



September 27, 2013

SORNA Substantial Implementation Review IOWA TRIBE OF KANSAS AND NEBRASKA

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 Iowa Tribe of Kansas and Nebraska for the Tribe's extensive work 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 the Iowa Tribe of Kansas and Nebraska's SORNA substantial implementation packet and has found that the Iowa Tribe of Kansas and Nebraska has substantially implemented SORNA.

On January 27, 2012, the Iowa Tribe of Kansas and Nebraska submitted a substantial implementation package that included the following: a description of the Tribe's community, criminal justice system, and sex offender registration process; a completed SORNA Implementation Checklist; the Tribe's Sex Offender Registration and Notification Act and other relevant laws; and the Tribe's Sex Offender Registration and Notification Policies and Procedures Manual with forms, checklists, and templates.

On November 21, 2012, the SMART Office provided the Tribe with a memorandum identifying issues that needed to be clarified in order for the SMART Office to determine that the Tribe has substantially implemented SORNA. In accordance with SMART Office requests and recommendations, the Tribe promptly provided updates, made revisions to its Act and Policy and Procedures Manual, and provided Memoranda of Agreement (MOA) with partner jurisdictions to satisfy SORNA compliance concerns related to the Tribe's NCIC access. Additional email and telephone communications with the Iowa Tribe of Kansas and Nebraska filled in gaps in information and procedure, which informed our review.¹

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, which contains 14 sections addressing SORNA requirements. Under each section, we indicate that the Iowa Tribe of Kansas and Nebraska 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

¹The SMART Office's most recent email and phone correspondence from October 2012 through February 2013 has been with Stephen D. McGiffert, Attorney for the Iowa Tribe of Kansas and Nebraska, Law Offices, Payne & Jones, Chartered.

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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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.

The Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of this section.

III. Tiering of Offenses

SORNA requires that offenses be classified based on the nature of the offense of conviction.

The Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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.

- A. Duration of Registration:** As reflected in the Tribe's Act and Policy and Procedures Manual, all sex offenders are required to register and must, at a minimum, 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 (15 years); Tier II (25 years); and Tier III (for the rest of the sex offender's life).
- B. Frequency of Registration:** As reflected in the Tribe's Act and Policy and Procedures Manual, sex offenders are required to register at the Tribal Police Department 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 Tribe's Act and Policy and Procedures Manual, 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 a Tier III 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 Tribe's Act and Policy and Procedures Manual, 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.

The Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of 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 Iowa Tribe of Kansas and Nebraska meets all the SORNA requirements of this section.

XIV. Other Considerations

There are currently no other considerations.

Conclusion

The Iowa Tribe of Kansas and Nebraska has put forth exceptional work and effort in substantially implementing SORNA and enhancing its sex offender registration and notification system.