



January, 2016

## **SORNA Substantial Implementation Review Ak-Chin Indian Community**

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 Ak-Chin Indian Community 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 Ak-Chin Indian Community's SORNA substantial implementation packet and has found that the Ak-Chin Indian Community has substantially implemented SORNA.

On July 29, 2013 the Ak-Chin Indian Community submitted a substantial implementation package. The substantial implementation package included a tribal code, a policies and procedures manual, a memorandum of agreement with the State of Arizona, a description of the community and the criminal justice system, as well as copies of registration and notice forms. In addition, email and phone correspondence with the Ak-Chin Police Department and General Counsel, filled in gaps in information and procedure, which informed the 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 Ak-Chin Indian Community meets the SORNA requirements of that section or deviates from the requirements in some way. In the only instance of deviation, we specify that the departure from the particular requirement does not substantially disserve the purpose of that requirement. In other words, the Ak-Chin Indian Community 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.

This report is a comprehensive review and is intended to detail significant areas in which the tribe has not met SORNA standards. We encourage you to review the information below, share it with relevant stakeholders in the tribe, and get back in touch with us to develop a strategy to address any remaining issues. The SMART Office remains dedicated to working with the Ak-Chin Indian Community to continue its excellent work while modifying any part of its registration and notification program that does not comply with SORNA.

### **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 NCIC/NSOR and the jurisdiction's public sex offender registry website.

The State of Arizona has agreed to receive NSOR data from tribal agencies for purposes of submission to NCIC through its system. Arizona estimates that they will be able to facilitate the tribal jurisdictions' entries into NCIC/NSOR once the State system is updated and functional. In the interim, the Ak-Chin Indian Community entered into a Memorandum of Agreement with the Arizona Department of Public Safety (AZDPS), whereby AZDPS enters tribal sex offender registration information into NCIC/NSOR on a temporary basis until the tribal entry message key programming is completed.

The SMART Office finds that the Ak-Chin Indian Community provisionally meets all of the SORNA requirements in this section with the understanding that once Arizona makes the necessary hardware, software, and training available, the Ak-Chin Indian Community will avail themselves of this conduit to NCIC/NSOR, will update all policy, procedure and forms to reflect the process for entry of all registered sex offender data to NCIC/NSOR, will enter such data, and will submit all relevant updated paperwork to the SMART Office.

## **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 Ak-Chin Indian Community 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 Ak-Chin Indian Community correctly places federal, state and tribal statutes at least within the minimum appropriate SORNA tiers.

The Ak-Chin Indian Community 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.

The Ak-Chin Indian Community meets all 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 Ak-Chin Indian Community 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 Ak-Chin Indian Community 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 Ak-Chin Indian Community 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 Ak-Chin Indian Community 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 Ak-Chin Indian Community requires that offenders register for the following duration of time after their release from incarceration or sentencing: all offenders register for life.

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

The Ak-Chin Indian Community requires offenders to appear in person at the Ak-Chin 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: once every three months.

### **C. Reduction of Registration Period:**

The Ak-Chin Indian Community permits an offender to reduce his or her period of registration if he or she was adjudicated delinquent of an offense as a juvenile that

required lifetime registration and he or she maintained a clean record until the age of 18 or until the jurisdiction of the juvenile court expires.

**D. Clean Record Requirement:** A sex offender has a clean record if he or she has satisfied the following requirements: 1) he or she has not been convicted of any offense, for which imprisonment for more than one year may be imposed 2) he or she has not been convicted of any sex offense 3) he or she has successfully completed, without revocation, any period of supervised release, probation, or parole and 4) he or she has successfully completed an appropriate sex offender treatment program certified by the Tribe, another jurisdiction, or by the Attorney General of the United States.

The Ak-Chin Indian Community meets all of the SORNA requirements in this section except for the reduction of registration requirement for juveniles adjudicated delinquent noted above. The SMART Office has considered this deviation from SORNA's requirements and has determined that it does not substantially disserve the purposes of these requirements.

#### **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.

The Ak-Chin Indian Community 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 Ak-Chin Indian Community 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 Ak-Chin Indian Community 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 Ak-Chin Indian Community meets all of the SORNA requirements in this section.

### **XIV. Other Considerations**

There are no additional considerations.

### **Conclusion**

The Ak-Chin Indian Community has put forth exceptional work and effort in substantially implementing SORNA and enhancing its sex offender registration and notification system.