



June 2014

## **SORNA Substantial Implementation Review Standing Rock Sioux Tribe**

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 Standing Rock Sioux Tribe's for the extensive work that has gone into its 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 Standing Rock Sioux Tribe's SORNA substantial implementation packet and has found that Standing Rock Sioux Tribe has substantially implemented SORNA.

On July 25, 2011, Standing Rock Sioux Tribe submitted a substantial implementation package. The substantial implementation package included a tribal code, a thorough policies and procedures manual, memorandums of understanding with North Dakota and South Dakota, as well as copies of registration and notice forms. In addition, email and phone correspondence with tribal staff 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 Standing Rock Sioux Tribe meets the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify where the departure(s) from a particular requirement does not substantially disserve the purposes of that requirement.

While Standing Rock Sioux Tribe is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, this is not required for substantial implementation purposes. This report is an exhaustive 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 tribe, 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.

Standing Rock Sioux Tribe meets all of the SORNA requirements in this section.

## **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.

Standing Rock Sioux Tribe meets 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.

Standing Rock Sioux Tribe has a risk-based review component. This deviation does not substantially disserve the purposes of this section, based on our understanding that § 4-1629 (D) allows judicial discretion to increase, but not decrease, an offender's tier.

Standing Rock Sioux Tribe meets 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.

Standing Rock Sioux Tribe meets 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 is convicted or incarcerated. In addition, SORNA requires that the jurisdiction register offenders who reside, work, or attend school in the jurisdiction.

Standing Rock Sioux Tribe meets 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.

Standing Rock Sioux Tribe meets 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).

Standing Rock Sioux requires the recapture of offenders, but does not set out the required timeframes. This deviation does not substantially disserve the purposes of SORNA. However, it is recommended that Standing Rock Sioux formalize these timeframes in its policies and procedures and/or tribal code.

Standing Rock Sioux Tribe meets all other 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.

Standing Rock Sioux Tribe meets 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.

- A. Duration of Registration:** As reflected in the Standing Rock Sioux Tribe's Code, all sex offenders must register as follows: Tier I (15 years); Tier II (25 years); and a Tier III (for the rest of the sex offender's life).
- B. Frequency of Registration:** As reflected in the Standing Rock Sioux Tribe's Code, sex offenders are required, at minimum, to appear in person at the Tribal Police 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).
- C. Reduction in Registration Period:** As reflected in the Standing Rock Sioux Tribe's Code, a Tier I offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years and an offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier III registration and he or she has maintained a clean record for 25 consecutive years.
- D. Clean Record Requirement:** As reflected in the Standing Rock Sioux Tribe's Code, a person has a clean record if he or she has satisfied the following requirements: 1) he or she has not been convicted of any offense, for which imprisonment for more than one year may be imposed; 2) he or she has not been convicted of any sex offense; 3) he or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and 4) he or she has successfully completed an appropriate sex offender treatment program certified by the Tribe, another jurisdiction, or by the Attorney General of the United States.

Standing Rock Sioux Tribe meets 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.

Standing Rock Sioux Tribe meets 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.

Standing Rock Sioux Tribe meets 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.

Standing Rock Sioux Tribe developed its codes and policies and procedures to register and post Indian offenders. Non-Indian offenders register with North Dakota or South Dakota. A tagline was added to the public website informing the public that there may be sex offenders who are not listed on this site who nevertheless live on the lands of the Standing Rock Sioux Tribe. It also instructs the public to go to the North & South Dakota Registry Websites and the National Sex Offender Public Website to access the most complete information available.

This deviation does not substantially disserve the purposes 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.

Standing Rock Sioux Tribe meets all of the SORNA requirements in this section.

## **XIV. Other Considerations**

There were no additional considerations.

## **Conclusion**

Standing Rock Sioux Tribe has put forth exceptional work and effort in substantially implementing SORNA and enhancing its sex offender registration and notification system.