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SORNA Substantial Implementation Review Fort Peck Assiniboine and Sioux Tribes

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) would like to thank the Fort Peck Assiniboine and Sioux Tribes for the extensive work that has gone into their effort to substantially implement Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA). The SMART Office has completed its review of the Fort Peck Assiniboine and Sioux Tribes' SORNA substantial implementation packet and has found that the Fort Peck Assiniboine and Sioux Tribes have substantially implemented SORNA.

On July 28, 2011, the Fort Peck Assiniboine and Sioux Tribes submitted a substantial implementation package that included a tribal code, a Policies and Procedures manual, a Memorandum of Understanding with the neighboring Roosevelt and Valley County Sheriffs' Offices, a description of the community and the criminal justice system, as well as copies of registration and notice forms. Furthermore, the Fort Peck Assiniboine and Sioux Tribes completed revisions to their tribal code and Policies and Procedures manual and submitted the same to the SMART Office on November 12, 2013. In addition, email and phone correspondence with the Fort Peck Assiniboine and Sioux Tribes SORNA Compliance Officers filled in gaps in information and procedure, which informed our review.

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, which contains 14 sections addressing the SORNA requirements. Under each section, we indicate whether the Fort Peck Assiniboine and Sioux Tribes meet the SORNA requirements of that section or deviate from the requirements in some way. In instances of deviation, we specify whether the departure(s) from a particular requirement does not substantially disserve the purposes of that requirement.

While the Fort Peck Assiniboine and Sioux Tribes are encouraged to work toward rectifying the deviation(s) from requirements in order to achieve full implementation of SORNA, this is not required for substantial implementation purposes.

This report is a comprehensive review and is intended to detail every area in which the tribe has not met SORNA standards. We encourage you to review the information below, share it with relevant stakeholders in the tribes, and get back in touch with us to develop a strategy to address these remaining issues.

I. Immediate Transfer of Information

SORNA requires that when an offender initially registers and/or updates his or her information in a jurisdiction, that the initial registration information or updated information be

immediately sent to other jurisdictions where the offender has to register, as well as to NCIC/NSOR and the jurisdiction's public sex offender registry website.

The Fort Peck Assiniboine and Sioux Tribes entered into a Memorandum of Understanding with the Roosevelt and Valley County Sheriffs' Offices. Pursuant to this agreement, the Roosevelt County Sheriff's Office completes NCIC/NSOR submission on behalf of the Fort Peck Assiniboine and Sioux Tribes. Although the tribes' sex offender registration code and policies and procedures require NCIC/NSOR submission for all SORNA registerable offenses, the Sheriff's Office follows Montana policy and does not complete NCIC/NSOR submission for offenses that are not registerable under state law. Consequently, some SORNA registerable offenses are not submitted to NCIC/NSOR.

At this time there is no alternative method for the Fort Peck Assiniboine and Sioux Tribes to submit this necessary data to NCIC/NSOR. This obstacle prevents the Fort Peck Assiniboine and Sioux Tribes from entering information into NCIC/NSOR directly when initially registering a sex offender, when a sex offender indicates a change of residence, when a sex offender updates any information, when a sex offender is going to travel internationally, and/or if an offender absconds. The Fort Peck Assiniboine and Sioux Tribes does update its own website, however, and provides community notifications when an offender's information changes. The Fort Peck Assiniboine and Sioux Tribes has indicated that when it can do so, it will enter all new, updated and recaptured sex offender information into the NCIC/NSOR, as required by SORNA.

The SMART Office is aware of this obstacle and is involved in efforts to find short- and long-term solutions and alternatives for tribes to directly input sex offender information into NCIC/NSOR as necessary. The SMART Office finds that the Fort Peck Assiniboine and Sioux Tribes has currently sufficiently addressed the requirements of this section because no workable solution exists that would permit the tribe to directly submit data to NCIC/NSOR at this time and because the tribe has indicated that it will submit this data to NCIC/NSOR when a future solution is developed.

II. Offenses that Must Be Included in the Registry

SORNA requires that certain federal, military, and foreign offenses are included in a jurisdiction's registration scheme. In addition, SORNA requires that the jurisdiction capture certain sex offenses, both offenses from its jurisdiction and from other SORNA registration jurisdictions, in its registration scheme. SORNA also requires that certain adjudications of delinquency are included in a jurisdiction's registration scheme.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

III. Tiering of Offenses

SORNA requires that offenses be classified based on the nature of the offense of conviction. Fort Peck Assiniboine and Sioux Tribes correctly places federal, state and tribal statutes at least within the minimum appropriate SORNA tiers.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

IV. Required Registration Information

SORNA requires that the jurisdiction collect certain pieces of information from and for each offender that it registers, and requires that the jurisdiction keep that registration information, in a digitized form, in its registry.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

V. Where Registration is Required

SORNA requires that the jurisdiction register an offender if the jurisdiction is the one in which he or she is convicted or incarcerated. In addition, SORNA requires that the jurisdiction register offenders who reside, work, or attend school in the jurisdiction.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

VI. Initial Registration: Timing and Notice

SORNA requires that when an offender is incarcerated within the jurisdiction, registration must occur before release from imprisonment for the registration offense. Similarly, when an offender is sentenced within the jurisdiction, but not incarcerated, SORNA requires that registration occur within three business days of sentencing. Finally, when an offender has been convicted, sentenced, or incarcerated in another jurisdiction (including federal or military court), the jurisdiction must register the offender within three business days of the offender establishing residence, employment, or school attendance within the jurisdiction. SORNA also requires that, during the initial registration process, the jurisdiction inform the offender of his registration duties and require the offender to acknowledge in writing that he understands those duties.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

VII. Initial Registration: Retroactive Classes of Offenders

SORNA requires that each registration jurisdiction have a procedure in place to recapture three categories of sex offenders: those who are currently incarcerated or under supervision, either for the predicate sex offense or for some other crime; those who are already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction's law; and those who reenter the jurisdiction's criminal justice system because of a conviction for some other felony crime (whether or not it is a sex offense).

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

VIII. Keeping the Registration Current

SORNA requires that when a sex offender resides in a jurisdiction, he or she must immediately appear in-person to update his or her name, residence, employment, school attendance, and termination of residence. SORNA also requires that when an offender resides in a jurisdiction, he or she must immediately update any changes to his or her email addresses, internet identifiers, telephone communications, vehicle information, and temporary lodging information.

When an offender works in a jurisdiction, but does not reside or attend school there, SORNA requires that the offender immediately appear in-person to update employment-related information. When an offender attends school in a jurisdiction, but does not reside or work there, SORNA requires that the offender immediately appear in-person to update school-related information.

SORNA also requires that when an offender resides in a jurisdiction and intends to travel outside the United States, he or she must notify the residence jurisdiction at least 21 days in advance of such travel.

In addition, SORNA requires that when an offender notifies the jurisdiction of his or her intent to relocate to another country to live, work or attend school, that the jurisdiction do three things: immediately notify any other jurisdiction where the offender is either registered, or is required to register, of that updated information; immediately notify the United States Marshals Service; and immediately update NCIC/NSOR.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

IX. Verification/Appearance Requirements

SORNA requires that offenders register for a duration of time, and make in-person appearances at the registering agency, based on the tier of the offense of conviction. SORNA requires that offenders register for a duration of time based on the tier of the offense of conviction. Specifically, SORNA requires that SORNA Tier I offenders register for 15 years, SORNA Tier II offenders register for 25 years, and SORNA Tier III offenders register for life.

SORNA also requires that offenders make in-person appearances at the registering agency based on the tier of the offense of conviction. Specifically, SORNA requires that SORNA Tier I offenders appear once a year, that SORNA Tier II offenders appear every six months, and that SORNA Tier III offenders appear every three months.

In addition, SORNA creates certain requirements under which a jurisdiction can allow an offender to have a reduced registration period.

A. Duration of Registration

The Fort Peck Assiniboine and Sioux Tribes require that all sex offenders, regardless of tier, register for the rest of their lives.

B. Frequency of Registration

The Fort Peck Assiniboine and Sioux Tribes require offenders to appear in person at the Roosevelt County Sheriff's Office or the Fort Peck Assiniboine and Sioux Tribes' Probation Department for purposes of verification and keeping their registration current from the time of release from custody (for a sex offender who is incarcerated for the offense) or from the date of sentencing (for a sex offender who is not incarcerated for the offense), as follows: Tier I (every 12 months); Tier II (every six months); and Tier III (once every three months).

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

X. Public Registry Website Requirements

SORNA requires that each jurisdiction maintain a public sex offender registry website and publish certain registration information on that website. SORNA also requires that certain information not be displayed on a jurisdiction's public registry website.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

XI. Community Notification

SORNA requires that each jurisdiction disseminate certain initial and updated registration information to particular agencies within the jurisdiction. In addition, SORNA requires that each jurisdiction also disseminate certain initial and updated registration information to the community.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

XII. When a Sex Offender Fails to Appear for Registration

SORNA requires that when a jurisdiction is notified that a sex offender intends to reside, be employed, or attend school in its jurisdiction, and that offender fails to appear for registration as required, that the jurisdiction receiving that notice inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

XIII. When a Jurisdiction has Information that a Sex Offender may have Absconded

SORNA requires that when a jurisdiction has information that a sex offender may have absconded, that the jurisdiction take certain actions to investigate the absconder and notify various law enforcement agencies.

The Fort Peck Assiniboine and Sioux Tribes meet all of the SORNA requirements in this section.

XIV. Other Considerations

There are no additional considerations.

Conclusion

The Fort Peck Assiniboine and Sioux Tribes have put forth exceptional work and effort in substantially implementing SORNA and enhancing their sex offender registration and notification system.