



December 30, 2014

SORNA Substantial Implementation Review Yavapai Prescott Indian 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 the Yavapai Prescott Indian Tribe 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 Prescott Indian Tribe's SORNA substantial implementation packet and has found that the Yavapai Prescott Indian Tribe has substantially implemented SORNA.

On July 11, 2011 the Yavapai Prescott Indian Tribe submitted their initial substantial implementation package. Thereafter on July 22, 2014 they submitted enacted Code and updated policy and procedures. The combined substantial implementation package included a tribal code, a thorough policies and procedures manual, a description of the community and the criminal justice system, as well as copies of registration and notice forms. In addition, I had email and phone correspondence with Mark Gunning Attorney for Yavapai Prescott Indian Tribe and Denise McCracken, Yavapai Prescott Tribal Police who filled in gaps in information and procedure, which informed the 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 that Yavapai Prescott Indian Tribe 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.

Yavapai Prescott Indian Tribe will update its own website and provide 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 24 months from the date of the May 2013 letter (approximately May 2015). Yavapai Prescott Indian Tribe is working on entering into a Memorandum of Agreement with the State of Arizona which will allow 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 Prescott Indian Tribe to route to NCIC/NSOR without being available to the State of Arizona. Yavapai Prescott will update the Policy and Procedures to reflect the process for entering the data once the build is complete.

Due to the structural obstacles detailed, Yavapai Prescott Indian Tribe 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 Prescott Indian Tribe provisionally meets the SORNA standard for this requirement with the understanding that once Arizona makes the necessary hardware, software, and training available to Yavapai Prescott Indian Tribe as provided for in the MOA, Yavapai Prescott Indian Tribe 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 Prescott Indian 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. Yavapai Prescott Indian Tribe correctly places federal, state and tribal statutes at least within the minimum appropriate SORNA tiers.

The Yavapai Prescott Indian 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.

The Yavapai Prescott Indian 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 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 Yavapai Prescott Indian 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.

The Yavapai Prescott Indian 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).

The Yavapai Prescott Indian Tribe 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 Prescott Indian 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.

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

Duration of Registration

Yavapai Prescott Indian Tribe requires that offenders register for the following duration of time after their release from incarceration or sentencing: Tier I offenders register for 15 years, Tier II offenders register for 25 years, and Tier III offenders register for Life.

A. Frequency of Registration

Yavapai Prescott Indian Tribe requires that offenders to appear in person at the Yavapai Prescott 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 of Registration Period:

Yavapai Prescott Indian Tribe does not permit any reductions to periods of registration.

The Yavapai Prescott Indian 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.

The Yavapai Prescott Indian 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.

The Yavapai Prescott Indian Tribe meets all of the SORNA requirements in this section. The Yavapai Prescott Indian 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.

The Yavapai Prescott Indian Tribe 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 Prescott Indian Tribe meets all of the SORNA requirements in this section.

XIV. Other Considerations

There are no additional considerations.

Conclusion

The Yavapai Prescott Indian Tribe has put forth exceptional work and effort in substantially implementing SORNA and enhancing its sex offender registration and notification system.