



May 2012

SORNA Substantial Implementation Review Bay Mills 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 Bay Mills Indian Community of Michigan (Bay Mills 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 the Bay Mills Indian Community's SORNA substantial implementation packet and has found that the Bay Mills Indian Community has substantially implemented SORNA.

On July 26, 2011, the Bay Mills Indian Community submitted a substantial implementation package that included a detailed letter to SMART Office Director Linda Baldwin, a Memorandum of Agreement between the Bay Mills Indian Community and the State of Michigan, along with policies and procedures and the Bay Mills Indian Community Sex Offender Registration Ordinance. In addition, email and phone correspondence with the Bay Mills Indian Community's Legal Department filled in gaps in information, which informed our review.

The review of these materials covers the outline of the SMART Office Substantial Implementation Checklist-Revised, which contains 14 sections for tribal jurisdictions addressing the SORNA requirements. Under each section, we indicate whether the Bay Mills Indian Community meets the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify where the departure(s) from a particular requirement does not substantially disserve the purposes of that requirement.

The Bay Mills Indian Community's submission relies heavily on a Memorandum of Agreement between the Bay Mills Indian Community and the Michigan Department of State Police. The Bay Mills Indian Community expects that all registration, notification and submission of data will be done through the Michigan Department of State Police. Because the Bay Mills Indian Community's implementation of SORNA is heavily dependent the State of Michigan's SORNA implementation, we consulted the review of Michigan's substantial implementation package.

We encourage you to review the information below, share it with relevant stakeholders in the Bay Mills Indian Community and the State, and get back in touch with us to develop a strategy to address any remaining issues.

I. Immediate Transfer of Information

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

II. Offenses that Must Be Included in the Registry

The Bay Mills Indian Community's ordinance and policies and procedures are missing the following offenses: U.S.C. §2423(d); and a non-forcible sexual act with a minor 16 or 17 years old in Tier II. According to Bay Mills Indian Community, these sections will be included as soon as possible. These deviations do not substantially disserve the purpose of this requirement.

III. Tiering of Offenses

The Bay Mills Indian Community tiered its offenses concerning sex offender registration and notification. Bay Mills Indian Community opted to tier up a number of offenses. We found one inconsistency in the tiering of U.S.C. §2423 (b). Bay Mills was informed of this inconsistency and encouraged to edit its policies and procedures or code. This deviation does not substantially disserve the purpose of this requirement.

IV. Required Registration Information

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

V. Where Registration is Required

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

VI. Initial Registration: Timing and Notice

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

One inconsistency is that the Policies and Procedures and Code reference two different time frames for convicted offenders who are not incarcerated. One requires registration within three days of conviction and the other requires registration within 24hours of conviction. We recommend that this inconsistency be clarified, but do not find the deviation to substantially disserve the purpose of this requirement.

VII. Initial Registration: Retroactive Classes of Offenders

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

VIII. Keeping the Registration Current

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

IX. Verification/Appearance Requirements

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

X. Public Registry Website Requirements

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

XI. Community Notification

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

XII. When a Sex Offender Fails to Appear for Registration

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

XIII. When a Jurisdiction has Information that a Sex Offender may have Absconded

The Bay Mills Indian Community meets all of the SORNA requirements in this section.

XIV. Other Considerations

Conclusion

The Bay Mills Indian Community has worked diligently and comprehensively to implement SORNA in a way that makes sense for their community. It is the conclusion of the SMART Office that the Bay Mills Indian Community has substantially implemented SORNA.