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SORNA Substantial Implementation Review Tohono O’odham Nation — Revised

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) thanks Tohono O’odham Nation for 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 SORNA substantial implementation materials submitted by Tohono O’odham Nation and has determined that Tohono O’odham Nation continues to substantially implement SORNA.

In July 2011, the SMART Office issued an initial substantial implementation review, finding that Tohono O’odham Nation had substantially implemented SORNA. However, the Nation was one of several tribes in Arizona that was unable to submit sex offender information directly to the National Crime Information Center, National Sex Offender Registry (NCIC/NSOR), as required by SORNA.¹ The initial review found that although the Nation did not meet the SORNA requirement as it relates to NCIC/NSOR information sharing, it was due to obstacles outside of its control. The initial review noted that the Nation was pursuing connectivity to NCIC/NSOR through the Arizona Department of Public Safety (AZDPS). However, a state solution to connect tribal data to NCIC/NSOR through AZDPS was ultimately not developed.

In September 2017, the Department of Justice deployed the Tribal Access Program (TAP)² to Tohono O’odham Nation, enabling the Nation’s SORNA program to directly access and submit data to national crime information databases, including NCIC/NSOR. As of the date of this report, the Nation continues to participate in TAP and submit registration information to NCIC/NSOR. Accordingly, this review has been revised to reflect that Tohono O’odham Nation no longer deviates from SORNA’s information sharing requirements (section I).

For this review, the SMART Office reviewed the Nation’s sex offender registration laws, relevant statutes, policies, public registry website information, sex offender registration forms and other related materials. In addition, email and phone correspondence with the Nation’s police department informed this review.

This review is exhaustive and details each area in which Tohono O’odham Nation has met SORNA standards. This review follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 11 sections addressing the SORNA

¹ Arizona does not authorize tribal agencies to submit registration information into NCIC/NSOR through the state system unless the sex offender is concurrently registered with the state. Additionally, FBI/CJIS does not have an alternate solution.

² Launched by the Department of Justice in 2015, TAP provides a mechanism for participating tribes to directly access national crime information databases. DOJ serves as the CJIS Systems Agency for selected tribes rather than the state in which tribal land is located.

requirements. Each section indicates Tohono O’odham Nation meets the SORNA requirements of that section.

I. Immediate Notification and Exchange of Information

SORNA requires that when an offender initially registers and/or updates their information in a jurisdiction, that the initial registration information or updated information be immediately sent to each jurisdiction(s) where the offender has to register—where the offender lives, works and/or goes to school—through the SORNA Exchange Portal or other means as well as sent to NCIC/NSOR and the jurisdiction’s public sex offender registry website. Notification must also be provided to appropriate law enforcement agencies, supervision agencies and any agency responsible for conducting employment-related background checks under 34 U.S.C. § 40102(a) in each jurisdiction where the offender is registered.

Tohono O’odham Nation meets all of the SORNA requirements in this section.

II. Offenses That Must Be Included in the Registry

SORNA requires that a jurisdiction capture certain sex offenses, both from the jurisdiction itself and from other SORNA registration jurisdictions, in its registration scheme. In addition, SORNA requires certain federal, military and foreign offenses be included in a jurisdiction’s registration scheme. SORNA also requires that certain adjudications of delinquency be included in a jurisdiction’s registration scheme.

Tohono O’odham Nation meets all of the SORNA requirements in this section.

III. Required Registration Information

SORNA requires the jurisdiction collect certain information from, and for, each offender that it registers, and requires that the jurisdiction keep that registration information in its registry in a digitized form.

Tohono O’odham Nation meets all of the SORNA requirements in this section.

IV. Where Registration Is Required

SORNA requires the jurisdiction register an offender if the offender was convicted or incarcerated in that jurisdiction. In addition, SORNA requires that the jurisdiction register offenders who live, work and/or go to school in the jurisdiction.

Tohono O’odham Nation meets all of the SORNA requirements in this section.

V. Initial Registration: Generally

SORNA requires registration of an offender who is incarcerated within the jurisdiction before release from imprisonment for the registration offense. Similarly, when an offender is sentenced

in the jurisdiction, but not incarcerated, SORNA requires registration within three business days of sentencing. Additionally, 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. Finally, SORNA requires that, during the initial registration process, the jurisdiction inform the offender of their registration duties and require the offender acknowledge in writing that they understand those duties.

Tohono O'odham Nation meets all of the SORNA requirements in this section.

VI. Initial Registration: Retroactive Classes of Offenders

SORNA applies to sex offenders convicted prior to the enactment of SORNA or its implementation in the jurisdiction, if they are prisoners, supervisees or registrants at the time of implementation, or if they reenter the system because of subsequent criminal convictions.

Tohono O'odham Nation meets all of the SORNA requirements in this section.

VII. Keeping the Registration Current

SORNA requires registered sex offenders immediately appear in person to the registering agency in their jurisdiction of residence to update their name, residence, employment, school attendance and termination of residence. SORNA also requires sex offenders immediately update the registering agency in their jurisdiction of residence about any changes to their 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 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 the offender immediately appear in person to update school-related information.

SORNA also requires that, when an offender intends to travel outside the United States, the offender notify the registering agency in their jurisdiction of residence at least 21 days in advance of such travel.

In addition, SORNA requires that, when an offender notifies the jurisdiction of intent to relocate to another country to live, work or attend school, or intent to travel to another country, the jurisdiction must do three things: 1) immediately notify any other jurisdiction where the offender is either registered or is required to register of that updated information; 2) immediately notify the United States Marshals Service; and 3) immediately update NCIC/NSOR.

Tohono O'odham Nation meets all of the SORNA requirements in this section.

VIII. Offense Tiering and Verification/Appearance Requirements

SORNA requires offenses be classified into three tiers based on the nature and seriousness of the offense, the age of the victim, and the extent of the offender's recidivism and that the tier of the conviction offense determines the duration of registration and frequency of in-person appearances.

A. Offense Tiering

The SMART Office has reviewed all relevant Tohono O'odham Nation statutes and has identified the Nation's classification of these statutes within the tiering policy structure created by SORNA.

Tohono O'odham Nation tiers all sex offenses as tier III. Tohono O'odham Nation's tiering classification therefore conforms with SORNA requirements.

B. Duration of Registration

SORNA requires offenders register for a duration of time based on the tier of the offense of conviction. Specifically, SORNA requires tier I offenders register for 15 years, tier II offenders register for 25 years and tier III offenders register for life.

Tohono O'odham Nation requires all offenders to register for life. Tohono O'odham Nation's duration of registration requirements therefore conform with SORNA requirements.

C. Frequency of Registration

SORNA requires offenders make in-person appearances at the registering agency based on the tier of the offense of conviction. Specifically, SORNA requires tier I offenders appear once a year, tier II offenders appear every six months and tier III offenders appear every three months.

Tohono O'odham Nation requires all offenders to appear every three months. Tohono O'odham Nation's frequency of registration requirements therefore conform with SORNA requirements.

D. Reduction of Registration Periods

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

Tohono O'odham Nation's allowance for reduced registration periods conforms with SORNA requirements.

Tohono O'odham Nation meets all of the SORNA requirements in this section.

IX. Public Registry Website and Community Notification Requirements

SORNA requires 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 published on a jurisdiction's public registry website. Additionally, SORNA requires each jurisdiction disseminate certain initial and updated registration information to schools, public housing agencies, and social service entities responsible for protecting minors, and the community through an automated notification system.

A. Public Registry Website

SORNA requires offender information be published on the jurisdiction's public registry website within three business days. In addition to being able to search for a specific offender by name, the jurisdiction's sex offender website must also be searchable by ZIP code or geographic radius.

Tohono O'odham Nation operates a public registry website that conforms with SORNA requirements.

B. Community Notification

The jurisdiction's public sex offender registry website must include a function that allows members of the public and organizations to request email notification when sex offenders move into, or start employment or school within, a ZIP code or geographic radius specified by the requester.

Tohono O'odham Nation provides community notification in a manner that conforms with SORNA requirements.

Tohono O'odham Nation meets all of the SORNA requirements in this section.

X. Enforcement of Registration Requirements

SORNA requires that jurisdictions take measures to enforce registration requirements and engage in practical procedures for investigating and dealing with absconders.

A. Failure to Appear for Registration

SORNA requires that when a jurisdiction is notified of a sex offender's intent to live, work or go to school in its jurisdiction, and that offender fails to appear for registration as required, the receiving jurisdiction must inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

The failure-to-appear procedures used by Tohono O'odham Nation conform with SORNA requirements.

B. Absconders

SORNA requires that, when a jurisdiction has information that a sex offender may have absconded, the jurisdiction take certain actions to investigate the absconder and notify various law enforcement agencies.

The investigation and notification procedures used by Tohono O'odham Nation conform with SORNA requirements.

Tohono O'odham Nation meets all of the SORNA requirements in this section.

XI. Additional Considerations

There are no additional considerations.

Conclusion

Tohono O'odham Nation has put forth exceptional effort in substantially implementing SORNA and enhancing its sex offender registration and notification system. Going forward, the Nation will continue to be required to annually certify continuing implementation of SORNA to the SMART Office.