



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

SORNA IMPLEMENTATION DOCUMENTS

October 2022

The SMART Office has developed a series of documents related to Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA). These documents provide further definition, guidance and direction on a number of topics to assist jurisdictions with SORNA implementation.

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1. Substantial Implementation of SORNA

Congress delegated to the Attorney General the authority to determine whether a jurisdiction has substantially implemented Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA) (*see* 34 U.S.C. § 20927). The SORNA National Guidelines interpret and define “substantial implementation” and further clarify that the SMART Office is responsible for determining whether a jurisdiction has substantially implemented SORNA requirements (*see* The National Guidelines for Sex Offender Registration and Notification, Federal Register, July 2, 2008, pp. 38047-48).

When making a substantial implementation determination, the SMART Office is required to follow the standards set forth in SORNA and the Attorney General Guidelines, which indicate that jurisdictions’ programs cannot be approved if they substitute some basically different approach to sex offender registration and notification that does not incorporate SORNA’s baseline requirements or if they dispense wholesale with categorical requirements set forth in SORNA. The substantial implementation standard does contemplate that there is some latitude to approve a jurisdiction’s implementation efforts, even if they do not exactly follow in all respects the specifications of SORNA or the National Guidelines.

The National Guidelines require the SMART Office to consider, on a case-by-case basis, whether jurisdictions’ laws and procedures substantially implement SORNA. Accordingly, for each jurisdiction, the SMART Office must assess whether a jurisdiction’s proposed deviation from a particular SORNA requirement does or does not substantially disserve the requirement’s objectives. This approach necessitates an individualized review of each jurisdiction’s SORNA program. After assessing whether a jurisdiction has sufficiently addressed each SORNA requirement, the SMART Office makes an initial determination as to whether a jurisdiction has substantially implemented SORNA, and thereafter an annual determination to ensure ongoing implementation.

To provide the best possible guidance, jurisdictions are encouraged to contact the SMART Office as early as possible when developing any legislation, policies or procedures designed to implement SORNA. The SMART Office will be as flexible as possible within the framework established by SORNA, the National Guidelines and Supplemental Guidelines, and will provide technical assistance to each jurisdiction in its implementation of SORNA.

2. SORNA's Impact on Byrne JAG Funding

34 U.S.C. § 20927(a) sets forth the following penalty for jurisdictions that fail to substantially implement Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA):

For any fiscal year after the end of the period for implementation, a jurisdiction that fails, as determined by the Attorney General, to substantially implement this [title] shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

Thus, a registration jurisdiction that fails to substantially implement SORNA is subject to a 10 percent penalty reduction in its Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) formula funds.

Each of the 50 states, five principal territories, and the District of Columbia qualify for annual allocations under the Byrne JAG formula and therefore are subject to the penalty reduction if they fail to substantially implement the requirements of SORNA.

Calculating allocations under the Byrne JAG formula is a multi-step process. First, initial allocations to the states, territories and the District of Columbia are calculated based on population and violent crime statistics, and certain adjustments are made to ensure awards do not fall below a certain minimum amount of funds for each state, territory and the District of Columbia. These initial allocations determine the amount that is awarded within each of these jurisdictions, but not the amount that is awarded to the state, territory or District of Columbia government itself. Rather, of this initial allocation, 60 percent goes directly to the jurisdiction, whereas 40 percent goes to qualifying units of local government and tribes within that jurisdiction.

Speaking broadly, if a jurisdiction fails to substantially implement SORNA, the 10 percent penalty reduction in its Byrne JAG formula funds will be applied to the 60 percent in direct grants to states, territories, and the District of Columbia, and not the 40 percent in grants to local governments and tribes within the jurisdiction. Important exceptions to this broad statement relate to amounts for required subawards and amounts allocated to small jurisdictions. More information about the JAG formula and the SORNA penalty calculation is available in the Byrne JAG Program Frequently Asked Questions (<https://bja.ojp.gov/doc/jag-faqs.pdf>).

For practical purposes, the penalty will be applied in the fiscal year following the deadline for implementation. For example, if a jurisdiction has been found by the SMART Office to have not substantially implemented SORNA or is no longer substantially implementing SORNA in 2023, the reduction will be 10 percent of the FY 2024 Byrne JAG award, imposed when the FY 2024 awards are made.

For funds withheld, SORNA provides the opportunity to have those funds reallocated. Specifically, under 34 U.S.C. § 20927(c):

Amounts not allocated under a program referred to in this section to a jurisdiction for failure to substantially implement this [title] shall be reallocated under that program to jurisdictions that have not failed to substantially implement this [title] or may be reallocated to a jurisdiction from which they were withheld to be used solely for the purpose of implementing this [title].

For any jurisdiction that has been penalized and wishes to have these funds reallocated to be used solely for implementation of SORNA, that jurisdiction must submit its request in writing to the SMART Office. Requests must include a detailed plan and timeline for substantial implementation. The final decision on such requests will be made by the Assistant Attorney General for the Office of Justice Programs, U.S. Department of Justice.

Jurisdictions have an ongoing obligation to implement and maintain SORNA status, which will be determined annually by the SMART Office. The Byrne JAG reduction penalty may be applied each year a jurisdiction has not implemented SORNA or has been determined by the SMART Office to no longer be substantially implementing SORNA.

Additionally, jurisdictions that have substantially implemented SORNA may have bonus funds applied to their next fiscal year Byrne JAG award. This bonus allocation is calculated based on total funds resulting from the Byrne JAG reductions from non-implementing states, territories and the District of Columbia during that current fiscal year. For example, if a state substantially implemented SORNA in FY 2022, then that state would have additional bonus funds added to its FY 2023 State Byrne JAG award, which will be comprised of Byrne JAG reductions from non-implementing jurisdictions that did not receive reallocation in FY 2022. The amounts available for bonus funds will vary from year to year, depending on the amount of Byrne JAG reductions that are assessed.

3. SORNA In Person Registration Requirements

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that a registered sex offender appear in person regularly to update certain registration information according to the following criteria (*see* 34 U.S.C. § 20918):

- Tier I offenders must appear once per year for 15 years
- Tier II offenders must appear every six months for 25 years
- Tier III offenders must appear every three months for life

A sex offender must initially register in person in each jurisdiction where he or she lives, works or goes to school. Further, SORNA requires an in-person appearance by the offender at least annually to update any photograph, physical description or other listed information. The following examples illustrate permissible means by which a jurisdiction can effectuate an in-person appearance with an offender as an alternative to the offender appearing in his or her designated sex offender registry office:

- A jurisdiction might consider an alternative reporting location if an offender lives in a remote location and the designated sex offender registry office is not accessible. In these instances, the offender may be able to complete his or her periodic in-person appearance by appearing at the local police station. These arrangements must be formalized and acceptable to the extent that the registry official has agreed to this arrangement and local police are capable of taking the required information from the offender.
- A jurisdiction might consider having local law enforcement visit the offender's residence and use portable devices to update and confirm information with the offender.
- A jurisdiction might consider a procedure in which the offender calls in via video conferencing and a set of security validation protocols are established to verify the offender's location and the time and date.
- A jurisdiction might consider mailing a certified reregistration form that the offender must fill out and "sign" by placing his or her fingerprints and/or thumbprints on the form. If the offender does not return the form within a specified period, or if the prints on the form, having been analyzed by law enforcement, do not match the prints of the offender, then law enforcement personnel are dispatched to the offender's residence.

The SMART Office encourages jurisdictions to work closely with SMART Office personnel to identify verification procedures that are both feasible for the jurisdiction and that serve the purposes of SORNA's requirements.

4. Community Notification Requirements of SORNA

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that registration jurisdictions immediately provide any initial or updated information about a sex offender to entities that fall under specific categories (*see* 34 U.S.C. § 20923(b)). Each category is addressed in turn below, with direction on how jurisdictions can substantially implement its terms.

The National Guidelines for Sex Offender Registration and Notification require that immediately after a sex offender registers or updates his or her registration, a jurisdiction shall provide the information to the following:

1. *The Attorney General, who shall include that information in the National Sex Offender Registry or other appropriate databases.*

To meet this requirement, jurisdictions must immediately update any information in the National Sex Offender Registry (NSOR), a subfolder of the National Crime Information Center (NCIC) operated by the Federal Bureau of Investigation. At the direction of the SMART Office, jurisdictions may also be required to immediately forward registration information to additional databases. An example would be the forwarding of finger and palm prints to Next Generation Identification and DNA collection samples or results to the Combined DNA Index System.

2. *Appropriate law enforcement agencies, schools, and public housing agencies.*

Jurisdictions may notify these agencies by:

- (1) ensuring their police departments, sheriffs' offices, prosecution offices and probation/parole offices have access to the law-enforcement portion of their sex offender registry; and
- (2) utilizing an email notification system, as discussed below in 5.

In conjunction with the SMART Office, jurisdictions may develop alternative methods for complying with this section.

3. *Each jurisdiction where the sex offender is required to register.*

To meet this requirement, jurisdictions must ensure there is a mechanism in place through which the jurisdiction transmits registration information to all other jurisdictions where an offender is required to register. This capacity must include not only states, territories and the District of Columbia, but also every federally recognized Indian tribe that has elected to operate as a SORNA registration jurisdiction.

4. *Any agency responsible for conducting employment-related background checks under 34 U.S.C. § 40102(a).*

Each jurisdiction determines which agencies conduct employment-related background checks under 34 U.S.C. § 40102(a) in that jurisdiction. To meet this requirement, jurisdictions must check within their own governmental structure to determine:

- (1) which agencies conduct such background checks, and
- (2) how to ensure that those background checks will capture the registration information gathered from the sex offender by the registering agency.

5. *Social service entities responsible for protecting minors; volunteer organizations in which contact with minors or other vulnerable individuals might occur; and any organization, company, or individual who requests such notification.*

To meet the requirements of this category of community notification, a jurisdiction must do the following:

- (1) immediately update the jurisdiction's sex offender public website when a sex offender either registers or updates his or her registration information;
- (2) establish an email notification system on the jurisdiction's sex offender public website, which initiates a notification when an offender relocates (to include residence, work and/or school address) in or out of a particular ZIP code or geographic radius; and automatically emails an individual who properly registers for the notification system when such a relocation occurs; and
- (3) reflect the relocation on the jurisdiction's sex offender public website.

5. Using Risk Assessment Under SORNA

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires a conviction-based structure for sex offenders' registration and notification requirements. SORNA does not address the use of risk assessment tools for registration or notification purposes. Many jurisdictions currently use risk assessment processes for a variety of purposes. These include aiding in making release decisions, filing civil commitment proceedings, structuring treatment programming and establishing supervision intensity. Additionally, many states use a risk assessment process to determine the level and method of community notification for registered sex offenders.

SORNA does not preclude the use of risk assessment tools for community notification purposes, particularly for the more active methods of notification (e.g., community meetings, flyers, door-to-door canvassing). However, to substantially implement SORNA, some jurisdictions that currently use risk assessment to determine community notification levels and methods might need to include a broader class of sex offenders on their public registry websites. In all instances, jurisdictions may use risk assessment tools as a justification for increasing SORNA's minimum notification requirements.

Jurisdictions that use a risk assessment process to determine sex offenders' duration, reporting frequency and/or relief from registration requirements will need to modify their systems to match SORNA's tier requirements, which depend on the crime of conviction. Jurisdictions may use risk assessment to increase these requirements as they see fit. The SMART Office encourages jurisdictions that use an assessment process for community notification purposes to do so without substantially undermining the purposes of SORNA's conviction-based tiering or other requirements.

6. SORNA: Determination of Residence, Homeless Offenders and Transient Workers

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that jurisdictions must register homeless and transient sex offenders, as well as offenders without fixed employment locations. The National Guidelines for Sex Offender Registration and Notification advise that, for the purposes of registration under SORNA, a sex offender resides in a jurisdiction when they:

- (1) have a home in a jurisdiction, or
- (2) habitually live in a jurisdiction.

A sex offender “habitually lives” in a jurisdiction when they reside in a jurisdiction for more than 30 days (a jurisdiction may specify whether those days must be consecutive or if they can be aggregated over a longer period of time). Jurisdictions are free to decide how to make the determination regarding who resides in their jurisdiction, thus triggering a registration requirement.

Jurisdictions must register homeless sex offenders, and these individuals must provide “some more or less specific description” of where they habitually live with whatever definiteness is possible under the circumstances.

Under SORNA, the definition of employee includes individuals who are self-employed or who work for any other entity, whether compensated or not. For those sex offenders who do not have a fixed employment location, jurisdictions are expected to register places where such a sex offender works with whatever definiteness is possible and to the extent it is possible to do so, such as information about the normal travel routes or general area(s) in which an offender works. For day laborers the location of a “common gathering point” counts as a “workplace” for registration purposes.

The SMART Office encourages jurisdictions to consider specific situations and how to handle them in conformance with the intent of SORNA. Some situations that might require such consideration are those posed by long-haul truckers, day laborers, temporary workers, contractors and similarly situated offenders.

7. SORNA: Text of Registration Offense

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that each jurisdiction’s registry include “[t]he text of the provision of law defining the criminal offense for which the sex offender is registered” (*see* 34 U.S.C. § 20914(b)(2)). The National Guidelines on Sex Offender Registration and Notification clarified this requirement, indicating that a jurisdiction may meet this SORNA requirement by ensuring that its internal registry database includes a link or citation to the statute defining the registration offense, so long as the following conditions are met:

- (1) doing so provides online access to the linked or cited provision, and
- (2) the link or citation will continue to provide access to the full text of the registration offense as formulated at the time the registrant was convicted of it, even if the defining statute is subsequently amended.

On its public sex offender registry website, a jurisdiction needs only to include a citation to the statute under which the offender was convicted, along with the heading of that statute (e.g., 18 U.S.C. § 2241 – Aggravated sexual abuse), to satisfy the SORNA requirement. However, wherever possible, jurisdictions are encouraged to provide the text of the registration offense as well.

The SMART Office maintains a database with statutes that date back to the 1960s, which is available to all SORNA jurisdictions. Please contact the SMART Office for more information about this resource.

8. Military Convictions Under SORNA

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), specifically includes certain Uniform Code of Military Justice (UCMJ) convictions in its definition of “sex offense.”

Department of Defense Instruction 1325.07 contains the specific list of UCMJ convictions that require registration under SORNA.¹ Jurisdictions must ensure that all of the UCMJ convictions listed in DOD Instruction 1325.07 are included in their sex offender registration schemes.

In 2015, SORNA was amended to require the Department of Defense to submit information to the National Sex Offender Registry and the National Sex Offender Public Website about any person adjudged of a covered sex offense via courts-martial or released from a military corrections facility after being incarcerated for such an offense. The Department of Defense continues to work on developing a system to meet its responsibilities under these new provisions, which are found in 34 U.S.C. § 20931.

¹ See <http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/132507p.pdf>. The section with this list of convictions begins on page 80 of the Instruction.

9. SORNA: Fingerprints and Palm Prints

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that jurisdictions include in their registries a set of fingerprints and palm prints from each sex offender (*see* 34 U.S.C. § 20914(b)(5)). The National Guidelines for Sex Offender Registration and Notification specify that jurisdictions must maintain fingerprints and palm prints in digital format to facilitate immediate access and transmittal of information to various entities.

However, the requirement to maintain fingerprints and palm prints in digital format does not mean that jurisdictions must use digital fingerprint-scanning devices to obtain registered sex offenders' prints. To meet the digital format requirement, jurisdictions may either:

- (1) use digital fingerprint-scanning devices to obtain registered sex offenders' fingerprints and palm prints, or
- (2) take rolled, inked fingerprints and palm prints on physical cards, then scan the cards and transfer the prints.

The submission of fingerprints and palm prints to the Next Generation Identification (NGI), which is run by the Criminal Justice Information Services of the FBI, is required by SORNA. Note that digital print-scanning devices alert the user as to whether the prints are of sufficient quality for the NGI system to accept; rolled, inked prints on physical cards that are subsequently scanned do not. For information on capturing fingerprints and palm prints, see the FBI's Biometric page (<https://le.fbi.gov/science-and-lab-resources/biometrics-and-fingerprints/biometrics>).

The SMART Office encourages jurisdictions to consider issues of quality when purchasing digital print-scanning equipment for uploading and transferring fingerprints and palm prints. For more information on quality biometric standards, see the FBI's Programs Research and Standards Unit's FBIBiospecs page (<https://fbibiospecs.fbi.gov/>).

Additionally, tribes participating in the Tribal Access Program (TAP) that have received a TAP workstation have the capability to collect digital fingerprints and palm prints and submit them directly to NGI. Other tribal jurisdictions using digital fingerprint-scanning devices should, if possible, work with the state registry agency to select a device that interfaces with the state's system, thus enabling electronic submission of digital prints to NGI through the state system.

10. Registering Tribal Convictions under SORNA

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires registration for anyone convicted of a sex offense, which is defined as “a criminal offense that has an element involving a sexual act or sexual contact with another ...” (*see* 34 U.S.C. § 20911(5)). Under SORNA, a “criminal offense” is defined as “a State, local, tribal, foreign, or military offense ... or other criminal offense” (*see* 34 U.S.C. § 20911(6)).

Many federally recognized Indian tribes have court systems. Furthermore, the Bureau of Indian Affairs operates Courts of Indian Offenses, sometimes known as CFR courts, on certain Indian reservations. Convictions that otherwise meet the definitions of “sex offense” under SORNA (*see* 34 U.S.C. § 20911(5)) that are obtained in tribal or CFR courts are convictions for purposes of SORNA registration (*see* 25 C.F.R. § 11.100 *et seq.*) and must be included in all SORNA registration jurisdictions’ codes or enactments.

11. SORNA: State and Tribal Information Sharing

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that jurisdictions share information within their jurisdictions as well as with other registration jurisdictions (*see* 34 U.S.C. §§ 20913(c) and 20923(b)(3)). Because of the unique nature of criminal justice coordination between states and tribes, collaboration is encouraged in order to facilitate this information sharing.

To meet the requirements of SORNA, tribes may enter memoranda of understanding (MOUs) and other forms of cooperative agreements with localities and states in order to input information into federal criminal history, fingerprint, palm print and/or DNA databases. Tribes may also apply for the Tribal Access Program (TAP) through the Department of Justice, which provides tribes with access to certain national crime information systems for sex offender registration purposes. These MOUs, cooperative agreements and/or participation in TAP can also assist with facilitating the exchange of other necessary information required by SORNA, such as sex offender registration data, registration updates, custody release notices and other offender notifications.

For states that have federally recognized Indian tribes located within their boundaries, a detailed analysis of their efforts and collaboration with such tribes must be an integral part of the state's substantial implementation submission. The SMART Office carefully considers tribe and state situations where the aforementioned solutions are not possible or are prohibited by legislation.

12. SORNA: Clarification of Registration Jurisdictional Issues

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that sex offenders register in each jurisdiction where they live, work or go to school (*see* 34 U.S.C. § 20913(a)).

There are a number of Indian tribes that are SORNA registration jurisdictions and, in some instances, the geographical apportionment of tribal lands has raised questions about where an offender must register. For example, some tribal lands are arranged in a patchwork with state or county land. In such instances, a tribe is responsible for registration functions on land subject to its law enforcement jurisdiction, and a state is responsible for registration functions on land subject to its law enforcement jurisdiction.

Sex offenders must initially register in the jurisdiction of conviction. Thereafter, they must register in each jurisdiction where they live, work or go to school. Jurisdictions do not need to register a sex offender based on their taking courses at a school remotely through the internet, unless the participation in the educational program also involves some physical attendance at the school in the jurisdiction. It is possible that a sex offender will have to register in multiple registration jurisdictions. For example, if a sex offender lives in Washington, D.C., works in Virginia and goes to school in Maryland, they will have to register with officials in each of these jurisdictions and keep their registration current in each. Similarly, a sex offender may work in Albuquerque, New Mexico, and live in the Pueblo of Laguna. They would thus have to register with officials in both New Mexico and the Pueblo of Laguna. In this instance, if the offender stops working in Albuquerque and takes up employment at the Pueblo of Laguna, they will have to notify the New Mexico authorities of the termination of their employment in Albuquerque and notify the Pueblo of Laguna that they now work in the Pueblo of Laguna.

A sex offender may also reside, be employed and go to school exclusively in a tribal jurisdiction. If so, SORNA only requires that the offender register with the tribal jurisdiction.

There is no requirement that a state, territory or tribe where an offender previously was registered must remove an offender from the registry once they are no longer required to register in that particular jurisdiction.

13. SORNA: Tribal Election, Delegation to the State and Right of Access

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), created the first opportunity for federally recognized Indian tribes to be included in a nationwide sex offender registration and notification system. SORNA specifies, with some restrictions, that a federally recognized Indian tribe may, by resolution or other enactment of the tribal council or comparable governmental body, elect to function as a SORNA registration jurisdiction (*see* 34 U.S.C. § 20929(a)(1)(A)).

As with any registration jurisdiction, tribes may use a variety of approaches to meet SORNA's requirements. Tribes may set up their own registration and notification systems, or they may enter into memoranda of understanding (MOUs) and other forms of cooperative agreements with state or local agencies. These MOUs and/or cooperative agreements may be comprehensive and far reaching, or they may be tailored to handle specific functionality (e.g., fingerprint or DNA collection). A tribe may also enter into a consortium with other tribal SORNA registration jurisdictions (*see* 34 U.S.C. § 20929(b)). States are encouraged to work with tribes implementing SORNA to ensure a seamless system of registration is established across the country.

In certain situations, SORNA dictates that the registration functions for tribal areas be delegated to the state. Some tribes that were eligible to function as registration jurisdictions opted not to be a SORNA registration jurisdiction, either by formal resolution or by simply not making the election, thus delegating the responsibility for registration, notification and enforcement to the state in which they are located (*see* 34 U.S.C. §§ 20929(a)(1)(B) and (a)(2)(B)). A tribe may also "opt-out" of its previous election to become a SORNA registration jurisdiction, thus delegating the responsibility to the state (*see* 34 U.S.C. § 20929 (a)(1)(B)). Further, SORNA provides that states are responsible for sex offender registration and notification for tribe(s) subject to the law enforcement jurisdiction of a state under 18 U.S.C. § 1162, which, generally and with some exceptions, includes tribes within the mandatory "PL-280" states of Alaska, California, Minnesota, Nebraska, Oregon and Wisconsin (*see* 34 U.S.C. § 20929 (a)(2)(A)). Finally, if a tribe that elected to be a SORNA registration jurisdiction is found to have not substantially implemented SORNA within a reasonable amount of time or has not maintained implementation status, the responsibility for sex offender registration, notification and enforcement may be delegated to the state(s) in which the tribe is located (*see* 34 U.S.C. § 20929 (a)(2)(C)).

In situations where the responsibility for sex offender registration and notification is delegated to the state, the state has responsibility to include these tribes in their sex offender registration and notification scheme. SORNA requires that tribes whose sex offender registration and notification functions have been delegated to the state "provide access to its territory and such other cooperation and assistance as may be needed to enable" the state to carry out and enforce the requirements of SORNA (*see* 34 U.S.C. § 20929). States and tribes are encouraged to work collaboratively to ensure registration of sex offenders, monitor and track absconders, and notify communities of sex offender registrants.

14. SORNA: Information Required for Notice of International Travel

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that registered sex offenders inform registry officials of any intended travel outside of the United States at least 21 days prior to the start of that travel. Pursuant to the National Guidelines for Sex Offender Registration and Notification, information about such intended travel is specifically required to be transmitted to the U.S. Marshals Service.

To substantially implement SORNA, jurisdictions must notify the U.S. Marshals Service's National Sex Offender Targeting Center (USMS-NSOTC) with the information below regarding a registered sex offender's intended international travel. Jurisdictions are strongly encouraged to make this notification by way of the Notification of International Travel of Sex Offender form on the SORNA Exchange Portal, which is available free of charge to all registration jurisdictions. As an alternative, jurisdictions may directly submit the Notification of International Travel form to USMS-NSOTC by email at IOD.NSOTC@usdoj.gov, with a subject line of "Sex Offender Travel Notification." When a notification of international travel is received, USMS-NSOTC will provide the notification information to INTERPOL Washington, who will then communicate it to law enforcement partners at the intended foreign travel destination(s).

Jurisdictions should send the following traveler information to USMS-NSOTC:

Identifying Information

- Full name (last, first, middle)
- Alias(es) (if applicable)
- Date of birth
- Sex
- FBI number (for domestic law enforcement use only)
- Citizenship
- Passport number and country

Travel Information

- Purpose(s) of travel (business, vacation, military, relocation, deportation, other [specify])
- Means of travel (air, bus, car, ship, train, other [specify])
- U.S. departure date and location
- U.S. return date and location

Criminal Record

- Date and city, state or jurisdiction of conviction(s)
- Offense(s) of conviction requiring registration
- Victim information: age/gender/relationship
- Registration jurisdiction(s) (name of state, tribe or territory)

Other

- Itinerary details (when available), including the name of the airport/train station/port, the flight/train/ship number, the time of departure, the time of arrival and information about any intermediate stops, including any cities/towns within countries and points of arrival/departure from each country
- Contact information within destination country
- Foreign travel visa information
- Notifying agency and contact information

Digital copies or photocopies of all pertinent travel documents should be made at the time a sex offender provides advance notice of international travel. If such documents are not available, the jurisdiction should collect identifying information regarding those documents (for example, a passport number and country of issuance in lieu of a physical copy of a passport). As appropriate, any new or updated registration information received from an offender (such as a passport number) should be included in the National Sex Offender Registry.

In addition and at their discretion, jurisdictions are free to directly notify other appropriate law enforcement agencies of an offender's intended international travel by whatever means the jurisdiction deems necessary.

15. Juvenile Registration and Notification Requirements Under SORNA

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that jurisdictions include in their registries certain juveniles who have been adjudicated delinquent of a sex offense. More specifically, SORNA requires the registration of juveniles who 1) were 14 years of age or older at the time of the offense, and 2) were adjudicated delinquent of an offense equivalent to or more severe than aggravated sexual abuse (as described in 18 U.S.C. § 2241). Because of the severity of these offenses, these juveniles are categorized as tier III offenders under SORNA and are subject to applicable duration and in-person verification requirements. However, SORNA does not require lifetime registration without qualification, allowing registration to be terminated after 25 years for those offenders who have maintained a clean record.

The National Guidelines for Sex Offender Registration and Notification specify that the offenses requiring registration for these juveniles are limited to those equivalent to 18 U.S.C. § 2241(a) or (b), which are sex offenses generally involving forcible penetration.

Notification to the Public and Community

In 2011, Supplemental Guidelines for Sex Offender Registration and Notification were issued that specifically granted jurisdictions discretion in whether to post information about persons adjudicated delinquent of a sex offense on the jurisdiction's public sex offender registry website. In other words, jurisdictions are no longer required to post such information publicly in order to substantially implement SORNA, but may do so, if they so choose. Moreover, jurisdictions may want to consider some form of notification to community agencies or individuals when a person adjudicated delinquent of a sex offense is in a community as a resident, student or employee.

For example, a jurisdiction may consider establishing or preserving a notification process whereby registering agencies will notify secondary school officials when a juvenile sex offender enrolls in their school. Similarly, a jurisdiction may want to develop a policy so that the responsible law enforcement agency, student services department or other appropriate office at an institution of higher education in the community is notified when a juvenile sex offender commences coursework or changes their registration information. In addition, protection of the public might necessitate a limited community notification process, whereby agencies and/or institutions tasked with protecting the interests and welfare of children or concerned parents may proactively request or petition for disclosure of information about registered juvenile sex offenders.

Substantial Implementation

A third set of guidelines, the Supplemental Guidelines for Juvenile Registration Under the Sex Offender Registration and Notification Act (Juvenile Supplemental Guidelines), released in August 2016, addressed the standards utilized by the SMART Office in reviewing a jurisdiction's juvenile sex offender registration and notification system.

In the event that a jurisdiction does not exactly conform to the juvenile registration requirements under SORNA, the Juvenile Supplemental Guidelines permit the SMART Office to expand its inquiry in the process of making a determination as to whether a jurisdiction has substantially implemented SORNA's juvenile registration provisions. Specifically, the Juvenile Supplemental Guidelines allow the SMART Office to review and consider the following:

- (1) Policies and practices to prosecute as adults juveniles who commit serious sex offenses
- (2) Policies and practices to register juveniles adjudicated delinquent for serious sex offenses
- (3) Other policies and practices to identify, track, monitor or manage juveniles adjudicated delinquent for serious sex offenses who are in the community and to ensure that the records of their identities and sex offenses are available as needed for public safety purposes

The SMART Office will determine that a jurisdiction relying on these factors has substantially implemented SORNA's juvenile registration requirement only if it concludes that these factors, in conjunction with that jurisdiction's other policies and practices, have resulted or will result in the registration, identification, tracking, monitoring or management of juveniles who commit serious sex offenses, and in the availability of the identities and sex offenses of such juveniles as needed for public safety purposes, in a manner that does not substantially disserve SORNA's objectives.