

**U.S. DEPARTMENT OF JUSTICE CONSULTATION SESSIONS ON SORNA IMPLEMENTATION**

**May - June 2011**

The Adam Walsh Child Protection and Safety Act was signed into law on July 27, 2006. Title I of this act, the Sex Offender Registration and Notification Act 42 U.S.C. 16901 et. seq (SORNA), included the option for certain federally recognized Indian Tribes to function as sex offender registration and notification jurisdictions. Federal law requires that tribes “opt in” to participate in SORNA and implement the minimum standards required by SORNA for sex offender registration and notification. Pursuant to SORNA, if the United States Attorney General determines that a tribe has not substantially implemented the requirements of SORNA by the implementation deadline of July 27, 2011, and is not likely to become capable of doing so within a reasonable amount of time, the tribe’s sex offender registration and notification responsibilities will be delegated to the state in which the tribe is located. 42 USC § 16927 (a)(2)(C). The Department of Justice would like to consult with tribal nations regarding this delegation procedure. The Department’s Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), created to assist jurisdictions with implementation of SORNA, convened a pre-consultation meeting with tribal representatives to begin discussion of a process to follow prior to any delegation of registration and notification responsibilities to a state.

In short, there is no “automatic” delegation. Those tribes that cannot substantially implement SORNA by the deadline may request that the SMART Office consider whether or not the tribe will become capable of doing so in a reasonable amount of time, and therefore become eligible for additional time to implement SORNA. However, if a SORNA tribe does not submit a substantial implementation package and does not make a request for a “reasonableness” determination, the delegation process that will be discussed at these consultations will have to be initiated. This process, which will be discussed further at these consultations, will include additional outreach to the tribal leader directly from the Department of Justice, and through regional tribal organizations, tribal liaisons in their district United States Attorneys’ Office, BIA representatives if applicable, and other Justice Department contacts. This outreach effort will be followed by an offer to the tribal leader to meet with a Justice Department official to discuss SORNA implementation options for the tribe to and to ascertain and overcome any obstacles facing the tribe in its attempt to substantially implement SORNA. Further, DOJ will enlist the appropriate state representatives to engage in conversations with all the relevant parties.

During this consultation period, the SMART Office will also discuss the impact of the Tribal Law and Order Act (TLOA) on SORNA implementation. The SMART Office will explain what has been called the BOP fix: 18 USC §4042, “Notice of Release of Prisoners,” was amended by TLOA to ensure that tribes are notified upon release of sex offenders returning to live on tribal lands. TLOA SEC. 261 was amended by inserting “tribal’ into the pertinent subsections of 18 USC §4042 (a) (4), (b) (1), C (1) (A) & (B). Another TLOA provision that will impact tribal SORNA implementation is Sec. 234. Tribal Court Sentencing Authority (codified at 25 USC § 1302), which permits tribes to expand their sentencing from 1 to 3 years. SORNA implementing tribes that elect to expand their sentencing to more than one year will need to include a SORNA compliant tiering method for tribal offenders who have committed sex offenses on their tribal

land, as well as for any other registered sex offenders who have been convicted by tribes that also have sentenced offenders to more than one year. Finally, TLOA also addressed the tribes' need for access to NCIC, the National Crime Information Center (see TLOA SEC. 233 amending 28 USC § 534), by permitting access to NCIC for tribes. The SMART Office continues to work on full NCIC access/input capabilities for eligible tribes, as this capability is an essential component of a SORNA compliant sex offender registration and notification program.

### Detailed Consultation Participation Information

To afford tribes an adequate opportunity to comment and discuss these suggested procedures and to provide any additional input about this process with the Department of Justice, the SMART Office will be holding **2 in person consultation sessions** entitled *Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) and Tribal Nations Consultation Session: Consultation on the process for delegation of sex offender registration and notification responsibilities pursuant to the Sex Offender Registration and Notification Act (SORNA) and impact of the Tribal Law and Order Act (TLOA) on implementation of SORNA.*

The first consultation was held as part of the Tribal Justice, Safety and Wellness (TJS&W) Conference **May 10-12, 2011** in Scottsdale, Arizona.

The second in-person consultation will be held **June 14, 2011, 6:00 – 8:00 p.m.**, as part of NCAI's Midyear Conference being held in Milwaukee, Wisconsin from June 13-16, 2011, at the Frontier Airlines Center. Please visit the NCAI Midyear Conference website at <http://www.ncai.org/Home.580.0.html> to register for the upcoming session and for additional information.

There will be an additional opportunity for consultation via teleconferencing on June 30, 2011, from 2:00 p.m. to 4:00 p.m. EST. Those wishing to participate must **RSVP by June 27, 2011**. To RSVP for the teleconference please email: [Rebecca.Jeyachandran@ojp.usdoj.gov](mailto:Rebecca.Jeyachandran@ojp.usdoj.gov) You may also fax your RSVP to Rebecca Jeyachandran at fax# 202-354-4200. In any RSVP please include your name and title, tribal affiliation (if any), telephone number, fax number and email address. If you have any questions regarding the teleconference please contact Rebecca Jeyachandran at 202-616-3798. The call -in number will be provided closer to the call to all those who RSVP.