



July 2017

## **SORNA Substantial Implementation Review Spirit Lake 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 Spirit Lake 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 Spirit Lake Tribe's SORNA substantial implementation packet and has found that the Spirit Lake Tribe has substantially implemented SORNA.

On December 14, 2012, the Spirit Lake Tribe submitted a substantial implementation package that included the Spirit Lake Tribe Sex Offender Registration and Community Notification Law, Spirit Lake Tribe Sex Offender Registration and Community Notification Program Policies and Procedures, and various related forms. Subsequent to collaboration with the SMART Office, the tribe submitted final revisions to the Spirit Lake Tribe Sex Offender Registration and Community Notification Law on December 29, 2016, and to the tribe's policies and procedures on March 27, 2017. In addition, email and phone correspondence with the Spirit Lake Tribe filled in gaps in information and procedure, 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 Spirit Lake 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, the Spirit Lake 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 National Crime Information Center National Sex Offender Registry (NCIC/NSOR) and the jurisdiction's public sex offender registry website.

Pursuant to the Spirit Lake Tribe's Public Law 93-638 compact with the Bureau of Indian Affairs (BIA), the local BIA police department submits NCIC/NSOR registration information on the tribe's behalf.

The Spirit Lake Tribe 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 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 Spirit Lake 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. The Spirit Lake Tribe correctly places federal, state and tribal statutes at least within the minimum appropriate SORNA tiers with the exception of first convictions for statutory rape secured at the Spirit Lake Tribal Court and potentially state courts or other tribal courts.

Specifically, first convictions for statutory rape (where the offender has no previous sex offense convictions) secured at the Spirit Lake Tribal Court will be assigned to Tier I. First convictions for statutory rape (where the offender has no previous sex offense convictions) secured in state or other tribal courts shall also be assigned to Tier I if the jurisdiction of conviction places the offense within that tier, though the tribe will defer to the state or tribal jurisdiction of conviction's decision to assign the sex offender to Tier II or Tier III as well.

The SMART Office has determined that this deviation does not substantially disserve the purposes 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 Spirit Lake Tribe correctly collects information from and for each offender, including actual dates of birth, with the exception of sex offenders' purported dates of birth.

The SMART Office has determined that this deviation does not substantially disserve the purposes 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 Spirit Lake 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 Spirit Lake 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 Spirit Lake 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 Spirit Lake 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 Spirit Lake 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.

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

The Spirit Lake Tribe requires that offenders appear in person at Spirit Lake Tribe 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:**

The Spirit Lake Tribe does not permit any reduction of registration periods.

The Spirit Lake 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 Web site (NSOPW).

The Spirit Lake Tribe has a public website that is listed on NSOPW. The Spirit Lake Tribe exempts information concerning sex offenders required to register on the basis of juvenile delinquency adjudications from public website posting, though may publish that information if the Spirit Lake Tribal Court determines that the juvenile poses a continued threat to the community.

The Spirit Lake 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 Spirit Lake 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 Spirit Lake 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 Spirit Lake Tribe meets all of the SORNA requirements in this section.

#### **XIV. Other Considerations**

There are no additional considerations.

#### **Conclusion**

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