



March 18, 2014

## **SORNA Substantial Implementation Review Yavapai-Apache Nation**

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 Yavapai-Apache Nation 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 Yavapai-Apache Nation's SORNA substantial implementation packet and has found that the Yavapai-Apache Nation has substantially implemented SORNA.

On July 26, 2011, the Yavapai-Apache Nation submitted a substantial implementation package that included several exhibits, including background information on the tribe and its criminal justice system, courts, and police department; policies and procedures regarding sex offender registration; the tribe's sex offender registration law; and other relevant additional documents. They provided forms and memoranda of agreement with the State of Arizona. In addition, email and phone correspondence with tribal representatives filled in gaps in laws and procedure. Revised policies and procedures were adopted in 2013 and inform this report.

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 that the Yavapai-Apache Nation meets or provisionally meets the SORNA requirements of that section.

### **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 Yavapai Apache Nation updates its own website and provides community notifications when an offender's information changes. However, certain impediments prevent the tribe from entering information into NCIC/NSOR 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. At the federal level, FBI/CJIS does not have a means for tribes to directly submit this necessary data to NCIC/NSOR. At the state level, prior to 2013, the State of Arizona Access Integrity Division did not authorize tribal agencies to submit data into NCIC through its system unless the tribe required sex offenders to register concurrently with the state. This was not consistent with SORNA requirements.

In May of 2013, however, the State of Arizona agreed to receive NSOR data from tribal agencies for purposes of submission to NCIC through its system. Arizona estimates that they will be able to facilitate the tribal jurisdictions' entries into NCIC/NSOR once the State system is updated and functional, which is estimated to be 18 months from the date of the May 2013 letter (approximately November 2014). The Yavapai Apache Nation has entered in to a Memorandum of Agreement with the State of Arizona which allows it to enter all new, updated, and recaptured sex offender information into NCIC/NSOR, as required by SORNA. The entry of data will begin once the State of Arizona enables the data from Yavapai Apache Nation to route to NCIC/NSOR without being available to the State of Arizona.

Due to the structural obstacles detailed, the Yavapai Apache Nation is not able to meet the SORNA requirements in this section at this time. However, the SMART Office finds that the tribe has currently sufficiently addressed the requirements of this section because the tribe has entered in to an MOA with the State of Arizona to submit this data to NCIC/NSOR. The SMART Office finds that Yavapai Apache Nation provisionally meets the SORNA standard for this requirement with the understanding that once Arizona makes the necessary hardware, software, and training available to Yavapai Apache Nation as provided for in the MOA, Yavapai Apache Nation will avail themselves of this conduit to NCIC/NSOR, will update all policy, procedure and forms to reflect the process for entry of all registered sex offender data to NCIC/NSOR, will enter such data, and will submit all relevant updated paperwork to the SMART Office.

## **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 Yavapai-Apache Nation 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. The SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified Yavapai-Apache Nation's placement of these statutes within the SORNA three tier levels. Yavapai-Apache Nation correctly places its statutes within at least the minimum appropriate SORNA tiers.

The Yavapai-Apache Nation 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.

The Yavapai-Apache Nation 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.

The Yavapai-Apache Nation 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.

The Yavapai-Apache Nation 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).

The Yavapai-Apache Nation meets 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 Yavapai-Apache Nation 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.

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

The Yavapai-Apache Nation 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.

The Yavapai-Apache Nation 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.

The Yavapai-Apache Nation 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.

The Yavapai-Apache Nation meets 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 Yavapai-Apache Nation meets all of the SORNA requirements in this section.

#### **XIV. Other Considerations**

The Yavapai-Apache Nation has updated certain policies & procedures since its initial submission to the SMART Office in July of 2011. These updated documents were utilized by the SMART Office for this report.

### **Conclusion**

The Yavapai-Apache Nation has put forth exceptional work and effort in substantially implementing SORNA and enhancing its sex offender registration and notification system.