

**TITLE 4 – CRIMINAL CODE
CHAPTER 2 – SEX OFFENSES**

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SUBCHAPTER A GENERAL PROVISIONS

Section 10 Definitions (4 PYTC § 2-10)

- (A) “Convicted”
- (1) Adults. 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.
 - (2) A juvenile offender is “convicted” for purposes of this code if the juvenile offender is either:
 - (a) Prosecuted and found guilty as an adult for a sex offense; or
 - (b) 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) “Criminal Offense” means a State, local, tribal, foreign, or military offense (to the extent 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 other criminal offense.
- (C) “Culpable Mental State” means intentionally, knowingly, recklessly or with criminal negligence as those terms are thusly defined:
 - (1) “Intentionally or with the intent to” means, with respect to a result or to conduct described by a statute defining an offense that a person's objective is to cause that result or to engage in that conduct.
 - (2) “Knowingly” means with respect to conduct or to a circumstance described by a statute defining an offense that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.
 - (3) “Recklessly” means with respect to a result or to a circumstance described by a statute defining an offense that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.
 - (4) “Criminal negligence” means with respect to a result or to a circumstance described by a statute defining an offense that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.
- (D) “Employee” means an individual who is self-employed or works for any other entity, whether compensated or not.
- (E) “Immediate” and “Immediately” mean within 3 business days.
- (F) “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”. Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of “house arrest”.
- (G) “Jurisdiction” – Refers to the 50 states, the District of Columbia, the five principal U.S. territories i.e., the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands – and Indian tribes that elect to function as registration jurisdictions under 42 U.S.C §16927.
- (H) “Minor” means an individual who has not attained the age of 18 years.
- (I) “Oral Sexual Contact” means oral contact with the penis, vulva or anus.

- (J) “Producing” means financing, directing, manufacturing, issuing, publishing or advertising for pecuniary gain.
- (K) “Resides” means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.
- (L) “Sexual Act” means
- (1) Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
 - (2) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 - (3) 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
 - (4) The intentional touching, not through the clothing, of the genitalia of another person who 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.
- (M) “Sexual Conduct” means actual or simulated:
- (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex.
 - (2) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.
 - (3) Sexual bestiality.
 - (4) Masturbation for the purpose of sexual stimulation of the viewer.
 - (5) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
 - (6) Lewd exhibition of the genitals, pubic or rectal areas of any person.
 - (7) Defecation or urination for the purpose of sexual stimulation of the viewer.
- (N) “Sexual Contact” means any direct or indirect fondling or manipulating any part-of the genitals, anus, groin, inner thigh, buttocks or female breast.
- (O) “Sexual Intercourse” means penetration into the penis, vulva or anus by any part of the body or by any object or manual masturbatory contact with the penis or vulva.
- (P) “Sex Offender” means an individual who was convicted of a sex offense.
- (Q) “Sex Offense”
- (1) The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and those offenses enumerated in Section 210 of this Chapter or any other covered offense under tribal law.

- (2) Foreign convictions. A foreign conviction is not a sex offense for the purposes of this title if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under 42 U.S.C. § 16912.
- (3) Offenses involving consensual sexual conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.
- (R) “Sex Offender Registry” means a registry of sex offenders, and a notification program, maintained by the Tribe.
- (S) “SORNA” means 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.
- (T) "Specified Offense Against A Minor" to include all offenses by child predators. The term "specified offense against a minor" means an offense against a minor that involves any of the following:
- (1) An offense (unless committed by a parent or guardian) involving kidnapping.
 - (2) An offense (unless committed by a parent or guardian) involving false imprisonment.
 - (3) Solicitation to engage in sexual conduct.
 - (4) Use in a sexual performance.
 - (5) Solicitation to practice prostitution.
 - (6) Video voyeurism as described in 18 U.S.C. § 1801.
 - (7) Possession, production, or distribution of child pornography.
 - (8) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
 - (9) Any conduct that by its nature is a sex offense against a minor.
- (U) “Simulated” means any depicting of the genitals or rectal areas which gives the appearance of sexual conduct or incipient sexual conduct.
- (V) “Spouse” means a person who is legally married and cohabitating.
- (W) “Student” means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.
- (X) “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in Section 220.
- (Y) “Tier 2 Sex Offender”. A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in Section 230, or who is subject to the recidivist provisions of 230(B).

(Z) “Tier 3 Sex Offender”. A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in Section 240, or who is subject to the recidivist provisions of 240(B).

(AA) “Visual or Print Medium” means:

- (1) Any film, photograph, videotape, negative, slide electronic and digital devices, compact disks, computers, digital hard drives, digital storage devices; or
- (2) Any book magazine or other form of publication or photographic reproduction containing or incorporating in any manner any film, photograph, videotape, negative or slide, electronic and digital devices, compact disks, computers, digital hard drives, digital storage devices.

(BB) “Without Consent” includes the following:

- (1) The victim is coerced by the immediate use or threatened use of force against a person or property.
- (2) The victim is incapable of consent by reason of mental disorder, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonable been known to the defendant.
- (3) The victim is intentionally deceived as to the nature of the act.
- (4) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.”

Section 20 Indecent Exposure; Classifications (4 PYTC § 2-20)

(A) A person commits indecent exposure if he or she exposes his or her genitals or anus or she exposes the areola or nipple of her breast or breasts and another person is present and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act.

(B) Indecent exposure is a class 1 minor offense. Indecent exposure to a person under the age of 15 years is a class 3 major offense.

Section 30 Public Sexual Indecency; Public Sexual Indecency to a Minor; Classifications (4 PYTC § 2-30)

(A) A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

- (1) An act of sexual contact.
- (2) An act of oral sexual contact.
- (3) An act of sexual intercourse.
- (4) An act involving contact between the person's mouth, vulva or genitals and the anus or genitals of an animal.

- (B) A person commits public sexual indecency to a minor if he intentionally or knowingly engages in any of the acts listed in subsection A and such person is reckless whether a minor under the age of 15 years is present.
- (C) Public sexual indecency is a class 1 minor offense. Public sexual indecency to a minor is a class 3 major offense.

Section 40 Sexual Abuse; Classifications (4 PYTC § 2-40)

- (A) A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person 14 or more years of age without consent of that person or with any person who is under 14 years of age if the sexual contact involves only the female breast.
- (B) Sexual abuse is a class 2 major offense unless the victim is under 14 years of age in which case sexual abuse is a class 1 major offense punishable pursuant to 4 PYTC § 1-130.

Section 50 Sexual Conduct with a Minor; Classifications (4 PYTC § 2-50)

- (A) A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under 18 years of age.
- (B) Sexual conduct with a minor under fourteen years of age is a class 2 major offense and is punishable pursuant to 4 PYTC § 1-130. Sexual conduct with a minor 14 years of age or over is a class 3 major offense.

Section 60 Sexual Assault; Classification; Increased Punishment (4 PYTC § 2-60)

- (A) A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.
- (B) Sexual assault is a class 2 major offense and the person convicted is not eligible for suspension or commutation of sentence, probation, pardon, parole, work furlough or release from confinement until the sentence imposed by the Court has been served. If the victim is under 15 years of age, sexual assault is punishable pursuant to 4 PYTC § 1-130.
- (C) Notwithstanding the provisions of 4 PYTC § 1-130, if the sexual assault involved the use or exhibition of a deadly weapon or dangerous instrument or involved the intentional or knowing infliction of serious physical injury and the person has previously been convicted of sexual assault, or any offense committed outside the reservation which if committed on the reservation would constitute sexual assault, the person shall be sentenced to one year imprisonment and a \$5,000.00 fine and is not eligible for suspension or commutation of sentence, probation, pardon, parole, work furlough or release from confinement.

Section 70 Sexual Assault of a Spouse; Definition; Violation; Classification (4 PYTC § 2-70)

- (A) A person commits sexual assault of a spouse by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with a spouse without consent of the spouse by the immediate or threatened use of force against the spouse or another.
- (B) A first offense sexual assault of a spouse is a class 3 major offense. The judge has discretion to enter judgment for conviction of a class 1 minor offense with mandatory counseling. Any subsequent sexual assault of a spouse is a class 2 major offense and the person convicted is not eligible for suspension or commutation of sentence, probation, pardon, parole, work furlough or release from confinement until the sentence imposed by the Court has been served. Convictions

for two or more major offenses not committed on the same occasion but consolidated for trial purposes shall not be counted as prior convictions for purposes of this section.

- (C) A person convicted under this section may, in the discretion of the Court, be exempt from the registration requirements of Section 190 of this chapter.

Section 80 Defenses; Responsibility (4 PYTC § 2-80)

- (A) It is a defense to a prosecution pursuant to Sections 40 and 50, involving a minor, if the act was done in furtherance of lawful medical practice.
- (B) It is a defense to a prosecution pursuant to Sections 40 and 50, in which the victim's lack of consent is based on incapacity to consent because the victim was 14, 15, 16 or 17 years of age, if at the time the defendant engaged in conduct constituting the offense, the defendant did not know and could not reasonably have known the age of the victim.
- (C) It is a defense to a prosecution pursuant to Sections 20, 40, 50 and 60, if the act was done by a duly licensed physician or registered nurse or a person acting under his or her direction, or any other person who renders emergency care at the scene of an emergency occurrence, and consisted of administering a recognized and lawful form of treatment which was reasonably adapted to promoting the physical or mental health of the patient and the treatment was administered in an emergency when the duly licensed physician or registered nurse or a person acting under his or her direction, or any other person rendering emergency care at the scene of an emergency occurrence, reasonably believed that no one competent to consent could be consulted and that a reasonable person, wishing to safeguard the welfare of the patient would consent.
- (D) It is a defense to a prosecution pursuant to Sections 40, 50 and 60 that the person was the spouse of the other person at the time of commission of the act. It is not a defense to a prosecution pursuant to Section 70 that the defendant was the spouse of the victim at the time of the commission of the act.
- (E) It is a defense to prosecution pursuant to Sections 40 and 90 if both the defendant and the victim are of the age of 14, 15, 16 or 17 and the conduct is consensual.
- (F) Temporary intoxication resulting from the voluntary ingestion, consumption, inhalation or injection of alcohol and illegal substance under subchapter H of Chapter 1 of this Title, or other psychoactive substance or the abuse of prescribed medications does not constitute insanity and is not a defense for any criminal act or requisite state of mind.

Section 90 Molestation of Child; Classification (4 PYTC § 2-90)

A person who knowingly molests a child under the age of 14 years by directly or indirectly touching the private parts of such child or who causes a child under the age of 14 years to directly or indirectly touch the private parts of such person is guilty of a class 2 major offense and is punishable pursuant to 4 PYTC § 1-130.

Section 100 Child Abuse; Definitions; Classification (4 PYTC § 2-100)

- (A) In this section, unless the context otherwise requires:
 - (1) "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or outward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and which is caused by the acts or omissions of an individual having care,

custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to Section 40, sexual conduct with a minor pursuant to Section 50, sexual assault pursuant to Section 60, molestation of a child pursuant to Section 90, commercial sexual exploitation of a minor pursuant to Section 130, sexual exploitation of a minor pursuant to Section 140, incest pursuant to Title 4 Chapter 1 of the Pascua Yaqui Tribal Code or child prostitution.

- (2) "Child, youth or juvenile" means an individual who is under the age of 18 years of age.
 - (3) "Physical Injury" the impairment of physical condition and includes but shall not be limited to any skin bruising, bleeding, failure to thrive, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition which imperils a child's health or welfare.
 - (4) "Serious physical injury" means physical injury which creates a reasonable risk of death or which causes serious or permanent disfigurement or serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.
- (B) Under circumstances likely to produce death or serious physical injury, any person who causes a child to suffer physical injury or, having the care or custody of such child, causes or permits the person or health of such child to be injured or causes or permits such child to be placed in a situation where its person or health is endangered is guilty of an offense as follows:
- (1) If done intentionally or knowingly, the offense is a class 1 major offense and if the victim is under 15 years of age, it is punishable pursuant to 4 PYTC § 1-130.
 - (2) If done recklessly, the offense is a class 2 major offense.
 - (3) If done with criminal negligence, the offense is a class 3 major offense.
- (C) Under circumstances other than those likely to produce death or serious physical injury to a child, any person who causes a child to suffer physical injury or abuse except for those acts in the definition which are declared unlawful by another section of this chapter or, having the care or custody of such child, causes or permits the person or health of such child to be injured or causes or permits such child to be placed in a situation where its person or health is endangered is guilty of an offense as follows:
- (1) If done intentionally or knowingly, the offense is a class 2 major offense.
 - (2) If done recklessly, the offense is a class 3 major offense.
 - (3) If done with criminal negligence, the offense is a class 1 minor offense.

Section 110 Justification; Use of Physical Force (4 PYTC § 2-110)

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under the following circumstance:

A parent or guardian and a teacher or other person entrusted with the care and supervision of a minor or incompetent person may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent reasonably necessary and appropriate to maintain discipline, self defense or to protect the child from injuring itself or others.

Section 120 Duty and Authorization to Report Non-Accidental Injuries; Physical Neglect and Denial or Deprivation of Necessary Medical or Surgical Care or Nourishment of Minors; Duty to make Medical Records Available; Exception; Violation; Classification (4 PYTC § 2-120)

- (A) Any physician, hospital intern or resident, surgeon, dentist, osteopath, chiropractor, podiatrist, county medical examiner, nurse, psychologist, school personnel, social worker, peace officer, parent counselor, clergyman or priest or any other person having responsibility for the care or treatment of children whose observation or examination of any minor discloses reasonable grounds to believe that a minor is or has been the victim of injury, sexual abuse, pursuant to Section 40, sexual conduct with a minor pursuant to Section 50, sexual assault pursuant to Section 60, molestation of a child pursuant to Section 90, or commercial sexual exploitation of a minor pursuant to Section 130, abuse or physical neglect which appears to have been inflicted upon such minor by other than accidental means or which is not explained by the available medical history as being accidental in nature or who has reasonable grounds to believe there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant shall immediately report or cause reports to be made of such information to a peace officer or to the child protective services of the tribal social services.
- (B) A clergyman, priest, traditional medicine man or medicine woman who has received a confidential communication or a confession in his role as a clergyman, priest or a traditional medicine man or medicine woman, in the course of the discipline enjoined by the church to which he or she belongs may withhold reporting of the communication or confession if the clergyman, priest, medicine man or medicine woman determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the clergyman, priest, traditional medicine man or medicine woman may otherwise make of the minor.
- (C) No report is required under this section for conduct prescribed by Sections 40 and 50 if the conduct involves only minors age 14, 15, 16 or 17 and there is nothing to indicate that the conduct is other than consensual. Such reports shall be made forthwith by a written report within 72 hours. Such reports shall contain:
- (1) The names and addresses of the minor and his parents or person or persons having custody of such minor, if known.
 - (2) The minor's age and the nature and extent of his injuries or physical neglect, including any evidence of previous injuries or physical neglect.
 - (3) Any other information that such person believes might be helpful in establishing the cause of the injury or physical neglect.
- (D) Any person other than one required to report or cause reports to be made in Subsection (A) of this section who has reasonable grounds to believe that a minor is or has been a victim of abuse or neglect may report the information to a peace officer or to the child protective services of the tribal social services department.
- (E) A person having custody or control of medical records of a minor from whom a report is required or authorized under this section shall make such records, or a copy of such records, available to a peace officer or child protective services worker investigating the minor's neglect or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

- (F) When such telephone or in-person reports are received by the peace officer, they shall immediately notify the Tribal Social Services and make such information available to them. Notwithstanding any other statute, when the Tribal Social Services receives these reports by telephone or in person, it shall immediately notify the Pascua Yaqui Tribal Police Department.
- (G) Any person required to receive reports pursuant to Subsection (A) of this section may take or cause to be taken photographs of the child and the vicinity involved. Medical examinations including, but not limited to, radiological examinations of the involved child may be performed.
- (H) A person furnishing a report, information or records required or authorized under this Section or a person participating in a judicial or administrative proceeding or investigation result from a report, information or records required or authorized under this section, shall be immune from any civil or criminal liability by reason of such action unless such person acted with malice or unless such person has been charged with or is suspected of abusing or neglecting the child or children in question. Except as provided in Subsection (G) of this Section, the physician-patient privilege, provided for by professions such as the practice of social, work or nursing covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of confidential communications, shall not pertain in any civil or criminal litigation or administrative proceeding in which a child's neglect, dependency, abuse or abandonment is an issue nor in any judicial or administrative proceedings resulting from a report, information or records submitted pursuant to this section nor in any investigation of a child's neglect or abuse conducted by a peace officer or the child protective services of the Tribal Social Services Department.
- (I) In any civil or criminal litigation in which a child's neglect, dependency, abuse or abandonment is an issue, a clergyman, priest, traditional medicine man or medicine woman, shall not, without his or her consent, be examined as a witness concerning any confession made to him or her in his or her role as a clergyman, a priest, a traditional medicine man or medicine woman in the course of the discipline enjoined by the church or tradition to which he or she belongs. Nothing in this subsection discharges a clergyman, priest, traditional medicine man or medicine woman from the duty to report pursuant to Subsection (A) of this section.
- (J) If psychiatric records are requested pursuant to Subsection (C) of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:
 - (1) Personal information about individuals other than the patient.
 - (2) Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.
- (K) If any portion of a psychiatric record is excised pursuant to Subsection (J) of this section, a Court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of such record containing information relevant to the reported abuse or neglect be made available to the peace officer or child protective services worker investigating the abuse or neglect.
- (L) A person who violates any provision of this section is guilty of a minor offense.

Section 130 Commercial Sexual Exploitation of a Minor; Classification (4 PYTC § 2-130)

- (A) A person commits commercial sexual exploitation of a minor by knowingly:

- (1) Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in sexual conduct for the purpose of producing any visual or print medium or live act depicting such conduct.
 - (2) Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain.
 - (3) Permitting a minor under such person's custody or control to engage in or assist others to engage in sexual conduct for the purpose of producing any visual or print medium or live act depicting such conduct.
 - (4) Transporting or financing the transportation of any minor through or across this Reservation with the intent that such minor engage in prostitution or sexual conduct for the purpose of producing a visual or print medium or live act depicting such conduct.
- (B) Commercial sexual exploitation of a minor is a class 2 major offense and if the minor is under 15 years of age, it is punishable pursuant to 4 PYTC § 1-130.

Section 140 Sexual Exploitation of a Minor; Classification (4 PYTC § 2-140)

- (A) A person commits sexual exploitation of a minor by knowingly:
- (1) Recording, filming, photographing, developing or duplicating any visual or print medium in which minors are engaged in sexual conduct.
 - (2) Distributing, transporting, exhibiting, receiving, selling, purchasing, possessing or exchanging any visual or print medium in which minors are engaged in sexual conduct.
- (B) Sexual exploitation of a minor is a class 2 major offense and if the minor is under 15 years of age, it is punishable pursuant to 4 PYTC § 1-130.

Section 150 Portraying Adult as Minor; Classification (4 PYTC § 2-150)

- (A) It is unlawful for any person depicted in a visual or print medium or live act as a participant in sexual conduct to masquerade as a minor.
- (B) It is unlawful for any person knowingly to produce, record, film, photograph, develop, duplicate, distribute, transport, exhibit, sell, purchase or exchange any visual or print medium whose text, title or visual representation depicts a participant in sexual conduct as a minor even though any such participant is an adult.
- (C) Any person who violates this section is guilty of a class 1 minor offense.

Section 160 Permissible Inferences (4 PYTC § 2-160)

In prosecution relating to the sexual exploitation of children, the trier of fact may draw the inference that a participant is a minor if the visual or print medium or live act through its title, text or visual representation depicts the participant as a minor.

Section 170 Admitting Minors to Public Displays of Sexual Conduct; Constructive Knowledge of Age; Classification (4 PYTC § 2-170)

- (A) It is unlawful for an owner, operator or employee to admit a person under the age of 18 into any business establishment where persons, in the course of their employment, expose their genitals or anus or the areola or nipple of the female breast.

- (B) An owner, operator or employee who admits a person to an establishment without evidence of the person's age is deemed to have constructive knowledge of the person's age.
- (C) A person who violates this section is guilty of a class 1 minor offense.

**Section 180 Detention for Obtaining Evidence of Identifying Physical Characteristics
(4 PYTC § 2-180)**

- (A) A peace officer who is engaged, within the scope of his authority, in the investigation of an alleged criminal offense punishable up to one year under this chapter may make written application upon oath or affirmation to a Tribal Court Judge for an order authorizing the temporary detention, for the purpose of obtaining evidence of identifying physical characteristics, of an identified or particularly described individual residing in or found in the Tribal Court's jurisdiction. The order shall require the presence of the identified or particularly described individual at such time and place as the Court shall direct for obtaining the identifying physical characteristic evidence. Such order may be issued by the Tribal Judge upon a showing of all of the following:
 - (1) Reasonable cause for belief that a specifically described criminal offense punishable under this chapter has been committed.
 - (2) Procurement of evidence of identifying physical characteristics from an identified or particularly described individual may contribute to the identification of the individual who committed such offense.
 - (3) Such evidence cannot otherwise be obtained by the investigating officer from either the law enforcement agency employing the affiant or the criminal identification division of the Bureau of Indian Affairs Police, Federal Bureau of Investigation or Tucson Police Department.
- (B) Any order issued pursuant to the provisions of this section shall specify the following:
 - (1) The alleged criminal offense which is the subject of the application.
 - (2) The specific type of identifying physical characteristic evidence which is sought.
 - (3) The relevance of such evidence to the particular investigation.
 - (4) The identity or description of the individual who may be detained for obtaining such evidence.
 - (5) The name and official status of the investigating officer authorized to effectuate such detention and obtain such evidence.
 - (6) The place at which the obtaining of such evidence shall be effectuated.
 - (7) The time that such evidence shall be taken except that no person may be detained for a period of more than three hours for the purpose of taking such evidence.
 - (8) The period of time, not exceeding 15 days, during which the order shall continue in force and effect. If the order is not executed within 15 days, a new order may be issued, pursuant to the provisions of this section.
- (C) The order issued pursuant to this section shall be returned to the Court not later than 30 days after its date of issuance and shall be accompanied by a sworn statement indicating the type of evidence

taken. The Court shall give to the person from whom such evidence was taken a copy of the order and copy of the sworn statement indicating what type of evidence was taken, if any.

- (D) For the purpose of this section, "identifying physical characteristics" includes, but is not limited to, the fingerprints, palm prints, footprints, measurements, handwriting, hand printing, sound of voice, blood samples, urine samples, saliva samples, hair samples, comparative personal appearance or photographs of an individual.

SUBCHAPTER B SEX OFFENDER REGISTRATION AND NOTIFICATION

Section 190 Registration of Sex Offenders (4 PYTC § 2-190)

- (A) The Pascua Yaqui Tribe shall maintain a sex offender registry.
- (B) Duties. A sex offender covered by this ordinance who is required to register with the tribe 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.
- (C) Digitization. All information obtained under this code shall be, at a minimum, maintained by the police department or designee in digitized format.
- (D) 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 200 Where Registration Is Required (4 PYTC § 2-200)

- (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 within the exterior boundaries of the reservation or otherwise resides on property owned by the tribal jurisdiction in fee or trust regardless of location must register with the tribe.
- (D) Jurisdiction of Employment. A sex offender shall register with the tribe if employed by the tribe in any capacity or otherwise is employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location.
- (E) Jurisdiction of School Attendance. A sex offender shall register with the tribe if they are a student in any capacity within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location.

Section 210 Covered Offenses (4 PYTC § 2-210)

- (A) Offenders who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property

owned by the tribe in fee or trust regardless of location, that have been convicted of the following offenses are subject to the requirements of this code:

- (1) Attempts and Conspiracies. Any attempt or conspiracy to commit any sex offense.
- (2) Federal Offenses. A conviction for any of the following, and any other offense here after included within SORNA:
 - (a) 18 U.S.C. §1591 (sex trafficking of children),
 - (b) 18 U.S.C. §2241 (aggravated sexual abuse),
 - (c) 18 U.S.C. §2242 (sexual abuse),
 - (d) 18 U.S.C. §2243 (sexual abuse of a minor or ward),
 - (e) 18 U.S.C. §2244 (abusive sexual contact),
 - (f) 18 U.S.C. §2245 (offenses resulting in death),
 - (g) 18 U.S.C. §2251 (sexual exploitation of children),
 - (h) 18 U.S.C. §2251A (selling or buying of children),
 - (i) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
 - (j) 18 U.S.C. §2252A (material containing child pornography),
 - (k) 18 U.S.C. §2252B (misleading domain names on the internet),
 - (l) 18 U.S.C. §2252C (misleading words or digital images on the internet),
 - (m) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
 - (n) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
 - (o) 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
 - (p) 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 paragraph (F) below 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.
- (4) 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).
- (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 in 18 U.S.C. §2241) and committed by a minor who is 14 years of age or older.
- (6) Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this tribe, which involves:
 - (a) Any type of degree of genital, oral, or anal penetration,

- (b) Any sexual touching of or contact with a person’s body, either directly or through the clothing,
- (c) Kidnapping 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 practices prostitution,
- (h) Video voyeurism of a minor as described in 18 U.S.C. §1801,
- (i) Possession, production, or distribution of child pornography,
- (j) 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,
- (k) Any conduct that by its nature is a sex offense against a minor, and
- (l) 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),
 - (vii) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).”

Section 211 Tiering of Offenses (4 PYTC § 2-211)

General. Sex offenses prosecuted in any jurisdiction, tribal government, local government, state government or qualifying foreign country pursuant to Section 210 (A)(3) will be tiered in a manner consistent with the most similar corresponding federal offenses and offenses outlined in Section 220(E) 230(E) and 240(E)

Section 220 Tier 1 Offenses (4 PYTC § 2-220)

- (A) Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted by any jurisdiction, tribal government, local government or qualifying foreign country pursuant to Section 210(A)(3) that involves any sexual act or sexual contact with another person that is not included in Section 230 or Section 240.
- (B) Offenses Involving Minors. A “Tier 1” offense also includes any offenses for which a person has been convicted by a jurisdiction, tribal government, local government or qualifying foreign

country pursuant to Section 210(A)(3) that involves the false imprisonment of a minor, video voyeurism of a minor or possession or receipt of child pornography.

- (C) Federal Offenses. All federal offenses will be tiered in accordance with the most current federal tiering classification and definitions.
- (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 220(A),(B) or(C) shall be considered “Tier 1” offenses.
- (E) Tribal Offenses. Conviction for any of the following tribal offenses shall be considered “Tier 1” offenses:
 - (1) 4 PYTC § 2-20(A) Indecent Exposure
 - (2) 4 PYTC § 2-30(A) Public Sexual Indecency

Section 230 Tier 2 Offenses (4 PYTC § 2-230)

- (A) Recidivism and Felonies. Unless otherwise covered by Section 240, any offense which is not the first sex offense for which a person has been convicted that is punishable by more than one year in jail or any similar tribal offense that if committed in any tribal jurisdiction or state would be considered a felony is considered a “Tier 2” offense.
- (B) Offenses Involving Minors. A “Tier 2” offense includes any sex offenses for which a person has been convicted by a jurisdiction, tribal government, local government or qualifying foreign country pursuant to Section 210(A)(3) 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 for distribution of child pornography.
- (C) Federal Offense. All federal offenses will be tiered in accordance with the most current federal tiering classification and definitions.
- (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 220(A),(B) or(C) shall be considered “Tier 1” offenses.
- (E) Tribal Offenses. Conviction for any of the following tribal offenses shall be considered “Tier 2” offenses:
 - (1) 4 PYTC § 2-20(B) Indecent Exposure (to a person under the age of 15 years)
 - (2) 4 PYTC § 2-30(B) Public Sexual Indecency to a Minor
 - (3) 4 PYTC § 2-150 Portraying Adult as Minor
 - (4) 4 PYTC § 2-170 Admitting Minors to Public Displays of Sexual Conduct

Section 240 Tier 3 Offenses (4 PYTC § 2-240)

- (A) Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail or any similar tribal offense that if committed in any tribal jurisdiction or state would be considered a felony, is, where the offender has at least one prior conviction for a Tier 2 sex offense is a “Tier 3” offense
- (B) General Offenses. A “Tier 3” offense includes any sex offense for which a person has been convicted by a jurisdiction, local government, or qualifying foreign country pursuant to Section 210(A)(3) 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) Federal Offenses. All federal offenses will be tiered in accordance with the most current federal tiering classifications and definitions.
- (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 240(A),(B), or (C) shall be considered “Tier 3” offenses.
- (E) Tribal Offenses. Convictions for any of the following tribal offenses shall be considered “Tier 3” offenses:
 - (1) 4 PYTC § 2-40 Sexual Abuse
 - (2) 4 PYTC § 2-50 Sexual Conduct with a Minor
 - (3) 4 PYTC § 2-60 Sexual Assault
 - (4) 4 PYTC § 2-70 Sexual Assault of a Spouse
 - (5) 4 PYTC § 2-90 Molestation of Child
 - (6) 4 PYTC § 2-130 Commercial Sexual Exploitation of a Minor
 - (7) 4 PYTC § 2-140 Sexual Exploitation of a Minor

Section 250 Registry Requirements for Sex Offenders (4 PYTC § 2-250)

- (A) In general. A sex offender shall register, and keep the registration current. The sex offender must notify the Pascua Yaqui Tribe where the offender resides, where the offender is an employee, and where the offender is a student.

- (B) Initial registration. The sex offender shall initially register--
 - (1) Before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or
 - (2) Not later than 3 business days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment.
- (C) Keeping the registration current. A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person and inform the Pascua Yaqui Tribe of all changes in the information required for that offender in the sex offender registry. The Pascua Yaqui Tribe shall immediately provide that information to all other jurisdictions in which the offender is required to register.
- (D) Initial registration of sex offenders unable to comply with paragraph (B) above. The Pascua Yaqui Tribe shall have the authority to specify the applicability of the requirements of this Ordinance to sex offenders convicted before the enactment of this Ordinance or its implementation, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply with paragraph (B) above.

Section 260 Information Required In Registration (4 PYTC § 2-260)

- (A) Provided by the offender. The sex offender shall provide the following information to the tribal police department, or designee, for inclusion in the sex offender registry:
 - (1) The name of the sex offender (including any alias used by the individual).
 - (2) The date of birth (actual and purported) of the sex offender
 - (3) Internet Identifiers and Addresses - all designations used by sex offenders for purposes of routing or self identification in Internet communications or postings.
 - (4) The telephone numbers (both fixed location and cell phones) and any other designations used by the sex offender for purposes of routing or self-identification in telephonic communications.
 - (5) A valid or purported Social Security number of the sex offender.
 - (6) The address of each residence at which the sex offender resides or will reside. Sex offenders who lack fixed abodes are nevertheless required to register. Such sex offenders must provide some more or less specific description concerning the place or places where such a sex offender habitually lives.
 - (a) Temporary Lodging Information. Sex offenders must provide information about any place in which the sex offender is staying when away from his residence for seven or more days, including identifying the place and the period of time the sex offender is staying there.
 - (7) Travel and Immigration Documents and International Travel.
 - (a) Travel and Immigration Documents. Sex offenders must produce or provide information about their passports, if they have passports. Sex offenders who are aliens must produce or provide information about documents establishing their immigration status.

- (b) International Travel Notice. For travel abroad, sex offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside of the United States. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

- (8) The name and address of any place where the sex offender is an employee or will be an employee. Sex offenders must also provide the name and address information for any place where the sex offender works as a volunteer or otherwise works without remuneration.
 - (a) Sex offenders who are employed, but do not have a fixed place of employment, must provide information regarding the places where such a sex offender works with whatever definiteness is possible under the circumstances, such as information about normal travel routes or the general area(s) in which the sex offender works.

- (9) Professional Licenses. Sex offenders must provide information about the licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

- (10) The name and address of any place where the sex offender is a student or will be a student.

- (11) The license plate and registration number and a description of any vehicle (including land vehicles, aircraft, or watercraft) owned or operated by the sex offender.
 - (a) The sex offender shall indicate whether the vehicles owned or operated by the sex offender are for work or personal use.
 - (b) The sex offender shall indicate the permanent or frequent location where all vehicles are kept.

- (12) Any other information required by the Pascua Yaqui Tribe.

- (B) Provided by the Tribe. The Tribe shall ensure that the following information is included in the registry for that sex offender:
 - (1) A physical description of the sex offender. This shall include any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.
 - (2) The text of the provision of law defining the criminal offense for which the sex offender is registered. This information shall be cross linked to the SORNA database containing the text of relevant sex related laws for all jurisdictions.
 - (3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender.
 - (4) A current photograph of the sex offender.

- (a) Update requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:
 - (i) Every 90 days for Tier 3 sex offenders,
 - (ii) Every 180 days for Tier 2 sex offenders,
 - (iii) Every year for Tier 1 sex offenders.
- (5) A set of fingerprints and palm prints of the sex offender.
- (6) A DNA sample of the sex offender for the purpose of analysis and entry of the resulting DNA profile into the Combined DNA Index System (CODIS).
- (7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction.
- (8) Any other information required by the Tribe.

Section 270 Duration of Registration Requirement; Verification and Appearance Requirements (4 PYTC § 2-270)

- (A) Full registration period. A sex offender shall keep the registration current for the full registration period (excluding any time the sex offender is in custody or civilly committed) unless the offender is allowed a reduction under subsection (b). The full registration period is--
 - (1) 15 years, if the offender is a tier I sex offender;
 - (2) 25 years, if the offender is a tier II sex offender; and
 - (3) The life of the offender, if the offender is a tier III sex offender.
- (B) Frequency. A sex offender who is or should be registered with the Tribe shall, at a minimum, appear in person at the Tribal Police Department, allow the Tribe to take a current photograph, and verify the information in each registry in which that offender is required to be registered not the less frequently than-
 - (1) For purposes of keeping registration current in accordance with the following time frames:
 - (a) For "Tier 1" offenders, once every year for 15 years from the date of conviction,
 - (b) For "Tier 2" offenders, once every 180 days for 25 years from the date of conviction,
 - (c) For "Tier 3" offenders, once every 90 days for the rest of their lives.
 - (2) Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
 - (a) A Tier 1 offender may have their period of registration and verification reduced by 5 years if they have maintained a clean record for 10 consecutive years.
 - (b) 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.

- (3) Clean Record. For purposes of this Section, a person has a clean record if:
 - (a) They have not been convicted of any offense for which imprisonment for more than 1 year may be imposed,
 - (b) They have not been convicted of any sex offense,
 - (c) They have successfully completed, without revocation, any period of supervised release, probation, or parole, and
 - (d) They have successfully completed an appropriate sex offender treatment program certified by a jurisdiction or by the United States Attorney General.

Section 280 Duty to Notify Sex Offenders of Registration Requirements and to Register (4 PYTC § 2-280)

- (A) In general. An appropriate official shall, shortly before release of the sex offender from custody, or, if the sex offender is not in custody, immediately after the sentencing of the sex offender, for the offense giving rise to the duty to register--
 - (1) Inform the sex offender of the duties of a sex offender under this chapter and explain those duties;
 - (2) Require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement; and
 - (3) Ensure that the sex offender is registered.
 - (4) 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.
- (B) Notification of sex offenders who cannot comply with subsection (a). The Tribe shall prescribe rules for the notification of sex offenders who cannot be registered in accordance with subsection (a).

Section 290 Recapture (4 PYTC § 2-290)

- (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:
 - (5) Sex offenders incarcerated or under supervision of the tribe, whether for a covered sex offense or other crime,
 - (6) Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribes' laws, and
 - (7) 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 paragraph (A) above 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.

Section 300 Registration Currency (4 PYTC § 2-300)

- (A) Jurisdiction of Residency. All sex offenders residing within the exterior boundaries of the reservation or otherwise residing on land owned by the tribe or placed in trust for the tribe, 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,
 - (1) Any jurisdiction where the sex offender is either registered or required to register, and
 - (2) 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 tribe in any capacity or otherwise are employed within the exterior boundaries of the reservation or on property owned by the tribe 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 reservation or on property owned by the tribe in fee or trust regardless of location change their school, or otherwise terminate 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 310 Failure To Appear For Registration And Absconding (4 PYTC § 2-310)

- (A) Failure to Appear. In the event a sex offender fails to register with the tribe 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 tribe 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 the tribal police and any other appropriate law enforcement agency is 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 a warrant 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 their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the tribal police or designee shall take all appropriate follow-up measures including those outlined in paragraph (B) above. 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 reservation or on property owned by the tribe in fee or trust regardless of location.

Section 320 Requirements For In Person Appearances (4 PYTC § 2-320)

- (A) Photographs. At each in person verification, the sex offender shall permit the tribal police to take a photograph 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.

Section 321 Sex Offender Acknowledgement (4 PYTC § 2-321)

- (A) The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by the Pascua Yaqui Police Department and that the sex offender understands the registration requirement.
 - (1) The form shall be signed and dated by the Pascua Yaqui Police Department personnel registering the sex offender.
- (B) The Pascua Yaqui Police Department shall immediately upload the acknowledgement form into the Pascua Yaqui Police Department sex offender registry.”

Section 330 Public Sex Offender Registry Website (4 PYTC § 2-330)

- (A) Website
 - (1) 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.
 - (2) Links. The registry website shall include links to sex offender safety and education resources.
 - (3) Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
 - (4) 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.
 - (5) Search Capabilities. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

Section 340 Required and Prohibited Information (4 PYTC § 2-340)

- (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, and
 - (4) The identity of the victim.
 - (5) Internet identifiers (as defined in 42 U.S.C. § 16911)."
- (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 350 Community Notification (4 PYTC § 2-350)

- (A) Law Enforcement Community Notification. Whenever a sex offender registers or updates their information with the tribe, the Pascua Yaqui Police Department or designee shall:
- (1) Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
 - (2) Immediately notify the FBI and ensure the information is updated on NCIC/NSOR,
 - (3) Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal 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).
 - (6) Enter or update information posted on the public website.
- (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 tribe, 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 tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity.

Section 360 Crimes and Civil Sanctions (4 PYTC § 2-360)

- (A) Any violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and subject to a penalty of one year or \$5,000.
- (B) 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, and banishment.

Section 370 Exclusion of Non-Members (4 PYTC § 2-370)

Any non-member convicted for violation of this chapter may be excluded from the Pascua Yaqui Indian Reservation in accordance with Tribal Code of the Pascua Yaqui Tribe, in addition to any other penalties provided herein.

DISPOSTION TABLE

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NEW	Section 320
NEW	Section 321
NEW	Section 330
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NEW	Section 360
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