



July 2011

SORNA Substantial Implementation Review Little Traverse Bay Bands of Odawa Indians

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 LTBB 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 Little Traverse Bay Bands of Odawa Indians (LTBB)'s SORNA substantial implementation packet and has found that LTBB has substantially implemented SORNA.

On May 9, 2011, LTBB submitted a substantial implementation package that included eleven exhibits, including background information on the tribe and its criminal justice system, courts, and police department, policies and procedures regarding sex offender registration, the tribe's sex offender registration law and relevant additional laws, as well as forms and memoranda of agreement with other law enforcement agencies. In addition, email and phone correspondence with Su Lantz, Executive Legal Assistant, filled in gaps in information and procedure, which informed our review.¹

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 LTBB 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.

While LTBB is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, this is not required for substantial implementation purposes. This report is an exhaustive review and is intended to detail every area in which the tribe has or 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 these remaining issues.

¹The SMART Office had email and phone correspondence with Su Lantz, Executive Legal Assistant, in June and July 2011.

I. Immediate Transfer of Information

LTBB meets all of the SORNA requirements in this section.

II. Offenses that Must Be Included in the Registry

LTBB 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 SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified LTBB's placement of these statutes within the SORNA three tier levels. LTBB correctly places its statutes within at least the minimum appropriate SORNA tiers, with the following exceptions (see exhibit 9 of the LTBB substantial implementation package, "Waganakising Odawak Statute 2011-007 Sex Offender Registration and Notification" for information about LTBB's classification of its offenders and associated registration requirements):

- **18 U.S.C. §2243 (Sexual Abuse of a Minor or Ward).** An early version of the model tribal code provided by the SMART Office listed 18 U.S.C. 2243 as a Tier 2 offense; however the Adam Walsh Act requires that this is categorized and treated as a Tier 3 offense. In March 2011, the SMART Office issued corrections to Tiers 2 and 3 in the revised model code, which is available online here: http://www.smart.gov/pdfs/MTSOR_Code.pdf.

At this time we recommend that amendments be made to the LTBB's Sex Offender Registry and Notification Act in Section VI (A)(2) and Section VI(A)(3) to reflect the correct tier.

Additionally, language in the Waganakising Odawak Statute 2011-007, "Sex Offender Registration and Notification," at Section VI, "Levels of Risk to the Community," states:

"Sex offenders present various "Levels of Risk" to the Tribal community. If the court of jurisdiction has assigned a level or tier to the conviction, the person shall follow such classification."

This section indicates a misunderstanding that an offender has a "pre-existing tier" when they enter LTBB's sex offender registry. In actuality, LTBB will assign a tier to each offender based on its own tiering system, whether they are newly convicted, incarcerated, recaptured, or change their residence, employment or school enrollment to be within LTBB's jurisdiction. The

SMART Office recommends that this language be removed, and that LTBB clarify that all sex offenders in LTBB's registry will be tiered according to the appropriate sections of the statute.

While LTBB does not meet all of SORNA's tiering requirements, these deviations do not substantially disserve the purposes of the requirements in this section.

IV. Required Registration Information

LTBB meets all of the SORNA requirements in this section.

V. Where Registration is Required

LTBB meets all of the SORNA requirements in this section.

VI. Initial Registration: Timing and Notice

The LTBB meets all of the SORNA requirements in this section.

VII. Initial Registration: Retroactive Classes of Offenders

LTBB meets all of the SORNA requirements in this section.

VIII. Keeping the Registration Current

LTBB meets all of the SORNA requirements in this section.

IX. Verification/Appearance Requirements

LTBB meets all of the SORNA requirements in this section.

X. Public Registry Website Requirements

LTBB meets all of the SORNA requirements in this section.

XI. Community Notification

LTBB meets all of the SORNA requirements in this section.

XII. When a Sex Offender Fails to Appear for Registration

LTBB meets all of the SORNA requirements in this section.

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

LTBB meets all of the SORNA requirements in this section.

XIV. Other Considerations

The Little Traverse Bay Bands of Odawa Indians have a comprehensive Memorandum of Agreement (MOA) with the Michigan State Police (MSP). This MOA assigns responsibility for maintaining the sex offender registry to the MSP, including all requirements of SORNA. The process works such that LTBB collects all relevant information and submits it electronically to the MSP for inclusion in the sex offender registry. The MSP receives and stores all information and registration documents electronically on behalf of the tribe. The tribe has a username and password and maintains a secure connection to the Michigan Criminal Justice Information Network portal for submission of all information to the MSP. The Little Traverse Bay Bands of Odawa Indians maintain a policies and procedures manual for registering, verifying, and updating sex offender information. Their sex offender registration statute is fully compliant with SORNA except as noted above.

Conclusion

The LTBB has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system. However, there are provisions identified in this report that should be addressed in order for the LTBB to fully implement SORNA.