



Frequently Asked Questions: The Sex Offender Registration and Notification Act (SORNA) Proposed Guidelines

Background

1. What does the term “SORNA” mean?
2. What is the Federal role in the administration of SORNA?
3. What is the SMART Office?
4. What are the proposed guidelines?
5. What jurisdictions are included under SORNA?
6. What is considered a sex offense under SORNA?

Substantial Implementation

7. What is substantial implementation?
8. When is the deadline for substantial implementation?
9. What are the consequences for jurisdictions that fail to substantially implement SORNA by July 27, 2009?
10. What do registration jurisdictions need to do in order to comply with the SORNA tiering system?

Tribal

11. What are the SORNA requirements for tribal governments?
12. When is the deadline for tribal election?
13. What are the consequences for federally recognized Indian tribes that fail to substantially implement SORNA by July 27, 2009?
14. What if the tribal land is in more than one state?

Registry Information

15. What information is required in jurisdictions’ sex offender registries?
16. What are the registration jurisdictions required to do with the information about from sex offenders?
17. What information must be shared through public websites?
18. Which information is prohibited from being available on public websites?
19. Should offender e-mail addresses and phone numbers be included on public websites?
20. What other entities must registry information be shared with? What information must be shared?

Registration

21. Which jurisdictions must require sex offenders to register in the jurisdiction?
22. When must initial registration be carried out?
23. What are the requirements for keeping registry information current?
24. How often must a registered sex offender appear in person to update his or her registration information?
25. What is the minimum required duration of registration?

Failure to Register

26. Are states required to have a failure to register statute?
27. What is the federal penalty for failure to register?
28. Can a state convicted sex offender be prosecuted in the federal system for failure to register?

Individual Examples

29. What if a convicted sex offender has fulfilled his or her pre-SORNA registration requirements? Is he or she required to register under SORNA?
30. What if a sex offender has a job that requires travel? How does the register?
31. What if a convicted sex offender lives in one state, but works or goes to school in another state? Where is registration required?

Miscellaneous

32. Will registration jurisdictions receive any assistance in updating their websites to assure compliance with SORNA?
33. Will registration jurisdictions receive any technical assistance in the implementation of SORNA?
34. Are the provisions of SORNA retroactive?
35. How are juveniles treated under SORNA?
36. How are foreign convictions treated under SORNA?

Background

1. What does the term “SORNA” mean?

SORNA refers to the Sex Offender Registration and Notification Act which is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109). SORNA provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. SORNA aims to close potential gaps and loopholes that existed under prior law and generally strengthens the nationwide network of sex offender registration and notification programs. Important areas of reform under SORNA include:

- Extends the jurisdictions in which registration is required beyond the 50 states, the District of Columbia, and the principal U.S. territories, to include federally recognized Indian tribes.
- Incorporates a more comprehensive group of sex offenders and sex offenses for which registration is required.
- Requires registered sex offenders to register and keep their registration current in the jurisdictions in which they reside, work, or go to school.
- Requires sex offenders to provide more extensive registration information.
- Requires sex offenders to make periodic in person appearances to verify and update the registration information.
- Expands the amount of information available to the public regarding registered sex offenders.
- Makes changes in the required minimum duration of registration for sex offenders.

2. What is the Federal role in the administration of SORNA?

The Federal Government is working to assist with the implementation of SORNA and protect the public from sexual abuse and exploitation through:

- Stepped-up federal investigation and prosecution efforts to assist jurisdictions in enforcing sex offender registration requirements,
- New statutory provisions for the National Sex Offender Registry and the Dru Sjodin National Sex Offender Public Website that compile information obtained from registration programs across the country and make it readily available to law enforcement or the public,
- Federal development of software tools, which registration jurisdictions will be able to use to facilitate the operation of their registration and notification programs in conformity with the SORNA standards, and
- Establishment of the SMART Office to administer the national standards for sex offender registration and notification and to assist registration jurisdictions in their implementation.

3. What is the SMART Office?

SORNA establishes the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (the “SMART Office”), a component of the Office of Justice Programs within the U.S. Department of Justice. The SMART Office is authorized by law to administer the standards for sex offender registration and notification that are set forth in SORNA. It is further authorized to cooperate with and provide assistance to states, local governments, tribal governments, and other public and private entities in relation to sex offender registration and notification and other measures for the protection of the public from sexual abuse or exploitation. The SMART Office is a key federal partner and resource for jurisdictions as they continue to develop and strengthen their sex offender registration and notification programs.

4. What are the proposed Guidelines?

The Guidelines provide all registration jurisdictions with guidance, explanation and advice regarding the administration and implementation of SORNA. The Attorney General has issued these Guidelines to promote and assist in the implementation of the SORNA standards.

5. What jurisdictions are included under SORNA?

The 50 states, the District of Columbia, the five principal U.S. territories, and federally recognized Indian tribes that elect to function as registration jurisdictions are all considered jurisdictions under SORNA. Each of these jurisdictions must comply with the provisions of SORNA as explained in the Guidelines in order to substantially implement SORNA.

See Parts II.A and IV of the guidelines for more detail.

6. What is considered a sex offense under SORNA?

The convictions for which SORNA requires registration include convictions for sex offenses by any U.S. jurisdiction, including convictions for sex offenses under federal, military, state, territorial, tribal or local law. Foreign convictions are also covered if certain conditions are satisfied.

The following are considered sex offenses under SORNA:

- **SEXUAL ACTS AND SEXUAL CONTACT OFFENSES** include criminal offenses that have an element involving a sexual act or sexual contact with another. The offenses covered include all sexual offenses whose elements involve: (i) any type or degree of genital, oral, or anal penetration, or (ii) any sexual touching of or contact with a person’s body, either directly or through the clothing.
- **SPECIFIED OFFENSES AGAINST MINORS** includes “a criminal offense that is a specified offense against a minor” as defined in SORNA.

- SPECIFIED FEDERAL OFFENSES includes most sexual offenses under federal law.
- SPECIFIED MILITARY OFFENSES includes sex offenses under the Uniform Code of Military Justice, as specified by the Secretary of Defense.
- ATTEMPTS AND CONSPIRACIES includes attempts and conspiracies to commit offenses that are otherwise covered by the definition of “sex offenses.”

See Part IV.A-D of the guidelines for more detail.

Substantial Implementation

7. What is substantial implementation?

The standard of “substantial implementation” is satisfied if a jurisdiction carries out the requirements of SORNA as interpreted and explained in the guidelines. SORNA provides a floor, not a ceiling for sex offender notification and registration programs. Jurisdictions are free to exceed the minimum standards of SORNA, but a jurisdiction may not fall below the requirements of SORNA. Jurisdictions are free to implement SORNA in any manner that meets the minimum requirements.

See Part II.B and .E of the guidelines for more detail.

8. When is the deadline for substantial implementation?

The deadline for substantial implementation is July 27, 2009. Submissions establishing compliance with the SORNA requirements or requesting extensions should be made to the SMART Office by April 27, 2009. If a jurisdiction is requesting an extension of time, the submission to the SMART Office should include a description of the jurisdiction’s implementation efforts, and an explanation as to why an extension is needed. Up to two 1-year extensions may be allowed.

See Part II.E of the guidelines for more detail.

9. What are the consequences for jurisdictions that fail to substantially implement SORNA by July 27, 2009?

Jurisdictions that fail to substantially implement SORNA by July 27, 2009 are subject to a mandatory 10% reduction in funding under 42 U.S.C. 3750 et seq. (“Byrne Justice Assistance Grant” funding).

See Part II.A and .E of the guidelines for more detail.

10. What do registration jurisdictions need to do in order to comply with the SORNA tiering system?

The use of the “tier” classifications in SORNA relates to substance, not form or terminology. Thus, to implement the SORNA requirements, jurisdictions do not have to label their sex offenders as “tier I,” “tier II,” and “tier III,” and do not have to adopt any other particular approach to labeling or categorization of sex offenders. Rather, the SORNA requirements are met as long as sex offenders who satisfy the SORNA criteria for placement in a particular tier are consistently subject to at least the duration of registration, frequency of in person appearances for verification, and extent of website disclosure that SORNA requires for that tier.

Tier I: Predicate offenses include whatever offenses do not support a higher classification, such as misdemeanor registration offenses and child pornography possession.

Tier II: Predicate offenses include most felonious sexual abuse or sexual exploitation crimes involving victims who are minors.

Tier III: Predicate offenses generally encompass sexual assaults involving sexual acts regardless of victim age, sexual contact offenses against children below the age of 13, nonparental kidnapping of minors, and attempts or conspiracies to commit such offenses.

See Part V of the guidelines for more detail.

Tribal

11. What are the SORNA requirements for tribal governments?

Federally recognized Indian tribes* may elect to 1) delegate their functions relating to sex offender registration and notification under SORNA to the state or states in which the tribal land is located--if a complete delegation is elected, the tribe must then provide access to its land and provide any cooperation and assistance needed to enable the state or states to carry out and enforce the SORNA requirements; or 2) tribes may elect to implement SORNA and become a SORNA registration jurisdiction. However, duplication of registration and notification functions by tribes and states is not required, and tribes that elect to be registration jurisdictions may enter into cooperative agreements with states or local governments to carry out registration and notification functions.

*Delegation to the state or states is automatic for a tribe subject to state law enforcement jurisdiction under 18 U.S.C. 1162.

See Part III of the guidelines for more detail.

12. When is the deadline for tribal election?

The election to become a SORNA registration jurisdiction, or to delegate to a state or states, must be made by resolution or other enactment of the tribal council or comparable governmental body that has the legal authority to make binding legislative decisions for the tribe. The tribal government should promptly notify the SMART Office of its decision and forward the text of the resolution or other enactment to the SMART Office by a reliable means of transmission - preferably by the decision deadline of July 27, 2007, or if that is not feasible, as soon thereafter as possible.

To satisfy the requirements of SORNA, the resolution or enactment must be adopted on or prior to July 27, 2007, and must state a decision by the tribal council (or comparable governmental body) to do one of the following:

- carry out the SORNA requirements relating to sex offender registration and notification as a jurisdiction subject to those requirements; or
- delegate the tribe's functions relating to sex offender registration and notification under SORNA to the state or states within which the territory of the tribe is located and provide access to its territory and such other cooperation and assistance as may be needed to enable the state or states to carry out and enforce the SORNA requirements.

Additional suggested elements for inclusion in the tribal resolution (or other enactment) include the following:

- If the tribe elects to become a SORNA registration jurisdiction, and it is expected that the SORNA requirements will be carried out wholly or in part through cooperative agreements with state or local governments, authorization of an appropriate tribal official or officials to negotiate or enter into such agreements.
- If the tribe elects to delegate the SORNA functions to a state or states, a direction to tribal officials and agencies to provide such cooperation and assistance as the state or states may need to carry out and enforce the SORNA requirements.
- A date or timing notation which shows that the resolution was adopted on or prior to July 27, 2007.
- A direction that the SMART Office of the U.S. Department of Justice be notified of the tribe's election and that the resolution or enactment be transmitted to the SMART Office.

If a tribe fails to make an election one way or the other by July 27, 2007 then delegation to the state or states is automatic.

See Part III of the guidelines for more detail.

13. What are the consequences for federally recognized Indian tribes that fail to substantially implement SORNA by July 27, 2009?

If a tribe elects to carry out the terms of SORNA but the Attorney General determines that the tribe has not substantially implemented the requirements of SORNA by the implementation deadline of July 27, 2009 and is not likely to become capable of doing so within a reasonable amount time, then these functions will be delegated to the state or states in which the tribe is located.

See Part III of the guidelines for more detail.

14. What if the tribal land is in more than one state?

If a tribe delegates implementation of SORNA to the states in which tribal land is located, then the states are responsible for implementing SORNA on the land within their borders. For example, if a tribe's land spans two states and the tribe elects to delegate, both states will be responsible for implementing SORNA for the tribe with respect to the land in each particular state. If the tribe elects to implement SORNA, the tribe is responsible for implementing the provisions of SORNA, with the option of developing cooperative agreements with the state in which its land is located.

If the tribe is subject to the law enforcement jurisdiction of the state under 18 U.S.C. 1162, then SORNA functions are always delegated to the state. If a tribe's land is in part subject to state law enforcement jurisdiction under 18 U.S.C. 1162 and in part outside of the areas subject to 18 U.S.C. 1162, then: (i) sex offender registration and notification functions are automatically delegated to the relevant state in the portion of the tribal land subject to 18 U.S.C. 1162, and (ii) the tribe has a choice between functioning as a registration jurisdiction or delegating registration and notification functions to the state in the portion of its land that is not subject to 18 U.S.C. 1162.

See Part III of the guidelines for more detail.

Registry Information

15. What information is required in jurisdictions' sex offender registries?

Sex offenders are required to provide the following information to the sex offender registry:

- Names, including all aliases used by the sex offender
- Date of birth, including both actual date of birth and any false date(s) of birth used by the sex offender
- All Internet identifiers and addresses, e.g., e-mail and instant messaging addresses
- All telephone numbers including both land lines and cell phone numbers
- Social Security Numbers (SSN), including both valid governmentally assigned SSNs and any other SSNs used by the sex offender

- Residence address
- Other residence information (i.e. where the sex offender has a home or habitually lives) in relation to sex offenders who lack a residence address for any reason - e.g., homelessness, or living in a house in a rural or tribal area that has no street address.
- Temporary lodging information about any place in which the sex offender is staying for 7 or more days, including identifying the place and the period of time the sex offender is staying there.
- Passport and immigration document information
- Employer's name and address
- Other employment information concerning the places where the sex offender works, if the sex offender has no fixed place of employment, such as information about normal travel routes or the general area(s) in which the sex offender works.
- Professional licenses
- School name and address
- Vehicle information including description and license plate or registration number
- Physical description of the sex offender
- Text of the registration offense or offenses
- Criminal history and other criminal justice information
- Current photograph
- Fingerprints and palm prints
- DNA information
- Driver's license or identification card

See Part VI of the guidelines for more detail.

16. What are registration jurisdictions required to do with the information about sex offenders?

SORNA requires prompt sharing of information among registration jurisdictions, and disclosure of much of the information to the general public and specified entities.

See Part VII.A of the guidelines for more detail.

17. What information must be available to the public through public websites?

In order to comply with SORNA the following registry information about each sex offender that lives, works, or goes to school in a particular jurisdiction must be included on that jurisdiction's sex offender website:

- The name of the sex offender, including all aliases.
- The address of each residence at which the sex offender resides or will reside and, if the sex offender does not have any (present or expected) residence address, other information about where the sex offender has his or her home or habitually lives. (If current information of this type is not available because the sex offender is in violation of the requirement to register or unlocatable, the website must note this.)

- The address of any place where the sex offender is an employee or will be an employee and, if the sex offender is employed but does not have a definite employment address, other information about where the sex offender works.
- The address of any place where the sex offender is a student or will be a student.
- The license plate number and a description of any vehicle owned or operated by the sex offender.
- A physical description of the sex offender.
- The text of the sex offense for which the sex offender is registered and any other sex offense for which the sex offender has been convicted.
- A current photograph of the sex offender.

See Part VII.A of the guidelines for more detail.

18. Which information is prohibited from being available on public websites?

Jurisdictions must exempt four types of information from disclosure. These exemptions only constrain jurisdictions in relation to the information made available on their publicly accessible sex offender websites. It does not limit the discretion of jurisdictions to disclose these types of information in other contexts, such as to law enforcement. The exempted four types of information are:

- The victim's identity,
- The Social Security number of the sex offender,
- Any reference to arrests of the sex offender that did not result in conviction, and
- Passport and immigration document numbers.

There are also optional exemptions, which apply to information that jurisdictions may exempt from their websites in their discretion. These are:

- Any information about a tier I sex offender convicted of an offense other than a specified offense against a minor.
- The name of an employer of the sex offender,
- The name of an educational institution where the sex offender is a student,
- Any other information which the Attorney General allows to be exempted.

As noted, these exclusions are discretionary. Jurisdictions are free to include these types of information on their sex offender websites if they are so inclined.

See Part VII.A of the guidelines for more detail.

19. Should offender e-mail addresses and phone numbers be included on public websites?

Posting phone numbers and email addresses of sex offenders on public websites in the same manner as other information is problematic. The public availability of this type of

information could allow sex offenders to network with one another, reinforcing negative behavior and providing opportunities for coordinated criminal activity.

On the other hand, appropriately designed forms of access to offender email addresses and phone numbers may further the public safety objectives of sex offender registration and notification. For example, the operators of Internet social networking services that serve children may wish to check the e-mail addresses of individuals on their user lists to detect registered sex offenders who are attempting to use their services to contact children. Likewise, a parent may wish to check whether the e-mail address or phone number of an unknown individual who is communicating with his or her child belongs to a registered sex offender.

Jurisdictions are therefore encouraged to include a function on their public websites that allows members of the public to enter an e-mail address or phone number and find out whether that e-mail address or phone number is registered to a sex offender. The Justice Department is currently developing software for jurisdictions to support this type of “reverse lookup” function, and plans to include this type of function with nationwide scope on the national sex offender website.

See Part VII.A of the guidelines for more detail.

20. What other entities must registry information be shared with? What information must be shared?

After a sex offender registers or updates a registration, the information in a registry (other than information exempted from disclosure by the Attorney General) must be provided to various specified entities and individuals. These include:

- National databases
- Law enforcement and supervision agencies
- Any jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs
- Any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993
- Each school and public housing agency in each area in which the sex offender resides, is an employee, or is a student
- Social service entities responsible for protecting minors in the child welfare system
- Volunteer organizations in which contact with minors or other vulnerable individuals might occur
- Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction

The requirements in the list above for sharing information among jurisdictions and with certain governmental entities (such as law enforcement agencies) are subject to special standards and procedures described in the guidelines. With respect to the remaining

entities in the list these information dissemination objectives can be achieved by incorporating appropriate notification functions into the sex offender websites that are similar to measures currently used by some jurisdictions. Specifically, a jurisdiction will be deemed to have satisfied the requirements of SORNA if it adopts an automated notification system which incorporates substantially the following features:

- The information required to be included on sex offender websites is posted on the jurisdiction's sex offender website within three business days.
- The jurisdiction's sex offender website includes a function under which members of the public and organizations can request notification when sex offenders commence residence, employment, or school attendance within zip code or geographic radius areas specified by the requester, where the requester provides an e-mail address to which the notice is to be sent.
- Upon posting on the jurisdiction's sex offender website of new residence, employment, or school attendance information for a sex offender within an area specified by the requester, the system automatically sends an e-mail notice to the requester which identifies the sex offender sufficiently that the requester can then access the jurisdiction's website and view the information about the sex offender on the website.

For those jurisdictions who do not have this capability, the Justice Department is currently developing software to support an automated notification system.

See Part VII.B of the guidelines for more detail.

Registration

21. Which jurisdictions must required sex offenders to register in the jurisdiction?

SORNA requires sex offenders to register and keep their registration current in each jurisdiction in which they reside, are employed, or attend school. A sex offender must also initially register in the jurisdiction in which convicted if it is different from the jurisdiction of residence. Jurisdictions' registration programs must incorporate these requirements to implement SORNA.

See Part VIII of the guidelines for more detail.

22. When must initial registration be carried out?

Jurisdictions must register incarcerated sex offenders before their release from imprisonment for the registration offense or, in case of a non-imprisonment sentence, within three business days of sentencing for the registration offense. As with other provisions of SORNA, jurisdictions are free to exceed the requirements of SORNA.

See Part IX of the guidelines for more detail.

23. What are the requirements for keeping registry information current?

A sex offender must, not later than three business days after each change of name, residence, employment, or student status, appear in person in at least one jurisdiction in which the sex offender is required to register and inform that jurisdiction of all changes in the information required for that sex offender in the sex offender registry. This information must immediately be provided to all other jurisdictions in which the sex offender is required to register. Jurisdictions must also require a sex offender to provide notice if he or she is leaving prior to the move; this includes giving information about the jurisdiction to which he or she is going.

See Part X of the guidelines for more detail.

24. How often must a registered sex offender appear in person to update his or her registration information?

A sex offender must appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than:

- Annually for a tier I sex offender,
- Every six months for a tier II sex offender, and
- Every three months for a tier III sex offender.

Sex offenders must carry out this schedule of personal appearances in all jurisdictions where they reside, are employed or attend school. As with other SORNA requirements, jurisdictions may require in person appearances by sex offenders with greater frequency than the minimum required by SORNA.

See Part XI of the guidelines for more detail.

25. What is the minimum required duration of registration?

SORNA specifies the minimum required duration of sex offender registration for tier I sex offenders to be 15 years, for tier II sex offenders to be 25 years, and for tier III sex offenders to register for life. The registration period begins to run upon release from custody for a sex offender sentenced to incarceration for the registration offense, or in the case of non-incarcerated sex offenders, at the time of sentencing for the sex offense.

SORNA allows jurisdictions to reduce the registration period for a tier I sex offender by 5 years after the sex offender maintains a clean record for 10 years and to terminate registration for a sex offenders who is required to register under SORNA based on juvenile delinquency adjudication after the sex offender maintains a clean record for 25 years.

Achieving a clean record means the sex offender must:

- Not be convicted of any offense for which imprisonment for more than one year may be imposed,
- Not be convicted of any sex offense regardless of the penalty,
- Successfully complete any periods of supervised release, probation, and parole, and
- Successfully complete an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General.

See Part XII of the guidelines for more detail.

Failure to Register

26. Are states required to have a failure to register statute?

Yes. SORNA requires jurisdictions (other than Indian tribes) to provide a criminal penalty that includes a maximum term of imprisonment greater than one year for the failure of a sex offender to comply with the SORNA requirements. Hence, a jurisdiction's implementation of SORNA includes having a failure-to-register offense for which the maximum authorized term of imprisonment exceeds a year. (Indian tribes are not included in this requirement because tribal court jurisdiction does not extend to imposing terms of imprisonment exceeding a year.)

See Part XIII of the guidelines for more detail.

27. What is the federal penalty for failure to register?

Under 18 U.S.C. 2250, the federal failure-to-register offense, a federal criminal penalty of up to 10 years of imprisonment exists for sex offenders required to register under SORNA who knowingly fail to register or update a registration as required where circumstances supporting federal jurisdiction exist, such as interstate or international travel or travel on or off an Indian reservation by a sex offender, or conviction of a federal sex offense for which registration is required.

See Part XIII of the guidelines for more detail.

28. Can a state convicted sex offender be prosecuted in the federal system for failure to register?

Yes. If a sex offender convicted or adjudicated delinquent in state court is required to register under SORNA, and knowingly fails to register or update a registration as required, and the sex offender engages in interstate or international travel or enter or leaves or resides in Indian country, then the offender can be prosecuted under 18 U.S.C. 2250, the federal failure-to-register offense.

See Part XIII of the guidelines for more detail.

Individual Examples

29. What if a convicted sex offender has fulfilled his or her pre-SORNA registration requirements? Is the sex offender required to register under SORNA?

SORNA's requirements apply to all sex offenders, including those whose convictions predate the enactment of SORNA. However, substantial implementation of SORNA does not require a jurisdiction to locate and register sex offenders who have entirely left the justice system-i.e. are no longer incarcerated, under supervision or subject to an existing registration requirement-and do not reenter the system through a subsequent criminal conviction.

The required retroactive application of the SORNA requirements is also limited in some cases by the limits on the required duration of registration. SORNA requires minimum registration periods of varying length for sex offenders depending on their conviction offense and their history of recidivism. This means that a sex offender with a pre-SORNA conviction may have been in the community for a greater amount of time than the registration period required by SORNA. For example, a sex offender required to register for 25 years under SORNA, who was released from imprisonment for the registration offense more than 25 years prior to July 27, 2006, is already more than 25 years out from the time of release. In such cases, a jurisdiction may credit the sex offender with the time elapsed from his or her release and not require registration.

See Part II.C of the guidelines for more detail.

30. What if a sex offender has a job that requires travel? How does the sex offender register based on employment?

A sex offender is employed may not have a fixed place of employment - e.g., a long-haul trucker whose "workplace" is roads and highways throughout the country, or a self-employed handyman who works out of his home and does repair or home-improvement work at other people's homes. Such a sex offender must be is required to provide information concerning the places where the sex offender works with whatever definiteness is possible under the circumstances, such as information about normal travel routes or the general area(s) in which the sex offender works.

Registered sex offenders must also be required to provide information about any place in which the sex offender is staying for 7 or more days, including identifying the place and the period of time the sex offender is staying there

See Part VI of the guidelines for more detail.

31. What if a sex offender lives in one state, but works or goes to school in another state? Where is registration required?

SORNA requires that a sex offender register and keep his or her registration current in each jurisdiction in which the sex offender resides, is an employee, or is a student. If, for example, a sex offender resides in one jurisdiction but commutes to work in another jurisdiction, both jurisdictions must require the sex offender to register. A sex offender who enters a jurisdiction to commence residency, employment or school attendance, must appear in person to register or update the registration within three business days.

A sex offender who changes his or her place of residence, employment or school attendance within the same jurisdiction (i.e. from one county to another county in the same state), must appear in person to register or update the registration within three business days. The physical location of this in person appearance requirement is controlled by the state of residency, employment or school attendance.

See Part VIII and X.A of the guidelines for more detail.

Miscellaneous

32. Will registration jurisdictions receive any assistance in updating their websites to assure compliance with SORNA?

The Department of Justice, in consultation with the jurisdictions, will develop and support registry management and website software. This software will facilitate the immediate exchange of sex offender information among jurisdictions, public access to sex offender information and other forms of community notification through the Internet, and compliance in other respects with the SORNA requirements.

See Part II.D of the guidelines for more detail.

33. Will registration jurisdictions receive any technical assistance to assist in the implementation of SORNA?

The SMART Office has established a technical assistance email, getSMART@usdoj.gov. The Office is currently receiving a steady stream of technical assistance requests regarding a variety of issues involved in the implementation of SORNA.

The SMART Office Webpage (www.ojp.gov/smart) will provide information related to sex offender registration, sexual abuse and exploitation with a focus on legal and legislative developments. The Office will post a monthly news letter focusing on issues relating to the Adam Walsh Act, and recent trends in Child Sexual Abuse/ Child Sexual Exploitation/Sex Offender prosecution.

34. Are the provisions of SORNA retroactive?

Yes. SORNA applies to all sex offenders, including those sex offenders convicted prior to the enactment of SORNA (July 27, 2006) or prior to a particular jurisdictions' implementation of the SORNA requirements. Jurisdictions are required to register pre-

SORNA convicted sex offenders in conformity with the SORNA standard if they are currently registering, under supervision or incarcerated or if the sex offender reenters the system because of a new conviction (whether or not the new crime is a sex offense).

See Part II.C and IX of the guidelines for more detail.

35. How are juveniles treated under SORNA?

Juveniles who are prosecuted and convicted as adults of a sex offense are covered by SORNA and are treated identical to an adult sex offenders. Juvenile offenders not prosecuted as adults are not required to register by SORNA unless the offender is 14 years of age or older at the time of the offense and has been adjudicated delinquent for an offense comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18, United States Code), or an attempt or conspiracy to commit such an offense.

“Aggravated sexual abuse” is defined in 18 U.S.C. 2241. State offenses that are comparable to this federal offense are those that cover:

- engaging in a sexual act with another by force or the threat of serious violence (see 18 U.S.C. 2241(a));
- engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim (see 18 U.S.C. 2241(b)); or
- engaging in a sexual act with a child under the age of 12 (see 18 U.S.C. 2241(c)).

See Part IV.A and XII of the guidelines for more detail.

36. How are foreign convictions and tribal convictions treated under SORNA?

Foreign convictions require sex offenders to be registered under SORNA unless the foreign conviction “was not obtained with sufficient safeguards for fundamental fairness and due process for the accused.” The guidelines establish rules for determining if legal processes in foreign countries meet the standard required under SORNA. Jurisdictions are also not required to prescribe registration based on tribal court convictions resulting from proceeding in which the defendant was denied the right to assistance of counsel.

See Part IV.A-B of the guidelines for more detail.

U.S. Department of Justice
Office of Justice Programs
SMART Office
May 17, 2007

