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SORNA Substantial Implementation Review United States Virgin 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 United States Virgin Islands (USVI) 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 USVI's SORNA substantial implementation packet and has found that the United States Virgin Islands has substantially implemented SORNA.

On July 23, 2012, USVI requested an official review of its sex offender registration legislation. In addition, email and phone correspondence with the Office of the Attorney General filled in gaps in information and procedure, which informed our review.

Our review of the submitted 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 USVI meets or does not meet the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify that the departure(s) from a particular requirement does not substantially disserve the purpose of that requirement. In other words, USVI is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, but 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 the state, and get back in touch with us to develop a strategy to address these remaining issues.

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.

USVI 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.

USVI 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 USVI's placement of these statutes within the SORNA three tier levels. USVI correctly places its statutes within at least the minimum appropriate SORNA tiers (see the Appendix, "USVI Statutes" for information about USVI's classification of its offenders and associated registration requirements).

USVI 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. USVI captures all of the required information, with the following exceptions:

- USVI does not have a statutory provision requiring submission of Fingerprints and Palm Prints to the relevant FBI databases, though such prints are taken by registry officials. The FBI indicates that USVI is able to make submissions, and USVI is drafting a written policy to detail the submission process.

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.

USVI 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.

USVI 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).

USVI 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, that the offender 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, the sex offender 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 but indicates to the state 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 must 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.

USVI does require notice of International Travel per SORNA's requirements, but allows the USVI Attorney General to approve waivers to this procedure, when appropriate.

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. In its drafted legislation, USVI uses a three tier registration scheme in which registrants are required to register for 15 years, for 25 years and for life.

USVI meets all of the SORNA requirements of this subsection.

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.

USVI meets all of the SORNA requirements of this subsection.

C. Reduction of Registration Periods

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

USVI meets all of the SORNA requirements of this subsection.

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.

USVI 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.

USVI 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.

USVI 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.

USVI 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 in terms of investigating the absconder and notifying various law enforcement agencies.

USVI meets all of the SORNA requirements in this section.

Conclusion

USVI 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 USVI to fully implement SORNA.

We encourage you to contact the SMART Office once you have had the opportunity to review and discuss our findings and have developed a strategy for addressing and adopting the remaining provisions of SORNA.

Appendix: USVI Statutes

The SMART Office has reviewed all USVI statutes identified in its substantial implementation submission and has identified USVI'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). Unless indicated in the notes herein, the SMART office has not reviewed any statutes (or subsections) that were not included in the legislation provided by USVI.

In reviewing USVI's statute, the SMART Office understands that USVI has three categories of registrants for purposes of its duration of registration and frequency of registration requirements:

- Tier I offenders, who are required to appear annually to verify registration information and register for a period of 15 years.
- Tier II offenders, who are required to appear every 180 days to verify registration information and register for a period of 25 years.
- Tier III offenders, who are required to appear every 90 days to verify registration information and register for life.

SORNA Tier I Offenses

SORNA requires that Tier I offenders register for a minimum of 15 years and annually verify registration information. The following offenses listed in the USVI Criminal Code would require, at a minimum, Tier I registration requirements under SORNA.

- 14 V.I.C. §1622 (2), Solicitation and Use of Minors in Prostitution
(3), (4)
- 14 V.I.C. §1623 Knowingly Leasing Property to be Used for Prostitution of Minors)
- 14 V.I.C. §1624 Keeping House of Prostitution of Minors
- 14 V.I.C. §1709 Unlawful Sexual Contact in the Second Degree

SORNA Tier II Offenses

SORNA requires that Tier II offenders register for a minimum of 25 years and semi-annually verify registration information. The following offenses listed in the USVI Criminal Code would require, at a minimum, Tier II registration requirements under SORNA.

- 14 V.I.C. §121 Solicitation to Visit a Place of Prostitution of Minors
- 14 V.I.C. §134(a)(3) Trafficking of Persons for Illegal Sexual Activity
- 14 V.I.C. §489 Computer Pornography
- 14 V.I.C. §1700a Aggravated Rape in the Second Degree, non-forcible
- 14 V.I.C. §1702 Rape in the Second Degree, victim 13-15

- 14 V.I.C. §1024(b) Distribution of Child Pornography
- 14 V.I.C. §1025 Distribution of Obscene Matter to a Minor
- 14 V.I.C. §1027 Employment of a Minor to Perform Prohibited Acts

SORNA Tier III Offenses

SORNA requires that Tier I offenders register for life and quarterly verify registration information. The following offenses listed in the USVI Criminal Code would require, at a minimum, Tier III registration requirements under SORNA.

- 14 V.I.C. §505 Child Abuse (Involving Exploitation or Sexual Conduct)
- 14 V.I.C. §506 Aggravated Child Abuse (Involving Exploitation or Sexual Conduct)
- 14 V.I.C. §1051 Kidnapping of a Minor
- 14 V.I.C. §1052 Kidnapping for the Purposes of Rape
- 14 V.I.C. §1625 Pandering Involving Minors Engaged in Sexual Acts
- 14 V.I.C. §1700 Aggravated Rape
- 14 V.I.C. §1701 Rape in the First Degree
- 14 V.I.C. §1708 Unlawful Sexual Contact in the First Degree
- 14 V.I.C. §1709 Unlawful Sexual Contact in the Second Degree (if prosecuted with 14 V.I.C. §707)