



August 2017

SORNA Substantial Implementation Review San Carlos Apache 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 San Carlos Apache 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 the San Carlos Apache Tribe's SORNA substantial implementation packet and has found that the San Carlos Apache Tribe has substantially implemented SORNA.

On February 12, 2016, the San Carlos Apache Tribe submitted a substantial implementation package that included the San Carlos Apache Tribe Sex Offender Registration Notification Act, San Carlos Police Department Sex Offender Registry Policies and Procedures Manual and various related forms. Furthermore, San Carlos Apache Tribe completed revisions to its sex offender registration and notification act and policies and procedures and submitted the revisions to the SMART Office on November 4, 2016. In addition, email and phone correspondence with the San Carlos Apache Tribe Police Department and Attorney General filled in information gaps about procedures, which informed our 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 whether the San Carlos Apache Tribe meets the SORNA requirements of that section or deviates from the requirements in some way. In the instances of deviation, we specify that the departure from the particular requirement does not substantially disserve the purpose of that requirement. In other words, San Carlos Apache Tribe is encouraged to work toward rectifying the deviation from the requirement in order to achieve full implementation of SORNA, but this is not necessary for substantial implementation purposes.

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 the National Crime Information Center National Sex Offender Registry (NCIC/NSOR) and the jurisdiction's public sex offender registry website.

Arizona has agreed to receive NSOR data from tribal agencies for purposes of submission to NCIC through its system. Arizona estimates it will be able to facilitate the tribal jurisdictions entries into NCIC/NSOR once the state system is updated and functional. In the interim, the San Carlos Apache Tribe is actively working toward the execution of a

memorandum of agreement with the Arizona Department of Public Safety (AZDPS), whereby AZDPS will enter tribal sex offender registration information into NCIC/NSOR on a temporary basis until the tribal entry message key programming is completed.

The SMART Office finds that the San Carlos Apache Tribe provisionally meets all of the SORNA requirements in this section with the understanding that once Arizona makes the necessary hardware, software and training available, the San Carlos Apache Tribe will avail itself 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 San Carlos Apache Tribe meets all of the SORNA requirements in this section except for the failure to compel registration as a sex offender for convictions for a non-forcible sexual act with a minor 16 or 17 years old.

This deviation does not substantially disserve the purposes 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 San Carlos Apache Tribe correctly places federal, state and tribal statutes at least within the minimum appropriate SORNA tiers.

The San Carlos Apache 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 San Carlos Apache 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 San Carlos Apache 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 San Carlos Apache 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 San Carlos Apache 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 San Carlos Apache 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.

A. Duration of Registration

The San Carlos Apache Tribe requires that all offenders register for life.

B. Frequency of Registration

The San Carlos Apache Tribe requires that offenders appear in person at the San Carlos 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), once every three months.

C. Reduction of Registration Period

The San Carlos Apache Tribe permits a Tier III offender to 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

A sex offender registered with the San Carlos Apache Tribe 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 San Carlos Apache 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. SORNA also requires that a jurisdiction's website be listed on the Dru Sjodin National Sex Offender Public Website (NSOPW).

The San Carlos Apache 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 San Carlos Apache 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 San Carlos Apache 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 San Carlos Apache Tribe meets all of the SORNA requirements in this section.

XIV. Other Considerations

There are no additional considerations.

Conclusion

The San Carlos Apache Tribe has put forth exceptional work and effort in substantially implementing SORNA and enhancing their sex offender registration and notification system.