



September 2022

SORNA Substantial Implementation Review Nisqually Indian Tribe — Revised

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) thanks the Nisqually Indian Tribe (the Nisqually Tribe) 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 updated review of the Nisqually Tribe’s SORNA substantial implementation materials and has determined that the Nisqually Tribe has substantially implemented SORNA.

In November 2015, the SMART Office issued its SORNA Substantial Implementation Review for Nisqually Indian Tribe, concluding that because the tribe relied on Washington state¹ to perform its registration and notification responsibilities, and because the state had not substantially implemented SORNA, the Nisqually Tribe had not substantially implemented SORNA. The SMART Office further concluded that the Nisqually Tribe should not have its registration and notification functions delegated to Washington state because delegation would not lead to greater SORNA implementation.

In May 2022, the Nisqually Tribe submitted an updated substantial implementation package that included a revised tribal sex offender registration code, revised policies and procedures for sex offender registration, and relevant sex offender registration forms. The tribe also confirmed that it is utilizing the Tribal Access Program (TAP) for sex offender registration purposes. In addition to these materials, email and phone correspondence with the Nisqually Police Department informed this review.

This review is exhaustive and details each area in which the Nisqually Tribe has met SORNA standards. This review follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 11 sections addressing the SORNA requirements. Each section indicates the Nisqually Tribe 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 the National Crime Information Center’s National Sex Offender Registry (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

¹ In 2011 and 2020, the SMART Office found that Washington state had not substantially implemented the minimum requirements of SORNA. The “SORNA Substantial Implementation Review State of Washington — Revised” is available at www.smart.ojp.gov/sorna-washington.

conducting employment-related background checks under 34 U.S.C. § 40102(a) in each jurisdiction where the offender is registered.

The Nisqually Tribe 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.

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

III. Required Registration Information

SORNA requires that 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.

The Nisqually Tribe 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 or go to school in the jurisdiction.

The Nisqually Tribe 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.

The Nisqually Tribe 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.

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

VII. Keeping the Registration Current

SORNA requires registered sex offenders immediately appear in person at 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.

The Nisqually Tribe 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.

The Nisqually 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.

A. Offense Tiering

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

The Nisqually Tribe tiers its statutes in accordance with SORNA.

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.

The Nisqually Tribe's duration of registration requirements 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.

The Nisqually Tribe's frequency of registration requirements 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.

The Nisqually Tribe's allowance for reduced registration periods conforms with SORNA requirements.

The Nisqually Tribe 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.

The Nisqually Tribe 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.

The Nisqually Tribe provides community notification in a manner that conforms with SORNA requirements.

The Nisqually Tribe 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 Nisqually Tribe's failure to appear procedures 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 Nisqually Tribe's investigation and notification procedures conform with SORNA requirements.

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

XI. Additional Considerations

There are no additional considerations.

Conclusion

The Nisqually Tribe has put forth exceptional effort in substantially implementing SORNA and enhancing its sex offender registration and notification system. Going forward, the Nisqually Tribe will be required to certify annually to the SMART Office its continuing implementation of SORNA.