No. 15-5238

In the Supreme Court of the United States

LESTER RAY NICHOLS, PETITIONER

v.

UNITED STATES OF AMERICA

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT*

BRIEF FOR THE UNITED STATES

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QUESTION PRESENTED

Whether petitioner violated 18 U.S.C. 2250(a) by failing to update his sex-offender registration under the Sex Offender Registration and Notification Act, 42 U.S.C. 16901 *et seq.*, when he abandoned his residence in Kansas and moved to the Philippines.

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OPINIONS BELOW

The opinion of the court of appeals (J.A. 117-133) is reported at 775 F.3d 1225. The opinions accompanying the order of the court of appeals denying rehearing (J.A. 135-159) are reported at 784 F.3d 666. The order of the district court denying petitioner's motion to dismiss the indictment (J.A. 54-64) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on December 30, 2014. A petition for rehearing was denied on April 15, 2015 (J.A. 134-135). The petition for a writ of certiorari was filed on July 14, 2015, and was granted on November 6, 2015. The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

Pertinent statutory provisions and portions of guidelines promulgated by the Attorney General are set forth in an appendix to this brief. App., *infra*, 1a-25a.

STATEMENT

Following a conditional guilty plea in the United States District Court for the District of Kansas, petitioner was convicted of failing to update his registration as a sex offender, in violation of 18 U.S.C. 2250(a). He was sentenced to ten months of imprisonment, to be followed by five years of supervised release. J.A. 104-106. The court of appeals affirmed. J.A. 117-133.

1. a. "Sex offenders are a serious threat to this Nation," *McKune* v. *Lile*, 536 U.S. 24, 32-33 (2002) (plurality opinion), and present "public safety concerns," *United States* v. *Kebodeaux*, 133 S. Ct. 2496, 2503 (2013). As a result, Congress has frequently enacted legislation to encourage and assist States in tracking locations where sex offenders live, work, and study and making that information available to the public "for its own safety." *Smith* v. *Doe*, 538 U.S. 84, 99 (2003).

In the 1990s, state sex-offender-registration laws became known as "Megan's Laws," after a seven-year-old girl who was sexually assaulted and murdered by a neighbor who, unbeknownst to her family, had prior convictions for child sex offenses. See *Smith*, 538 U.S. at 89. In 1994, Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Wetterling Act), Pub. L. No. 103-322, § 170101, 108 Stat. 2038. The Wetterling Act encouraged States, as a condition of receiving federal funds, to adopt sex-offender-registration laws meeting certain minimum standards. See *Smith,* 538 U.S. at 89-90. By 1996, every State and the District of Columbia had enacted a registration law. *Id.* at 90.

In 1996, Congress bolstered the minimum federal standards by adding a mandatory community-notification provision. See Megan's Law, Pub. L. No. 104-145, § 2, 110 Stat. 1345. Congress also strengthened the national effort to ensure registration of sex offenders by directing the FBI to create a national sex-offender database, requiring lifetime registration for certain offenders, and making the failure of certain persons to register a federal crime. See Pam Lychner Sexual Offender Tracking and Identification Act of 1996, Pub. L. No. 104-236, § 2, 110 Stat. 3093. Later statutes further enhanced federal registration and notification requirements.[1]

Despite those efforts, Congress grew concerned about "loopholes and deficiencies" in the existing registration and notification statutes, which resulted in an estimated 100,000 sex offenders becoming "missing" or "lost." H.R. Rep. No. 218, Pt. 1, 109th Cong., 1st Sess. 20, 26 (2005) (*House Report*). The House Judiciary Committee described the missing offenders as "[t]he most significant enforcement issue in the sex offender program." *Id.* at 26. The Committee concluded that "there is a strong public interest in finding" those missing offenders "and having them register with current information to mitigate the risks of additional crimes against children." *Id.* at 24.

[1] See, *e.g.*, Department of Justice Appropriations Act, 1998, Pub. L. No. 105-119, Tit. I, § 115(a), 111 Stat. 2461 (requiring, *inter alia*, sex offenders to register in States where they work or are students, in addition to their States of residence); Campus Sex Crimes Prevention Act, Pub. L. No. 106-386, § 1601, 114 Stat. 1537 (requiring sex offenders to provide notice of institutions of higher education at which they work or are students); PROTECT Act, Pub. L. No. 108-21, §§ 604-605, 117 Stat. 688 (requiring registry information to be available on the Internet).

b. In 2006, Congress enacted the Sex Offender Registration and Notification Act (SORNA), Pub. L. No. 109-248, Tit. I, 120 Stat. 590 (42 U.S.C. 16901 *et seq.*). SORNA was intended to make "more uniform and effective" the "patchwork" of federal and state sex-offender registration systems already in effect. *Reynolds* v. *United States*, 132 S. Ct. 975, 978 (2012). To that end, SORNA "repeal[ed] several earlier federal laws that also (but less effectively) sought uniformity; [set] forth comprehensive registration-system standards; * * * [and required] both state and federal sex offenders to register with relevant jurisdictions (and to keep registration information current)." *Ibid.*

The "jurisdiction[s]" to which SORNA applies are the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and federally recognized Indian tribes that satisfy certain criteria. 42 U.S.C. 16911(10). A foreign country is not such a "jurisdiction."

SORNA requires that every "sex offender shall register, *and keep the registration current*, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student." 42 U.S.C. 16913(a) (emphasis added). A subsection entitled "Keeping the registration current" provides:

> A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry.

42 U.S.C. 16913(c).

SORNA specifies that the information a sex offender is required to provide "to the appropriate official for inclusion in the sex offender registry" includes, *inter alia*, "[t]he address of each residence at which the sex offender resides or will reside," the "name and address of any place where the sex offender is * * * or will be an employee" or "is * * * or will be a student," and "[a]ny other information required by the Attorney General." 42 U.S.C. 16914(a)(3)-(5) and (7).

c. Congress also created a federal criminal offense penalizing noncompliance with SORNA's registration requirements. That provision applies to any person who "knowingly fails to register or update a registration as required by [SORNA]" if that person is a sex offender by virtue of a conviction under federal or tribal law or if he "travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country." 18 U.S.C. 2250(a)(1)-(3). In *Carr* v. *United States*, 560 U.S. 438 (2010), the Court held that, for those who do not have federal or tribal sex-offense convictions, the interstate travel referred to in that provision must occur after SORNA took effect and required the sex offender to register. *Id.* at 458. In *Reynolds*, the Court held that sex offenders with pre-SORNA convictions were not required to register under SORNA until the Attorney General, acting under 42 U.S.C. 16913(d), "validly specifie[d] that the Act's registration provisions apply to them." 132 S. Ct. at 980.

In a rule issued on an interim basis in 2007 and finalized in 2010, the Attorney General specified SORNA's applicability to those with pre-SORNA convictions. 28 C.F.R. 72.3; see 72 Fed. Reg. 8897 (Feb. 28, 2007); 75 Fed. Reg. 81,849 (Dec. 29, 2010). In 2008, after public notice and comment, the Attorney General promulgated final guidelines for the States and other jurisdictions on matters of SORNA's implementation, which reaffirmed SORNA's applicability to all sex offenders. See *The National Guidelines for Sex Offender Registration and Notification*, 73 Fed. Reg. 38,030, 38,035-38,036, 38,046, 38,063 (July 2, 2008).

In explaining the requirement that registrations be kept current, the guidelines observe that registries should not "contain outdated information showing sex offenders to be residing, employed, or attending school in places where they no longer are." 73 Fed. Reg. at 38,066. To that end, the guidelines instruct registration jurisdictions that a sex offender must inform them "if the sex offender intends to commence residence, employment, or school attendance in another jurisdiction"; "if the sex offender is terminating residence, employment, or school attendance in the jurisdiction, even if there is no ascertainable or expected future place of residence, employment, or school attendance for the sex offender"; or "if the sex offender intends to commence residence, employment, or school attendance outside of the United States." *Id.* at 38,065, 36,066, 38,067.

In 2011, after additional notice and comment, the Attorney General promulgated supplemental guidelines. *Supplemental Guidelines for Sex Offender Registration and Notification*, 76 Fed. Reg. 1630 (Jan. 11, 2011). On the basis of the Attorney General's authority under 42 U.S.C. 16914(a)(7) to expand the range of required registration information, the supplemental guidelines require sex offenders "to inform their residence jurisdictions of intended travel outside of the United States at least 21 days in advance of such travel," without regard to whether that travel would result in a change of residence. 76 Fed. Reg. at 1637.

2. In 2003, petitioner was convicted of traveling in interstate commerce with intent to have sex with a minor, in violation of 18 U.S.C. 2423(b), and sentenced to a 120-month term of imprisonment. J.A. 118. That conviction preceded SORNA's enactment, but petitioner was later subjected to SORNA's registration requirements by the Attorney General's rule. See 28 C.F.R. 72.3.

In December 2011, petitioner was released from federal prison and, while on federal supervision in the District of Kansas, he registered as a sex offender with the Leavenworth County Sheriff. J.A. 79. Petitioner complied with SORNA and Kansas law by registering as a sex offender in January, April (when he reported a change of address), July, and October 2012. *Ibid.* Each time petitioner registered, he reviewed and initialed a form on which he acknowledged that he was required to "register in person upon commencement, change, or termination of residence location * * * within three days of such commencement, change or termination"; and that he was required to report in person and give written notice at least 21 days before any "travel outside of the United States." J.A. 79-80.

On November 9, 2012, the landlord at petitioner's apartment complex in Leavenworth, Kansas, found in a drop-box keys to petitioner's apartment and a note indicating that he was moving out. Presentence Investigation Report (PSR) ¶ 16. Petitioner had abandoned the apartment that day, traveled to the airport in Kansas City, Missouri, and flown to the Philippines. J.A. 81. He then "established a new residence" at a hotel in Manila. *Ibid.*

After petitioner failed to report for sex-offender treatment, his probation officer determined that all of his telephone numbers were disconnected and that he had vacated his apartment. PSR ¶ 16. A warrant revoking petitioner's supervised release was issued, and further investigation identified email and chat communications indicating that he was in Manila, making arrangements to engage in sexual activities. PSR ¶¶ 17-18. On December 26, 2012, he was taken into custody at his hotel by Philippine law-enforcement officers, acting with the U.S. Department of State's Diplomatic Security Service. PSR ¶ 21. He was later escorted back to the United States. *Ibid.*

At no point before his arrest had petitioner updated his sex-offender registration or otherwise informed any state or federal law-enforcement authorities that he had terminated his Kansas residence or that he intended to and did travel to the Philippines and establish a new residence. J.A. 81.

3. In June 2013, a federal grand jury indicted petitioner on one count of knowingly failing to register and update a registration as required by SORNA, in violation of 18 U.S.C. 2250(a). J.A. 11-12. Before trial, petitioner moved to dismiss the indictment on the grounds that he did not violate SORNA while in the Philippines and that the Attorney General's power to specify the applicability of SORNA's registration requirements is inconsistent with the nondelegation doctrine. J.A. 13-19. After a hearing, J.A. 26-53, the district court denied the motion in a written order, J.A. 54-64. Petitioner entered a conditional guilty plea that allowed him to raise both issues on appeal. J.A. 79-80, 84.

4. a. The court of appeals affirmed. J.A. 117-133. As relevant here, the court held that petitioner violat-

ed SORNA when he left his residence in Kansas and moved to the Philippines without updating his sex-offender registration to reflect that he was no longer residing in Kansas. J.A. 125-126. The court relied on its previous decision in *United States* v. *Murphy*, 664 F.3d 798 (10th Cir. 2011), which also involved a registered sex offender who left his residence in the United States and moved to a foreign country. In *Murphy*, the court reasoned that when a sex offender abandons his current living place, that constitutes a "change" of residence that triggers the obligation under Section 16913(c) to update a sex-offender registration, even if the offender has not yet established a new residence. *Id*. at 801-803. *Murphy* further concluded that, when an offender leaves his residence in a State and also leaves the State altogether, that State remains a "jurisdiction involved" under SORNA. *Id*. at 803. And it concluded that the obligation to update the registration to reflect the abandoned residence does not disappear simply because the sex offender relocates to a non-SORNA jurisdiction (such as a foreign country) before the three-day deadline for updating his registration passes. *Ibid*. The decision below reiterated those three propositions from *Murphy*, J.A. 123-124, and rejected petitioner's contention that the decision in *Murphy* is inconsistent with this Court's earlier decision in *Carr*, J.A. 125.

The court of appeals also rejected petitioner's constitutional argument, concluding that Congress had not violated the nondelegation doctrine by authorizing the Attorney General to specify SORNA's applicability to previously convicted sex offenders. J.A. 128-131.

Judge McKay concurred. J.A. 132-133. He agreed that the panel's statutory-construction holding was controlled by *Murphy*, though he expressed disagreement with *Murphy* itself. *Ibid.*

b. The court of appeals denied rehearing en banc. J.A. 134-135. In an opinion dissenting from the denial, Judge Lucero noted that, on the statutory question, he continued to agree with his earlier dissent in *Murphy*. J.A. 135. Judge Gorsuch also dissented from the denial of rehearing, focusing principally on the nondelegation question and concluding that SORNA's delegation to the Attorney General was impermissible. J.A. 137-158.

5. Petitioner filed a petition for a writ of certiorari in this Court, presenting the statutory question and the nondelegation question. Pet. i. The Court granted the petition, limited to the statutory question. J.A. 159.

SUMMARY OF ARGUMENT

A registered sex offender violates his obligation under the Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. 16901 *et seq.*, to keep his registration current when he abandons his U.S. residence and relocates to a foreign country without reporting that change of residence.

A. SORNA requires sex offenders to keep their registration information "current" by providing notice of each "change of * * * residence, employment, or student status." 42 U.S.C. 16913(a) and (c). When a sex offender abandons a registered address, that constitutes a "change" in his residence, and it must be reported even if he has not decided upon or arrived at a new address, just as he would be required to report that he had quit his job or graduated from school. The offender may satisfy that reporting requirement by providing information about the change to "at least 1 jurisdiction involved" within three business days. 42 U.S.C. 16913(c).

In many circumstances, an offender can provide timely notice that he left his prior residence and arrived at a new one by informing his new residence jurisdiction about both changes of residence at once. Petitioner, however, contends that SORNA permits a sex offender to provide only current (rather than past or future) information about where he resides and further permits him to provide such information only to a jurisdiction in which he is presently residing (or working or attending school). But both of his underlying premises—about what information a sex offender may provide and about which jurisdictions may receive it—are wrong. SORNA expressly contemplates that an offender may furnish registration information about a future address, because Congress has defined the "[i]nformation required in registration" to include "[t]he address of each residence at which the sex offender resides *or will reside*." 42 U.S.C. 16914(a)(3) (emphasis added). And a jurisdiction where an offender has just ceased to reside still remains a "jurisdiction involved pursuant to [Section 16913(a)]" as long as the offender continues to appear in that jurisdiction's registry as one of its residents. That means he may still update his registration information there and must do so if he will not otherwise be able to satisfy the three-business-day deadline from somewhere else. 42 U.S.C. 16913(c).

B. The government's reading of Section 16913 furthers SORNA's key purpose, because requiring a sex offender to update his address of record before leaving the country enables States to maintain accurate registries with up-to-date information about where sex offenders live, work, and attend school. Accurate, current information is important even with respect to sex offenders who have moved abroad, because it allows law-enforcement authorities to rule out potential suspects of sex crimes, encourages confidence in the integrity of sex-offender registries, and minimizes the need to expend time and resources locating offenders who are no longer at their residences of record. An offender who has absconded may pose no direct continuing threat to his old neighborhood, but community members should not make decisions about where to live or allow their children to go on the basis of obsolete information creating a misimpression that absent offenders still reside in the area. The United States' independent knowledge of which persons happen to be leaving the country is not an adequate substitute for proper notification because not everyone who travels overseas is changing his residence.

C. The government's reading of Section 16913 is consistent with the statutory history of Congress's efforts to strengthen the Nation's sex-offender-registration systems. Although SORNA does not require, as the earlier Wetterling Act did, that sex offenders must always give advance notice to a jurisdiction they are leaving, it still creates a system that ensures that the departure jurisdiction will learn about such a change either from the offender himself or from another jurisdiction. Yet, petitioner's reading would prevent the departure jurisdiction from learning that its residents have left, which would make its registry *less accurate* than it was before SORNA. The existence of state-law departure-notification requirements does not obviate the need for a similar federal requirement in appropriate circumstances, since SORNA seeks to create substantial overlap between state and federal registration requirements and their criminal-enforcement mechanisms. And pending proposals to expand SORNA to require sex offenders to report all intended international travel provide no support for petitioner's reading of SORNA. While such a requirement could capture information about sex offenders like petitioner, it would reach far beyond the subset of international trips that involve a change of residence and would address different concerns.

D. Finally, the rule of lenity does not apply in this case because no grievous ambiguity exists once the Court has construed the text of Section 16913 in light of SORNA's context, structure, and purpose. Congress did not intend for SORNA's comprehensive sex-offender-registration system to contain inaccurate and outdated address information whenever a registered sex offender moved to a foreign country.

ARGUMENT

A REGISTERED SEX OFFENDER VIOLATES HIS OBLIGATION UNDER SORNA TO KEEP HIS REGISTRATION CURRENT WHEN HE ABANDONS HIS U.S. RESIDENCE AND RELOCATES TO A FOREIGN COUNTRY WITHOUT REPORTING THAT CHANGE OF RESIDENCE

Petitioner contends (Br. 22-59) that, as a matter of statutory construction, a sex offender who fails to alert domestic authorities that he is abandoning his residence in the United States and moving to a foreign country cannot be prosecuted under 18 U.S.C. 2250(a) for knowingly failing to update his registration as required by the Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. 16901 *et seq*. That argument is not supported by SORNA's statutory text, structure, and context. And it would vitiate SORNA's key purpose of ensuring that the comprehensive national sex-offender-registration system contains current, rather than outdated, information about where sex offenders reside. A sex offender who abandons his U.S. residence of record must report that change of residence to his registration jurisdiction in a timely fashion, even if he intends to (and later does) establish a new residence in a location where he will not have continuing registration obligations.

A. SORNA's Text, Structure, And Context Require A Registered Sex Offender To Inform At Least One Registration Jurisdiction When He Abandons His Residence Of Record For One In A Foreign Country

Petitioner contends (Br. 23-42) that six overlapping aspects of SORNA's text indicate that a sex offender who leaves his residence of record is not required to report that departure as a change in his registration information until he arrives in another location where he has continuing registration obligations under SORNA. He focuses on the statute's use of present-tense verbs when defining where a sex offender resides, where he must register, and where he may update his registration, and on its references to "current" information. But petitioner's reading of the statute founders on "the fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Utility Air Regulatory Grp.* v. *Environmental Prot. Agency*, 134 S. Ct. 2427, 2441 (2014) (citation and internal quotation marks omitted). In context, the applicable statutory provisions show that when a sex offender abandons his U.S. residence, he triggers an obligation to update his registration information regardless of where he moves or when he gets there. The statute further contemplates that, when necessary, an offender may indeed provide information about what his residence will be (or not be) in the future, in order to keep his registration information "current." 42 U.S.C. 16913(a).

*1. **SORNA requires sex offenders to keep their registration information "current" by providing notice of each "change" of residence***

SORNA's "general" registration obligation is contained in 42 U.S.C. 16913(a), which provides in part that "[a] sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student." A subsequent subsection further addresses how a sex offender may keep his registration current, providing that "[a] sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry." 42 U.S.C. 16913(c).

SORNA does not define the term "residence," but it defines "resides [*sic*]" as "the location of [an] individual's home or other place where the individual habitually lives." 42 U.S.C. 16911(13). In specifying what information is "required in registration," it includes "[t]he address of each residence at which the sex offender resides or will reside." 42 U.S.C. 16914(a)(3).

A registered sex offender is thus required by Section 16913(a) and (c) to keep his registration information "current" by providing timely notice of each "change" of residence he experiences.

2. A sex offender's abandonment of a registered address constitutes a "change" in residence even before he has decided upon or arrived at a new address

A sex offender who abandons his established residence experiences a "change" that must be timely reported to keep his registration current. That follows from the plain meaning of the noun "change." See *Webster's Third New International Dictionary* 374 (2002) (def. 1: "the fact of becoming different"; def. 2 a: "an instance of making or becoming different in some particular"); 3 *Oxford English Dictionary* 15 (2d ed. 1989) (def. 4.a: "alteration in the state or quality of anything; the fact of becoming other than it was"); see also *United States* v. *Van Buren*, 599 F.3d 170, 173-174 (2d Cir.) (approving jury instruction providing: "A change in residence does not require that you find that the defendant has established a new residence. Rather, it's enough for you to find that the defendant's home or other place where he habitually lives is no longer the same as the one listed in the registry."), cert. denied, 562 U.S. 971 (2010); *United States* v. *Voice*, 622 F.3d 870, 875 n.2 (8th Cir. 2010) (agreeing with *Van Buren*'s "analysis of the statute's language and apparent intent"), cert. denied, 562 U.S. 1206 (2011).

Any contention that a reportable "change" in registration does not occur until a former residence has been replaced by a new one is refuted by the statute's precisely parallel treatment of "each change of * * * residence, employment, or student status." 42 U.S.C. 16913(c). A sex offender who graduates or withdraws from college has unquestionably experienced a change in his student status, even if he has no plans for further study. Similarly, a sex offender who quits his job cannot simply wait until he begins working somewhere else before having to report that he no longer works at the address listed in the registry as the "place where [he] is * * * an employee." 42 U.S.C. 16914(a)(4). The same is true of a sex offender who quits his residence and has yet to establish a new one.

In October 2012, petitioner reported to Kansas sex-offender-registration officials that his physical residence was a particular apartment in Leavenworth, Kansas. J.A. 80. On November 9, 2012, he "abandoned" that residence, J.A. 81, by dropping off his keys for the landlord with a note that he was moving out, PSR ¶ 16. At that point—even before he went to the airport, or flew to the Philippines, or "established [his] new residence" at a Manila hotel, J.A. 81—petitioner experienced a "change of * * * residence" that triggered his obligation to keep his registration current under Section 16913(a) and (c). That change was an event that he was required to report to satisfy his statutory obligation.

3. SORNA expressly contemplates the furnishing of registration information about a future address

Petitioner's textual argument that he was not required to report that he had abandoned his Kansas residence begins with his focus on the requirement for an offender to keep his registration current in the jurisdiction where he "resides" (42 U.S.C. 16913(a))—a requirement that petitioner maintains does not apply to a jurisdiction where the offender "formerly resided." Pet. Br. 23-24. That verb-tense argument is wrong (see pp. 24-25, *infra*), but most saliently here, so is his ultimate and essential submission that SORNA does not *permit* an offender to provide information about a future, as opposed to a current, residence. Pet. Br. 37-39. As he summarizes: "At no point would an offender report 'past' or 'future' information when '[k]eeping the registration current' for purposes of § 16913(c)." Pet. Br. 38. But the implication that petitioner draws from the statute is refuted by SORNA's text, which does not preclude an offender from providing notice to the jurisdiction in which he currently resides that his residence will be changing.

Petitioner sees (Br. 33-35) the three-business-day grace period in Section 16913(c) as evidence that Congress permits notification only "after" a change of residence. That misreads the text.[2] The provision specifies that notification must occur "*not later* than 3 business days after each change of * * * residence," 42 U.S.C. 16913(c) (emphasis added), thus marking only the *latest* time at which the information can be timely given. As petitioner notes (Br. 33), the grace period "allows a sex offender some leeway in keeping his registration current." But it does not preclude giving notice before the end of the period, or even before the triggering change itself has occurred. What the deadline does preclude is never informing at least one jurisdiction that the registered address has been, or will be, changed. It is a grace period, not an escape clause for a sex offender who has not arrived at a new registrable address during that period. See *United States* v. *Murphy*, 664 F.3d 798, 803 (10th Cir. 2011) ("Needless to say, a legal obligation under federal law

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[2] In relevant part, 42 U.S.C. 16913(c) reads as follows:

> A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry.

does not expire simply because one has managed to leave the country before the date on which noncompliance is punishable.").

In claiming that SORNA is indifferent to the abandonment of a residence before a new registrable address is established, petitioner focuses (Br. 37-39) on Section 16913's references to "current" (rather than future) information. But his reading is inconsistent with the background rule supplied by the Dictionary Act, see 1 U.S.C. 1 ("words used in the present tense include the future as well as the present"), and with the text of SORNA itself. The next section, entitled "Information required in registration," delineates what information a sex offender must provide "for inclusion in the sex offender registry." 42 U.S.C. 16914(a). Although the Attorney General may augment the list, 42 U.S.C. 16914(a)(7), Congress expressly requires "[t]he address of each residence at which the sex offender resides *or will reside*." 42 U.S.C. 16914(a)(3) (emphasis added). It similarly requires "[t]he name and address of any place where the sex offender is * * * or will be an employee" or "is * * * or will be a student." 42 U.S.C. 16914(a)(4)-(5).

Petitioner reads (Br. 38) Section 16914(a)(3)'s reference to addresses where the sex offender "will reside" as pertaining only to an offender who is incarcerated at the time of his initial registration and who provides information about where he intends to reside after release. Yet, petitioner identifies no statutory text that distinguishes, in that fashion, an initial registration from an updated registration. The statute provides that initial registration shall occur in each jurisdiction in which the offender resides, works, or attends school as well as in the jurisdiction in which he was convicted, if the latter is "different from the jurisdiction of residence." 42 U.S.C. 16913(a). It specifies that initial registration must occur before the offender completes a term of imprisonment associated with the offense that requires registration (or within three business days of sentencing, if there is no term of imprisonment). 42 U.S.C. 16913(b). And it authorizes the Attorney General to prescribe rules for the initial registration of sex offenders with pre-SORNA convictions. 42 U.S.C. 16913(d). But, in addressing initial registration, SORNA does not use different verb tenses or in any other way suggest that initial registration alone accounts for Sections 16914(a)(3)'s reference to information about the location where a sex offender "will reside."

Lacking support in the statute itself, petitioner suggests that the Attorney General's 2008 guidelines support the proposition that "initial registration prior to release from imprisonment" is "[t]he only time in which § 16913 expressly requires a sex offender to provide future information." Pet. Br. 38 (citing 73 Fed. Reg. at 38,055). But the guidelines language on which petitioner relies does not say that pre-release registration is the "only" instance in which future information may be required. To the contrary, the sentence introduces that scenario with the phrase "for example." 73 Fed. Reg. at 38,055. And elsewhere, the guidelines specify, when addressing the obligation to keep registration current, that a sex offender must be required "to inform the jurisdiction if [he] intends to commence residence, employment, or school attendance in another jurisdiction" or if he "intends to commence residence, employment, or school attendance outside of the United States." *Id.* at 38,065, 38,067.

Accordingly, Section 16913(a)'s reference to "current" information does not, as petitioner contends (Br. 38), preclude an offender from providing *current* information about where he *will* reside. And that future orientation necessarily means that he may provide current information about where he will no longer reside. The statute does not, as petitioner would have it, require that the registry must contain outdated, incorrect information about a sex offender's residence when the abandonment of his residence means that his "current" information has changed.

4. A sex offender who abandons his residence of record and does not establish a new residence within a SORNA jurisdiction during the grace period must timely inform his departure jurisdiction of the change of address

a. In the mine run of cases—those involving a registered sex offender who moves promptly to another known address in a jurisdiction where SORNA requires continued registration—Section 16913 allows a sex offender to provide notification of two changes of address at once. His residence information will change when he leaves the place where he has been residing, and it will change again when he arrives at his new residence. He must report both of those changes in a timely fashion, but he will not violate that obligation unless three business days elapse without any report. If the new residence is established by the end of the third business day after the former residence is abandoned, he may simultaneously report his new residence as the current residence and report that he is no longer residing at the former residence. He may do that in any one of the jurisdictions where he is then residing, working, or attending school. 42 U.S.C.

16913(a) and (c). That jurisdiction will then "immediately" supply the new registration information to "each jurisdiction from or to which a change of residence, employment, or student status occurs," 42 U.S.C. 16921(b)(3), thus ensuring that the departure jurisdiction receives prompt notification of the departure.

b. If, however, the sex offender has not already established his new residence in a new SORNA jurisdiction by the end of the third business day after abandoning his former residence (and he is not otherwise working or studying in any SORNA jurisdiction), then he will not be able to give timely notice of his first change in residence—the abandonment of his old residence—by waiting until he arrives at his new residence to report both changes. But that poses a potential problem: "If such changes [are] not reported, the affected jurisdictions' registries [will] not be kept current, but rather [will] contain outdated information showing sex offenders to be residing * * * in places where they no longer are." 73 Fed. Reg. at 38,066.

Petitioner emphasizes (Br. 39) that Congress has adopted a "common sense approach," under which "a sex offender who changes his residence has three business days to report that change to the jurisdiction where he [newly] resides, not to his former jurisdiction." But petitioner has no sound answer for handling a period of what he calls "residency limbo" (Br. 29) that lasts for more than three business days. On the one hand, an offender's obligations to "keep the registration current" (42 U.S.C. 16913(a)) and to inform "at least 1 jurisdiction * * * of all changes in the information required" (42 U.S.C. 16913(c)) cannot simply disappear whenever such a temporal gap occurs or can be arranged by the offender. On the other hand, reading SORNA to *require* every sex offender to establish a new residence within three business days would transform SORNA's purported grace period into a remarkably stringent requirement with no antecedents in prior laws—and one at odds with the Attorney General's recognition that "a transient sex offender may be leaving the jurisdiction in which he is registered as a resident, but may be unable to say where he will be living thereafter," just as he may be unable to say where he will next be employed or attend school, 73 Fed. Reg. at 38,066. Moreover, petitioner's inability to explain how a sex offender who takes more than three business days to move can still comply with SORNA's registration requirements arguably extends beyond the context of international relocations, which would only magnify its anomalous and problematic consequences.[3]

c. SORNA does not require petitioner's counterintuitive and anomalous result. When a sex offender will not be able to establish a new residence from which he may report both changes of registration

[3] Although the question presented is expressly limited to the context of a sex offender's move to a foreign country, Pet. Br. i, many of petitioner's contentions—including the bulk of his argument about the statutory text, *id.* at 23-39—are not obviously constrained to international relocations. Only one of the "six interrelated [textual] reasons" (*id.* at 23) that petitioner identifies in support of his construction is specific to the international context, see *id.* at 40 ("A foreign country is not a SORNA jurisdiction."). His statutory context and purpose arguments depend in part on the international context, see *id.* at 42 ("SORNA does not expressly regulate offenders who leave the United States."); *id.* at 47 (notification about a "move[] to a foreign country would not meaningfully advance SORNA's purposes"), but his statutory history argument generally does not, *id.* at 52-59.

information within three business days, he may still satisfy his Section 16913(a) obligation to keep his registration "current" by providing notice of the first change—the abandonment of his former residence—in the jurisdiction he is or will be leaving. Reporting the imminent change of residence on the day before, or the morning of, the move would unquestionably satisfy petitioner's concern (Br. 23-24, 25-26, 31-32, 33, 40-41) about a sex offender's being able to report only in the jurisdiction where he presently "resides."

In any event, petitioner erroneously emphasizes the present tense of the verb "resides." In petitioner's view (Br. 23-24), a sex offender may update his registration only in a jurisdiction where he presently "resides" because Section 16913(c) says he must give his new information to "at least 1 jurisdiction involved pursuant to subsection (a)" and, in turn, subsection (a) requires an offender to register "where the offender resides, where the offender is an employee, and where the offender is a student." 42 U.S.C. 16913(a) and (c). But the simple interpolation of the phrase "where the offender resides" into subsection (c) does not accurately capture the meaning of Congress's cross reference. A jurisdiction *first* becomes involved with an offender's registration when he begins to reside there (or initially registers as a resident there). But once the offender is registered there, with an obligation to "keep the registration current," 42 U.S.C. 16913(a), that jurisdiction necessarily *remains* "involved pursuant to subsection (a)," because the offender continues to appear on its registry as a current resident. Indeed, Congress recognized that jurisdiction's continuing involvement by providing that, regardless of which jurisdiction actually receives updated registration information pursuant to Section 16913(c), that information will be shared with "each jurisdiction *from* or to which a change of residence * * * occurs," 42 U.S.C. 16921(b)(3) (emphasis added).

Kansas therefore did not cease to be a "jurisdiction involved pursuant to subsection (a)" in the precise moment when petitioner turned out the lights, locked the door, and dropped off his apartment keys, even if that was the moment he ceased to be a "resident" of Kansas. Petitioner could have satisfied his obligation to provide notice of his change of residence to "at least 1 jurisdiction involved" by updating his information with Kansas officials on his way out of town (or, for that matter, by staying in the area for an extra day after moving out of his apartment). It is true that, by going to the airport, he was unable to take advantage of the entire grace period provided by Section 16913(c). Cf. Pet. Br. 32. But he could have kept his registration current by giving notice to Kansas.

d. Permitting sex offenders to give advance or concurrent notice in their departure jurisdiction whenever delayed notice from a new jurisdiction could not satisfy the three-business-day deadline is a manageable and reasonable way of fulfilling the need to keep registration information current. As petitioner acknowledges (Br. 58), some States, including Kansas, continue to require *every* departing sex offender to give in-person notice of his departure to that jurisdiction even in circumstances where he could have complied with SORNA itself by simultaneously informing only the jurisdiction of his new residence about both the departure and the arrival.[4]

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[4] See Kan. Stat. Ann. § 22-4905(g) (Supp. 2013) (requiring an offender to "register in person upon any commencement, change

In short, SORNA specifically contemplates the possibility that a sex offender will provide information about where he "will reside" (42 U.S.C. 16914(a)(3)) and that necessarily means that he can inform the departure jurisdiction that he "will" no longer reside there—just as the Attorney General's 2008 guidelines prescribe for moves in both the domestic and international contexts. See p. 6, *supra*. And SORNA's provision for notifying a "jurisdiction involved" (42 U.S.C. 16913(c)) can be satisfied after an offender has changed his residence and no longer resides in that jurisdiction, so long as he provides that notice within three business days. Accordingly, when petitioner abandoned his Kansas residence, SORNA's grace-period provision neither prevented him from complying with the requirement to update his registration to reflect that change nor justified leaving Kansas in the dark about the impending and actual change in his residence, even if his new address was unknown or was going to be in a location (such as the Philippines) where continued reporting would not be required.

5. The foregoing construction is consistent with **Carr***, with the Attorney General's guidelines, and with Section 16928*

a. Petitioner suggests (Br. 25) that the foregoing construction is inconsistent with *Carr* v. *United States*, 560 U.S. 438 (2010), which "involved the interpretation of present-tense verbs within" 18 U.S.C. 2250, o criminal-enforcement provision. In his view, a similar focus on the "'undeviating use of the present tense'" in Sec-

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or termination of residence location * * * within three business days of such commencement, change or termination, to the registering law enforcement agency or agencies where last registered").

tion 16913(a) and (c) indicates that those provisions have a "'prospective orientation'" and do not require a sex offender "to register and keep the registration current in the jurisdiction" where he no longer resides. Pet. Br. 24-25 (quoting *Carr*, 560 U.S. at 449). That reliance on tenses and *Carr* does not assist him.

Carr held that failing to register as a sex offender in accordance with SORNA's requirements is not a federal crime under Section 2250(a) when a state sex offender's only travel in interstate commerce occurred before SORNA became effective and imposed a registration obligation on him. 560 U.S. at 442. In doing so, the Court accepted the government's contention that all three elements of a Section 2250(a)(2)(B) violation—a requirement to register under SORNA, travel in interstate or foreign commerce, and a knowing failure to register or update a registration—must occur "in sequence." *Id.* at 446.

As a sex offender who was required to register by virtue of a federal conviction, petitioner's offense conduct here did not even implicate the travel element. See 18 U.S.C. 2250(a)(2)(A); *Carr*, 560 U.S. at 452 ("[I]t is entirely reasonable for Congress to have assigned the Federal Government a special role in ensuring compliance with SORNA's registration requirements by federal sex offenders—persons who typically would have spent time under federal criminal supervision."); see also *United States* v. *Kebodeaux*, 133 S. Ct. 2496, 2504 (2013). Yet, even if petitioner had been a state sex offender, the circumstances of his conviction would satisfy *Carr*'s sequencing requirement. His obligation to update his registration was triggered when he changed his address by abandoning his Kansas residence (and before he traveled outside of Kansas). Petitioner could have complied with SORNA by notifying Kansas of that change *before* he traveled in interstate or foreign commerce to move from his former residence. But his violation of the obligation to keep his registration current did not become complete until the grace period expired without any update to Kansas officials, which happened only after he had traveled. See *United States* v. *Lewis*, 768 F.3d 1086, 1091 n.4 (10th Cir. 2014) ("[A] conditional obligation [to update a registration] is triggered when the offender abandons his residence, not when he crosses state lines. When the offender thereafter completes steps two (crossing state lines) and three (failing to register) sequentially, he is subject to prosecution[.]"), cert. denied, 135 S. Ct. 1513 (2015).[5]

b. The government's construction is also consistent with the passages petitioner discusses from the Attorney General's 2008 guidelines about SORNA's implementation.

First, petitioner errs in concluding (Br. 58) that the Attorney General's guidelines characterize SORNA as never requiring notification to the departure jurisdiction. The passage he cites says SORNA jurisdictions are allowed to impose "more stringent" reporting standards than SORNA itself and gives the example of

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[5] Petitioner also relies (Br. 24-25) on *Carr*'s refusal to read Section 2250's present-tense reference to someone who "'resides i[n] Indian country'" as including "persons who once resided in Indian country but who left before SORNA's enactment." 560 U.S. at 449 (quoting 18 U.S.C. 2250(a)(2)(B)). This case, however, turns on where petitioner was residing when he abandoned his Kansas residence in November 2012, years after SORNA was enacted and petitioner was made subject to its requirements that he "register, and keep the registration current, in each jurisdiction where [he] resides." 42 U.S.C. 16913(a).

"requiring that changes of residence be reported before the sex offender moves, rather than within three business days following the move." 73 Fed. Reg. at 38,046. It would, of course, be more stringent than SORNA to require such advance reporting *in all circumstances*, including those in which Section 16913(c) can be satisfied by simultaneously reporting both a departure from one jurisdiction and an arrival elsewhere before the grace period expires. But in the subset of cases where SORNA's requirement to report "all changes in the information required" (42 U.S.C. 16913(c)) cannot be satisfied in that fashion, requiring that the first change be reported in the departure jurisdiction is not more stringent than SORNA, but coterminous with the construction articulated above.

Second, petitioner also misreads (Br. 46 n.14, 58-59) the Attorney General's explanation of the statutory foundation for a sex offender's obligation to report that he is abandoning his U.S. residence. In petitioner's view, the Attorney General deemed such a report to be "supplemental" information not required by Section 16913(c) and based the reporting obligation on 42 U.S.C. 16928, which pertains to sex offenders who enter the United States. Although the Attorney General did observe that information about offenders' departures from the United States would help to implement Section 16928, he also explained that a change in residence to a foreign country "implicates the requirement of [Section 16913(a)] that sex offenders keep the registration current in all jurisdictions in which they reside, work, or attend school." 73 Fed. Reg. at 38,066. The reference, several paragraphs later, to Section 16913(c)'s in-person reporting requirement as applying to changes "between jurisdictions," *id.* at 38,067, did not make information about an international change of address supplemental, because it was still premised on the requirement that offenders comply with the SORNA-imposed obligation to keep their registration current by providing, as the Attorney General had specified, notice to a registration jurisdiction of an "inten[tion] to commence residence * * * outside of the United States," *ibid.*

c. Petitioner also contends (Br. 42-46) that Section 16928—which requires a system for identifying "persons *entering* the United States who are required to register under [SORNA]," 42 U.S.C. 16928 (emphasis added)—implicitly excuses those who *leave* the United States from any registration obligation. But that does not follow. The question here is not whether petitioner was leaving the country, but whether he was changing his address of record. That does not require universal coverage of all departures from the United States, and Congress would have understood that Section 16913 already required a registered offender to provide notice when he abandoned (and therefore changed) his U.S. residence in the process of going abroad.[6]

[6] Petitioner compares (Br. 43, 45-46) the entry provision to 18 U.S.C. 2250(a)(2)(B), which refers more capaciously to an offender who "travels in interstate or foreign commerce, or enters or leaves * * * Indian country." But that shows only that Section 2250 is broader, in that regard, than Section 16928. It does not imply that other provisions of SORNA are inapplicable to conduct that happens to involve leaving the United States but also implicates the requirement to keep registration information "current."

B. Requiring A Sex Offender To Give Notice That He Will No Longer Reside At His Address Of Record Furthers SORNA's Purposes

The government's reading of SORNA's registration requirements not only comports with the statute's text, structure, and context. It also furthers SORNA's key purpose of ensuring that sex-offender registries provide up-to-date information to law enforcement and the public about where sex offenders live, work, and attend school. By contrast, petitioner's construction signally undermines that purpose by allowing a sex offender to compromise the integrity of the registry itself by terminating his U.S. residence without providing any indication that critical information about him has ceased to be current.

1. As discussed above (see pp. 2-3, *supra*), in the dozen years before SORNA, Congress enacted multiple laws intended to encourage effective sex-offender-registration and community-notification programs. By 2006, however, an estimated 100,000 out of 500,000 sex offenders in the United States were "unregistered and their locations unknown to the public and law enforcement." 152 Cong. Rec. 15,713 (2006) (statement of Rep. Sensenbrenner). Those "missing" sex offenders were considered "[t]he most significant enforcement issue in the sex offender program." *House Report* 26. And the reason for that problem was clear: The missing offenders had fallen through the cracks of "a patchwork of federal and 50 individual state registration systems." *Reynolds* v. *United States*, 132 S. Ct. 975, 978 (2012).

SORNA was accordingly designed to "establish[] a comprehensive national system for the registration of [sex] offenders." 42 U.S.C. 16901. As the Court has acknowledged, the registration provisions "stand at the center of Congress' effort to account for missing sex offenders." *Carr*, 560 U.S. at 456. The "most basic character" of a sex-offender registry is to provide a "system[] for tracking sex offenders following their release into the community." 73 Fed. Reg. at 38,044. The system thus requires "both state and federal sex offenders to register with relevant jurisdictions (and to keep registration information current)," and it "creat[es] federal criminal sanctions applicable to those who violate the Act's registration requirements." *Reynolds*, 132 S. Ct. at 978.

Excusing offenders from the need to provide any notification whatsoever when they leave their address of record—simply because they are moving to a foreign country rather than someplace within a SORNA jurisdiction—would undermine Congress's command that offenders must register *and* keep their registrations "current." 42 U.S.C. 16913(a) and (c). And, allowing outdated, and therefore misleading, information to persist in the registry would defeat the goal of "ensur[ing] that law enforcement agencies and America's communities know where sex offenders live and work." 152 Cong. Rec. at 15,713. It would recreate, albeit on a smaller scale, the very problem of "missing" sex offenders that SORNA sought to fix. *House Report* 26.

Put simply: "Without accurate registration information, SORNA would be ineffective." *Van Buren*, 599 F.3d at 175. And the need for accuracy extends not only to the jurisdictions where an offender lives, works, or studies, but also to the ones where he no longer lives, works, or studies. That is reflected in SORNA's express requirement that, regardless of which jurisdiction acquires updated registration information from a sex offender, that information is to be shared "immediately" with "each jurisdiction *from or to which* a change of residence, employment, or student status occurs." 42 U.S.C. 16921(b)(3) (emphasis added).[7]

2. Petitioner contends (Br. 47-51) that SORNA is intended merely to protect children in the United States, not those in foreign countries, and therefore no reason exists to track sex offenders while they are abroad. But petitioner overlooks the many ways in which inaccurate registration information frustrates indisputably legitimate (and wholly domestic) purposes of SORNA. For instance, when "a sexually violent crime occurs or a child is molested," registration information can be used by law-enforcement authorities to identify sex offenders who may have been in the area. 73 Fed. Reg. at 38,044. Yet, a registry that contains obsolete information indicating falsely that certain sex offenders still live in the area could divert

[7] Petitioner parenthetically quotes (Br. 33) part of *Reynolds*'s observation that the government had "overstate[d] the need for *instantaneous* registration of pre-Act offenders." 132 S. Ct. at 983. But the Court was not referring to the need for information about already-registered sex offenders to be updated in a timely fashion. It was instead discussing the transitional question of how 100,000 "missing" sex offenders with pre-SORNA convictions would be brought into the comprehensive new registration system. *Id.* at 982-983. For that purpose, the Court concluded that the 217-day period between SORNA's enactment and the Attorney General's interim rule had not been an intolerably "long" delay. *Id.* at 983. The Court had, however, already made clear that SORNA's applicability to pre-SORNA offenders was a proposition separate from the requirement that an already-registered "sex offender must update a registration within three business days of any change of 'name, residence, employment, or student status.'" *Id.* at 981 (quoting 42 U.S.C. 16913(c)).

scarce resources during investigations and, over time, cause law enforcement and the public to discount the value of the registry's information. Even in the absence of a particular incident, when an offender has appeared to verify his registration information on an annual, semi-annual, or quarterly basis (see 42 U.S.C. 16916) but then fails to appear without explanation, the jurisdiction will have to dedicate time and resources to determining his whereabouts, which may include calling for assistance from the United States Marshals Service. See 42 U.S.C. 16922, 16941(a); 73 Fed. Reg. at 38,069. Similarly, SORNA's community-notification purposes suffer when registries contain inaccurate information about sex offenders' old residential addresses. An offender who has absconded may pose no direct continuing threat to his old neighborhood, but community members should not make decisions about where to live or send their children—either for school or for an afternoon playdate—on the basis of obsolete information creating a misimpression that absent offenders still reside in the area.

Other important purposes, apart from avoiding inaccuracies in domestic registry information, are also served when the government knows that a sex offender is residing outside the country. Such knowledge may, for instance, help deter or identify violations of 18 U.S.C. 2423(c), which makes it a crime for a U.S. citizen or lawful permanent resident to travel in foreign commerce or reside in a foreign country and engage in illicit sexual conduct. Moreover, as the Attorney General has explained, tracking sex offenders who leave the United States to reside in foreign countries helps implement SORNA's requirement that the Departments of Justice, State, and Homeland Security establish and maintain a system for identifying "persons entering the United States who are required to register under [SORNA]." 42 U.S.C. 16928; see 73 Fed. Reg. at 38,066-38,067.

3. Petitioner further suggests (Br. 50) that a sex offender need not notify authorities that he is abandoning his U.S. address because the United States is already independently "aware when a registered sex offender" uses his passport to leave the country. As an initial matter, this theory improperly shifts the responsibility for updating registration information from the sex offender to the United States, which is inconsistent with Section 16913. The theory also assumes, perhaps optimistically, that sex offenders will reliably report their passport information (something that is required by the Attorney General's guidelines as additional information to be reported, 73 Fed. Reg. at 38,056); that they will use those passports when traveling; and that they will be *sua sponte* tracked by federal officials who, under the Attorney General's 2011 supplemental guidelines, are generally supposed to receive advance notification from sex offenders and registration jurisdictions that a sex offender will be engaging in such travel, 76 Fed. Reg. at 1637.

In any event, petitioner's passport-tracking solution is deficient for an even more fundamental reason: It conflates knowledge that a sex offender happens to be traveling outside the country with knowledge that he is abandoning the U.S. residence reflected in the sex-offender registry. If an offender is actually moving abroad, then his old address should not be included in the registry as current information. But the same is not true if he will be returning in a day, a week, or a month. See Pet. Br. 45 n.13 (recognizing that tracking the international travel of an offender who still resides in the United States "is different from tracking an offender who leaves the United States for good"). The government should not bear the onus of continually evaluating, as the sex offender's international sojourn lengthens, whether his address of record should be retained on the rolls as his "current" registration information. The offender himself should simply give notice at the outset that he is moving.

For similar reasons, a sex offender who is traveling abroad is hardly, as petitioner posits (Br. 50-51), "analogous to a sex offender who has died." To be sure, when a sex offender dies, he will not be able to update his registration information. SORNA therefore "does not address the updating of registration information in such circumstances." 73 Fed. Reg. at 38,068. But state and local authorities typically learn fairly quickly when a resident has died and may easily determine whether he is a registered sex offender. And a deceased sex offender is unlike a traveling sex offender, who can, of course, be reasonably asked to disclose when his departure from the jurisdiction also happens to effect a change of residence.

Given the ease of protecting the sex-offender registry's integrity from corruption with obsolete information, it would indeed come as a "surprise" (Pet. Br. 51) if SORNA were construed as not requiring a sex offender to give notice when he moves to a foreign country. SORNA's purposes are far better served if a sex offender satisfies his obligation to keep his registration information current by giving notice that he is abandoning his U.S. residence, rather than requiring local, federal, and foreign authorities to expend considerable resources tracking him down. This case illustrates the point: Between November 16, 2012 and January 17, 2013, the investigation of petitioner's own disappearance involved federal probation officers, a federal-court warrant, the State Department's Diplomatic Security Service, the Manila Police Department, the Philippine Bureau of Immigration, and the United States Marshals Service. See J.A. 55; PSR ¶¶ 16-18, 21. None of that would have been necessary if petitioner had taken the simple step of advising Kansas of his change of residence.

C. The Statutory History Does Not Support Petitioner's Reading Of Section 16913

Applying SORNA's registration requirements to a sex offender who terminates his U.S. residence in order to relocate internationally is also consistent with the history of Congress's efforts to strengthen sex-offender-registration systems.

1. As petitioner describes (Br. 52-53), between 1997 and 2009, the Wetterling Act provided that a registered sex offender

> who moves to another State[] shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

42 U.S.C. 14071(b)(5) (2006) (repealed 2009).

According to petitioner (Br. 53-54), that provision indicates that, when it enacted SORNA, Congress "knew how to draft a departure notification provision but chose not to." That inference has no relevance here because SORNA uses an alternative framework that still results in notification. SORNA does not universally require advance notice of a change of residence to the departure jurisdiction, but it includes other provisions intended to ensure that such information will be provided, either directly or indirectly, to the departure jurisdiction. In particular, it requires that information about every change in residence be given to "at least 1 jurisdiction," 42 U.S.C. 16913(c), and it then requires that jurisdiction to share the updated information immediately with "[e]ach jurisdiction where the sex offender resides * * * and each jurisdiction *from or to which* a change of residence * * * occurs," 42 U.S.C. 16921(b)(3) (emphasis added).

SORNA thereby replaced a one-way flow of information (from the departure jurisdiction to the new one) with a system that allows information to flow in either direction. But, under either statute, the departure jurisdiction learns of an offender's change of residence. Congress did not intend for the departure jurisdiction to be left, as petitioner's reading would allow, without notice and with a registry *less accurate* than it was under the Wetterling Act. See *Kebodeaux*, 133 S. Ct. at 2505 ("SORNA's general changes were designed to make more uniform" the "patchwork" of registries that existed under the Wetterling Act and repair the "loopholes and deficiencies that had resulted in an estimated 100,000 sex offenders becoming missing or lost.") (citations and internal quotation marks omitted).

2. In a variation on his Wetterling Act argument, petitioner contends (Br. 58) that, because Kansas law requires a sex offender to provide notice that he has changed or terminated his residence, Section 16913

need not be read "to include a similar federal obligation when that obligation exists under state law." States may, of course, impose and enforce registration requirements that are stricter than SORNA's. But the existence of "similar" obligations under federal and state law is to be expected, not avoided, in this area. SORNA seeks to create substantial overlap between state and federal registration obligations and between state and federal criminal-enforcement mechanisms. With federal funds, it encourages States to conform their sex-offender registries to SORNA's minimum standards, 42 U.S.C. 16912, 16925, and to enforce a sex offender's violation of those standards with "a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with [SORNA's] requirements," 42 U.S.C. 16913(e). Yet SORNA also includes Section 2250, a new federal felony provision that similarly penalizes failures to comply with SORNA's requirements. See *Reynolds*, 132 S. Ct. at 978. Thus, Kansas's ability to establish and enforce its own departure-notification requirement does not cast doubt on the federal interest in enforcing parallel requirements under SORNA and Section 2250.

3. Finally, petitioner suggests (Br. 49 n.16, 59 n.20) that post-SORNA legislative efforts that would specifically address sex offenders' international travel indicate Congress's understanding that such travel is not already covered by SORNA. But those proposals—which have passed the House and the Senate, in different versions, during the current Congress, but have not been enacted into law—have not been directed at changes of residence that cause domestic registries to

become outdated.[8] Instead, they would require, as relevant here, notice of *all* travel outside the United States by sex offenders, which petitioner concedes (Br. 45 n.13) raises concerns different from those presented by changes of residence. Such proposals are analogous to the international-travel portions of the Attorney General's 2011 supplemental guidelines, which rested on his power to *expand* the range of required registration information. See 76 Fed. Reg. at 1637. Those travel-reporting requirements, like the pending legislative proposals, go beyond the requirement of Section 16913 (which the Attorney General previously recognized) that a sex offender keep his registration information current by giving notice that he "intends to commence residence * * * outside of the United States," 73 Fed. Reg. at 38,067.

D. The Rule Of Lenity Has No Application To This Case

Finally, petitioner invokes (Br. 59-62) the rule of lenity, but it has no application here. As the Court has "repeatedly emphasized," the rule "applies only if, after considering text, structure, history and purpose, there remains a grievous ambiguity or uncertainty in the statute such that the Court must simply guess as to what Congress intended." *Abramski* v. *United States*, 134 S. Ct. 2259, 2272 n.10 (2014) (citation and internal quotation marks omitted); see *Robers* v. *United States*, 134 S. Ct. 1854, 1859 (2014) (similar); *United States* v. *Hayes*, 555 U.S. 415, 429 (2009) (rejecting

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[8] See, *e.g.*, *International Megan's Law to Prevent Demand for Child Sex Trafficking*, H.R. 515, 114th Cong. (2015); 161 Cong. Rec. H542-H544 (daily ed. Jan. 26, 2015) (version passed by House of Representatives); 161 Cong. Rec. S8831-S8834 (daily ed. Dec. 17, 2015) (amended version passed by Senate).

application of the rule of lenity after considering "text, context, purpose, and * * * drafting history").

For the reasons discussed above, SORNA's text is not ambiguous. But even assuming that it were ambiguous in isolation, any ambiguity would be resolved by the context, structure, and purposes discussed above. "[T]he 'grammatical possibility' of a defendant's interpretation does not command a resort to the rule of lenity if the interpretation proffered by the defendant reflects 'an implausible reading of the congressional purpose.'" *Abbott* v. *United States*, 562 U.S. 8, 28 n.9 (2010) (quoting *Caron* v. *United States*, 524 U.S. 308, 316 (1998)). Here, it is not plausible that Congress intended for SORNA's comprehensive sex-offender-registration system to contain inaccurate and outdated address information whenever a registered sex offender moved to a foreign country.

Nor was petitioner's underlying conduct sufficiently innocent or innocuous to raise the fair-warning concerns associated with the rule of lenity. See, *e.g., Arthur Andersen LLP* v. *United States*, 544 U.S. 696, 703-704 (2005) (discussing the situation in which "the act underlying the conviction * * * is by itself innocuous" and "not inherently malign"); see also *Hayes*, 555 U.S. at 437 (Roberts, C.J., dissenting). Just weeks before petitioner left Kansas for the Philippines, he acknowledged in writing, for the fourth time that year, that he "must register in person upon commencement, change, or termination of residence location, employment status, school attendance or other information within three days of such commencement, change or termination." J.A. 79-80. The wrongfulness of his knowing failure to update his registration as required is incontestable.

The rule of lenity does not justify petitioner's unduly cramped reading of his obligation to keep his registration current by notifying at least one jurisdiction that he was abandoning his address of record.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted.

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JANUARY 2016

APPENDIX

1. 18 U.S.C. 2250 provides in pertinent part:

Failure to register

(a) IN GENERAL.—Whoever—

(1) is required to register under the Sex Offender Registration and Notification Act;

(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

shall be fined under this title or imprisoned not more than 10 years, or both.

(b) AFFIRMATIVE DEFENSE.—In a prosecution for a violation under subsection (a), it is an affirmative defense that—

(1) uncontrollable circumstances prevented the individual from complying;

(2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and

(3) the individual complied as soon as such circumstances ceased to exist.

* * * * *

2. 42 U.S.C. 16901 provides in pertinent part:

Declaration of purpose

In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators against the victims listed below, Congress in this chapter establishes a comprehensive national system for the registration of those offenders:

* * * * *

3. 42 U.S.C. 16911 provides in pertinent part:

Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators

In this subchapter the following definitions apply:

(1) Sex offender

The term "sex offender" means an individual who was convicted of a sex offense.

* * * * *

(5) Amie Zyla expansion of sex offense definition

(A) Generally

Except as limited by subparagraph (B) or (C), the term "sex offense" means—

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;

(ii) a criminal offense that is a specified offense against a minor;

(iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of title 18) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of title 18;

(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or

(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) Foreign convictions

A foreign conviction is not a sex offense for the purposes of this subchapter if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 16912 of this title.

(C) Offenses involving consensual sexual conduct

An offense involving consensual sexual conduct is not a sex offense for the purposes of this subchapter if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

(6) Criminal offense

The term "criminal offense" means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note)) or other criminal offense.

(7) Expansion of definition of "specified offense against a minor" to include all offenses by child predators

The term "specified offense against a minor" means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping.

(B) An offense (unless committed by a parent or guardian) involving false imprisonment.

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Video voyeurism as described in section 1801 of title 18.

(G) Possession, production, or distribution of child pornography.

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(I) Any conduct that by its nature is a sex offense against a minor.

(8) Convicted as including certain juvenile adjudications

The term "convicted" or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18), or was an attempt or conspiracy to commit such an offense.

(9) Sex offender registry

The term "sex offender registry" means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) Jurisdiction

The term "jurisdiction" means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of section 16927 of this title, a federally recognized Indian tribe.

(11) Student

The term "student" means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(12) Employee

The term "employee" includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) Resides

The term "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

(14) Minor

The term "minor" means an individual who has not attained the age of 18 years.

4. 42 U.S.C. 16912 provides:

Registry requirements for jurisdictions

(a) Jurisdiction to maintain a registry

Each jurisdiction shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of this subchapter.

(b) Guidelines and regulations

The Attorney General shall issue guidelines and regulations to interpret and implement this subchapter.

5. 42 U.S.C. 16913 provides:

Registry requirements for sex offenders

(a) In general

A sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student. For initial registration purposes only, a sex offender shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence.

(b) Initial registration

The sex offender shall initially register—

(1) before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or

(2) not later than 3 business days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment.

(c) Keeping the registration current

A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry.

That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.

(d) Initial registration of sex offenders unable to comply with subsection (b)

The Attorney General shall have the authority to specify the applicability of the requirements of this subchapter to sex offenders convicted before the enactment of this chapter or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply with subsection (b).

(e) State penalty for failure to comply

Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of this subchapter.

6. 42 U.S.C. 16914 provides:

Information required in registration

(a) Provided by the offender

The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry:

(1) The name of the sex offender (including any alias used by the individual).

(2) The Social Security number of the sex offender.

(3) The address of each residence at which the sex offender resides or will reside.

(4) The name and address of any place where the sex offender is an employee or will be an employee.

(5) The name and address of any place where the sex offender is a student or will be a student.

(6) The license plate number and a description of any vehicle owned or operated by the sex offender.

(7) Any other information required by the Attorney General.

(b) Provided by the jurisdiction

The jurisdiction in which the sex offender registers shall ensure that the following information is included in the registry for that sex offender:

(1) A physical description of the sex offender.

(2) The text of the provision of law defining the criminal offense for which the sex offender is registered.

(3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender.

(4) A current photograph of the sex offender.

(5) A set of fingerprints and palm prints of the sex offender.

(6) A DNA sample of the sex offender.

(7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction.

(8) Any other information required by the Attorney General.

7. 42 U.S.C. 16919 provides:

National Sex Offender Registry

(a) Internet

The Attorney General shall maintain a national database at the Federal Bureau of Investigation for each sex offender and any other person required to register in a jurisdiction's sex offender registry. The database shall be known as the National Sex Offender Registry.

(b) Electronic forwarding

The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions.

8. 42 U.S.C. 16921 provides:

Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program

(a) Establishment of Program

There is established the Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program (hereinafter in this section referred to as the "Program").

(b) Program notification

Except as provided in subsection (c), immediately after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall provide the information in the registry (other than information exempted from disclosure by the Attorney General) about that offender to the following:

(1) The Attorney General, who shall include that information in the National Sex Offender Registry or other appropriate databases.

(2) Appropriate law enforcement agencies (including probation agencies, if appropriate), and each school and public housing agency, in each area in which the individual resides, is an employee or is a student.

(3) Each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.

(4) Any agency responsible for conducting employment-related background checks under section 5119a of this title.

(5) Social service entities responsible for protecting minors in the child welfare system.

(6) Volunteer organizations in which contact with minors or other vulnerable individuals might occur.

(7) Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction.

(c) Frequency

Notwithstanding subsection (b), an organization or individual described in subsection (b)(6) or (b)(7) may opt to receive the notification described in that subsection no less frequently than once every five business days.

9. 42 U.S.C. 16922 provides:

Actions to be taken when sex offender fails to comply

An appropriate official shall notify the Attorney General and appropriate law enforcement agencies of any failure by a sex offender to comply with the requirements of a registry and revise the jurisdiction's registry to reflect the nature of that failure. The appropriate official, the Attorney General, and each such law enforcement agency shall take any appropriate action to ensure compliance.

10. 42 U.S.C. 16928 provides:

Registration of sex offenders entering the United States

The Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, shall establish and maintain a system for informing the relevant jurisdictions about persons entering the United States who are required to register under this subchapter. The Secretary of State and the Secretary of Homeland Security shall provide such information and carry out such functions as the Attorney General may direct in the operation of the system.

11. 42 U.S.C. 16941 provides:

Federal assistance with respect to violations of registration requirements

(a) In general

The Attorney General shall use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements. For the purposes of section 566(e)(1)(B) of title 28, a sex offender who violates a sex offender registration requirement shall be deemed a fugitive.

(b) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to implement this section.

12. 42 U.S.C. 14071 (2006) (repealed 2009) provided in pertinent part:

Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program

(a) In general

(1) State guidelines

The Attorney General shall establish guidelines for State programs that require—

(A) a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address for the time period specified in subparagraph (A) of subsection (b)(6) of this section; and

(B) a person who is a sexually violent predator to register a current address for the time period specified in subparagraph (B) of subsection (b)(6) of this section.

* * * * *

(b) Registration requirement upon release, parole, supervised release, or probation

An approved State registration program established under this section shall contain the following elements:

(1) Duties of responsible officials

(A) If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, the court, or another responsible officer or official, shall—

(i) inform the person of the duty to register and obtain the information required for such registration;

(ii) inform the person that if the person changes residence address, the person shall report the change of address as provided by State law;

(iii) inform the person that if the person changes residence to another State, the per-son shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student;

(iv) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(v) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) In addition to the requirements of subparagraph (A), for a person required to register under subparagraph (B) of subsection (a)(1) of this section, the State prison officer, the court, or another responsible officer or official, as the case may be, shall obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

(2) Transfer of information to State and FBI; participation in national sex offender registry

(A) State reporting

State procedures shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system. State procedures shall also ensure that conviction data and fingerprints for persons required to register are promptly transmitted to the Federal Bureau of Investigation.

(B) National reporting

A State shall participate in the national database established under section 14072(b) of this title in accordance with guidelines issued by the Attorney General, including transmission of current address information and other information on registrants to the extent provided by the guidelines.

(3) Verification

(A) For a person required to register under subparagraph (A) of subsection (a)(1) of this section, State procedures shall provide for verification of address at least annually.

(B) The provisions of subparagraph (A) shall be applied to a person required to register under subparagraph (B) of subsection (a)(1) of this section, except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole.

(4) Notification of local law enforcement agencies of changes in address

A change of address by a person required to register under this section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system.

(5) Registration for change of address to another State

A person who has been convicted of an offense which requires registration under this section and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

* * * * *

13. *The National Guidelines for Sex Offender Registration and Notification*, 73 Fed. Reg. 38,030, 38,065-38,067 (July 2, 2008), provide in pertinent part:

* * * * *

X. Keeping the Registration Current

There are a number of provisions in SORNA that are designed to ensure that changes in registration information are promptly reported, and that the registration information is kept fully up to date in all jurisdictions in which the sex offender is required to register:

Section 113(a) provides that a sex offender must keep the registration current in each jurisdiction in which the sex offender resides, is an employee, or is a student.

Section 113(c) provides that a sex offender must, not later than three business days after each change of name, residence, employment, or student status, appear in person in at least one jurisdiction in which the sex offender is required to register and inform that jurisdiction of all changes in the information required for that sex offender in the sex offender registry. It further provides that that information must immediately be provided to all other jurisdictions in which the sex offender is required to register.

Section 119(b) provides that updated information about a sex offender must be immediately transmitted by electronic forwarding to all relevant jurisdictions.

Section 121(b)(3) provides that immediately after a sex offender registers or updates a registration, the information in the registry (other than any exempted from disclosure by the Attorney General) must be provided to each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.

Section 128 directs the Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, to establish a system for informing relevant jurisdictions about persons entering the United States who are required to register under SORNA.

Implementation of these provisions requires the definition of implementation measures that can be carried out by the individual jurisdictions, whose collective effect will be to realize these provisions' objectives. The remainder of this Part of these Guidelines details the required implementation measures.

A. Changes of Name, Residence, Employment, or School Attendance

The in-person appearance requirements of section 113(c) described above serve to ensure—in connection with the most substantial types of changes bearing on the identification or location of sex offenders (name, residence, employment, school attendance)—that there will be an opportunity to obtain all required registration information from sex offenders in an up to date form, including direct meetings for this purpose between the sex offenders and the personnel or agencies who will be responsible for their registration. The purposes served by in-person appearances under the SORNA standards are further explained in Part XI of these Guidelines, in relation to the periodic in-person appearance requirements of section 116.

The required implementation measures for the appearances required by section 113(c)—and other information updating/sharing and enforcement provisions under SORNA as they bear on such appearances—are as follows:

Residence Jurisdictions: Each jurisdiction must require a sex offender who enters the jurisdiction to reside, or who is registered in the jurisdiction as a resident and changes his or her name or place of residence within the jurisdiction, to appear in person to register or update the registration within three business days. Also, each jurisdiction in which a sex offender is registered as a resident must:

Require the sex offender to inform the jurisdiction if the sex offender intends to commence residence, employment, or school attendance in another jurisdiction; and

If so informed by the sex offender, notify that other jurisdiction by transmitting the sex offender's registration information (including the information concerning the sex offender's expected residence, employment, or school attendance in that jurisdiction) immediately by electronic forwarding to that jurisdiction.

Employment Jurisdictions: Each jurisdiction must require a sex offender who commences employment in the jurisdiction, or changes employer or place of employment in the jurisdiction, to appear in person to register or update the registration within three business days.

School Jurisdictions: Each jurisdiction must require a sex offender who commences school attendance in the jurisdiction, or changes the school attended or place of school attendance in the jurisdiction, to appear in person to register or update the registration within three business days.

Information Sharing: In all cases in which a sex offender makes an in-person appearance in a jurisdiction and registers or updates a registration as described above, the jurisdiction must immediately transmit by electronic forwarding the registration information for the sex offender (including any updated information concerning name, residence, employment, or school attendance provided in the appearance) to all other jurisdictions in which:

The sex offender is or will be required to register as a resident, employee, or student; or

The sex offender was required to register as a resident, employee, or student until the time of a change of residence, employment, or student status reported in the appearance, even if the sex offender may no longer be required to register in that jurisdiction in light of the change of residence, employment, or student status.

Failure to Appear: If a jurisdiction is notified that a sex offender is expected to commence residence, employment, or school attendance in the jurisdiction, but the sex offender fails to appear for registration as required, the jurisdiction must inform the jurisdiction that provided the notification that the sex offender failed to appear, and must follow the procedures for cases involving possible violations of registration requirements, as discussed in Part XIII of these Guidelines.

Defining changes in such matters as residence and employment may present special difficulties in relation to sex offenders who lack fixed residence or employment. For example, a homeless sex offender may sleep on a different [*38,066] park bench each night. Or the employer of a sex offender who does day labor, working for whatever contractor hires him on a given day, may change on a daily basis. In such cases, a jurisdiction is not required to treat all such changes as changes in residence or employment status that bring into play the requirement to conduct an in-person appearance within three business days for purposes of reporting the change. Rather, as discussed in Part VI of these Guidelines, the information in the registry describing the places of residence or employment for sex offenders who lack fixed residence or employment may be in more general terms, and jurisdictions may limit their reporting requirements to changes that would entail some modification of the registry information relating to these matters.

In one respect, the foregoing procedures for updating registration information through in-person appearances do not fully ensure that registrations will be kept current with respect to residence, employment, and school attendance information, because they relate to situations in which future information about these matters is available. But that is not always the case. For example, a transient sex offender may be leaving the jurisdiction in which he is registered as a resident, but may be unable to say where he will be living thereafter. Or a sex offender registered as an employee or student in a jurisdiction may quit his job or leave school, but may have no prospect for subsequent employment or education at the time. If such changes were not reported, the affected jurisdictions' registries would not be kept current, but rather would contain outdated information showing sex offenders to be residing, employed, or attending school in places where they no longer are. Accordingly, a jurisdiction in which a sex offender is registered as a resident, employee, or student must also require the sex offender to inform the jurisdiction if the sex offender is terminating residence, employment, or school attendance in the jurisdiction, even if there is no ascertainable or expected future place of residence, employment, or school attendance for the sex offender.

* * * * *

C. International Travel

A sex offender who moves to a foreign country may pass beyond the reach of U.S. jurisdictions and hence may not be subject to any enforceable registration requirement under U.S. law unless and until he or she returns to the United States. But effective tracking of such sex offenders remains a matter of concern to the United States and its domestic jurisdictions, and some measures relating to them are necessary for implementation of SORNA.

Relevant provisions include SORNA § 128, which directs the Attorney General to establish a system for informing domestic jurisdictions about persons entering the United States who are required to register under SORNA, and 18 U.S.C. 2250(a)(2)(B), which makes it a federal crime for a sex offender to travel in foreign commerce and knowingly fail to register or update a registration as required by SORNA. To carry out its responsibilities under these provisions, the Department of Justice needs to know if sex offenders registered in U.S. jurisdictions are leaving the country, since such offenders will be required to resume registration if they later return to the United States to live, work, or attend school while still within their registration periods. Also, both for sex offenders who are convicted in the United States and then go abroad, and for sex offenders who are initially convicted in other countries, identifying such sex offenders when they enter or reenter the United States will require cooperative efforts between the Department of Justice (including the United States Marshals Service) and agencies of foreign countries. As a necessary part of such cooperative activities, foreign authorities may expect U.S. authorities to inform them about sex offenders coming to their jurisdictions from the United States, in return for their advising the United States about sex offenders coming to the United States from their jurisdictions. For this reason as well, federal authorities in the United States will need information about sex offenders leaving domestic jurisdictions to go abroad in order to effectively carry out the requirements of SORNA § 128 and enforce 18 U.S.C. 2250(a)(2)(B).

International travel also implicates the requirement of SORNA § 113(a) that sex offenders keep the registration current in all jurisdictions in which they reside, work, or attend school. If a sex offender simply leaves the country [*38,067] and does not inform the jurisdiction or jurisdictions in which he has been registered, then the requirement to keep the registration current will not have been fulfilled. Rather, the registry information in the domestic jurisdictions will show that the sex offender is residing in the jurisdiction (or present as an employee or student) when that is no longer the case.

In addition, a sex offender who goes abroad may remain subject in some respects to U.S. jurisdiction. For example, a sex offender may be leaving to live on an overseas U.S. military base, as a service member, dependent, or employee, or to work as or for a U.S. military contractor in another country. In such cases, notification about the individual's status as a sex offender and intended activities abroad is of interest to federal authorities, because the presence of sex offenders implicates the same public safety concerns in relation to communities abroad for which the United States has responsibility (such as U.S. military base communities in foreign countries) as it does in relation to communities within the United States.

The following requirements accordingly apply in relation to sex offenders who leave the United States:

Each jurisdiction in which a sex offender is registered as a resident must require the sex offender to inform the jurisdiction if the sex offender intends to commence residence, employment, or school attendance outside of the United States.

If so informed by the sex offender, the jurisdiction must: (i) Notify all other jurisdictions in which the sex offender is required to register through immediate electronic forwarding of the sex offender's registration information (including the information concerning the sex offender's expected residence, employment, or school attendance outside of the United States), and (ii) notify the United States Marshals Service and update the sex offender's registration information in the national databases pursuant to the procedures under SORNA § 121(b)(1).

SORNA does not require that all notifications to jurisdictions by sex offenders concerning changes in their registration information be made through in-person appearances. Rather, the in-person appearance requirement of SORNA § 113(c) relates to changes in name, and to changes in residence, employment, or school attendance between jurisdictions or within jurisdictions, which jurisdictions must require sex offenders to report through in-person appearances under the circumstances expressly identified in Subpart A of this Part. The means by which sex offenders are required to report other changes in registration information discussed in this Part are matters that jurisdictions may determine in their discretion.

* * * * *