

CHAPTER 51 - SEX OFFENDER REGISTRATION AND NOTIFICATION

Sec. 51.1 Title

This Code shall be known at the Santa Clara Pueblo Sex Offender Registration and Notification Code.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.2 Purpose

Pursuant to Tribal Council Resolution No. 07-20, the Pueblo elected to participate in the National Sex Offender Registry System pursuant to the Adam Walsh Child Protection and Safety Act of 2006, (42 U.S.C. §§ 16911 *et seq.*) (the "Act"). The purpose of this Code is to establish the Santa Clara Pueblo Sex Offender Registry, to make certain information contained in the sex offender registry available to the public through the Internet, and to otherwise implement the Act.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.2a Effect of Agreement with other Agency

If the Pueblo enters into an agreement with one or more outside agencies pursuant to which that agency or those agencies are contracted to perform some or all of the department's obligations under this Code or the Act, or if the Pueblo delegates the Department's responsibilities under this Code or the Act to another Pueblo agency or department, then the obligations of the Department shall be fulfilled by the other entity or entities and sex offenders shall be required to appear at and provide all required data to that entity or those entities, and in the event of a conflict between any such agreement or delegation and this Code, the provisions of the agreement or delegation shall control, for so long as the agreement or delegation is in effect.

Enacted by Res. No. 2013---26, May 30, 2013; approved by Sec'y, Oct. 16, 2015

Sec. 51.3 Creation of Registries

1. Sex Offender Registry. There is hereby established a sex offender registry, which the Santa Clara Pueblo Tribal Police Department (the "Department") shall maintain and operate pursuant to the provisions of this Code and the Department's Standard Operating Procedures.

2. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Department shall maintain and operate pursuant to the provisions of this Code and the Department's Standard Operating Procedures.

3. Digitized Format; Electronic Transmission: The Department shall maintain all information obtained from covered offenders in a digitized format and shall maintain the sex offender registry in an electronic database in a form capable of electronic transmission.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.4 Definitions

The Definitions herein apply to this Chapter only.

1. “Convicted”

a. An adult sex offender is “convicted” for the purposes of this Code if the adult sex offender has been subjected to penal consequences based on the conviction however the conviction may be styled.

b. A juvenile sex offender is “convicted” for purposes of this Code if the juvenile sex offender is either:

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

ii. Adjudicated delinquent as a juvenile for a sex offense and the offender was 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 (a) (b), or (c) of section 2241 of Title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

2. “Dru Sjodin National Sex Offender Public Website” means the public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.

3. “Employee” means an individual who is self-employed or who works for any other entity, regardless of compensation. Volunteers are included within the definition of employee for registration purposes.

4. “Foreign Conviction” means a conviction obtained outside of the United States.

5. “Immediate” and “immediately” mean within 3 business days.

6. “Imprisonment” means 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 federal, military, foreign, BIA, private or contract facility, or a local or tribal jail, and confinement pursuant to “house arrest” following conviction of a covered sex offense.

7. “Jurisdiction” means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe operating as a registration jurisdiction.

8. “Minor” means an individual who has not attained the age of 18 years.

9. “National Sex Offender Registry” or “NSOR” means the national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919.

10. “Pueblo lands” means lands owned by the Pueblo subject to restriction against

alienation imposed by federal law or held in trust for it by the United States.

11. “Reside” or “resides” means to habitually live or sleep at a particular location.

12. “Sexual Act” means:

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.

13. “Sexual Contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.

14. “Sex Offender” means a person convicted of a sex offense.

15. “Sex Offender Registry” means the registry of sex offenders, and a notification program, maintained by the Department

16. “Sex Offense.” Except as limited by subparagraph 16.f. or 16.g. herein, the term “sex offense” means:

a. A criminal offense that has an element involving a sexual act or sexual contact with another;

b. A criminal offense against a minor that involves any of the following:

i. An offense (unless committed by a parent or guardian) involving kidnapping;

ii. An offense (unless committed by a parent or guardian) involving false imprisonment;

iii. Solicitation to engage in sexual conduct;

iv. Use in a sexual performance;

v. Solicitation to practice prostitution;

- vi. Video voyeurism as described in 18 U.S.C. §1801;
 - vii. Possession, production, or distribution of child pornography;
 - viii. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct;
 - ix. Any conduct that by its nature is a sex offense against a minor;
- c. A federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;
 - d. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
 - e. An attempt or conspiracy to commit an offense described in clauses (a) through (d).
 - f. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Code if:
 - i. the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or
 - ii. The victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
 - g. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this Code unless it was either:
 - i. obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
 - ii. 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.
17. “SORNA Exchange Portal” means the Internet website maintained by the U.S. Department of Justice developed so that jurisdictions can share information related to the management and tracking of registered sex offenders.
18. “Student” means 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. Interns, externs, and apprentices are included within this definition.
19. “Tier 1 Sex Offender” means a person who has been convicted of a “Tier 1” sex

offense as defined at Section 51.6(1) of this Code.

20. “Tier 2 Sex Offender” means a person who has been either convicted of a “Tier 2” sex offense as defined in Section 51.6(2) of this Code, or who is subject to the recidivist provisions of Section 51.6(2) of this Code.

21. “Tier 3 Sex Offender” means a person who has been either convicted of a “Tier 3” sex offense as defined at Section 51.6(3) of this Code, or who is subject to the recidivist provisions of Section 51.6(3) of this Code.

22. “Tribal Court” means the Santa Clara Pueblo Tribal Court.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec’y, October 7, 2011.

Sec. 51.5 Covered Offenses

1. Pueblo Offenses:

a. Section 50.1, Santa Clara Pueblo Tribal Code, 2006 Compilation (Non-parental abduction of a minor);

b. Section 50.43, Santa Clara Pueblo Tribal Code, 2006 Compilation (Soliciting a minor to practice prostitution); and

c. Section 50.44, Santa Clara Pueblo Tribal Code, 2006 Compilation (Rape - Sexual Assault).

2. Federal Offenses: A conviction for any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5):

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 (Mann Act);
- r. 18 U.S.C. §2424 (failure to file factual statement about an alien individual);
- s. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

3. Foreign Offenses: Any conviction for a sex offense involving any conduct listed in this Section 51.5 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.

4. 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).

5. 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 at 18 U.S.C. §2241(a) (b), or (c)) 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.

6. Jurisdiction Offenses: Any sex offense committed in any jurisdiction, including the Pueblo, that involves:

- a. Any type or degree of genital, oral, or anal penetration;
- b. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing;
- c. Kidnaping of a minor;

- d. False imprisonment of a minor;
- e. 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;
- f. Use of a minor in a sexual performance;
- g. Solicitation of a minor to practice prostitution;
- h. Possession, production, or distribution of child pornography;
- i. 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;
- j. Any conduct that by its nature is a sex offense against a minor; or
- 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).

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.6 Tiered Offenses

1. Tier 1 Offenses

a. Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a “Tier 2” or “Tier 3” offense.

b. Offenses Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or foreign country that is deemed a foreign offense pursuant to Section 51.5(3), above, 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 a conviction for a “Tier 1” offense:

- i. 18 U.S.C. §1801 (video voyeurism of a minor);
- ii. 18 U.S.C. §2252 (receipt or possession of child pornography);
- iii. 18 U.S.C. §2252A (receipt or possession of child pornography);
- iv. 18 U.S.C. §2252B (misleading domain names on the Internet);
- v. 18 U.S.C. §2252C (misleading words or digital images on the Internet);
- vi. 18 U.S.C. §2422(a) (coercion to engage in prostitution);
- vii. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct);
- viii. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places);
- ix. 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);
- x. 18 U.S.C. §2424 (failure to file factual statement about an alien individual); or
- xi. 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 Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Sections 51.6(1)(a), (b), or (c), above, shall be considered a “Tier 1” offense.

2. Tier 2 Offenses

a. Recidivism and Felonies. Unless otherwise covered by Section 51.6(3), any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year of imprisonment is considered a “Tier 2” offense.

b. Offenses Involving Minors. A “Tier 2” offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:

- i. The use of minors in prostitution, including solicitations;

- ii. Enticing a minor to engage in criminal sexual activity;
- iii. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body;
- iv. The use of a minor in a sexual performance;
- v. The production or distribution of child pornography; or
- vi. A non-forcible sexual act with a minor 16 or 17 years old.

c. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 2” offense:

- i. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion);
- ii. 18 U.S.C. §2244 (abusive sexual contact, where the victim is 13 years of age or older);
- iii. 18 U.S.C. §2251 (sexual exploitation of children);
- iv. 18 U.S.C. §2251A (selling or buying of children);
- v. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);
- vi. 18 U.S.C. §2252A (production or distribution of material containing child pornography);
- vii. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States);
- viii. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
- ix. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution);
- x. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

d. Certain 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) that is similar to those offenses outlined in Sections 51.6(2)(a), (b), or (c), above, shall be considered a “Tier 2” offense.

e. Pueblo Offenses. Conviction by the Santa Clara Tribal Court for violation of Sec. 50.43 (soliciting a minor to practice prostitution) shall be considered a conviction for a “Tier 2” offense.

3. Tier 3 Offenses

- a. Recidivism and Felonies. Any sex offense that is punishable by more than one

year of imprisonment where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a “Tier 3” offense.

b. General Offenses. A “Tier 3” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:

- i. Non-parental kidnaping of a minor;
- ii. A sexual act with another by force or threat;
- iii. 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
- iv. 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 conviction for a “Tier 3” offense:

- i. 18 U.S.C. §2241 (aggravated sexual abuse);
- ii. 18 U.S.C. §2242 (sexual abuse);
- iii. 18 U.S.C. §2243 (sexual abuse of a minor or ward); or
- iv. 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 Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Sections 51.6(3)(a),(b), or(c), above, shall be considered a “Tier 3” offense.

e. Pueblo Offenses: Conviction by the Santa Clara Tribal Court for violation of either of the following offenses shall be considered a conviction for a “Tier 3” offense:

- i. Sec. 50.1 (Non-parental abduction of a minor); or
- ii. Sec. 50.44 (Rape - Sexual Assault).

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec’y, October 7, 2011.

Sec. 51.7 Registration of Sex Offenders

1. Indians. An Indian sex offender who has been convicted of a covered offense set forth at Sec. 51.6, or an attempt or conspiracy to commit a covered offense, and who

- a. was convicted by the Tribal Court, **or**
- b. was convicted in any jurisdiction and resides, is an employee, or attends school anywhere within the exterior boundaries of the Pueblo, whether on Pueblo lands or private land, **or**
- c. is incarcerated by the Pueblo while completing a sentence for a covered offense (regardless of the jurisdiction of conviction),

is required to register as a sex offender with the Department, to keep his or her registration current, and to otherwise comply with this Code.

2. Non-Indians. A non-Indian sex offender who has been convicted in any jurisdiction of a covered offense set forth at Sec. 51.6, or an attempt or conspiracy to commit a covered offense, and who resides, is an employee, or attends school on Pueblo lands is required to register as a sex offender with the Department, to keep his or her registration current, and to otherwise comply with this Code.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.8 Timing of Registration

Sex offenders who are required to register with the Pueblo must appear in person to register with Department in the following time frames:

- 1. Indians.
 - a. If imprisoned by the Pueblo while completing a sentence for a covered offense (regardless of the jurisdiction of conviction), the sex offender must register before being released from imprisonment;
 - b. If convicted in the Tribal Court but not imprisoned, within 3 business days of sentencing for the registration offense; and
 - c. Within 3 business days of establishing a residence, commencing employment, or becoming a student anywhere within the exterior boundaries of the Pueblo, whether on Pueblo lands or private land.
- 2. Non-Indians. Within 3 business days of establishing a residence, commencing employment, or becoming a student on Pueblo lands.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.9 Required Information

A sex offender required to register by this Code shall provide to the Department all the information required by this Section and by the Standard Operating Procedures and the Department shall obtain and maintain all such information from such sex offenders in accordance with this Code and with the Standard Operating Procedures:

1. Name;
2. Phone Numbers;
3. Criminal History;
4. Date of Birth;
5. DNA Sample;
6. Driver's Licenses, Identification Cards, Passports, and Immigration Documents;
7. Employment Information;
8. Finger and Palm Prints;
9. Internet Names;
10. Photograph;
11. Physical Description;
12. Professional Licenses;
13. Residence Information;
14. School Location;
15. Social Security Number;
16. Temporary Lodging;
17. Plans to Travel Abroad;
18. Offense Information; and
19. Vehicle Information.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.10 In-Person Appearances; Keeping Registration Current

1. A sex offender who is required to register must appear in person at the Department for purposes of registration and keeping his or her registration current in accordance with the following time frames:

a. For "Tier 1 Offenders," once every year for 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 sentencing for a sex offender who is not incarcerated for the registration offense;

b. For “Tier 2 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 sentencing for a sex offender who is not incarcerated for the registration offense;

c. For “Tier 3 Offenders,” once every 90 days for the rest of their lives;

d. For all offenders, immediately upon a change of the sex offender’s name, a change, including termination, of residence, employment, or school attendance, and a change of employment-related information or school-related information.

2. At each in-person appearance, the sex offender shall review existing registry information for accuracy and inform the Department of any new information or changes and shall allow the Department to take his or her photograph.

3. Each sex offender who is required to register shall immediately inform the Department via e-mail or other method of communication determined by the Department of any changes to his or her e-mail address(es); Instant Message address(es); any other designations used in Internet communications, postings, or telephone communications; temporary lodging information; vehicle information; or telephone numbers.

4. Each sex offender who is required to register who intends to travel to another country shall inform the Department of his or intended travel at least 21 days in advance of such travel.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec’y, October 7, 2011.

Sec. 51.11 Duties of the Department

The Department shall monitor the SORNA Exchange Portal for inter-jurisdictional change of residence, employment, or student status of registered sex offenders.

1. When a sex offender registers or updates his or her information, the Department shall:

a. Immediately update the sex offender registry;

b. Immediately notify all jurisdictions, via the SORNA Exchange Portal, where the sex offender works, resides, or attends school, or to which a change of residence, employment, or student status occurs, of the registration or updated information;

c. Immediately notify the FBI or other federal agency as designated by the Attorney General so that the information may be updated on NSOR or other relevant databases

d. Update NCIC;

e. Immediately notify every Pueblo agency, department, or program that is responsible for criminal investigation or prosecution, child welfare, or sex offender supervision;

f. 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).

g. With respect to information relating to a change in temporary residence, immediately notify any and all other registration jurisdictions where the sex offender will be temporarily residing, and where the sex offender is either registered or required to be registered due to the sex offender's residency, school attendance, or employment, or was required to be registered prior to the updated information being given;

h. With respect to information relating to a sex offender's intent to travel to another country or to commence residence, school, or employment outside of the United States, immediately notify any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service.

2. In-Person Appearances. At each in-person appearance, the Department shall have the sex offender review the existing registry information for accuracy and obtain from the sex offender any new information or changes. The Department shall also obtain a current, digitized photograph of the sex offender.

3. Failure to Appear. When the Department is notified that a non-Indian sex offender intends to reside, be employed, or attend school on Pueblo lands, or that an Indian sex offender intends to reside, be employed, or attend school anywhere within the exterior boundaries of the Pueblo, whether on Pueblo lands or private land, but the offender fails to appear for registration as required, the Department shall immediately inform the jurisdiction that provided the notification that the sex offender failed to appear for registration.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.12 Retroactive Registration

The requirements of this Code shall apply to all covered sex offenders, regardless of the date of conviction. The Department shall have in place policies and procedures to ensure the following two categories of sex offenders are subject to the registration and updating requirements of this Code:

1. Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime; and
2. Sex offenders reentering the justice system due to conviction for any crime.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.13 Timing of Recapture

The Department shall ensure recapture of the sex offenders referenced in Sec.51.12, above, within the following time frame to be calculated from the date of the Tribal Council's approval 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.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.14 Duties of the Santa Clara Pueblo Tribal Court

1. For each defendant charged in the Tribal Court with committing a covered sex offense, the Tribal Court shall give written notice to the defendant of the duty to register pursuant to this Code if convicted and the penalties for failing to register.

2. The Tribal Court shall give this written notice to the defendant at arraignment, prior to accepting a guilty plea or a no-contest plea, and at sentencing upon conviction, as applicable. The defendant shall acknowledge receipt of the written notice in writing.

3. If the defendant cannot read English, the Court shall provide an interpreter to the defendant, who shall read the notice to the defendant. The interpreter shall swear or affirm in writing that he or she has interpreted the notice accurately.

4. The written notice shall inform the sex offender that upon conviction, he or she will be required to:

a. Register with the Santa Clara Pueblo Tribal Police Department before being released from imprisonment, or if not imprisoned, within three (3) days after sentencing;

b. Provide the following information to the Department:

- i. Name
- ii. Phone Numbers;
- iii. Date of Birth;
- iv. Driver's Licenses;
- v. Identification Cards, Passports, and Immigration Documents;
- vi. Employment Information;
- vii. Finger and Palm Prints;
- viii. Internet Names;
- ix. Criminal History;
- x. Physical Description;
- xi. Professional Licenses;

- xii. Residence Information;
 - xiii. School Location;
 - xiv. Social Security Number;
 - xv. Temporary Lodging;
 - xvi. Offense Information;
 - xvii. Vehicle Information;
 - xviii. Photograph;
 - xix. DNA Sample; and
 - xx. Any additional information as required by the Department's Standard Operating Procedures;
- c. Immediately appear in person at the Department to update any changes to his or her name, residence (including temporary lodging), employment, and school attendance;
 - d. Immediately inform the Department, in a manner determined by the Department, of any changes to temporary lodging information, vehicle information, internet identifiers, or telephone numbers;
 - e. Following initial registration, appear in person at the Department as required by this Code; and
 - f. Acknowledge in writing that he or she has received the written notice.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.15 Sex Offender Registry Website

The Department shall use and maintain a public sex offender registry website that complies with this Code and with the Standard Operating Procedures.

1. The registry website shall include the following information:
 - a. The name of the sex offender including all aliases, except that for sex offenders who are under a witness protection program, the Department may honor the request of the United States Marshals Service or other agency responsible for witness protection to not include the original identity of the offender on the publicly accessible sex offender registry website;
 - b. The residential address and, if relevant, a description of a habitual residence of the sex offender;

- c. A current photograph of the sex offender;
- d. A physical description of the sex offender;
- e. The address of the sex offender's employer(s);
- f. All addresses of schools attended by the sex offender;
- g. The license plate number and description of every vehicle belonging to the sex offender;
- h. All sex offenses for which the sex offender has been convicted;
- i. The sex offense(s) for which the offender is currently registered;
- j. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;
- k. Links to sex offender safety and education resources;
- l. Instructions on how a person can seek to correct information that the individual contends is erroneous; and
- m. 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.

2. The registry website shall exclude the following information:

- a. Any arrest that did not result in conviction;
- b. The sex offender's social security number;
- c. Any travel and immigration documents;
- d. The identity of the victim; and
- e. Internet identifiers (as defined in 42 U.S.C. §16911).
- f. Information concerning sex offenders who are required to register on the basis of juvenile delinquency adjudications.

3. The registry website shall:

- a. Participate in the Dru Sjodin National Sex Offender Public Website as provided by the Attorney General of the United States.
- b. Be immediately and automatically updated upon the entry of the sex offender's

registration or update of information into the Pueblo's sex offender registry;

c. Enable the general public to request an e-mail notice that will automatically notify them when a sex offender commences residence, employment, or school attendance on Pueblo lands, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for information on the sex offender;

d. Be capable of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius; and

e. Include all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.16 Immunity

Nothing in this Code shall be construed as a waiver of the sovereign immunity of the Pueblo, its departments, agencies, employees, or agents. Any person acting under good faith of this Code shall be immune from any civil liability arising out of such actions.

Enacted by Res. No. 2011-14, April 1, 2011; approved by Sec'y, October 7, 2011.

Sec. 51.17 Crimes and Civil Sanctions

1. Violation of this Code.

Any Indian sex offender required to register pursuant to this Code and who violates any provision of this Code shall be guilty of a crime and, upon conviction thereof, shall be imprisoned for a period of not more than 364 days, fined not more than \$5,000, or both imprisoned and fined.

2. Hindering Sex Offender Registration. Any Indian who:

a. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Code; or

b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this Code; or

c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false;

is guilty of Hindering Sex Offender Registration, and upon conviction thereof, shall be imprisoned for a period of not more than 364 days, fined not more than \$5,000, or both imprisoned and fined.

3. Unlawful Use of Registry Information. Any Indian who uses information contained

on the public website to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working or attending school at any reported addresses is guilty of Unlawful Use of Registry Information, and upon conviction thereof, shall be imprisoned for a period of not more than 30 days, fined not more than \$500, or both imprisoned and fined.

4. Civil Penalties. Any non-Indian who:

a. Is a sex offender required to register pursuant to this Code and who violates any provision of this Code; or

b. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Code; or

c. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this Code; or

d. Provides information to law enforcement agency regarding a sex offender which the person knows to be false; or

e. Uses information contained on the public website to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working or attending school at any reported addresses;

commits 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, and banishment.

Enacted by Res. No. 2011-14; approved by Sec'y, October 7, 2011.

Sec. 51.18 Banishment.

A. A sex offender who is a member of the Pueblo and who has committed a Tier 2 or Tier 3 sex offense, and who is determined by the Tribal Council to constitute a threat to the safety and welfare of the Pueblo community, may be banished from any place within the exterior boundaries of the Pueblo's grant or reservation in accordance with this Section.

B. An action under this Section may be initiated by the Governor by the filing of a Petition for Banishment in the Tribal Court.

C. A Petition for Banishment shall state with specificity the grounds for banishment and shall be personally served on the sex offender by the tribal police.

D. The court shall schedule a hearing, to be not less than five days nor more than ten days after the sex offender has been served with the petition. Notice of the hearing shall be

served promptly on the sex offender.

E. The court shall conduct the hearing in accordance with its rules of civil procedure. The Governor or the Pueblo's counsel shall present evidence establishing the grounds for banishment as set forth in this Section and showing the determination of the Tribal Council that the sex offender constitutes a threat to the safety and welfare of the Pueblo community. The sex offender shall be allowed to be represented by counsel, at his or her own expense, and shall be permitted to cross examine any witnesses presented by the Pueblo, and to present his or her own case in response. As soon as possible following the conclusion of the hearing, the court shall issue a written order, copies of which shall be served promptly on the Governor's office and the sex offender. If the court rules in favor of the Pueblo, it shall direct that the sex offender immediately leave Pueblo lands.

F. The sex offender may appeal an order of banishment issued under this Section to the Tribal Council, by filing a written notice of appeal with the Tribal Court within five days after the order is issued. The notice of appeal shall generally state the grounds for the appeal. The Tribal Court shall promptly transmit the notice of appeal and the case file to the Governor's office, and the Tribal Council shall promptly schedule a hearing on the matter and shall provide notice of such hearing to the sex offender. The sex offender shall be allowed to return to the Pueblo for the hearing, but for no other purpose. At the hearing, the sex offender shall be entitled to state his or her grounds for believing that the order of banishment was improperly issued under the provisions of this section or is otherwise unwarranted as a matter of law or fact. The Pueblo may present its arguments in favor of the order through its counsel. Arguments shall be based on the record as presented to the Tribal Court, and no new evidence shall be allowed. The Tribal Council may go into executive session to discuss the matter following presentation of arguments but shall vote whether to affirm or reverse the order when it comes out of executive session. The decision of the Tribal Council shall be final and non-reviewable, and if the order of banishment is affirmed the sex offender shall leave Pueblo lands immediately.

G. For purposes of this Section, "banishment" means that the banished offender may not reside, work, attend any event, visit friends or family, patronize any place of business or otherwise spend any time at any location within the exterior boundaries of the Pueblo's grant or reservation; but banishment shall not prohibit the offender from passing through the Pueblo's lands on a state highway.

H. A sex offender who is a tribal member and who has been banished in accordance with the provisions of this Section, and who violates the order of banishment, may, upon conviction of such offense, be sentenced to confinement for up to one year or to pay a fine of up to \$5000.00, or to both such confinement and fine.

I. Any Indian who aids or abets a tribal member who is a sex offender and who is banished in accordance with the provisions of this Section to violate the order of banishment may, upon conviction of such offense, be sentenced to confinement for up to one year or to pay a fine of up to \$5000.00, or to both such confinement and fine.

J. A tribal member who is a sex offender who is banished in accordance with the provisions of this Section shall be deemed to have relinquished any land assignment formerly held by such member, and any such assignment shall revert to the Pueblo.

Enacted by Res. No. 2016-61, May 13, 2016; approved by Sec'y July 18, 2016.