



March 2023

SORNA Substantial Implementation Review Oglala Sioux Tribe — Revised

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) thanks Oglala Sioux Tribe for 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 Oglala Sioux Tribe’s SORNA substantial implementation materials and has determined that Oglala Sioux Tribe continues to substantially implement SORNA.

In November 2017, the SMART Office issued an initial substantial implementation review, finding that Oglala Sioux Tribe had substantially implemented SORNA. In June 2022, the Oglala Sioux Tribe Council passed a council resolution substantively revising the tribe’s sex offender registration code, and in December 2022, the tribe requested an updated review. Email and phone correspondence with Oglala Sioux Tribe general counsel and registration staff, as well as South Dakota Division of Criminal Investigation staff, informed our review.

This review is exhaustive and details each area in which Oglala Sioux Tribe has or has not fully met SORNA standards. This review follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 11 sections addressing the SORNA requirements. Each section indicates whether Oglala Sioux Tribe meets the SORNA requirements of that section, or deviates from the SORNA requirements in a way that does not substantially disserve SORNA’s requirements.

I. Immediate Notification and Exchange of Information

SORNA requires that when an offender initially registers and/or updates their information in a jurisdiction, that the initial registration information or updated information be immediately sent to each jurisdiction(s) where the offender is required to register—i.e., where the offender lives, works and/or goes to school—through the SORNA Exchange Portal or other means, as well as sent to the National Crime Information Center’s National Sex Offender Registry (NCIC/NSOR) and the jurisdiction’s public sex offender registry website. Notification must also be provided to appropriate law enforcement agencies, supervision agencies and any agency responsible for conducting employment-related background checks under 34 U.S.C. §40102(a) in each jurisdiction where the offender is registered.

Oglala Sioux Tribe has entered into an oral agreement with the South Dakota Division of Criminal Investigation wherein the tribe shares sex offender registration information and materials directly with the state for entry into the relevant federal databases and for display on the state’s public sex offender registry website.

Through this oral agreement with South Dakota, Oglala Sioux Tribe meets all of the SORNA requirements in this section.

II. Offenses That Must Be Included in the Registry

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

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

III. Required Registration Information

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

Because Oglala Sioux Tribe utilizes South Dakota's sex offender registration platform, and South Dakota deviates from SORNA requirements in this section,¹ Oglala Sioux Tribe deviates from SORNA requirements in that the tribe does not collect the following information in its registry:

- Vehicle registration numbers or identifiers and descriptions of the permanent or frequent location where all automobiles owned or operated by the offender, whether for work or personal use, are kept.²
- Information for all aircrafts or watercrafts owned or operated by the sex offenders, whether for work or personal use.

These deviations, including not capturing vehicle registration or identifiers and descriptions of locations where vehicles are kept and information related to aircrafts and watercrafts owned by sex offenders, do not substantially disserve the purposes of the SORNA requirements in this section.

IV. Where Registration Is Required

SORNA requires the jurisdiction register an offender if the offender was convicted or incarcerated in that jurisdiction. In addition, SORNA requires that the jurisdiction register offenders who live, work or go to school in the jurisdiction.

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

¹ See "[SORNA Substantial Implementation Review, State of South Dakota — Revised](#)" issued by the SMART Office in March 2019.

² Oglala Sioux Tribe does collect permanent or frequent locations where automobiles are kept if the sex offender resides in the vehicle.

V. Initial Registration: Generally

SORNA requires registration of an offender who is incarcerated within the jurisdiction before release from imprisonment for the registration offense. Similarly, when an offender is sentenced in the jurisdiction, but not incarcerated, SORNA requires registration within three business days of sentencing. Additionally, 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. Finally, SORNA requires that, during the initial registration process, the jurisdiction inform the offender of their registration duties and require the offender acknowledge in writing that they understand those duties.

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

VI. Initial Registration: Retroactive Classes of Offenders

SORNA applies to sex offenders convicted prior to the enactment of SORNA or its implementation in the jurisdiction, if they are prisoners, supervisees or registrants at the time of implementation, or if they reenter the system because of subsequent criminal convictions.

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

VII. Keeping the Registration Current

SORNA requires registered sex offenders immediately appear in person to the registering agency in their jurisdiction of residence to update their name, residence, employment, school attendance and termination of residence. SORNA also requires sex offenders immediately update the registering agency in their jurisdiction of residence about any changes to their 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 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 the offender immediately appear in person to update school-related information.

SORNA also requires that, when an offender intends to travel outside the United States, the offender notify the registering agency in their jurisdiction of residence at least 21 days in advance of such travel.

In addition, SORNA requires that, when an offender notifies the jurisdiction of intent to relocate to another country to live, work or attend school, or intent to travel to another country, the jurisdiction must do three things: 1) immediately notify any other jurisdiction where the offender is either registered or is required to register of that updated information; 2) immediately notify the United States Marshals Service; and 3) immediately update NCIC/NSOR.

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

VIII. Offense Tiering and Verification/Appearance Requirements

SORNA requires offenses be classified into three tiers based on the nature and seriousness of the offense, the age of the victim, and the extent of the offender's recidivism and that the tier of the conviction offense determines the duration of registration and frequency of in-person appearances.

A. Offense Tiering

The SMART Office has reviewed all relevant Oglala Sioux Tribe statutes and has identified Oglala Sioux Tribe's classification of these statutes within the tiering policy structure created by SORNA.

Oglala Sioux Tribe tiers its statutes in accordance with SORNA.

B. Duration of Registration

SORNA requires offenders register for a duration of time based on the tier of the offense of conviction. Specifically, SORNA requires tier I offenders register for 15 years, tier II offenders register for 25 years and tier III offenders register for life.

Oglala Sioux Tribe's duration of registration requirements conform with SORNA requirements.

C. Frequency of Registration

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

Oglala Sioux Tribe's frequency of registration requirements conform with SORNA requirements.

D. Reduction of Registration Periods

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

Oglala Sioux Tribe allows for reduction of registration periods, which conforms with SORNA requirements.

E. Clean Record Requirements

Under SORNA, a registered sex offender has a clean record if they have satisfied certain requirements.

Oglala Sioux Tribe's clean record requirements conform with SORNA requirements.

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

IX. Public Registry Website and Community Notification Requirements

SORNA requires 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 published on a jurisdiction's public registry website. Additionally, SORNA requires each jurisdiction disseminate certain initial and updated registration information to schools, public housing agencies, and social service entities responsible for protecting minors, and the community through an automated notification system.

A. Public Registry Website

SORNA requires offender information be published on the jurisdiction's public registry website within three business days. In addition to being able to search for a specific offender by name, the jurisdiction's sex offender website must also be searchable by ZIP code or geographic radius.

Because Oglala Sioux Tribe relies on South Dakota for its public registry website, and South Dakota deviates from SORNA requirements in this section, Oglala Sioux Tribe deviates from SORNA in that it does not include offenders' employer addresses, school addresses or vehicle information on its public registry website. Although South Dakota's public sex offender registry website does not include this information, the website does provide a notice informing the public that it is available at the Oglala Sioux Tribe Police Department and provides instructions on how to access it.

B. Community Notification

The jurisdiction's public sex offender registry website must include a function that allows members of the public and organizations to request email notification when sex offenders move into, or start employment or school within, a ZIP code or geographic radius specified by the requester.

Because Oglala Sioux Tribe relies on South Dakota for its public registry website, and South Dakota deviates from SORNA requirements in this section, Oglala Sioux Tribe's community notification provisions deviate from SORNA in that updates to sex offenders' employment or school enrollment information are not automatically shared with the public via email from South Dakota's public sex offender registry website.

These deviations, including sharing information regarding registered sex offenders' employer addresses, school addresses or vehicle information on the tribe's public sex offender registry website or through automated email dissemination, do not substantially disserve the purposes of the SORNA requirements in this section.

X. Enforcement of Registration Requirements

SORNA requires that jurisdictions take measures to enforce registration requirements and engage in practical procedures for investigating and dealing with absconders.

A. Failure to Appear for Registration

SORNA requires that when a jurisdiction is notified of a sex offender's intent to live, work or go to school in its jurisdiction, and that offender fails to appear for registration as required, the receiving jurisdiction must inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

Oglala Sioux Tribe's failure to appear procedures conform with SORNA requirements.

B. Absconders

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

Oglala Sioux Tribe's investigation and notification procedures conform with SORNA requirements.

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

XI. Additional Considerations

There are no additional considerations.

Conclusion

Oglala Sioux Tribe has put forth exceptional effort in substantially implementing SORNA and enhancing its sex offender registration and notification system. SMART recommends Oglala Sioux Tribe resolve any deviations from SORNA requirements in order to achieve full implementation of SORNA; however, failing to resolve these deviations will not impact Oglala Sioux Tribe's substantial implementation status. Oglala Sioux Tribe will be required to continue to certify annually to the SMART Office continuing implementation of SORNA.