



August 30, 2012

SORNA Substantial Implementation Review Pueblo of Acoma

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 Pueblo of Acoma 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 Pueblo of Acoma's SORNA substantial implementation packet and has found that the Pueblo of Acoma has substantially implemented SORNA.

The Pueblo of Acoma originally submitted a substantial implementation package on June 13, 2011. After working with the SMART Office on necessary changes, this submission was updated by Pueblo of Acoma with a second submission on April 9, 2012. It included information such as 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 a Memorandum of Agreement between the tribe and the New Mexico Department of Public Safety. In addition, email and phone correspondence with tribal representatives filled in gaps in laws and procedure.

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 14 relevant sections addressing the SORNA requirements. Under each section, we indicate that Pueblo of Acoma meets, or has policies in place that do not substantially disserve the purposes of, the SORNA requirements of that section.

I. Immediate Transfer of Information

Pueblo of Acoma meets all of the SORNA requirements in this section.

II. Offenses that Must Be Included in the Registry

Pueblo of Acoma 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 Pueblo of Acoma's placement of these

statutes within the SORNA three tier levels. The Pueblo of Acoma correctly places its statutes within at least the minimum appropriate SORNA tiers, with the following exceptions:

§ 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.

The Pueblo of Acoma tiers a conviction under 18 U.S.C. §2243 as both a tier 2 and a tier 3 offense in its code, though in its policies and procedures it is correctly classified as a tier 3 offense.

The SMART Office recommends that amendments be made to the Pueblo of Acoma's Sex Offender Registry and Notification Act to reflect the correct tier.

While the Pueblo of Acoma does not meet the SORNA tiering requirement for this offense, this deviation does not substantially disserve the purposes of the requirements in this section.

IV. Required Registration Information

Pueblo of Acoma meets all of the SORNA requirements in this section.

V. Where Registration is Required

Pueblo of Acoma meets all of the SORNA requirements in this section.

VI. Initial Registration: Timing and Notice

Pueblo of Acoma meets all of the SORNA requirements in this section.

VII. Initial Registration: Retroactive Classes of Offenders

The Pueblo of Acoma will register persons convicted as of the enactment date of the Jacob Wetterling Act (January 25, 1994).

This deviation does not substantially disserve the purposes of the requirements in this section.

VIII. Keeping the Registration Current

Pueblo of Acoma meets all of the SORNA requirements in this section.

IX. Verification/Appearance Requirements

SORNA requires that offenders register for a duration of time based on the tier of the offense of conviction, and that offenders make in-person appearances at the registering agency based on the tier of the offense of conviction. In addition, SORNA creates certain requirements under which a jurisdiction can allow an offender to have a reduced registration period. The Pueblo of Acoma correctly addresses all of issues listed above, with the following exception:

§ 18-4-25(B)(2) permits a reduction in an offender's duration of registration period as follows:

A Tier 2 offender may have his or her period of registration reduced to 15 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 15 consecutive years.

This provision does not meet SORNA's requirements.

The SMART Office has recommended that amendments be made to the Pueblo of Acoma's Sex Offender Registry and Notification Act to reflect SORNA's standards, and understands that the Pueblo of Acoma is in the process of making this change.

While the Pueblo of Acoma does not meet the SORNA requirement for this portion of the reduction of registration duration, this deviation does not substantially disserve the purposes of the requirements in this section.

X. Public Registry Website Requirements

Pueblo of Acoma meets all of the SORNA requirements in this section.

XI. Community Notification

Pueblo of Acoma meets all of the SORNA requirements in this section.

XII. When a Sex Offender Fails to Appear for Registration

Pueblo of Acoma meets all of the SORNA requirements in this section.

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

Pueblo of Acoma meets all of the SORNA requirements in this section.

XIV. Other Considerations

The tribe's substantial implementation submission followed very closely with the model code and their policy and procedures are tailored to their tribe's circumstances. In addition, the Pueblo is working on written policies and procedures for how data will be entered into NCIC/NSOR by their communications department. Once completed, this new portion of their policies and procedures will be submitted to the SMART Office.

Conclusion

The Pueblo of Acoma has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system.