



SPIRIT LAKE TRIBE

SEX OFFENDER REGISTRATION AND

COMMUNITY NOTIFICATION

PROGRAM

POLICIES & PROCEDURES

The Spirit Lake Tribe Sex Offender Registration and Notification Law is set forth in Title 20 of the Spirit Lake Law and Order Code. *See SPIRIT LAKE SORNA CODE – Title 20 - (April 11, 2010); Approved by Tribal Resolution #A05-10-102 Amended by Tribal Resolution #A05-17-147*

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DEFINITIONS

The definitions in this section apply only to this policy and procedures and to Title 20 of the Spirit Lake Law and Order Code.

(1) The term "sex offender" shall include any person who has pled guilty, been found guilty, been found not guilty by reason of insanity, or otherwise convicted of any sex offense under any tribal, state, federal or foreign law.

(2) The term "sex offense" shall include those offenses contained in 42 U.S.C. 16911(5)(as amended) and those offenses enumerate in Chapter 2 of this Title or other sex related crimes qualifying as a registerable offense under tribal, state or federal law.

(3) The term "at risk" means a specific risk of a person being the victim of a sex offense.

(4) The term "convicted" means that the sex offender has been subject to penal consequences based upon an order from a criminal or delinquency court regardless of age at the time of the offense or the severity of the offense. This shall include but not be limited to convictions in tribal, state, federal and foreign courts. A juvenile conviction shall be consider if the juvenile has been tried and convicted as an adult for a sex offense; has been legally emancipated by a court of competent jurisdiction prior to the time of the offense; or has been adjudicated delinquent for a sex offense so long as the offender is 14 years of age or older at the time of the offense.

(5) The terms "incarceration" or "imprisonment" means placement and confinement in an institution, regardless of the nature of the institution in which the offender serves the sentence, by way of a court order resulting from a criminal or delinquency court conviction. This shall include, but not be limited to placement or confinement in a prison, jail, detention facility, treatment facility and placements on house arrest. This term is to be interpreted broadly to include a state prison, federal or military prison, BIA detention facility, private or contract facility, or a local or tribal jail.

(6) The term "sexual act" shall include:

- (a) Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
- (b) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- (c) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- (d) The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(7) The term "sexual contact" shall include any intentional sexual touching of or contact with the genitalia, anus, groin, breast, inner thigh or buttocks of an individual, either directly or through the clothing of the individual, and with the intent to abuse, humiliate, harass, degrade or arouse or gratify desires of another person.

(8) The term "sexually violent offense" for purposes of the classification of sex offenses a sexually violent offense shall include any nonconsensual sexual assault crimes involving penetration, rape or sodomy or similar acts. These offenses shall also include a sexual act perpetrated by violence, threat of serious violence or by rendering unconscious or involuntarily drugging a victim.

(9) The term "school" for the purposes of 20-1-104 exclusively shall include any pre-school, elementary school, high school or alternative school and shall specifically exclude any institution of higher education or higher learning. Any institution of higher education or higher learning shall, within the institution's discretion, prescribe policies and procedures governing the admission or presence of sex offenders within their respective programs and facilities. All convicted sex offenders attending institutions of higher education or higher learning shall be required to register with the Spirit Lake Tribe Sex Offender Registry Program in accordance with all other provisions of Title 20.

(10) **Sex Offender Registry.** The term "sex offender registry" means the registry of sex offenders, and a notification program, maintained by the Spirit Lake Tribal Sex Offender Registry Program.

(11) **SMART Office.** The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.

(12) **SORNA.** The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended.

(13) **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.

APPLICABILITY OF THE SPIRIT LAKE SEX OFFENDER REGISTRY

The Spirit Lake Tribe Sex Offender Registry, in accordance with Title 20 of the Spirit Lake Law and Order Code, shall be applicable to any individuals convicted of one or more of the following sex offenses:

A. Tribal offenses. A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter.

- a. §3-7-137 (assault with intent to commit rape)
- b. §3-7-138 (carnal knowledge of a person under sixteen years of age)
- c. §3-7-154 (rape in the first degree)
- d. §3-7-155 (rape in the second degree)

B. Federal Offenses. A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5): Including any offenses prosecuted under the Assimilative Crimes Act (18 USC §1152 or § 1153).

- a. 18 U.S.C. §1591 (sex trafficking of children),
- 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. §2243 (sexual abuse of a minor or ward),
- f. 18 U.S.C. §2244 (abusive sexual contact),
- g. 18 U.S.C. §2245 (offenses resulting in death),
- h. 18 U.S.C. §2251 (sexual exploitation of children),
- i. 18 U.S.C. §2251A (selling or buying of children),
- j. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
- k. 18 U.S.C. §2252A (material containing child pornography),
- l. 18 U.S.C. §2252B (misleading domain names on the internet),
- m. 18 U.S.C. §2252C (misleading words or digital images on the internet),
- n. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
- o. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),

- p. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
- q. 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),
- r. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
- s. 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 this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when 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.

D. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a) (8) (C) (i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

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 a sexual act with another by rendering unconscious or involuntarily drugging the victim.

F. Jurisdiction Offenses. Any sex offense, or convictions for the attempt or conspiracy to commit said sex offenses committed in any jurisdiction, including this tribe, that involves:

- a. Any conduct that by its nature is a sex offense against a minor,
- b. Any type or degree of genital, oral, or anal penetration,
- c. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
- d. Criminal sexual conduct that involves physical contact with a minor or the use of the internet 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,

- e. False imprisonment of a minor,
- f. Kidnapping of a minor,
- g. Possession, production, or distribution of child pornography,
- h. Solicitation of a minor to practice prostitution,
- i. 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,
- j. Use of a minor in a sexual performance,
- k. Any offense similar to those outlined in:
 - i. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - ii. 18 U.S.C. §1801 (video voyeurism of a minor),
 - iii. 18 U.S.C. §2241 (aggravated sexual abuse),
 - iv. 18 U.S.C. §2242 (sexual abuse),
 - v. 18 U.S.C. §2244 (abusive sexual contact),
 - vi. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or
 - vii. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

TIMING OF REGISTRATION & NOTIFICATION

INITIAL REGISTRATION

A. Timing of Registration.

- a. If convicted by the Spirit Lake Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
- b. If convicted by the Spirit Lake Tribe but not incarcerated, within one (1) business day of sentencing for the registration offense, and
- c. Within one (1) business day of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the tribe, a sex offender must appear in person to register with Spirit Lake Tribal Sex Offender Registry Program.

B. Duties of Spirit Lake Tribal Sex Offender Registry Program. The Spirit Lake Tribal Sex Offender Registry Program shall have policies and procedures in place to ensure the following:

- a. Inform the sex offender of his or her duties under SORNA
- b. Explain the SORNA duties to sex offender
- c. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
- d. That the sex offender is registered, and added to the public website if applicable and That upon entry of the sex offender's information in to 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.
- e. That all information is entered and updated in NCIC/NSOR.

PART 1: SEX OFFENDER REGISTRATION REQUIREMENTS AND PROCESS

A. SEX OFFENDER REGISTRATION REQUIREMENTS

Any person as described in Title 20 of the Spirit Lake Law and Order Code, who resides, goes to school, or is employed within the exterior boundaries of the reservation shall be required to register with Spirit Lake Tribal Sex Offender Registry Program within one business day of entering the exterior boundaries of the reservation.

All Spirit Lake Tribal Sex Offender Registry Program Personnel charged with registration responsibilities shall meet with individuals subject to Title 20 of the Spirit Lake Law and Order Code and shall capture the following information by completing the Spirit Lake Tribe SORNA ACKNOWLEDGEMENT & REGISTRATION FORM:

- 1) The full name, aliases, dates of birth (including alternate dates of birth), gender, race and physical description of the offender, including any identifying marks, scars or tattoos.
- 2) The current place of residence of the offender and any temporary or habitual residences for the offender.
- 3) The Social Security Number and Tribal Enrollment Number of the offender.
- 4) The Driver's license number of the offender.
- 5) Copies of any passport or immigration documents.
- 6) Any and all vehicle information including license plate number(s), registration number(s) and a full vehicle description including make, model and year of any vehicle owned or used by the offender.
- 7) The name and address of the offender's employer(s).
- 8) The name and address of any schools or educational institutions or programs the offender is or will be a student.
- 9) Any and all email addresses, instant message identifiers and any other designations used in internet communications or postings by the offender.
- 10) The filing of a written statement detailing the date of conviction, nature of the offense, jurisdiction(s) where the offender was convicted, current contact information including, but not limited to, mailing address, place of residence and telephone number.

- 11) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.
- 12) Confirmation of the sex offender submitting to digital fingerprinting, palm printing and photographing.
- 13) Confirmation of the sex offender submitting to collection of a DNA sample via the offender's saliva.
- 14) A description of the nature of the crime(s) committed by the offender as well as a description of the type of victim generally targeted by the offender.

B. CHANGES AND UPDATES IN INFORMATION

Persons subject to Title 20 shall be required to verify their name and address annually, and shall inform law enforcement within one (1) business day in the event that their address or other required information as set forth in Title 20 changes.

All updated information and verifications must be timely submitted to Spirit Lake Tribal Sex Offender Registration Program. The Spirit Lake SOR Program Personnel shall update such information in the SORNA database as well as on the Spirit Lake SORNA Change of Address Form.

The Spirit Lake SOR Program shall notify any and all foreign jurisdictions including, but not limited to, other tribal, state or federal jurisdictions when an offender changes residence or otherwise plans to travel outside of the registering jurisdiction.

C. DUTIES OF THE RESIDENCE JURISDICTION WHEN AN OFFENDER INTENDS TO RELOCATE TO ANOTHER COUNTRY

Upon notification from a registered sex offender expressing plans to relocate to another country, a representative from the Spirit Lake Tribal Sex Offender Registration Program shall:

- 1) Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information
- 2) Immediately notify the U.S. Marshals Service
- 3) Immediately update NCIC/NSOR Information

C. FINGERPRINTING

Spirit Lake SOR Program Personnel shall capture the offender's fingerprints via the electronic Livescan machine. Once the fingerprints are captured the Spirit Lake SOR Program employee shall submit the electronic fingerprints to the North Dakota Bureau of Criminal Investigation. In accordance with an established Memorandum of Agreement the North Dakota Bureau of Criminal Investigation shall submit the fingerprints to the Federal Bureau of Investigation and the Criminal Justice Information System.

D. DNA COLLECTION & STORAGE

The Spirit Lake Tribe SOR Program personnel shall complete the state certification process to enable them to collect DNA saliva samples from convicted sex offenders within the tribe's jurisdiction. The State of North Dakota shall supply, at no cost to the Tribe, the DNA swab kits necessary for the collection and storage of the DNA saliva samples. The Spirit Lake Tribe SOR program officials shall, upon collection of DNA saliva samples, lawfully and securely package the same and submit the samples to the State of North Dakota Crime Lab for storage, analysis and submission of results to CODIS. As per an established Memorandum of Understanding, the State of North Dakota shall store the DNA samples submitted by the Tribe in accordance with appropriate and applicable DNA storage requirements so as to preserve said DNA. Should the Tribe need the DNA in furtherance of litigation the State of North Dakota Crime Lab shall furnish the same to the Tribe.

E. HOME VISITS OR SITE CHECKS

The personnel for the Spirit Lake SOR program shall be responsible for conducting periodic site check at an offender's residence, place of employment or place of education to verify employment and/ or enrollment. In addition the Spirit Lake SOR program personnel shall be responsible for conducting periodic home visits to verify the residence of the registered offender. Finally site checks or home visits shall also be conducted in the event that an individual is believed to be living, working or going to school on the reservation but has failed to register. Anytime Spirit Lake SOR personnel conduct a home visit they shall be accompanied by a BIA or Tribal Law Enforcement officer. Home visits or Site checks shall be conducted in accordance with the following Schedule:

Tier of Offense	Frequency of Home or Site Visits...
Tier I	Annually
Tier II	Bi-annually
Tier III	Quarterly

• REGISTRATION OF
CONVICTED SEX
OFFENDERS ◦
AT-A-GLANCE

Identify offenders who MUST register:

- Search or request Court records (tribal; federal; or state)
- Notices from foreign jurisdictions
- Work with other tribal agencies to identify offenders

Remember the person must have a "qualifying conviction" & be living, working or going to school on the Spirit Lake Reservation.

Provide Official Notice to Offender that they are Required to Register

- Letter to Offender; or
- Disclosure upon release from incarceration; or
- In person notification

be sure to provide offender with copy of Title 20 and all necessary forms

Register Offender (in Person) by collecting the following information:

- Name, address, telephone
- Place of residence, education and/ or employment
- Identifying marks or features & current photo
- DNA & fingerprints
- Email/ instant message identifiers
- Descriptions of convictions/ nature of offenses
- All other data as required by Title 20

Report all offenders who fail w timely register or update information:

- Complete a report for the U.S Marshall's Service and/ or the Tribal Prosecutor detailing the nature of the underlying conviction, citing the provisions of the code requiring registration, and providing and factual information that demonstrates the individual has failed to register

Notify foreign jurisdictions (including state, tribal, federal and other foreign nations) of any changes of residency or travel of an offender

PART 2: SEX OFFENDER COMMUNITY NOTIFICATION REQUIREMENTS

A) LAW ENFORCEMENT NOTIFICATION

Whenever a sex offender initially registers, or updates their registration information in a jurisdiction, the Spirit Lake Tribal Sex Offender Registration Program must immediately update NCIC/NSOR and notify the specified law enforcement agencies of the registration. Specifically, the Spirit Lake Tribal Sex Offender Registration Program shall:

- 1) Monitor or utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
- 2) Notify each 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.
- 3) Update NCIC/NSOR
- 4) Notify Police Departments
- 5) Notify Sheriffs' Offices
- 6) Notify Prosecutor's Offices
- 7) Notify Probation Agencies
- 8) Notify any other agencies with criminal investigation, prosecution, or sex offender supervision functions
- 9) Notify 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) GENERAL COMMUNITY NOTIFICATION

Whenever a sex offender initially registers in the Spirit Lake Tribe jurisdiction, or updates their registration information in the Spirit Lake Tribe jurisdiction, the Spirit Lake Tribal Sex Offender Registration Program shall:

- 1) Post any initial registration, and any changes in a sex offender's registration information, to the Spirit Lake Tribe's public sex offender registry website within three (3) business days, and
- 2) An email notification (including a sex offender's identity) is made available to the general public whenever a sex offender commences:
 - a. Residence;
 - b. Employment; or
 - c. School Attendance within a certain zip code or geographic radius
- 3) Issue a community bulletin, described below, where appropriate.

C) WEBSITE

The Spirit Lake Tribal Sex Offender Registration Program shall-disclose the following information to the public within three (3) working days on the Spirit Lake Tribe's NSOPW website. The full name, aliases, dates of birth, gender, race and physical description of the offender.

- 1) The current place of residence of the offender.
- 2) A photograph of the offender.

- 3) A description of any vehicle owned or registered to the offender and the license plate number of the same.
- 4) A description of the nature of the crime(s) committed by the offender as well as a general description of the type of victim generally targeted by the offender. (information might include age range, height, weight, or other relevant information pertinent to the offender's targeted type of victim. Information gathered shall be maintained in confidence by the Spirit Lake Tribe SOR Program and shall only be shared with Law Enforcement as needed. All efforts shall be taken to maintain the confidentiality of a specific victim's identity).
- 5) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.

The Spirit Lake SOR personnel shall, upon the collection of all required information, update the information to the Spirit Lake Tribe Sex Offender Website AND shall at the same time update the National Sex Offender Registry (NSOR).

D) COMMUNITY BULLETINS

The Spirit Lake Tribal Sex Offender Registration Program shall disclose the following information to the public via the Tribal Sex Offender Website and via Tribal Sex Offender Bulletin Boards established by the Tribal Sex Offender Registration Program:

- 1) The full name, aliases, dates of birth, gender, race and physical description of the offender, including any identifying marks, scars or tattoos.
- 2) The current place of residence of the offender.
- 3) Any and all vehicle information including license plate number(s), registration number(s) and a full vehicle description including make, model and year.
- 4) The name and address of the offender's employer(s).
- 5) The name and address of any schools or educational institutions or programs the offender is or will be a student.
- 6) Any and all email addresses, instant message identifiers and any other designations used in internet communications or postings by the offender.

- 7) The filing of a written statement detailing the date of conviction, nature of the offense, jurisdiction(s) where the offender was convicted, current contact information including, but not limited to, mailing address, place of residence and telephone number.
- 8) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.
- 9) Submission to digital fingerprinting and a photographing.
- 10) The license plate information and a description of any vehicle owned by or registered to the offender.
- 11) A description of the nature of the crime(s) committed by the offender as well as a description of the type of victim generally targeted by the offender.

E) RISK ASSESSMENT

In assessing the likelihood that the sex offender will re-offend or otherwise victimize the community the Spirit Lake Tribal Sex Offender Registration Program and Law Enforcement shall complete **the SORNA Assessment Form** which shall take into account any or all of the following:

- 1) The dates, locations, frequency of crimes for which the offender has been convicted.
- 2) Any treatment that the offender may have completed and the outcomes of the same.
- 3) The type of person victimized in the past. Any sexual crimes committed against children shall be cause for automatic public notification by law enforcement and shall not be subject to the discretion of law enforcement personnel.

This shall not supplant any tiering of offenses that is dictated by the Spirit Lake Law and Order Code but rather will provide an additional tool for the effective monitoring of sex offender populations within the Spirit Lake Tribe jurisdiction.

F) VICTIM CONFIDENTIALITY

Program Personnel shall, at all times, make every effort to maintain the confidentiality of the victim's identity and whereabouts.

PART THREE: JUVENILE OFFENDERS

The following policies and procedures shall only apply to:

Sex offender(s) who are the age of fourteen (14) or older but who are under the age of eighteen (18) years of age who are legally emancipated or tried as an adult of a sex offense as defined by Title 20 shall be required to register as a sex offender within the Spirit Lake Jurisdiction in accordance with Chapter 5 of Title 20 which specifically pertains to Juvenile Sex Offenders.

A) REGISTRATION OF JUVENILE OFFENDERS

All Spirit Lake SOR Program Personnel charged with registration responsibilities shall meet with individuals subject to Title 20 of the Spirit Lake Law and Order Code and shall gather the following information by completing the Spirit Lake Tribe SORNA

ACKNOWLEDGEMENT & REGISTRATION:

- 1) The full name, aliases, date of birth, gender, race and physical description of the offender, including any identifying marks, scars or tattoos.
- 2) The current place of residence of the offender.
- 3) Any and all vehicle information including license plate number(s), registration number(s) and a full vehicle description including make, model and year.
- 4) The name and address of the offender's employer(s).
- 5) The name and address of any schools or educational institutions or programs the offender is or will be a student.
- 6) Any and all email addresses, instant message identifiers and any other designations used in internet communications or postings by the offender.
- 7) The filing of a written statement detailing the date of conviction, nature of the offense, jurisdiction(s) where the offender was convicted, current contact information including, but not limited to, mailing address, place of residence and telephone number.
- 8) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.
- 9) Submission to digital fingerprinting and a photographing.

- 10) The license plate information and a description of any vehicle owned by or registered to the offender.
- 11) A description of the nature of the crime(s) committed by the offender as well as a description of the type of victim generally targeted by the offender.

Changes and updates to Information

Persons subject to Title 20 shall be required to verify their name and address annually, and shall inform law enforcement within one (1) business day in the event that their address or other required information, as set forth in Title 20 of the Spirit Lake Law and Order Code, should change.

All updated information and verifications must be timely submitted to Spirit Lake Tribal Sex Offender Registration Program. The Spirit Lake SOR Program Personnel shall update such information in the SORNA database as well as on the **Spirit Lake Tribe SORNA CHANGE OF INFORMATION FORM.**

B) COMMUNITY NOTIFICATION OF JUVENILE OFFENDERS

There shall be no public notification requirement for sex offenses committed by non-emancipated juveniles, so long as said offenders were in fact tried as juvenile offenders, and such information shall remain confidential unless otherwise authorized or ordered by the Tribal Court. All others shall be required to register and subject to community notification as set forth the in Title 20 of the Spirit Lake Law and Order Code.

PART FOUR: INTER-AGENCY COLLABORATION AND COMMUNICATION

I. PRIMARY PARTNER ROLES, DUTIES AND RESPONSIBILITIES

A. Spirit Lake Sex Offender Registry Program:

Shall be responsible for registering and tracking convicted sex offenders within the Spirit Lake Tribe jurisdiction in accordance with Title 20 of the Spirit Lake Law and within established Departmental policies and procedures. The Spirit Lake Tribe SOR Program shall be required to gather relevant data from offenders, employers, landlords, educational institutions and other agencies with whom an offender may have a relationship that is relevant to tracking and monitoring. Further, the Spirit Lake Tribal SOR Program shall report any and all non-compliance with Title 20 to the Spirit Lake Tribal Prosecutor so that proper citations may be issued. In addition the Spirit Lake Tribe SOR Program shall be responsible for coordinate home visits with law enforcement officials home visits to be conducted in accordance with tier of offense: Tier 1 (annually); Tier 2 (bi-annually); Tier 3 (quarterly); updating the sex offender database, website and bulletin boards; conducting community notification meetings when required by law; and developing and forwarding a list of offenders to Spirit Lake Tribal Social Services.

B. BIA/TRIBAL LAW ENFORCEMENT:

Bureau of Indian Affairs (“BIA”) Law Enforcement shall provide transportation and accompany the Spirit Lake Tribe SOR Program personnel while conducting home visits and shall further be present at any and all community notification meetings. In addition law enforcement shall provide any and all information to the Spirit Lake SOR Program that may be relevant to the tracking and monitoring of a sex offender and shall further assist by serving citations where necessary and by executing any warrants that may be issued for offenders who have absconded or otherwise failed to register.

C. SPIRIT LAKE TRIBAL COURT:

Shall notify all offenders convicted of a qualifying sex offense of their responsibilities to comply with Title 20 of the Spirit Lake Law and Order Code prior to entrance or acceptance of a plea of guilty for any registerable offense. Full disclosure on registration requirements shall occur via a **Sex Offender Registration and Notification Disclosure Form**, which shall be properly executed and filed with the Tribal Court prior to the entrance or acceptance of a plea of guilty are at the arraignment

phase of a criminal proceeding. The Sex Offender Registration and Notification Disclosure Form shall be maintained as part of the official court record and copies of the executed document shall be provided to the Defendant and to the Spirit Lake SOR Program.

D. SPIRIT LAKE TRIBAL PROSECUTOR:

Shall be responsible for working with the Spirit Lake SOR Program in the tracking and monitoring of sex offenders by ensuring that a Disclosure of **Sex Offender Registration and Notification Disclosure Form** is properly executed in conjunction with any plea agreements, that said Disclosure form shall be made a part of the court record, and that a copy of the same shall be provided to both the offender and to the Spirit Lake Tribe SOR Program. The SL Tribal Prosecutor shall also work with the Spirit Lake Tribe SOR Program to draft and file any and all citations and/ or Petitions for Order to Show Cause pertaining to offenders who fail to adhere to applicable provisions of Title 20 of the Spirit Lake Law and Order Code. The Prosecutor shall further attend and represent the Spirit Lake Tribe any and all hearings relating to violations of Title 20.

E. SPIRIT LAKE TRIBAL PROBATION DEPARTMENT:

Shall be responsible for working with the Spirit Lake Tribe SOR Program on any cases wherein an offender is on probation within the Spirit Lake Tribe jurisdiction and is subject to the requirements of Title 20 to ensure that the offender is in compliance and that any non-compliance is timely reported to the SL Tribal Prosecutor.

II. SECONDARY PARTNER ROLES, DUTIES and RESPONSIBILITIES

Secondary partners shall be responsible for providing relevant information to the Spirit Lake Tribe SOR Program or to law enforcement on matters relating to the whereabouts, place of residence, place of employment or other relevant information regarding the locations of convicted offenders within the Spirit Lake Tribe jurisdiction.

A. Spirit Lake Tribal Social Services:

The Spirit Lake Tribal Social Services Agency shall report to Spirit Lake Tribe SOR Program if convicted offender is living in a home or is in a home where children are present)

B. Spirit Lake Victim Assistance Program:

The Spirit Lake Victim Assistance Program shall communicate with the Spirit Lake Tribe SOR Program on any and all relevant information relating to the whereabouts of an offender in terms of their place of residence, employment or education. This responsibility shall NOT INCLUDE the requirement to disclose any information relating to a victim that may be within the confidentiality requirements of the victim advocacy program unless a release of information has been granted by the victim.

C. Spirit Lake Housing:

The Spirit Lake Housing Corporation shall assess eligibility of services based upon information from the SORNA program that an offender has failed to register; also shall participate by sharing of information on place of residence for convicted offenders.

D. Spirit Lake Tribe Human Resources Department:

The Spirit Lake Tribe shall ensure that the Tribal Human Resources Department instructs all current and future employees of the obligation of sex offenders to register with the Spirit Lake Tribe SOR Program. The Spirit Lake Tribe SOR Program shall provide the Tribal Human Resources Department with a general handout that is to be disseminated to existing employees and to new hires. The handout will provide an overview of the Spirit Lake Tribe SOR Program, existing tribal laws and applicable policies.

PART FIVE: MULTI-JURISDICTION COLLABORATION AND COMMUNICATION

I. Inter-Tribal Collaboration and Communication

See attachments

II. State-Tribal Collaboration and Communication

See Attachments

QUICK REFERENCE CHART

Circumstance	Jurisdiction Where Registration is Required
If the Offender was convicted in the state of North Dakota and lives, works or goes to school on the reservation	<ul style="list-style-type: none">• Offender must register in the county as per North Dakota Law• Offender must register with the SL SOR program as per tribal Law
If the Offender was convicted in the Spirit Lake Tribal Court and lives, works or goes to school on the reservation	<ul style="list-style-type: none">• Offender must register with the SL SOR program as per tribal Law
If the Offender was convicted in Federal Court and lives, works or goes to school on the reservation	<ul style="list-style-type: none">• Offender may register in the county or with the SL SOR program in accordance with federal law• Offender must register with the SL SOR as per tribal Law
If the Offender was convicted in a foreign Tribal Court, a state court other than North Dakota or an international foreign Court and lives, works or goes to school on the reservation	<ul style="list-style-type: none">• Offender must register with the SL SOR as per tribal Law

PART SIX: REPORTING FOR FAILURE TO REGISTER

I. Reporting to Tribal Prosecutor

In all instances where a convicted sex offender fails to register with the Spirit Lake SOR program, a case referral shall be made to the Spirit Lake Tribal Prosecutor who shall file necessary paperwork to have the individual cited into the Civil Division or Criminal Division of the Spirit Lake Tribal Court dependent upon existing evidence regarding intent of the offender for said failure to comply with registration requirements. Should an offender fail to appear at the Spirit Lake Tribal Court on such a citation, the Tribal Prosecutor shall request that a warrant be issued for the apprehension and detention of the sex offender based upon a contempt of court. Alternatively if the Prosecutor files a criminal complaint an immediate warrant may be sought by from the Court. At the conclusion of any hearings the Spirit Lake Tribal Prosecutor shall provide copies of Court orders to the Spirit Lake Tribe SOR Program for inclusion in the sex offender's file.

II. Reporting to Originating Jurisdiction

When a the Spirit Lake Tribe is notified that a sex offender intends to reside, be employed, or attend school in its jurisdiction, and that offender fails to appear for registration as required, that the jurisdiction receiving that notice inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

III. Reporting to the United States Marshals Services/ United States Attorney's Office

In all instances where a convicted sex offender fails to register with the Spirit Lake SOR Program, a case referral shall be made to the United States Marshall Service in accordance with applicable provisions of the Adam Walsh Act (2006) for possible prosecution by the United States Attorney for the District of North Dakota. The United States Marshals service, upon receipt of information about a potential failure to register shall conduct an initial assessment to determine whether a federal offense under 18 U.S.C. 2250 has occurred. In making the initial assessment the United States Marshals Service shall consider the underlying conviction, the requirements of the federal Sex Offender Registration and Notification Act and the registration requirements of the registering jurisdiction.

When making a referral to the United States Marshals Service please include the following:

- A. Information regarding the "qualifying conviction" (where the offender was convicted, the sentence imposed etc.)
- B. Any documentation demonstrating that the offender has received notice that they are required by law to register; and
- C. Any documentation demonstrating that the SOR program has attempted to locate and register the offender.

In addition to assessments and investigations of possible federal crimes the United States Marshals Service may be contacted and may provide assistance on the following:

- A. Helping to locate absconders;
- B. Helping to conduct home or site checks to verify information on the offender's place of residence, place of employment or place of education; and
- C. Assist by providing charge code(s) for federal offenses to the Spirit Lake Tribal SOR Program.

To Contact the United States Marshals Service:

United States Department of Justice
United States Marshals Service
District of North Dakota
102 North 4th Street, Suite 208
Grand Forks, ND 58203
Office: (701) 780-9670
Fax: (701) 780-0768

PART SEVEN: ABSCONDERS

When the Spirit Lake Tribal Sex Offender Registration Program suspects that a sex offender may have absconded, the following actions must be taken:

- A. An effort must be made to determine whether the sex offender has actually absconded
- B. If no determination can be made, then a law enforcement agency with jurisdiction to investigate the matter must be notified
- C. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the authorities that provided the notification must be informed that the sex offender has failed to appear and register
- D. If an absconded sex offender cannot be located, then the jurisdiction must take the following steps:
 - a. The information in the registry must be revised to reflect that the sex offender is an absconder or not able to be located
 - b. A warrant must be sought for the sex offender's arrest, if the legal requirements for doing so are satisfied
 - c. The United States Marshals Service, which is the lead federal agency for investigating sex offender registration violations, must be notified
 - d. The jurisdiction must update NCIC/NSOR to reflect the sex offender's status as an absconder or not able to be located
- E. The jurisdiction must enter the sex offender into the National Crime Information Center Wanted Person File (assuming issuance of a warrant meeting the requirement for entry into that file).

**SPIRIT LAKE TRIBE
RESOLUTION NO. A05-17-147**

COPY

WHEREAS, the Spirit Lake Tribe of Indians is a federally recognized Indian tribe acting under a revised Constitution dated May 5, 1960, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and as subsequently amended which amendments were approved by the Commissioner, Bureau of Indian Affairs; and August 19, 1996; and

WHEREAS, the Constitution of the Spirit Lake Tribe generally authorizes and empowers the Spirit Lake Tribal Council to engage in activities on behalf of and in to the interest of the welfare and benefit of the Tribe and of the enrolled members thereof; and

WHEREAS, the Spirit Lake Tribal Council (hereinafter the Tribal Council) is the governing body of the Tribe and is empowered to administer the economic resources, natural & cultural resources and financial affairs of the Tribe; and

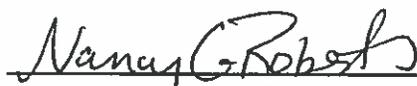
WHEREAS, the Tribal Council reviewed the Spirit Lake Tribe Sex Offender Registration and Community Notification Program Policy & Procedures, submitted by LaRissa McKay, SORNA Director; and

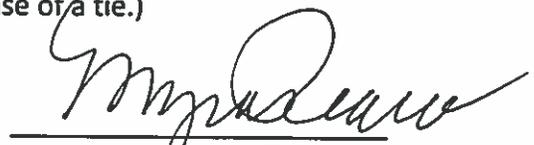
WHEREAS, the Spirit Lake Sex Offender Registration and Notification Law is set forth in Title 20 of the Spirit Lake Law and Order Code that supports the policies and procedures for the SORNA Program to adhere to for daily operations; and

NOW THEREFORE BE IT RESOLVED, that the Spirit Lake Tribal Council hereby approves the Spirit Lake Tribe Sex Offender Registration and Community Notification Program Policy & Procedures as submitted by the SORNA Director effective immediately.

CERTIFICATION

I, the undersigned as Secretary-Treasurer of the Tribal Council, do hereby certify that the Tribal Council is composed of six (6) members of whom six (6) were present, constituting a quorum for a Special Meeting duly called and convened on this 22nd day of February, 2017 and approved this resolution by an affirmative vote of four (4) in favor, none (0) opposed, none (0) abstaining, and none (0) absent. (The Secretary-Treasurer does not vote and the Chairman votes only in case of a tie.)


Nancy Greene-Robertson
Secretary- Treasurer


Myra Pearson
Chairperson