



September 8, 2011

## **SORNA Substantial Implementation Review Commonwealth of the Northern Mariana Islands**

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 Commonwealth of the Northern Mariana Islands (CNMI) 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 CNMI's SORNA substantial implementation packet and has found that the Commonwealth of the Northern Mariana Islands has substantially implemented SORNA.

On July 28, 2011, CNMI submitted legislation to the SMART Office for the purposes of review. This submission had been preceded by extensive in-person and remote technical assistance over the previous three years.

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 14 sections addressing the SORNA requirements. Under each section, we indicate whether CNMI 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 CNMI 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 state has not met SORNA standards.

We encourage you to review the information below, share it with relevant stakeholders in CNMI, and get back in touch with us with any questions. We particularly encourage CNMI to work closely with the SMART Office in developing the necessary policies and procedures referenced in its implementing legislation.

### **I. Immediate Transfer of Information**

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

CNMI 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 be 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 be included in a jurisdiction's registration scheme.

CNMI 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 CNMI's placement of these statutes within the SORNA three tier levels. CNMI correctly places its statutes within at least the minimum appropriate SORNA tiers.

A detailed analysis of the tiering of CNMI's criminal statutes is appended to this report.

CNMI 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.

CNMI does not maintain a digital copy of an offender's registration form. In addition, CNMI does not automatically provide information about international travel to the United States Marshals Service.

These deviations do not substantially disserve the purposes of the 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.

CNMI meets all of the SORNA requirements in this section.

## **VI. Initial Registration: Generally**

SORNA requires that when an offender is incarcerated within the jurisdiction, the registration 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.

CNMI 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).

CNMI meets all of the SORNA requirements in this section.

## **VIII. Keeping the Registration Current**

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

SORNA also requires that when an offender resides in a jurisdiction but indicates to the jurisdiction that he/she intends to travel outside the United States, the offender 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 intent to relocate to another country to live, work or attend school, or of his intent to travel to another country, 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.

CNMI requires that an offender give three days' notice of an intent to travel internationally.

This deviation does not substantially disserve the purposes of the 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.

### **A. Duration of Registration**

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, that SORNA Tier II offenders register for 25 years, and that SORNA Tier III offenders register for life.

### **B. Frequency of Registration**

SORNA 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.

CNMI 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.

CNMI 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.

CNMI meets all of the SORNA requirements in this section.

## **XII. Failure to Register as a Sex Offender: State Penalty**

SORNA requires that each jurisdiction, other than a federally recognized Indian tribe, provide a criminal penalty that includes a maximum term of imprisonment that is greater than one year for the failure of a sex offender to comply with their registration requirements.

CNMI meets all of the SORNA requirements in this section.

## **XIII. 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.

CNMI meets all of the SORNA requirements in this section.

## **XIV. 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.

CNMI meets all of the SORNA requirements in this section.

## **Conclusion**

CNMI has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system. However, there are provisions identified in this report that should be addressed in order for CNMI to fully implement SORNA.

We encourage you to contact the SMART Office with any questions or concerns once you have had the opportunity to review and discuss our findings.

## **Appendix: CNMI Statutes**

The SMART Office has reviewed all of the CNMI statutes identified in its substantial implementation submission package and has identified CNMI's placement of these statutes within the tiering structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA).

In reviewing the CNMI Statutes, the SMART Office understands that CNMI has three categories of registrants for purposes of its duration of registration and frequency of registration requirements:

1. Tier I registrants, required to register for 15 years and annually verify registration information;
2. Tier II registrants, required to register for 25 years and twice-annually verify registration information; and
3. Tier III registrants, required to register for life and quarterly verify registration information.

### **Tier I Offenses**

SORNA requires that Tier I offenders register for a minimum of 15 years and annually verify registration information. CNMI properly tiers the following offenses as Tier I offenses under their code:

- 6 CMC §1302(a)(1), (2), or (4) Sexual Assault in the Second Degree, when the victim is an adult.
- 6 CMC §1303(a)(1) Sexual Assault in the Third Degree, when the victim is an adult.
- 6 CMC §1315 Indecent Exposure in the First Degree (registration of this offense exceed SORNA's requirements).
- 6 CMC §1316 Indecent Exposure in the Second Degree (registration of this offense exceed SORNA's requirements).

### **Tier II Offenses**

SORNA requires that Tier II offenders register for a minimum of 25 years and semi-annually verify registration information. CNMI properly tiers the following offenses as Tier II offenses under their code:

- 6 CMC §1302(a)(1), (2), or (4) Sexual Assault in the Second Degree, when the victim is 13-18 years of age.

- 6 CMC §1303(a)(1) Sexual Assault in the Third Degree, when the victim is 13-18 years of age.
- 6 CMC §1306(a)(2) Sexual Abuse of a Minor in the First Degree, when the victim is 16 or 17 years of age.
- 6 CMC §1307(a)(3) or (5) Sexual Abuse of a Minor in the Second Degree, when the victim is 13-18 years of age.
- 6 CMC §1307(a)(4) Sexual Abuse of a Minor in the Second Degree.
- 6 CMC §1308 Sexual Abuse of a Minor in the Third Degree.
- 6 CMC §1309(a)(2) Sexual Abuse of a Minor in the Fourth Degree.
- 6 CMC §1311 Incest, where the victim is 16 or 17 years of age.
- 6 CMC §1314 Unlawful Exploitation of a Minor.

### **Tier III Offenses**

SORNA requires that Tier III offenders register for life and quarterly verify registration information. CNMI properly tiers the following offenses as Tier III offenses under their code:

- 6 CMC §1301 Sexual Assault in the First Degree
- 6 CMC §1302(a)(1), (2), or (4) Sexual Assault in the Second Degree, when the victim is under 13 years of age.
- 6 CMC §1302(a)(3) Sexual Assault in the Second Degree.
- 6 CMC §1303(a)(1) Sexual Assault in the Third Degree, when the victim is under 13 years of age.
- 6 CMC §1306(a)(1) or (3) Sexual Abuse of a Minor in the First Degree.
- 6 CMC §1306(a)(2) Sexual Abuse of a Minor in the First Degree, when the victim is under 16 years of age.
- 6 CMC §1307(a)(1) or (1) Sexual Abuse of a Minor in the Second Degree.
- 6 CMC §1307(a)(3) or (5) Sexual Abuse of a Minor in the Second Degree, when the victim is under 13 years of age.

- 6 CMC §1309(a)(1) Sexual Abuse of a Minor in the Fourth Degree.
- 6 CMC §1311 Incest, where the victim is under 16 years of age.