. Expanded and easily-defined notification and reporting capabilities*

The GBI agrees and notes its statements from November 2006.

[GBI Nov. 2006] Increase automated notification capabilities to sheriffs to include notifications such as “Annual Registration Letter Returned Undeliverable”, “Record Now Delinquent”, or “Record Never Verified”. This would eliminate the current manual notifications to sheriffs ensuring more timely notice, savings in manpower hours, supplies, postage, etc.

[GBI Nov. 2006] Ability for Department of Corrections (including probation officers) to modify record entries for purposes of address updates, DNA, and aggravated/multiple offender flags. This would eliminate duplicate entries GCIC currently receives and has to research.

[GBI Nov. 2006] Develop automated process to set aggravated and multiple offender flags based on offense code or multiple receipts of registration records from appropriate state officials. Currently these flags are set after manual review of the record during continuous quality assurance audits.

[GBI Nov. 2006] Ability for sheriff to submit and update photos directly to the web. Currently, photos must be sent with the initial record entry or must be e-mailed or faxed to GCIC for conversion to the web. This would require local jurisdictions purchase digital camera.

*f. Greater search capabilities*

The GBI agrees and notes its statements from November 2006.

[GBI Nov. 2006] Create additional search capabilities for sheriffs to include allowing them to search for delinquent records, absconders, etc., to assist them in monitoring offenders and local record keeping.

In sum, the GBI makes the following response to the Recommendations 1 to 3 on page 15.

In the years prior to this Audit, the GBI has been proactive in its efforts to shed light on the computer issues identified by the auditors in Recommendations 1 to 3. GBI has identified each of these functionalities in previous briefing documents, presentations and grant applications. The GBI has sought either state or federal

funds to develop and/or purchase a new computer system since 2005. These efforts have been unsuccessful. On June 30, 2010, the Governor's Office requested another one-year extension for compliance with the Adam Walsh Act. The programming for a new computer system will be dependent upon the Governor's decision regarding compliance with Adam Walsh Act; however regardless of that decision, a new system is sorely needed.

4. *GBI should also consider our recommendations for improvements to its public SOR website (pp 18-20) when determining the functionality required for its new system.*

With regard to Recommendation No. 4, GBI agrees subject to the statements made in its response to the specific Recommendations regarding the website.

5. *Because the successful implementation of a new sex offender registry affects multiple state and local government agencies as well as the public, GBI should ensure that best practices are followed for system implementation. The agency should work with GTA information system project management staff to facilitate the process and ensure all stakeholders' needs are considered.*

The GBI agrees with the first part of this recommendation. GCIC, however, has significant experience in best practices for systems implementation and would request the deletion of the second sentence in the recommendation. GCIC has been awarded the Governor's 2008 State Customer Service/Process Improvement Award for the Georgia Applicant Processing Services (GAPS) program<sup>31</sup> and the 2009 Governor's Commendation for Excellence in

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<sup>31</sup> The following is a summary of the Georgia Applicant Processing Services (GAPS) program:

As the state criminal history repository, GCIC is responsible for processing all applicant fingerprint-based criminal history record checks for Georgia criminal history records. These record checks help Georgia agencies, businesses and others make decisions in areas such as public and private employment, licensing, adoption, day care, foster care, pistol permits and public safety applicants. Over the past decade, the demand for fingerprint-based criminal history record checks for licensing or employment purposes has expanded significantly.

In July 2006, 50 percent of all applicant fingerprint cards were received at GCIC through the U.S. mail for manual processing. Manual processing took three to five weeks, a timeframe which clearly was not acceptable for fingerprint processing in today's environment, especially with regards to homeland security, positions of trust, and applicants working with vulnerable populations. The solution was to move to an end-to-end electronic fingerprint process. In February 2007, GBI contracted with Cogent Systems to design and implement a process to electronically register, capture and submit applicant fingerprints to the state's Automated Fingerprint Identification System (AFIS). This program, known as Georgia Applicant Processing Services (GAPS), went operational in November 2007 and enrollment by both public and private entities continues to grow. With the implementation of GAPS, fingerprint-based record checks submitted electronically to the state's AFIS receive a response and associated criminal history record where applicable within 24-48 hours. Additionally, other state agencies no longer need to expend state resources to purchase individual "live scan" or electronic capture devices and pay annual maintenance costs in order to benefit from electronic processing. The GAPS program received the Governor's 2008 State Customer Service/Process Improvement Award.

Customer Service for the CJIS Automated Validation System.<sup>32</sup> Both of these programs involved multiple state and local government agencies and both programs significantly improved service delivery at all levels. In addition to these award winning programs, GBI sought federal funds to modernize the 35 year old Computerized Criminal History (CCH) System<sup>33</sup> in 2004. In agreements with the Georgia Association of Chiefs of Police, Georgia Sheriff's Association, Georgia Municipal Association, and Association of County Commissioners of Georgia, GBI received \$9.8 million in Homeland Security funds to accomplish this task. Due to the complexity of the CCH database and age of the system, it was decided that incremental steps should be taken to redesign and modernize it. The first step identified in the process was replacement of the current message switch software with a modern, robust messaging software package to handle newer capabilities and mixed image/text responses. The second step was replacement of the actual criminal history system and database.

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<sup>32</sup> The following is a summary of the Criminal Justice Information System (CJIS) Automated Validation System: GCIC assumes responsibility as the Control Systems Agency (CSA) for the state, through and by which National Crime Information Center (NCIC) system users in Georgia access the various systems and databases managed by the FBI's CJIS Division. As the CSA, GCIC must ensure that information in the GCIC and NCIC systems is complete, accurate and valid. This is accomplished through a validation process, whereby local law enforcement agencies entering "hot file", e.g. wanted/missing persons or stolen property records in NCIC are periodically required to validate records for quality and validity. This process forces a law enforcement agency to confirm that its hot file records are complete, accurate, and still outstanding or active.

The validation process was manual and very labor-intensive for both GCIC and local law enforcement users. On average, approximately 41,000 records entered by over 450 law enforcement agencies had to be validated monthly. In November 2007, GCIC identified a vendor with an automated validation system that would simplify the process, making it easier and faster for GCIC customers. With the new system, the validation file is received from the FBI and records are provided to local Georgia agencies within 2-3 days instead of 2 weeks, providing local agencies with additional time to validate records by the FBI deadline of 45 days from receipt of the file. The new system provides agencies with greater flexibility and control over their records and allows them to complete the validation electronically. Installation of the new system also saved the state an estimated \$12,000.00 annually in printing and mailing expenses. The CJIS Automated Validation System received the 2009 Governor's Commendation for Excellence in Customer Service.

<sup>33</sup> GCIC is responsible for the administration and maintenance of the state's Computerized Criminal History (CCH) system, which contains descriptive, arrest, disposition and incarceration information on persons arrested for crimes committed in Georgia. The system is accessed by local law enforcement, criminal justice and public/private sector customers for both criminal justice uses as well as for employment, licensing and other non-criminal justice functions.

The project was completed in August 2007 under budget and within the timeline. Funds remaining from the project were approved for use in additional efforts to benefit the State's criminal justice community and an additional \$2 million was made available to local law enforcement for purchase of equipment to take advantage of the new system.

B. The Registry is sufficient to serve the needs of law enforcement and the public

The GBI disagrees with the statement that the Registry is “not accurate or complete enough to serve the needs of law enforcement and the public,”<sup>34</sup> which appears as the first sentence to the Draft Audit Report, as well as on page 9.<sup>35</sup> The Draft Audit Report does not cite specific evidence to support this general finding. GBI requested the opportunity to review the specific data to support this finding in order to respond.<sup>36</sup> GBI was advised that this was an overall finding with no specific recommendations and that the audit team is reviewing this issue. While this section may be moot in view of the audit team's review, the GBI is including this information and proposed changes to assist the review.

The Draft Audit Report states that the following tasks (among others) were performed to “assess the accuracy of the information” in the Registry: (1) “compared information in the GBI database to data pulled from queries of GDC's SCRIBE information system;” and (2) “compared information in the GBI database to information maintained in several samples of local sheriff websites.” Additionally, the Methodologies section explains that the audit was conducted in

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<sup>34</sup> Draft Audit Report at 9.

<sup>35</sup> Also as mentioned in an audit briefing and subsequent conversations, the GBI has concerns that this Audit Report and this statement in particular may be used as evidence in a lawsuit seeking to a stay the operation of the Registry. As was noted by Senior Assistant Attorney General Joe Drolet at the Board of Public Safety Meeting on September 8, 2006, there have been many challenges to the operation of the Registry, including a class action lawsuit in 2006. *See Exhibit 4* (summarizing his remarks). The GBI respectfully requests that the auditors consider meeting with Senior Assistant Attorney General Joe Drolet to get his perspective on this issue.

<sup>36</sup> For example, the GBI made a similar request with regard to the reference to a sampling of 22 faxed registrations discussed on page 21 of the Draft Audit Report. A detailed spread sheet was emailed in response to the request.

accordance with “generally accepted government auditing standards (GAGAS).”<sup>37</sup> “Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.”<sup>38</sup> Hence GBI would like the opportunity to review that data if the overall finding remains in the final report.

Alternatively, GBI would propose the following change to the introduction to the Draft Audit Report:

The foundation of the State’s Sexual Offender Registry (SOR) is an outdated and inflexible computer system. If replaced and updated, the SOR has the potential to provide law enforcement with a far more efficient method of monitoring sex offenders and investigating sexual offenses.<sup>39</sup>

This change captures what is already written: “The computer program that GBI uses to maintain the state’s SOR is of such obsolete technology and restrictive design that its limitations are the source of much of the inaccuracies and incompleteness we identified.”<sup>40</sup> As has already been noted in the response, GBI has been seeking to replace this computer system for years and has had no success in obtaining funding. Perhaps the final Audit Report will result in the funding being appropriated.

### C. The Website

The section regarding the website begins with this statement: “GBI’s SOR website requires improvements to functionality and visual appearance in order to provide users with better access to useful information.”<sup>41</sup> While the GBI’s website, as with many other state agency

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<sup>37</sup> Draft Audit Report at 35.

<sup>38</sup> Draft Audit Report at 35.

<sup>39</sup> Obviously other changes would need to be made to be consistent with this point; however the GBI is confident that the audit team will ensure consistency in the final report.

<sup>40</sup> Draft Audit Report at 10.

<sup>41</sup> Draft Audit Report at 18.

websites,<sup>42</sup> could become more user friendly, it is sufficient to provide users with access to “useful information.” When the Georgia General Assembly enacted the 2006 Amendment, it articulated the reasoning for the 2006 Amendment as follows:

The General Assembly finds and declares that recidivist sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Many sexual offenders are extremely likely to use physical violence and to repeat their offenses; and some sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. The General Assembly finds that this makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant. The General Assembly further finds that the high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement *a strategy that includes:*

(1) Incarcerating sexual offenders and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space;

(2) Requiring the registration of sexual offenders, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public;

(3) Providing for community and public notification concerning the presence of sexual offenders;

(4) Collecting data relative to sexual offenses and sexual offenders;

(5) Requiring sexual predators who are released into the community to wear an electronic monitoring system for the rest of their natural life and to pay for such system; and

(6) Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

The General Assembly further finds that the state has a compelling interest in protecting the public from sexual offenders and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual

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<sup>42</sup> In recognition of this, the Governor’s Office of Customer Service has recently formed an eGovernment Planning Group to review agency websites to make them more user friendly. A copy of the Post eGovernment Meeting Summary Findings – March 2010 is attached as Exhibit 15. As is evident from the comments, these issues exist at all state agencies.

offenders to register and for requiring community and public notification of the presence of sexual offenders. The General Assembly declares that in order to protect the public, it is necessary that the sexual offenders be registered and that members of the community and the public be notified of a sexual offender's presence. The designation of a person as a sexual offender is neither a sentence nor a punishment but simply a regulatory mechanism and status resulting from the conviction of certain crimes. Likewise, the designation of a person as a sexual predator is neither a sentence nor a punishment but simply a regulatory mechanism and status resulting from findings by the Sexual Offender Registration Review Board and a court if requested by a sexual offender."<sup>43</sup>

The statute then sets forth the responsibilities of various state agencies including the Georgia Bureau of Investigation. Absent from the statute is any statement requiring the inclusion of "basic information on typical offender/victim relationships and limitations of the usefulness of a SOR for ensuring personal safety" on the website.<sup>44</sup> Moreover the General Assembly itself did not see fit to include that information in its rationale for enacting the 2006 Amendments (or the prior version of the Act).

As the Draft Audit Report notes in a footnote,<sup>45</sup> the GBI website does provide links to other websites. Specifically, the GBI website links to the web address for Prevent Child Abuse Georgia and the Center for Sex Offender Management. The Prevent Child Abuse Georgia's Home page begins as follows:

Welcome to Prevent Child Abuse Georgia

Welcome to Prevent Child Abuse (PCA) Georgia's *Stop It Now! Georgia* online information and resource page. Here you will find information to help adults like you prevent the sexual abuse of children. Research and experience show that child sexual abuse is not inevitable. It's preventable.

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<sup>43</sup> Ga. L. 2006, p. 379,

<sup>44</sup> Interestingly, a careful review of the statute does not reveal a specific requirement that GBI maintain a public website. The requirement that GBI will maintain a state database is explicit in O.C.G.A. § 42-1-12 (h)(2) (articulating GBI's responsibilities). The General Assembly is also explicit that the Sheriff's must prepare and maintain a list that includes risk assessment classification and post that list. *See* O.C.G.A. § 42-1-12 (i)(1) and (3). Despite the lack of explicit statutory direction, the GBI has undertaken the responsibility to maintain a public website since 1998.

<sup>45</sup> Draft Audit Report at 19 n. 5.

It's up to adults to protect children. This means safe schools, parks and neighborhoods. It also means each of us acting to protect children from possible harm. The Georgia Bureau of Investigation's Georgia Sex Offender Registry is one way to do just that. But, just how much should we rely on the information we find on the Registry to prevent harm to children? We know that children are most likely to be abused by someone they know, love, and trust. The vast majority of those who may sexually abuse children will not be listed in the Registry. So while the information contained on the registry is important, it probably isn't the most valuable information to truly prevent most child sexual abuse. *For this reason, Prevent Child Abuse (PCA) Georgia and the Georgia Bureau of Investigation (GBI) have partnered to provide Georgia's adults with the most comprehensive information possible to help protect children from sexual harm. The GBI maintains the registry information with the understanding that it is only one small piece of a complicated puzzle.* The information on the PCA Georgia Web site helps Georgia citizens find additional important information about everyday risks and the ways to prevent child sexual abuse. With a simple click of your mouse, you have linked to valuable information about prevention strategies and resources available from PCA Georgia.<sup>46</sup>

Similarly, the first Myth addressed on the Center for Sex Offender Management webpage is the following:

Myth:  
"Most sexual assaults are committed by strangers."

Fact:  
Most sexual assaults are committed by someone known to the victim or the victim's family, regardless of whether the victim is a child or an adult.<sup>47</sup>

As is evident from reading the Home page of the Prevent Child Abuse Georgia, the GBI has partnered with Prevent Child Abuse Georgia precisely to impart information about the limitations of the Registry. The placement of such information on the GBI's website is a matter of opinion. It is the GBI's opinion that the links provide a way for the public to obtain that information.

As to the issue regarding distinguishing between predators and absconders,<sup>48</sup> the GBI agrees that this distinction should be made; however this limitation is related to the obsolete

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<sup>46</sup> Quoted from <http://www.preventchildabusega.org/html/demo/> (retrieved on July 7, 2010) (emphasis added).

<sup>47</sup> Quoted from <http://www.csom.org/pubs/mythsfacts.html> (retrieved on July 7, 2010).



programming so this recommendation should be moved to the section regarding the computer system.

As to the content review and improvement of the organization of the website, the GBI has identified the need for a webmaster as a potential critical hire; however it is not known if funding will be available. The Georgia Technology Authority (GTA) hosts and supports the public Sex Offender Registry website. The Draft Audit Report recommends that GBI seek GTA's assistance in improving the organization of website. Once final, the GBI will provide the report to GTA for their review and implementation of the recommended changes.

Finally, the Draft Audit Report notes that the GBI website "does not display the lower risk Level I or Level II classifications, which apply to over 95% of the offenders assessed by the SORRB."<sup>49</sup> Keeping in mind that only 8% (or 1,600) of the approximately 20,000 sex offenders have had their risk to reoffend assessed,<sup>50</sup> the GBI is unclear how this information will assist the public. Does the parent who knows that their child is associating with a sex offender classified as a Level II allow the child to ride in the car with the offender but not enter the offender's home? It seems unlikely that any reasonable person would act differently on the basis of the risk classification—and even more likely that the provision of this information may provide a false sense of security.

Additionally as the Draft Audit Report notes, the Sheriffs are required to include risk assessment classification on their list. In the law, the Latin expression, "*expressio unius est exclusio alterius*" is commonly used as a canon of statutory interpretation. Translated, it means,

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<sup>48</sup> It should also be noted that when a search is made for a "dangerous sexual predator" or "absconder", the website does provide the definition at the top of the search page.

<sup>49</sup> This is an interesting statement because it may leave the reader with the impression that the classification information is available for most of the offenders. Similarly, there is a discussion of the "Classification/Risk Assessment" process on pages 5 and 6 as part of the discussion of "Georgia's Registration Process." Yet the fact that only 8% of the approximately 20,000 offenders have been classified does not appear until page 28 of the Draft Audit Report.

<sup>50</sup> Draft Audit Report at 28.

the expression of one thing is the exclusion of another. Applied in this context, it seems that had the General Assembly wanted the GBI to include risk assessment classification in its website, it would have provided for such in the 2006 Amendment.<sup>51</sup> For these reasons, the GBI respectfully suggests that Recommendations 1 and 3 be placed in the Recommendations for the General Assembly.

In this section of the response, GBI will also address a statement that does not have a specific recommendation but is listed in the section entitled “Findings and Recommendations.” In a specific bullet entitled “Agency Process Problems,” the Draft Audit Report states that “approximately 6,000 sexual offenders currently in prison await registration, so GBI statistics regarding offenders in the state are significantly understated.”<sup>52</sup> Georgia law provides that offenders must register by reporting to the Sheriff within 72 hours after the offenders release from prison or placement on parole.<sup>53</sup> There is no provision for the offender to register when in prison for the initial offense requiring registration. Therefore, the GBI requests that this information be removed from a section entitled “Agency Process Problems” and placed within the section regarding recommendations for the General Assembly.<sup>54</sup>

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<sup>51</sup> See *e.g. Allen v. Wright*, 822 Ga. 9, 14 (2007) (“Pursuant to the principle of statutory construction, “*Expressum facit cessare tacitum*” (if some things are expressly mentioned, the inference is stronger that those omitted were intended to be excluded) and its companion, the venerable principle, “*Expressio unius est exclusio alterius*” (“The express mention of one thing implies the exclusion of another”), the list of actions in [a statute] is presumed to exclude actions not specifically listed ([*cit.*]), and the omission of [additional actions] from [the statute] is regarded by the courts as deliberate.”)

<sup>52</sup> Draft Audit Report at 10.

<sup>53</sup> O.C.G.A. § 42-1-12(f) (2).

<sup>54</sup> Similarly, the Draft Audit Report notes that the public website only provides information on the sex offender’s “residing in a county; the public cannot identify those offenders who go to school or work in that county.” (Draft Audit Report at 9.) Appendix B of the Draft Audit Report also distinguishes between whether information is available on the GBI Registry and not on the GBI website. The information from the Registry made available to the public on the website has always been different than the information available to law enforcement on the GBI Registry. If this is of concern to the audit team, it should be included as a recommendation for the General Assembly. There are public policy issues related to providing the locations where sex offenders work and attend school to the public (i.e. the offender’s interest in reintegrating into society and society’s interest in having offenders gainfully employed after incarceration) and such issues should be raised through the legislative process.

With regard to Recommendations 2 and 4, the GBI requests that the final report include the following response:

The GBI has personnel assigned to a statewide working group created to improve agency websites. The GBI will utilize these Recommendations when making changes to its website. The GBI will also request assistance from GTA in implementing the identified “minimal cost” issues.

D. Program Management

The GBI disagrees with the statement that “GBI has not effectively managed the SOR program” and certain specific incomplete statements in the subsequent paragraphs.

Nevertheless, the GBI agrees with the gist of the recommendations following this finding as to the need for improved procedures. For this section of the Response, the GBI will address the identified deficiencies in order.

1. Timely Response

The GBI agrees that the two cases cited in the Draft Audit Report evidence a failure to respond “in a timely manner when sheriff’s offices requested information on offender’s registration eligibility.” With the benefit of this information, the GBI is currently reviewing and will revise its procedure for researching and handling of pending cases.

As to the specific instances cited in the Draft Audit Report, the auditors provided GBI with a spread sheet. With regard to the offender described as ‘lost track of,’ this was an individual who reported to a sheriff’s office on September 17, 2009 to register as a sex offender as the result of a crime in another state. GBI staff sent a fax to the other state on February 19, 2010 and learned on February 22, 2010 that he was not required to register in Alabama. GBI staff notified the sheriff’s office on February 23, 2010 that he was not required to register in Georgia.

The other instance is described as an “offender [who] had not been entered into the Registry several months after GBI was first notified the offender was required to register.” In that case, the offender reported to the Sheriff’s office to register on August 29, 2008. Over a year later on September 18, 2009, the sheriff’s office sent a request to the GBI to determine whether he was required to register. His offense was an in-state offense. As the procedure notes,<sup>55</sup> GBI staff are to contact the Georgia Department of Corrections, Sex Offender Administration Unit to request a determination on whether the offender is required to register. GBI staff sent an email on January 7, 2010 requesting information. The Georgia Department of Corrections responded. Based upon that information, GBI staff entered him into the Registry on February 6, 2010.

The Draft Audit Report states that “GBI places the faxed requests into a pile and works on them when time permits.” GBI disagrees with the inclusion of this sentence as it presents an incomplete picture of the situation. If this statement is to be included, it should be supplemented with information regarding the program staffing at the time of the sampling of 22 faxed requests for research and also the volume the program experiences.

Both of the instances of untimely response by GBI program staff involved faxes received after September 16, 2009. As mentioned, the program manager was promoted on September 16, 2009 and with her promotion, there were only two staff assigned to the program.<sup>56</sup> As evidenced by the finding, these requests were lost in the transition. Of course, this is not acceptable; however, the statement that GBI staff “work on them when time permits” reflects almost a

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<sup>55</sup> There is a procedure entitled “Research” that delineates what occurs when a sheriff’s office requests information. Its purpose is “to determine if a person who has reported to the sheriff’s office as a sex offender and is not on the sex offender registry is required to register.”

<sup>56</sup> To be entirely accurate, there was one fulltime employee assigned and two fulltime employees who spent approximately 40 to 50% of their time on the program. See Exhibit 11.

cavalier attitude on the part of GBI program staff, who at that time were overwhelmed with work.<sup>57</sup>

Additionally the Draft Audit Report does not include information regarding the volume of new entries into the Registry. From July 1, 2009 to June 30, 2010, there were 388 out-of-state offenders and 1393 in state offenders added to the Registry. The GBI is responsible for conducting the research for every out-of-state offender and making the determination if that person is required to register.

The Draft Audit Report clearly articulates the difficulty in obtaining the necessary information in the highlighted section on page 26 regarding “Who should be registered?” It comes later in the Draft Audit Report, however, in the midst of the section regarding the Georgia Department of Corrections. The highlighted section points out that “[t]hese determinations may require additional information from the courts or district attorneys, which can take days or weeks to obtain. Depending on the circumstances, individual decisions may even require review by GDC legal staff.” With regard to out-of-state offenders, the determination is even more complex because not only is the GBI dealing with another state’s registry and seeking the same information as the Georgia Department of Corrections, but with another state’s laws. Many of these decisions are made by the GBI attorney after significant review of information obtained by the GBI program staff.

Perhaps it would be helpful to the reader to revise this highlighted section to include information about obtaining information regarding out-of-state offenders and move the highlighted section from the Department of Corrections’ section to this section of the report.

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<sup>57</sup> It is also surprising given the feedback that GBI staff received during the audit. For example in an email dated June 2, 2009, Ms. Paxson wrote: “I want to thank each of you (and your respective staff members) for your assistance so far. It’s a pleasure to work with people who take their responsibilities seriously.” (A copy of the June 2, 2009 email is attached as Exhibit 16).

This would provide complete information to the reader the first time the issue is raised in the report.

## 2. Updating photographs

The GBI disagrees with the summary regarding photographs in its entirety. The GBI does update the Registry with all photographs it receives from the Sheriff's offices. From June 1, 2009 to May 31, 2010, GBI personnel updated 2499 photographs of registered sex offenders. The Georgia Sheriffs' Association publication entitled "Georgia Sex Offender Registry Operational Guidelines" (Rev. 02/05/09) states that an updated photo should be sent to GBI "only if the offender's appearance has changed."<sup>58</sup> This section needs to be revised in its entirety.

## 3. Out- of-state notification

The GBI agrees that the out-of-state notification should include the predator status (or not assessed) information and is revising its letter. The GBI disagrees with the following statement as it is inaccurate:

However, according to GBI staff, these messages are not sent when GDC puts an out-of-state address as the address for a new registration (offender leaving a Georgia prison moves directly to another state). In these types of cases, the system is dependent on SOR program staff looking at the new entries closely enough to identify an out-of-state address and the need to send a letter.

The correct statement is the former statement in the same paragraph that an electronic notification is sent through the CJIS network to the other state's primary law enforcement entity when an offender's address is changed to another state. It does not make a difference whether the record is a new offender entered by GDC or an offender currently on the Registry who moves to an out-of-state address.

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<sup>58</sup> A copy of the Operational Guidelines is attached as Exhibit 17 and this information is located on page 13.

#### 4. Review for Obvious Errors

The Draft Audit Report states that GBI does not review SOR entries for obvious errors included in new registrations. This paragraph does not provide a complete summary. The GBI requests that this section be revised to indicate that the GBI no longer conducts a cursory review due to loss of staff.

#### 5. Policies and Procedures

The GBI requests that the following be deleted:

- (1) Page 22: “minimize the opportunity for fraud” and
- (2) Page 23; “While there is no evidence that this has occurred, unauthorized removal of an offender is an inherent risk and has occurred in other states.”

There is no “sufficient, appropriate evidence”<sup>59</sup> that any fraud or unauthorized removal has occurred. Moreover the placement of this in a section regarding the GBI seems odd as fraud could occur in many contexts relating to the registration of sex offenders.

#### 6. Performance Monitoring

The GBI requests that the following sentence be changed regarding performance monitoring:

In September 2008, GBI stopped compiling much of the information, attributing the decline in performance reporting to budget cuts.

The use of the word “attributing” almost sounds like the auditors did not believe the information that they were provided by GBI.<sup>60</sup> Surely this was not their intent and accordingly, the GBI requests that the sentence be changed as follows:

In September 2008, GBI stopped compiling much of the information due to a 58% decrease in the number of staff assigned to the program.

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<sup>59</sup> Draft Audit Report at 35 (describing generally accepted government auditing standards used in conducting audit).

<sup>60</sup> See Exhibit 11 (explaining that 4.5 contract workers were let go due to budget cuts).

## 7. Management Oversight

The GBI requests that this section be deleted as duplicative of previous findings. The second and third paragraphs both reference the timeliness issue that have been previously addressed in the section regarding a timely response,<sup>61</sup> as well as reiterating what has already been stated in the performance monitoring section. This is evidenced by the use of the phrases – “as noted above” and “as noted earlier.”

## 8. Recommendations

In addition to the requested changes, the GBI requests that the final audit report include the following statement before the Recommendations regarding GBI management:

It should be noted that the GBI management team has recognized the gaps identified in the review and has directed that the procedural deficiencies be remedied in the first half of Fiscal Year 2011.

This language is consistent with the Draft Audit Report at 26 regarding the Department of Corrections. With the inclusion of this language by the auditors and the requested changes to this section, there will be no need for any GBI response under these Recommendations.

### E. Bribe

The most startling part of the Draft Audit Report is found in the final paragraph in a section entitled “Deficiencies Identified” in Appendix A. It reads as follows:

During our planning process, we identified few areas of potential fraud and abuse related to our established objectives. There is the possibility that GBI staff could be bribed to remove an offender from the Registry, as has happened in at least one other state. We found that GBI did not have adequate managerial controls in place to ensure this does not occur. This deficiency is mentioned in the GBI management finding on page 20.

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<sup>61</sup> For example, the point is made in the second paragraph that “we found that it took nearly two weeks for SOR personnel to even begin researching whether the offender should be registered” is in the second paragraph. Then the same point is made in the next paragraph in referring to “delays in registering some offenders.” (Draft Audit Report at 24.)



As stated in the Draft Audit Report, the generally accepted government auditing standards utilized in the audit require that there be “sufficient, appropriate evidence to provide a reasonable basis for [the] findings and conclusions.” There was no sufficient, appropriate evidence provided in the Draft Audit Report to support the allegation that GBI staff could be bribed. Without such evidence, the inclusion of such an allegation based upon what has happened in another state violates all acceptable standards of impartial and objective auditing.

Moreover if there is any doubt in the audit team’s mind about this issue, the GBI wants it laid to rest by further review, interviews of GBI staff and any other action the team deems appropriate. The GBI is including the following policies for review by the audit team:

- (1) GBI Policy Statement No. 1006 Standards of Conduct;
- (2) GBI Policy Statement No. 1036 Unescorted Access to Facilities and Records;<sup>62</sup>
- (3) GBI Policy Statement No. 1046 Internal Affairs Investigations;
- (4) GBI Policy Statement No. 1057 Early Warning System;
- (5) GBI Policy Statement No. 2029 Employment Standards; and
- (6) GBI Policy Statement No. 2024 Preemployment Polygraph Examinations.<sup>63</sup>

In addition to these policies, the GBI will make available the Director of the Office of Professional Standards, who is responsible for investigating employee misconduct, as well as any files maintained by the Office of Professional Standards.

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<sup>62</sup> This policy addresses the standards for temporary workers.

<sup>63</sup> Copies of each policy are attached as Exhibits 17 to 22 respectively.

The GBI is the state agency that conducts investigations regarding criminal conduct by state employees and, when requested, investigations regarding criminal conduct by local government officials. To raise an allegation like this with no basis jeopardizes the integrity of the GBI. It must be thoroughly refuted in the minds of the auditors and then deleted from the report.

### III. Conclusion

For years, GBI management has endeavored to identify and overcome the many challenges that exist in operating the Sex Offender Program with statutory responsibilities split among many agencies and utilizing an obsolete computer system. The GBI has worked collaboratively with the other involved state agencies and the sheriffs' offices in proposing solutions. It has sought federal and state funding to implement solutions. For the most part, these efforts have been unsuccessful.

The GBI appreciates the care with which the auditors reviewed the program. As stated, the GBI intends to utilize information from the Draft Audit Report to make improvements to the program procedures. It is the GBI's fervent hope that the final report will result in sorely needed additional resources being provided to the program, which will benefit both law enforcement and the public. The appropriate allocation of resources, whether in the form of a new computer system or increased staffing, is the key to an improved State Sex Offender Program.

**Appendix A**  
Clarification of Inaccurate or Incomplete Information

First Unnumbered Page

Draft Audit Report: The Georgia Bureau of Investigation's Sexual Offender Registry . . . .

Clarification: The Georgia Sexual Offender Registry . . . .

Page 4

Draft Audit Report: Data from the SORN are entered into GDC's SCRIBE information system, which transmits that information through GBI's CJIS network.

Clarification: Data from the SORN is entered into GDC's SCRIBE information system, which transmits an FTP file to the GBI server daily, which is then utilized to update the information into the CJIS network.

Page 5

Draft Audit Report: The sheriff's office submits a copy of the registration form to GBI. GBI enters the SORN information into the registry database.

Clarification: The sheriff's office submits a copy of the registration form to GBI. Per procedure, GBI conducts research to determine whether the offender is required to register in Georgia. If the offender is required to register, GBI enters the SORN information into the registry.

Page 5 Exhibit 1

Draft Audit Report: GBI Removal. Removes offenders from the Registry upon death, order from Superior Court, or deportation.

Clarification: Removes offenders from the Registry upon death, order from superior court or other legal review, or deportation.

Draft Audit Report: GDC Removal. N/A

Clarification: Requests removal based upon order from superior court or other legal review.

Page 7

Draft Audit Report: Sexual offenders are normally removed only upon death, deportation or a successful petition to superior court for removal.

Clarification: Sexual offenders are normally removed only upon death, deportation, order from superior court or other legal review.

Page 7

Draft Audit Report: If an offender moves out of Georgia, the sheriff's office informs the jurisdiction of the offender's new residence and alerts GBI of the offender's intent to move. Once GBI has been informed via email or telephone that the new jurisdiction has received the offender, he will be removed from the Registry's public website but will remain on the registry database.

Clarification: If an offender moves out of Georgia, the sheriff's office informs the jurisdiction of the offender's new residence and alerts GBI of the offender's intent to move. GBI is informed via an administrative message from the CJIS network when the sheriff has updated the offender's record with an out-of-state address. The other state is also notified via an administrative message from the CJIS network that the offender is moving to that state. The GBI then sends a notification letter to the other state. The offender will be removed from the Registry's public website but will remain on the registry database.

Page 12

Draft Audit Report: Because the GBI cannot accept electronic updates from GDC, prison staff holds registration until just before or after an offender's release.

Clarification: Delete "because the GBI cannot accept electronic updates from GDC" because GBI does accept electronic updates (the FTP transfer) from GDC.

Page 21

Draft Audit Report: Based on a review of GBI records related to a sample of 22 faxed registrations received in the fall of 2009, it *look* an average of nearly two weeks after receiving the sheriff's request to initiate follow-up with the appropriate agency.

Clarification: "took"

## Exhibit List