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MARK GWYN
Director

Memorandum

To: Tennessee Sex Offender Registering Agencies

Date: August 25, 2009

From: Jason Locke, Assistant Special Agent in Charge
Criminal Intelligence Unit / Sex Offender Registry

RE: **Failure to Sign the TBI Registration / Instruction Form**

Several agencies have inquired recently as to the ability of a convicted sex offender to refuse to sign the TBI Registration / Instruction Form. This issue has occurred most frequently upon the release of the offender from a local jail or prison.

In addressing this issue, Tennessee Code Annotated states the following:

40-39-205. Creation and distribution of forms -- Acknowledgement forms.

(a) TBI registration forms shall be designed, printed, and distributed by and at the expense of the TBI. These forms shall include instructions for compliance with this part and a statement of understanding and acknowledgment of those instructions to be signed by the offender. TBI registration forms shall be available from registering agencies, parole officers, probation officers, and other public officers and employees assigned responsibility for the supervised release of convicted felons into the community.

(c) The officer or employee responsible for supervising an offender who has been released on probation, parole, or any other alternative to incarceration shall:

(1) Promptly obtain the offender's signed statement acknowledging that the named officer or employee has:

(A) Fully explained, and the offender understands, the registration, verification, and tracking requirements and sanctions of this part and the current sex offender directives established by the board;

40-39-208. Violations -- Penalty -- Venue -- Providing records for prosecution.

(a) It is an offense for an offender to knowingly violate any provision of this part. Violations shall include, **but not be limited to**, the following:



- (1) Failure of an offender to timely register or report;
 - (2) Falsification of a TBI registration form;
 - (3) Failure to timely disclose required information to the designated law enforcement agency;
 - (4) Failure to sign a TBI registration form;
- (b) A violation of this part is a Class E felony.

Therefore, an offender who refuses to sign a Registration / Instruction Form is actually committing a criminal offense in the officer's presence and could be arrested immediately at the point the offender refuses to sign the form (exactly the same as a motorist refusing to sign a traffic citation). Once the offender is processed / booked on that charge, they may not be released until they sign the required forms, as they would be continuing to commit a criminal offense in the officer's presence until the forms are signed.

JTL: jl

Cc: Jeff Puckett, Deputy Director, TBI
Jerri Powell, Special Agent in Charge, Tennessee Fusion Center

