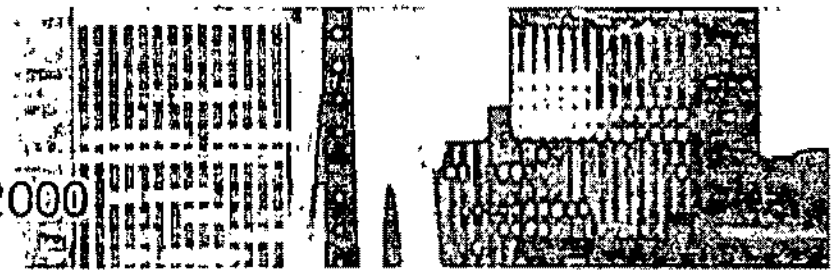
Adopted in
Seattle WA
June 9-13, 2000



▸CRIMINAL AND SOCIAL JUSTICE COMMITTEE

REAUTHORIZATION OF VIOLENCE AGAINST WOMEN GRANT PROGRAMS

WHEREAS, the United States Congress passed, and President Clinton signed, the Violence Against Women Act (VAWA) of 1994, which strengthened criminal laws, established the National Domestic Violence Hotline, and created grant programs to encourage a comprehensive community response to violence against women across America; and

WHEREAS, VAWA and related legislation have created federally funded programs to assist state and local governments and nonprofit agencies in their efforts to address violence against women in our communities by training personnel, enforcing laws, assisting victims of violence, and holding perpetrators accountable; and

WHEREAS, the U.S. Departments of Justice and Health and Human Services have awarded more than $1.5 billion through VAWA grant programs since 1994, directing critical resources to our communities' collaborative efforts to respond to violence against women; and

WHEREAS, VAWA grants have provided needed federal funding to support critical state and local programming and initiatives that benefit cities across our nation, such as hiring and training law enforcement officers, prosecutors, victim advocates and court personnel, creating specialized domestic violence police and prosecution units, providing shelter and services for victims of domestic violence, providing civil legal assistance for victims of domestic violence, funding community-based domestic violence and sexual assault programs, and training health care and social services professionals; and

WHEREAS, the partnership between federal, state, and local governments created by VAWA has helped jurisdictions to improve the way they handle domestic violence and sexual assault cases and establish an infrastructure needed to improve our communities' ability to respond to violence against women; and

WHEREAS, the authorization for most of these VAWA-related grant programs expires at the end of fiscal year 2000; and

WHEREAS, we must maintain and improve upon our achievements in the fight to stop violence against women, assist victims, and hold perpetrators accountable; and

WHEREAS, reauthorization legislation has been introduced in the 106th Congress,

NOW, THEREFORE, BE IT RESOLVED that the U.S. Conference of Mayors supports the Violence Against Women Act grant programs and urges Congress to reauthorize these programs through fiscal year 2005 to continue to promote a comprehensive community response to violence against women; and

BE IT FURTHER RESOLVED that the new VAWA legislation should contain the following elements to help our cities combat violence against women:

- re-authorization through fiscal year 2005 of the VAWA grant programs;
- authorizing legislation for the Domestic Violence Victims' Civil Legal Assistance Program,
- extension to fiscal year 2005 of the authorization of the Grants to Combat Violent Crimes Against Women on Campuses Grant Program;
- an amended definition of domestic violence under all VAWA grant programs to permit projects to target services to victims of dating violence in all jurisdictions;
- direction of critical resources toward traditionally underserved populations;

- a specific allocation for courts and re-authorization of grants for model judicial training programs; and
- protection for immigrant victims of domestic violence.

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Tracy Toulou: Director

Jacqueline Agtuca, Timothy Joranko,
John Harte, and Todd Araujo: Deputy Directors

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The Office of Tribal Justice (OTJ), originally established within the Office of the Deputy Attorney General, serves as a coordination center for all Department of Justice activities relating to federally recognized Indian tribes.

At the May 1994 Listening Conference in Albuquerque, New Mexico, tribal leaders conveyed to the Department the need to establish a permanent channel for tribes to communicate their concerns to the Department. The Office of Tribal Justice was created in January 1995, to provide such a point of contact within the Department for Indian tribes. This office has ensured better communication between the Department and Indian tribes.

I. MISSION OF THE OFFICE OF TRIBAL JUSTICE

The mission of the Office of Tribal Justice is to advise the Attorney General on matters that impact Indian tribes, to coordinate the Department's policies and positions on tribal issues, to consult with federally recognized Indian tribes, and to cooperate with appropriate federal, state, and local governmental institutions. The major functions of the Office of Tribal Justice are to:

Communicate and consult with tribal representatives on Department of Justice issues and policies of concern to Indian tribes;

Maintain liaison between the Department and tribal, state, and federal justice systems, including law enforcement;

Promote internal uniformity among divisions of the Department regarding policies, funding, and litigating positions relating to Indian Country; and,

Coordinate, together with the Office of Legislative Affairs, the Department's legislative agenda relating to Indian Country.

Within the Department, the Office coordinates the on-going work of Justice Divisions responsible for Indian issues. This coordination will allow the Department to ensure consistency in Indian policy, maximize limited resources, and better leverage expertise and experience in Indian legal issues.

Outside of the Department, the Office plays a major role in coordinating with federal agencies with responsibilities in Indian Country, such as the Department of the Interior, the Indian Health Service at the Department of Health and Human Services, the Departments of Housing and Urban Development, Agriculture, Education, and the Environmental Protection Agency. OTJ will serve as the primary means within the Department of coordinating federal Indian policy.

The Office of Tribal Justice is responsible for maintaining relations with elected tribal officials. OTJ serves as the clearinghouse for much of the correspondence relating to Indian matters and communicates the Department's efforts and actions on behalf of federally recognized tribes.

II. FUNCTIONS OF THE OFFICE OF TRIBAL JUSTICE

Below is a representative list of some current Department of Justice activities for Indian Country for which OTJ has coordination and liaison responsibilities.

A. Religious Freedom and the Protection of Sacred Sites and Resources

B. Environmental Enforcement in Indian Country

C. IGRA and Tribal Gaming Issues

D. Funding to Indian Country and other Indian Grant Programs

E. Tribal Justice Systems, Law Enforcement, Public Law 280 Policy

F. State and Federal Taxation of Indian Tribes

G. International Indigenous Peoples Rights

The Office of Tribal Justice enables the Department to address issues that are of importance to the Nation's first Americans with renewed effectiveness.

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Text Only Version

DEPARTMENT OF JUSTICE POLICY ON INDIAN SOVEREIGNTY AND GOVERNMENT-TO-GOVERNMENT RELATIONS WITH INDIAN TRIBES

PURPOSE: To reaffirm the Department's recognition of the sovereign status of federally recognized Indian tribes as domestic dependent nations and to reaffirm adherence to the principles of government-to-government relations; to inform Department personnel, other federal agencies, federally recognized Indian tribes, and the public of the Department's working relationships with federally recognized Indian tribes; and to guide the Department in its work in the field of Indian affairs.

I. INTRODUCTION

From its earliest days, the United States has recognized the sovereign status of Indian tribes as "domestic dependent nations." Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 17 (1831). Our Constitution recognizes Indian sovereignty by classing Indian treaties among the "supreme Law of the land," and establishes Indian affairs as a unique area of federal concern. In early Indian treaties, the United States pledged to "protect" Indian tribes, thereby establishing one of the bases for the federal trust responsibility in our government-to-government relations with Indian tribes. These principles continue to guide our national policy towards Indian tribes.

A. THE EXECUTIVE MEMORANDUM ON GOVERNMENT-TO-GOVERNMENT RELATIONS BETWEEN THE UNITED STATES AND INDIAN TRIBES

On April 29, 1994, at a historic meeting with the heads of tribal governments, President Clinton reaffirmed the United States' "unique legal relationship with Native American tribal governments" and issued a directive to all executive departments and agencies of the Federal Government that:

As executive departments and agencies undertake activities

affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty.

President Clinton's directive requires that in all activities relating to or affecting the government or treaty rights of Indian tribes, the executive branch shall:

1) operate within a government-to-government relationship with federally recognized Indian tribes;

2) consult, to the greatest extent practicable and permitted by law, with Indian tribal governments before taking actions that affect federally recognized Indian tribes;

3) assess the impact of agency activities on tribal trust resources and assure that tribal interests are considered before the activities are undertaken;

4) remove procedural impediments to working directly with tribal governments on activities that affect trust property or governmental rights of the tribes; and

5) work cooperatively with other agencies to accomplish these goals established by the President.

The Department of Justice is reviewing programs and procedures to ensure that we adhere to principles of respect for Indian tribal governments and honor our Nation's trust responsibility to Indian tribes. Within the Department, the Office of Tribal Justice has been formed to coordinate policy towards Indian tribes both within the Department and with other agencies of the Federal Government, and to assist Indian tribes as domestic dependent nations within the federal system.

B. FEDERAL INDIAN SELF-DETERMINATION POLICY

President Clinton's executive memorandum builds on the firmly established federal policy of self-determination for Indian tribes. Working together with Congress, previous Presidents affirmed the fundamental policy of federal respect for tribal self-government. President Johnson recognized "the right of the first Americans . . . to freedom of choice and self-determination." President Nixon strongly encouraged "self-determination" among the Indian people. President Reagan pledged "to pursue the policy of self-government" for Indian tribes and reaffirmed "the government-to-government basis" for dealing with Indian tribes. President Bush recognized that the Federal Government's "efforts to increase tribal self-governance have brought a renewed sense of pride and empowerment to this country's native peoples."

II. PRINCIPLES OF INDIAN SOVEREIGNTY AND THE TRUST RESPONSIBILITY

Though generalizations are difficult, a few basic principles provide important guidance in the field of Indian affairs: 1) the Constitution vests Congress with plenary power over Indian affairs; 2) Indian

tribes retain important sovereign powers over "their members and their territory," subject to the plenary power of Congress; and 3) the United States has a trust responsibility to Indian tribes, which guides and limits the Federal Government in dealings with Indian tribes. Thus, federal and tribal law generally have primacy over Indian affairs in Indian country, except where Congress has provided otherwise.

III. DEPARTMENT OF JUSTICE RECOGNITION OF INDIAN SOVEREIGNTY AND THE FEDERAL TRUST RESPONSIBILITY

The Department resolves that the following principles will guide its interactions with the Indian tribes.

A. THE SOVEREIGNTY OF INDIAN TRIBES

The Department recognizes that Indian tribes as domestic dependent nations retain sovereign powers, except as divested by the United States, and further recognizes that the United States has the authority to restore federal recognition of Indian sovereignty in order to strengthen tribal self-governance.

The Department shall be guided by principles of respect for Indian tribes and their sovereign authority and the United States' trust responsibility in the many ways in which the Department takes action on matters affecting Indian tribes. For example, the Department reviews proposed legislation, administers funds that are available to tribes to build their capacity to address crime and crime-related problems in Indian country, and in conjunction with the Bureau of Indian Affairs and tribal police, provides essential law enforcement in Indian country. The Department represents the United States, in coordination with other federal agencies, in litigation brought for the benefit of Indian tribes and individuals, as well as in litigation by Indian tribes or individuals against the United States or its agencies. In litigation as in other matters, the Department may take actions and positions affecting Indian tribes with which one or more tribes may disagree. In all situations, the Department will carry out its responsibilities consistent with the law and this policy statement.

B. GOVERNMENT-TO-GOVERNMENT RELATIONSHIPS WITH INDIAN TRIBES

In accord with the status of Indian tribes as domestic dependent nations, the Department is committed to operating on the basis of government-to-government relations with Indian tribes.

Consistent with federal law and other Departmental duties, the Department will consult with tribal leaders in its decisions that relate to or affect the sovereignty, rights, resources or lands of Indian tribes. Each component will conduct such consultation in light of its mission. In addition, the Department has initiated national and regional listening conferences and has created the Office of Tribal Justice to improve communications with Indian tribes. In the Offices of the United States Attorneys with substantial areas of Indian country within their purview, the

Department encourages designation of Assistant U.S. Attorneys to serve as tribal liaisons.

In order to fulfill its mission, the Department of Justice endeavors to forge strong partnerships between the Indian tribal governments and the Department. These partnerships will enable the Department to better serve the needs of Indian tribes, Indian people, and the public at large.

C. SELF-DETERMINATION AND SELF-GOVERNANCE

The Department is committed to strengthening and assisting Indian tribal governments in their development and to promoting Indian self-governance. Consistent with federal law and Departmental responsibilities, the Department will consult with tribal governments concerning law enforcement priorities in Indian country, support duly recognized tribal governments, defend the lawful exercise of tribal governmental powers in coordination with the Department of the Interior and other federal agencies, investigate government corruption when necessary, and support and assist Indian tribes in the development of their law enforcement systems, tribal courts, and traditional justice systems.

D. TRUST RESPONSIBILITY

The Department acknowledges the federal trust responsibility arising from Indian treaties, statutes, executive orders, and the historical relations between the United States and Indian tribes. In a broad sense, the trust responsibility relates to the United States' unique legal and political relationship with Indian tribes. Congress, with plenary power over Indian affairs, plays a primary role in defining the trust responsibility, and Congress recently declared that the trust responsibility "includes the protection of the sovereignty of each tribal government." 25 U.S.C. 3601.

The term "trust responsibility" is also used in a narrower sense to define the precise legal duties of the United States in managing property and resources of Indian tribes and, at times, of individual Indians.

The trust responsibility, in both senses, will guide the Department in litigation, enforcement, policymaking and proposals for legislation affecting Indian country, when appropriate to the circumstances. As used in its narrower sense, the federal trust responsibility may be justiciable in some circumstances, while in its broader sense the definition and implementation of the trust responsibility is committed to Congress and the Executive Branch.

E. PROTECTION OF CIVIL RIGHTS

Federal law prohibits discrimination based on race or national origin by the federal, state and local governments, or individuals against American Indians in such areas as voting, education, housing, credit, public accommodations and facilities, employment, and in certain federally funded programs and facilities. Various federal criminal civil rights statutes also preserve personal liberties and safety. The existence of the federal trust

responsibility towards Indian tribes does not diminish the obligation of state and local governments to respect the civil rights of Indian people.

Through the Indian Civil Rights Act, Congress selectively has derived essential civil rights protections from the Bill of Rights and applied them to Indian tribes. 25 U.S.C. 1301. The Indian Civil Rights Act is to be interpreted with respect for Indian sovereignty. The primary responsibility for enforcement of the Act is invested in the tribal courts and other tribal fora. In the criminal law context, federal courts have authority to decide habeas corpus petitions after tribal remedies are exhausted.

The Department of Justice is fully committed to safeguarding the constitutional and statutory rights of American Indians, as well as all other Americans.

F. PROTECTION OF TRIBAL RELIGION AND CULTURE

The mandate to protect religious liberty is deeply rooted in this Nation's constitutional heritage. The Department seeks to ensure that American Indians are protected in the observance of their faiths. Decisions regarding the activities of the Department that have the potential to substantially interfere with the exercise of Indian religions will be guided by the First Amendment of the United States Constitution, as well as by statutes which protect the exercise of religion such as the Religious Freedom Restoration Act, the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, and the National Historic Preservation Act.

The Department also recognizes the significant federal interest in aiding tribes in the preservation of their tribal customs and traditions. In performing its duties in Indian country, the Department will respect and seek to preserve tribal cultures.

IV. DIRECTIVE TO ALL COMPONENTS OF THE DEPARTMENT OF JUSTICE

The principles set out here must be interpreted by each component of the Department of Justice in light of its respective mission. Therefore, each component head shall make all reasonable efforts to ensure that the component's activities are consistent with the above sovereignty and trust principles. The component heads shall circulate this policy to all attorneys in the Department to inform them of their responsibilities. Where the activities and internal procedures of the components can be reformed to ensure greater consistency with this Policy, the component head shall undertake to do so. If tensions arise between these principles and other principles which guide the component in carrying out its mission, components will develop, as necessary, a mechanism for resolving such tensions to ensure that tribal interests are given due consideration. Finally, component heads will appoint a contact person to work with the Office of Tribal Justice in addressing Indian issues within the component.

V. DISCLAIMER

This policy is intended only to improve the internal management of the Department and is not intended to create any right enforceable in any cause of action by any party against the United States, its agencies, officers, or any person.

_____ Date:_____

Janet Reno
Attorney General

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Last Updated August 13,1999
usdoj-jmd/irm/css/sat

Citation
Exec. Order No. 13175
2000 WL 1675460 (Pres.)
(Cite as: 65 FR 67249)

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Executive Order 13175

Consultation and Coordination With Indian Tribal Governments

November 6, 2000

*67249 By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. Fundamental Principles. In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self- government, tribal trust

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resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian **tribes** to self- government and supports tribal sovereignty and self-determination.

Sec. 3. Policymaking Criteria. In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications: ***67250**

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian **tribes** to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian **tribes** to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian **tribes**.

Sec. 4. Special Requirements for Legislative Proposals. Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. Consultation. (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the **tribe** in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of

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their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the *67251 need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. Increasing Flexibility for Indian Tribal Waivers.

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. Accountability.

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB,

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each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. Independent Agencies. Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. General Provisions. (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

*67252

Sec. 10. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

WILLIAM J. CLINTON
THE WHITE HOUSE,
November 6, 2000.

Exec. Order No. 13175, 65 FR 67249, 2000 WL 1675460 (Pres.)
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Presidential Documents

Executive Order 13084 of May 14, 1998

Consultation and Coordination With Indian Tribal Governments

The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, trust resources, and Indian tribal treaty and other rights.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with Indian tribal governments in the development of regulatory practices on Federal matters that significantly or uniquely affect their communities; to reduce the imposition of unfunded mandates upon Indian tribal governments; and to streamline the application process for and increase the availability of waivers to Indian tribal governments; it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "State" or "States" refer to the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 2. *Policymaking Criteria.* In formulating policies significantly or uniquely affecting Indian tribal governments, agencies shall be guided, to the extent permitted by law, by principles of respect for Indian tribal self-government and sovereignty, for tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

Sec. 3. *Consultation.* (a) Each agency shall have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that is not required by statute, that significantly or uniquely affects the communities of the Indian tribal governments, and that imposes substantial direct compliance costs on such communities, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected Indian tribal governments, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation; and

(B) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by such Indian tribal governments.

Sec. 4. *Increasing Flexibility for Indian Tribal Waivers.* (a) Agencies shall review the processes under which Indian tribal governments apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. The agency shall provide the applicant with timely written notice of the decision and, if the application for a waiver is not granted, the reasons for such denial.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 5. *Cooperation in developing regulations.* On issues relating to tribal self-government, trust resources, or treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Independent agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 7. *General provisions.* (a) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order shall supplement but not supersede the requirements contained in Executive Order 12866 ("Regulatory Planning and Review"), Executive Order 12988 ("Civil Justice Reform"), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(c) This order shall complement the consultation and waiver provisions in sections 4 and 5 of the

Executive order, entitled "Federalism," being issued on this day.

(d) This order shall be effective 90 days after the date of this order.

William J. Clinton

THE WHITE HOUSE,
May 14, 1998

The White House

Office of Communications

DIRECTIVE ON LAW ENFORCEMENT IN INDIAN COUNTRY

Monday, August 25, 1997

THE WHITE HOUSE

Office of the Press Secretary

(Martha's Vineyard, Massachusetts)

For Immediate Release

MEMORANDUM FOR THE ATTORNEY GENERAL

THE SECRETARY OF THE INTERIOR

SUBJECT: **Law Enforcement in Indian Country**

I am proud of my Administration's progress in reducing violent crime and improving public safety for our Nation's citizens. Our efforts are making an important difference. Nationwide, the violent crime rate has dropped approximately 17 percent since 1992, and the homicide rate has declined about 22 percent. Unfortunately, during the same time period, life has become more violent for the 1.2 million Indian citizens who live on or near reservations. Homicide rates, for example, have increased to levels that often surpass those in large American cities. Numbers alone, however, cannot convey the tragic impact of such violence on Indian families and their communities.

This and other information you have provided to me make clear that we need to refocus on this growing problem. While some tribal governments have developed strong law enforcement programs, many others have encountered significant difficulty in doing so. Many Indian citizens receive police, investigate, and detention services that lag far behind even this country's poorest jurisdictions.

The Federal Government has taken steps to address this problem. My Administration has sought increased Department of the Interior funding and tribal control of law enforcement programs on Indian lands. This year, the Federal Bureau of Investigation (FBI) established an Office of Indian Country Investigations in its Violent Crimes Section, allocating additional agents to Indian country. The FBI also initiated a nationwide outreach training program for Indian country law enforcement officers. We have created additional tribal liaison positions in the United States Attorney's Offices in Indian Country, intended to improve our ability to bring offenders to justice. Through our Community Oriented Policing Services Program, we have assisted tribal law enforcement agencies in hiring officers in Indian country.

Yet, law enforcement remains a serious problem. For these reasons, consistent with the spirit of my 1994 memorandum on government-to-government relations and tribal self-governance, I hereby request that you work with tribal leaders to analyze law enforcement problems on Indian lands. By December 31, 1997, you should provide options to me for improving public safety and criminal justice in Indian Country. To the extent that these options might affect the Departments' budgets, they should be included in your fiscal year 1999 budget submissions and should be consistent with the funding targets of the Bipartisan Balanced Budget Agreement.

WILLIAM J. CLINTON

William J. Clinton

Office of the Attorney General
Washington, D. C. 20530

August 27, 1997

MESSAGE TO ALL TRIBAL LEADERS:

As President Clinton affirmed in his Executive Memorandum of April 29, 1994, the United States maintains a unique relationship with Indian Tribes founded on the principle of government-to-government relations. Consistent with this relationship, the President has directed us to work on a government-to-government basis with Indian tribal leaders on an issue of tremendous significance to Indian communities and families -- law enforcement in Indian country.

Accordingly, we have created an Executive Committee for Indian Country Law Enforcement Improvements, which includes tribal leaders, to consult with Indian Tribes and develop appropriate options. That Committee will be co-chaired by BIA Deputy Commissioner of Indian Affairs Hilda Manuel and Deputy Assistant Attorney General, Kevin V. St. Gregory.

The President hopes to include proposed improvements in the fiscal year 1999 budget, and has imposed deadlines necessary to accomplish this. To meet the President's stated time-frame, the Committee must work swiftly and efficiently to prepare a report detailing possible options by October 31, 1997. On the basis of the Committee's work, the Secretary of the Interior and Attorney General will submit recommendations and related budget requests to the President by December 31, 1997. Understanding that this results in a very short time period in which to examine a critically important and complex issue, we must depend on your creative and effective assistance. While this will require extraordinary efforts from all concerned, the needs are great and we cannot afford to defer improvements into a later budget cycle.

As you know too well, violence and crime interfere with the ability of Indian Tribes to achieve meaningful self-governance and assure peace and stability in their communities. We know that you are aware of the costs exacted by crime in Indian country, in terms of lives and property, and are eager to help us build stronger and safer tribal communities.

MESSAGE TO ALL TRIBAL LEADERS
Page 2

We appreciate your help and thoughtful consideration.

Sincerely,

Janet Reno
Attorney General

Sincerely,

Bruce Babbitt
Secretary of the Interior

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Updated page 04/09/98

Report of The Executive Committee

For

Indian Country Law Enforcement Improvements

FINAL REPORT

To

The Attorney General

And

The Secretary of the Interior

October 1997

U. S. Department of Justice
Criminal Division

Office of the Deputy Assistant Attorney General Washington, D.C. 20530

October 31, 1997

EXECUTIVE SUMMARY

MEMORANDUM FOR:
THE ATTORNEY GENERAL AND THE

SECRETARY OF THE INTERIOR

THROUGH: THE DEPUTY ATTORNEY GENERAL
FROM: Kevin V. Di Gregory
Deputy Assistant Attorney General
Hilda A. Manuel
Deputy Commissioner of Indian Affairs
Co-Chairs: Executive Committee for Indian Country
Law Enforcement Improvements
SUBJECT: Final Report of the Executive Committee for
Indian Country Law Enforcement Improvements
PURPOSE: To provide the Attorney General and the Secretary with the analysis, findings, and options for improvements prepared by the Executive Committee in accordance with the Presidential DIRECTIVE ON LAW ENFORCEMENT IN INDIAN COUNTRY of August 25, 1997.
TIMETABLE: The President has requested options from you by
December 31, 1997

DISCUSSION:

There is a public safety crisis in Indian Country. In recognition of this, President Clinton asked both of you "to work with tribal leaders to analyze law enforcement problems on Indian lands [and to] provide [the President] with options for improving public safety and criminal justice in Indian Country." The urgency of the situation required completion of this report by October 31, 1997, so that it could be included in the next budget cycle. An "Executive Committee for Indian Country Law Enforcement Improvement" was formed to help carry out this mandate.(1) Its views and findings are in the attached Report. Generally, the Executive Committee, in consultation with the Tribes, examined the issues and problems and determined that (1) a substantial infusion of resources into Indian Country law enforcement is essential, and (2) the delivery of law enforcement services must be consolidated and improved.

U.S. Attorneys led a series of tribal consultations on Indian Country law enforcement across the country during September and early October of 1997. In the lower 48 states, a total of 205 of the 332 Tribes (62 percent) participated in these consultations. There was a general consensus among the Tribes on the following issues:

Law enforcement in Indian Country, as it presently exists, often fails to meet basic public safety needs.

Serious and violent crime is rising significantly in Indian Country -- in sharp contrast to national trends.

The single most glaring problem is a lack of adequate resources in Indian Country.

Although the system must change, Indian hiring preferences and contracting/compacting guarantees must be protected under any new structure.(2)

The fragmented criminal justice system results in poor coordination, which can be remedied only by consolidating services under one authority.

Tribal governments do not consider the FBI to be an appropriate management structure for this purpose.(3)

The Executive Committee recommends the following two options for your consideration:

OPTION A

Consolidate the three major law enforcement programs under the line and budgetary authority of BIA's Office of Law Enforcement Services (OLES). DOJ will assist OLES by expanding the availability of technical assistance and training.

OPTION B

Transfer all three major law enforcement programs in BIA (criminal investigations, uniformed police, and detention services) to DOJ, maintaining Indian hiring preference and contracting/compacting authority. DOJ will create liaison positions to assure that community accessibility and tribal input on local law enforcement issues and priorities are maintained.

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REPORT OF THE EXECUTIVE COMMITTEE FOR INDIAN COUNTRY LAW ENFORCEMENT IMPROVEMENTS

October 31, 1997

A. INTRODUCTION

There is a public safety crisis in Indian Country. Leaders from the federal and tribal governments have examined the law enforcement problems and determined that a substantial infusion of resources into Indian Country law enforcement is essential. This report discusses the issues and presents two options that address these problems.

Basic law enforcement protection and services are severely inadequate for most of Indian Country. This problem affects more than 1.4 million people who depend on the federal

government for these services.(4) Simply put, many American citizens living on Indian reservations do not receive even the minimum level of law enforcement services taken for granted in non-Indian communities. According to a 1997 census estimate by the Indian Health Service (IHS), there are 1,429,800 Indians residing on or adjacent to Indian reservations, allotments, and dependent Indian communities governed by federally-recognized Tribes. In the lower 48 states, these communities are spread across approximately 56 million acres, with millions of additional acres in Alaska. American Indians are one of the fastest growing minority groups in the nation, yet rank at the bottom of all minority groups in terms of life expectancy. Unfortunately, violence and crime are contributing factors. According to a 1996 IHS report,(5) the homicide rate for Indian males is almost three times higher than the rate for white males.

A reported crime in Indian Country is twice as likely to be violent as compared to crimes reported elsewhere in the United States. In contrast, there are fewer than half as many law enforcement officers per capita.(6) This is not a new situation; the problems addressed in this report developed over decades.(7) In the early 1990s, however, federal agencies with law enforcement responsibilities initiated an effort to re-examine and evaluate the federal government's role in ensuring public safety on America's Indian reservations.

The first step in addressing this process was President Clinton's Executive Memorandum on Government-to-Government Relations With Native American Tribes (April 28, 1994). Shortly thereafter, the historic 1994 Listening Conference was held in Albuquerque. There, the Departments of Justice, Interior, and Housing and Urban Development heard the concerns of tribal leaders. Issues of public safety and crime on reservations were recurring themes. As a direct response to the Listening Conference, the Attorney General created the Department's Office of Tribal Justice and issued the Department's Policy on Indian Sovereignty and Government-to-Government Relations (June 1, 1995). To address tribal concerns and improve law enforcement in Indian Country, a number of initiatives were undertaken, including the assignment of additional FBI investigators and federal prosecutors to Indian Country, and targeted Bureau of Indian Affairs (BIA) law enforcement projects. Furthermore, in November 1995, the Department of Justice launched the Indian Country Justice Initiative, an inter-departmental project specifically intended to explore and address the broad array of public safety needs in Indian Country.

As these efforts were implemented and continued to develop, some basic problems became apparent. The most glaring deficiency is a chronic lack of law enforcement resources in Indian Country. This realization lead to a series of informal meetings between the BIA and DOJ, and a preliminary tribal consultation on this issue was initiated in June 1996. As the discussions

expanded, new participants brought new information. It became clear that the law enforcement problems in Indian Country are severe.

In recognition of this, President Clinton asked the Attorney General and the Secretary of the Interior "to work with tribal leaders to analyze law enforcement problems on Indian lands [and to] provide [the President] with options for improving public safety and criminal justice in Indian Country." The Attorney General and the Secretary in turn appointed an "Executive Committee for Indian Country Law Enforcement Improvement," charged with carrying out this mandate.(8) The urgency of the crisis in Indian Country required completion of this report by October 31, 1997, so that any options selected that require additional funds could be included in the President's budget request for FY 1999. The views and findings of the Executive Committee follow.

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B. THE CONSULTATION PROCESS: FINDINGS

Pursuant to the President's Directive, the Attorney General requested that the U.S. Attorneys with Indian Country jurisdiction hold consultations with tribal leaders. A series of tribal consultations about Indian Country law enforcement was held across the country during September and early October of 1997. In the lower 48 states, a total of 205 of the 332 Tribes (62 percent) participated in these consultations.(9) Specific issues common to the consultation process are discussed at Tab F. A general consensus was reached on the following issues:

Law enforcement in Indian Country, as it presently exists, often fails to meet basic public safety needs.

Serious and violent crime is rising significantly in Indian Country -- in sharp contrast to national trends.

The single most glaring problem is a lack of adequate resources in Indian Country. Any solution requires a substantial infusion of new money in addition to existing funds under the current tribal priority allocation (TPA) system.

Although the system must change, Indian hiring preferences and contracting/compacting guarantees must be protected under any new structure.

The current criminal justice system is fragmented, and the resulting poor coordination can be remedied only by consolidating investigative, police and detention services under one authority.

Tribal governments do not consider the FBI to be an appropriate management structure for the consolidated law enforcement services.

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C. THE LAW ENFORCEMENT CRISIS IN INDIAN COUNTRY

Rising Crime

Americans have come to expect protection of their basic rights, a sense of justice, and freedom from fear. A responsive, professional criminal justice system makes this possible. Uniformed police officers handle complaints, maintain order, and make arrests. Professional investigators handle serious or complex crimes. Jails and prisons house offenders; many provide appropriate treatment and other programs. Nearby magistrates set bail and judges hear cases. Probation officers make recommendations to the court and supervise probationers as well as those released from prison. To a large extent, what we take for granted exists only in a rudimentary form or does not exist at all for the 1.4 million Native Americans who live on or near Indian lands. Today, many Indian citizens receive police, investigative, and detention services that are not only inadequate, but also suffer by comparison to this country's poorest jurisdictions.

Information from the FBI, the BIA, U.S. Attorneys, researchers, and tribal leaders themselves depicts a stark contrast between public safety in Indian Country and the rest of the United States. Nationwide, for example, violent crime has declined significantly between 1992 and 1996. The overall violent crime rate has dropped about 17 percent, and homicides are down 22 percent. For the same time period, however, the BIA reports that homicides in Indian Country rose sharply.(10) Some Tribes have murder rates that far exceed those of urban areas known for their struggles against violent crime. In 1995, for example, the murder rate on Ft. Peck Reservation in Montana was more than twice that of

New Orleans, one of the most violent cities in the United States. During 1996, the people on America's largest reservation, the Navajo Nation, endured 46 non-negligent homicides, resulting in a rate which would place it among the top 20 most violent cities.

Other violent crimes, such as gang violence, domestic violence, and child abuse have paralleled the rise in homicides. During fiscal years 1994 - 1996, 84 percent of the FBI Indian Country cases opened (4,334) involved either crimes of violence (48%) or the sexual or physical abuse of a minor child (36%). Violent Indian gangs, who model themselves after their urban counterparts, are a frightening new reality on many reservations. Drug abuse now has been added to the problems caused by alcohol.

There is broad consensus among law enforcement professionals and U.S. Attorneys in Indian Country that the situation is serious and merits urgent attention. Indeed, there is concern that available statistics understate the magnitude of the problem in many areas of Indian Country. A major finding of a recent DOJ Inspector General report on Criminal Justice in Indian Country(11) was that there is a pervasive "lack of reliable crime statistics in Indian Country...." Moreover, while law enforcement resources have been increased and deployed effectively throughout the United States, BIA resources actually have been reduced in Indian Country during the past few years.(12)

Indian Country is extraordinarily diverse in terms of size, geography, enrollment figures, government structure, resources, culture, language, traditions, and law enforcement capabilities. What has become common to too many Tribes is increasing violence, including juvenile crime, gangs, drug abuse, and the physical or sexual assault of children. Problem statements addressing specific criminal justice issues are included as Tabs A through D.

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Deficient Resources

One of the most telling indicators of inadequate law enforcement services in Indian Country is the chronic shortage of personnel. For example, the 1996 UCR statistics show 2.9 officers per 1,000 citizens in non-Indian communities under 10,000.(13) The equivalent ratio in Indian Country is 1.3 officers per 1,000 citizens -- less than one-half the per capita coverage in small communities outside of Indian Country. Approximately 1,600 BIA and tribal uniformed officers must patrol the 56 million acres of tribal lands in the lower 48 states. On the 17.5 million acres owned by the Navajo Nation, the ratio of officers to citizens is only 0.9 per 1,000. Remote areas, poor roads, and no backup not only result in poor service to the people, but also stressful and dangerous jobs for the officers. On the Navajo Nation alone, two officers were killed in the line of duty in the last two years while patrolling alone.

In FY 1998, only 78 full-time BIA criminal investigators and the full-time equivalent of 102 FBI agents are available to investigate violent and serious crimes nationwide.(14) Although there are about 90 tribal investigators, they often handle tribal code cases and seldom appear in federal court except as witnesses. The total investigative capacity for Indian Country is inadequate, especially given the rise in violent crime. As an interim measure, DOJ has requested additional FBI agents and Assistant U.S. Attorneys in Indian Country to help handle the higher Indian caseload.

Detention services also suffer from grossly inadequate resources. There are 70 jails, including detention and holding facilities, located on 55 reservations. Most were designed to hold between 10 and 30 inmates, were built in the 1960s and 1970s, are outdated, do not offer sufficient bed space for current needs, do not meet jail or building codes, and present a threat to the health and safety of inmates. Only 10 of the 55 jails are juvenile facilities, even though bed space demand for juvenile offenders is rising rapidly. Many Indian Country jails

house both adults and juveniles. Funds are not available for renovation and new construction, and very little is available to maintain existing buildings.

Jail operations are also poorly funded. Staffing levels fall far short of those required for adequate inmate supervision, thus creating a threat to the welfare of the community, staff, and inmates. Funds for needed inmate programs, such as education and substance abuse treatment, are virtually non-existent. Resources for equipment and supplies are such that, in some jails, inmates receive no blankets or mattresses and no basic hygiene items, such as soap or toothpaste. Staff sometimes buy these basic items with their personal funds. Finally, staff receive little or no training for the responsibilities and liabilities they face because (1) staffing levels are so low the jails cannot afford to lose an officer temporarily, and (2) funds are not available to travel to and attend the Indian Police Academy.

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Funding Indian Country Law Enforcement

The Executive Committee's funding determination is a minimum figure necessary to bring law enforcement in Indian Country up to a basic level of services. Each Tribe's current law enforcement TPA allocation will form the baseline for that Tribe's law enforcement budget. Because this total figure represents the minimum amount needed to address these problems, funds must be dedicated solely for law enforcement services. Among the factors that will be considered in allocating these funds are the following:

Serious and violent crime rates and trends

Population and distribution

Geographic size, accessibility and infrastructure

Current sworn force and existing law enforcement resources

DOJ program grants and other assistance will continue as a separate funding source that complements community outreach, victim assistance and other programs related to basic law enforcement efforts. As a consequence of improvements to law enforcement services, a corresponding increase in funds is needed for judicial systems, especially tribal courts. As a first step, DOJ is requesting $10 million for FY 1999 and BIA is asking for $11.1 million to aid tribal courts through a variety of programs.

D. OPTIONS TO IMPROVE LAW ENFORCEMENT SERVICES

Numerous options to improve law enforcement in Indian Country were explored during consultations with the Tribes. Based on these consultations, the Executive Committee refined the range of possibilities and present for consideration the following two options. Both options assume significant funding increases above existing tribal allocation funds for law enforcement. Also, Option B assumes that Congress will give DOJ the necessary authority to contract/compact with Tribes and to offer Indian hiring preference.

The Tribes expressed little interest in options such as splitting functions between the Justice and Interior Departments or maintaining the status quo. Also, as a variation of the DOJ Option, the Tribes expressed no interest in placing all of the law enforcement responsibilities within the FBI. Some wanted no changes at all, just additional funds. A few others requested that Tribes be provided directly with sufficient funds for all law enforcement services. One variation on the BIA option was advanced by the Navajo Nation.(15) Accordingly, we have narrowed the options to two.(16) Also, based on feedback

from the Tribes, the Executive Committee recommends designation of individuals to function as liaisons between each Tribe and the federal (and local) law enforcement community to improve accessibility and tribal input on local law enforcement issues and priorities. These persons could work out of U.S. Attorneys' offices or the appropriate field structure.

The options presented below include commentary that may be helpful to the deliberative process.

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OPTION A

Consolidate the three major law enforcement programs under the line and budgetary authority of BIA's Office of Law Enforcement Services (OLES). DOJ will assist OLES by expanding the availability of technical assistance and training.

Commentary

Standardizes and consolidates BIA's currently bifurcated law enforcement administrative structure. Presently, criminal investigators work within a professional law enforcement organization, headed by managers with law enforcement training. In contrast, BIA uniformed police and detention staff report to that reservation's BIA superintendent, who generally has no law enforcement background.[17] The elimination of fragmented responsibilities for law enforcement within BIA would allow BIA to build on its collective experience in delivering Indian Country law enforcement services.

Contains some of the same advantages of the DOJ Option, while allaying concern that the BIA is being dismantled.

Allows for the uniform application of standards, policies, and procedures within BIA law enforcement components.

A preliminary BIA analysis indicates that this consolidation may be possible under the 1990 Indian Law Enforcement Reform Act, thus eliminating the need for new legislation.

Because of the diverse mandate of the Department of the Interior, BIA may be unable to obtain or sustain adequate funding for law enforcement unless Congress requires a separate funding stream for that purpose.

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OPTION B

Transfer all three major law enforcement programs in BIA (criminal investigations, uniformed police, and detention services) to DOJ, maintaining Indian hiring preference and contracting/compacting authority. DOJ will create liaison positions to assure that community accessibility and tribal input on local law enforcement issues and priorities are maintained.

Commentary

Moves the law enforcement function to the Department with primary responsibility for federal law enforcement.

This assures that professional standards for investigative, police, and detention services in Indian Country would be met.

Brings the full array of all DOJ resources to bear on the deplorable condition of Indian Country law enforcement.

Helps insulate Indian Country law enforcement from budget cuts that may affect a more multi-function Department such as Interior.

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Implementation Overview

Under Option A, the Interior Secretary would direct the consolidation of criminal investigators, uniformed police, detention services, and other related law enforcement activities under BIA/OLES. The Indian Law Enforcement Reform Act of 1990 appears to provide the Interior Secretary with the required authority. Necessary legislation would be identified and requested.(18) OLES would begin efforts to upgrade their training capacity. DOJ would establish a liaison mechanism with BIA and would support BIA's efforts through technical assistance and training. Also, DOJ would continue its existing grant programs to Tribes.

Under Option B, DOJ would ask Congress for enabling legislation to create a new Indian Country Law Enforcement Bureau, including authority to contract/compact with Tribes and to offer Indian hiring preference. A small headquarters and six field offices would be established. Simultaneously, the Interior Secretary would direct the consolidation of services as stated above. As part of an overall implementation plan, the ability to increase training capacity quickly is a priority. Also necessary are criteria for funding within program categories. Following Congressional approval, the functions, as well as both law enforcement and administrative personnel from OLES, would be transferred into the new DOJ bureau.

Under both options it would be necessary to develop a budget implementation plan and hire new staff.

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E. ESTIMATED COSTS AND STAFFING ISSUES

Under any option, significant additional resources will be required to address the chronic and pervasive problems confronting law enforcement efforts in Indian Country. Additional resources are needed to create an effective uniformed police presence, to investigate major crimes in Indian Country, and to augment law enforcement management, administration, and oversight functions. In addition, resources are badly needed for a basic adult and juvenile detention capacity in Indian Country, including the construction, renovation, and operation of detention facilities. Where it is appropriate, funds are needed to contract for additional detention space. Imbedded in the options are several resource-related considerations which are discussed below, along with a discussion of cost estimates.

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Basic Law Enforcement Needs

Given the current estimated population in Indian Country (1,429,800), a total of at least 4,290 sworn officers are needed to provide a minimum level of coverage comparable to that in rural America. Of that amount, about 15 percent should be criminal investigators and 85 percent should be uniformed officers. Adjusting for the fact that Indian lands in P.L. 280 states generally require only limited services from federal criminal investigators, a total of

496 criminal investigators and 3,647 uniformed officers are needed in Indian Country.(19) Therefore, an increase of 226 (from 270 to 496) criminal investigators and 2,047 (from 1,600 to 3,647) uniformed officers would be necessary to meet minimum standards. These increases will be necessary regardless of whether the law enforcement officers remain within a reorganized BIA or are assigned to a new DOJ agency. Also, clerical and support staff eventually would be needed at a level commensurate with the increase in sworn officers.

Additional Assistant U.S. Attorneys (AUSAs) are needed to support the increase in criminal investigators. Based on current standards in Indian Country, 1 AUSA is needed for every 3 investigators. Therefore, an additional 75 AUSAs (and commensurate support positions) are required to support an increase of 226 criminal investigators.

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Detention

Detention needs in Indian Country involve funding for (1) operations, including staff, equipment, and supplies; (2) facilities, including maintenance, renovation, and new construction; (3) inspection and oversight; and (4) training and technical assistance. Most of the 70 jails in Indian Country are old, unsafe, and do not meet basic code requirements. At the same time, demand, especially for juvenile bed space, is rising. Initial costs for construction and renovation can be phased in over several years. The average, expected life of a jail is about 30 years, and most Indian Country jails were built in the 1960s and early 1970s. Once complete, however, about 80 percent of the budget should be for staffing. Funds are needed for augmenting current staffing and upgrading staff capabilities through training and technical assistance.

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Training

It is imperative that law enforcement officers receive full and appropriate training. The range of training options must include curricula and certification for investigators, first responders, jailers, and support staff. Currently, there is no site that can accommodate the needed training programs. Moreover, the training capacity must increase to accommodate a surge in students. Thus, a police academy is needed to handle current and future training needs. While adequate curricula exist, an appropriate site must be identified, such as a recently closed military facility. See Tab E for further discussion.

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Contracting

In 1974, Congress passed, and the President signed, into law the Indian Self-Determination and Education Assistance Act (P.L. 93-638).(20) As amended, this law allows Tribes to enter into contracts for services in Indian Country that the BIA and some other federal agencies perform on Indian lands. Since 1995, the majority of Tribes have contracted all or part of their law enforcement programs, and all funds related to the contracted activity are provided to the Tribe. This includes funding for personnel, operating costs, and the indirect costs of performing the law enforcement function (such as personnel benefits, procurement, facilities management, and so on). For the most part, law enforcement funds are mixed with all other contracted/compacted funds and can be shifted to other needs as determined by the Tribe.

Under any option, the practice of contracting/compacting services must be preserved because it is central to tribal self-determination. Therefore, if the law enforcement function is transferred to DOJ, P.L. 93-638 must be amended to allow the Attorney General to enter into contract agreements with the Tribes. In addition, mechanisms must be put into place to ensure that law enforcement funds are used only for law enforcement purposes.

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F. APPENDIX

TAB A

JUVENILE CRIME AND GANG ACTIVITY

There are two realities that have fueled the rise of juvenile crime on Indian lands during the past several years. First, after decades of stable birth rates, the fertility rate in Indian Country began to rise sharply during the 1970s. The 1990 Census reports that, while 26 percent of all Americans were under the age of 18, 34 percent of the Indian population was in this age group. The Census Bureau estimates this trend will continue, with a projected Indian population of 4.3 million by the year 2050. In the Gila River Indian Community in Arizona, an area struggling with gang problems, approximately one-half of the population is projected to be under 18 by the year 2000.

Second, the old termination policies and the constraints of reservation life have made economic sufficiency and traditional culture more difficult to sustain. American Indian communities confront difficult social and economic conditions not generally characteristic of other U.S. communities.(21) Chronic unemployment, low levels of educational attainment, geographic displacement, and family disruption help foster the rise in juvenile crime now confronting Indian Country.

ealing with Indian Country juvenile crime is complex. Intelligence on Indian youth gangs can be extremely difficult to gather in light of overlapping jurisdictions, geographic remoteness, and understaffed and overworked FBI, BIA, and tribal law enforcement. Where detailed records are kept, the news is not encouraging. A 1997 BIA survey, with 132 participating Tribes, estimates 375 gangs with approximately 4,650 gang members on or near Indian Country. Tribal police on the Menominee Reservation in Wisconsin report two organized gangs and a 293 percent increase in juvenile arrests between 1990 and 1994; for the same period, there was only a 45 percent increase in adult arrests.

Despite similarities, the development and characteristics of urban street gangs appears unlike Indian gangs. Most gangs in Indian Country are not motivated by economic enterprise to the same extent as urban street gangs, but can be as dangerous or more so as they undertake violent acts to acquire status within their ranks. Some of the Indian gang violence can be shocking:

In 1996, a man on the Laguna Pueblo was bludgeoned with a beer bottle, stabbed 72 times, then left with a ritualistic triangle carved on his side.

Also in 1996, on the Laguna Reservation, the nine police officers (who must patrol one-half million acres) were assaulted 34 times, often by juveniles.

In the Salt River Pima-Maricopa community in Arizona, the number of drive-by shootings rose from 1 in 1992 to 55 in 1994.

In October 1996, five members of the East Side Crips Rolling 30s were indicted under the RICO statute with predicates that included murder, arson, and witness intimidation. All, who were members of the Salt River Pima-Maricopa Community in Arizona, were

convicted on May 9, 1997.

Few detention facilities exist in Indian Country that are suitable for juveniles. In short, juvenile delinquents can be arrested, but the lack of detention facilities, probation officers, social services, and other needed programs perpetuates the problem. Not surprisingly, juvenile recidivism in Indian Country is very high. Those programs which are in place are often understaffed and lack adequate funding. As existing juvenile facilities are frequently at capacity, juvenile offenders are often kept overnight and then released to their parents. The Omaha Tribal Prosecutor in Nebraska reported that $30,000 was spent in 1996 housing juveniles at the Wayne, Nebraska, detention center; more than $180,000 has been spent housing juveniles during the first three quarters of FY 1997, which represents a 500% increase in costs.

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TAB B

SEXUAL AND PHYSICAL ABUSE OF CHILDREN

Child abuse has no cultural or socioeconomic boundaries and permeates all societies. Despite the lack of accurate reporting, child abuse is undisputedly one of the most prevalent crimes in Indian Country. According to BIA figures from 1993 to 1995, child sexual abuse is among the top three crimes reported in Indian Country.(22) Indeed, in 1990, after hearings on hundreds of documented child sexual abuse cases at the Hopi, Navajo, and North Carolina Cherokee Indian Reservations, Congress enacted the Indian Child Protection and Family Violence Prevention Act.(23)

To improve our response to these crimes, federal agencies have attempted to improve the protocols for crime reporting, victim services, background checks, and training. For example, within the Navajo Nation, FBI and the Navajo Division of Public Safety have implemented a Safe Trails Task Force. The New Mexico Safe Trails Task Force has five agents and three criminal investigators from the Navajo Division of Public Safety. Eighty percent of the task force's caseload involves the sexual or physical abuse of children. The caseload is so high that the FBI investigates only sexual abuse involving children under the age of 12. Even so, as of October 1997 the Phoenix Division Task Force reported 127 open child sexual abuse cases, in addition to 83 homicide cases. Other felony sexual abuse matters are referred to the Tribe for investigation and subsequent referral to the U.S. Attorney's Office.

Other efforts include memoranda of agreements between federal, state and tribal authorities to streamline the reporting and investigation of child abuse. Since 1995, pursuant to a formal agreement between FBI and OLES, fingerprint checks have been conducted on tribal employees whose duties and responsibilities allow them regular contact with or control over Indian children.

An inherent difficulty in child sexual abuse investigations is the lack of physical evidence. In one study, experts found that in more than 85 percent of all child sexual abuse cases there was no physical evidence of abuse. Defense attorneys frequently attack interviews of children as suggestive, and investigations are often criticized as inadequate.

Despite attempts to quell child abuse through increased training, multidisciplinary approaches, and prosecution, child abuse continues to threaten Indian Country's most precious resource. Under-reporting continues to mask the toll that child abuse continues to take in Indian Country. Children are reluctant to disclose sexual abuse because of fear and retaliation. Particularized training is necessary to recognize signs and symptoms consistent with child abuse. Support systems must be in place for those victims and their families who

come forward. For example, in a recent case, a child victim and her family were forced out of their community and had to live in a hotel for over nine months while they awaited trial of the defendant, a prominent tribal leader.

Like child abuse cases nationwide, most child abuse cases in Indian Country involve a family member, acquaintance, or other authority figure. Recently, a jailer was convicted of sexually molesting a 14-year-old inmate. Now, at an increasingly disturbing rate, more juveniles are committing sexual crimes against children.[24] One of the most egregious pedophile cases in history involved a non-Indian school teacher employed by BIA boarding schools. Non-Indians pose unique problems for Indian communities because tribal law enforcement has no criminal jurisdiction over them.

Treatment for both victims and offenders, especially juveniles, are limited. Facilities available through BOP contractors, Federal Probation, and the Tribes, cannot accommodate the disturbing increase in these cases. Given that child abuse occurs at an alarming rate, the issue for the federal government, in meeting its trust responsibility to Indian people, is to ensure that the needed prevention and intervention capabilities increase accordingly.

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TAB C

SUBSTANCE ABUSE

Alcohol remains the most pervasive substance abuse problem in Indian Country. Its destructive effects range from homicides to fetal alcohol syndrome. Although data are incomplete, there is broad consensus among Indian Country law enforcement personnel that the vast majority of violent assaults on children, spouses, and others involve excessive alcohol consumption.

Substance abuse, and our lack of an effective response, directly contribute to rising violence on Indian lands in America. Compounding the problems related to alcohol abuse is the growing use of illicit drugs, especially marijuana and methamphetamine, primarily among young people. The drug problem is spreading -- it is no longer confined to a few reservations near urban areas. Informal surveys of law enforcement officers and prosecutors indicate that a significant percentage of thefts and violent crimes in Indian Country are related to drug or alcohol abuse.

Federal investigators agree that marijuana and methamphetamine are the illicit drugs of choice in Indian Country. Marijuana is often cultivated in remote areas of Indian Country, for later distribution both on and off Indian lands.[25] In addition, the BIA reports an alarming trend of methamphetamine manufacture and consumption on Indian lands. In 1996 alone, BIA seized two clandestine methamphetamine labs, including 12 gallons of methamphetamine oil.

Indian Tribes face unique impediments to effective drug enforcement in that Tribes have no jurisdiction to prosecute non-Indians who commit crimes on Indian lands. As a result, only state and federal courts have jurisdiction to prosecute non-Indians who sell illicit substances on the reservation. However, because the quantities are usually below minimum thresholds for federal prosecution, and because state courts are not often receptive to such prosecutions for a variety of reasons, many non-Indian traffickers operate with impunity.

Tribal justice systems often lack the resources to deal with these cases effectively. The tribal obstacles are twofold: statutory and financial. First, the Indian Civil Rights Act limits tribal criminal sentences to no more than one year in custody and a $5,000 fine, regardless of the crime. This maximum sentence has little deterrent value.

Second, and more importantly, only a small percentage of the 558 federally-recognized Tribes have the resources actually to incarcerate convicted offenders because few Tribes have access to affordable detention facilities.

Tribal judges can adjudicate offenders, but lack viable options because of inadequate detention facilities, intermediate sanctions, and substance abuse treatment programs. Many drug offenders are put on tribal probation, yet there are not enough probation officers to handle the growing caseloads.

Federal prosecution is also problematic. Local drug organizations are aware that most U.S. Attorneys' offices simply do not have the resources to handle large numbers of small marijuana or methamphetamine cases. In addition, some federal judges perceive that such cases are inappropriate for adjudication in federal courts. Unfortunately, the reality is that drug trafficking activities on a reservation may have a disproportionate impact in relation to the size of the community and the quantity of drugs being distributed. A trafficker whose weekly supply is a couple of pounds of marijuana and some "crank" (methamphetamine) can create significant problems in a small rural community where jobs and constructive activities are scarce.

Without the range of prevention, intervention, and enforcement tools that are common in non-Indian communities, Indians must rely more on federal drug enforcement. One positive development is that more U.S. Attorneys who have Indian lands within their districts are more sensitive to the special drug enforcement needs of Indian Tribes. Where possible, minimum drug thresholds are relaxed for Indian Country cases. Thus, Indian Country U.S. Attorneys have made an effort to target the worst offenders on reservations and file federal cases that can make an impact beyond the immediate effects on the individual defendants.(26)

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TAB D

DETENTION

Detention operations in most Indian Country jails fall far short of basic professional and BIA detention standards. This results from a chronic shortage of operating funds, training, and technical assistance. Operations are substandard in such critical areas as staff and inmate safety; inmate supervision and management; inmate services and programs; fire safety; hazardous substance control; sanitation and pest control; and preventive maintenance. The design of many of these old jails presents diverse health hazards, including an inability to isolate inmates with communicable diseases such as tuberculosis. Most jails do not have written operations policies and procedures, nor do they have adequate systems of documenting operations.

On average, about 80% of a jail's operating budget is dedicated to staffing, but most Indian Country jails have insufficient staff to perform all security, custody, and ancillary functions inherent to jail operations. If staff cannot supervise inmates, they also cannot prevent escapes, suicides, assaults, and vandalism. Moreover, of all law enforcement personnel in Indian Country, detention officers receive the lowest pay and the fewest career opportunities, conditions which contribute to extreme staff "burnout" and high turnover. Detention staff also suffer from inadequate training because staffing levels are low and people cannot be spared to attend training, and because training costs are relatively high. There is a pervasive lack of funding, equipment, and supplies for such areas as security, safety, sanitation and hygiene, inmate services and programs, record keeping, and jail administration. Finally, little technical assistance has been available to Indian Country jails

from the federal government.[27]

Deficient jail operations are accompanied by completely antiquated and inadequate jail structures, which contribute to high suicide rates.[28] Most Indian Country jails were designed without consideration for their population: facilities usually were built with a high-security design, while the population typically consists of misdemeanants who are usually cooperative when sober. Most inmates in Indian Country jails are sentenced for misdemeanor offenses, usually related to alcohol-abuse. Although inmates can be sentenced for up to one year for a tribal offense (and longer for multiple counts), most serve less than one year. A minority of inmates are felony offenders who are held until they are transferred to federal facilities.

Most Indian Country jails are in such poor condition that they are out of compliance with building codes as well as professional and BIA jail standards.[29] As part of its technical assistance program, NIC has conducted reviews of some Indian Country jails and cited serious physical plant deficiencies in terms of safety, security, and conditions of confinement. Although tribal judges have been commended for innovative sentencing to community service and their use of alternative sanctions, many Indian Country jails are extremely crowded, especially on weekends and during tribal celebrations, and bed space is scarce. Even worse off are Tribes which lack facilities altogether and must transport prisoners to other locations.

This broad array of detention problems is a direct result of inadequate funding. In the critical area of construction, for example, no new construction funds were appropriated for fiscal years 1996 and 1997. In the past nine years, the BIA has been able to construct only five jails and provide limited repairs to others.

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TAB E

TRAINING NEEDS

Presently, most uniformed police officers attend the BIA Indian Police Academy (IPA) at Artesia, New Mexico. It is a satellite facility of the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, operated by the Department of the Treasury. The basic police officer course is run three times a year for 16 weeks. Each session has 50 students, with 52 beds available at the IPA during any one time. A waiting period of one year currently exists to receive training at the IPA.

According to the IPA staff, the attrition rate of new officers is approximately 50 percent. In addition, of the officers who graduate, approximately 50 percent leave Indian Country law enforcement within two years.

No present federal law enforcement academy, including the Glynco facility, can train the number of officers projected for this initiative. Either creating a new training facility to replace the current IPA, or acquiring a second academy will be necessary. The need for a greater capacity reflects both the projected surge of new law enforcement officers and the high turnover rate among Indian Country police officers.

Any new facility should be accessible to land and air transportation. The facility could be associated with a university or tribal college that could be used as a resource and means for attendees to obtain college credits for courses received. Ideally, it should be large enough for a driving course and a firearms range. In addition, the new academy could be affiliated with a laboratory structure that can address the forensic needs of Indian Country.

Tribal police and detention officers are often sent to the training academies of various states. A component of any new training unit should be created to help certify that these officers meet federal standards. In addition, this group should work with the police officer standards training (POST) commission of each state so that training received by officers at the IPA is accepted by that state.

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TAB F

SUMMARY OF PRELIMINARY CONSULTATIONS WITH TRIBES

The Executive Committee has summarized below the concerns expressed by the Tribes during the recent consultation process. We have chosen to express those concerns as questions.

TRIBAL CONCERNS

Q. Contracting/Compacting. If the functions are moved to DOJ, what would happen to self-determination and self-governance compacting?

A. If functions are transferred, DOJ will seek the necessary legislation to protect the rights of Tribes to contract or compact in much the same way as they now do under BIA. DOJ believes that this is a necessary prerequisite.

Q. Indian Preference. Given the restrictive Supreme Court interpretation of the Indian Preference clause, would DOJ need and seek statutory authorization for Indian hiring preference?

A. As a necessary part of legislation enabling the transfer, DOJ will seek such legislation.

Q. Scale of Possible Transfer. Could specific agencies or Tribes opt in or out of the transfer of certain functions to DOJ? Or will any transfer be nationwide?

A. Opting in or out would be organizationally unmanageable and would conflict directly with our overarching goal of reducing the fragmentation and diffusion of law enforcement services that now compromise their effective delivery.

Q. P.L. 280. Do these proposals envision any changes in 18 U.S.C. § 1162?

A. In order to stay focused on securing essential funds to improve law enforcement services through a more responsive organizational structure, we do not plan to ask for any changes in P.L. 280.

Q. Tribal Criminal Jurisdiction. Would centralization of law enforcement functions, especially in DOJ, further erode tribal criminal jurisdiction?

A. We do not believe that centralization of law enforcement functions, either in BIA or in DOJ, will erode tribal criminal jurisdiction. Our goals of strengthening both federal and tribal law enforcement at the same time are compatible. For example, tribal officers (whether provided directly or by contract) not only maintain order and enforce tribal codes, but also are the typical "first responders" to serious crimes that may fall under federal jurisdiction.

Q. Trust Responsibility. If there is a transfer, what happens to the trust responsibility that now rests with the BIA?

A. That trust responsibility binds the entire Executive Branch, not just BIA. Reflecting that trust responsibility, DOJ has written a Directive (June 1, 1995) that guides its work in Indian Country and **will remain in force** regardless of who the next Attorney General may be. At the same time, we recognize that there are always transitional issues associated with any government reorganization.

Q. Funding Formula. What funding formula will DOJ use to assign law enforcement personnel? Will the financial status or land area of Tribes be considered?

A. We have no firm answers to this at such an early stage. Violent crime rates, size, and population will be among the factors considered. However, the Justice Department has taken a position on "means testing." In a July 22, 1997 letter to Senator Stevens, DOJ "strongly opposed" the "means testing" provision in Section 118 of the Interior Appropriations Bill as "contrary to the United States' longstanding protection of tribal self-government and the Federal trust responsibility...."

Q. Funding. How much additional money is being requested by category (detention, investigators, etc.)? Does this amount change much depending on which agency is mandated to carry out these responsibilities?

A. See the section on Cost Estimates supra.

Q. Law Enforcement and TPA Accounts. If funds in the "638" law enforcement contracts are unused, will they revert to the TPA allocation system and be available for other non-law enforcement programs or will the funds simply be returned to the Treasury?

A. Each Tribe's current law enforcement TPA allocation will form the baseline for that Tribe's law enforcement budget. Additional funds, representing the 350% increase over five years proposed by the Executive Committee, will supplement this baseline amount. Also, we will recommend that the Administration seek "no year" funding authority for these funds so that they may be reserved for law enforcement purposes.

Q. Training. How will BIA or DOJ increase access to training for law enforcement officers?

A. There will be adequate funding to train all additional officers and investigators at a federal or appropriate state facility. (See Tab E.)

Q. Tribal Courts. Is DOJ considering a request for oversight of tribal court programs? What is planned to strengthen tribal courts?

A. No, that responsibility will remain with BIA. DOJ is requesting $10 million for FY 1999 and BIA is asking for

$11.1 million to aid tribal courts through a variety of programs, including drug courts, special grants, and technical assistance.

Q. Law Enforcement Responsiveness to Local Needs. If investigative and local police functions are centralized in DOJ, how will each Tribe be able to express their views on law enforcement problems and priorities? Will ICIS or OLES investigators investigate tribal crimes?

A. DOJ plans to create liaison positions to assure that community accessibility and tribal input on local law enforcement issues and priorities are maintained. Also, community policing will be emphasized. Federal investigators will continue to investigate serious crimes. Uniformed officers will continue to enforce tribal laws. Whether the subsequent case is presented in federal or tribal court is, and will continue to be, a prosecutorial decision.

Q. DOJ Cultural Sensitivity. If there is a transfer, how will DOJ compensate for its lack of demonstrated experience with Indian Country law enforcement issues?

A. Under Attorney General Reno's leadership, DOJ has worked hard to improve law enforcement in Indian Country. Assistant U.S. Attorneys have been designated as tribal liaison; the Office of Tribal Justice was created in 1995 to serve as liaison with tribal governments; the Criminal Division has developed a pilot program to improve coordination of Indian Country law enforcement matters; the FBI has established an Office of Indian Country Investigations and has dedicated increased manpower to fight violent crime; and the COPS Office as well as the Office of Justice Programs have substantially increased assistance to Indian Country. Finally, U.S. Attorneys have been prosecuting serious crimes in Indian Country since passage of the Major Crimes Act in 1885.

Q. Impact on BIA. Would a transfer of law enforcement functions to DOJ impair BIA's ability to fulfil their broad mandate as the focal point for government-to-government relations between the United States and Indian Tribes?

A. No. Currently, DOJ works closely with BIA in its central role in fulfilling the federal trust responsibility and will continue to do so regardless of whether BIA law enforcement functions are transferred to DOJ. BIA will remain the core Indian agency in the Executive Branch.

Q. Youth Crime and Treatment. Many Tribes are concerned that more must be done to help at-risk youth and to treat offenders, when appropriate, and reintegrate them into the Tribe. Does DOJ plan to help in this area?

A. Although not the focus of this initiative, DOJ is asking for $30 million in FY 1999 for drug testing and treatment, as well as prevention and intervention for Indian youth.

Selected Excerpts

Albert Hale, President, Navajo Nation: "...the threshold issue is expanding the ability to 638 contract over to the Department of Justice."

Gregg Bourland, Chairman, Cheyenne River Sioux Tribe: "...these kids think that they're above the law. 'I'm sixteen years old. I'm above the law. I'm in a gang, but they're going to baby me around in tribal court.'"

Eddie Tullis, Chairman, Poarch Creek Band of Creek Indians:

"I am of the opinion that law enforcement is such a complicated issue that if you have the investigative services on one side and then you have the uniformed police officers in another, you're asking for some real conflicts to develop from an operational point of view."

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TAB G

OUTCOMES OF THE CONSULTATIONS

TRIBAL PREFERENCES

BIA ICIS

Formal Responses	Informal Responses	Formal Responses	Informal Responses
Arizona	*Arizona*	*Arizona*	*Alabama*
*Colorado River	Pascua Yaqui	*Tohono O'odham	*Poarch Creek
*Navajo Nation			
*Salt River			
Pima-Maricopa			
*White Mountain			
California	*Iowa*	*Colorado*	*Minnesota*
Cortina Rancheria	Meskwaki Tribe	Ute Mountain Ute	Leech Lake
Nevada	*Louisiana*	*Idaho*	*Montana*
Duck Valley	*Chitimacha	*Nez Perce	*Fort Peck
	*Coushatta		
	*Tunica-Biloxi		

*Denotes contracting or compacting tribes for any and all law enforcement functions (including 6 self-funded tribes)

BIA ICIS

Formal Responses	Informal Responses	Formal Responses	Informal Responses
Oklahoma	*Minnesota*	*Maine*	*Nevada*
Caddo Tribe	Upper Sioux	*Passamaquoddy Pleasant Point	**Inter-Tribal Council**
*Cherokee		*Passamaquoddy Township	Battle Mountain
Chickasaw Nation		*Penobscot	Carson Colony
*Choctaw Nation			Dresslerville Colony
*Kaw Tribe			*Duckwater
Modoc Tribe			Elko Colony
*Muscogee(Creek)			*Goshute Paiute UT/NV
*Pawnee Tribe			Moapa River
Seminole Tribe			South Fork
			Stewart Colony
			Summit Lake
			*Walker River
			Wells River
			Winnemucca Colony
			Woodfords Colony
			Yomba Colony
			*Yerington Colony
			Representing Council
			*Ely Indian Colony
			*Fallon Colony
			Fort McDermitt
			Lovelock Colony
			*Pyramid Lake
			*Reno-Sparks Colony
			*Te-Moak W. Shoshone
			*Washoe

BIA ICIS

Formal Responses	Informal Responses	Formal Responses	Informal Responses
Washington	*Mississippi*	*New Mexico*	*South Dakota*
*Colville	*Choctaw	*Taos Pueblo	*Cheyenne River
*Yakama			
	Nebraska	*North Dakota*	*Washington*
	Winnebago Tribe	Three Affiliate Trbe	*Lower Elwha
	*Omaha Tribe	Turtle Mountain *Sisseton-Wahpeton Spirit Lake Nation Standing Rock Sioux	
	New Mexico	*Oklahoma*	*Wisconsin*
	*Acoma Pueblo Cochiti Pueblo *Isleta Pueblo Jemez Pueblo *Laguna Pueblo Mescalero Apache *Ramah *San Juan Pueblo *Sandia Pueblo *Santa Ana Pueblo Santo Domingo Pueblo *Zia Pueblo *Zuni Pueblo	*Absentee Shawnee	*Menominee
	Oklahoma	*South Dakota*	
	*Cheyenne-Arapaho Miami Tribe *Wyandotte	*Oglala Sioux	

BIA ICIS

Formal Responses	Informal Responses	Formal Responses	Informal Responses
	Oregon	*Washington*	
	*Burns Paiute *Coquille Community *Grand Ronde *Siletz *Umatilla *Warm Springs	*Quinalt	
	South Carolina		
	Catawba Tribe		
	Washington		
	*Swinomish *Squaxin Island *Puyallup *Skokomish *Upper Skagit *Port Gamble S'Klallam		

NO POSITION

Arizona

*Ak-Chin
*Cocopah
*Fort McDowell
*Fort Mohave
Gila River
Havasupai
Hopi
Hualapai Tribe
*Kaibab-Paiute
Quechan Tribe
*San Carlos Apache
San Juan Southern Paiute
Tonto Apache
Yavapai-Apache
Yavapai-Prescott

California

*Hoopa Valley
Mooretown
Pit River Tribe
Quartz Valley
Redding Rancheria
Tule River
Twenty-Nine Palms
Wiyot Tribe

Colorado

*Southern Ute

Florida

*Miccosukee
*Seminole Tribes

Idaho

*Coeur D'Alene
Shoshone-Bannock Tribes

Kansas

*Iowa

*Kickapoo
*Prairie Band Potawatomi
*Sac and Fox

Michigan

*Bay Mills Chippewa
*Grand Traverse
*Hannahville
*Keweenaw Bay Indian Community
*Lac Vieux Desert
Little River Band
*Little Traverse Bay Bands
*Saginaw Chippewa Tribe
*Sault Ste. Marie

Minnesota

Bois Forte
Fond du Lac
Grand Portage
Lower Sioux
*Mille Lacs
Prairie Island Community
*Red Lake Band
Shakopee
White Earth

Montana

*Blackfeet
Crow
*Fort Belknap
Northern Cheyenne
*Rocky Boy
*Salish and Kootenai

Nevada

*Las Vegas Colony

New Mexico

*Jicarilla Apache

Nambe Pueblo
*Picuris Pueblo
*Pojoaque Pueblo
San Ildefonso Pueblo
*Santa Clara Pueblo
*Tesuque Pueblo

New York
Cayuga Nation
*Oneida
Onondaga
Seneca Nation
*St. Regis Mohawk
Tonawanda
Tuscarora Nation

North Carolina
*Eastern Cherokee

Oklahoma

Alabama Quassarte Tribal Town
Chickasaw Nation
*Citizen Band Potawatomi
*Comanche Tribe

*Iowa

*Kickapoo Tribe
*Ponca
*Sac and Fox
Seneca-Cayuga Tribe
Thlopthlocco Tribal Town

South Dakota

*Crow Creek Sioux
Flandreau Santee Sioux
Lower Brule
*Rosebud
Yankton

Texas

Alabama-Coushatta
Kickapoo
*Tigua (Ysleta del Sur Pueblo)

Utah

Paiute Indian Tribe
Uintah and Ouray

Washington

*Kalispel
*Makah
Spokane

Wisconsin

*Oneida
Stockbridge-Munsee

Wyoming

Eastern Shoshone
Northern Arapaho

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TAB H

EXECUTIVE COMMITTEE (EC) FOR INDIAN COUNTRY

LAW ENFORCEMENT IMPROVEMENT (FORMERLY ICIS)

LIAISON WITH CONGRESS, THE WHITE HOUSE, AND CABINET OFFICERS

David Ogden (DOJ) and Anne Shields (DOI)

THE EXECUTIVE COMMITTEE

Name	Phone	Fax
Co-Chairs:		
Kevin Di Gregory (DOJ)	202-514-9724	514-6034
*Hilda Manuel (BIA)	202-208-5116	208-5320
Members:		
*Tom LeClaire (DOJ-OTJ)	202-514-8835	514-9078
*Ted Quasula (BIA-OLES)	505-248-7937	248-7905
*Derril Jordan (DOI-SW)	202-208-3401	219-1791
Tim Vollmann (DOI-HQ)	505-883-6700	883-6711
*Ron Allen (S'Klallam)	202-466-7767	466-7797
*Mary Thomas (Gila River)	520-562-6000	562-3422
*Phillip Martin (Choctaw)	601-656-5251	656-1992
*Bill Anoatubby (Chickasaw)	405-436-7204	436-4287
*W. Walksalong (Cheyenne)	406-477-6284	477-6210
*Roland Johnson (Laguna)	505-552-6654	552-6941
Janet Napolitano (USA)	602-514-7576	514-7670
John Kelly (USA)	505-766-3341	766-5574
S. Matteucci (USA-Alt)	406-657-6101	657-6989
Mike Roper (DOJ)	202-514-1843	514-1778
Steve Wiley (FBI)	202-324-4188	324-3089
Pat Sledge (BOP)	202-514-8585	307-0215

STAFF TO EC

Director:		
* Phil Baridon	202-514-2659	514-9087
Members:		
Soo Song (OTJ-20%)	202-616-9040	514-9078
T. Toulou (MT AUSA-25%)	406-247-4629	657-6989 x185
* K. Bliss (NM AUSA-25%)	505-766-2868	766-8517 x138
S. Kimball (NM-AUSA-20%)	505-766-2868	766-2127
Mikki Atsatt (DOJ/BS-15%)	202-616-3786	514-3333
* Brent LeRocque (OLES-25%)	505-248-7937	248-7905
* Dave Nicholas (BIA-25%)	202-208-5039	208-6170
* Craig Jones (BIA-10%)	505-746-5752	748-8162
June Kress (COPS-50%)	202-616-2915	616-9612 x140
Ginny Hutchinson(NIC-15%)	303-682-0639	682-0469
Joe Lodge (AZ AUSA-15%)	602-514-7565	514-7693
* Walt Lamar (OK FBI-20%)	405-290-7770	290-3885
Mark Donahue (FBI-HQ)	202-324-3366	324-2731
Beth Luedtke (DOJ-100%)	202-514-4669	514-9087

Enrolled tribal members.

Footnotes:

1. This Committee includes tribal leaders and representatives from DOI and DOJ. See the full list at Tab H.

2. Of all issues discussed by the Executive Committee, tribal leaders held the strongest

views on these two issues. The Tribes have made it very clear that assurances are mandatory that present contracting/compacting and Indian preference policies will continue.

3. The FBI, however, will continue to play an important role in Indian Country, and no proposal envisions any change in their statutory authority.

4. Today, federal law enforcement is the only protection for victims of violent felonies in most of Indian Country. The federal government has a basic responsibility to preserve public safety in all of Indian Country. In general, this responsibility derives from the unique trust relationship between federal and tribal governments, as well as specific statutory provisions such as those that mandate exclusive federal jurisdiction for "major crimes," including murder, rape, robbery, and child abuse. (See 18 U.S.C. § 1152-1153). Moreover, the 1994 Crime Act has expanded federal criminal jurisdiction in Indian Country in such areas as guns, violent juveniles, drugs, and domestic violence. In states covered under 18 U.S.C. § 1162 (P.L. 280), such as California and Alaska, baseline law enforcement services are provided by the state, and Indian Tribes have concurrent authority over crimes by Indians.

5. Homicide and Suicide Among Native Americans (1979-1992) at 17. A report by The Indian Health Service in cooperation with the National Center for Injury Prevention and Control (1996).

6. Based on data from FBI Uniform Crime Reports and BIA Annual Law Enforcement Reports.

7. See, for example, the Report of the Task Force on Indian Matters, U.S. Department of Justice, October 1975.

8. This Committee includes tribal leaders and representatives from DOI and DOJ. See the full list at Tab H.

9. This figure does not include Alaska, which has a large indigenous population and 226 Tribes. However, only one small Tribe in Alaska (the Metlakatla) is under federal jurisdiction. Alaska does have tribal police and a serious crime problem. While Alaska Natives represent 16 percent of the state's population, they account for 34 percent of the prison population. According to Crime Reported in Alaska 1995 (Alaska Department of Public Safety), death rates for Alaska Native males from homicide and legal execution were 2.3 times those of white males.

10. Based on data from FBI Uniform Crime Reports and BIA Annual Law Enforcement Reports.

11. [11] Report No. 96-16, September 1996. For example, in 1996 only 32 percent of the Tribes submitted official crime reports to the BIA. Much information comes from informal surveys.

12. [12] According to the BIA Office of Law Enforcement Services, more than 100 positions were lost during the 1995 RIFs. This includes 30 criminal investigators, 55 police officers, 16 jailers, and other essential support personnel. These BIA funding cutbacks also cause parallel reductions in law enforcement services provided by the Tribes. Although those lost were permanent personnel, the three-year grants by the COPS Office have helped increase the uniformed police presence on some reservations.

13. [13] Using the 1990 census, the BIA reports that only 24 of the 558 federally-recognized Tribes numbered more than 10,000. Hence, this is the nearest possible comparison.

14. Although the FBI has assigned additional agents to help compensate for the loss of BIA criminal investigators, they normally work out of resident agencies or satellite offices that are not close to the Tribes they serve. For example, agents assigned to the FBI office in Gallup, N.M., report that it is not unusual to travel three to six hours for a single witness interview.

15. The Navajo Nation favors the BIA option but suggests "that OLES be elevated within (DOI) to a level equal with the several bureaus in (DOI), such as BIA, Bureau of Reclamation, Land Management, etc." In addition, the Navajo Nation believes that a DOJ office should be created to provide "a comprehensive interface between the DOI/BIA and USDOJ...to ensure coordination of the full range of services needed to support an enhanced law enforcement system in Indian Country."

16. Once an option is selected, a performance plan that will establish goals and measures of results will be developed, as mandated under the Government Performance Results Act (GPRA).

17. This problem was highlighted in an Oversight Hearing before the Subcommittee on Native American Affairs on the Indian Law Enforcement Reform Act, March 18, 1994. H.R. Doc. No. 103-74, p.50.

18. This may include whether technical corrections are needed in the Indian Law Enforcement Reform Act of 1990. For example, one area of interest is Sec. 5, 25 U.S.C. § 2804, relating to cross-deputization agreements.

19. At 15%, the number of criminal investigators needed would be 644. However, this figure was reduced to 496 to take into account the 23% of tribal population that is covered by P.L. 280 and thus would not need additional federal criminal investigators. For example, approximately 100,000 Alaskan Natives would be eligible for additional police officers, but not a corresponding increase in criminal investigators, because the state is responsible for criminal investigations.

20. [20] Title I, § 102, 102 Stat.2285, as amended by P.L. 103-413, P.L. 103-435, and P.L. 103-437.

21. [21] BIA Strategic Plan, August 1997.

22. For example, in the BIA Phoenix area, which includes Nevada, 131 sexual abuse offenses out of 413 total offenses were reported in calendar year 1995. This figure does not reflect all incidents, since fewer than half of the Tribes provided crime data during those years.

23. [23] Codified at 18 U.S.C. § 3201 et seq. Congress expressly found that throughout Indian Country there was gross under-reporting of child abuse, repeated incidents of child abuse perpetrated by federal employees, a complete failure by the federal government and Tribes to conduct criminal background checks for child care providers and teachers, and de minimis funding of counseling and other victim services.

24. Examples include a 16-year-old step brother who sneaked into his seven-year-old step sister's bedroom each night to fondle her under her pajamas; two cousins, one 14, the other 16, who sodomized two neighborhood children because "they thought it would be fun;" a 14-year-old boy who, left to babysit an eight-year-old girl and her six-year-old brother, threw the girl down to the floor and raped her; and two 16-year-old brothers who raped girls in the community and then tattooed them. Other tragic examples of child abuse abound.

25. In 1995, BIA seized 13,793 **cultivated** marijuana plants from many Indian reservations

throughout the United States. Almost as many (11,884) were seized in 1996.

26. For example, the U.S. Attorney's office in the Eastern District of Wisconsin recently coordinated an extensive investigation of a drug trafficking organization on the Menominee reservation. The investigation included the first Title III wiretap on an Indian reservation, culminating in two multi-count indictments charging 27 people with various federal narcotics offenses, including ten who are subject to five-year mandatory minimum penalties. Similarly, on September 4, 1997, 22 individuals were arrested on federal drug trafficking charges resulting from a seven-month, joint-agency undercover investigation on the Pine Ridge Reservation in South Dakota. The marijuana purchased in that investigation will expose some defendants to five-year minimum sentences. Other U.S. Attorneys' offices, especially in the Southwest, are also making an effort to coordinate investigations, search warrants, and federal indictments directed at drug traffickers on Indian reservations.

27. The BIA has only one detention specialist position, which has proven inadequate to provide the level of service needed to help jail staff effectively manage and operate their facilities. Additional technical assistance has been provided through the Justice Department's National Institute of Corrections (NIC). NIC, however, has a very limited budget which must provide technical assistance and training to prisons, jails, probation, parole, and community corrections facilities nationwide. Services to Indian Country jails constitute only a small percentage of NIC's yearly assistance.

28. Most Indian Country jails are of a linear design, meaning cells are arranged in a row and sit at right angles to a corridor. Bars or security doors separate the cells from the corridor. Staff observe the inmates in their cells by "patrolling" the corridor at irregular intervals. This design has proven to be a hindrance to even the most basic of jail operations, including inmate observation, supervision, and management. Under ideal conditions staff would patrol the corridor at least every 30 minutes. Staffing levels often result in patrol intervals that are much longer.

29. In 1995, the BIA contracted with a consultant to conduct needs assessments on 34 BIA-owned facilities. The firm concluded that many facilities are beyond repair and should be replaced. The BIA's Division of Safety Management, the Indian Health Service, and some tribal courts have recommended or ordered that facilities be repaired or closed. Very recently, the Federal Court, District of Colorado, ordered the BIA to make major repairs to the BIA jail on the Ute Mountain Ute Reservation.

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REMARKS OF
ATTORNEY GENERAL JANET RENO
BEFORE THE
INDIAN SELF-DETERMINATION SUMMIT
WEDNESDAY, SEPTEMBER 6, 2000
GRAND BALLROOM, MONARCH HOTEL
WASHINGTON, D.C.
P R O C E E D I N G S

Introductory Speaker: It is my great honor to introduce and welcome the Attorney General to the summit that we have all worked so hard to do. The summit, as you know, Madame Attorney General, is the Indian self-determination summit on tribal strategies to reduce alcohol, substance abuse and violence. We are very happy that you joined us here.

I'd like to start your introduction by saying thank you. I'm very honored to greet you and introduce you this morning. About five years ago you hosted the first of about four or five listening conferences throughout Indian country. And you came to the Pueblo Hamus and we did a village meeting at the Pueblo Hamus and you were joined by several of your federal partners.

Nearly the entire pueblo was there that was living resident in the community including my father and mother, Joy and Juan Ahacos. They're joined today by my other parents who have taught me how to love their son who they raised Isabelle and Louis Melton and all of the people from across the country who went and heard you speak to us about your commitment. And you've brought great news to us about all the things that Indian people have to look forward to while you were in office.

We have been able to witness the commitment and the hard work that you have provided for us. Since that time that you were in Hamus, the people of my community know you as the bearer of hope, and I've told you this before a couple of times, and you have shown us and we have been very grateful for all of the things that you have done. In this time, we know that you only have about four more months here, we are all here, my parents are here, I brought them here, they greeted you as you started, they're here to pray with you and pray for you so that you will have all of the strength that you've been showing us will just multiply in the last four months that you are here.

Ladies and gentleman, Madame Attorney General -- this is the first woman Attorney General of the United States. In her career she has focused her energies on combatting and reducing crime and violence by incarcerating serious repeat offenders, focusing much of her energy on early intervention to keep children from being harmed, to help children who are in trouble or who are troubled. She's gained much of her own personal experience and knowledge as a prosecutor for Dade county in Florida, that's where she first met many of the Indian Nations from that community because her mother also worked among the Indian people.

She has focused attention on prevention to enable children to grow up in a safe constructive environment. She has helped to reform the juvenile justice system and pursued delinquent fathers for child support payments. Ms. Reno also has helped to establish many of the drug courts that are across the country and especially the one in Miami. These are all, and

some, a few of the accomplishments that she has conducted. At this time, I'd like to welcome Ms. Reno to the podium.

Ms. Reno: Thank you so much. It is a privilege and an honor for me to be here today with you. We come to see what we can do together to reduce alcohol abuse, substance abuse and violence in the Indian country. Some people say that that can't be done. But people said we couldn't reduce violence in America. And it's now down eight years in a row, because people came together, they focused not just on punishment but on prevention. They worked not to get credit, but to help make America safer and freer. We can become complacent overall in this nation and we'll watch the crime rate go back up, but if we address the issue in a thoughtful bipartisan way, recognizing that these problems are not a Republican or a Democratic, they are a problem of the people and the people must come together to solve them.

Today, there are over 400 tribal leaders and practitioners representing a hundred different Indian tribes from the high school flame keepers of Cherokee North Carolina to my friends from Kinez Pueblo and to the Sitka tribe of Alaska.

What Ada didn't tell you, and she has been a good friend and a good advisor, is that the young people from the pueblo took a relay race across the country one leg after another to come visit me in the conference room in the Department of Justice seeking further efforts on the part of the federal government to honor their elders, to give hope to their young people, and it is the spirit of those young people that is with us today.

They are an example of the fact that we can do anything we really want to if we put our mind to it, and if we accept some very firm principles. First of all, the first principle is the federal government is far more effective when its different departments work together, and today, this summit is being sponsored by five federal departments, Housing and Urban Development, Health and Human Services, Interior, Transportation, and Justice. When you bring them together so that you don't have to go from one to the next to the next, we can be much more effective.

In addition, the White House office of national drug control policy and from the Senate committee on Indian affairs are also participating. Throughout the federal government, there are programs designed to address alcohol and substance abuse, the BIA, HHS, HUD and DOJ all have them. Let's make sure that we collaborate and cooperate in putting these programs into effect so that we don't engage in costly duplication, so that we're not redundant in our efforts, and so that we evaluate our programs to see what's working and what's not working and make a difference.

We have an ongoing dialogue with the Bureau of Indian Affairs and the Indian Health Service concerning alcohol and substance abuse and violence. We are currently working on demonstration efforts to address alcohol abuse in Indian country. The office of juvenile justice and delinquency prevention is working cooperatively on a circles of peer project with HHS' substance abuse and mental health services administration. On January the 7th of 1999 the White House announced the tribal youth and mental health and community safety project.

Again, a collaborative effort by Education, HHS, Interior and Justice to address tribal youth needs in the home, the school, the community, and in the justice systems. We hope that this model project which brings the forces of government together in a constructive effort will be the way we deal with issues for the future.

The Department of Justice is also seeking to include Indian tribes' general programs to break the cycle of substance abuse and violent crime. For example, 15 indian tribes received under the drug free community

support program funded by ONDCP and administered by the office of juvenile justice and delinquency prevention. The program will require again collaboration within the community, government agencies, nonprofit groups, and service providers to prevent the use of drugs and their abuse by young people.

Ada has mentioned the drug court program. We're trying to make sure that that program is shared throughout Indian country. It operates on the good old carrot and stick approach, let us give you an opportunity, let us give you good resources to address the problem, and then let us expect that if you don't accept these opportunities, you will be held accountable in an appropriate way.

One of the most encouraging things to me, I kept asking what is being done, what is the latest research, what is working, what is not working in Indian country, and last December I met with representatives of Interior, HUD, IHS, and Sampson and Dr. Phil May of the University of New Mexico. I asked, how could the Department of Justice address this problem. What can we do, how can we work together? It was very interesting. And it was at this point that I believed we could make a difference.

One of Dr. May's answers was to help share the most current research information and lessons being learned in Indian country. Help find and discuss the programs that are working in Indian country. Create a forum for tribal leaders and practitioners to talk about what works and what does not work.

In response to this answer, the Department of Justice in cooperation with the national crime prevention council, BIA and the Indian Health Service held a conference in Seattle in March of this year called alcohol and crime research and practice for prevention. Today's summit is a product of that meeting. Tribal leaders and others from Indian country as well as experts in the field of alcohol and substance abuse have come together today to discuss promising practices for addressing these problems in Indian country. And that leads to the second principle.

If the federal government is working together, that's good, but it won't be very effective unless it listens. I started those listening conferences a long time ago, it seems a long time ago now, it's only about six short years ago. I have learned so much from you. I have learned of your traditions, of your heritage, of your common sense, of the good ways you approach issues. I've learned, "Madame Attorney General, why do you persist upon assigning just guilt or innocence? It's not just black or white, there are gray areas and you've got to find out what caused the problem in the first place and solve that." And we've tried to do much more in terms of problem solving and peacemaking as a result of listening to tribal leaders and young people across this country.

The third principle is ours is a government to government relationship. On May 14th, 1998, President Clinton reaffirmed fundamental principles of tribal sovereignty when he issued the executive order on consultation and coordination with Indian tribal governments which states: Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection.

In treaties our nation has guaranteed the right of Indian tribes to self-government, as domestic dependent nations Indian tribes exercise inherent sovereign powers over their members and government. The United States continues to work with Indian tribes on a government to government basis to address issues concerning Indian tribal self-government, resources and Indian tribal treaty and other rights. That means we are here today to listen and to learn.

Tribal programs and strategies will be showcased during the breakout session. These sessions will be moderated by elected tribal leaders. Dr.

Phil May and Maria Braveheart will share with us the most current research. A tribal forum will be held with the Senate, and a tribal leaders roundtable will be held with Assistant Secretary Kevin Goder, Lynn Cutler, assistant to the White House chief of staff and General McCaffrey of the office of national drug control policy will share with you the efforts of the White House to support the efforts of tribal governments to address alcohol and substance abuse.

In addition, sometimes things don't get timed right, but it's really good when you can produce something that is hopefully worthwhile and useful. I'm pleased to share with you today this publication which is promising practices and strategies to reduce alcohol and substance abuse among American Indians and Alaska natives.

I trust that everyone will get one today and what I would like to know is how you feel this addresses the problem and what more we can do to provide this information to you on websites, in other forms, how it can be most useful to you, what more do you need to know about it? What can we learn that will be helpful to you? Because it is your self-determination that is so important to do it in accordance with tribal principles, tribal heritage, and how then, our question becomes, do we provide the resources consistent with our trust responsibility to meet the needs.

It becomes extremely important because reservation Indian populations are growing rapidly. And while the average age of the general population is about 34, the average age on many of the large western Indian reservations is about 18. Many tribes continue to report very severe poverty and resource shortages while the Indian Health Service has some funding for alcohol abuse treatment, it is far short of what is necessary to deal with the significant and growing problem of alcohol abuse and alcohol-related violence.

For fiscal year 2001, as part of Indian country law enforcement improvement initiatives, the Department of Justice has requested funding to address the correlation between alcohol, substance abuse and violence. We've requested 10 million dollars for an Indian drug testing and treatment program, eight million dollars for alcohol and substance abuse diversion programs, and eight million dollars for tribal youth mental health and behavioral problems initiative.

One of the most difficult issues to deal with in substance abuse, treatment, or in alcohol abuse treatment is the dual diagnosis of mental health problems that go with substance abuse and the more we can focus on that, learning again from you, the more I think we're going to be effective in dealing with this effort.

I'd like to describe a little of what we envision from these budget requests. With the testing and treatment program, it is a part of the OJP request for the zero tolerance and drug intervention initiative. That program would provide for drug testing to offenders and for mandatory treatment for substance abusers who are in custody. Hasn't it ever bothered you to see somebody in a jail, where they belong because they've committed a serious crime, but to know they have an alcohol or drug abuse problem and watch it not be treated where you have a perfectly good facility for treating them, let's make sure we use our facilities and our resources as wisely as possible.

Drug testing is an important tool for criminal justice agencies to control drug abuse among inmates. Combined with effective intervention such as meaningful graduated sanctions, drug testing can curtail drug use within the criminal justice population. Drug dependent individuals who receive comprehensive treatment will decrease their drug use, decrease their criminal behavior, increase employment and increase interpersonal functioning.

The coercion of the criminal justice system can be a useful tool. Studies show substance abusers who are required to enter such programs are just as likely to succeed as those who voluntarily enter treatment. Such intervention should have the effect of significantly reducing drug abuse in criminal behavior after release.

As a complement to the testing and treatment program, the department is requesting eight million dollars for alcohol and substance abuse diversion programs. Tribal probation and criminal justice systems have very few services available for court mandated diversion programs.

We see young people there pleading for treatment and there is very little. This program would provide resources for diversion programs to prevent and reduce violent crime, it would also allow tribal law enforcement agencies to deal more effectively with repeat alcohol offenders and refocus other tribal law enforcement resources on the most violent offenders.

The next program is the mental health and behavioral problem commission. Indian juveniles in the criminal justice system are more likely than others to have mental health or emotional problems. In 1998 BKS reported that detained Indian youth were significantly more likely than the nondetained counterparts to have a diagnoseable substance abuse dependence or other conduct disorder. In addition, federal and tribal law enforcement officials have found that in the absence of early intervention minor offenders simply escalate to further and more serious crime unless there is an effective intervention.

All these programs can make a difference if we learn today how we can best implement them and what they can do in your communities. We will continue to coordinate in every way that we can. So I hope that this summit will accomplish three things, strengthen our federal-tribal partnership, create a forum for tribal leaders to discuss and develop recommendations for a national agenda, and finally provide you access to the latest research and information that you may take home to assist you in creating or enhancing your strategy for tribal and community success.

But I would like to talk to you a minute and turn the tables on you and ask that you hear my perspective of Indian country of the last seven and a half years. I have been to the pueblo, I have been to the north Shayan reservation, I have been to pow-wows, I have stood in lecture halls at Harvard Law School, and I have heard the strength and the wisdom of Indian country handed down from generation to generation. I have seen some people who look and sound defeated. But then I have seen the young people from the pueblo run all the way across the country because they had hope and they believed in the future of the Indian country.

I asked Dr. May how do you take the spirit, the regard for the air, the land, and the water, for those vast spaces of the west, for the forest to the northeast, how do you take the traditions of each tribe, all a little bit different than the other, and recreate that spirit today in a force that will enable a pueblo, a tribe, a nation to come together and address the problem. You have proven to me that you can come together, that you can evoke the spirit of people who have lived on this land for far longer than we can imagine.

I ask you today to talk among yourselves about how you develop leaders that believe in their past and know how to transpose it to the future. How they can be creative with the modern wonders of the Internet in enabling people to remain on their land while at the same time developing economic opportunities. How we can use the tremendous problem solving and peacemaking skills handed down from one generation to another to solve this problem that affects your youth and your land and your tribe and your pueblo.

I will tell you that after seven years I have absolutely no doubts that

you can do it. I have faith in Indian country and in American Indians to recreate a world in which the spirit of the people stand for what's right, speak for what's right, and then see that what's right is done.

Believe in yourselves, believe in what can be done, and then if you see a little red truck coming across the mountain and up the little winding rode to the pueblo and she looks lost, the lady driving the truck, come out and wave her over and say hey it's this way. I'm going to get in my little red truck and drive across this nation to places I have never been and to places that I have been before but that I could not stay long enough, and many of the places that I will go are in Indian country because much of the strength of this nation, much of the appreciation for all that is wonderful in this nation lies in Indian country. Let us go forth today and harness that spirit for the good of the young people to come. Thank you.

Audience Member: My name is Eugene Arnette of Fresno, California. Within California we're having problems with the 280, the 280 law, which means the law enforcement they don't understand it, where the Indians we're kind of caught in limbo. And it's creating havoc on the West Coast.

Ms. Reno: Sir, I think I get a 280 question at almost every meeting and I come back and I don't always have the answers, but let me check and see just what we're doing, what the latest is on this issue, and if I could ask you to give a number to one of my staff members who will come up to you, I'll get back to you and try to give you the best answer I can based on what we're doing now and what we've been able to do.

Audience Member: Janet Reno, my name's Jack Mesak, tribal chairman for the Washoe Reservation down in San Diego, California. I'd like to take this time and opportunity to thank you for coming out to meet with the Indian people today. I know we have a big problem in California on substance abuse but I know I'm in good faith and good faith with you that we're going to try to stop it in California. I know we're doing our best in California to prevent alcohol and drug abuse. So thank you for being here. And it's an honor to meet you.

Ms. Reno: Thank you.

Audience Member: My name is Dennis Monsignor, I'm the vice chairman of Shoshone tribes of Death Valley and Awahee Nevada. First of all I'd like to on behalf of all the Indians, the brothers and sisters throughout Indian country, we'd like for you to take a message back to President Clinton and let him know on behalf of the Indians that we really appreciate what he's done for us over the eight years.

Ms. Reno: I will do that, sir.

Audience Member: I had an opportunity to shake his hand a while back and he's very concerned about the problems we that are happening in Indian country. It's very inspiring to listen to your message, but it's kind of discouraging when we hear that sometimes in Indian country we do look defeated. Madame let me tell you something, we will never be defeated.

Ms. Reno: Right on.

Audience Member: Never. Sometimes it's very frustrating because there are things we want to do but we can't do it because we deal with the federal government sometimes that do not stand up to their treaty obligations, and those treaty obligations say they have a trust responsibility. And it's too bad that sometimes they don't hold up their obligations no matter what it is whether it's in the field of education, whether it's in the field of Department of the Interior, Bureau of Indian Affairs, or whether it's in the field of Indian Health Service. But we go on we go on we go on, we will never ever quit.

I guess my question to you Ms. Reno is, how much money are you talking about putting into the budgets in Indian country because I was reading in the Idaho Statesman's back in Boise, Idaho about three weeks ago where it says that the states could get up to 65 million dollars and we're wondering how much are you guys going to put into the budget into law enforcement in Indian country and how will that be divided up.

Ms. Reno: The appropriator is Congress so that will be the ultimate answer as to what Congress puts in and we will learn I think within this next month as to what we can precisely expect. With respect to the overall funding, I will give you the latest version if you will give me a telephone number where I can reach you and I'll send you a copy of the relevant portions.

Audience Member: I certainly would appreciate that. And how long are we looking at before we can expect to get that? Because see, the Department of Justice, you know, there was a lot of discussion amongst the tribal leaders and they talked about getting us involved in the Department of Justice, some of us were very wary to go in that direction, but money is what drives this country.

Ms. Reno: Can I make a suggestion to you? There is one thing that drives this country more than money, and that is the character and the spirit of the people. And that's what's going to drive us ultimately. And then to use the money in the wisest way possible to show Congress that a program works, then multiply that program.

Let me give you an example, we established the drug court, the first drug court in Miami, people looked at us and said why will it work? Because we cared, and we made it work, and we had it evaluated, and we were able to take it to Congress and show that if you can multiply this through Indian country it can work it takes us all working together to get the job done.

Audience Member: Exactly.

Ms. Reno: So let me get this gentleman behind you, his question answered, and then let me turn it over.

Audience Member: Again, thank you for what you've done for us too. God bless.

Ms. Reno: Well, don't thank me until I finish.

Audience Member: Ms. Reno, my name is Jack Sloan. I'm chairman of the nation in Utah and North Dakota. I just have a brief question Janet. First of all, I'd like to thank you as well as my colleague has just stated thank you for your seven wonderful years for helping Indian country in this great country of ours.

But my question is briefly what advice can you give Indian country, Janet, as being the Attorney General where many of our tribes are now asserting our rights in terms of return of lakeshore lands and all the federal dams have put in, excess lands, tribes are having trouble getting those lands returned, tribals are having trouble getting water compacts completed and also when you talk about the airspace and you talk about the great digital divide, tribes are asserting themselves trying to get their airspace determined.

But we're afraid of the Supreme Court. What advice can you give Indian country, Ms. Reno, in terms of how we can retain our land base, our water rights and our airspace in light of many times negative Supreme Court decisions.

Ms. Reno: Just keep in close touch with the Solicitor General, I can't get into politics because attorney generals are supposed to stay out of

politics.

Audience Member: I won't say nothing if you do.

Ms. Reno: The Supreme Court"s decision depends on who's on the Supreme Court.

Audience Member: Thank you.

(Conclusion of Attorney General Reno's remarks.)