Resolution No. Ft. McD. 2011- 65

WHEREAS, the Fort McDowell Yavapai Nation (Nation) is a federally recognized Indian tribe and sovereign Indian Nation; and

WHEREAS, the Fort McDowell Tribal Council ("Tribal Council") is the governing body of the Fort McDowell Yavapai Nation ("Nation") and;

WHEREAS, the Tribal Council has appointed a Law and Order Committee to review and recommend revisions to the Nation’s Law and Order Code; and

WHEREAS, the Law and Order Committee is recommending modifications to Chapter 25, Tribal Sex Offender Registration Code in compliance with Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 190-248) ("Adam Walsh Act"). The proposed modifications include both mandatory revisions and recommended revisions made by the SMART Office in Washington, DC as part of a preliminary review of a final approval of our Sex Offender registration code and program. The proposed mandatory revisions include such things as a definition of juvenile convictions as applied to this Code, inclusions of additional applicable federal crimes not included in our current Code, a specific time frame for noticing travel by registrants and inclusion of a specific length of time for registering. Other minor recommended modifications are recommended to comply with the language included in the most recent federal model code. Attached is a copy of the proposed revised Tribal Sex Offender Registration Code.

WHEREAS, the Tribal Council has reviewed and approved the proposed revised Tribal Sex Offender Registration Code, attached hereto; and

NOW THEREFORE BE IT RESOLVED that the Fort McDowell Tribal Council authorizes the President to sign and approve the modifications to Chapter 25, Tribal Sex Offender Registration Code, of the Law and Order, attached hereto and those revisions shall have immediate effect.

CERTIFICATION

Pursuant to the authority contained in Article V, Section 13(A)(1) and (6) and (B)(1) and (2) of the Constitution of the Fort McDowell Yavapai Nation, ratified by the Tribe on October 19, 1999 and approved by the Secretary of Interior on November 12, 1999, the foregoing Resolution was adopted this 20 of December, 2011, at a Council Meeting held at Fort McDowell at which a quorum of 5 members were present, and 0 absent, by a vote of 4 for and 0 opposed and 0 abstained.

[Signature]
Dr. Clinton M. Pattea, President
Fort McDowell Yavapai Nation

Pansy Thomas, Secretary
Tribal Council

Date
12-20-11
Objective: Modification of the Tribal Sex Offender Registration Code in compliance with Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 190-248) ("Adam Walsh Act").

Discussion: After a preliminary review by the federal SMART office of our current Tribal Sex Offender Registration Code, including recent updates to the model code upon which it is based, several mandatory revisions to our Code were required or recommended by the SMART office for their final approval. These mandatory modifications include such things as a definition of juvenile convictions as applied to this Code, inclusions of additional applicable federal crimes not included in the first Code, a specific time frame for noticing travel by registrants and inclusion of a specific length of time for registering. Other minor changes were made to comply with the language included in the most recent federal model code. Attached is a copy of the proposed revised Code with those mandated modifications in blue ink and those recommended modifications in red ink.

Recommendation: 

Board Approved/Supported? ___ Yes X ___ No
Action Requires Department Input? ___ Yes X ___ No
Resolution attached (if required): X ___ Yes ___ No
Contract/Grant Review completed (if required): N/A
Action Requires Budget Approval or Modification: ___ Yes X ___ No

Action Items Involving Funds Require Authorized Signers

Director: 
Controller: 
CFO: 
GM: 

Date 11/9/2011

Authors of Action Item: Julie Wilkens/Jesse Delmar Titles: Prosecutor/Police Chief

DISPOSITION: 
11/15/11 Tribal Council consensus to post for 30 days, DT.
TRIBAL SEX OFFENDER REGISTRATION CODE

FORT McDOWELL YAVAPAII NATION
# CHAPTER 25

## SEX OFFENDER REGISTRATION CODE

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ARTICLE 1. GENERAL MATTERS

SECTION 1.01 TITLE

This Code shall be known as the Sex Offender Registration Code.

SECTION 1.02 PURPOSE

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Section I of P.L. 109-248) (42 USC 16901 et seq) and shall be interpreted liberally to comply with the terms and conditions of that Act as presently written or hereafter amended.

SECTION 1.03 CREATION OF REGISTRIES

A. Sex Offender Registry. There is hereby established a sex offender registry program. The Fort McDowell Yavapai Nation Sex Offender Registry which the Fort McDowell Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, Fort McDowell Yavapai Nation which the Fort McDowell Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

ARTICLE 2. TERMINOLOGY AND COVERED OFFENSES

SECTION 2.01 DEFINITIONS

A. Convicted. An adult sex offender is “convicted” for the purposes of this code if the sex offender has been subject to penal consequences based on the conviction, however the conviction may be styled.

A juvenile offender is “convicted” for purposes of this code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or

2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

B. Employee. The term “employee” as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation.

C. Immediate. “Immediate” and “immediately” mean within 3 calendar days.

D. Imprisonment. The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a local or tribal “jail”.

E. Jurisdiction. The term “jurisdiction” as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe that has asserted jurisdiction pursuant to section 127 of SORNA, including the Fort McDowell Yavapai Nation.
F. Minor. The term "minor" means an individual who has not attained the age of 18 years.

G. Nation. The term "Nation" means the Fort McDowell Yavapai Nation.

H. Resides. The term "reside" or "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

I. Sex Offense. The term "sex offense" as used in this code is limited to those offenses contained in section 111(5) of SORNA.

J. Sex Offender. A person convicted of a sex offense is a "sex offender".

K. Student. A "student" is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education or who is homeschooled.

SECTION 2.02 COVERED OFFENSES

Sex offenders who reside within the exterior boundaries of the Nation or otherwise reside on property owned by the Nation in fee or trust regardless of location, are employed within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location, or who attend school within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location, or offenders who visit the Nation for a period of 24 hours or more, that have been convicted of the following offenses are subject to the requirements of this code:

A. Attempts and Conspiracies. Any attempt or conspiracy to commit any sex offense.

B. Federal Offenses. A conviction for any of the following, and any other offense here after included within SORNA:

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
17. 18 U.S.C. §2423 (transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, engaging in illicit sexual conduct in foreign places),
18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in Section 2.02(F) which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any foreign country where the United States State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally (or vigorously) enforced the right to a fair trial in that country during the year in which the conviction occurred.


E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241 [a] and [b]) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in sexual act with another by rendering unconscious or involuntarily drugging the victim.

F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this Nation, that involves:

1. Any type of degree of genital, oral, or anal penetration,
2. Any sexual touching of or contact with a person’s body, either directly or through the clothing,
3. Kidnapping of a minor,
4. False imprisonment of a minor,
5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
6. Use of a minor in a sexual performance,
7. Solicitation of a minor to practice prostitution,
8. Video voyeurism of a minor as described in 18 U.S.C. §1801,
9. Possession, production, or distribution of child pornography,
10. Criminal sexual conduct that involves physical contact with a minor or the use of the internet or an electronic or mechanical device to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
11. Any conduct that by its nature is a sex offense against a minor, and
12. Any offense similar to those outlined in:
   a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
   b. 18 U.S.C. §1801 (video voyeurism of a minor),
   c. 18 U.S.C. §2241 (aggravated sexual abuse),
   d. 18 U.S.C. §2242 (sexual abuse),
   e. 18 U.S.C. §2244 (abusive sexual contact),
   f. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution),
   g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

ARTICLE 3. TIERED OFFENSES

SECTION 3.01 TIER 1 OFFENSES

A. Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(C) that involves any sexual act or sexual contact with another person that is not included in Section 3.02 or Section 3.03.

B. Offenses Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted by a jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered “Tier 1” offenses:

1. 18 U.S.C. §1801 (video voyeurism of a minor),
2. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
3. 18 U.S.C. §2252A (material containing child pornography),
4. 18 U.S.C. §2252B (misleading domain names on the internet),
5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
9. 18 U.S.C. §2423 (d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain),
10. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
11. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §951) that is similar to those offenses outlined in Section 3.01(A), (B), or (C) shall be considered “Tier 1” offenses.

SECTION 3.02 TIER 2 OFFENSES

A. Recidivism and Felonies. Unless otherwise covered by Section 3.03, any sex offense which is not the first sex offense for which a person has been convicted or an attempt or conspiracy to commit such an offense and that is punishable by more than one year in jail is considered a “Tier 2” offense. In the case of subsequent tribal court convictions, the offense shall be treated as if it is punishable by more than one year in jail if a substantially similar Arizona State or federal offense is punishable by more than one year.

B. Offenses Involving Minors. A “Tier 2” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense by a jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(C) that involves:

1. The use of minors in prostitution, including solicitations,
2. Enticing a minor to engage in criminal sexual activity,
3. Sexual contact with a minor 13 years of age or older, whether direct or through the clothing, that involves the intimate parts of the body,
4. The use of a minor in a sexual performance, or
5. The production or distribution of child pornography.

C. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered “Tier 2” offenses:

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. 18 U.S.C. §2244 (abusive sexual contact),
3. 18 U.S.C. §2251 (sexual exploitation of children),
4. 18 U.S.C. §2251A (selling or buying of children),
5. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
6. 18 U.S.C. §2252A (material containing child pornography),
7. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
8. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
9. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution),
10. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).
11. 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the traveling interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain).
D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §951) that is similar to those offenses outlined in Section 3.02(A),(B), or (C) shall be considered “Tier 2” offenses.

SECTION 3.03 TIER 3 OFFENSES

A. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier 2 sex offense, or has previously become a Tier II sex offender is a “Tier 3” offense. In the case of subsequent tribal court convictions, the offense shall be treated as if it is punishable by more than one year in jail if a substantially similar Arizona State or federal offense is punishable by more than one year.

B. General Offenses. A “Tier 3” offense includes any sex offense for which a person has been convicted, or an attempt to conspiracy to commit such an offense by a jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(C) that involves:

1. Non-parental kidnapping of a minor,
2. A sexual act with another by force or threat,
3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
4. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered “Tier 3” offenses:

1. 18 U.S.C. §2241 (aggravated sexual abuse),
2. 18 U.S.C. §2242 (sexual abuse), or
3. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
4. Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §951) that is similar to those offenses outlined in Section 3.03(A),(B), or (C) shall be considered “Tier 3” offenses.

ARTICLE 4. REQUIRED INFORMATION

SECTION 4.01 GENERAL REQUIREMENTS

A. Duties. A sex offender covered by this code who is required to register with the Nation pursuant to Article 5 shall provide all of the information detailed in this chapter to the tribal police department or designee, and the tribal police department or designee shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe in accordance with this code and implementing policies and procedures.
B. Digitization. All information obtained under this code shall be, at a minimum, maintained by the police department or designee in digitized format.

C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the police department or designee and shall be in a form capable of electronic transmission, or otherwise electronically accessible by other jurisdictions.

SECTION 4.02 CRIMINAL HISTORY

A. Criminal History. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s sex offense criminal history:

1. The date of all arrests,
2. The date of all convictions,
3. The sex offender’s status of parole, probation, or supervised release,
4. The sex offender’s registration status, and
5. Any outstanding arrest warrants.

SECTION 4.03 DATE OF BIRTH

A. Date of Birth. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s date of birth:

1. The sex offenders actual date of birth, and
2. Any other date of birth used by the sex offender.

SECTION 4.04 DNA SAMPLE

A. DNA. If the sex offender’s DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the tribal police or designee a sample of his DNA.

B. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

SECTION 4.05 DRIVER’S LICENSES, IDENTIFICATION CARDS, PASSPORTS, AND IMMIGRATION DOCUMENTS

A. Driver’s License. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender’s valid driver’s licenses issued by any jurisdiction.

B. Identification Cards. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender’s tribal enrollment card issued by any jurisdiction.

C. Passports. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.

D. Immigration Documents. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.
SECTION 4.06 EMPLOYMENT INFORMATION

A. Employment. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

1. The name of the sex offender’s employer,
2. The address of the sex offender’s employer, and
3. Similar information related to any transient or day labor employment.

SECTION 4.07 FINGER AND PALM PRINTS

A. Finger and Palm Prints. The tribal police or designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

SECTION 4.08 INTERNET IDENTIFIERS

A. Internet Names. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s internet related activity:

1. Any and all email addresses used by the sex offender,
2. Any and all Instant Message addresses and identifiers,
3. Any and all other designations or monikers used for self-identification in internet communications or postings, and
4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

SECTION 4.09 NAME

A. Name. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s name:

1. The sex offender’s full primary given name,
2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

SECTION 4.10 PHONE NUMBERS

A. Phone Numbers. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s telephone numbers:

1. Any and all land line telephone numbers,
2. Any and all cellular telephone numbers, and
3. Any and all internet or satellite telephone numbers, and
4. Any other designations used for the purposes of routing or self-identification in telephonic communications.
SECTION 4.11 PICTURE

A. Photograph. The tribal police or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.

B. Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:
   1. Every 90 days for Tier 3 sex offenders,
   2. Every 180 days for Tier 2 sex offenders, and
   3. Every year for Tier 1 sex offenders.

SECTION 4.12 PHYSICAL DESCRIPTION

A. Physical Description. The tribal police or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
   1. A physical description,
   2. A general description of the sex offender’s physical appearance or characteristics, and
   3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

SECTION 4.13 PROFESSIONAL LICENSING INFORMATION

A. Professional Licenses. The tribal police or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

SECTION 4.14 RESIDENCE

A. Residence. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s residence:
   1. The address of each residence at which the sex offender resides or will reside, and
   2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

SECTION 4.15 SCHOOL

A. School Location. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s school:
   1. The address of each school where the sex offender is or will be a student, and
   2. The name of each school the sex offender is or will be a student.

SECTION 4.16 SOCIAL SECURITY NUMBER

A. Social Security. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information:
   1. A valid social security number for the sex offender, and
2. Any social security number the sex offender has used in the past, valid or otherwise.

SECTION 4.17 TEMPORARY LODGING

A. Lodging Information. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 calendar days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location.
3. The registered sex offender shall provide the information in Section 4.17 (1) and (2) to the Tribal Police Department no later than 48 hours before his or her scheduled travel. The information shall be provided in person.

B. Travel Abroad.

1. Absent exigent circumstances, a sexual offender who intends to travel abroad for any period of time shall provide the tribal police or designee with 21 days advance notice of his or her intent to travel abroad and identifying information while traveling abroad of the temporary lodging locations, including names and addresses and the dates the sex offender will be staying at each temporary lodging location.
2. In the event the sex offender will be traveling abroad for more than 7 calendar days, the tribal police or designee will provide this information to any jurisdiction where the sex offender is either registered or required to register, the U.S. Marshall’s Service and INTERPOL. The tribal police shall also ensure this information is immediately updated on NSOR.

SECTION 4.18 OFFENSE INFORMATION

A. Offense Information. The tribal police or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

SECTION 4.19 VEHICLE INFORMATION

A. Detailed Information. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles, owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year, and
4. Any permanent or frequent location where any covered vehicle is kept.

SECTION 4.20 FREQUENCY, DURATION AND REDUCTION

A. Frequency, A sex offender who is required to register shall, at a minimum, appear in person at the police department for purposes of verification and keeping their registration current in accordance with the following time frames.
1. For “Tier I” offenders, once every 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of the sentencing for a sex offender who is not incarcerated for the registration offense.

2. For “Tier II” offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of the sentencing for a sex offender who is not incarcerated for the registration.

3. For “Tier III” offenders, once every 90 days for the rest of their lives.

ARTICLE 5. REGISTRATION

SECTION 5.01 WHERE REGISTRATION IS REQUIRED

A. Jurisdiction of Conviction. A sex offender must initially register in the jurisdiction where the sex offender was convicted of a covered sex offense regardless of the sex offender’s actual or intended residency.

B. Jurisdiction of Incarceration. A sex offender must register in each jurisdiction in which the sex offender is incarcerated while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

C. Jurisdiction of Residence. A sex offender who resides in a jurisdiction must register with that jurisdiction, including the sex offender who resides within the exterior boundaries of the Nation or otherwise resides on property owned by the tribal jurisdiction in fee or trust regardless of location.

D. Jurisdiction of Employment. A sex offender who is employed within a jurisdiction must register with that jurisdiction, including a sex offender who is employed by the Nation in any capacity or who is otherwise employed within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location.

E. Jurisdiction of School Attendance. A sex offender who is a student at any school within a jurisdiction is required to register with that jurisdiction, including a sex offender if he or she is a student in any capacity within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location.

SECTION 5.02 INITIAL REGISTRATION

A. Timing. A sex offender required to register with the Nation under this code shall do so in the following timeframe:

1. If incarcerated, before release from imprisonment for the registration offense,

2. If not incarcerated, within 3 calendar days of sentencing for the registration offense, and

3. For foreign, federal, and military convictions, a sex offender must appear in person at the tribal police department within 3 calendar days of establishing a residence within the Nation or on tribal property after either release from incarceration or, if not incarcerated, sentencing for purposes of complying with this code.

B. Duties of Tribal Police Department. The tribal police department shall have policies and procedures in place to ensure the following:
1. Any sex offender incarcerated or sentenced by the Nation for a covered sex offense completes their initial registration with the Nation,

2. Any sex offender initially registering with the Nation is informed of their duties under SORNA and this code, and that such duties under SORNA and this code are explained to them,

3. The sex offender reads and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement and that noncompliance with the registration process will be considered a Failure to Register,

4. That the sex offender is registered, and

5. That upon entry of the sex offender’s information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender’s residency, employment, or student status.

SECTION 5.03 RECAPTURE

A. Recapture. The tribal police department or designee shall have in place policies and procedures to ensure the following three categories of sex offenders are recaptured:

1. Sex offenders incarcerated or under supervision of the tribe, whether for a covered sex offense or other crime,

2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribes’ laws, and

3. Sex offenders reentering the justice system due to conviction for any crime.

B. Timing of Recapture. The tribal police department or designee shall ensure recapture of the sex offenders mentioned in Section 5.03(A) within the following timeframe to be calculated from the date of passage of this code:

1. For Tier 1 sex offenders, 1 year,

2. For Tier 2 sex offenders, 180 days, and

3. For Tier 3 sex offenders, 90 days.

C. Recapture of Verified Sexual Offense Convictions. All sex offenders with verified convictions for sexual offenses in any jurisdiction at any time that are not otherwise recaptured under Subsection A of this Section, may be recaptured at any time and immediately subject the sex offender to appropriate registration requirements pursuant to this Code. In order to apply, the following shall occur:

1. A certified copy of the sex offense conviction shall be obtained from the issuing court.

2. The tribal police or designee shall determine the appropriate Tier Level for the verified sexual offense conviction.

3. The sex offender shall be notified in writing of the determination of applicability of the Sex Offender Code provisions, the Tier level designation, the time and place to appear for an initial sexual offender registration, and shall be provided notice of the right to file a Notice of Appeal of the decision of the tribal police to the Nation’s tribal court within a 10 calendar day period from the date of receipt of the notice.
4. If the sexual offender fails to file a timely Notice of Appeal and fails to appear at the initial registration, the Nation may file a criminal charge or may pursue civil relief as provided in Article 8 herein.

SECTION 5.04 REGISTRATION CURRENCY

A. Jurisdiction of Residency. All sex offenders residing within the exterior boundaries of the Nation or otherwise residing on land owned by the Nation or placed in trust for the Nation, must immediately appear at the tribal police department in person to update any change in their name, residence (including termination of residency), employment, school attendance, vehicle information, temporary lodging, email addresses, telephone numbers, Instant Messaging addresses, and any other designation used in internet communications, postings, or telephone communications. In the event of a change in temporary lodging, the sex offender and tribal police shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.

B. Duties of Tribal Police. With regard to changes in a sex offender’s registration information, the tribal police or designee shall immediately notify:

1. All jurisdictions where a sex offender intends to reside, work, or attend school,
2. Any jurisdiction where the sex offender is either registered or required to register, and
3. Specifically with respect to information relating to a sex offender’s intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The tribal police shall also ensure this information is immediately updated on NSOR.

C. Jurisdiction of Employment. All sex offenders who are employed by the Nation in any capacity or otherwise are employed within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location that change or terminate their employment shall immediately appear in person at the tribal police department to update that information. The tribal police shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

D. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location and changes their school, or otherwise terminates their schooling, shall immediately appear in person at the tribal police department to update that information. The tribal police shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

SECTION 5.05 FAILURE TO APPEAR FOR REGISTRATION AND ABSCONDING

A. Failure to Appear. In the event a sex offender fails to register with the Nation as required by this code, the tribal police or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the Nation that the sex offender failed to appear for registration.

B. Absconded Sex Offenders. If the tribal police or designee receives information that a sex offender has absconded, the tribal police shall make an effort to determine if the sex offender has actually absconded.

1. In the event no determination can be made, the tribal police or designee shall ensure other appropriate law enforcement agencies are notified.
2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.

3. If an absconded sex offender cannot be located then the tribal police shall take the following steps:
   a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,
   b. Seek warrants for the sex offender’s arrest, and in the case of a non-Indian, the U.S. Marshals Service or FBI shall be contacted in an attempt to obtain a federal warrant for the sex offender’s arrest,
   c. Notify the U.S. Marshals Service regardless of whether the sex offender is Indian or non-Indian,
   d. Update the NSOR to reflect the sex offender’s status as an absconder, or is otherwise not capable of being located,
   e. Enter the sex offender into the National Crime Information Center Wanted Person File.

C. Failure to Register. In the event a sex offender who is required to register due to his or her employment or school attendance status fails to do so or otherwise violates registration requirement of this code, the tribal police or designee shall take all appropriate follow-up measures including those outlined in Section 5.05(B). The tribal police or designee shall first make an effort to determine if the sex offender is actually employed or attending school within the exterior boundaries of the Nation or on property owned by the Nation in fee or trust regardless of location.

ARTICLE 6. VERIFICATION AND APPEARANCE REQUIREMENTS

SECTION 6.01 FREQUENCY

A. Frequency. A sex offender who is or should be registered with the Nation shall, at a minimum, appear in person at the tribal police department for purposes of keeping registration current in accordance with the following time frames:
   1. For “Tier 1” offenders, once every year for 15 years from the date of conviction,
   2. For “Tier 2” offenders, once every 180 days for 25 years from the date of conviction,
   3. For “Tier 3” offenders, once every 90 days for the rest of their lives.

B. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
   1. A Tier 1 offender may have their period of registration and verification reduced to 5 years if they have maintained a clean record for 10 consecutive years,
   2. A Tier 3 offender may have their period of registration and verification reduced to 25 years if they were adjudicated delinquent of an offense as a juvenile which required Tier 3 registration and they have maintained a clean record for 25 consecutive years.

C. Clean Record. For purposes of Section 6.01(B) a person has a clean record if:
1. They have not been convicted of any offense for which imprisonment for more than 1 year may be imposed. In the case of a conviction from any tribal court, the offense shall be treated as if it is punishable by more than one year in jail if a substantially similar Arizona State or federal offense is punishable by more than one year.

2. They have not been convicted of any sex offense.

3. They have successfully completed, without revocation, any period of supervised release, probation, or parole, and

4. They have successfully completed an appropriate sex offender treatment program certified by a jurisdiction or by the United States Attorney General.

SECTION 6.02. REQUIREMENTS FOR IN PERSON APPEARANCES

A. Photographs. At each in person verification, the sex offender shall permit the tribal police to take photographs of the offender.

B. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.

C. Notification. If any new information or change in information is obtained at an in person verification, the tribal police shall immediately notify all other registration jurisdictions of the information or change in information.

ARTICLE 7. PUBLIC SEX OFFENDER REGISTRY WEBSITE

SECTION 7.01. WEBSITE

A. Website. The tribal police department or designee shall use and maintain a public sex offender registry website. Any tribal specific national website provided or approved by the SMART Office shall qualify as a public sex offender registry website under this code.

B. Links. The registry website shall include links to sex offender safety and education resources.

C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

D. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

E. Search Capabilities. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

F. Dru Sjodin National Sex Offender Public Website. The tribe shall include in the design of its registry website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

SECTION 7.02. REQUIRED AND PROHIBITED INFORMATION

A. Required Information. The following information shall be made available to the public on the sex offender registry website:
1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
2. All sex offenses for which the sex offender has been convicted,
3. The sex offense(s) for which the offender is currently registered,
4. The address of the sex offender’s employer(s),
5. The name of the sex offender including all aliases,
6. A current photograph of the sex offender,
7. A physical description of the sex offender,
8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
9. All addresses of schools attended by the sex offender, and
10. The sex offender’s vehicle license plate number along with a description of the vehicle.

B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
   1. Any arrest that did not result in conviction,
   2. The sex offender’s social security number,
   3. Any travel and immigration documents,
   4. The identity of the victim, and
   5. Internet identifiers.

C. Witness Protection. For sex offenders who are under a witness protection program, the tribal police may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

SECTION 7.03. COMMUNITY NOTIFICATION

A. Law Enforcement Community Notification. Whenever a sex offender registers or updates their information with the Nation, the tribal police or designee shall:
   1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
   2. Immediately update NCIC/NSOR,
   3. Immediately notify any agency, department, or program within the Nation that is responsible for criminal investigation, prosecution, or sex offender supervision functions, including but not limited to, the Nations’ police, prosecutors, and probation.
   4. Immediately notify any and all other registration jurisdictions due to the sex offender’s residency, school attendance, or employment, and
5. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

B. Community Notification. The tribal police or designee shall ensure there is an automated community notification process in place that ensures the following:

   1. Upon a sex offender’s registration or update of information with the Nation, the public registry website is immediately updated,
   2. Email notice is available to the general public to notify them when a sex offender commences residence, employment, or school attendance with the Nation, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender’s identity.

ARTICLE 8. CRIMES AND CIVIL SANCTIONS

SECTION 8.01 INDIANS

A. Crime. Any violation of a provision of this code by a sex offender who is an Indian shall be guilty of a Class I offense, punishable pursuant to Chapter 6, Art. I, Sec. 6-2 of the Code.

SECTION 8.02 NON-INDIANS

A. Civil Penalty. Any violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, exclusion and banishment.