



# **TRIBAL JUSTICE ADVISORY GROUP**

## **FINAL REPORT**

**AUGUST 27, 2010**

Opinions or points of view expressed in this report are those of the Tribal Justice Advisory Group and do not necessarily reflect official positions of the U.S. Department of Justice (USDOJ) or the USDOJ Office of Justice Programs.

**OFFICE OF JUSTICE PROGRAMS  
JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP  
FINAL REPORT  
AUGUST 27, 2010**

**ACKNOWLEDGEMENTS**

*The Tribal Justice Advisory Group (TJAG) will sunset with the convening of the Department of Justice Tribal Nations Leadership Council (TNLC). This TJAG final report is presented as the collective voices and documents prepared by tribal leaders, tribal policy experts and practitioners, tribal community advocates, and federal officials that participated in numerous U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), conferences, national and regional meetings, transition team meetings, and teleconference calls. The TJAG particularly acknowledges the tribal leaders that participated in the DOJ consultation sessions, DOJ listening sessions, and consultation meetings with other federal agencies that partnered with DOJ in the interdepartmental tribal consultation sessions, which are the Department of Health and Human Services - Substance Abuse and Mental Health Services Administration (HHS - SAMHSA), Office of Minority Health (OMH), and Indian Health Service (IHS); Department of the Interior, Bureau of Indian Affairs (DOI-BIA); Department of Housing and Urban Development Office of Native American Programs (HUD-ONAP); Small Business Administration, Office of Native American Affairs (SBA-ONAA); and the Corporation for National and Community Services (CNCS).*

*Moreover, the TJAG expresses its appreciation to Attorney General Eric Holder for elevating tribal legal and policy matters to the highest level possible in the Department of Justice by establishing the TNLC; this was a long-standing TJAG recommendation. This new Department-level advisory body reflects a bold and appropriate commitment to tribes. We are thankful to Laurie O. Robinson, for creating the first-ever Indian desk for OJP, for ensuring the TJAG recommendations, in fact, are being implemented and heard at the highest levels of the Department of Justice. The TJAG extends its appreciation to Eugenia Tyner-Dawson, Executive Director, for her steadfast direction, guidance and support of the TJAG members and tribal people. The TJAG is appreciative of the DOJ Justice Programs Council on Native American Affairs (JPCNAA) leadership members, tribal liaisons, and other staff representatives for providing presentations and reports to the TJAG. And, we thank all of the Department's components as well as bureaus and offices in the Office of Justice Programs for supporting and listening to the TJAG members these past several years.*

*The TJAG wishes to thank TJAG Co-Chairs, Juana Majel Dixon and Hope MacDonald-Lone Tree for their willingness to serve as ex officio members of the new TNLC. The TJAG also acknowledges its representative national organization member, the National Congress of American Indians (NCAI), for completing a detailed consultation matrix of the tribal public safety and public health issues which served as the basis in forming the TJAG tribal policy paper, priorities and strategic plan. The TJAG also appreciates the Obama Administration Transition Team for listening to and acting on a number of tribal leader and TJAG recommendations as outlined in the TJAG Transition Team Policy Paper compiled by TJAG member Ada Pecos Melton, Southwest Region Delegate. The TJAG would also like to recognize the efforts of Eugenia Tyner-Dawson, Brian Ingram, and Eileen Garry with OJP in helping to edit this report. Finally, the TJAG is forever grateful to the many unheard voices of the men, women, children, and those unborn who are the unseen victims of violence, deserving of justice and safety. The TJAG was guided by them in all of its endeavors.*

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## **I. Executive Summary**

### **A. Purpose and History**

The Tribal Justice Advisory Group or TJAG is an independent group of tribal leaders and officials made up of one delegate and one alternate from each of the twelve regions of the United States as defined by the Bureau of Indian Affairs, plus one delegate and one alternate from two of the largest American Indian, Alaska Native, and Native American (AI/AN/NA) nonprofit organizations, the National Congress of American Indians (NCAI) and the National Indian Health Board (NIHB). After a consultation involving tribal leaders in Phoenix, Arizona, the TJAG was chartered in 2007 by recommendation of the Justice Programs Council on Native American Affairs (JPCNAA), a council of senior-level Office of Justice Programs (OJP) leaders and tribal liaisons from each of the offices of OJP and other DOJ agencies. While the JPCNAA represents OJP's efforts to coordinate internally its diverse tribal efforts, the TJAG is a medium through which AI/AN/NA external perspectives and tribal input can be brought to bear on those efforts of OJP in order to better serve tribes.

During the three years since its establishment, the TJAG was the only body of its kind at the Department of Justice, a truly independent voice for tribes at OJP. However, in October 2009, Attorney General (AG) Eric Holder announced that he would create an AG-level independent advisory group called the Tribal Nations Leadership Council or TNLC. As a result, the TJAG will sunset into the new TNLC. At a final working group meeting held June 16<sup>th</sup> and 17<sup>th</sup> of 2010 in Rapid City, SD, the TJAG drafted this final report to make a record of its history, resources, goals, accomplishments, and recommendations, intending it not only to be viewed by OJP and DOJ staff and the public at large, but also specifically to serve as a tool for the newly-created TNLC as it picks up where the TJAG left off.

### **B. Resources**

In a climate of dwindling budgets, it was always the TJAG's primary goal to secure more resources for tribes, be they monetary (in the forms of grants or set asides), training and education, or even access to top-level officials at OJP and DOJ to advise and voice concerns. The TJAG pressed for more resources, and their work has contributed to gains in each, including a massive turnaround in funding for tribes. OJP tribal-specific funding has more than doubled from the Fiscal Year (FY) 2007 budget when the TJAG was formed to the current FY 2010 budget, and if the requested budget for FY 2011 is approved, funding will jump another sixty percent in just one year. In addition to these successes, tribal programs at OJP also secured \$225 million dollars' worth of funding as part of the American Recovery and Reinvestment Act of 2009.

The TJAG has also aided in securing resources in the forms of training and access by supporting and often times assisting in facilitating training and technical assistance sessions like the biannual Interdepartmental Tribal Justice, Safety, and Wellness Sessions (TJSW) and at consultation sessions. By serving as facilitators and moderators, TJAG members have helped to

open the lines of communication between tribal leaders and their counterparts in the federal government. Through the TJSW sessions federal programs have been able to bring experts in numerous fields to train over 5000 and officials of AI/AN/NA communities.

### **C. Definition of Issues Critical to Indian Country**

Upon being seated as the newly formed TJAG, members quickly set out to enumerate the critical issues identified at consultation sessions and to develop a list of the most pressing in order to lay out a road map of the work ahead for both the TJAG and OJP. In April 2008, the list of critical issues grew to include the following actions:

- Increase and improve tribal access to all OJP resources and promote sustainability.
- Address the development and implementation of the Adam Walsh Child Protection and Safety Act's negative impact on tribal sovereignty.
- Increase construction of detention and corrections facilities to address lack of facilities, overcrowded facilities, and facilities requiring renovation and staffing.
- Support tribal adult and juvenile treatment facilities to address alcohol- and substance abuse-related victims, prisoner recovery/re-entry, and recidivism rates.
- Provide more education and training on methamphetamine in Native communities.
- Assist tribes with developing and expanding crime data collection systems in their courts and law enforcement agencies to improve tracking and interoperability.
- Promote and help federal-tribal-state cross-jurisdiction cooperation and information sharing.
- Support more prevention, intervention, gang violence, and victim assistance services for youth and sexual assault victims.
- Improve the grants application process for tribes by increasing the number of grants available, providing earlier notices, extending solicitation periods, allowing indirect costs, eliminating matching requirements, and promoting local flexibility on use of funds.
- Provide tribes more technical assistance to apply for, implement, administer, report, and close out grants.
- Improve cultural awareness in staff, solicitations, peer review panels, and grants administration.
- Improve government-wide consultation and coordination with federal-tribes-states and develop a tribal consultation policy and protocols for OJP/DOJ.
- Establish a tribal advisory group to assist DOJ with policy and intergovernmental issues.

TJAG members began tracking recent and ongoing progress made on these issues not only in OJP or DOJ, but throughout the government, echoing the urging by tribes for a coordinated government effort to address problems in Indian Country and to meet its duties as laid out by the trust responsibility established between the federal and tribal governments.

In 2009 the TJAG updated and consolidated the list to reflect new and emerging issues while defining new areas of emphasis for others. In total, four new major areas were identified:

- Provide for tribal input on budgets and legislative proposals.
- Include the TJAG and tribes on Tribal Law & Order Act discussions.
- Improve intergovernmental relations.
- Address capacity building for personnel, confinement, prevention, intervention, and response to crime victims.

#### **D. Goals and Accomplishments**

Through regular TJAG meetings, meetings and communications with top-level officials at OJP and DOJ, and numerous working group sessions, the TJAG has made significant advances on a number of fronts. Below is a brief summary of just a few of these accomplishments:

- Using its list of critical issues, the TJAG worked to develop a strategic plan for OJP for 2009 to begin addressing these problems. The plan has been accepted for consideration by OJP leadership, and many of the recommendations are being implemented, such as the creation of a new tool for federal employees to educate them on AI/AN/NA history and culture and to provide training on working effectively with tribal governments.
- Citing a lack of a consistent, formal consultation policy at OJP and DOJ, the TJAG formulated recommendations in the form of a draft consultation policy.
- With the new Obama administration in leadership offices across the government in 2009, the TJAG developed and presented a transition policy paper to inform and advise new leadership of the many critical issues facing Indian Country.
- The TJAG monitored pending legislation with implications for Indian Country and advised DOJ and OJP on program changes affecting tribes, including the new Coordinated Tribal Assistance Solicitation (CTAS).
- Through consistent and regular consultation, the TJAG noted the need to synthesize the workings of the BIA, FBI, and DOJ and to identify and improve crime data collection and reporting, especially by expanding National Crime Information Center (NCIC) access and resources available to tribes. This TJAG recommendation contributed to the implementation of Uniform Crime Reporting standards and resulted in a one million dollar set aside in Byrne and Recovery Act grants.
- Since its inception, the TJAG has advocated for a higher level voice and representation in the Department. The Department responded in October 2009, announcing its intent to create a Tribal Nations Leadership Council, which would advocate for tribal issues at the Department level rather than the bureau or office level. The TJAG hopes that the TNLC, with its wider access to top DOJ decision makers, will be an avenue through which tribal leaders can continue to advance the initiatives put forth by the TJAG.
- Following the composition of this report, Congress passed and the President signed the Tribal Law and Order Act of 2010, which contained many recommendations for which the TJAG has been advocating, such as: providing access to federal crime databases to tribal law enforcement and requiring the federal government to assist tribal law enforcement in prosecuting crimes it declines to prosecute and to keep data on them. It also emphasizes the importance of coordination with tribes and among federal agencies and of long-term strategies for addressing issues in Indian Country, which were two of the TJAG's most long-standing and consistent criticisms of federal-tribal relations.

## **E. Recommendations**

As the TJAG sunsets with the establishment of a new Department-level tribal advisory group, the TNLC, TJAG members have developed a list of recommendations for both the federal government and for the new TNLC. Based on its experiences and knowledge gained through working as an independent advisory group on tribal affairs, the TJAG advises the following:

- Recognizing the complexities of creating a new advisory board, the TJAG would like to extend its services and its expertise in helping to seat the new TNLC members, especially as it may take some time for diverse groups of tribes to come together to elect one regional representative.
- The TJAG strongly urges that the TNLC be made statutory so that this vital tribal voice at DOJ will remain intact and undiminished across succeeding administrations.
- Recognizing that one of its strengths has been the on-the-ground program knowledge of many of its members, the TJAG suggests that some provision be made in the TNLC charter for the presence of legal or program aides at meetings to provide this practical, working knowledge.
- The TNLC is encouraged to view the TJAG's work of these past three years as a jumping off point and to continue the work done by the TJAG rather than to start again from scratch.
- The TJAG recommends that the TNLC submit the proposed consultation policy, developed in 2009, for consideration as a new DOJ-wide policy.
- Given the successes of hands-on training provided by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) and the tribally-focused and -driven TJSW sessions, TJAG members advise both OJP and the TNLC to continue to support these programs and programs like them.
- Finally, to coordinate the diverse work done by various offices within the Department, the TJAG believes it is necessary to create two new positions at OJP, Assistant Attorney General for Tribal Affairs and Deputy Assistant Attorney General for Tribal Affairs which would reflect the leadership role appropriate for the tribal position established and consistent with the commitment made to tribal leaders. The TJAG also stresses the great need of these two proposed positions to receive the funding and resources necessary to perform this task and to support the work of the TNLC.

## **F. Conclusion**

In conclusion, the TJAG would like to thank OJP for supporting the need for an independent advisory group on tribal affairs. The TJAG has accomplished much, but much remains to be done. To OJP and the other federal partners who deal with tribal affairs, the TJAG would like to thank you for your work in the past and to urge you to always redouble your efforts to aid tribal communities. Not only do AI/AN/NA communities have some of the greatest and most compelling needs in America, but they also share a unique relationship with the federal government. The trust responsibility that exists between the federal government and tribal governments mandates that the federal government do all it can to help address the issues currently facing Indian tribes. The TJAG urges you to keep this thought in mind as you continue your work with tribes.

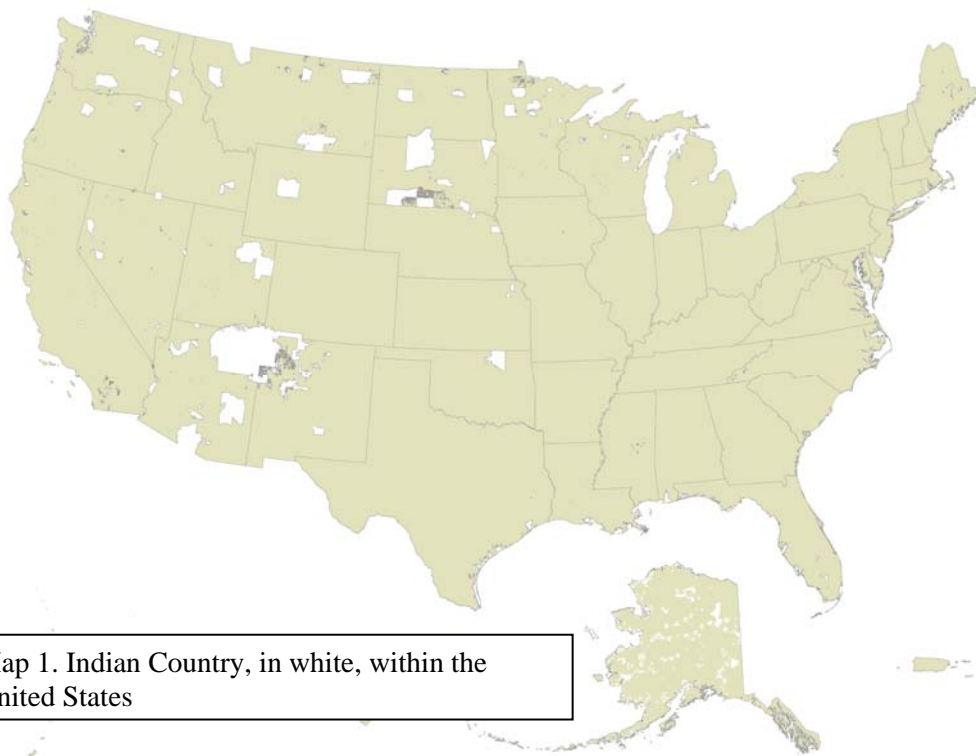


## II. Introduction and Overview

The Tribal Justice Advisory Group (TJAG)<sup>1</sup> submits this final report to the Assistant Attorney General (AAG) for the Office of Justice Programs (OJP). The report documents the TJAG's history including: background, authority and purpose, mission and goals, major accomplishments, methods for identifying priorities as well as the types of projects and activities undertaken to address them, and finally TJAG recommendations to the Department.

### A. Current Situation in Indian Country

There are over 56 million acres of Indian Country, constituting 2.3% of all U.S. land area, and there are more than 560 federally-recognized Indian tribes. (See Map 1).<sup>2</sup> The *Major Crimes Act* provides federal criminal jurisdiction



over certain specified major crimes if the offender is Native American, while tribal courts retain jurisdiction for conduct that might constitute a lesser offense. The federal government also has jurisdiction over both felony and misdemeanor crimes committed by non-Native Americans against Native Americans in many places. Thus, federal investigation and prosecution of

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<sup>1</sup> 2 U.S.C. §1534 (b) provides: The Federal Advisory Committee Act (5 U.S.C. app.) shall not apply to actions in support of intergovernmental communications where –

(1) Meetings are held exclusively between Federal official and elected officers of State, local and Tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and such meetings are solely for the purposes of exchanging views, information or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities and administration.

<sup>2</sup> *The United States?* Map. Radical Cartography. Bill Rankin, 2003. Web. 16 Jul 2010. <http://www.radicalcartography.net/index.html?reservations>.

felonies in much of Indian Country cannot be deferred to a local jurisdiction, and federal law enforcement is both the first and only avenue of protection for the victims of these crimes.

Sovereignty is one of the major concerns when dealing with justice issues in Indian Country. As sovereign nations within the United States, tribes and tribal governments have a unique relationship to the federal government. Because of this relationship of one sovereign entity to another, questions of jurisdiction can often complicate investigations that involve American Indian, Alaska Native, and Native American (AI/AN/NA) people or that occur on tribal lands. Because of tribal sovereignty and the government-to-government relationship it creates with the federal government, in many cases crimes in Indian Country often go directly to the federal government for prosecution. As a result, close cooperation between federal and tribal law enforcement teams is essential.

## B. Victimization

As a result of numerous public safety concerns in Indian Country, AI/AN/NA people are consistently at a higher risk of victimization, almost two and a half times higher than national averages. (See Chart 1 below).<sup>3</sup> Underfunded and understaffed tribal law enforcement agencies, remoteness from federal and state agencies, poverty, and a higher prevalence of alcohol and substance abuse in AI/AN/NA communities all contribute to rates of victimization much higher than other race groups in the U.S.

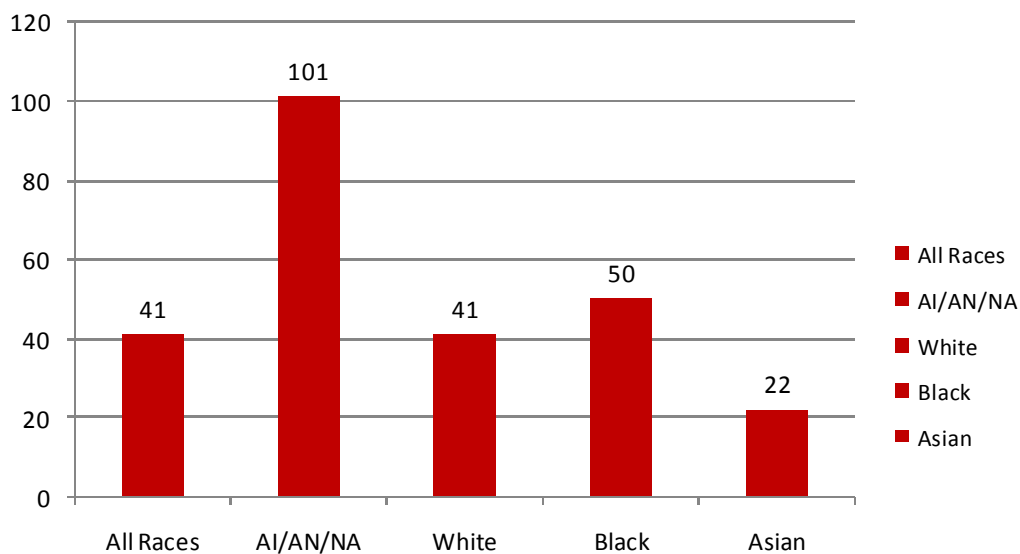


Chart 1. Rate of Victimization per 1000 People, 1992-2001

<sup>3</sup> Perry, Steven W, *American Indians and Crime: A BJS Statistical Profile 1992-2002*, 2004, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, <http://bjs.ojp.usdoj.gov/content/pub/pdf/aic02.pdf>.

Among American Indians ages 25-34, the rate of violent crime victimization is almost three times the rate for all persons in the same age category. (See Chart 2 below).<sup>4</sup> Much of this crime appears to be alcohol related — approximately 62 percent of American Indian victims report that the violence they experienced was perpetrated by an offender who was under the influence of alcohol. In comparison, alcohol is involved in 42 percent of assaults nationwide.

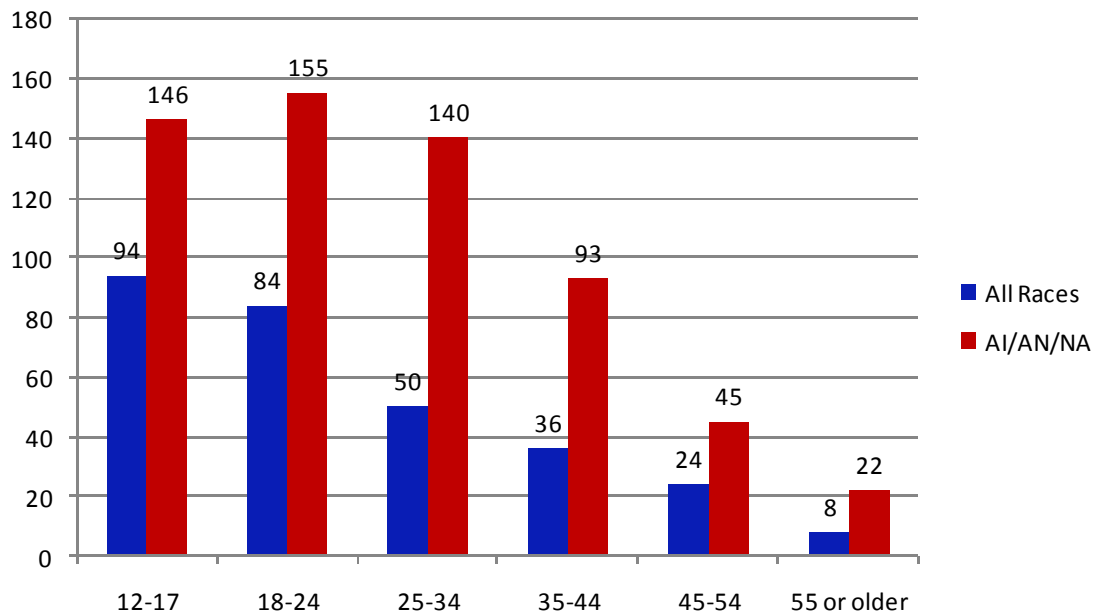


Chart 2. Rates of Violent Crime by Race and Age Group, 1992-2001

Increased youth gang activity in the past few years has also increased the violent crime rate in Indian Country. However, the violent crime arrest rate of American Indians declined 26 percent between the years 1992 to 2001.<sup>5</sup>

These National Crime Victimization Survey (NCVS) findings from 1992–2002 have not been replicated. To date, evaluations on victimization, crime and crime prevention have been program and tribal specific and consequently cannot be generalized across tribal nations as a whole.

### C. Tribal Justice Systems

Passage of the Indian Reorganization Act in 1934 encouraged tribes to enact their own laws and establish their own modern tribal courts. Modern tribal courts are under tribal control, and are directly oriented to the needs of tribal members. Some tribes have developed a hybrid or blended judicial system, incorporating the dispute resolution elements of indigenous or Code of Federal

<sup>4</sup> Ibid.

<sup>5</sup> Perry, Steven W, *American Indians and Crime: A BJS Statistical Profile 1992-2002*, 2004, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=386>.

Regulations (CFR) courts and a more modern focus to ensure due process. In 2002, about 60% (188) of all the tribes had some form of a tribal justice system.

The court systems operating in Indian Country vary by tribe. The Indian Country judicial system may involve one or more of a core of four legal institutions: Courts of Indian Offenses (CFR courts), tribal courts of appeal, tribal courts of general jurisdiction, and indigenous forums.

#### **D. Tribal Justice Census**

In 2002, the Bureau of Justice Statistics (BJS) conducted a census of tribal justice agencies in Indian Country.<sup>6</sup> The census looked at tribal lands and communities of the then 341 federally-recognized tribes in the lower forty-eight states. Over 92% (314) of these tribes participated. Of these 314 tribes, almost 60% (188) had some form of judicial system in place, and 84% of those systems had the capacity to try misdemeanor cases. In addition, 175 tribes operated a formal tribal court system, including:

- 174, or all but one, had a general jurisdictional tribal court, separate from other courts;
- 91 had an appellate court;
- 80 had a court for juvenile offenses;
- 51 had a family court, and
- 112 provided victims' services.<sup>7</sup>

#### **E. DOJ Leadership Commitments and Initiatives**

Since February of 2009, with the beginning of a new administration at the Department of Justice, the incoming leadership has made it abundantly clear that addressing the problems that currently face Indian Country is a top priority.

As Attorney General Eric Holder stated on October 30, 2009, at the Department of Justice National Listening Session, held in St. Paul, Minnesota:

[T]his Justice Department's policies will reflect the principles of tribal sovereignty and Indian self-determination – today, tomorrow, and always. In the short-term, we need to better coordinate federal efforts so that you receive the resources you need as part of our trust obligation. But we also need to look at long-term solutions and programs. You know best what policies and enforcement strategies will work in your own tribal communities, but you need the resources to implement them. We must learn from the lessons of the past as

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<sup>6</sup> Perry, Steven W., *Census of Tribal Justice Agencies in Indian Country, 2002*, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=543>.

<sup>7</sup> Perry, Steven W., *Census of Tribal Justice Agencies in Indian Country, 2002*, page iii, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, <http://bjs.ojp.usdoj.gov/content/pub/pdf/ctjaic02.pdf>.

we make decisions about how to allocate the resources we have now, and the resources we will continue to fight for in the future.<sup>8</sup>

Associate Attorney General Thomas Perrelli expressed a similar commitment to Indian Country earlier that same year at the National Congress of American Indians' (NCAI) 2009 Mid-Year Conference, June 15, 2009, when he said:

Tribal communities are facing great challenges, but also have enormous opportunities. And while we at the Department of Justice have some resources that can help make your communities safer, we also know that it takes more than resources to fight and prevent crime. It takes real partnerships. At the Department, we are committed to more effectively partnering with tribal communities to improve public safety and the health of Indian Country.<sup>9</sup>

Since the fall of 2009, the Department has announced the following series of strategies designed to assist in the greater collaboration with tribal communities to develop and implement innovative solutions provided below. It is noted that all of these areas represent the recommendations and actions of tribal leaders from across Indian Country that have informed the Department of these tremendous needs and priorities required to make tribal communities safer and healthier for American Indian and Alaska Native people. The TJAG has been an active participant in this dialogue on behalf of the twelve TJAG regions and the national tribal organizations.

- **Engagement with tribal leadership**—Recognizing the value in ongoing coordination with tribal leadership, in February 2010 the Department announced the creation of the Attorney General's Tribal Nations Leadership Council (TNLC), a group of tribal leaders from around the country that will advise the Attorney General on issues critical to tribal communities.<sup>10</sup>
- **New plan of action for consultation and coordination with tribes**—As directed by President Barack Obama's November 5, 2009, Memorandum on Tribal Consultation, DOJ published its plan, submitted to the Office of Management and Budget (OMB) on January 27, 2010, to improve consultation and coordination between the Justice Department and tribal nations. The Department's plan, which identifies the steps it will take to develop a comprehensive consultation and coordination policy with tribal nations, also makes the following commitments:
  - Expand the role of the Office of Tribal Justice (OTJ);

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<sup>8</sup> Eric Holder, "Remarks at the Tribal Nations Listening Session," Tribal Nations Listening Session, Department of Justice, St. Paul, Minnesota, 29 Oct. 2009, <http://www.justice.gov/ag/speeches/2009/ag-speech-091029.html>.

<sup>9</sup> Department of Justice, Office of Public Affairs (15 Jun 2009). "Associate Attorney General Tom Perrelli Announces New Initiative on Tribal Justice in Indian Country," Press Release. Retrieved June 2010, <http://www.justice.gov/opa/pr/2009/June/09-aag-589.html>.

<sup>10</sup> Department of Justice, Office of Public Affairs (19 Feb 2010). "Attorney General Holder Announces Creation of Tribal Nations Leadership Council," Press Release. Retrieved June 2010, <http://www.justice.gov/opa/pr/2010/February/10-ag-165.html>.

- Create a Tribal Nations Leadership Council to ensure ongoing communication and collaboration with tribal governments;
  - Convene consultations between tribal leadership and U.S. Attorneys whose jurisdictions include federally recognized Indian tribes;
  - Mandate annual meetings between the Department’s grants offices and tribal leadership to discuss grants policies, concerns, or funding priorities;
  - Create a new federal-tribal taskforce to develop strategies and guidance for federal and tribal prosecutions of crimes of violence against women in tribal communities;
  - Publish a progress report within 270 days of the Presidential Memorandum evaluating the implementation of these reforms.<sup>11</sup>
- **Streamlined, comprehensive grant application process created**—As a direct result of what Department leaders heard from tribal leaders and their representatives, the Department set out to create a single application for DOJ grants that would work most effectively for tribal grant applicants. This coordinated approach will allow the Department’s grant-making components to consider the totality of a tribal community’s overall public safety needs. The Coordinated Tribal Assistance Solicitation or CTAS serves as a single solicitation for existing tribal government-specific grant programs administered by the Office of Justice Programs, Community Oriented Policing Services and the Office on Violence Against Women.<sup>12</sup>
  - **President’s budget request includes major increases for tribal communities**—The President’s Fiscal Year 2011 budget requests \$448.8 million in total resources for public safety initiatives for tribal communities. New investments include significant grant resources for addressing a broad range of criminal justice issues and additional Federal Bureau of Investigation (FBI) agents and forensic support to help tribal communities combat illegal drug use, trafficking, and violent crime. The budget is currently pending before Congress.<sup>13</sup>
  - **Increased coordination between U.S. Attorneys and tribal communities**—In January 2010, the Attorney General announced sweeping reforms for the U.S. Attorney community intended to improve public safety in Indian Country. In a memo to all U.S. Attorneys’ Offices with districts containing Indian Country (44 out of 93), U.S. Attorneys were directed to: meet and consult with tribes in their district annually, develop an operational plan addressing public safety in Indian Country, work closely with law enforcement to pay particular attention to violence against women in Indian Country and

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<sup>11</sup> Department of Justice, Office of Public Affairs (12 Feb 2010). “Justice Department Unveils Plan of Action for Consultation and Coordination with Tribes,” Press Release. Retrieved June 2010, <http://www.justice.gov/opa/pr/2010/February/10-opa-138.html>.

<sup>12</sup> Department of Justice, Office of Public Affairs (16 Feb 2010), “Justice Department Announces Streamlined Grant Solicitation for Tribal Communities,” press release, retrieved June 2010, <http://www.justice.gov/opa/pr/2010/February/10-asg-147.html>.

<sup>13</sup> Department of Justice, Office of Public Affairs (1 Feb 2010). “U.S. Department of Justice FY 2011 Budget Request: Indian Country Public Safety Initiatives,” Press Release. Retrieved June 2010, <http://www.justice.gov/jmd/2011factsheets/pdf/indian-country.pdf>.

make these crimes a priority, and provide summaries of their operational plans to the Office of the Deputy Attorney General and to the tribes in their districts.<sup>14</sup>

- **Additional prosecutors for Indian Country**—The Justice Department’s Fiscal Year 2010 appropriation included an additional \$6 million for Indian Country prosecution efforts. In May, the Attorney General announced the allocation of 33 new Assistant U.S. Attorney positions to 21 judicial districts that contain Indian Country. The department also launched three Indian Country Community Prosecution Teams.<sup>15</sup>

### III. TJAG Overview

#### A. Background

The TJAG is an independent advisory group of tribal leaders and representatives which was chartered by the Assistant Attorney General (AAG) of OJP upon recommendation of the Justice Programs Council on Native American Affairs (JPCNAA). OJP’s mission within the Department of Justice is to provide “innovative leadership to federal, state, local, and tribal justice systems, by disseminating state-of-the art [scientific and statistical] knowledge and practices across America and [to provide] grants for the implementation of these crime fighting strategies.”<sup>16</sup> The function of the TJAG is to provide tribal perspective, insight, and guidance to OJP, including the JPCNAA and the AAG. (Image 1 below shows TJAG Co-Chairwomen Hope MacDonald Lone Tree and Juana Majel Dixon presenting OJP AAG Laurie Robinson with a certificate of appreciation in March 2010 for her cooperation with the TJAG). The JPCNAA and the TJAG both operate under AAG-approved charters to coordinate OJP’s tribal efforts, the former on behalf of OJP offices and staff and the latter on behalf of tribes themselves.<sup>17</sup>

OJP established the JPCNAA in November 2005, and in January 2007, the AAG elevated the Council membership to include all senior-level OJP leaders, who then designated JPCNAA tribal liaisons in their bureaus and offices to track and coordinate tribal issues for their respective divisions. The AAG chairs the Council, and the Chief of Staff serves as the alternate, while daily direction is provided by the JPCNAA Executive Director/Senior Advisor to the AAG for Tribal Affairs.<sup>18</sup>

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<sup>14</sup> Department of Justice, Office of Public Affairs (11 Jan 2010). “Attorney General Announces Significant Reforms to Improve Public Safety in Indian Country,” Press Release. Retrieved June 2010, <http://www.justice.gov/opa/pr/2010/January/10-ag-019.html>.

<sup>15</sup> Department of Justice, Office of Public Affairs (16 Feb 2010), “Department of Justice Announces Allocation of 33 New Prosecutors, Launches 3 Community Prosecution Pilot Teams in Indian Country,” press release, retrieved June 2010, <http://www.justice.gov/opa/pr/2010/May/10-ag-511.html>.

<sup>16</sup> “About Us,” Office of Justice Programs. <http://www.ojp.gov/about/about.htm>.

<sup>17</sup> To read the TJAG and JPCNAA charters, see Appendices A and B, respectively.

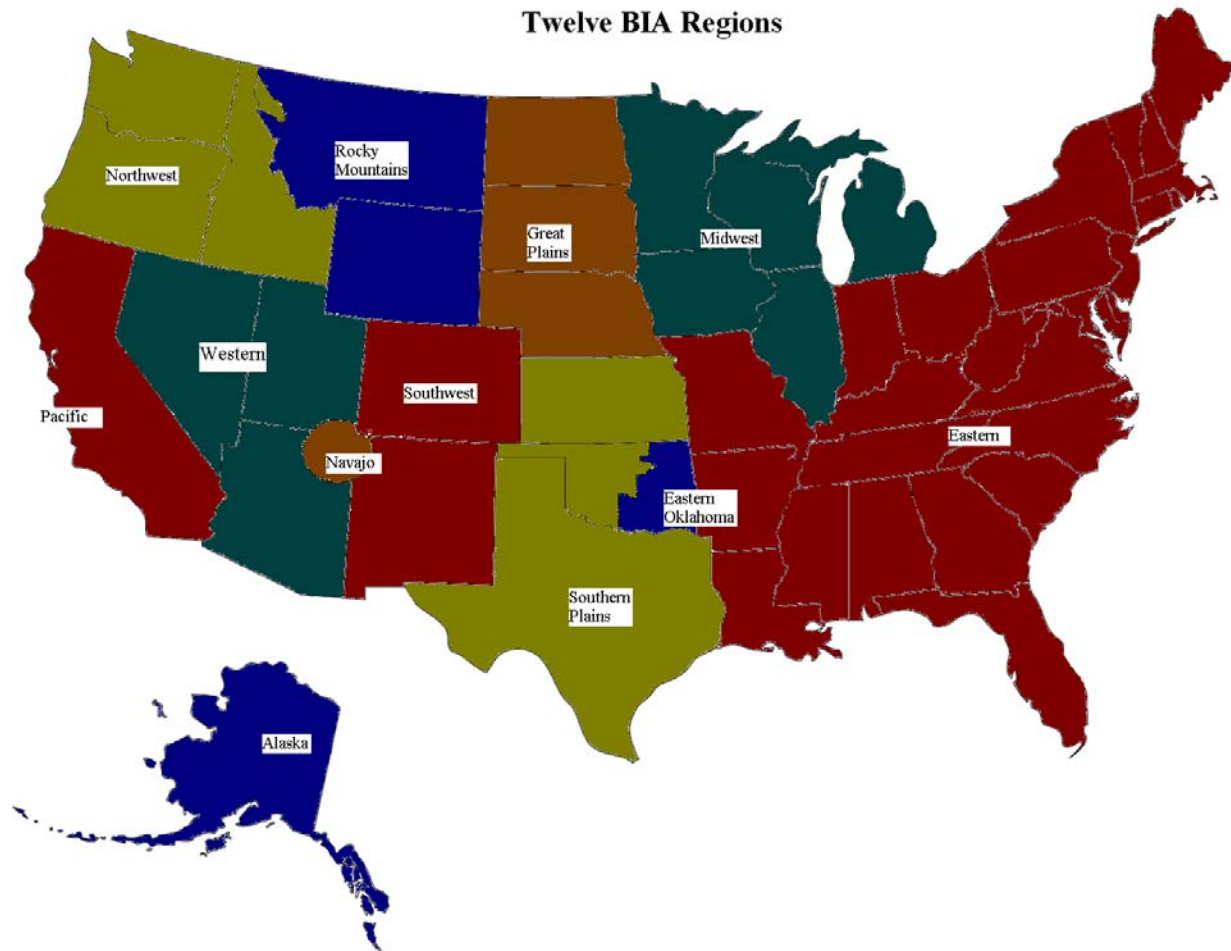
<sup>18</sup> To the full JPCNAA membership list, see Appendix D.



Image 1. TJAG Co-Chairwomen Juana Majel Dixon and Hope MacDonal Lone Tree present OJP Assistant Attorney General Laurie Robinson with a certificate of appreciation, March 2010.

Between 2007 and 2010 OJP and other federal agencies conducted a series of interdepartmental consultation meetings with tribal leaders, administrators, and practitioners to discuss concerns related to public safety and public health, including crime, violence, and victimization by or against AI/AN/NA people. An outcome from one of these joint consultation sessions in July 2007 in Phoenix, AZ included a tribal recommendation to establish tribal advisory groups to assist DOJ in implementing the Sex Offender Registry and Notification Act (SORNA) requirements contained in Title I of the Adam Walsh Child Protection and Safety Act. The OJP AAG responded to this matter and to tribal requests for greater and more effective communication between tribal governments and the DOJ bureaus and offices by chartering the TJAG in September of 2007. (For organization chart of OJP, JPCNAA, and the TJAG, see Chart 3 on page 18).





Map 2. Map of twelve BIA regions used for TJAG representation

The TJAG, comprised of tribal leaders and their designees, provides advice and assistance to OJP’s AAG and the JPCNAA on tribal-related justice and safety issues. The TJAG is chaired by Hope MacDonald-Lone Tree, Councilwoman of the Navajo Nation, and Juana Majel-Dixon, Councilwoman of the Pauma Band of Mission Indians. Representatives also include a delegate and alternate from each of the Bureau of Indian Affairs’ twelve (12) regions (see Map 2 above), and two national tribal governmental organizations, the National Congress of American Indians (NCAI) and the National Indian Health Board (NIHB).<sup>19</sup> The TJAG is exempt from the Federal Advisory Committee Act because of its intergovernmental representation. It convenes on a quarterly basis, having met in person eight times and having also held a number of conference calls and working group sessions. Meetings were typically scheduled in conjunction with the Interdepartmental Tribal Justice, Safety and Wellness or TJSW Sessions. The last official group meeting was held March 30 and 31, 2010 in Washington, DC, and the TJAG held a final working group session in Rapid City, SD in June 2010 to draft this final report as a summary of its mission, goals, and accomplishments.

<sup>19</sup> To see the TJAG Membership List, see Appendix C.

**Office of Justice Programs TJAG and JPCNAA Organization Chart**

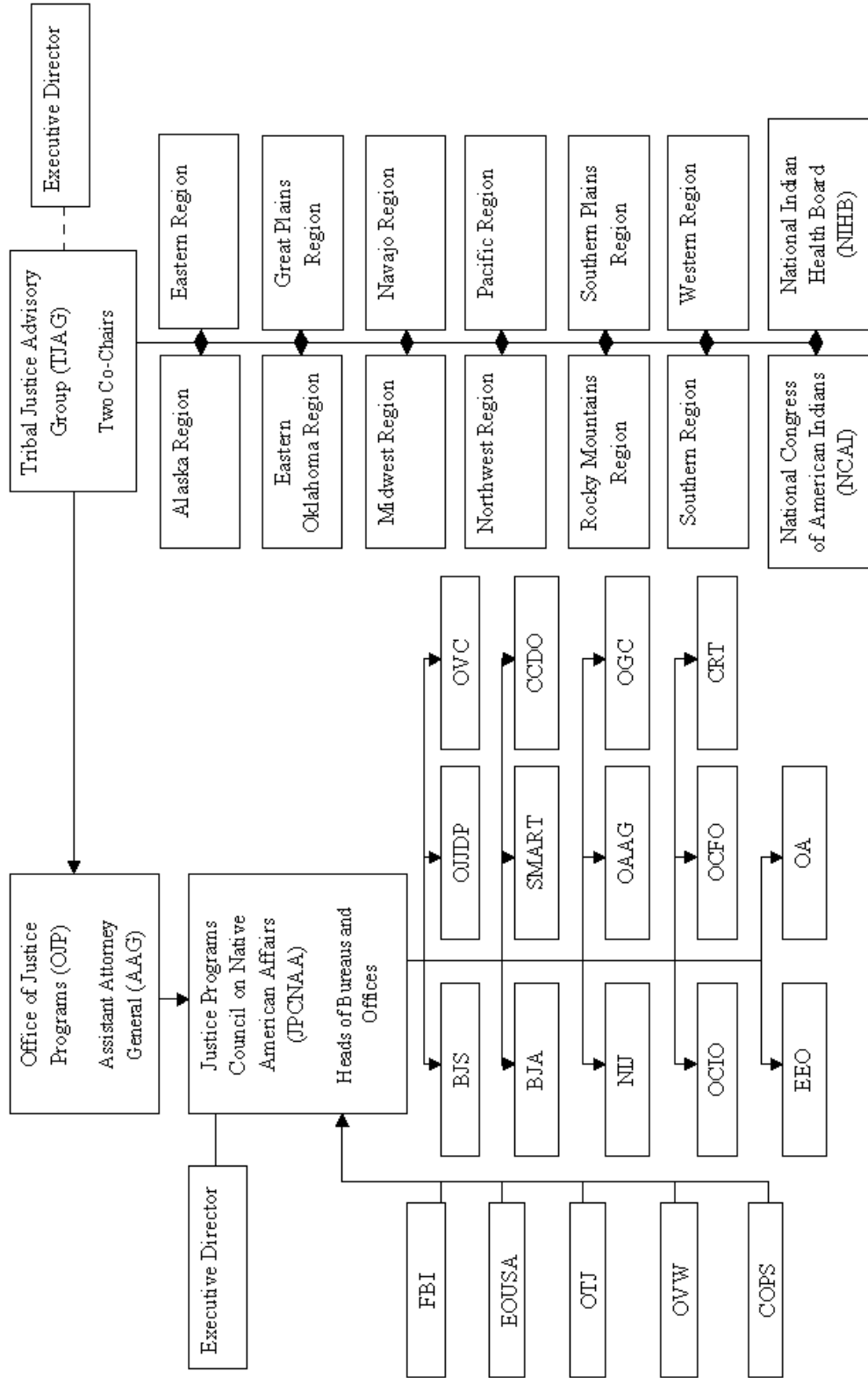


Chart 3. OJP JPCNAA and TJAG Organization Chart

## **B. TJAG Authority**

In accordance with the approved charter, the TJAG was charged to carry out the following:

The TJAG was established as an advisory group with oversight provided by the Assistant Attorney General for OJP as the JPCNAA Chairperson, and the executive direction provided by the Senior Advisor for Tribal Affairs to the AAG /JPCNAA Executive Director. The responsibilities conferred on the TJAG by the AAG were authorized under the general authority of the AAG.<sup>20</sup>

The scope of the charter complied with the statutory provisions as set forth at 2 U.S.C. Sec. 1534 (b) (1) & (2), and therefore did not implicate the Federal Advisory Committee Act (FACA). The method for selecting tribal members of the TJAG was designed to acknowledge the role of tribal governments and their elected officials with regard to consultation on policy issues.

## **C. Purpose**

### ***Mission***

Increase resources and access to services that create and support thriving and safe tribal communities, sustain fair justice systems for all, and protect tribal sovereignty.

### ***Vision***

Provide a consistent voice for American Indian and Alaska Native governments, communities and people that promotes the government-to-government relationship, improves public safety in tribal communities, and assures tribal justice systems uphold the laws and protect citizens deserving of fair and equal justice.

The TJAG was organized to advise and provide input to the JPCNAA and the AAG on the implementation of DOJ policy in furtherance of Executive Order 13175 (November 2000),<sup>21</sup> which reiterates the government-to-government relationship and the requirement that each department develop a mechanism to coordinate and consult with tribal governments. It is the policy of the Department of Justice to consult with tribal governments people to the greatest practicable extent and to the extent permitted by law before taking actions that affect these governments and people. The JPCNAA engaged Indian tribes through the TJAG in an advisory capacity to assist with the its purpose, to work on a government-to-government basis with Indian tribes, and to work more effectively with tribal governments on criminal justice and public safety policy matters that affect Indian tribes and Native communities. To effect these goals the JPCNAA enlisted advice from the TJAG to help it perform activities such as:

1. Educating employees and drawing attention to the need to address AI/AN/NA justice and safety issues, including distributing information, data, and statistics that accurately

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<sup>20</sup> See e.g., Omnibus Crime Control and Safe Streets Act (Public Law 90-351), 42 U.S.C. Chapter 46, subchapter I and 42 U.S.C. Chapter 46, subchapter VIII; Section 108(a) of the Department of Justice Appropriations Act, 2000, (Public Law 106-113); and Atty Gen. Order No. 1473-91, ¶¶ 1, 7 (Feb. 19, 1991).

<sup>21</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000\\_register&docid=fr09no00-167.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000_register&docid=fr09no00-167.pdf).

describe the tribal justice and safety needs of AI/AN/NA and the departmental resources expended to meet these needs.

2. Creating baseline measures, as well as establishing and achieving goals that are consistent with the AI/AN/NA challenges and priorities and promote the highest quality tribal justice systems and enhance the public safety of AI/AN/NA people.
3. Informing DOJ personnel, other federal agencies, federally recognized Indian tribes, and the public of the Department's working relationships with federally recognized Indian tribes, methods for coordination and collaboration, and guiding the Department in its work in the field of Indian affairs.
4. Developing and promoting a DOJ policy approach of short-, intermediate-, and long-range solutions, to provide greater access to and quality of services for AI/AN/NA throughout DOJ and, where possible, the federal government.
5. Promoting implementation of DOJ policy and DOJ agency plans with AI/AN/NA and tribal governments in accordance with statutes, executive memoranda, and executive orders.
6. Promoting the tribal/federal government-to-government relationships on a Department-wide basis that builds on the principles of Executive Orders 13336<sup>22</sup>, 13270<sup>23</sup>, 13175<sup>24</sup>, 13132<sup>25</sup>, and 13007<sup>26</sup>, especially with respect to the consultation process and procedures.

#### **D. Resources**

While the TJAG members were not personally compensated for their time and efforts, they were furnished with a small budget to provide for travel expenses and material costs related to their work with the TJAG and to inform and explain their recommendations to the JPCNAA and OJP.

Table 1 is an abbreviated sample budget outline of all tribal costs for OJP from the TJAG's Obama Transition Team Report of 2009. Included are anticipated travel and material costs for 2009 as well as project costs for all of the tribal positions, offices, and work groups at OJP and implementation of several key TJAG recommendations.

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<sup>22</sup> See <http://edocket.access.gpo.gov/2004/pdf/04-10377.pdf>.

<sup>23</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002\\_register&docid=02-17274-filed.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002_register&docid=02-17274-filed.pdf).

<sup>24</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000\\_register&docid=fr09no00-167.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000_register&docid=fr09no00-167.pdf).

<sup>25</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1999\\_register&docid=fr10au99-133.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1999_register&docid=fr10au99-133.pdf).

<sup>26</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1996\\_register&docid=fr29my96-149.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1996_register&docid=fr29my96-149.pdf).

<b>Organizational Structure Resources</b>	
JPCNAA (2) meetings	
Materials	\$ 20,000
TJAG (3) meetings	
Materials	\$ 60,000
Mailings/Communications	\$ 5,000
Travel for 15 X 3 mtgs @ 3.5 days (\$2000)	\$ 90,000
Executive Director	\$160,000
Tribal Specialist	\$ 65,000
Staff Travel 2 X 3 @ 3.5 days (\$2000)	\$ 12,000
Senior Leadership Tribal Site Visits	\$ 13,000
Total Organizational Structure	\$425,000
Projects:	
Tribal Consultation Policy/Guidance	\$100,000
Annual Report/Resource Guide	\$ 75,000
Federal Staff Cultural/Tribal Training	\$ 25,000
Interdepartmental Training & TA Sessions	\$600,000
Total Priority Projects	\$800,000
<b>TOTAL</b>	<b>\$1,225,000</b>
Table 1. Sample OJP tribal budget, prepared by the TJAG.	

#### **IV. Work of the TJAG**

The TJAG was chartered as an independent advisory group at OJP, made up of representatives from federally recognized tribes of every region of the country; it was to serve as a medium through which tribes and tribal leaders could convey their concerns, opinions, and guidance to OJP in order for OJP to improve its AI/AN/NA programs and better the services it provides to tribes. In fulfilling this duty, the lion's share of the work performed by the TJAG has been soliciting this advice, organizing it, presenting it to OJP and DOJ leadership, and coordinating OJP's efforts to respond.

##### **A. Soliciting Tribal Input**

In addition to providing their own insights as representatives of and leaders in their respective tribes and regions, the TJAG members formed a crucial conduit for the voices of all AI/AN/NA communities. They not only brought tribal opinions, advice, and concerns to OJP, but they

facilitated OJP's gathering of tribal input as well, serving as moderators at consultations and supporting federal training and technical assistance (T/TA) sessions.

## **1. Consultations**

As a part of the trust responsibility that exists between the federal government and tribal governments, the federal government is required to consult with tribes on any matters that have a significant impact on AI/AN/NA tribes, lands, or people. These consultation sessions are meant to be a meeting of high-level authorities from the federal government and tribal governments, and are moderated by a federal and a tribal representative. Members of the TJAG frequently fill the latter role, and in doing so facilitate communication between tribes and federal departments or agencies.

A frequently used venue for these consultation sessions were the TJSW sessions, a series of biannual training and technical assistance conferences put on by a number of federal partners including OJP, SAMHSA, OMH, HUD-ONAP, and others. Recognizing the often co-occurring issues of crime and violence, substance abuse, and poverty, the TJSW sessions bring together numerous federal partners from across all areas of the government in the hope that through effective coordination between agencies, tribes will be better able to address the urgent needs in their communities. Starting with the inaugural TJAG meeting, held in conjunction with TJSW Session 5 in Santa Ana, NM, the group has been an active participant in the sessions, not only in coordination and in service as speakers, presenters, and moderators, but also in gathering tribal input gleaned from the sessions in order to communicate them to OJP. TJAG members shared notes and general impressions from sessions and took the comments and criticisms they heard with them as they continued to advise OJP.

## **2. 2009 Listening Sessions**

In addition to consultations such as those at TJSW sessions, in 2009 Attorney General (AG) Eric Holder announced a series of listening sessions inspired by a previous initiative by former Attorney General Janet Reno. These listening sessions aimed to improve communications between tribal governments and the federal government. These regional sessions culminated in one national listening session where top DOJ leaders would be present to hear tribal concerns, views, and advice.

The Tribal Nations Listening Conference was held in St. Paul, Minnesota on October 28<sup>th</sup> and 29<sup>th</sup> of 2009. This national listening session and the numerous, smaller, regional listening sessions leading up to it, were an extremely valuable tool for soliciting input from tribes on all justice issues, and for their large contribution to the effort of bringing vital tribal input like this to DOJ, the AG specifically thanked the TJAG for their continued hard work in his opening remarks:

Many of you here have worked over the past decade to maintain a dialogue with the Department of Justice, and your contributions over the last two days have been invaluable.

This includes the Tribal Justice Advisory Group, the Section 904 Task Force on Violence Against Women in Indian Country, and the tribal law enforcement experts who have been at the table with the Deputy and Associate Attorney General leading up to this event....

I know that you have been working hard to help the Justice Department understand and address the needs of tribal communities for a long time. We are here today in large part because of your contributions, and I thank you.<sup>27</sup>

## **B. Organizing Tribal Feedback**

Many of the largest tasks undertaken by the TJAG in their three years as advisory body to OJP involved taking the feedback received from tribes at the TJSW and Violence Against Women Act (VAWA) consultation sessions, the Listening Conference, or even their own on-the-ground experience as leaders in their own communities and transforming these numerous individual opinions, suggestions, and criticisms into cohesive, cogent materials suitable to be digested and implemented by OJP and DOJ. In this way, the TJAG served to hone disparate ideas into tools that could be utilized by the federal government to address issues in Indian Country.

### **1. Defining the Critical Issues**

One of the first things the TJAG did to synthesize the diverse feedback received from tribes was to organize and categorize them. Shortly after their inaugural meeting, the members combined guidance and criticism from consultation sessions, as well as accessing their own expertise and experiences as leaders in tribal communities, into thirteen groupings based on broad goal or topic areas. For 2008, these topic areas were:

- a.** Increase and improve tribal access to all OJP resources and promote sustainability.
- b.** Monitor the development and implementation of the Adam Walsh Child Protection and Safety Act and its negative impact on tribal sovereignty.
- c.** Increase construction of detention and correction facilities to address the current lack of facilities, overcrowded facilities, and facilities requiring renovation and staffing.
- d.** Support tribal adult and juvenile treatment facilities to address alcohol and substance abuse-related victims, prisoner recovery/re-entry, and recidivism rates.
- e.** Provide more education and training on methamphetamine in Native communities.

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<sup>27</sup> Department of Justice, Office of Public Affairs (29 Oct 2009). "Attorney General Eric Holder Delivers Remarks at the Tribal Nations Listening Session," Press Release. Retrieved June 2010, <http://www.justice.gov/ag/speeches/2009/ag-speech-091029.html>.

- f.** Assist tribes with developing and expanding crime data collection systems in their courts and law enforcement agencies to improve tracking and interoperability.
- g.** Promote and help federal-tribal-state cross-jurisdiction cooperation and information sharing.
- h.** Support more prevention, intervention, gang violence, and victim assistance services for youth and sexual assault victims.
- i.** Improve the grants application process to tribes by increasing the number of grants available, provide earlier notices, extend solicitation periods, allow indirect costs, eliminate matching requirements, and promote local flexibility on use of funds.
- j.** Provide tribes more technical assistance to apply, implement, administer, report, and close out grants and to assist with all aspects of capacity building.
- k.** Improve cultural awareness in staff, solicitations, peer review panels, and grants administration.
- l.** Improve government-wide consultation and coordination with the federal government, tribes, and states, and develop a tribal consultation policy and protocols for OJP/DOJ.
- m.** Establish a permanent tribal advisory group to assist DOJ with policy and intergovernmental issues.

The TJAG then began tracking recent and ongoing progress on these critical issues as well as charting resources and programs seeking to address them. The following year, the TJAG updated their list of critical issues, continuing many areas and adding new emphases to others, such as to issue j, which advocates for continued training and technical assistance to help tribes write, win, and implement grants programs, the TJAG added an emphasis on facility construction and renovation to correspond with the large amount of Recovery Act funds that were being channeled towards that goal. The TJAG also introduced a number of new critical issues for 2009, again culled from the feedback provided by tribes during consultation sessions. These new issues were:

- n.** Provide for tribal input on budgets and legislative proposals.
- o.** Include the TJAG and tribes on Tribal Law & Order Act discussions.
- p.** Improve intergovernmental relations.
- q.** Address capacity building for personnel, confinement, prevention, intervention and response to crime victims.



## 2. Consultation Matrix

Categorizing OJP’s response to consultation feedback was accomplished and maintained with the critical issues developed by the TJAG, but to categorize proposed new initiatives and reforms, the TJAG worked with the Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA) and the National Congress of American Indians (NCAI) to create a matrix of issues, proposed solutions, and departments implicated. Contracted by SAMHSA, NCAI took all the advice, critiques, and concerns of tribal leaders and representatives from the August 2008 TJSW Session in Billings, Montana and broke it into four broad categories: 1) Police presence and investigations, cooperative agreements, and data sharing; 2) Jurisdiction and prosecution; 3) Prevention and early intervention programs, treatment and rehabilitation, and prisoner re-entry programs; and 4) Victim services. Then they created a grid matching up issues with proposed tribal solutions and a list of agencies that would have to be involved to implement the solutions. The matrix was further divided by potential implementation timelines: short-, medium-, and long-term (See Table 1 below).<sup>28</sup> During the creation of the matrix, the TJAG was integral in advising the process, first as support in coordinating and facilitating the Billings TJSW conference where the consultations occurred, then in guiding the actual construction of the matrix through NCAI’s membership in the TJAG, and finally, in reviewing and approving the matrix for recommendation to OJP and DOJ as a useful tool for addressing issues in Indian Country.

Issues Identified Through Consultation Process	Proposed Solution from Session 7	Relevant Agency / Prioritization
Increase funding for jails, detention centers, and training	<ul style="list-style-type: none"> <li>• Need policies that enable communication</li> <li>• Need resources that not only focus on punitive consequences, but also include efforts to rehabilitate offenders</li> <li>• Use of multidisciplinary teams under 18 USC 3509</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• HUD</li> <li>• IHS (Sanitation/Water)</li> </ul> <p>Short-term goal → Long-term goal</p>
Standardized, timely declination process	<ul style="list-style-type: none"> <li>• National declination standard</li> <li>• Fostering collaboration between the BIA &amp; DOJ to share declination data with tribes</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• FBI</li> </ul> <p>Short-term goal → Long-term goal</p>

Table 1. Excerpt from NCAI Consultation Matrix, Section II.

<sup>28</sup> For the full consultation matrix, see Appendix G.

The consultation matrix provides a snapshot of justice issues facing Indian Country and an organized means of examining potential solutions. The TJAG intends this matrix to be a useful tool for the new Tribal Nations Leadership Council and for federal agencies for years to come, regularly updated with new issues, solutions, and agencies as they arise in future consultation sessions.

### 3. Obama Transition Team Policy Paper

In addition to their critical issues lists and the consultation matrix, the TJAG also created specific tools for the new Obama administration at OJP and at DOJ. To provide a guide to justice issues in Indian Country to the new leadership brought in by the Obama administration in 2009, the TJAG again drew upon comments and questions expressed by tribes in consultation sessions, and shaped these into a report for new leadership unfamiliar with Indian Country, highlighting a number of the most pressing justice issues, organized under five broad categories: sovereignty; crime and violence; victimization; wellness, prevention, and intervention; and capacity building. The report also strove to assess resource opportunities of OJP's tribal divisions and programs and to make recommendations on how to go about addressing these issues. The following is a brief outline of that report.<sup>29</sup>

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## I. Justice Issues in Indian Country

### A. Sovereignty

#### 1. Consultation

- a. Participation**—Meaningful and effective consultation requires direct, full participation by high-level representatives, decision-makers, not only of all DOJ components, but as far as it concerns other departments, high-level representatives of other departments as well: BIA, HHS, HUD, SBA, etc.
- b. Field Visits**—Consultation also must include field visits, a practice which OJP has implemented and should continue. It is essential for those who work on tribal issues to have knowledge of the issues facing Indian Country.
- c. Results**—Finally, it is imperative for both accountability and respect between sovereign nations that results and proceedings from consultation sessions be recorded and provided to tribal leaders in a timely manner. In addition, these reports should be accompanied by program plans or strategies of OJP to put this feedback into practice or written explanations of why any needs or requests cannot be addressed.

- 2. Federal Indian Policy**—To aid tribes in addressing crime, violence, and victimization needs, a thorough examination of policies surrounding criminal jurisdiction in Indian Country in Public Law 280 or PL 280 states is needed, specifically retrocession issues.

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<sup>29</sup> For the full report, see Appendix H.

**3. Strengthening and Respect for Culture**—Respect for the distinct cultures of AI/AN/NA tribes and for the differences between AI/AN/NA cultures and those of other groups in America should be built into all OJP programs, particularly when they include open competition. Grants solicitations should take into account the importance of fostering culturally relevant approaches to addressing justice needs, for example, natural healing and traditional tribal judicial practices.

## **B. Crime and Violence**

**1. Urgent Crime Areas**—The report identifies four critical types of urgent crime needs in Indian Country: violent, alcohol-related, gang-related, and drug-related crime.

### **2. Investigation and Prosecution**

**a. Local**—Local law enforcement needs include funding to hire more personnel and tribal prosecutors, more and better training opportunities, specifically for data and evidence collection, and access to county and state detention facilities.

**b. Cooperation**—Tribal law enforcement agencies would significantly benefit from greater cooperation with county and state agencies, by means of cross-deputization and certifications to allow tribal cases to be argued in federal courts.

**c. Federal Declination**—Standardization and enumeration of the ways in which U.S. Attorneys may decline to pursue a case in Indian Country should be provided.

### **3. Tribal Courts**

**a. Sentencing**—It is essential that tribal courts be given the authority to sentence those convicted to more than one year of confinement.<sup>30</sup>

**b. Culture**—The federal government must respect indigenous justice practices in Indian Country such as peacemaking and circle sentencing.

**4. Information Sharing**—To effectively combat crime in Indian Country, tribal law enforcement agencies need access to national databases and information-sharing systems such as NCIC and the National Data Exchange or N-DEx.

### **5. Confinement**

**a. Culture**—Again, it is critical to respect and acknowledge the importance of culturally relevant and appropriate forms of correctional facilities and treatment programs.

**b. Partnership**—DOJ must work cooperatively with the likes of Indian Health Service, Bureau of Indian Education, and Office of Minority Health to provide inmates with the means to change the course of their lives upon release by providing them with mental health or substance abuse treatment and educational opportunities or trade skill training.

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<sup>30</sup> The Tribal Law and Order Act of 2010, P.L. 111-211, was signed into law on 29 July 2010 attached to H.R. 725. It extends to tribes the authority to sentence convicted criminals to up to three years in detention facilities.

### C. Victimization

1. **Protective Services**—Many tribes are in great need of resources to run vital services for victims such as shelter care, medical treatment, and crisis intervention.
2. **Long-term Treatment**—Similarly, resources are frequently lacking for victims' long-term needs: transitional housing, education or job skills training, etc.
3. **Culture**—Again the TJAG asks that federal, state, and local governments acknowledge and respect culturally relevant treatment and healing programs.

### D. Wellness, Prevention, and Intervention

1. **Collaboration**—When facing co-occurring mental health, substance abuse, and/or criminal or delinquent behavior, tribes require a coordinated effort between OJP and agencies like IHS, SAMHSA, and OMH plus state and local entities. Programs like the TJSW sessions, which bring together diverse departments and agencies, are a good start, but they must be continued, expanded, and joined by similar collaborative efforts.
2. **HIV/AIDS**—Resources and attention must be directed towards the growing threat that the spread of HIV/AIDS poses to Indian Country and to the United States as well.
3. **Culture**—It is again stressed that to be effective in addressing justice issues in Indian Country, the federal government must respect and utilize culturally relevant methods and practices for prevention and intervention.

### E. Capacity Building

1. **Infrastructure**—AI/AN/NA communities are often some of the most in need of infrastructure to improve capacity. The TJAG noted, among others, needs for low-income housing, paved roads, domestic violence shelters and youth group homes, treatment facilities, etc.
2. **Information Technology**—Tribal agencies suffer from a crippling lack of access to the tools of modern law enforcement, especially information and data exchange systems.
3. **Data collection**—To accurately capture the state of Indian Country, data is needed, but many tribes do not have the resources or the infrastructure in place to be able to capture such data, putting tribes at a disadvantage when it comes to applying for competitive grants.

## II. Resources

### A. PEPFAR—Emergency Plan for Public Safety and Health in Indian Country

1. **Legislation**—On July 30, 2008, Congress passed the Tom Lantos and Henry J. Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (P.L. 110-293 in the 110<sup>th</sup> Congress)<sup>31</sup>, otherwise known as the President's Emergency Plan for AIDS Relief or PEPFAR, and contained within the bill under Title VI was the Emergency Plan for Public Safety and Health in Indian Country.
2. **Funding**—The passage of the bill authorized appropriations of \$2,000,000,000

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<sup>31</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_bills&docid=f:h5501enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h5501enr.txt.pdf).

for the creation of the Emergency Fund for Indian Safety and Health for FY 2009-FY 2013 to be split between DOJ, HHS, and DOI. This fund is to be used to address issues concerning law enforcement, water, and health care needs of AI/AN/NA tribes.

### **3. OJP Funding**

- a.** DOJ is slated to receive 22% of the \$2,000,000,000, and OJP specifically 20.5% to be allocated as follows: 18.5% for construction, rehabilitation, and replacement of Federal Indian detention facilities: 1.5% for OJP's AI/AN/NA programs and 0.5% for specific law enforcement cooperative agreements.
- b.** These percentages work out to approximately \$440 million available to OJP: \$370M for detention facilities, \$30M for OJP programs, and \$10M for cooperative agreements.

## **B. Recommendations**

**1. Out-Going Funds**—As the tribal advisory body to OJP, the TJAG made a number of recommendations on the use of PEPFAR funds. Chief among these were:

- a.** Training is needed for tribes to develop resource development plans and should include grant writing training.
- b.** Tribal set-asides are essential because due to critical lack of capacity resources, tribes are rendered uncompetitive for grants when in the same pool as state and local governments, non-profits, and universities with greater resources and capacity.
- c.** The TJAG recommended against the use of matching requirements in grants because many times, those tribes in the greatest need of these resources are unable to obtain them due to matching requirements.

**2. Internal Funding**—Noting the critical need of government bodies to oversee federal AI/AN/NA programs, the TJAG urged for the continuation and expansion of resources allocated to tribal divisions of bureaus and offices and for groups like the JPCNAA and the TJAG. In addition, the TJAG submitted a proposed budget for the coming year including a number of projects the TJAG had undertaken.

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## **C. Presenting Recommendations**

In addition to soliciting tribal input at T/TA and consultation sessions and crafting these comments and critiques into tools that can be used by OJP, DOJ, and others, the TJAG would also interpret the results. Analyzing the organized feedback and utilizing their own experiences as members of AI/AN/NA communities, the TJAG would synthesize the opinions of tribal leaders and representatives across the country into a number of discrete recommendations to improve JPCNAA and OJP programs.

## **1. Communications with DOJ**

One of the principal tools used by the TJAG to bring tribal input to bear on OJP policy and programs was a relationship with OJP and DOJ leadership based on open lines of communication. In addition to a joint session with JPCNAA, teleconferences, and face-to-face meetings with the AAG, the TJAG often submitted letters to DOJ leadership to express TJAG positions and advice and that of the tribes they represent.<sup>32</sup> For example, on August 25, 2009, the TJAG submitted a letter to Attorney General Eric Holder that expressed their appreciation for the upcoming National Tribal Listening Session and their offer to provide TJAG member support and assistance for this session. On the topic of revising the consultation policy for DOJ, the TJAG used this access, reaching out to AAG Thomas Perrelli to ask questions and offer advice.

It was by means of these direct-access lines to program heads through JPCNAA, to OJP leadership through the TJAG's position as advisory body to OJP's AAG, and seeking the ear of the Attorney General and the Associate Attorney General, that the TJAG took the opinions of American Indians and Alaska Natives and the recommendations derived from them to DOJ leadership.

## **2. Consultation Policy**

One of the most important aspects of the relationship between tribal governments and the federal government is consultation; thus throughout the TJAG's existence, DOJ and OJP tribal consultation policies have been a main priority.

### **a. SMART Adam Walsh Act Tribal Consultation Guidelines**

Pursuant to Executive Order 13175, to begin implementing the 2006 Adam Walsh Act's mandated revision of the sex offender registration and notification system, the SMART Office had to first consult with tribes about the ways in which the new law affected them. As the official independent tribal voice at OJP, the TJAG was tasked with making recommendations for the new policy. In response, building on previous tribal input on consultation policy, their own expertise as tribal representatives, and the updates on policy and implementation matters provided by the SMART office at every TJAG meeting, the TJAG crafted a set of recommendations for how the SMART Office should go about consulting with tribes.<sup>33</sup> Among others, TJAG recommendations included that proposed guidelines be posted online at DOJ's Tribal Justice and Safety website, that broadcast mailings and e-mailings be sent to tribal leaders, and teleconference sessions be made available in addition to in-person sessions.

The TJAG's recommendations were accepted and implemented in full by the SMART Office.

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<sup>32</sup> To read the letters submitted by the TJAG, see Appendix I.

<sup>33</sup> See Appendix J.

## **b. Draft Consultation Policy**

Despite the high importance of consistent and appropriate consultation policy, the DOJ tribal consultation policy has not been revised since it was established in 1995. On May 15, 2009, expressing a concern on behalf of tribes, the TJAG sent a letter to Associate Attorney General Thomas Perrelli requesting clarification of the DOJ tribal consultation policy based on the Executive Order 13175 on Consultation and Coordination with Tribal Governments.<sup>34</sup> The DOJ informed the TJAG that the Department was awaiting further direction from the White House regarding tribal consultation.

On November 13, 2009, DOJ formally solicited comments from Indian tribes regarding what should be included in the DOJ tribal consultation policy. DOJ solicited comments from tribes themselves, and the TJAG submitted comments as a separate body. On December 3, 2009, as a means of injecting the AI/AN/NA perspective into the discussion of new consultation policy, the TJAG provided recommendations in the form of a draft tribal consultation and coordination policy for OJP, submitted to Laurie Robinson, OJP's AAG and Chairperson of the JPCNAA, for OJP's review and consideration.<sup>35</sup>

In addition, hoping to have the AI/AN/NA perspective included in the development of a DOJ-wide consultation policy, the TJAG submitted this same draft consultation and coordination policy through the Office of the Assistant Attorney General (OAAG) for consideration by the OTJ as DOJ-wide policy. TJAG recommendations are under consideration by both OJP and OTJ.

## **3. Strategic Plan**

In 2009, after having approved the NCAI Consultation Matrix, which organized all tribal initiatives proposed at the August 2008 TJSW Session in Billings, Montana, the TJAG began to analyze the matrix, the result of soliciting feedback from tribes. Their goal was to shape disparate tribal propositions into a tool that could guide OJP's work with AI/AN/NA communities.

Starting in their August 2009 session in Tulsa, OK, the TJAG began turning the matrix into a workable timeline for implementation. They narrowed down and refined the matrix proposals, choosing twenty-two recommendations arranged in six broader categories. These were recommendations for themselves and for OJP in the coming year to increase their capacity to thoughtfully address some of the most pressing needs in Indian Country. With each goal the TJAG provided a concrete deadline for implementation. The Strategic Plan was the TJAG's roadmap to improving justice and safety for American Indians and Alaska Natives.<sup>36</sup> (See Table 2 for a brief excerpt from the plan.)

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<sup>34</sup> See [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000\\_register&docid=fr09no00-167.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000_register&docid=fr09no00-167.pdf).

<sup>35</sup> See Appendix K.

<sup>36</sup> For the full plan, see Appendix L.

1. Assist in identifying strategies aimed at improving tribal data systems to capture public safety and public health conditions in tribal communities.

<b>Objectives</b>	<b>Timeframe</b>
a. Identify available T/TA providers and other OJP resources that can assist tribal governments with infrastructure development of information technology, information sharing, and data exchange.	01/01/2010 – 12/31/2010
b. Advocate for the establishment of a program of research and evaluation for programs and initiatives that are successful in tribal communities through formal TJAG letter to NIJ and OJP Council and/or schedule as agenda item for next TJAG meeting.	01/01/2010 – 04/30/2010

Table 2. Excerpt from Strategic Plan, Section 1.

#### **D. Coordinating Response Efforts**

It is not enough for the federal government to merely receive tribal input in the form of recommendations from the TJAG; the TJAG also took on the responsibility of maintaining accountability for OJP and DOJ to make sure that the federal government was listening to and acting on tribal feedback.

The TJAG has consistently made accountability and responsiveness a key component of each recommendation they made to the JPCNAA, AAG, and others. In their draft consultation policy, the TJAG required OJP to provide written summaries of consultation proceedings and reports on proposed initiatives to address issues raised at consultation.<sup>37</sup> In the Obama Transition Team Policy Paper, the TJAG requests that appropriate funds be set aside for such reports.<sup>38</sup> Such demands for accountability and transparency also appear in the TJAG Strategic Plan, where the TJAG proposes a forty-five-day window in which OJP must provide a written report to tribes supplying transcribed records of consultation sessions as well as a ninety-day window in which to detail OJP’s proposed response to tribal needs and requests.<sup>39</sup> Thus, in addition to funneling tribal input into OJP policy and procedure, the TJAG also undertook a number of means of monitoring federal progress on issues of concern to tribes and conveying this progress back to tribes.

<sup>37</sup> Tribal Justice Advisory Group, Office of Justice Programs, *Office of Justice Programs, Draft Tribal Consultation and Coordination Policy*, (2009) 23.

<sup>38</sup> Tribal Justice Advisory Group, Office of Justice Programs, *American Indian and Alaska Native Crime, Violence, and Victimization Concerns and Issues*, (Dec 2008) 7.

<sup>39</sup> Tribal Justice Advisory Group, Office of Justice Programs, *Tribal Justice Advisory Group 2009 Strategic Plan*, (3 Dec 2009) 2.



## **1. Critical Issues Tracking**

The TJAG, in addition to funneling tribal feedback to OJP, also helped channel OJP's progress on AI/AN/NA programs back to tribal communities, and one of the ways they accomplished this was by compiling key decisions and initiatives taken by OJP and other bureaus and departments towards addressing the critical issues addressed by the TJAG in 2008 and 2009.

## **2. AWA/SORNA Updates**

One of the key pieces of legislation that inspired the creation of the TJAG, the Sex Offender Registration and Notification Act (SORNA) provisions of the 2006 Adam Walsh Act (AWA) had significant impact on Indian Country and justice systems there, so in addition to providing guidelines for the consultation sessions the new programs necessitated, the TJAG took on the responsibility of monitoring the law and its implementation. At each TJAG meeting, members were briefed by top officials from the SMART Office, the Executive Office of U.S. Attorneys, and other agencies involved in AWA and SORNA implementation so that TJAG members could provide tribal input and perspective.<sup>40</sup>

## **3. Other Program Updates**

The TJAG was also provided with periodic updates and opportunities for discussion with other bureaus and offices on matters such as Congressional affairs with the Director of the Office of Communication, Kim Lowry; general tribal affairs with the Director of the Office of Tribal Justice, Tracy Toulou; the budget with the Associate Chief Financial Officer at OJP, Ralph Martin; and substance abuse issues with the then-Acting Director of HHS-SAMHSA, Eric Broderick.

## **4. TJSW T/TA Sessions**

Thanks to the efforts of the TJAG and many federal agency employees, the TJSW sessions have been a success, not only allowing the federal government to hear criticisms and recommendations from AI/AN/NA leaders but also enabling the federal government to share new information, strategies, and resources with tribes. The eleven TJSW sessions have so far reached over five thousand people, bringing them much needed training and knowledge about issues that currently face Indian Country: alcohol and substance abuse, at-risk youth, violence against women, and a need for more and better Native justice infrastructure. The participants have been, for the most part, tribal leaders and representatives, but also present have been representatives from nonprofits and many federal employees, including Congressional staff, who have been able to, through the

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<sup>40</sup> See Appendix E.

TJSW sessions, get an idea of the pressing issues facing AI/AN/NA communities. (Chart 4 shows the affiliations of participants from TJSW Session number 5, held in Santa Ana, New Mexico in November 2007.)

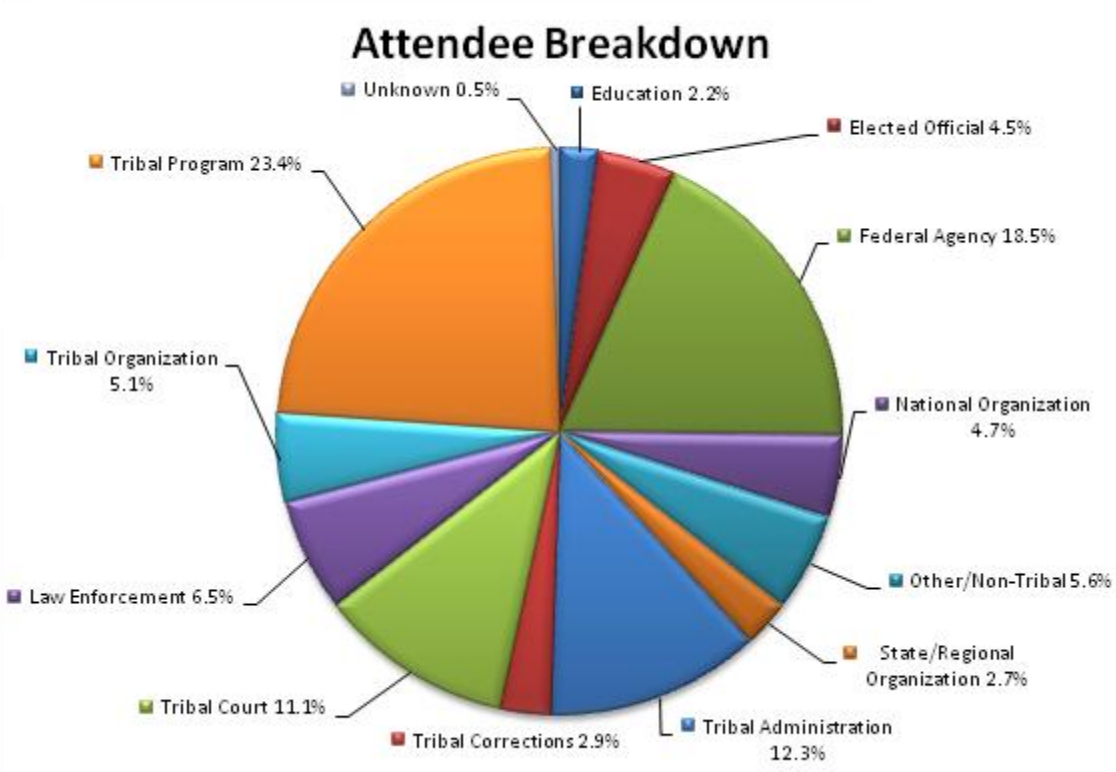


Chart 4. TJSW Session 5 Attendee Breakdown

**V. Major Accomplishments**

**A. Increasing Resources**

The TJAG’s highest priority has always been to increase resources for tribes. Tribal communities have historically been some of, if not the most, underfunded groups in the country, which has led to a lack of basic, vital resources despite the trust responsibility that has been established between tribal governments and the U.S. government through treaty and the Constitution.

Over the past decade, OJP faced declining budgets (see Chart 5 above), and the TJAG has worked tirelessly to increase these necessary resources. Success has occurred slowly but steadily since the TJAG was created, almost quadrupling the funding given to OJP to help tribal

organizations since 2007, not including American Recovery and Reinvestment Act (ARRA) grants and funds. (Table 3 below details OJP’s appropriated budget for tribal affairs since FY 2005.) The TJAG’s advocacy efforts, along with those of tribal leaders and organizations, to increase appropriations for tribal-specific programs steadily began to effect an increase for tribal programs, culminating in one of the largest requests yet made by President Obama in Fiscal Year 2011. (See Chart 5 below)

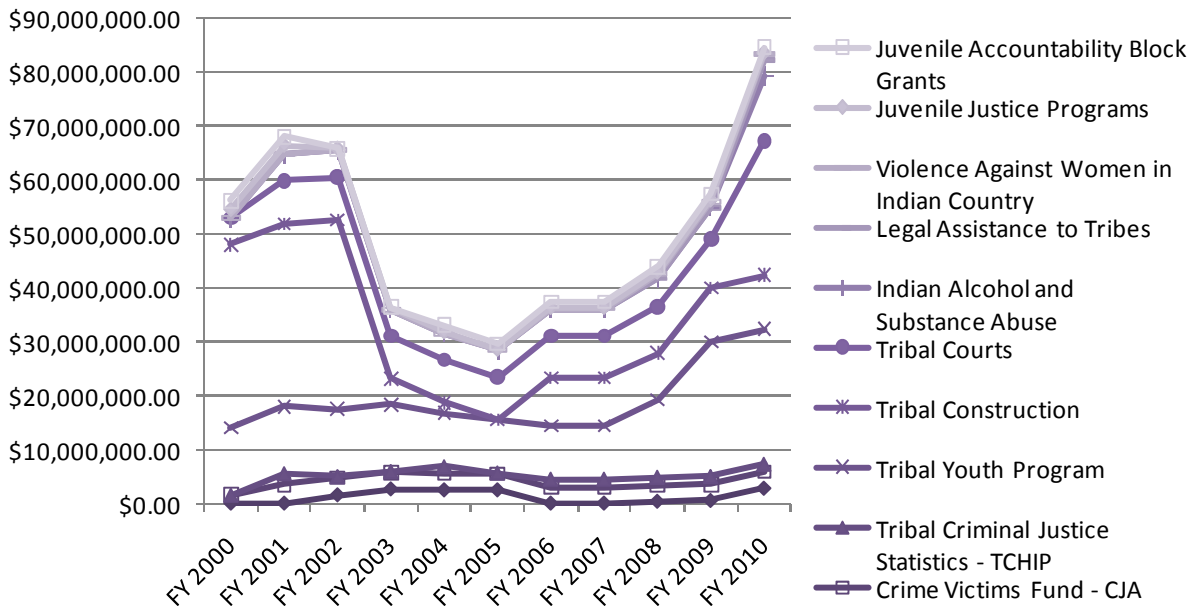


Chart 5. OJP Tribal Appropriations History FY 2000-2010. Note: Chart is a stacked line graph; each line represents an individual funding category and the sum of all categories below it. Thus, the top line represents the sum of all funding OJP received for these tribal grants programs.

FY 2005 -- \$33.5
FY 2006 -- \$37.4
FY 2007 -- \$37.4
FY 2008 -- \$43.7
FY 2009 -- \$57.4
ARRA \$225
FY 2010 -- \$84.7
FY 2011 -- \$ 140.7 (Requested)
Table 3. OJP Native American Resources (Dollars in Millions)

**B. Tribal Nations Leadership Council**

Since its inception, the TJAG has advocated for a higher-level voice and representation in the Department. DOJ responded in October 2009, announcing its intent to create a Tribal Nations Leadership Council, which would advocate for tribal issues at the department level rather than the bureau or office level.

**C. Tribal Law and Order Act**

Throughout its tenure as the independent tribal advisory body to OJP, the TJAG has consistently advocated for changes to current tribal law enforcement and grants policy. Many of the TJAG’s most fervent recommendations were contained in the Tribal Law and Order Act (TLOA), including:

- Requiring U.S. Attorneys and the FBI to assist tribal law enforcement with evidence on cases it declines to prosecute and to keep data on all declinations;
- Requiring the Attorney General to provide access for tribal law enforcement to crime information databases like the National Crime Information Center;
- Increasing sentencing authority of tribal courts;
- Reauthorizing many tribal grants programs and expanding the scope of others.

The legislation, however, struggled in Congress for three sessions, since 2005. Knowing the huge impact it could have for AI/AN/NA communities, the TJAG closely monitored the bill. Finally, in July of 2010, the bill had passed both houses of Congress and was signed into law by

President Obama as Public Law 111-211.<sup>41</sup> The final version of TLOA also incorporates other emphases of the group, including the encouragement of coordination between departments and long-term strategies devised with tribes to address issues in Indian Country. The legislation is a victory for the TJAG because so many of its long-time recommendations are becoming law. (See Image 2 below).<sup>42</sup>



Image 2. President Obama signs the Tribal Law and Order Act of 2010 on July 29, 2010. Present is Diane Enos, President of the Salt River Pima-Maricopa Indian Community and TJAG delegate from the Western region.

#### **D. Consultation Sessions**

The TJAG has been actively involved in the facilitation of numerous interdepartmental tribal public safety and public health consultation sessions, most notably the TJSW sessions. The TJAG has continually supported increased collaboration among DOJ and other federal agencies, because many of the issues confronting Indian Country involve more than one bureau or office, and the TJAG's efforts have contributed to the expansion of these successful sessions from 1 federal agency to 10 agencies in partnership; however, more coordination and collaboration is

<sup>41</sup> For full text of P.L. 111-211, see [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h725enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h725enr.txt.pdf).

<sup>42</sup> President Barack Obama signs the Tribal Law and Order Act during a signing ceremony in the East Room of the White House, July 29, 2010. (Official White House Photo by Pete Souza).

needed. The TJAG has been a constant supporting body in planning and conducting these sessions, and has served as evaluators of the TJSW sessions as well in order to ensure that they are meeting the needs of AI/AN/NA communities.

### **E. Training and Technical Assistance**

The TJAG has also strongly promoted training and technical assistance; the aforementioned TJSW sessions, held for the past 3 ½ years in eleven locations, primarily Indian Country sites, has trained over 5,000 participants in areas ranging from dealing with alcohol and substance abuse to helping at-risk youth, to preventing and responding to domestic violence, to establishing tribal courts and alternatives to detention facilities—all with the goal of increasing tribal capacity, capability, and information sharing.

### **F. Consultation Policy**

The TJAG has developed and submitted consultation policy recommendations in the form of a draft policy document to both OJP and DOJ's Office of Tribal Justice so that the tribal input they gathered could be used to help develop both OJP's policy and a DOJ-wide consultation policy. The recommendations are currently being considered by both.

### **G. Sex Offender Registry and Notification Act Monitoring**

The TJAG has also been responsible for continuous tracking and input on the Sex Offender Registry and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act. Thanks to the continued efforts of the SMART Office's staff, which has been very good about bringing privileged information to the TJAG and seeking advice to implement these requirements, the TJAG has been able to monitor the implementation of AWA and SORNA programs and initiatives to ensure that it is done with the utmost attention and respect to the concerns and the unique cultural and governmental circumstances in Indian Country.

One of the most important roles the TJAG filled concerning SORNA implementation came in crafting a set of guidelines for consultation with tribal governments on implementation of the new law and policies AWA put in place. These TJAG recommendations have been accepted and implemented in full by the SMART Office.<sup>43</sup>

### **H. Strategic Plan**

At the culmination of several years of information gathering at consultation sessions and conferences and then months of effort to organize and categorize this information, the TJAG used these tools to develop a tribal strategic plan for implementation by OJP.<sup>44</sup> The plan

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<sup>43</sup> See Appendix J.

<sup>44</sup> See Appendix L.

included twenty-two specific action items divided into six broad categories to be carried out by the TJAG, the JPCNAA, or OJP, and each included a concrete implementation timeline.

Some of the action items already put into practice include:

- Time limits for providing tribes with both records of consultations sessions and actions taken in response have been implemented by OJP.
- The TJAG has submitted its consultation policy recommendations to both AAG Laurie Robinson, as both JPCNAA Chairperson and as the head of OJP, and to the Office of Tribal Justice at DOJ through OAAG.
- With TJAG support, OJP is exploring expansion options for its “Working Effectively with Tribal Governments” program for educating federal employees on Indian history, culture, and policy. The online program is currently being considered for a pocket guide for federal employees to take into the field.

## **I. Grants Process Coordination**

The TJAG has long advocated for the creation of a model program to afford greater flexibility and coordination among DOJ programs. In response, in FY 2010, DOJ implemented the Coordinated Tribal Assistance Solicitation or CTAS as an effort to combine grants solicitations and applications from across all of DOJ’s grants programs into one common application to simplify the process. CTAS is still a work in progress, but through consistent consultation with the TJAG and other tribal leaders, it seems to be a first step to workable solutions.

## **J. Obama Transition Team Policy Paper**

The TJAG successfully drafted and submitted a paper to introduce new Obama administration leadership at OJP and DOJ to some of the most urgent justice issues in Indian Country. The paper also addressed the new funding appropriated by the Emergency Plan for Public Health and Safety in Indian Country, which was Title VI in the President’s Emergency Plan for AIDS Relief (PEPFAR) reauthorization of 2008.

## **K. Federal Employee Education**

As part of the TJAG’s goal to educate federal employees of their responsibilities to Indian Country, the TJAG took every opportunity to speak with DOJ representatives, bureaus, and offices about AI/AN/NA issues and perspectives, especially when they presented information at the TJAG meetings. Since its inauguration, the TJAG has had the opportunity to speak with the JPCNAA, OJP’s AAG, the Associate Attorney General and the Attorney General, as well as bureau and office heads from SMART, BJA, SAMHSA, BIA, OTJ, and many others.

## **L. Speaking Engagements**

The TJAG members have participated in national forums as tribal speakers, representing tribal law enforcement and justice perspectives on public safety, and not only at events in which OJP is a partner such as the TJSW sessions, but at conferences and events across all departments of the federal government and regional and national tribal organizations.

## **M. Crime Data Reporting**

Through consistent and regular consultation, the TJAG noted the need to synthesize the workings of the BIA, FBI, and DOJ and to identify and improve crime data collection and reporting, especially by expanding NCIC access and resources available to tribes. In the past, tribes were mostly ineligible for the OJP's Edward Byrne Memorial Justice Assistance Grants (JAG) program because tribal crime data was not reported. In FY 2008, only 25 tribes submitted crime data and only 5 tribes were eligible to receive JAG awards, for an estimated \$159,000. The JAG program is the primary provider of federal criminal justice funding. It is used for multi-jurisdictional drug and gang task forces, crime prevention, and domestic violence programs, courts, corrections, and justice information sharing initiatives. In FY 2010, the number of tribes reporting crime data compliant with FBI standards for the UCR increased to 130 and of JAG funds for eligible tribes increased to \$750,000.

This TJAG recommendation contributed to the implementation of Uniform Crime Reporting standards and resulted in a one million dollar set aside in Byrne and Recovery Act grants.

## **N. Communication and Coordination Models**

Thanks to hard work and a sustained effort on both sides, the TJAG has enjoyed successful coordination, communication, and collaboration with JPCNAA and Tribal Affairs at OJP including ready access to DOJ component policy experts, and direct dialogue and cross-representation at both JPCNAA and TJAG meetings and meetings with other agencies and advisory boards, like HHS-SAMHSA's own tribal advisory board, the Tribal Technical Advisory Committee or TTAC.

## **VI. Final Recommendations**

### **A. Tribal Nations Leadership Council**

#### **1. Structure**

At their March 2010 meeting in Washington, DC, TJAG members expressed concerns with the speed at which TNLC is being established. While members understand the intent and are happy



that it has been established, they note that each region comprises many different tribes, and it will take time to come together to choose representatives. The TJAG recommends remaining seated until the selections are made in a phasing-in process. There are benefits to a phasing-in process, one being the inclusion of the National Congress of American Indians and the National Indian Health Board. These groups would be a great assistance to the TNLC for several reasons. For example, the NCAI acts as a clearinghouse for distribution of information and would be very helpful.

Concerning the establishment of the TNLC, the TJAG strongly urges several amendments to the current charter. Not all tribal leaders have a working knowledge of law and order systems, so the TJAG requests provisions be made for an aide to attend with tribal leaders to provide either legal counsel or on-the-ground knowledge of programs being discussed, be they grants applications, law enforcement programs, courts, etc. This first-hand knowledge of these issues in the discussion would be an invaluable asset to TNLC and in turn to DOJ.

The TJAG also strongly feels that TNLC should be made statutory. Given the political shifts that occur during administration changes, there is a fear that the TNLC could lose influence or be disbanded altogether in subsequent administrations, and tribal communities urgently need this voice at DOJ.

## **2. Policy**

Again, the TJAG recognizes the benefits that the creation of the TNLC will have for AI/AN/NA communities, and the TJAG would like to help seat the new members of TNLC to assist in the transition process. Starting this advisory group will take a great deal of planning and work, and TJAG members can offer their experiences working in an advisory capacity with OJP and DOJ. Having undergone this same process following its own inauguration, the TJAG can serve as an invaluable resource.

Once seated, the TJAG believes it is imperative that the TNLC consider the NCAI Consultation Matrix approved by the TJAG as a working document to be updated, not rebuilt.

The TJAG has submitted to the Office of the Assistant Attorney General proposed consultation policies crafted after receiving input from tribal leaders. It is the TJAG's strong recommendation that these policies be proposed by TNLC as DOJ-wide consultation policy.

In recognition of the collaborative successes the TJAG has achieved, TJAG members would like to advise the TNLC to look to TJAG communications as a model, especially the regular meetings and teleconference calls among members and internal working groups, but also external communications: frequent meetings with OJP's AAG and the Associate Attorney General, letters to top OJP and DOJ leadership, and cross-representation at TJAG and JPCNAA meetings as well as with other meetings, such as SAMHSA's tribal advisory group, the TTAC.

## **B. Department of Justice and the Office of Justice Programs**

Given the successes and the progress that have developed as a result of interdepartmental consultations and training/technical assistance, it is the TJAG's strong recommendation that DOJ continue this policy and that TNLC continue to advocate for and support this approach. The TJAG also urges DOJ not only to invite its programs to these sessions but also to encourage enthusiastically their participation. In addition, it is vital for the continuation of these sessions that proper and necessary funds and other resources be channeled towards this goal.

In addition, because cross-cultural understanding is crucial in government-to-government relations, such as those between the federal and tribal governments, the TJAG has strongly endorsed the creation of training programs designed to introduce federal employees to the history and culture of tribal governments as well as cultural cues and reminders for dealing with tribes. The "Working Effectively with Tribal Governments" program on the GoLearn portal can be a valuable tool for educating federal employees, but the program needs to be properly funded in order to be successful. It is the TJAG's recommendation that this program and others like it be continued, encouraged, and provided all the necessary DOJ funds and resources to make them successful.

The TJAG also strongly hopes that TNLC will be as successful in facilitating interagency cooperation through regular meetings and communication, but to be able to do that, DOJ must continue if not augment efforts and funds currently allocated to encourage cooperation and coordination, not only among federal departments but also with tribal governments.

## **C. SMART Office and SORNA**

Concerning their close and ongoing advisory relationship with the SMART Office, the TJAG makes the following recommendations:

- Following the submission of their consultation policy recommendations to the SMART Office, the TJAG has also been in contact with SMART's tribal advisors, who have shared clarifications they are seeking in the TJAG's recommendations. Of course, TJAG members would like to continue to help.
- Recognizing the successes of hands-on training, it is the TJAG's recommendation that the SMART Office continue with such training sessions.
- Because accountability to tribes is such an important part of the federal-tribal relationship, one that the TJAG included as one of its top goals, TJAG members urge that a monitoring capability be assigned to the TNLC upon its inauguration for matters relating to SMART and SORNA.

## **D. New Positions**

To aid in coordinating the diverse work done at DOJ in Indian Country, the TJAG believes that the creation of a new position is necessary. An Assistant Attorney General for Indian Affairs

should be created, a Senate-confirmed political appointee. The Indian Affairs AAG would serve as the main facilitator of all programs dealing with tribal affairs and Indian Country. The TJAG also suggests the creation of another new title, that of a Deputy Assistant Attorney General for Tribal Affairs at OJP to reflect the immense responsibilities the tribal position must oversee for federally recognized tribes, reflecting a leadership title consistent with the commitment made to Tribal leaders when the position was first established. However, for these two positions to be effective in bringing together all the Indian Country initiatives, programs, and services under DOJ, it is vital that these positions are provided proper and adequate funding and resources.

## **E. Accountability**

The TJAG would also like to stress the need at the Office of Tribal Justice for more accountability. New DOJ positions and those being made permanent need to be responsive to tribal leaders. Tribal issues are not partisan, it should not matter who is in charge, only that the federal government understands it has a trust responsibility to tribes, and it must be understood and upheld.

Finally, continuing in the name of accountability, the TJAG believes it is absolutely necessary that there be a mechanism put in place on the part of OJP to provide information and to track the progress of the new TNLC. It is the suggestion of the TJAG that regular updates be provided at TNLC meetings and that it should be the duty of OJP's AAG to communicate this information from TNLC meetings to TJAG members.

## **VII. Conclusion**

In conclusion, the TJAG would like to thank OJP for supporting the need for an independent advisory body on tribal affairs at OJP. The TJAG has accomplished much, but much remains to be done. This body has been the only tribal voice at DOJ, and it must continue with the new leadership council.

As the TJAG sunsets with the creation of a new AG-level tribal advisory group, the Tribal Nations Leadership Council, TJAG members want to take this opportunity once again to urge the TNLC to be the voice for tribal issues at DOJ. The TJAG is very happy that tribal issues will now be raised at a Department-wide level. The TJAG recognizes that at times, its recommendations and its proposals have exceeded its original guidelines and the capabilities of OJP to comply, but it is the hope of the TJAG that with the expanded influence afforded to the TNLC, tribes will be able to address a much wider scope of issues facing Indian Country. TJAG members also hope that the TNLC will take the hard work done by the TJAG and build upon that foundation and use our accomplishments to allow it to achieve even more. The TJAG members have dedicated much of their time and energy to these projects over the past three years with many successes, but with many goals still to be reached. As TNLC addresses these issues, the TJAG trusts that TNLC as well as DOJ and OJP will make a good-faith effort to keep former TJAG members informed of the progress made on these issues.

The TJAG would also like to reach out to the federal partners who deal with Indian Country to thank them for their efforts in the past and to urge them to always redouble their efforts to aid tribal communities. It is imperative that those bureaus and offices of DOJ that coordinate and facilitate tribal affairs be an important engine and a critical player in tribal affairs, in striving to better the lives of AI/AN/NA people in America, because the active engagement of these agencies will be integral in the implementation of effective tribal policy.

Finally, the TJAG would like to take one last opportunity to remind OJP and DOJ as well as all other federal partners who work within Indian Country that, as TJAG Co-Chair Hope MacDonald-Lone Tree of the Navajo Nation stated, “Tribal issues are not partisan.” It is not a question of politics or administrations. The government has an obligation, a trust responsibility, to tribal governments that is rooted in both treaties and the Constitution to address the issues that currently afflict AI/AN/NA communities and to work with them to get the resources and the assistance they need to address those issues themselves.

### VIII. Tribal Justice Advisory Group Member List

NAME	TITLE	TRIBE/ORGANIZATION	REGION
Jacob Cabuag	5 <sup>th</sup> Vice President, CCTHITA	Tlingit & Haida Tribes of Alaska	Alaska
Gary Harrison	Traditional Chief	Chickaloon Native Village	Alaska (Alternate)
Robert Bryant	Chief of Police	Penobscot Indian Nation	Eastern
Daniel Collins	Chief of Police	Mashantucket Pequot Tribal Nation	Eastern (Alternate)
Debra Gee	Deputy Attorney General	Chickasaw Nation	Eastern Oklahoma
Mickey Percy	Executive Director for Health Services	Choctaw Nation	Eastern Oklahoma (Alternate)
Roger Trudell	Chairman	Santee Sioux Nation	Great Plains
VACANT			Great Plains (Alternate)
Robert Chicks	President	Stockbridge Munsee Community	Midwest
Dale S. Dakota	Chief of Police	Keweenaw Bay Indian Community	Midwest (Alternate)
Hope MacDonald-Lone Tree	TJAG Co-Chair Councilwoman	Navajo Nation	Navajo
Raymond Joe		Navajo Nation	Navajo (Alternate)
Greg Abrahamson	Vice Chairman	Spokane Tribe	Northwest
Henry Cagey	Chairman	Lummi Indian Business Community	Northwest (Alternate)
Juana Majel/Dixon	TJAG Co-Chair Councilwoman	Pauma-Yuima Band of Mission Indians	Pacific
Dale A. Miller	Tribal Chairman	Elk Valley Rancheria	Pacific (Alternate)
Patti Carrywater	Councilwoman	Fort Belknap Indian Community	Rocky Mountain
VACANT			Rocky Mountain (Alternate)
Gay Munsell	Tribal Secretary	Kaw Nation	Southern Plains

VACANT			Southern Plains (Alternate)
Ada Pecos Melton		Pueblo of Zuni	Southwest
VACANT			Southwest (Alternate)
Diane Enos	President	Salt River Pima-Maricopa Indian Community	Western
Ed Naranjo	Vice-Chairman	Goshute Tribe	Western (Alternate)
Jacqueline Johnson Pata	Executive Director	National Congress of American Indians	National Organization
John Dossett	General Counsel	National Congress of American Indians	National Organization (Alternate)
H. Sally Smith	Alaska Region Member	National Indian Health Board	National Organization
Stacey Bohlen	Executive Director	National Indian Health Board	National Organization (Alternate)



Image 3. TJAG members after meeting with Assistant Attorney General Laurie Robinson in Washington, DC, March 2010. Pictured left to right. Front row: Co-Chair Hope MacDonald Lone Tree, Co-Chair Juana Majel Dixon, OJP AAG Laurie Robinson, Debra Gee. Middle row: Jacqueline Johnson Pata, Diane Enos. Back row: Gary Harrison, Jacob Cabuag, Greg Abrahamson, Stacey Bohlen, Robert Bryant, Roger Trudell, OJP Executive Director of the JPCNAA Eugenia Tyner-Dawson.



**JPCNAA**  
**JUSTICE PROGRAMS COUNCIL**  
**ON**  
**NATIVE AMERICAN AFFAIRS**  
**TRIBAL JUSTICE ADVISORY GROUP**  
**CHARTER**

September 19, 2007

# JPCNAA

## Justice Programs Council on Native American Affairs

### Tribal Justice Advisory Group

#### CHARTER

#### I. NAME

The name of the Justice Programs Council on Native American Affairs (JPCNAA) tribal advisory group shall be the Tribal Justice Advisory Group (TJAG).

#### II. PURPOSE

The TJAG is organized for the following purposes:

In keeping with the President's priorities and the Attorney General's goals and objectives, the Justice Programs Council on Native American Affairs, hereinafter referred to as JPCNAA or Council, was established at a senior level in the Office of Justice Programs (OJP) to ensure tribal justice and safety policy issues and strategies are developed and embraced by OJP leadership in response to the OJP Strategic Plan's "One OJP" model. This policy advisory body (a) helps to identify opportunities and programs relevant to Indian tribes and Native communities, (b) addresses issues of concern to Indian Tribes and Native communities, (c) serves as a focal point within OJP for coordination, outreach and consultation on justice and safety issues affecting the American Indian, Alaska Native, and Native American (AI/AN/NA) population nationwide, and (d) serves as a liaison advisory body to other Department of Justice (DOJ) agencies, bureaus and offices that desire to participate on the Council.

TJAG will advise and provide input to the JPCNAA on the implementation of the DOJ policy in furtherance of Executive Order 13175 (November 2000) which reiterates the government-to-government relationship and the requirement that each Department develop a mechanism to coordinate and consult with Tribal governments. It is the policy of the Department to consult with AI/AN/NA people to the greatest practicable extent and to the extent permitted by law before taking actions that affect these governments and people. The Council desires to engage Indian Tribes through the TJAG in an advisory capacity to assist with the Council's purpose, to work on a government-to-government basis with Indian Tribes, and to work more effectively with Tribal governments on criminal justice and public safety policy matters that affect AI/AN Tribes and Native communities.

To effectuate these goals, the JPCNAA will enlist advice from the TJAG to aid the Council in performing the activities such as

1. Educate employees and increase attention to the need to address AI/AN/NA justice and safety issues.
2. Create baseline measures, and establish and achieve goals that are consistent with the AI/AN/NA challenges and priorities.
3. 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 guide the Department in its work in the field of Indian affairs.
4. Develop and promote a DOJ policy approach to provide greater access and quality services for American Indians, Alaska Natives and Native Americans (AI/AN/NAs) throughout the Department and where possible, the Federal government.
5. Promote implementation of DOJ policy and DOJ agency plans with AI/AN/NAs and Tribal governments in accordance with statutes, executive memorandum and executive orders.
6. Promote the Tribal/Federal government-to-government relationships on a Department-wide basis that builds on the principals of Executive Orders 13336, 13270, 13175, 13132, and 13007.

### III. FUNCTIONS

The functions of the TJAG may include, but are not limited to, advising the Council on the following:

1. Promote the highest quality tribal justice systems and enhance the public safety of AI/AN/NA people by enhancing the coordination, collaboration, and consultation processes with AI/AN/NAs, Tribal leaders and local communities in the design of Federal policies regarding tribal justice and safety.
2. Promote a Departmental strategy to provide a comprehensive service delivery system for AI/AN/NAs, which identifies and targets priority needs related to tribal justice and safety in the AI/AN/NA Community and focuses on interagency coordination with other Departments and non-Federal organizations to meet these needs, in accordance with Presidential executive memorandum, executive orders, and the DOJ Policy on Tribal Sovereignty and government-to-government relations with Indian tribes.



3. Provide recommendations for developing short, intermediate and long-range solutions to improve Department policy and programs that target AI/AN/NAs.
4. Distribute information, data and statistics that accurately describe the tribal justice and safety needs of AI/AN/NAs and the Departmental resources expended to meet these needs.

#### IV. AUTHORITY

The JPCNAA-TJAG will be established as an advisory group with oversight provided by the Assistant Attorney General for OJP (AAG) as the Council Chairperson, and the executive direction provided by the Senior Advisor to the AAG for Tribal Affairs/JPCNAA Executive Director. This Charter is established for the JPCNAA-TJAG to reflect the responsibilities conferred on the JPCNAA by the AAG, authorized under the general authority of the AAG. *See, e.g., Omnibus Crime Control and Safe Streets Act (Public Law 90-351), 42 U.S.C. Chapter 46, subchapter I and 42 U.S.C. Chapter 46, subchapter VIII; Section 108(a) of the Department of Justice Appropriations Act, 2000, (Public Law 106-113); and Atty Gen. Order No. 1473-91, ¶¶ 1, 7 (Feb. 19, 1991).*

#### V. ORGANIZATION

##### A. Justice Programs Council on Native American Affairs – Tribal Justice Advisory Group

##### SCOPE:

The TJAG charter complies with the statutory provisions as set forth at 2 U.S.C. Sec. 1534(b)<sup>1</sup> (1) & (2), and therefore will not implicate the Federal Advisory Committee Act (FACA). The method for selecting Tribal members of the TJAG is designed to acknowledge the role of Tribal governments and their elected officials with regard to consultation on policy issues.

<sup>1</sup> 2 U.S.C. § 1534 (b) provides: *The Federal Advisory Committee Act (5 U.S.C. app.) shall not apply to actions in support of intergovernmental communications where –*

*(1) meetings are held exclusively between Federal official and elected officers of State, local and Tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and*

*(2) such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.*

The TJAG will provide a forum for meetings between Federal officials and elected Tribal leaders (or their designated employees with authority to act on their behalf), as well as representatives of Washington associations designated by Tribal leaders to act on their behalf. The TJAG meetings will serve to facilitate the exchange of views, information, or advice concerning the intergovernmental responsibilities in the implementation and/or administration of OJP' programs, including those that arise explicitly or implicitly under statute, regulation or Executive Order. The scope of the TJAG meetings includes any meetings called for purposes relating to intergovernmental responsibilities or administration. Such meetings include, but are not limited to, seeking consensus, exchanging views, information, advice, and/or recommendations; or facilitating any other interaction relating to intergovernmental responsibilities or administration. Meetings may be face-to-face or via conference call.

TJAG meetings will complement and not supplant the Tribal consultation process between OJP and the AI/AN Tribes.

**COMPOSITION:**

Membership on the TJAG (for both members and alternate members) is limited to elected Tribal leaders (or their designated employees with authority to act on their behalf), as well as representatives of Washington associations designated by Tribal leaders to act on their behalf.

The TJAG will be limited to 15 members; 12 regional tribal government representatives; and, 3 national association representatives. Regional representation is a priority for composition of the TJAG, therefore membership will be selected from the 12 administrative units (Regional Areas) aligned with the Bureau of Indian Affairs (BIA) regions. Additionally, one representative and one alternate from each Washington association is authorized, if the Associations have been designated by elected Tribal government leaders to act on their behalf. An alternate may participate in TJAG meetings on behalf of the principle member when that member cannot attend.

**APPOINTMENT PROCESS:**

The Assistant Attorney General (AAG), Office of Justice Programs will identify and appoint one Tribal leader representative and one alternate to serve on the TJAG.

Washington association Tribal Leader representatives will be appointed by the respective Tribal Leaders of each Association.

The names of each TJAG representative and alternate are to be submitted to the Senior Advisor for Tribal Affairs/JPCNAA Executive Director in the Office of the Assistant Attorney General (OAAG) in an official letter all of which can be forwarded by regular mail, fax or by email attachment. The names of each Tribal Leader representative and alternate of the Washington associations are to be forwarded to the Senior Advisor for Tribal Affairs/JPCNAA Executive Director in the OAAG under the Association letter head and signed by the Chairperson of the respective Association. The names of each representative and alternate, listed by Area, will be attached as an addendum to this Charter.

### **LEADERSHIP**

**TJAG Chairperson:** A Chairperson will be elected by and from among the 12 regional TJAG members for a one calendar-year term of service. The number of terms is not limited.

**TJAG Co-Chairperson:** The Co-Chairperson will be elected by and from among the 12 regional TJAG members for a one calendar-year term of service. The number of terms is not limited.

**Reelection:** The Chairperson and Co-Chairperson may be reelected by the TJAG.

### **PERIOD OF SERVICE:**

Terms for TJAG members will be two calendar years, expiring on December 31. Terms will be staggered, with a lottery method used to assign one-year terms to half the people initially appointed to the TJAG. TJAG members may be reappointed to serve successive, consecutive terms.

**Vacancy:** When a vacancy occurs, Tribal and Washington association leaders will be notified of the vacancy by the Senior Advisor for Tribal Affairs/JPCNAA Executive Director and the Regional Tribes/Washington association will be solicited for a new nominee. In the event of a vacancy, the alternate will attend meetings until such a time as the vacancy is officially filled.

**Change in Member Status:** If during the term of the TJAG a representative no longer represents the tribal government representative role from which they were nominated and selected, the position will be vacated to permit a new representative to be selected under the vacancy process.

**Removal:** If a designated representative does not participate in a meeting or teleconference on three successive occasions, the appointing body will be notified by the Senior Advisor for Tribal Affairs/JPCNAA Executive Director requested to replace their representative with one who is able to participate regularly.

**MEETINGS:**

Depending on availability of funds, it is anticipated the TJAG will convene at least bi-annually. Conference calls will be held as needed. Wherever possible, TJAG meetings will be held in conjunction with other OJP related meetings.

**JPCNAA and OJP SUPPORT:**

OJP technical staff, as determined by the AAG or his/her designee, shall serve in an advisory capacity to provide technical assistance and guidance to the TJAG in carrying out its functions. OJP will have the primary responsibility to coordinate and staff each TJAG meeting.

OJP will work to ensure that subject matter technical experts are available as needed to assist the TJAG in fulfilling its mission.

**VI. COUNCIL ADMINISTRATION****A. Management and Administrative Staff**

The Senior Advisor for Tribal Affairs/JPCNAA's Executive Director is responsible for the management and administration of JPCNAA and TJAG activities; the administration of funds provided for JPCNAA activity; preparation of agendas for meetings; and maintaining the records of all JPCNAA and TJAG business, including the preparation and dissemination of minutes from JPCNAA meetings.

JPCNAA staff may be provided to the JPCNAA through the OAAG, as directed by the JPCNAA Chairperson. JPCNAA staff shall be directly responsible to the Senior Advisor for Tribal Affairs/JPCNAA Executive Director. Staff support for the JPCNAA may come through personnel details of DOJ staff. Staff identified as potential details to the TJAG should be highly qualified with knowledge and/or experience in AI/AN/NA issues. Detailed employees to the TJAG will be selected by the JPCNAA Chairperson, and Senior Advisor for Tribal Affairs/JPCNAA Executive Director, with the concurrence of the applicable agency, bureau, or office head.

When necessary, the JPCNAA Liaisons will be assigned to assist the Senior Advisor for Tribal Affairs/JPCNAA Executive Director on special projects for the TJAG, with the concurrence of the applicable agency, bureau, or office head.

Space, equipment, supplies, materials, administrative support, and funds for TJAG activities will be managed and coordinated by the Senior Advisor for Tribal Affairs/JPCNAA Executive Director.

B. Meetings

The TJAG shall meet at such places it considers appropriate, on no less than a bi-annual basis. The Chairperson through the Senior Advisor for Tribal Affairs/JPCNAA Executive Director shall make every effort to provide TJAG members a thirty-day advance notice of TJAG meetings.

C. Quorum

A majority of Members of the TJAG shall constitute a quorum for the transaction of official business.

D. Issue Resolution

The TJAG will make every effort to resolve issues by developing a consensus among the Members. In the event a consensus cannot be reached, the TJAG will resolve issued based on a vote of the members present at a meeting, conducted through a show of hands.

VII. REPORTS

The TJAG may prepare reports and other such publications, documents and information for distribution within the Department, other Federal agencies, Tribal governments and the AI/AN/NA community as the JPCNAA Chairperson and Members may consider appropriate.

VIII. SPECIAL PROJECTS

The TJAG may make recommendations to the JPCNAA Chairperson regarding special studies, research and development activities or demonstrations to improve the delivery of DOJ services and benefits to AI/AN/NA people, consistent with the purposes of the JPCNAA.

IX. CHARTER ADOPTION

This TJAG Charter will become operational upon the signature of the JPCNAA Chairperson and may be amended by the JPCNAA Chairperson as needed.

Regina B. Schofield  
Signature

9-19-07  
Date



**JPCNAA**  
**JUSTICE PROGRAMS COUNCIL**  
**ON**  
**NATIVE AMERICAN AFFAIRS**  
**CHARTER**

July 12, 2007

# JPCNAA

## Justice Programs Council on Native American Affairs

### CHARTER

#### I. NAME

The name of the Council shall be the Justice Programs Council on Native American Affairs (JPCNAA).

#### II. PURPOSE

The JPCNAA is organized for the following purposes:

In keeping with the President's priorities and the Attorney General's goals and objectives, the Justice Programs Council on Native American Affairs, hereinafter referred to as JPCNAA or Council, is established at a senior level in the Office of Justice Programs (OJP) to ensure tribal justice and safety policy issues and strategies are developed and embraced by OJP leadership in response to the OJP Strategic Plan's "One OJP" model. This policy advisory body will (a) help to identify opportunities and programs relevant to Indian tribes and Native communities, (b) address issues of concern to Indian tribes and Native communities, (c) serve as a focal point within OJP for coordination, outreach and consultation on justice and safety issues affecting the American Indian, Alaska Native, and Native American (AI/AN/NA) population nationwide, and (d) serve as a liaison advisory body to other Department of Justice (DOJ) agencies, bureaus and offices that desire to participate on the Council.

To effectuate these goals, the JPCNAA will perform the following activities.

1. Formalize a structure for programs, policy priorities, and soliciting feedback by creating an environment for leadership to introduce innovation and recommend action required to effect new and improved Native American strategies.
2. Educate employees and increase attention to the need to address AI/AN/NA justice and safety issues.
3. Create baseline measures, and establish and achieve goals that are consistent with the AI/AN/NA challenges and priorities.
4. Reaffirm the Department of Justice's (DOJ) recognition of the sovereign status of federally recognized Indian tribes as domestic dependent nations and the adherence to the principles of government-to-government relations.

5. 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 guide the Department in its work in the field of Indian affairs.
6. Develop and promote a DOJ policy to provide greater access and quality services for American Indians, Alaska Natives and Native Americans (AI/AN/NAs) throughout the Department and where possible, the Federal government.
7. Promote implementation of DOJ policy and DOJ agency plans with AI/AN/NAs and Tribal governments in accordance with statutes, executive memorandum and executive orders.
8. Identify and develop legislative, administrative, and regulatory proposals which promote an effective, meaningful AI/AN/NA policy to improve tribal justice systems and public safety for AI/AN/NAs.
9. Identify and develop a comprehensive Departmental strategy proposal which promotes self-sufficiency and self-determination for all AI/AN/NA people.
10. Promote the Tribal/Federal government-to-government relationships on a Department-wide basis that builds on the principals of Executive Orders 13336, 13270, 13175, 13132, and 13007.

### **III. FUNCTIONS**

The functions of the JPCNAA may include, but are not limited to, the following:

1. Promote the highest quality tribal justice systems and enhance the public safety of AI/AN/NA people by enhancing the coordination, collaboration, and consultation processes with AI/AN/NAs, Tribal leaders and local communities in the design of Federal policies regarding tribal justice and safety.
2. Promote a Departmental strategy to provide a comprehensive service delivery system for AI/AN/NAs, which identifies and targets priority needs related to tribal justice and safety in the AI/AN/NA Community and focuses on interagency coordination with other Departments and non-Federal organizations to meet these needs, in accordance with Presidential executive memorandum, executive orders, and the DOJ Policy on Tribal Sovereignty and government-to-government relations with Indian tribes.
3. Monitor and track Departmental Attorney General initiatives for AI/AN/NA inclusion.



4. Provide recommendations for developing short, intermediate and long-range solutions to improve Department policy and programs that target AI/AN/NAs.
5. Distribute information, data and statistics that accurately describe the tribal justice and safety needs of AI/AN/NAs and the Departmental resources expended to meet these needs.
6. Advise and provide input to the OTJ on Department-wide implementation of the DOJ policy in furtherance of Executive Order 13175 (November 2000) which reiterates the government-to-government relationship and the requirement that each Department develop a mechanism to coordinate and consult with Tribal governments. It is the policy of the Department to consult with AI/AN/NA people to the greatest practicable extent and to the extent permitted by law before taking actions that affect these governments and people. The OTJ has lead responsibility for DOJ consultation, including consultations with Tribal Governments and AI/AN/NA communities, and serves as the DOJ central point of contact for AI/AN/NA governments and their representative organizations.

#### IV. AUTHORITY

The JPCNAA, which will be responsible for achieving the purposes set forth in this Charter, is established in the Office of the Assistant Attorney General (OAAG), Office of Justice Programs (OJP), with oversight provided by the Assistant Attorney General for OJP (AAG) as the Council Chairperson, and the JPCNAA executive direction provided by the Senior Advisor to the AAG for Tribal Affairs/JPCNAA Executive Director. This Charter is established for the JPCNAA to reflect the responsibilities conferred on the JPCNAA by the AAG, authorized under the general authority of the AAG. *See, e.g.*, Omnibus Crime Control and Safe Streets Act (Public Law 90-351), 42 U.S.C. Chapter 46, subchapter I and 42 U.S.C. Chapter 46, subchapter VIII; Section 108(a) of the Department of Justice Appropriations Act, 2000, (Public Law 106-113); and Atty Gen. Order No. 1473-91, ¶¶ 1, 7 (Feb. 19, 1991).

#### V. ORGANIZATION

##### A. Justice Programs Council on Native American Affairs

1. **Chairperson:** The AAG will serve as the Council Chairperson and the Chief of Staff (COS) for OJP will serve as the alternate.
2. **Council:** The JPCNAA will serve as a senior level advisory body to the AAG regarding Native American affairs. The authority exercised by the JPCNAA to implement its various actions is the authority of the JPCNAA and not the individual authority of its respective members. This authority shall always

rest within the JPCNAA, but may be delegated with the approval of the AAG to Committees, Workgroups, Officers, or representatives, as determined by the JPCNAA.

3. **Members:** The JPCNAA membership shall be appointed by the Chairperson, and shall be the heads of principal operating divisions within the OJP, as determined by the Chairperson, and such persons in the Office of the AAG as the Chairperson may designate. The Chairperson may also appoint other DOJ agency, bureau or office heads, or their designees, who wish to participate.
4. **Executive Director:** The Senior Advisor to the AAG for Tribal Affairs will serve as the JPCNAA Executive Director. The Executive Director is responsible to the JPCNAA Chairperson. The Executive Director serves as the principal management officer for all JPCNAA functions and is the principal JPCNAA liaison between and among the JPCNAA's membership, and other agencies.
5. **Liaisons:** Each JPCNAA member shall identify at least one staff person to serve as a liaison to the Council. The Council Liaison must be knowledgeable about their respective agency, bureau, or office's programs and budgets, and have ready access to senior program leadership and be empowered to speak on behalf of their respective DOJ agency, bureau, or office. Members may identify additional agency, bureau, or office staff members they believe are necessary to perform the JPCNAA Liaison functions.
6. **Workgroups and Advisory groups:** The JPCNAA may create workgroups and advisory groups as necessary to carry out the work of the JPCNAA. Members may identify staff experts they believe are necessary to perform the JPCNAA Workgroup or Advisory group activities.

**B. Responsibilities of the Chairperson**

The Chairperson of JPCNAA is charged with the overall direction of the JPCNAA. The Chairperson shall preside over all JPCNAA meetings or activities.

The JPCNAA Chairperson, through the Executive Director, will be responsible for the flow of information between and among participating JPCNAA members, the Department, and other interested parties.

The Chairperson may make all other appointments, officers, representatives and staff, as may be considered necessary and appropriate to accomplish the functions of the JPCNAA.

## VI. COUNCIL ADMINISTRATION

### A. Management and Administrative Staff

The JPCNAA's Executive Director is responsible for the management and administration of JPCNAA activities; the administration of funds provided for JPCNAA activity; preparation of agendas for meetings, and maintaining the records of all JPCNAA business, including the preparation and dissemination of minutes from JPCNAA meetings.

JPCNAA staff may be provided to the JPCNAA through the Office of Assistant Attorney General, as directed by the JPCNAA Chairperson. JPCNAA staff shall be directly responsible to the Executive Director. Staff support for the JPCNAA may come through personnel details of DOJ staff. Staff identified as potential details to the JPCNAA should be highly qualified with knowledge and/or experience in AI/AN/NA issues. Detailed employees to the JPCNAA will be selected by the Chairperson, and Executive Director, with the concurrence of the applicable agency, bureau, or office head.

When necessary, the Council Liaisons will be assigned to assist the Executive Director on special projects, with the concurrence of the applicable agency, bureau, or office head.

Space, equipment, supplies, materials, administrative support, and funds for JPCNAA activities will be managed and coordinated by the Executive Director.

### B. Meetings

The JPCNAA shall meet at such places it considers appropriate, on no less than a bi-annual basis. The Chairperson through the Executive Director shall make every effort to provide JPCNAA members a thirty-day advance notice of JPCNAA meetings.

The JPCNAA Tribal Liaisons, and other established committees or work groups, shall meet with such frequency and at such places as it considers appropriate.

### C. Quorum

A majority of Members of the JPCNAA shall constitute a quorum for the transaction of official business.

### D. Issue Resolution

The JPCNAA will make every effort to resolve issues by developing a consensus among the Members. In the event a consensus cannot be reached, the JPCNAA will resolve issued based on a vote of the members present at a meeting, conducted through a show of hands.

VII. REPORTS

The JPCNAA shall prepare reports and other such publications, documents and information for distribution within the Department, other Federal agencies, Tribal Governments and the AI/AN/NA community as the JPCNAA Chairperson and Members may consider appropriate.

VIII. SPECIAL PROJECTS

The JPCNAA may make recommendations to the Chairperson regarding special studies, research and development activities or demonstrations to improve the delivery of DOJ services and benefits to AI/AN/NA people, consistent with the purposes of the JPCNAA.

IX. CHARTER ADOPTION

This Charter will become operational upon the recommendation of the JPCNAA and the signature of the Chair.

Byron B. Schrofeld  
Signature

8-22-07  
Date

# JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS

## WORKGROUPS

July 12, 2007

### **Tribal Public Relations, Education and Outreach Workgroup**

Purpose: To ensure a coordinated approach for all tribal press and related public relations activities, increase tribal education efforts regarding OJP and other DOJ components, develop internal communications strategies recommendations, and maintain up to date information for the "Tribal Justice and Safety Website."

### **Research, Data Collection and Information Sharing Workgroup**

Purpose: Improve the coordination among OJP and other DOJ components working on Indian country issues for the improvement of the quality, accessibility, and completeness of tribal justice statistics, research, evaluation, information technology, and information sharing.

### **Youth Initiatives Coordinating Workgroup**

Purpose: Improve coordination and information sharing between OJP and other DOJ components on Department initiatives and programs for youth, e.g., (TYP, DEC, AMBER, Helping America's Youth, etc.)

### **Tribal Grants Policy/Training & Technical Assistance Workgroup**

Purpose: Develop a recommended AAG tribal grants policy, coordinate OJP training and technical assistance providers serving Indian country, and develop a recommended training & technical assistance process for OJP to implement which can serve as a model for other DOJ components.

### **Tribal Codes Development and Infrastructure Workgroup**

Purpose: Support the White House Indian Affairs Executive Working Group May 15-17, 2007 National Native American Economic Summit in Phoenix, Arizona, an interdepartmental effort focused on economic policy for Indian country; and, provide the follow up support for the summit outcomes and recommendations.

### **Federal Employee/Workforce Native Education & Training Workgroup**

Purpose: Support the White House Indian Affairs Executive Working Group to develop a draft Executive Order (EO), and an education and training program to implement a government-wide federal employee/workforce education and training program about American Indian and Alaska Native (AI/AN) tribal governments; and, to provide recommendations to implement the same program tailored for DOJ purposes.

**OFFICE OF JUSTICE PROGRAMS  
U.S. DEPARTMENT OF JUSTICE  
JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS**

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**DEPARTMENT OF JUSTICE/OFFICE OF JUSTICE PROGRAMS STAFF**

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**JPCNAA Chairman**

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**JPCNAA Executive Director**

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**TRIBAL JUSTICE ADVISORY GROUP**

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**ALASKA REGION**

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**Delegate**

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## **EASTERN**

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### **Delegate**

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## **EASTERN OKLAHOMA**

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### **Delegate**

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## **GREAT PLAINS**

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### **Delegate**

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### **Alternate**

**(Vacant)**

## **MIDWEST**

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### **Delegate**

#### **Robert Chicks**

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### **Alternate**

#### **Dale S. Dakota**

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## **NAVAJO**

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### **Delegate**

#### **Hope MacDonald Lone Tree (Co-Chair)**

Councilwoman  
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### **Alternate**

#### **Raymond Joe**

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## **NORTHWEST**

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### **Delegate**

#### **Greg Abrahamson**

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### **Alternate**

#### **Henry Cagey**

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## **PACIFIC**

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### **Delegate**

#### **Juana Majel/Dixon**

Councilwoman  
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### **Alternate**

#### **Dale A. Miller**

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## **ROCKY MOUNTAIN**

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### **Delegate**

#### **Patti Carrywater**

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### **Alternate**

**(Vacant)**

## **SOUTHERN PLAINS**

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### **Delegate**

#### **Gay Munsell**

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### **Alternate**

**(Vacant)**

## **SOUTHWEST**

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### **Delegate**

#### **Ada Pecos Melton**

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### **Alternate**

**(Vacant)**

## **WESTERN**

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### **Delegate**

#### **Diane Enos**

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Community  
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### **Alternate**

#### **Ed Naranjo**

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## **NATIONAL TRIBAL ORGANIZATIONS**

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### **NATIONAL CONGRESS OF AMERICAN INDIANS**

#### **Delegate**

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#### **Alternate**

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### **NATIONAL INDIAN HEALTH BOARD**

#### **Delegate**

**H. Sally Smith**

Chairwoman, Bristol Bay Area Health  
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# APPENDIX D

## JPCNAA Members List

<u>Organization</u>	<u>JPCNAA Member</u>	<u>Tribal Liaison</u>
BJA	James H. Burch	Elizabeth Griffith
BJS	James P. Lynch	Steven Perry
CCDO	Dennis E. Greenhouse	Mark Roscoe Norena Henry
COPS	Bernard K. Melekian	Matt Lysakowski
CRT	Thomas E. Perez	Mazen Basrawi
EEO	Carl Lucas	Laura Colon-Marrero
EOUSA	H. Marshall Jarrett	Leslie Hagen
FBI	Robert S. Mueller, III	Michelle Gruz
OAAG	Laurie O. Robinson	Eugenia Tyner-Dawson
NIJ	John H. Laub	Christine Crossland Winnie Reed
OA	Phillip Merkle	Phillip Merkle
OCFO	Leigh Benda	Ralph Martin
OCIO	Walter Iwanow	Ed Boriso
OGC	Rafael A. Madan	Charles Moses Emily Gallas
OJJDP	Jeff Slowikowski	Laura Ansera
OTJ	Tracy Toulou	Christopher Chaney
OVC	Joye E. Frost	Renee Williams
OVW	Susan B. Carbon	Lorraine Edmo
SMART	Linda M. Baldwin	Allison Turkel

**TJAG AGENDAS**

1. Work Session Rapid City, South Dakota June 16-17, 2010
2. Group Meeting w/  
OJP AAG Laurie  
Robinson Washington, D.C. March 30-31, 2010
3. Co-Chair Meeting January 26, 2010
4. Group Meeting Anchorage, Alaska December 2-3, 2009
5. Teleconference Call w/  
DOJ AAG Thomas  
Perrelli October 20, 2009
6. Work Session Palm Springs, California October 11, 2009
7. Teleconference Call September 1, 2009
8. Work Session Tulsa, Oklahoma August 11-13, 2009
9. Meeting with Thomas  
Perrelli and Laurie  
Robinson Washington, D.C. April 27, 2009
10. Work Session Washington, D.C. March 4-6, 2009
11. Teleconference Call w/  
Laurie Robinson February 19, 2009
12. Teleconference Call January 13, 2009
13. Group Meeting Palm Springs, California December 11, 2008
14. Group Meeting Billings, Montana August 20, 2008
15. Teleconference Call April 18, 2008
16. Group Meeting Washington, D.C. March 7, 2008
17. Teleconference Call January 24, 2008
18. Inaugural Meeting Santa Ana, New Mexico Nov. 28-29 2007



U.S. Department of Justice

Office of Justice Programs

*Office of the Assistant Attorney General*

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Washington, D.C. 20531

**OFFICE OF JUSTICE PROGRAMS  
JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP  
FINAL REPORT WORK SESSION  
RUSHMORE CIVIC CENTER, ROOM 205  
RAPID CITY, SD  
JUNE 16-17, 2010**

**A G E N D A**

**Wednesday, June 16, 2010**

- |            |                               |
|------------|-------------------------------|
| 8:30 a.m.  | Traditional Opening           |
| 8:35 a.m.  | Welcome                       |
| 8:45 a.m.  | Final Report Overview         |
| 9:00 a.m.  | Report Review                 |
| 10:00 a.m. | TJAG Executive Session        |
| 11:00 a.m. | Continue Report Review        |
| 12:00 p.m. | Recess (TJSW Opening Plenary) |

**Thursday, June 17, 2010**

- |            |                         |
|------------|-------------------------|
| 9:00 a.m.  | Final Report Edits      |
| 10:30 a.m. | Break                   |
| 12:00 p.m. | TJSW Sponsored Luncheon |
| 2:30 p.m.  | Wrap up TJAG business   |
| 2:45 p.m.  | Traditional Closing     |
| 3:00 p.m.  | Adjourn                 |



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**OFFICE OF JUSTICE PROGRAMS  
JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP MEETING  
810 SEVENTH STREET, NW  
WASHINGTON, D.C.  
MARCH 30-31, 2010**

**A G E N D A**

**Tuesday, March 30, 2010**

- 8:00 a.m. Tribal Justice Advisory Group (Closed Executive Session)
- 9:00 a.m. Tribal Justice Advisory Group Open Session  
Traditional Opening
- 9:05 a.m. Welcome and Special Presentations  
*Laurie O. Robinson*  
*Assistant Attorney General, Office of Justice Programs*
- 9:45 a.m. TJAG Welcome  
*Hope MacDonald Lone Tree*  
*Councilwoman, Navajo Nation, TJAG Co-Chair, Navajo Nation Region*
- Juana Majel Dixon*  
*Councilwoman, Pauma Band of Mission Indians, 1<sup>st</sup> Vice-President, National Congress of American Indians, TJAG Co-Chair, Pacific Region*
- 10:00 a.m. Attorney General Tribal Nation's Leadership Council Update  
*Eugenia Tyner-Dawson*  
*Acting OJP JPCNAA Chair/Executive Director*  
*Office of Justice Programs*
- 10:30 a.m. Break

- 10:45 a.m. Office of Justice Programs Tribal Budget: FY 2010 Spending Plan - FY 2011  
Budget Request Presentation – FY 2012 TJAG Budget Priorities  
*Nyesha Newton, Chief, Budget Formulation Branch, Budget Planning and  
Performance Division, Office of the Chief Financial Officer*
- 12:00 p.m. Working Lunch: Adam Walsh Update - Sex Offender Monitoring, Apprehending,  
Registering and Tracking Office (SMART)  
*Linda Baldwin, Director and Allison Turkel, Counsel for Indian Country  
SMART, Office of Justice Programs*
- 1:30 p.m. Executive Office of U.S. Attorneys – Native American Issues Subcommittee  
Update on Department Memorandum to U.S. Attorneys for Indian Country Issues  
and Activities  
*Leslie A. Hagen, Native American Coordinator  
Executive Office of U.S. Attorneys – Native American Issues Subcommittee*
- 2:30 p.m. Coordinated Tribal Assistance Solicitation  
  
*CTAS PowerPoint Presentation  
Matthew Lysakowski, Social Science Analyst, COPS  
CTAS Co-Chair, Training & Technical Assistance Subcommittee*
- 3:00 p.m. Break
- 3:15 p.m. CTAS GMS Presentation  
*Bruce W. Whitlock, Director  
Enterprise Applications Development Division, Office of the Chief  
Information Officer and CTAS OCIO Liaison, OJP*  
  
*Tribal Justice and Safety Web Site Presentation  
Kim Lowry, Director, Office of Communications, OJP*  
  
*TJAG and CTAS Representatives Discussion*
- 4:30 p.m. Recess



Wednesday, March 31, 2010

Collaborative Interdepartmental Tribal Justice and Safety Wellness Sessions Evaluation

- 9:00 a.m.            Introductions and Welcome  
*Eugenia Tyner-Dawson, JPCNAA Executive Director, OJP*
- 9:15 a.m.            Review of the Tribal Justice, Safety and Wellness Evaluation Outcomes  
August and December 2009 Sessions
- 10:15 a.m.            Break
- 10:30 a.m.            Overview of the Tribal Consultation  
*John Dossett, Senior Counsel, National Congress of American Indians*  
*Katy Jackman, Attorney Advisor, National Congress of American Indians*
- 11:00 a.m.            Fiscal Year 2010/2011 Collaborative TJSW Sessions and Dates
- 11:30 a.m.            Open Discussion –
- Close Interdepartmental Session
- 12:00 p.m.            Working Lunch – National Institute of Justice Tribal Research Agenda  
*Bethany Backes, Violence & Victimization Research Division, National  
Institute of Justice, OJP*
- 1:00 p.m.            Presidential Consultation Executive Memorandum Implementation -  
DOJ Consultation & Coordination Plan and TJAG OJP Consultation &  
Coordination Policy Recommendations  
*Kathy Zebell, Deputy Director, Office of Tribal Justice, DOJ*  
*Eugenia Tyner-Dawson, Acting OJP JPCNAA Chair/Executive Director*
- 1:30 p.m.            Tribal Crime Data UCR Recovery Act Project  
*Steven W. Perry, Statistician, Bureau of Justice Statistics*
- 2:00 p.m.            TJAG Report Preparation to OJP Leadership  
*TJAG Co-Chairs and Members*
- 2:45 p.m.            Break

- 3:00 p.m. TJAG Report to OJP Leadership
- 4:00 p.m. OJP Leadership Response to TJAG  
*Mary Lou Leary, Principal Deputy Assistant Attorney General*  
*Office of Justice Programs*
- 4:30 p.m. Wrap Up TJAG Business
- 4:45 p.m. Traditional Closing
- 5:00 p.m. Adjourn

**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP  
CO-CHAIR MEETING  
TUESDAY, JANUARY 26, 2010  
2:00 PM – 2:30 PM**

**AGENDA**

- I. **Tribal Justice Advisory Group**  
*Juana Majel Dixon*  
*TJAG Co-Chair, Pacific Region*
  
- II. **Tribal Justice Advisory Group Transition Goals and Priorities  
November 2007 through January 2010**  
  
Resources, Data Management and Information Sharing  
Jurisdiction and Prosecution  
Sovereignty and Intergovernmental Relations  
Juvenile Justice and Youth Development  
Victims Issues
  
- III. **TJAG Accomplishments**  
  
TJAG Strategic Plan for OJP  
DOJ Tribal Consultation and Coordination Policy Recommendations  
Adam Walsh Act Implementation Updates  
Tribal Justice, Safety and Wellness Collaboration Training  
Tribal Law and Order Reform Act
  
- IV. **TJAG Recommendations**  
  
Keeping TJAG active until the Leadership Council is Active  
Tribal Coordinated Assistance Solicitation – Future Plans  
Tribal Nations Leadership Council Establishment  
March 30-31, 2010 Meeting Goals
  
- V. **Adjourn**



U.S. Department of Justice

Office of Justice Programs

*Office of the Assistant Attorney General*

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Washington, D.C. 20531

**OFFICE OF JUSTICE PROGRAMS  
JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP MEETING  
HILTON HOTEL AND EGAN CONVENTION CENTER  
ANCHORAGE, ALASKA  
DECEMBER 2-3, 2009**

**A G E N D A**

**Tuesday, December 1, 2009 (Evening)**

TJAG members participating in the December 2, 2009 day-long agenda are invited to a Pre-Conference Planners and Presenters meeting at the Hooper Bay Cafe, Hilton Anchorage Hotel from 6:30 p.m. – 7:30 p.m., to receive the latest agenda and guidance for the session.

**Wednesday, December 2, 2009 (All Day)**

The TJAG Members serve as moderators, presenters and evaluators for the Tribal Justice, Safety and Wellness Session.

**Thursday, December 3, 2009 (Closed Meeting)**

8:30 a.m. Traditional Opening

8:35 a.m. Welcome/Quorum:

*Hope MacDonald Lone Tree  
Councilwoman, Navajo Nation  
TJAG Co-Chair, Navajo Nation Region*

*Juana Majel/Dixon  
Councilwoman, Pauma Band of Mission Indians  
TJAG Co-Chair, Pacific Region*

**Tribal Justice Advisory Group Agenda**  
**December 2-3, 2009**  
**Page Two**

- 8:55 a.m. Attorney General Tribal Nation's Leadership Council  
*Eugenia Tyner-Dawson*  
*Acting OJP JCPNAA Chair/JPCNAA Executive Director*  
*Office of Justice Programs*
- Sunset TJAG
  - Remaining TJAG Projects
  - TJAG Ex Officio Roles
  - TJAG Transition
  - TJAG Work Session Summaries
- 10:00 a.m. Break
- 10:15 a.m. TJAG Strategic Plan Review and Approval  
*Debra Gee, Deputy Attorney General, Chickasaw Nation*  
*TJAG Delegate – Eastern Oklahoma Region*  
*Strategic Plan Subgroup*
- 12:00 p.m. Working Lunch: Adam Walsh Update - Sex Offender Monitoring,  
Apprehending, Registering and Tracking Office (SMART)  
*Allison Turkel, Counsel for Indian Country*  
*SMART, Office of Justice Programs*
- 1:00 p.m. OJP Tribal Consultation Plan Final Recommendations  
*Hope MacDonald Lone Tree, Subgroup Chair*
- 3:00 p.m. Tribal Justice, Safety and Wellness Sessions – Future Sessions  
Recommendations
- 4:00 p.m. Remaining Pending TJAG Business and Recommendations
- 4:25 p.m. Traditional Closing
- 4:30 p.m. Adjourn

**TRIBAL JUSTICE ADVISORY GROUP  
TELECONFERENCE CALL WITH  
ASSOCIATE ATTORNEY GENERAL THOMAS PERRELLI  
OCOTOBER 20, 2009  
4:30 P.M. – 5:00 P.M.**

**AGENDA**

**I. Tribal Justice Advisory Group Support for DOJ Tribal Listening Session**

*Hope MacDonald Lone Tree, TJAG Co-Chair, Navajo Region, Navajo Nation Councilwoman*

- Indian country protocols
- Provide expert advice to DOJ on tribal law enforcement and public safety
- Help DOJ and tribal leaders with discussion and presentations

**II. Tribal Priorities**

*Henry M. Cagey, TJAG Northwest Region, Lummi Nation Chairman (WA)*

- Tribal Priority Matrix
- TJAG Draft Strategic Plan

**III. Tribal Consultation**

*H. Sally Smith, TJAG National Indian Health Board, Bristol Bay Area Health Corporation Chairman (AK)*

- 1995 DOJ Sovereignty Policy status
- 1997 Executive Committee Report
- OJP Draft Consultation Plan



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**OFFICE OF JUSTICE PROGRAMS  
JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP  
WORK SESSION II  
SUNDAY, OCTOBER 11, 2009  
SIERRA ROOM  
WYNDHAM HOTEL  
PALM SPRINGS, CALIFORNIA**

- 9:00 a.m. Introductions and Welcome  
*Eugenia Tyner-Dawson, JPCNAA Executive Director, OJP*
- 9:10 a.m. Review of the Tribal Justice, Safety and Wellness Evaluation Summary  
August 2009 Evaluation Session
- 9:20 a.m. Subgroup Report - Draft TJAG Strategic Plan  
*Ada Melton, Southwest Region Delegate*
- Subgroup Report – OJP Draft Tribal Consultation & Coordination Policy  
*Hope MacDonald Lone Tree, TJAG Co-Chair, Navajo Region*
- 9:30 a.m. TJAG Draft Strategic Plan Review
- 11:00 a.m. Federal Presentations – Tribal Consultation Policies
- Advisory Council on Historic Preservation  
*Valerie Hauser, Native American Coordinator*
  - Bureau of Indian Affairs, DOI  
*Jerry Gidner, BIA Director*
  - Substance Abuse and Mental Health Services Administration, HHS  
*Eric Broderick, Acting Administrator*
- 12:00 p.m. Lunch
- 1:00 p.m. OJP Tribal Consultation & Coordination Draft Policy Review
- 3:00 p.m. AG Tribal Nations Listening Session Update

- 3:15 p.m. TJAG – DOJ Leadership Teleconference Call Preparation
- Agenda
  - Presenters
- 4:15 p.m. Fiscal Year 2010 TJSW Sessions and Dates
- 4:30 p.m. Next TJAG Meeting
- 4:45 p.m. Wrap Up and Next Steps
- 5:00 p.m. Adjourn





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**OFFICE OF JUSTICE PROGRAMS  
JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP  
WORK SESSION II - TRIBAL JUSTICE, SAFETY AND WELLNESS EVALUATION  
TUESDAY, AUGUST 11, 2009 - THURSDAY, AUGUST 13, 2009  
MARRIOTT HOTEL OF SOUTHERN HILLS  
TULSA, OKLAHOMA**

Tuesday, August 11, 2009: 12:00 p.m. – 4:30 p.m.

- 12:00 p.m. Working Lunch  
Sex Offender Monitoring, Apprehending, Registering and Tracking Office  
(SMART)  
*Allison Turkel, SMART, Office of Justice Programs*  
*Leslie Hagen, Senior Counsel, SMART, Office of Justice Programs*  
  
Executive Office of United States Attorneys – Native American Issues  
Subcommittee Update  
*Leslie Hagen, Native American Coordinator, Executive Office of United  
States Attorneys*
- 1:15 p.m. Break
- 1:30 p.m. Tribal Justice Advisory Group – Evaluation Work Session  
  
Welcome  
*Hope MacDonald Lone Tree, Chairperson*  
*Juana Majel/Dixon, Chairperson*  
*Eugenia Tyner-Dawson, Executive Director*  
*Justice Programs Council on Native American Affairs*  
  
Agenda and Materials Review  
Minutes Approval – April 27-28, 2009
- 2:00 p.m. TJAG Policy Paper - Strategic Plan Review - Evaluation Work Session
- 4:30 p.m. Recess

Wednesday, August 12, 2009: 10:30 a.m. – 2:30 p.m.

- 10:30 a.m. Strategic Plan Review and Development
- 12:00 p.m. Working Lunch  
Planning Alternatives and Correctional Institutions for Indian Country  
*Shelly Zavlek, President*  
*Justice Solutions Group, Justice Planners International,*  
*(Bureau of Justice Assistance Facilities Consultant)*
- 1:00 p.m. OJP Tribal Consultation Plan Recommendations
- 2:30 p.m. Recess

Thursday, August 13, 2009 9:00 a.m. – 12:00 p.m.

**Joint Federal and Tribal Partners Tribal Justice, Safety and Wellness Evaluation Session**

- 9:00 a.m. Introductions and Welcome  
*Eugenia Tyner-Dawson, JPCNAA Executive Director, OJP*
- 9:15 a.m. Review of the Tribal Justice, Safety and Wellness Evaluation Outcomes  
April 2009 Evaluation Session
- 10:15 a.m. Break
- 10:30 a.m. Overview of the Tribal Consultation Matrix  
*John Dossett, Senior Counsel, National Congress of American Indians*
- 11:30 a.m. Fiscal Year 2010 TJSW Sessions and Dates
- 11:45 a.m. Wrap Up and Next Steps
- 12:00 p.m. Adjourn



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
OFFICE OF JUSTICE PROGRAMS  
BALLROOM, 3<sup>RD</sup> FLOOR  
810 SEVENTH STREET, NW  
WASHINGTON, D.C.  
MONDAY, APRIL 27, 2009  
3:00 PM – 4:30 PM**

**AGENDA**

- 3:00 p.m.    I.    **Office of Justice Programs**  
Welcome and Introductions  
*Laurie O. Robinson*  
*Acting Assistant Attorney General*
- 3:10 p.m.    II.    **Office of the Associate Attorney General**  
*Thomas J. Perrelli*  
*Associate Attorney General*
- 3:17 p.m.    III    **Tribal Justice Advisory Group**  
Background and Purpose  
*Hope MacDonald Lonetree*  
*TJAG Chairperson, Navajo Region Representative*  
*Councilwoman, Navajo Nation*
- 3:20 p.m.    IV.    **Tribal Justice Advisory Group Goals and Priorities**
- 3:20 p.m. - Indian Country Stimulus Funding – Implementation  
*Hope McDonald-LoneTree*  
*TJAG Chairperson, Navajo Region Representative*  
*Councilwoman, Navajo Nation*
- 3:27 p.m. - Tribal Law and Order Act and Tom Lantos HIV/AIDS Act  
*Jackie Johnson Pata*  
*Executive Director, National Congress of American*  
*Indians*

April 27, 2009

3:34 p.m. – Sovereignty and Intergovernmental Relations

*Henry M. Cagey*

*TJAG Northwest Region Representative*

*Chairman, Lummi Nation*

- Consultation
- Federal Indian Policy
- Strengthening and Respect for Culture

3:41 p.m. - Wellness, Prevention and Intervention

*Roger Trudell*

*TJAG Great Plains Region Representative*

*Chairman, Santee Sioux Nation*

- Co-Occurring Mental, Substance Abuse Disorders Behavioral Health Collaboration
- Treatment Services Collaboration
- Suicide Risk Detection/Diagnosis
- HIV/AIDS Detection Collaboration
- Training and TA Collaboration

3:48 p.m. - Jurisdiction and Prosecution/Crime and Violence

*Diane Enos*

*TJAG Western Region Representative*

*President, Salt River Pima Maricopa Indian Community*

- Violent, Alcohol, Gang and Drug related crimes
- Investigations and Prosecution
- Tribal Court Authority, Training, Cultural Relevance
- Public Defenders Services
- Probation and Parole
- Short/Long-term Confinement Options

3:55 p.m. - Resources, Data Management and Information Sharing/  
Capacity and Capability Building

*Ada Melton*

*TJAG Southwest Region Representative*

*American Indian Development Association*

*Pueblo of Zuni*

- Infrastructure Development
- Information Technology
- Information Sharing and Data Exchange
- Public Policy and Governance
- Community and Political Support
- Staff Capabilities (Training)
- Research and Evaluation

4:02 p.m. - Victims Issues and Organizational Structure

*Juana Majel/Dixon*

*TJAG Chairperson Pacific Region Representative*

*Councilwoman, Pauma-Yuima Band of Mission Indians*

- Adam Walsh and VAWA Act Implementation
- Victim Rights
- Coordinated Law Enforcement
- Victim/Witness Support
- Protective Services
- Victim Codes
- Compensation and Restitution
- Community Awareness Education
- Long-Term Culturally Relevant Treatment

4:09 p.m. V. **Open Discussion with Council Members**

4:30 p.m. VI. **Adjourn**

**JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP - WORK SESSION ON THE  
TRIBAL JUSTICE, SAFETY AND WELLNESS EVALUATION  
WEDNESDAY, MARCH 4, 2009 - FRIDAY, MARCH 6, 2009  
OFFICE OF JUSTICE PROGRAMS  
810 SEVENTH STREET, NW, 3<sup>RD</sup> FLOOR BALLROOM  
WASHINGTON, D.C. 20531**

**AGENDA**

Wednesday, March 4, 2009: 1:00 p.m. – 5:00 p.m.

**Tribal Justice, Safety and Wellness Session Evaluation – Pre-Briefings**

- 1:00 p.m.     I.     **Tribal Justice Advisory Group**  
                                Roll Call  
                                Agenda/Materials Review
- 1:15 p.m.     III.    **Legislative Update**  
                                *Kim Lowry, Director*  
                                *Office of Communications, OJP*
- 1:30 p.m.     IV.    **Budget Update**  
                                FY 2009, FY 2010, FY 2011 (Tribal Priorities)  
                                *Ralph Martin, Office of the Chief Finance Officer, OJP*
- 2:30 p.m.     V.     **Stimulus Funding**  
                                Status Update  
                                Outreach/Solicitations/Coordination  
                                TJSW Training & Technical Assistance Sessions  
                                Implementation  
                                Reporting  
                                *Andrew Molloy, Bureau of Justice Assistance, OJP*
- 3:30 p.m.     VI.    **Adam Walsh Act Update**  
                                *Leslie Hagen, Senior Counsel,*  
                                *Allison Turkel, SMART Office, OJP*
- 4:30 p.m.     VII.   **Administration**  
                                TJAG December 11, 2008 Minutes Approval  
                                TJAG Transition Team Teleconference Summary 1/13/09  
                                TJAG Teleconference Summary w/AAG Robinson 2/19/09  
                                Other Business
- 4:45 p.m.     VIII. **TJAG Executive Session**

Thursday, March 5, 2009: 8:00 a.m. – 5:00 p.m.

**Joint Federal and Tribal Partners Tribal Justice, Safety and Wellness Evaluation Session**

- 8:00 a.m. Introductions and Welcome  
*Eugenia Tyner-Dawson, JPCNAA Executive Director, OJP*
- 8:30 a.m. Review of the Tribal Justice, Safety and Wellness Evaluation Outcomes  
Lessons Learned and What Worked Roundtable Discussion
- 10:00 a.m. Break
- 10:15 a.m. Overview of the Tribal Consultation Matrix  
*Virginia Davis, National Congress of American Indians*
- 11:15 a.m. Future Events and Dates
- 12:00 p.m. Wrap Up and Next Steps
- 12:30 p.m. Lunch (on your own)

**TJAG Presentation to the Justice Programs Council on Native American Affairs**

- 1:45 p.m. Reconvene for the JPCNAA Council Meeting
- 2:00 p.m. TJAG Presentation to the JPCNAA  
TJSW Consultation, Training and Technical Assistance Priorities  
Indian Country Stimulus Funding - Implementation  
Jurisdiction and Prosecution  
Sovereignty and Intergovernmental Relations  
Resources, Data Management and Information Sharing  
TJAG meeting with Attorney General Eric Holder
- 4:00 p.m. **TJAG Executive Session**
- 5:00 p.m. Recess

**Friday, March 6, 2009: 8:00 a.m. – 12:00 p.m.**

- 8:00 a.m.    I.    **TJAG Charter**  
                                Vision, Mission, and Goals
  
- 9:30 a.m.    II.    **Strategic Plan**  
                                Long Term Objectives  
                                Short Tem Objectives
  
- 10:00 a.m.    Break
  
- 10:15 a.m.                    **Strategic Plan (continued)**
  
- 11:15 a.m.    III.    **TJAG-TJSW Evaluation Recommendations**
  
- 11:45 a.m.    IV.    **Future Meetings/Closing Business**
  
- 12:00 p.m.    V.    **Adjourn**



**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP  
TELECONFERENCE CALL  
THURSDAY, FEBRUARY 19, 2009  
11:00 AM - 12:00 PM (EST)**

**AGENDA**

- 11:00 a.m. I. **Tribal Justice Advisory Group**  
Introductions, Background and Purpose  
*Hope MacDonald Lonetree, Chairperson,  
TJAG Navajo Region Representative and  
Councilwoman, Navajo Nation*
- 11:15 a.m. II. **Office of Justice Programs**  
Introduction and Opening Comments  
*Laurie Robinson, Acting Assistant Attorney General  
Office of Justice Programs*
- 11:25 a.m. III. **Tribal Justice Advisory Group Goals and Priorities**  
Indian Country Stimulus Funding - Implementation  
Jurisdiction and Prosecution  
Sovereignty and Intergovernmental Relations  
Resources, Data Management and Information Sharing  
Victims Issues and Organizational Structure  
Other TJAG Member Comments
- 11:55 a.m. V. **Future TJAG Meetings with DOJ Leadership**  
JPCNAA Joint Session with TJAG - March 5, WDC  
TJAG meeting with Attorney General Eric Holder
- 12:00 p.m. VI. **Adjourn**

**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS -  
TRIBAL JUSTICE ADVISORY GROUP  
TELECONFERENCE WITH THE OBAMA TRANSITION TEAM  
TUESDAY, JANUARY 13, 2009  
11:00 AM – 12:00 PM**

**AGENDA**

- 11:00 a.m. I. **Tribal Justice Advisory Group**  
Introductions, Background/Purpose  
*Hope MacDonald Lonetree, Chairperson/Navajo Region Representative*
- 11:15 a.m. II. **Obama Transition Team Introduction**  
*Mary Smith, DOJ Transition Team Representative*
- 11:20 a.m. III. **Tribal Justice Advisory Group Goals and Priorities**  
Presentation of the TJAG Position  
Resources, Data Management and Information Sharing  
*Ada Melton, Southwest Region Representative*  
Jurisdiction and Prosecution  
*Diane Enos, Western Region Representative*  
Sovereignty and Intergovernmental Relations  
*Henry Cagey, Northwest Region Representative*  
Victims Issues and Organizational Structure  
*Juana Majel/Dixon, Chairperson/Pacific Region Representative*
- 11:45 a.m. IV. **Other TJAG Comments**
- 11:55 a.m. V. **Future TJAG Meetings with OJP Leadership**  
Next Steps
- 12:00 p.m. VI. **Adjourn**



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP MEETING  
THURSDAY, DECEMBER 11, 2008  
8:00 AM – 5:00 PM  
CONVENTION CENTER  
PALM SPRINGS, CALIFORNIA**

**AGENDA**

- 08:00 a.m. I. Traditional Opening
- 08:10 a.m. II. Roll Call/Introductions  
*Eugenia Tyner-Dawson, JPCNAA Executive Director*
- 08:20 a.m. III. Welcome  
*TJAG Chairwoman Hope McDonald Lonetree, Navajo Region, Councilwoman,  
Navajo Nation Council*
- 8:30 a.m. IV. April 18, 2008 TJAG Teleconference Meeting Minutes Corrected – Approval  
August 20, 2008 TJAG Meeting Minutes - Approval
- 8:45 a.m. V. Congressional Affairs Update
- Election Changes
  - Upcoming Hearings
  - Juvenile Justice Reauthorization
  - Tribal Law and Order Act Bill – DOJ Views
  - Other
- Kim Lowry, Director, Office of Communications, Office of Justice Programs  
(Via teleconference call)*
- 9:30 a.m. VI. Budget Update
- FY 2008 Grant Awards
  - FY 2009 Budget/Continuing Resolution
  - FY 2010 Budget Request
- Ralph Martin, Office of the Chief Financial Officer, Office of Justice Programs*

- 10:30 a.m. Break
- 10:45 a.m. VII. Administration Transition and TJAG Follow Up Activities
- Overview
  - State Attorney General Referral
  - Matching Requirement
  - Charter Amendments Status
- 12:00 p.m. Lunch
- 1:30 p.m. VIII. Tribal Affairs Update  
*Tracy Toulou, Director, Office of Tribal Justice, Department of Justice*
- 2:00 p.m. IX. Tribal Justice and Safety OJP Consultation Plan and Policy Priorities
- Draft Outline for Process
  - FY 2009 OJJDP Consultation Tribal Youth Program
  - Future Consultation Items
    - Consultation Policy/Guidance
    - Global Health – Title VI - Emergency Plan
    - VAWA Mandatory Annual Consultation
- Laura Ansera, Office of Juvenile Justice and Delinquency Prevention*
- 2:45 p.m. X. Tribal Justice, Safety and Wellness Session # 9-10  
*Eugenia Tyner-Dawson, JPCNAA Executive Director*
- 3:00 p.m. Break
- 3:15 p.m. XI. Adam Walsh and Child Protection Safety Act Work Session –  
Executive Office of US Attorneys, Native American Affairs Update  
*Leslie Hagen, Assistant US Attorney, Western District, Michigan, on assignment to the Office of the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART), OJP and Executive Office of US Attorneys (EOUSA)*
- 4:45 p.m. XII. Wrap Up/Next Meeting Agenda Topics
- 4:55 p.m. XIII. Traditional Closing
- 5:00 p.m. XIV. Adjourn



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP MEETING  
WEDNESDAY, AUGUST 20, 2008  
10:00 AM – 4:45 PM  
HOLIDAY INN AND CONVENTION CENTER  
BILLINGS, MONTANA**

**AGENDA**

- 10:00 a.m. I. Tribal Caucus  
*TJAG Co-Chair Selection*
- 11:00 a.m. II. Roll Call/Introductions  
*Eugenia Tyner-Dawson, JPCNAA Executive Director*
- 11:10 a.m. III. Welcome  
*Hope McDonald Lonetree, TJAG Co-Chair, Navajo Region, Councilwoman,  
Navajo Nation Council*  
  
*Jeffrey Sedgwick, Acting Assistant Attorney General, Office of Justice Programs,  
and Chairman, Justice Programs Council on Native American Affairs*
- 11:20 a.m. IV. April 18, 2008 TJAG Teleconference Meeting Minutes Approval  
*TJAG Co-Chairs/Members*
- 11:25 a.m. V. April 18, 2008 JPCNAA Tribal Justice Advisory Group (TJAG) Follow-up  
Discussion -Administration Transition Goals and Activities
- Adam Walsh Final Guidelines/Implementation
  - Administrative Cost Ceilings
  - Matching Cost Discretionary Waivers
  - Transition Goals/Activities: Preliminary Overview
- JPCNAA Chair/TJAG Co-Chairs/Members*
- 12:00 p.m. Lunch – Federal Partners Awards Luncheon

- 1:30 p.m. VI. Tribal Justice and Safety OJP Consultation Plan and Policy Priorities/  
August 19, 2008 Tribal Consultation Follow Up
- Draft Outline for Process
  - Priorities Update
  - FY 2009 OJJDP Consultation Tribal Youth Program
- 1:50 p.m. VII. Tribal Justice Advisory Group (TJAG) Charter  
*Rhonda Jones, Attorney Advisor, Office of General Counsel, OJP*  
*TJAG Membership Discussion*
- 2:10 p.m. VIII. Tribal Justice, Safety and Wellness Session # 8  
*Eugenia Tyner-Dawson, JPCNAA Executive Director*
- 2:15 p.m. Break
- 2:30 p.m. IX. Adam Walsh and Child Protection Safety Act Work Session  
*Leslie Hagen, Assistant US Attorney, Western District, Michigan, on assignment*  
*to the Office of the Sex Offender Sentencing, Monitoring, Apprehending,*  
*Registering and Tracking Office (SMART), OJP*
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- 4:30 p.m. X. Wrap Up/Next Meeting Agenda Topics
- 4:45 p.m. XI. Closing/Adjourn



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP MEETING  
FRIDAY, APRIL 18, 2008  
2:00 AM – 4:00 PM (EDT)  
TELECONFERENCE  
WASHINGTON, D.C.**

**AGENDA**

- 2:00 p.m. I. Welcome/Roll Call  
*TJAG Co-Chairs  
Eugenia Tyner-Dawson, Executive Director, Justice Programs Council on Native American Affairs*
- 2:05 p.m. II. March 7, Acting Assistant Attorney General Follow-up Discussion
- 2:20 p.m. III. March 7, 2008 TJAG Meeting Minutes Approval  
*TJAG Co-Chairs/Members*
- 2:30 p.m. IV. Tribal Justice Advisory Group (TJAG) Charter Review  
*Emily Gallas, Attorney Advisor, Office of General Counsel, OJP  
TJAG Membership Discussion*
- 2:55 p.m. V. Adam Walsh and Child Protection Safety Act Update  
*Leslie Hagen, Assistant US Attorney, Western District, Michigan, on assignment to the Office of the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART), OJP*
- 3:20 p.m. VI. Tribal Justice and Safety Consultation and Policy Priorities/  
August 19-22, 2008 Tribal Consultation (Follow Up), Training & Technical Assistance Session, Billings, MT  
*TJAG Co-Chairs/ Members – Consultation Priorities  
Eugenia Tyner-Dawson – August Session Discussion*
- 3:45 p.m. VII. Wrap Up/Next Meeting Agenda Topics
- 4:00 p.m. VIII. Closing/Adjourn



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP MEETING  
FRIDAY, MARCH 7, 2008  
10:30 AM – 3:00 PM  
GRAND HYATT HOTEL  
WASHINGTON, D.C.**

**AGENDA**

- 10:30 a.m. I. Welcome/Roll Call  
*TJAG Co-Chairs  
Eugenia Tyner-Dawson, Executive Director, Justice Programs  
Council on Native American Affairs*
- 10:40 a.m. II. January 24, 2008 TJAG Teleconference Meeting Minutes Approval  
*TJAG Co-Chairs/Members*
- 10:50 a.m. III. Adam Walsh and Child Protection Safety Act Update  
*Leslie Hagen, Assistant US Attorney, Western District, Michigan, on  
assignment to the Office of the Sex Offender Sentencing, Monitoring,  
Apprehending, Registering and Tracking Office (SMART), OJP*
- 12:00 p.m. IV. Luncheon DOJ Briefings and Overviews
- 12:00 Adam Walsh Child Protection and Safety Act – Discussion  
*TJAG Members*
- 12:30 Legislative Overview  
*Adam Spector, Congressional Affairs and JPCNAA  
Tribal Liaison, Office of Communications, OJP*



- 12:40 OJP Budget Planning and Performance Division Overview  
*Marcia Paull, Chief Financial Officer, OJP*  
*Leigh Benda, Deputy Chief Financial Officer, OJP*  
*Ralph Martin, Associate Chief Financial Officer, OJP*
- 12:50 Office of Tribal Justice Overview  
*Tracy Toulou, Deputy Director, Office of Tribal Justice*
- 1:00 p.m. V. Tribal Justice Advisory Group (TJAG) Charter Review  
*Emily Gallas, Attorney Advisor, Office of General Counsel, OJP*  
*TJAG Membership Discussion*
- 2:00 p.m. VI. Tribal Justice and Safety Consultation and Policy Priorities and  
July Tribal Consultation, Training & Technical Assistance Session  
*TJAG Co-Chairs/ Members – Consultation Priorities*  
*Eugenia Tyner-Dawson – July Session Discussion*
- 2:15 p.m. VII. Discussion with Jeffrey L. Sedgwick Acting Assistant Attorney  
General, OJP  
*TJAG Members*
- 2:45 p.m. VIII. Wrap Up/Next Meeting
- 3:00 p.m. IX. Closing/Adjourn



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP MEETING**

**TELECONFERENCE  
2:00 PM – 4:00 PM (EST)**

**JANUARY 24, 2008**

**AGENDA**

**NOVEMBER 28**

- 2:00 pm – 2:05 am I. Welcome/Roll Call  
*Eugenia Tyner-Dawson, Senior Advisor to the Assistant Attorney General for Tribal Affairs, Executive Director, Justice Programs Council on Native American Affairs*
- 2:05 pm – 2:15 pm II. November 28-29, 2007 TJAG Meeting Minutes  
*TJAG Approval of the minutes*
- 2:15 pm – 2:45 pm III. Tribal Justice Advisory Group (TJAG) Charter Review  
*Office of Justice Programs-Office of General Counsel  
TJAG Membership Discussion*
- 2:45 am -3:15 pm IV. Adam Walsh Act Update  
*Leslie Hagen, Assistant US Attorney, Western District, Michigan, on assignment to the Office of the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART), OJP*
- 3:15 pm – 3:30 pm V. Legislative Overview for March TJAG Briefing  
*Adam Spector, Office of Communications, JPCNAA  
Tribal Liaison*

**JPCNAA-TJAG Agenda**  
**January 24, 2008**  
**Page Two**

- 3:30 pm – 3:40 pm VI. Tribal Consultation, Training & TA Session Update  
*Eugenia Tyner-Dawson*
- 3:40 pm – 3:50 pm VII. Other Business  
*March 7, 2008 Agenda Topics Review*
- 3:50 pm – 4:00 pm VIII. Wrap Up and Closing Comments
- 4:00 pm IX. ADJOURN



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**JUSTICE PROGRAMS COUNCIL ON  
NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP INAUGURAL MEETING**

**HYATT REGENCY TAMAYA RESORT  
EAGLE ROOM  
1300 TUYUNA TRAIL  
SANTA ANA PUEBLO, NM 87004**

**NOVEMBER 28 – 29, 2007**

**AGENDA**

**NOVEMBER 28**

10:30 am – 11:15 am

- I. Welcome/Introductions  
*Eugenia Tyner-Dawson, Senior Advisor to the Assistant  
Attorney General for Tribal Affairs*
- II. Purpose/ Agenda & Materials Review  
*Eugenia Tyner-Dawson, Senior Advisor to the Assistant  
Attorney General for Tribal Affairs*

11:15 am – 11:45 am

- II. JPCNAA Charter Review – Office of Justice Programs
- III. Tribal Justice Advisory Group (TJAG) Charter Review

JPCNAA/TJAG Agenda

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11:45 am – 1:00 pm

Working Lunch

IV. DOJ Structure and Organization

- Office of Justice Programs  
*Adam Spector, Office of Communications, OJP*
- Legal & Policy  
*Kathy Zebell, Deputy Director, Office of Tribal Justice*
- Native American Issues Subcommittee  
*Dean Burris, Assistant US Attorney, Eastern District, Oklahoma, on Assignment to NAIS*
- JPCNAA  
*Eugenia Tyner-Dawson, Executive Director, JPCNAA*
- Other

1:00 pm – 1:15 pm

BREAK

1:15 pm – 2:15 pm

V. Tribal Caucus – Officers Election

2:15 pm – 2:45 pm

VI. Caucus Report

- New Co-Chairs

2:45 pm – 3:30 pm

VII. Organizational Business – Mapping Tribal Consultation Priorities

3:30 pm

VIII. RECESS

NOVEMBER 29

10:30 am – 11:45 am

- IX. Organizational Business – Mapping Tribal Consultation Priorities
- X. Schedule/Meetings – Calendar

11:45 am -1:00 pm

- XI. JPCNAA/Adam Walsh Act Working Lunch
  - Co-Chair Workgroup Reports
    - I. Tribal Public Relations, Education and Outreach Workgroup – *Adam Spector, OCOM, OJP*
    - II. Research, Data Collection and Information Sharing Workgroup – *Steven Perry, Bureau of Justice Statistics, OJP*
    - III. Youth Initiatives Coordinating Workgroup – *Laura Ansera, Office of Juvenile Justice and Delinquency Prevention, OJJDP*
    - IV. Tribal Grants Policy/Training & Technical Assistance Workgroup – *Robert Brown, Bureau of Justice Assistance, OJP*
    - V. Tribal Codes Development and Infrastructure Workgroup – *Mark Roscoe and Norena Henry, Community Capacity & Development Office, OJP*
    - VI. Federal Employee/Workforce Native Education & Training Workgroup – *Eugenia Tyner-Dawson, OAG/JPCNAA, OJP*
- XII. Adam Walsh Overview  
*Leslie Hagen, Assistant US Attorney, Western District, Michigan, on assignment to the Office of the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART), OJP*

1:00 pm – 1:15 pm

BREAK

JPCNAA/TJAG Agenda  
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November 29 (Continued)

1:15 pm – 3:45 pm

XIII. Adam Walsh Work Session – *Leslie Hagen, SMART, OJP*

3:45 pm – 4:00 pm

XIV. Other Business

XV. Wrap Up and Closing Comments

4:00 pm

XVI. ADJOURN

## TRIBAL JUSTICE AND SAFETY CONSULTATION, TRAINING & TECHNICAL ASSISTANCE SESSIONS

### TRIBAL JUSTICE ADVISORY GROUP TRIBAL PRIORITIES AND ISSUES FOR THE OFFICE OF JUSTICE PROGRAMS

The Office of Justice Programs (OJP) compiled this list of issues raised by Tribal leaders at the Tribal Justice and Safety Consultation, Training & Technical Assistance sessions (TCT&TA) in 2007 and 2008. This list does not attempt to describe the issues in order of priority, but it does identify those issues raised that involved lengthy discussion or that were raised frequently by Tribal commenters. This document also briefly highlights existing resources made available to address the issues raised or policy actions that were implemented subsequent to the Tribal priorities and issues identified at these forums.

#### OJP Tribal Consultation Issues and Recommendations

1. Increase and improve Tribal access to all OJP resources and promote sustainability.
  - In Fiscal Year 2007, OJP established a dedicated Government-wide Tribal Justice and Safety website that provides American Indian/Alaska Native (AIAN) Tribes immediate access to all grants announcements, including Office of Justice Programs (OJP), Community Oriented Policing Services (COPS), and Office on Violence Against Women (OVW) funding and grant opportunities.
  - OJP improved its e-mail broadcast capacity to inform all Department of Justice (DOJ)-related national Tribal organizations as recipients of funding and grants opportunities available to AIAN Tribes.
  - OJP implemented a new Tribal Grants Policy on September 20, 2007, which includes AIAN Tribes in its grants solicitations as eligible, absent compelling justification to the Assistant Attorney General for exclusion.
2. Development and implementation of the Adam Walsh Child Protection and Safety Act—negative impact on Tribal sovereignty.
  - The OJP Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) has provided several presentations at OJP Tribal consultation sessions, national conferences, and regional sessions regarding the description of the SMART Office, explaining that it was created when President Bush signed into law the Adam Walsh Act (AWA). The act included an election right and a right to file a resolution or other enactment by July 27, 2007, indicating whether Tribes wished to start up their own sex offender registry or delegate that responsibility to the State.
  - SMART Office presentations included detailed discussion on proposed guidelines (standards) for implementation, such as statistics about the Tribes' eligibility to file resolutions indicating whether they wished to start up their own sex offender registry or delegate that responsibility to the State. They also summarized comments received as a result of the resolutions filed or not filed. SMART noted that there were four specific areas in which there was a continuing theme in terms of issues that Tribes wanted to see addressed in the final guidelines:
    1. Establishment of an advisory committee of Tribal representatives with which a SMART Office consultant would work in connection with Tribal implementation issues;



2. Clarification that groups of Tribes may enter into cooperative arrangements among themselves to effect a substantial implementation of the requirements;
  3. A provision in the proposed guidelines that was seen as affording less respect to Tribal sex offense convictions than a sex offense conviction in other jurisdictions; and
  4. Modification of a requirement for sexual offenders to register ethnic or Tribal names, which was overly broad in the proposed guidelines. Tribes have been informed that guidelines will be finalized in early 2008 and at that time will be posted on the SMART Office webpage.
- The SMART Office also noted another issue consistently heard: Tribes and other jurisdictions need resources in implementing the AWA.
  - Two Tribal-specific sex offender symposiums are being conducted.
  - AWA updates were provided to Tribal Justice Advisory Group (TJAG) members at their meeting on November 28–29, 2007; during their January 24, 2008, conference call; their March 7, 2008, meeting; and their April 18, 2008, conference call.
  - OJP's Office of the Assistant Attorney General (OAAG), Office of the General Council (OGC), and the SMART Office worked with the Office of Tribal Justice (OTJ), and OJP provided the OAAG a detailed list of all 562 federally recognized Tribes that included their jurisdiction status under the AWA and Sec.127 selection. This list provides a breakdown by State of the jurisdiction status and identifies 212 Tribes as eligible to administer sex offender registries and 350 as subject to State jurisdiction.
3. Increase construction of detention and corrections facilities to address lack of facilities, overcrowded facilities, and facilities requiring renovation and staffing.
    - In July 2007, OJP staff met with Department of Housing and Urban Development (HUD) and Bureau of Indian Affairs (BIA) representatives to discuss current projects and assess opportunities to increase coordination and collaboration among the Federal agencies. Beginning in January 2008, OJP established regular monthly staff meetings to improve communications to coordinate Tribal detention facilities issues wherever possible and share information.
    - In August and September 2007, OJP targeted additional broadcast notices to Tribes announcing Tribal corrections facilities planning and renovation competitive grants.
    - Facilities planning, construction and renovation announcements, and training and technical assistance sessions were completed at the June, July, and November 2007 TCT&TA sessions.
  4. Support Tribal adult and juvenile treatment facilities to address alcohol- and substance abuse-related victims, prisoner recovery/re-entry, and recidivism rates.
    - OJP is not authorized to construct alcohol and substance abuse treatment facilities. However, OJP does support Tribal drug courts and wellness courts and works with victims of crime through the its Office for Victims of Crime (OVC).
    - The Bureau of Justice Assistance (BJA) provides technical assistance awards and competitive grants to assist Tribes through its Indian Alcohol and Substance Abuse program. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) also provides competitive grants to Tribal communities to promote positive youth development and to assist AIAN Tribes with intervention and delinquency prevention strategies.

5. Provide more education and training on methamphetamine in Native communities.
  - OJP awarded a Training & Technical Assistance (T&TA) grant to provide methamphetamine law enforcement training for Indian Country.
  - The fourth TCT&TA session hosted a National Tribal Methamphetamine Summit on August 1, 2007, in Phoenix, AZ, which was sponsored by the White House Office of National Drug Control Policy (ONDCP).
  - All six of the TCT&TA sessions have included methamphetamine training sessions.
  - OJP participates in regular executive meetings with the Department of Health and Human Services (HHS) to provide support and collaborate on the HHS Indian Country Methamphetamine Initiative (ICMI).
  - OVC operates a resource center for drug-endangered children, including those in Indian Country.
  - ONDCP participated in the sixth TCT&TA session on March 7, 2008, in Washington, D.C., for a methamphetamine panel that focused on resources and best practices for law enforcement and treatment.
6. Assist Tribes with developing and expanding crime data collection systems in their courts and law enforcement agencies to improve tracking and interoperability.
  - OJP's Bureau of Justice Statistics (BJS) awards competitive grants to AIAN Tribes to improve their criminal records.
  - BJS awarded a grant to SEARCH to assist Tribes with Violence Against Women Act/AWA implementation.
  - OJP implemented 10 AMBER Alert pilot projects for Indian Country that will provide a communications/interoperability assessment, development of an AMBER Alert Plan, and provide for specific training on implementing AMBER Alerts in Indian Country in cooperation with other jurisdictions.
  - In July 2007, OJP hosted an interagency meeting with other Federal departments to learn about other Federal information sharing and interoperability activities and increase coordination among Federal partners.
  - On August 2–3, 2007, BJS sponsored a successful 2-day national Crime Data and Information Sharing Conference held in conjunction with the fourth TCT&TA session.
7. Promote and help Federal-Tribal-State cross-jurisdiction cooperation and information sharing.
  - The TCT&TA sessions have included workgroups provided by local jurisdictions that provide examples of best practices between Tribal-State-local law enforcement to assist other Tribes in establishing community-based cooperative efforts on cross-jurisdiction matters and information sharing.
  - In response to Tribal leaders' comments at previous Tribal consultation sessions, the Fiscal Year 2008 TCT&TA November session included open invitations for participation of State and local Tribal criminal justice and public safety representatives.

- The OJP BJS National Crime Data and Information Sharing Conference assists with expanding Federal-Tribal-State information sharing efforts.
8. Support more prevention, intervention, gang violence, and victim assistance services for youth and sexual assault victims.
- OJP convened several interagency meetings with BIA, the Substance Abuse and Mental Health Services Administration (SAMHSA), the Indian Health Service (IHS), and other DOJ components to seek opportunities to collaborate on sexual assault issues. OJP hosted an interagency meeting on March 13, 2008.
  - Beginning in January 2008, OJP met with HHS' Native American Children & Youth Task Force to determine common areas for coordination on gang violence prevention and reduction activities in Indian Country.
  - OJP's OJJDP works closely with Tribal communities through its Tribal Youth Programs (TYPs) to address crime prevention and delinquency issues for juveniles.
  - OJP is working closely with the Boys & Girls Clubs of America (B&GC) to expand B&GC in Indian Country.
  - The Fiscal Year 2008 TCT&TA November session included B&GC training sessions to assist Tribal communities with implementing prevention and intervention programs for youth.
  - The TCT&TA sessions initiated sexual assault panels and training workgroups for Indian Country and included a day-long national Tribal summit at the November session that focused on implementing sex offender registries in Indian Country and/or in cooperation with State jurisdictions. A second symposium was held in conjunction with the sixth TCT&TA session on March 6, 2008, in Washington, D.C.
9. Improve the grants application process for Tribes by increasing the number of grants available, providing earlier notices, extending solicitation periods, allowing indirect costs, eliminating matching requirements, and promoting local flexibility on use of funds.
- The Tribal Grants Policy signed on September 20, 2007, is designed to improve grants to AIAN Tribes. For example, OJP notifies AIAN Tribes and all other eligible OJP grantees of their eligibility through the Tribal Justice and Safety website, and OJP implemented a minimum 60-day solicitation period for Tribal-specific competitions barring exigent circumstances.
10. Provide Tribes more technical assistance to apply, implement, administer, report, and close out grants (capacity building).
- The TCT&TA sessions are designed to provide workgroups to AIAN applicants and current grantees to assist with grants implementation, administration, reporting requirements, and other special conditions required by grantees in meeting their grants objectives. Bureaus are encouraged to have their grantees attend the sessions to benefit from the training provided.
  - Beginning in Fiscal Year 2008, OJP's bureaus are asked to have T&TA providers participate in the TCT&TA sessions and demonstrate their experience in working and collaborating with AIAN Tribes and communities.

11. Improve cultural awareness in staff, solicitations, peer review panels, and grants administration.

- On September 20, 2007, OJP implemented a Tribal Grants Policy that includes AIAN awareness training for OJP employees who work on Tribal issues and/or are involved in policy matters that impact AIAN Tribal governments.
- OJP provided the coordination and administration support for a Government-wide Federal employee Native online training program completed on January 31, 2008. Several DOJ components assisted with the development training program that is being implemented by the Office of Personnel Management.
- The Justice Programs Council on Native American Affairs (JPCNAA) created a workgroup that will develop an AIAN training program for DOJ and OJP employees.
- Fiscal Year 2008 OJP (T&TA) provider solicitations include requests to document relevant experience in working with AIAN communities and willingness to coordinate with national and regional Tribal organizations.

12. Improve Government-wide consultation and coordination with Federal-Tribes-States and develop a Tribal Consultation Policy and Protocols for OJP/DOJ.

- At the request of Tribal leaders, OJP and SAMHSA implemented formal Tribal consultation sessions at the TCT&TA sessions that expanded to five Federal departments/agencies.
- OJP convenes interagency meetings to discuss sexual assault crimes collaboration and coordination with other DOJ components, BIA, IHS, and SAMHSA.
- OJP is meeting and coordinating with BIA, IHS, SAMHSA and HUD's Office of Native American Programs on detention facilities construction and renovation needs.
- OJP participates in the HHS ICMI collaboration executive planning sessions.
- OJP convened a Tribal interoperability meeting to exchange information on existing Federal efforts and to explore opportunities to increase collaboration and coordination.
- OJP participates in the White House Office of Intergovernmental Affairs Indian Affairs Executive Group meetings to coordinate with other agencies Government-wide.
- OJP is exploring, through the JPCNAA and its Communications and Coordination workgroup, the development of an OJP Tribal Consultation Policy or Plan to provide guidance and protocols for this purpose.

13. Establish a Tribal Advisory Group to assist DOJ with policy and intergovernmental issues.

- OJP was exploring the establishment of a Tribal Advisory Group for its JPCNAA. On July 31, Tribal leaders requested an AWA Tribal Advisory Group to assist with implementation. OJP accepted this recommendation and elected to establish a Tribal Justice Advisory Group (TJAG) able to assist the Assistant Attorney General with AWA implementation and other OJP Tribal policy matters and assist the JPCNAA with AIAN policy issues. The first meeting occurred November 28–29, 2007; a TJAG teleconference meeting was held on January 24, 2008; the second face-to-face meeting was held on March 7, 2008; and a conference call was held on April 18, 2008.

**INTERDEPARTMENTAL TRIBAL JUSTICE, SAFETY, & WELLNESS  
GOVERNMENT-TO-GOVERNMENT CONSULTATION MATRIX:  
PRIORITIZATION OF PROPOSED SOLUTIONS**

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## **OVERVIEW & PURPOSE**

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), announced their intention to initiate tribal specific training and technical assistance sessions on tribal justice and safety issues beginning in Fiscal Year 2007. At the request of National Congress of American Indians (NCAI) Executive Board members and other tribal leaders attending a breakfast meeting with the Assistant Attorney General-OJP, and the Acting Administrator, Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services (HHS), held during the October 2006 NCAI Convention in Sacramento, CA, OJP was asked to expand its training and technical assistance initiative by partnering with SAMHSA and other federal agencies to permit collaboration between agencies to address tribal concerns. OJP and SAMHSA agreed to a partnership effort and to reach out to other federal agencies to develop a broader collaboration for public safety and public health.

In December 2006, the first of 4 Fiscal Year 2007 sessions was held. Several agencies participated in addition to OJP and SAMHSA. Also, at this session, tribal leaders requested OJP and SAMHSA to assist them with increasing communication with federal agencies by establishing consultation opportunities to discuss their public safety and public health priorities. During a post-action evaluation meeting held after the initial Interdepartmental Tribal Justice, Safety and Wellness (TJSW) session, OJP and SAMHSA agreed to conduct regular consultation forums in conjunction with the TJSW sessions as needed.

Over the course of the first 7 sessions, the partnership expanded to include the Native American Issues Subcommittee (NAIS) for the Executive Office of U.S. Attorneys (EOUSA), DOJ; Community Oriented Police Services (COPS), DOJ; the Office of Tribal Justice (OTJ), DOJ; Office on Violence Against Women (OVW), DOJ; Bureau of Indian Affairs (BIA), U.S. Department of the Interior (DOI); the Office of Native American Programs (ONAP), U.S. Department of Housing and Urban Development (HUD); the Office of Native American Affairs (ONAA), Small Business Administration (SBA); the Indian Health Service (IHS), HHS, and the Office of Minority Health (OMH), Office of Public Health and Science (OPHS), Office of the Secretary (OS), HHS. For Fiscal Year 2009, the newest federal agency joining the partnership is the Corporation for National and Community Service (CNCS).

This created multiple year partnership among several federal agencies to engage in a comprehensive government to government consultation process with tribal governments. The initial plan was to engage in eight sessions of interdepartmental consultation, which would all address issues relating to justice, safety and wellness in Indian country. The goal of these interdepartmental sessions was to create a positive, interactive dialogue between tribal leaders and federal partners, increase the knowledge and understanding by all the parties, and to allow tribes to become more involved in policy making. The interdepartmental aspect to this process was important because often tribal programs are supported by several federal departments and tribal governmental matters are interdisciplinary in nature. Tribal leaders recognized that it could be more efficient and comprehensive to have multiple federal departments and agencies present

for consultation rather than having several independent sessions. This document reflects the issues identified during the consultation sessions and the solutions proposed to resolve some of these challenges. The NCAI engaged with federal partners to plan and facilitate the consultation sessions addressed in this document. NCAI's role was to offer guidance to federal partners, not to stand in the place of any federal department. NCAI's role was to encourage tribal leaders to participate in the consultation process and to seek feedback from tribal leaders.

## **BACKGROUND & METHODOLOGY**

The seventh of eight sessions was held in Billings, Montana August 18 - 22, 2008. The purpose of Session 7 focused on continuing the dialogue between tribal leaders and federal partners to facilitate improved tribal consultation during the policymaking process. This document examines proposed solutions from Session 7 meetings and classifies prioritized solutions as either short-term, moderate-term, and long-term solutions. Additionally, the appropriate federal agencies with the authority to act on these proposed solutions were identified. The purpose of this report is not only to identify these issues, but to understand the agencies' role through regulations and policies to identify strategies to mitigate administrative barriers. Other significant information captured during Session 7 includes proposed solutions within the tribal scope of influence. During Session 7, tribal officials made suggestions based on experiences that were successful within their communities. Although this summary primarily examines the administrative role in these proposed solutions, these additional solutions made by tribes for other tribes are included within the appended matrix.

The methodology used to develop this summary is included to document the consultation process and to serve as one model for the tribal consultation process. This approach is responsive to tribal concerns raised during the consultation sessions which led tribal leaders to the belief that the federal agency consultation process required another step to act or not on consultation matters, and to work in tandem with tribes on proposed solutions to benefit tribal governments. Prioritization of issues was determined through an initial examination of the first tribal consultation matrix developed by NCAI. This initial matrix was developed after federal and tribal consultation meetings that took place in March 2008, June 2008, and July 2008. This first matrix was organized by issue, month of consultation, and listed tribes which raised issues. Issue categories were quantified by the number of times tribes raised a particular concern. These tribal concerns primarily reflected the same issues discussed in Session 7. In those instances where the March, June, and July consultation issues were not mentioned during Session 7 workgroups, summaries of these tribal concerns were still included for additional future consideration. The following document and matrix was drafted from notes taken during each workgroup session and through examination of the resulting summary document. Summary documents for each consultation session were prepared by NCAI and federal partners based on notes taken at each consultation session.



## **CONCERNS IDENTIFIED BY TRIBES**

Throughout the consultation process tribal leaders identified a broad range of issues and challenges. During Session 7, the goal was to take the challenges and concerns that had been previously identified and to now focus on discussions to elicit solutions.

In the preceding consultation sessions, the majority of tribes' concerns related to the lack of funding and resources available from federal agencies. During the consultation process, tribes raised a variety of issues specifically related to their tribes' funding needs. There is general concern that many Congressional mandates go unfunded. Tribal governments remain concerned about the lack of appropriations for federal programs to be implemented by agencies. Tribes are concerned about the negative impacts these unfunded mandates will ultimately have on the safety and wellness of their tribal members.

### **Program Concerns**

Tribes communicated the need for additional funding in many program areas. During the March, June, and July consultations, seven tribes noted the need to expand mental health funding. In March, and again in July, a total of four tribes stated the need for more funding for veterans programs. Housing funding was mentioned by three tribes in the March and June sessions. During the March consultation, two tribes requested more funding for road infrastructure, domestic violence prevention, and funding to support Indian families. Two tribes requested funds for anti-elder abuse initiatives. Two other tribes requested funds to provide better training on HIV/AIDS prevention and to increase access to these types of resources. One tribe advocated for more funding for water rights. Another tribe suggested that more community-based programs that involve local culture be developed. The need for economic development programs on reservations is needed through the DOI, and the U.S. Department of Labor (DOL). The suggestion was also made that funding from the HHS go directly to tribes, and should not be allocated through states. One tribe called for increasing funding for the Johnson O'Malley program, and more funding for the Bureau of Reclamation. One tribe in March requested funding for anti-gang violence initiatives.

### **Consultation Process Concerns**

During the March, June, and July consultations, six tribes stated the importance of having the relevant federal partners at the table, especially BIA, the DOJ, and the IHS. One tribe suggested an invitation be extended to the DOJ to visit tribal communities and tribal councils to witness the needs in Indian country first hand. In March and July, tribes called for better consultations because far too often, tribes perceive there are too many consultation meetings held by a number of the federal agencies with few outcomes reported. Tribes called for comprehensive responses to be made in writing to questions raised during the consultation process to help demonstrate progress and to help identify where more cross-cutting issues may need to be addressed by other federal agencies such as the Bureau of Indian Education (BIE) to address positive Indian youth development, or the Administration on Aging (AoA) regarding elders abuse.

### **Partnership and Planning for Session 7**

Throughout the interdepartmental sessions, NCAI has worked with federal partners to not only examine tribal concerns, but to help engage tribes in an ongoing dialogue to develop practical solutions to address the needs of Indian country. During this consultation process, five workgroup subject areas were established: 1) Police Presence & Investigations, Cooperative Agreements & Data Sharing, 2) Jurisdiction & Prosecution, 3) Prevention & Early Intervention Programs, Treatment & Rehabilitation, Prisoner Re-entry Program, 4) Victim's Services, and 5) Juvenile Justice. Each workgroup was co-facilitated by a tribal and federal representative. The discussions that took place in Billings, MT are organized into each of these workgroup areas.

## **POLICE PRESENCE & INVESTIGATIONS, COOPERATIVE AGREEMENTS & DATA SHARING**

The Police Presence & Investigations, Cooperative Agreements & Data Sharing workgroup addressed a wide range of issues during the morning and afternoon sessions. The morning session discussed solutions to improve police presence, addressed lack of funding, how to improve conditions in jail facilities, jurisdictional issues, enhancement of data sharing and tribal access to the National Crime Information Center (NCIC), mechanisms for improving communication between law enforcement agencies, and strategies for respecting tribal sovereignty. This workgroup was co-facilitated by Christopher Chaney, Deputy Director, Office of Tribal Justice, at the DOJ.

Issues discussed during both sessions were identified by tribes through the consultation process. In the March and June sessions, four tribes identified the need for increased funding and more training for law enforcement. Funding issues were identified and thoroughly discussed in the workgroups as a priority. In June, three tribes stated the need for law enforcement training on cultural issues and sensitivity. During March and July consultations, two tribes stated the need for better crime data collection.

Proposed solutions from the morning sessions included: increasing joint federal and tribal investigations, fostering federal/tribal/state agreements, addressing grant issues in PL 280 states that may require laws to be changed, development and sharing of Memorandums of Understandings (MOUs) with state governments, increasing use of deputization agreements, improving tribal, state, and federal law enforcement recognition of subpoenas, and increasing cooperation between the DOJ and BIA law enforcement offices.

During the afternoon session, the workgroup continued to discuss those issues, specifically identifying, concurrent and joint investigations, funding for officer positions, filling existing law enforcement vacancies, developing a clear process for police officers to report to prosecutors, crime lab access for tribes, cooperative agreements for under policed areas, training for tribal officers at state police academies, and regular meetings between state and tribal law enforcement and investigative agencies.

Proposed solutions from the afternoon session included: elimination of matching requirements for tribes, establishment of tribal set-asides, use of a protocol for establishing relationships with state crime labs, tribal access to declination reports, federal declination standardized reporting, and federal acceptance of tribal crime data. Participants in the afternoon session also discussed other ideas such as exploring sentencing alternatives, including substance abuse treatment programs, limited waivers of tribal sovereignty in some cases, and also the importance of prevention policies.

**Table 1: Police Presence & Investigations, Cooperative Agreements & Data Sharing**

Issues Identified Through Consultation Process	Proposed Solution from Session 7	Relevant Agency / Prioritization
Increase funding for law enforcement	<ul style="list-style-type: none"> <li>• Eliminate match requirements for tribes</li> <li>• Develop balance between discretionary awards &amp; grants</li> <li>• Training for tribal grant writers</li> <li>• Budget planning for law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> </ul> <p>Short-term goal → Long-term goal</p>
Foster federal/tribal/state agreements	<ul style="list-style-type: none"> <li>• Law enforcement cross-jurisdictional work</li> <li>• End turf wars</li> <li>• Master cross-jurisdictional agreement</li> <li>• Meetings of federal, state, and tribal judges</li> <li>• Assist tribal prosecutors</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ - U.S. Attorney Office and OJP-SMART</li> <li>• DOJ-OJP</li> <li>• BIA</li> </ul> <p>Long-term goal</p>
Increase funding for training for law enforcement	<ul style="list-style-type: none"> <li>• Sponsor summits in areas with under policing or jurisdictional disputes.</li> <li>• Increase the number of fusion centers</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> </ul> <p>Short-term goal → Long-term goal</p>
Law enforcement training on cultural issues and sensitivity	<ul style="list-style-type: none"> <li>• Develop greater cultural sensitivity (grant makers &amp; federal law enforcement)</li> <li>• Public education about the importance of law enforcement to address suspicion and mistrust in the community</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> </ul> <p>Long-term goal</p>
Better crime data collection	<ul style="list-style-type: none"> <li>• Address declination reporting</li> <li>• Improve information sharing (NCIC, Fusion Centers)</li> <li>• Create tribal point of contact in the US Attorney General's office</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ - U.S. Attorney Office</li> <li>• OJP-BJS</li> <li>• NIJ</li> <li>• FBI</li> <li>• NCIC</li> <li>• SAMHSA (NCIS)</li> <li>• BIA</li> </ul> <p>Moderate-term goal</p>

## JURISDICTION AND PROSECUTION WORKGROUP

This workgroup consisted of two substantially different conversations, one in the morning and another in the afternoon. Issues discussed in the morning session included: lack of training resources, need for more training resources and police officers, a standardized, timely declination process, tribal access to state crime labs, evidence-based prosecution of domestic violence, tribal coordination with the FBI and BIA, and inter-tribal police collaboration, possible addition of an Indian country DOJ deputy position or associate position, and increased use of deputization agreements. This workgroup was co-facilitated by Tracy Toulou, Director, Office of Tribal Justice, at the DOJ.

Proposed solutions for fundamental lack of resources involved increasing collaborative efforts and facilitating relationships within the federal agencies. DOJ staff addressed the second issue of training by communicating the services available through the National Institute for Trial Advocacy, (NITA) including training of tribal prosecutors. Although training is available at no cost to the tribe, those participating are required to pay individual travel expenses to NITA.

DOJ declination of cases in Indian country is a major concern for tribes. Tribes suggested standardization of the DOJ declination process, so that tribes have greater ability to track cases to seek independent prosecution when necessary. Although some of these declination issues may be addressed in pending legislation, there remains an interest in declination data. Proposed solutions, aside from legislation, included fostering collaborations between the BIA and DOJ to share declination data with tribal governments. Another suggestion was to find areas of duplication in the system, and to reduce these inefficiencies to increase accountability to tribes. Tribal leaders favored discussions to establish a national declination standard. Although specific solutions were not made for data collection in this workgroup, tribes recognize the lack of data collection training for tribal law enforcement leads to insufficient evidence for prosecution, which contributes to higher rates of DOJ declination.

With respect to investigation challenges, it was proposed that tribes seeking access to state crime labs could develop collaborations with the BIA and FBI to get data and evidence rather than work with the state crime lab. It was alternatively suggested that tribes make agreements with local crime labs, which would be an additional expense for tribes. The DOJ should help facilitate these collaborations.

The workgroup addressed higher prevalence of domestic violence on reservations. Tribes are interested in evidence based prosecution methods for domestic violence. Proposed solutions include an effort to require the DOJ's federal prosecutors to employ more evidence based prosecution. Tribal leaders also indicated that full faith and credit provisions be established between tribal and state governments for the enforcement of tribal domestic violence orders.

Tribes also requested appointment of a special Deputy Attorney General to specifically address issues in Indian country and to advocate for tribes within the DOJ. Although, tribal members are concerned this individual would be caught up politics and bureaucracy, the proposed solution

suggested that tribes would need to unify and advocate for the right person to fill this position. The morning session work group participants suggested this individual be appointed by the President.

Deputization agreements are important tools in fostering concurrent jurisdiction and prosecution of crimes. Unfortunately in some areas, tribal relationships with the state or local governments are too strained to make these types of agreements. There may be issues of shifting of prosecution responsibilities, which requires tribes to communicate and to be explicit when forming these agreements. The proposed solution is that tribes talk to other tribes that have made these types of agreements and to learn from their experiences.

The afternoon session was co-facilitated by Leslie Hagen, Senior Counsel, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), at the DOJ. Issues discussed included, the Adam Walsh Act (AWA) implementation, tribal access to electronic databases for fingerprints and identification, concurrent prosecution, use of multidisciplinary teams, the possible role of the special deputy, tribal access to computerized records, use of an FBI docket to notify tribes of investigations, and finally, the need for consistent communication between US Attorneys' Offices and tribal governments.

Tribal concerns over AWA implementation was an important topic during the June and July consultations. Tribes have limited funds and will have difficulty complying with the AWA requirements. Ten tribes identified the lack of resources for implementation as a significant tribal concern. During these same consultations, five tribes stated concerns about the DOJ's definition of "substantial implementation" under AWA. Tribes were also concerned with the lack of tribal consultation under AWA. Four tribes communicated during the July meeting, the need for better cross-jurisdictional coordination under AWA. Four tribes also expressed concerns over the cultural implications of collecting offender DNA and federal access to this genetic information. Two tribes suggested the use of a pan-tribal registry.

Ideas discussed to assist AWA implementation included repealing the section of AWA that places PL 280 tribes under state jurisdiction. One tribe noted AWA only addresses tribes working with states, and not with other tribes. This tribe asked for clarification on this issue. Tribes also noted the disparate treatment of tribes and states regarding AWA implementation.

Tribes requested agencies to consider the unique situation of each tribe when mandating AWA compliance. It was suggested that other agencies need to be at the table to discuss AWA issues related to tribes. Another tribe during the consultation process stated that tribes should not have to compete with each other for AWA grant funding. Tribes were also concerned about juvenile registration under AWA. The recommendation was made for symposiums to be held between states and tribes to address AWA implementation.

During the workgroup, federal partners reported that the SMART Office had contracted with an information technology provider to create a web template for tribal use. SMART had also been working on collaborations among federal prisons, tribes, and federal probation offices.

Additionally, NCAI has been working to develop model code agreements. It was proposed that tribes be granted full access to data at the NCIC in order to comply with the AWA.

The workgroup also discussed the need for concurrent prosecution, the lack of police reports and cooperative efforts, and the need for full faith and credit for tribal court orders. The afternoon workgroup was concerned with defining the scope of authority of the special deputy position at the DOJ. The scope of authority and jurisdiction needs to be clearly defined. This position would offer formal DOJ recognition. Unlike the morning, the afternoon workgroup did not necessarily advocate for this position to be filled by a political appointee. Emphasis was placed on this individual's accountability to tribes, to work with the tribes directly, to enhance relationships, and to facilitate communication.

**Table 2: Jurisdiction and Prosecution**

Issues Identified Through Consultation Process	Proposed Solution from Session 7	Relevant Agency / Prioritization
Increase funding for jails, detention centers, and training	<ul style="list-style-type: none"> <li>• Need policies that enable communication</li> <li>• Need resources that not only focus on punitive consequences, but also include efforts to rehabilitate offenders</li> <li>• Use of multidisciplinary teams under 18 USC 3509</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• HUD</li> <li>• IHS (Sanitation/Water)</li> </ul> <p>Short-term goal → Long-term goal</p>
Standardized, timely declination process	<ul style="list-style-type: none"> <li>• National declination standard</li> <li>• Fostering collaboration between the BIA &amp; DOJ to share declination data with tribes</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• FBI</li> </ul> <p>Short-term goal → Long-term goal</p>
Tribal access to computerized records and evidence	<ul style="list-style-type: none"> <li>• Full access to the NCIC</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• FBI</li> <li>• NCIC</li> <li>• States</li> </ul> <p>Long-term goal</p>
Increase funding for implementing the AWA	<ul style="list-style-type: none"> <li>• Need other agencies at the table to discuss AWA</li> <li>• Limit competition for AWA grant funds</li> <li>• Symposium between states and tribes regarding AWA</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• FBI</li> </ul> <p>Short-term goal → Long-term goal</p>
Tribal Deputy position at DOJ	<ul style="list-style-type: none"> <li>• Scope of authority &amp; jurisdiction need to be clearly defined for the office</li> <li>• This position would offer formal DOJ recognition – not necessarily an appointee</li> <li>• There are recommendations that this person be a presidential appointee</li> </ul>	<ul style="list-style-type: none"> <li>• President</li> <li>• DOJ</li> </ul> <p>Short-term goal → Long-term goal</p>



**PREVENTION & EARLY INTERVENTION PROGRAMS, TREATMENT & REHABILITATION,  
PRISONER RE-ENTRY PROGRAM WORKGROUP**

Broader issues of justice, safety and wellness in tribal communities were discussed in the context of limited resource allocation, disparate jail conditions, state inflexibility, lack of long-term sustainability, outsourcing of tribal services, lack of prevention programs, the data gap, and the need to foster Indian professional development. This workgroup consisted of two sessions. The morning session of this workgroup was co-facilitated by Daryl W. Kade, Director, Office of Policy, Planning, and Budget, at SAMHSA. The afternoon session was cofacilitated by Cynthia Hansen, Ph.D., Special Expert, Center for Mental Health Service, Division of Prevention, Traumatic Stress and Special Programs, which is also at SAMHSA.

The proposed legislative agenda for tribes relating to prevention and intervention should focus on substance abuse prevention and treatment block set-asides. Tribes suggested that consultation be done before federal grant requirements are established and block grant amounts are set. Funding issues were the major concern for tribal implementation of prevention and intervention programs. Seven tribes in March made recommendations for federal agencies, specifically SAMSHA, to employ user-friendly grant application processes and more technical support for tribal grant writers. More often, tribal governments with limited resources experience more difficulty meeting federal matching requirements. Recommendations were made to eliminate these requirements and to increase the timeframe for grant submission. Tribal leaders also communicated the need for more treatment centers, which are not currently funded by SAMSHA. Three tribes asked for more suicide prevention programs. Tribes also wanted tribal peer review to be incorporated into the grant award process.

The solutions proposed by the workgroup require increased funding for more model programs that would include the whole family. The workgroup also identified a need for legal education to ensure enforcement of local ordinances and flexibility to use culturally appropriate, evidence-based programs. The workgroup proposed maximizing third-party billing to increase sustainability to meet tribal behavioral health needs.

Tribes also voiced concern about the condition of detention facilities within Indian country. Six tribes stated the need to increase funding for jails and detention centers. Two other tribes recommended increased funding for tribal courts. In March, one tribe noted the unsanitary conditions in their jails. Two tribes stated during the June consultations, the need to improve staffing and transportation to detention centers. Another tribe noted the lack of response from BIA concerning detention center issues. Tribes also identified detention center overcrowding, the need for comprehensive plans for detention centers in Indian country, and the need for tribal consultation before decisions about funding and staffing are made.

Both workgroups recognized how conditions and access to services in jail may be affecting recidivism. It was noted in the morning session that repeat offenders find the care they receive in prison to be better than treatment outside. The afternoon session also noted concern for juvenile

repeat offenders who had no desire to leave jail, or decided to commit crimes again based on their comparison of the quality within the detention facility as more preferable than life in their home environments. Proposed solutions included finding reasons for recidivism through surveys and increasing the number of treatment facilities since most offenders need treatment rather than incarceration.

The workgroup identified a general lack of state recognition of the government-to-government relationship with tribes. As a result, tribal participation in state committees and communication between the state and tribes suffers. It was proposed that tribes and federal partners advocate for compacting when seeking block grants, set aside funding, other state and federal funding, and that tribes be included in existing state SAMHSA projects. The workgroup discussed the need for long-term sustainability. Proposed solutions the workgroup suggested included prioritization of tribal consultation, so tribes are included in the decision making process before block grant and federal grant requirements are established, and increased emphasis on the need to hold agencies accountable. Additionally, tribes have expressed concern over SAMHSA's definition of Indian when determining which individuals are eligible for services.

Both workgroups proposed solutions to address prevention "gap" due to lack of prevention services and model programs. There is a need to address prevention programs in Indian country, but this need is especially evident for programs specifically targeting Indian youth. Solutions need to incorporate the all family members and should be easily implemented in detention centers. Tribal leaders indicated that programs need to be flexible, culturally relevant, and evidence based. It was proposed that the agencies establish an inventory of the current service programs available, then work to tailor these existing evidence based practices for Indian tribal communities.

The workgroups also discussed the lack data collection infrastructure in Indian country. There are issues of data ownership that federal agencies should address. Tribes express the concern that tribal data that indicate high levels of disparities are used by the states to help get federal funding, but that the affected tribes ultimately do not receive any of this funding. Additionally, different state and federal agencies utilize different data collection tools and methods that tribes are not able to access. Since tribes are have limited access to these assessment and evaluation tools, subsequent funding that may only available with supporting data may be lost. The workgroup proposed that these types of tools be made available for tribal use. Agencies should help to find funding to establish these uniform data collection methods.

Finally, the workgroups discussed Indian workforce professional development in the fields of prevention and intervention. Suggested solutions included that agencies provide or increase support for scholarships and job outreach programs for Indian students. It is important that scholarships be designated exclusively for Indian people to get degrees in counseling, social work, and other behavioral health fields. There is perception that the IHS scholarship programs are only made available for medical training.

**Table 3: Prevention & Early Intervention Programs, Treatment & Rehabilitation, Prisoner Re-entry Program Workgroup**

<b>Issues Identified Through Consultation Process</b>	<b>Proposed Solution from Session 7</b>	<b>Relevant Agency / Prioritization</b>
Funding for jails and detention centers	<ul style="list-style-type: none"> <li>• Fund programs that are culturally relevant, geared to the community needs, &amp; include family outreach</li> <li>• More funding from state &amp; federal governments</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• HUD</li> <li>• IHS (sanitation/water)</li> </ul> Short-term goal → Long-term goal
Condition of detention facilities	<ul style="list-style-type: none"> <li>• Find reasons for recidivism</li> <li>• Increase the number of treatment facilities since most offenders need treatment more than incarceration</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• IHS</li> <li>• SAMHSA</li> </ul> Moderate-term goal
Government-to-government relations are not honored by states	<ul style="list-style-type: none"> <li>• Advocate for more state &amp; federal funding</li> <li>• Develop a legislative agenda for tribes – compacting with SAPT Block Native Set Aside</li> <li>• Include tribes in ongoing projects SAMHSA has with states</li> </ul>	<ul style="list-style-type: none"> <li>• President</li> <li>• SAMHSA</li> <li>• DOJ</li> <li>• BIA</li> <li>• IHS</li> <li>• HUD</li> <li>• OMH</li> <li>• All</li> </ul> Long-term goal
Need for long -term sustainability	<ul style="list-style-type: none"> <li>• Require tribal consultation before making grant requirements</li> <li>• Maximize third party billing to increase the sustainability under current system</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• SAMHSA</li> <li>• OMH</li> <li>• All grant-making agencies</li> </ul> Long-term goal
Lack of prevention programs	<ul style="list-style-type: none"> <li>• Advocate for funding for culturally relevant evidence based programs that include the family</li> <li>• Inventory of current service programs</li> <li>• Tailor existing evidence based practices for Indian communities</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• IHS</li> <li>• SAMHSA</li> <li>• OMH</li> </ul> Moderate-term goal

## VICTIM'S SERVICES WORKGROUP

The victim's services workgroup sought to develop solutions to previously identified challenges that tribes encounter while providing services to victims of crime. There were two workgroup sessions, a morning and an afternoon session. These sessions discussed restrictive policies within agencies, use of multi-disciplinary teams, improving victim's services, training service providers, communications, tribal justice, and data collection issues. The morning session was co-facilitated by Leslie Hagen, Senior Counsel, SMART, at the DOJ. The afternoon session was co-facilitated by Beverly Watts Davis, Senior Advisor to Administrator, at SAMHSA.

Workgroup participants shared their tribes' experiences with IHS and availability of services. It was proposed that IHS policies regarding transport be reexamined to better facilitate service to victims. One participant identified lack of sufficient IHS funding for limited after hours services when dealing with suicides in her community. Tribes also called for an increase in IHS funding during consultations in March. During these meetings, four tribes also called for IHS to prioritize educating clinicians about working in tribal communities. Tribes also noted that some IHS facilities are too far from reservations and that IHS should provide detoxification services.

The morning workgroup engaged in considerable discussion about counseling and related mental health concerns for victims of crime. The workgroup proposed increased use of multidisciplinary teams under 18 U.S.C. § 3509. The tribes suggested agency roles be better clarified to limit overlap and to foster efficiency. Several participants indicated that the multidisciplinary teams can be effective but are sometimes viewed by agency employees as a motion to go through.

The workgroup also considered approaches to improve services for child victims. There are few treatment models in Indian country that address children and domestic violence. SAMHSA officials suggested adaptation of a new model that shifts mental health treatment from asking "what is wrong?" to asking "what happened?" when addressing traumatic experiences. Tribal leaders expressed the need for training programs be made available for non-offending parents. There is also a need for programs that include emotional support. Culturally appropriate, victim-centered forensic interviewing should also be available, along with PTSD services for children who have experienced violence. The workgroup recognized that multiple interviews can be problematic for victims, which makes victim-centered, culturally appropriate forensic interview techniques more important. There is also a need for child assessment centers to be located on reservations. This proposed solution would decrease the need for repeat appointments and decrease the need for multiple interviews for child victims.

Tribal leaders stated that improving services to domestic violence victims requires increasing the number of victim's services personnel and coordination of available services. Other proposed solutions include use of a coordinated response team model with an FBI victim advocate to supplement tribal advocate services. These offices ought to work collaboratively and not engage in "turf battles." Additionally, domestic violence education should be provided to tribal schools and tribal leaders. The workgroup recognized there are cases where perpetrators do not get help,

and often return to revictimize family members. Action by federal programs related to re-entry ought to consider services for the entire family, and not just the perpetrator.

Solutions for issues related to government-to-government communication about victim services ought to consider the animosity between some states and tribes. Funding should be made available to address communication barriers between states and tribes. For example, perpetrators of domestic violence are often placed in county jails, which are under county jurisdiction. When these perpetrators are released, they return to the reservation and fall under tribal jurisdiction. Often, these offenders commit domestic violence acts again. Tribal leaders noted a lack of coordination between tribal and non-tribal justice systems when tribal law enforcement is not notified of the perpetrator's release. This lack of communication impacts victims of crime because they are often not prepared to see the perpetrator in the community again. Finally with respect to the crime victim's fund, it was proposed that mechanisms to speed up the process to make quicker payments available, and that these types of services be expanded.

Tribes also expressed concern over the DOJ's data collection methodology relating to victims of crime. During the afternoon workgroup, it was noted that the DOJ extrapolates data from larger tribes and applies these numbers to all of Indian country. Tribes are concerned that data indicating severe conditions, especially in smaller tribes with limited resources, are not captured in this type of aggregate data analysis. As a result, demographics for state block grants do not accurately reflect the need or appropriate amount of designated funding. It was proposed that tribes participate in the data collection on their reservations to improve the accuracy of crime statistics in Indian country.

The afternoon workgroup also proposed that an Associate Attorney General for tribes should be appointed at DOJ. Also, there was consensus that tribes should be granted access to state crime labs and that investigative training programs need to be developed for tribal law enforcement participation. Finally, tribal leaders requested an increased use of rape kits in Indian country and the ability to offer offender transitional housing with federal funds.

**Table 4: Victim's Services Workgroup**

Issues Identified Through Consultation Process	Proposed Solution from Session 7	Relevant Agency / Prioritization
Increase funding needed to improve service to crime victims & domestic violence victims	<ul style="list-style-type: none"> <li>• Increase presence of victim's services personnel and tribal services liaisons</li> <li>• Need services for all family members, not just offenders</li> <li>• More funding to speed up payment to victims and expand the services</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• FBI</li> <li>• BIA</li> <li>• SAMHSA</li> <li>• IHS</li> <li>• OMH</li> <li>• ACF</li> </ul> Short-term goal → Long-term
Training service providers	<ul style="list-style-type: none"> <li>• Mandatory sexual assault and crime victim training for BIA behavioral health case managers, prosecutors, probation officers, child welfare workers, education providers, &amp; medical providers</li> </ul>	<ul style="list-style-type: none"> <li>• SAMHSA</li> <li>• DOJ</li> <li>• BIA, BIE</li> <li>• IHS</li> <li>• OMH</li> <li>• ACF</li> <li>• ED</li> </ul> Long-term goal
Restrictive administrative policies	<ul style="list-style-type: none"> <li>• Increase use of MDTs with relevant agencies &amp; role descriptions</li> <li>• Increase IHS funding</li> <li>• Revisit policies within agencies, like the IHS victim transport policy</li> </ul>	<ul style="list-style-type: none"> <li>• IHS</li> <li>• DOJ</li> <li>• BIA, BIE</li> <li>• SAMHSA</li> </ul> Short-term goal
Improving children victim services	<ul style="list-style-type: none"> <li>• Develop relevant treatment models for use in Indian country</li> <li>• Child Advocacy Centers located on the reservation</li> <li>• Offer training for non-offending parents</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA</li> <li>• SAMHSA</li> <li>• ACF, OMH</li> </ul> Short-term goal → Long-term goal
Data collection	<ul style="list-style-type: none"> <li>• Tribes collect data &amp; agencies accept it</li> <li>• Tribes need better data collection methods to quantify child abuse &amp; neglect incidence</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• HHS</li> <li>• BIA, BIE</li> <li>• SAMHSA</li> <li>• IHS</li> <li>• VA</li> <li>• COM (census bureau)</li> </ul> Long-term goal

## JUVENILE JUSTICE WORKGROUP

The juvenile justice workgroups discussed the lack of funding, juvenile services in Indian country, truancy prevention programs, and tribal juvenile law and order codes. The juvenile justice workgroup morning session was co-facilitated by Laura Ansera, Tribal Youth Programs Policy Coordinator, Office of Juvenile Justice and Delinquency Prevention, OJP, DOJ. The afternoon session was co-facilitated by Sheila Cooper, Chairperson, Youth Commission, Administration for Children and Families, at HHS.

Funding for juvenile programs was the main issue, but it was addressed in two ways. First, tribes identified a general lack of funding available. Second, tribes addressed methods to improve the juvenile justice programs grant process. During the consultations, seven tribes suggested that IHS create more youth treatment facilities and expand their youth resources generally. The workgroup noted problems with the current grant process. Proposed solutions included those recommendations for changes that could be made more easily in the interim, compared to those administrative issues that require policy changes to be made over time.

Solutions proposed in the interim include reexamination of some of the technological logistics associated with the current grant process. Tribes noted insufficient notice of grant opportunities because these notifications often resemble spam e-mail. Tribes also noted the related issue of lack of awareness of annual registration updates. The proposed solution was to reformat these types of emails. Tribes also expressed the limitations associated with paper applications and the lack of technical assistance available with the current interface. Other tribes noted slow internet connections hamper the online application process. Federal agencies should consider the spectrum of technological services available within tribal communities to better facilitate the grant application process. Tribes should be permitted to submit paper applications if they wish. The system currently accepts paper applications if tribes are able to establish their inability to maintain an internet connection. Applications can also be converted to portable document format and sent out electronically. It was also proposed the grant application time periods be extended to twelve weeks. Additionally, OJP and HHS are working on establishing longer notice periods for grant opportunities. It was also suggested that tribes be directed to grants.gov for an online tutorial.

Tribes indicated through this and previous consultations that administrative policies regarding tribal matching requirements and demonstrations of program sustainability need to be reexamined. More often, those requirements are barriers for tribes. Federal partners communicated that research was conducted to determine whether matches are agency policy or statutory, and a list of grants with this information may be released at later time. Some matching requirements can be met with federal funds. Federal partners stated the purpose of matching funds is to show that the tribe will be able to sustain the program into the future.

The workgroup discussed juvenile treatment issues, examining specifically lack of facilities, distance to facilities, inability to hold intoxicated juveniles, lack of funding for staff, and fees

some tribes pay to use available nontribal facilities. Proposed solutions include building facilities in central locations to serve multiple tribal governments, building group homes as a preventive measure, and increasing tribal participation in decision-making and administration of regional non-Indian treatment facilities. It was proposed that funds be made available for planning and conducting need assessments. Solutions should also include family oriented and community based treatments. Facilities should also teach life and coping skills. Additionally, the Centers for Disease Control and Prevention and IHS Mental Health Program should partner to improve treatment of co-occurring disorders. The federal government needs to provide oversight and make states accountable to tribes for money received for detention or detoxification facilities.

Juvenile treatment under AWA was also considered by the workgroup. Juveniles are not treated differently than adults under AWA and it was proposed that crimes be expunged after juveniles turn eighteen.

Additional issues related specifically to methamphetamines were identified by tribal leaders during March, June, and July consultations. Although these issues were not specifically addressed in Billings during Session 7 workgroup discussions, methamphetamine use is a significant concern in Indian country. During the March and July consultation, four tribes requested support for anti-meth initiatives. In July, five tribes called for prioritization and more funding for of law enforcement officers to address the methamphetamine crisis in Indian country. In March, one tribe requested help for families in dealing with methamphetamine. Another tribe needed increased access to recovery services and drug courts. Three tribes communicated the need for more transitional housing and safe housing alternatives for drug users who were evicted. These tribes also recommended increased funding from HUD to be used for this type of transitional housing and treatment services. During the July consultations, one tribe requested data on methamphetamine use in Indian country and called for better tracking mechanisms. Two tribes stated there is limited geographic access to services for drug treatment, and suggested MOUs be developed to deal with drug related law enforcement issues. During these consultations, two tribes also called for increase funding for drug treatment facilities, and recruitment of clinicians who are competent in treating methamphetamine addiction.



**Table 5: Juvenile Justice Workgroup**

Issues Identified Through Consultation Process	Proposed Solution from Session 7	Relevant Agency / Prioritization
Lack of juvenile services	<ul style="list-style-type: none"> <li>• Address funding issues and barriers in the grant application process</li> <li>• Offer juveniles treatment facilities that foster youth identity, culture, &amp; spirituality</li> <li>• Mental health issues need to be addressed along with detention</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• HHS</li> <li>• BIA, BIE</li> <li>• SAMHSA, IHS</li> <li>• ACF</li> <li>• ED</li> <li>• CDC</li> </ul> Short-term goal → Long-term
Insufficient funding for crime data collection	<ul style="list-style-type: none"> <li>• Address funding issues</li> <li>• MOUs for tribes, states, &amp; counties to work together to compile data</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• BIA, BIE</li> <li>• FBI</li> <li>• COM</li> <li>• SAMHSA, IHS</li> </ul> Long-term goal
Lack of mental health/counseling services	<ul style="list-style-type: none"> <li>• Increase funding for culturally based mental health services</li> <li>• Use traditional methods of healing, practitioners, &amp; elders</li> <li>• Fund education for tribal members who want to enter mental health jobs</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• HHS</li> <li>• BIA</li> <li>• BIE</li> <li>• SAMHSA</li> <li>• IHS</li> <li>• OMH</li> </ul> Short-term goal → Long-term
Grant Process is not user-friendly	<ul style="list-style-type: none"> <li>• OJP &amp; HHS are working on longer notice periods</li> <li>• Tribes should be permitted the option of paper submissions</li> <li>• Grants.gov has an online tutorial</li> <li>• Agency is going research on whether matches are agency policy or statutory</li> </ul>	<ul style="list-style-type: none"> <li>• DOJ</li> <li>• HHS</li> <li>• BIA</li> <li>• IHS</li> <li>• SAMHSA</li> <li>• All grant-making agencies</li> </ul> Short-term goal

## CONCLUDING RECOMMENDATIONS

Federal partners look forward to engaging in meaningful tribal consultation during the new Administration. Since this development of this Session 7 matrix, tribes and federal partners have met to hold Session 8 of the Interdepartmental Tribal Justice, Safety, and Wellness Government-to-Government Consultation, Training and Technical Assistance on December 8–10, 2008, in Palm Springs, CA. VAWA consultations were also held at this meeting.

NCAI is aware of a White House -- Office of Domestic Policy Council and Office of Intergovernmental Affairs - Interagency Indian Affairs Executive Work Group (IAEWG) that meets on a regular basis to coordinate on Indian affairs policy issues. This group has completed several work products, including the collaboration on the 2008 Indian Country Drug Threat Assessment Report; a government-wide federal employee training program designed for online usage entitled "Working Effectively with Tribal Governments"; and more recently, NCAI has learned the group is developing products consultation guidance for federal agencies, listing of consultation contacts at federal executive departments and agencies, media lists to improve federal government communications with tribes, and continued training needs for Indian country. Future activity of the IAEWG is contingent on the new Administration's desire to continue the working group.

OJP has developed a consultation policy and guidance which is currently under review by the TJAG. This document will also be reviewed by OJP Office of General Counsel and will need to be presented to the new Administration leadership at OJP. Plans also include presentation to the JPCNAA at their next meeting and other DOJ components. A timeline to receive tribal consultative comments will also be developed.

**APPENDIX: SESSION 7 MATRIX**

**TRIBAL JUSTICE AND SAFETY TRIBAL CONSULTATION MATRIX BASED ON AUGUST 19, 2008 BILLINGS, MT MEETING**

<p><b><u>Police Presence &amp; Investigations, Cooperative Agreements &amp; Data Sharing Matrix</u></b></p>		<p><b>Tribal Recommendations</b></p> <ol style="list-style-type: none"> <li>1. Increase use of cooperative agreements</li> <li>2. Encourage tribal law enforcement to obtain joint training with state/local agencies.</li> <li>3. Tribes &amp; tribal courts have regular meetings with federal &amp; state counterparts.</li> <li>4. Plan law enforcement staffing &amp; budget development early.</li> <li>5. Educate public about law enforcement</li> <li>6. Increase focus on prevention.</li> <li>7. Re-focus law enforcement to service of tribal communities.</li> </ol>	<ul style="list-style-type: none"> <li>• US Attorney Office coordination with OJP SMART Office for SORNA.</li> <li>• Process underway through Bureau of Justice Assistance (BJA-OJP) to convene federal, tribal, and state court judges.</li> <li>• TJWS sessions offering training &amp; technical assistance on the budget formulation &amp; grant management process for all participants, including law enforcement.</li> <li>• OJP's BJA provides specific set aside grants for alcohol &amp; substance abuse programs.</li> </ul>
		<p><b>Federal Recommendations</b></p> <ol style="list-style-type: none"> <li>1. Foster Federal/ Tribal/State / Local agreements.</li> <li>2. Address declination reporting.</li> <li>3. Encourage joint investigation.</li> <li>4. Improve information sharing (NCIC, Fusion Centers).</li> <li>5. Develop greater cultural sensitivity (grant makers &amp; federal law enforcement).</li> <li>6. Sponsor summits in areas with under policing or jurisdictional disputes.</li> <li>7. Create tribal point of contact in the Attorney General's office.</li> <li>8. Increase access to crime labs</li> <li>9. Develop appropriate alternatives to incarceration.</li> <li>10. Eliminate match requirements; develop balance between discretionary awards &amp; grants.</li> </ol>	

<b><u>Jurisdiction &amp; Prosecution Matrix</u></b>	<b>1: Fundamental Lack of Resources &amp; Need to Standardize Policies</b> <ul style="list-style-type: none"> <li>Differences in priorities for criminal prosecutions.</li> <li>Agency policies impede tribal prosecution. BIA social workers don't share information with tribes in ongoing investigations.</li> <li>States do not share evidence with tribes; rather, tribes are required to do FOIA requests &amp; fill out additional BIA forms.</li> <li>One FBI agent for a vast area.</li> <li>Issues of institutionalized racism &amp; hate that tribal communities face are relevant.</li> </ul>	<b>1: General Solutions</b> <ul style="list-style-type: none"> <li>Collaborations need to be done before the fact &amp; not after the fact.</li> <li>Tribes are getting tired of waiting for the federal government &amp; are encouraging each other to be proactive &amp; persistent in their contacts with the FBI. The emphasis is on personal relationships with individuals in the agency.</li> <li>Suggestion for tribal courts to independently pursue tribal prosecution/ banishment.</li> <li>Need to talk to BIA social services, specifically <u>L. Reyes</u>.</li> <li>BIA will be hiring victim services staff.</li> </ul>	<b>1: Fundamental Lack of Resources &amp; Need to Standardize Policies</b> <ul style="list-style-type: none"> <li>Tribes need resources to remove offenders to protect victims.</li> <li>638 prevents (<i>Crow</i>) tribal workers from accessing records.</li> <li>Tribal prosecutors are overworked (<i>Northern Cheyenne</i>).</li> <li>Difficult to work with those in the agency that have limited decision making capacity.</li> </ul>	<b>1: General Solutions</b> <ul style="list-style-type: none"> <li>Need policies that enable communication.</li> <li>Agency established tribal consultation plans, tribal advisory committees, task forces, advisory groups, and focus groups</li> <li>Increase web-based information</li> <li>Identify/inventory tribes that do not have IT access or limited IT access</li> <li>Need resources that not only focus on punitive consequences, but should also include efforts to rehabilitate.</li> </ul>
	<b>2: Need more Training Resources &amp; More Officers</b> <ul style="list-style-type: none"> <li>Tribal prosecutors &amp; judges need legal training.</li> </ul>	<b>2: Specific Solution</b> <ul style="list-style-type: none"> <li>National Institute for Trial Advocacy (NITA) provides training for tribal prosecutors (funded by DOJ-NTRC). Training is free but tribes have to pay travel expenses.</li> </ul>	<b>2: Need more Training Resources &amp; More Officers</b> <ul style="list-style-type: none"> <li>Concern in one community that state certified tribal police choose to uphold state law at the expense of tribal law.</li> <li>Need resources to deal with juvenile offenders – housing.</li> </ul>	<b>2: General Solutions</b> <ul style="list-style-type: none"> <li>Use of multidisciplinary teams under 18 USC 3509</li> <li>Interdepartmental sessions continue and expand for court, law enforcement and health training, mental health and co-occurring disorders that are underlying causes of crime.</li> </ul>
	<b>3: Standardization of DOJ Declination Process, Tribe's Ability to Track Cases</b> <ol style="list-style-type: none"> <li>Tribes need timely declination reporting from DOJ.</li> <li>Need collaboration between the BIA &amp; DOJ to share declination data with tribes.</li> <li>Standardization of declination process – based on tribes' time issues, tribes want to know why a case was declined.</li> </ol>	<b>3: Specific Solutions by number</b> <ul style="list-style-type: none"> <li>Dorgan's bill addresses some of these declination issues, although not as extensive as it could be. There is interest in declination data from his office.</li> <li>Find areas of duplication in the system &amp; increase accountability to tribes.</li> <li>Need to have these discussions – possible national declination standard?</li> <li>Increase tribal understanding of declination issues and how US Attorneys track info.</li> </ul>	<b>3: Standardization of DOJ Declination Process, Tribe's Ability to Track Cases</b> <ul style="list-style-type: none"> <li>Tribes want information about the cases being investigated.</li> <li>US Attorneys report cases can be jeopardized by the release of declination information.</li> <li>Current statute structures NCIC through the states.</li> </ul>	<b>3: General Solutions</b> <ul style="list-style-type: none"> <li>Tribal access to FBI dockets to track current investigations. NCAI or NARF access?</li> <li>Access to records needs to be computerized.</li> <li>Develop a handbook to address inadequate training &amp; high turnover. (Written by tribes)</li> <li>Address jurisdiction issues at each level – tribes call other tribes to bolster courts/codes.</li> <li>Increase coordination between judges &amp; health providers to offer alternatives to incarceration.</li> </ul>

	<p><b>4: Tribal Access to State Crime Lab Evidence</b></p> <ul style="list-style-type: none"> <li>• Related to declination issue, if the DOJ declines to prosecute, tribes need access to evidence for tribal prosecution.</li> <li>• Time issues - when states seek to prosecute, federal crime labs take too long.</li> </ul>	<p><b>4: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Tribes seek to work with BIA &amp; FBI to get data &amp; evidence to tribes.</li> <li>• Tribes can make agreements with local crime labs, but this will cost tribes.</li> </ul>	<p><b>4: Tribal Access to State Crime Lab Evidence</b></p> <ul style="list-style-type: none"> <li>• Tribes don't have the funds to send evidence the crime labs.</li> </ul>	<ul style="list-style-type: none"> <li>• Meet with FBI regarding access to Labs</li> <li>• Increase appropriations to process evidence and develop MOAs</li> <li>• Create incentives for tribal-state cooperation</li> </ul>
	<p><b>5: Prevalence of Domestic Violence/ Evidence Based Prosecution for Domestic Violence (DV)</b></p> <ul style="list-style-type: none"> <li>• Jurisdictional issues with non-Indian offenders. DV was mentioned numerous times.</li> <li>• No full faith &amp; credit (FF&amp;C) between the tribes &amp; states for domestic violence orders.</li> <li>• Internet stalking issues</li> </ul>	<p><b>5: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Federal prosecutors need to employ more evidence based prosecution in DV cases.</li> <li>• Full faith &amp; credit issues addressed through the "Purple Feather Campaign – The Hope Card," which is a card that serves as a restraining order. MT, WA &amp; WI give these cards FF&amp;C. There is a 1-800 number where a copy of the restraining order can be obtained.</li> <li>• Internet stalking: <u>MT DA</u>: Federal law applies because there is a wire transmission. General stalking provisions are applicable to internet stalking that occurs on the reservation.</li> </ul>	<p>Not addressed</p>	<p>Not addressed</p>
	<p><b>6: Special Deputy at the Attorney General level to Advocate for Tribes</b></p> <ul style="list-style-type: none"> <li>• Tribal members are concerned this individual would be a "token Indian," &amp; will be caught up politics &amp; bureaucracy.</li> <li>• Concern expressed by the federal facilitator that this position will not offer any more significant assistance.</li> </ul>	<p><b>6: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Tribes need to advocate &amp; unify to help get the right person in the job.</li> <li>• Tribal facilitator emphasized importance of a tribal advocate who is higher up in the DOJ.</li> <li>• Recommendation that this person be a presidential appointee.</li> </ul>	<p><b>6: Special Deputy at the Attorney General level to Advocate for Tribes</b></p> <ul style="list-style-type: none"> <li>• Tribal members are concerned with defining the scope of authority that this individual would have. Would someone in this position infringe on the tribes' right to self govern?</li> </ul>	<p><b>6: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Emphasis was placed on this individual's accountability to tribes; to work with tribes directly, to enhance relationships, &amp; facilitate communication.</li> <li>• This position would offer formal DOJ recognition – not necessarily an appointee.</li> <li>• Scope of authority &amp; jurisdiction need to be clearly defined for the office.</li> </ul>

	<p><b>7: Deputization Agreements: Concurrent Jurisdiction &amp; Prosecution</b></p> <ol style="list-style-type: none"> <li>1. Tribal relationships with state or local governments are too strained to make these agreements.</li> <li>2. Once these agreements are made, there are cases of racial profiling (non-Indian law enforcement against Indians).</li> <li>3. Lack of accountability when jurisdiction is shared. Shifting of criminal prosecution responsibilities is related to timing issues so that no one prosecutes.</li> </ol>	<p><b>7: Specific Solutions by number</b></p> <ol style="list-style-type: none"> <li>1. Use the tribal political system to talk to other tribes about using these types of agreements.</li> <li>2. Tribes need to be explicit in these agreements to protect themselves.</li> </ol>	<p><b>7: Deputization Agreements: Concurrent Jurisdiction &amp; Prosecution</b></p> <ul style="list-style-type: none"> <li>• Tribes lack access to police reports &amp; need cooperative efforts to share data.</li> <li>• FBI &amp; BIA have a bottleneck of information &amp; need to share.</li> <li>• Full faith &amp; credit issues</li> </ul>	<ul style="list-style-type: none"> <li>• US Attorney Office coordination between state and tribal governments</li> <li>• Offer incentives to states and tribes to engage in collective arrangements</li> </ul>
	<p><b>8: Data Collection Issues</b></p> <ul style="list-style-type: none"> <li>• Lack of training leads to insufficient data collection, which results in higher rates of declination.</li> <li>• All the parties involved want to see the data – during the discussion, tribes gave examples but the agencies were not aware of these circumstances &amp; wanted data.</li> </ul>	<ul style="list-style-type: none"> <li>• Create a WH level interdepartmental workgroup to address cross-cutting data collection needs for DOJ, BIA, BIE, IHS, &amp; SAMHSA.</li> <li>• Conduct research based site specific surveys that sample Indian reservations &amp; jurisdictions.</li> <li>• Increase federal training &amp; funding for compatible tribal data systems</li> </ul>	<p>Not addressed</p>	
<p>Not addressed</p>			<p><b>9: Adam Walsh Act</b></p> <ul style="list-style-type: none"> <li>• Electronic data bases for finger prints – tribes need access</li> <li>• Full NCIC access for tribes</li> <li>• Implications for tribes when states refuse to AWA compliance.</li> </ul>	<p><b>9: Specific Solutions by number</b></p> <ol style="list-style-type: none"> <li>1. SMART has IT contracts for a web template for tribes</li> <li>2. NCAI is working to develop model code agreements.</li> <li>3. Although no state has officially taken this position, this issue has been forwarded on. If states opt out, this does not mean there isn't any sex offender registry. All states have some level of general compliance. The point is to keep tribes in communication with SMART office.</li> </ol>

<p><b><u>Prevention &amp; Early Intervention Programs, Treatment &amp; Rehabilitation, Prisoner Re-entry Programs Matrix</u></b></p>	<p><b>1: Lack of Funding/ Resources for Prisoners in Prison/ Released</b></p> <ul style="list-style-type: none"> <li>• MT-Tribal Leaders council had a meth treatment facility that closed because due to lack of funding.</li> <li>• Programs needed for offenders that committed sexual abuse, child abuse, &amp; drug use (meth).</li> <li>• Support services needed for treatment, aftercare, &amp; should include the family.</li> </ul>	<p><b>1: General Solutions</b></p> <ul style="list-style-type: none"> <li>• <u>Kade</u>: possible funding efforts are 1available through the agency.</li> <li>• Provide assistance to the prisoners &amp; their families. Include counseling beyond substance use.</li> <li>• Fund programs that are culturally relevant, geared to the community needs, &amp; include family outreach.</li> <li>• More funding from the state &amp; federal governments.</li> <li>• Economic development to generate jobs &amp; develop local businesses.</li> </ul>	<p><b>1: Lack of Funding/ Resources for Prisoners in Prison/ Released</b></p> <ul style="list-style-type: none"> <li>• Lack of services in tribal detention facilities</li> <li>• Clarify federal agency responsibilities for health care delivery, education programs, and treatment needs in jail facilities.</li> </ul>	<p><b>1: General Solutions – Tribal Specific</b></p> <ul style="list-style-type: none"> <li>• Look to what programs work in the nontribal detention facilities with the goal of finding solutions &amp; not to reinvent the wheel.</li> <li>• Further implementation of the “Warrior Down” Program (This program designed to assist Natives already in recovery, those Re-entering the community after treatment for alcohol &amp; substance abuse, mental disorders or after incarceration). These programs are cost effective, peer-to-peer &amp; encourage family involvement.</li> <li>• Develop a prison cultural outreach program that goes into prisons to provide sweats &amp; other cultural practices. <i>(done at Navajo)</i></li> <li>• One community developed a healing &amp; wellness program that mandated participation in cultural activities. Youth were provided mentors &amp; rewarded for attending court hearings.</li> <li>• One tribe enacted banishment laws, &amp; permitted reentry only after offenders healed.</li> </ul>
	<p><b>2: Jail Conditions</b></p> <ul style="list-style-type: none"> <li>• Jail conditions increase recidivism. Repeat offenders find that the prison system takes better care of them than the outside.</li> </ul>	<p><b>2: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Find reasons for recidivism through survey.</li> <li>• Increase the number of treatment facilities since most offenders do not need to be locked up, but rather need treatment.</li> <li>• Economic development to generate jobs &amp; develop local businesses.</li> </ul>	<p><b>2: Jail Conditions</b></p> <ul style="list-style-type: none"> <li>• Concern for juvenile repeat offenders that have no desire to leave or commit crimes to return because quality of life is better in the detention facility than their family home environment.</li> </ul>	<p><b>2: Jail Conditions</b></p> <ul style="list-style-type: none"> <li>• Emphasize competitive grant opportunities that focus on juvenile delinquency-repeat offenders and offer positive youth development outside the detention system- OJ Discretionary.</li> </ul>

<p><b>3: State Inflexibility</b></p> <ul style="list-style-type: none"> <li>• Government-to-government relations are not honored.</li> <li>• Tribes are left to negotiate with the state, on the state's terms.</li> </ul>	<p><b>3: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Develop a legislative agenda for tribes – compacting with SAPT Block Native Set Aside (legislative change).</li> <li>• More state &amp; federal funding (seek accountability for unfunded mandates).</li> <li>• Look to the relationships SAMHSA has with the state &amp; how those relationships translate into service for tribes.</li> </ul>	<p><b>3: State Inflexibility</b></p>	<p><b>3: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Foster tribal participation in State committees to open communication &amp; understanding (done in CA).</li> <li>• SMART SORNA Cooperative Agreements with states-tribes offers new opportunity to coordinate between governments.</li> </ul>
<p><b>4: Need for Long Term Sustainability</b></p> <ul style="list-style-type: none"> <li>• Tribes need sustained grant funding.</li> <li>• Outsourcing Programs: lack of resources requires tribes to outsource help contributes to lack of sustainability.</li> </ul>	<p><b>4: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Require tribal consultation before making block grant or federal grant requirements</li> <li>• Waive matching requirements &amp; allow for direct costs.</li> <li>• Maximize 3<sup>rd</sup> party billing to increase the sustainability under current system.</li> <li>• Examine &amp; propose changes to the system to address behavioral health.</li> </ul>	<p><b>4: Need for Long Term Sustainability</b></p> <ul style="list-style-type: none"> <li>• Concern among smaller tribes that they cannot compete for State block funding if the criteria are population based. Concern is also applicable to federal grants.</li> </ul>	<p><b>4: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Discretionary grant-making agencies have limited time frames for funding under existing law. Statutory changes required.</li> </ul>
<p><b>5: Lack of collaboration among Federal agencies, states, tribes</b></p> <ul style="list-style-type: none"> <li>• Tribes are caught between agencies that shift the responsibility to the detriment of tribes.</li> </ul>	<p><b>5: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Tribes here emphasize the need to hold agencies accountable. (Tribes express concern over the agency's definition of Indian and eligibility for services).</li> </ul>	<p><b>5: Lack of collaboration among Federal agencies, states, tribes</b></p>	<p><b>5: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Agencies need to collaborate with tribes to make the best use of limited resources.</li> <li>• Tribes need to communicate &amp; share stories about experiences to offer real solutions.</li> <li>• Interdepartmental Sessions designed to help facilitate this current process. Additional resources and "buy-in" from other agencies is required to expand the partnerships. OJP</li> </ul>
<p><b>6: Lack of Prevention Programs</b></p> <ul style="list-style-type: none"> <li>• Prevention "gap" due to lack of prevention/services / model programs.</li> </ul>	<p><b>6: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Establish more prevention programs that include the whole family &amp; programs that can be implemented in the detention center.</li> <li>• Programs need to be flexible &amp;</li> </ul>	<p><b>6: Lack of Prevention Programs</b></p> <ul style="list-style-type: none"> <li>• Need to address prevention programs, specifically for Indian youth.</li> </ul>	<p><b>General Solutions</b></p> <ul style="list-style-type: none"> <li>• Need to find ways to fund language programs, beading, &amp; other traditional forms of prevention &amp; intervention.</li> <li>• Programs should emphasize the roles of family &amp; elders.</li> </ul>



		<p>should include be culturally relevant evidence based programs.</p> <ul style="list-style-type: none"> <li>• Establish an inventory of current service programs available.</li> <li>• Tailor existing evidence based practices for Native communities.</li> </ul>		<ul style="list-style-type: none"> <li>• Need to address fundamental issues on the reservation – few jobs, need for technical assistance for economic development to foster self-determination.</li> <li>• One tribe developed their school system &amp; curriculum criteria for graduating. As a result, students were more competitive for higher education.</li> <li>• Address the isolation of rural communities. Break the rural reservation into smaller communities to determine needs &amp; prevention activities. Determine what families &amp; community members need to connect to each other to help minimize the isolation.</li> </ul>
	<p><b>7: Data Collection</b></p> <ul style="list-style-type: none"> <li>• Lack of data collection infrastructure.</li> <li>• Issues about data ownership.</li> <li>• Different state &amp; federal data collection tools/methods.</li> <li>• Need evaluation tools &amp; needs assessment.</li> <li>• Cost.</li> </ul>	<p><b>7: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Establish evaluation tools, &amp; needs assessment.</li> <li>• Find funding to establish uniform data collection methods.</li> </ul>	Not addressed	Not addressed
	<p><b>8: Native Professional Workforce Development</b></p>	<p><b>8: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• Provide scholarships &amp; job outreach for Natives.</li> </ul>	<p><b>8: Native Professional Workforce Development</b></p>	<p><b>8: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Focus on workforce development for staff providing services</li> <li>• Fund scholarships for Indian students to get degrees in counseling, social work, &amp; other behavioral health fields.</li> <li>• Hire new case managers that work outside of the box, not necessarily someone with a master's education, but someone from the tribal community.</li> </ul>

<b>Victim's Services Matrix</b>	<p><b>1: Restrictive Policies at IHS</b></p> <ul style="list-style-type: none"> <li>• Guards transport individuals to treatment</li> <li>• No after hours outreach without departmental support</li> <li>• IHS rumored not to be reporting abuse or child abuse to law enforcements (<i>may be community specific</i>)</li> <li>• IHS no longer participates in community rounds (<i>community specific?</i>)</li> <li>• General lack resources for victim services at IHS</li> </ul>	<p><b>1: General Solutions</b></p> <ul style="list-style-type: none"> <li>• IHS contract with the tribe to increase accessibility of services (<i>Fort Peck example</i>)</li> <li>• Increase use of MDTs (multidisciplinary teams), but must include relevant agencies to be effective.</li> <li>• 18 USC 3509 – statutory case management tool for service to victims (also required for funding).</li> </ul>	Not addressed	Not addressed
	<p><b>2: Improving Multidisciplinary Teams (MDTs)</b></p> <ul style="list-style-type: none"> <li>• Concern about duplication of efforts when different agencies with different purposes seek to comply with MDT statutory requirements.</li> <li>• Since MDTs function as the victim's liaison to federal victim's service programs, more emphasis needs to be placed on addressing the victim's long term needs.</li> </ul>	<p><b>2: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Clarification of each agency's purpose &amp; extent of involvement to prevent duplication of efforts.</li> <li>• Use the coordinated response team model with FBI victim advocate to supplement the services the tribe can provide. Local advocate follows the case through the judicial process &amp; updates the victim about prosecution efforts &amp; court decision.</li> </ul>	Not addressed	Not addressed
	<p><b>3: Improving children victim services</b></p> <ul style="list-style-type: none"> <li>• Lack of relevant treatment models in Indian Country</li> <li>• Need training to address issues of non-offending parents</li> <li>• Multiple interviews are a problem for crime victims</li> <li>• Need to provide services to victims with a focus on the victims.</li> <li>• Need to address PTSD issues for child victims.</li> </ul>	<p><b>3: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• <u>Dr. Broderick, SAMHSA:</u> SAMHSA has new treatment models to address trauma experiences. Although it is not clear if there are Native specific models, SAMHSA is in a position to provide technical support to tribes.</li> <li>• Include training programs for non-offending parents &amp; the choices they make. This training should emphasize emotional support, require mandatory training for law enforcement, &amp; be supported by a tribal resolution.</li> </ul>	<p><b>3: Improving children victim services</b></p> <ul style="list-style-type: none"> <li>• Need to have Child Advocacy Centers located on the reservation.</li> <li>• Need coordination between the BIA &amp; Victim Services.</li> </ul>	<p><b>3: Specific Solution by number</b></p> <ul style="list-style-type: none"> <li>• Federal representative brought up issues 1 &amp; 2.</li> </ul>

		<ul style="list-style-type: none"> <li>• Culturally appropriate victim centered forensic interviewing.</li> <li>• Child assessment center.</li> <li>• Offer PTSD for children who have experienced or witnessed violence.</li> </ul>		
<p><b>4: Improving service to crime victims &amp; domestic violence victims</b></p> <ul style="list-style-type: none"> <li>• Problems getting crime victims funds through the victims' compensation program.</li> <li>• Lack of tribal specific victims services liaisons – FBI has few people to cover large territories.</li> <li>• Too many unaccountable federal employees at expense of victims.</li> <li>• Repeat offenders not held &amp; are free to reoffend.</li> </ul>	<p><b>4: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Quicker turn around for payment &amp; expand the services that would be included in the crime victims service</li> <li>• Increase the presence of victim's services personnel &amp; coordinate the services so as not to overwhelm the victim.</li> <li>• Examine systematic approaches within the agency to focus on increasing the response for victims. Focus on removing the offender &amp; not the child victim or non-offending adult.</li> <li>• Develop arrest policies that must be followed when there is probable cause of domestic violence. Personal protection orders need to be enforced through FF&amp;C. Tribes need to codify laws that give times that indicate when offenders should be released on bond.</li> </ul>	<p><b>4: Domestic violence (DV)</b></p> <ul style="list-style-type: none"> <li>• DV incidence needs to decrease in tribal communities</li> <li>• Urban Indian population DV issues that affect tribal communities (difficulty accessing state services &amp; in some regions there is animosity with the state).</li> <li>• DV issues overlap with substance abuse issues</li> <li>• Need to draft tribal code provisions to address DV (mentioned 3 times by different tribal member).</li> <li>• Mandatory sentencing requires tribes to detain people for longer terms, but tribal detention facilities are not meant for long term detention.</li> <li>• Concern over offenders who do not get help &amp; are left in the community to reoffend.</li> <li>• Silent rule that rape kits are not done in Indian Country.</li> </ul>	<p><b>4: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Educate community &amp; tribal leaders about DV issues, include DV in tribal code, &amp; educate law enforcement &amp; prosecutors. Include cultural based counseling.</li> <li>• Seek out partnership agreements with states.</li> <li>• Address substance issues for the family, when the offender does not want help.</li> <li>• Update &amp; complete tribal codes to address DV.</li> <li>• No solution given.</li> <li>• Need services for all family members, not just the offender.</li> <li>• Establish rape kit protocols/policies with IHS.</li> </ul>	
<p><b>5: Training service providers</b></p> <ul style="list-style-type: none"> <li>• Problems with designating who gets training</li> <li>• Problem with developing protocols for responsive service providers.</li> </ul>	<p><b>5: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Mandatory sexual assault &amp; crime victim training for: BIA behavioral health case managers, judges, prosecutors, probation officers, child welfare workers, education providers, &amp; medical providers.</li> <li>• Examine existing state coalition protocols for sexual assault &amp; consider adapting.</li> </ul>	<p><b>5: Training service providers</b></p> <ul style="list-style-type: none"> <li>• Tribe cannot refer victims to DV services because the program has no funding.</li> <li>• Tribal officers require more training</li> </ul>	<p><b>5: General Suggestion</b></p> <ul style="list-style-type: none"> <li>• <u>Dr. Broderick</u>: Paradigm for victim service must change – need to address the victim's needs in a trauma informed way. (<i>Focus here on models for care</i>)</li> <li>• Tribal access to state crime labs. Need to bridge the gap for collection of evidence &amp; establish protocols for the chain of evidence.</li> </ul>	

	<p><b>6: Limitations on Grants, Slow Government Bureaucracy, Barriers</b></p> <ul style="list-style-type: none"> <li>• OVW programs are no longer available, “too often good programs die out.”</li> </ul>	<p><b>6: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• Internal policies to strengthen grant management are needed. Federal agencies need to make internal changes regarding grant services.</li> </ul>	<p><b>6: Limitations on Grants, Slow Government Bureaucracy, Barriers</b></p> <ul style="list-style-type: none"> <li>• Communication barriers between tribes &amp; agencies.</li> <li>• Distance between tribal communities &amp; the state attorney’s office (<i>community specific issue with state</i>).</li> <li>• Tribal police are walking off the job because they are not being paid enough.</li> <li>• Need funding set aside for solutions the tribe develops – funding for transitional housing for banished offenders.</li> </ul>	<p><b>6: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Federal rep – Office of Victims of Crimes stated he wanted to address these communication issues &amp; wanted to inform the tribes that funding is available.</li> <li>• Temporary solution: BIA helping with tribal law enforcement</li> <li>• Appoint an Associate Attorney General for Tribes at DOJ.</li> </ul>
	<p><b>7: Data Collection</b></p> <ul style="list-style-type: none"> <li>• Tribes need better data collection methods to quantify child abuse/ neglect incidence &amp; to support funding requests.</li> </ul>	<p><b>7: General Solution</b></p> <ul style="list-style-type: none"> <li>• Develop in-home services to avoid removing the child from home &amp; to speed compliance.</li> </ul>	<p><b>7: Data Collection</b></p> <ul style="list-style-type: none"> <li>• Problems with data collection methodology in Indian Country that leads to over generalization of data. Larger tribal numbers are applied to all tribes, &amp; smaller tribal data is not captured which is relevant when these smaller tribes seek funding.</li> </ul>	<p><b>7: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• Tribes collect data (traditional data) &amp; tribal leaders verify. Federal response: <u>Sedjwick</u> would consider anything for victim services &amp; domestic violence.</li> </ul>
	<p><b>8: ICWA</b></p> <ul style="list-style-type: none"> <li>• Inconsistent implementation of ICWA requirements by tribal social services department (<i>potentially community specific</i>).</li> <li>• Most tribal courts lack representation for children.</li> </ul>	<p><b>8: General Solution</b></p> <ul style="list-style-type: none"> <li>• Enforcement of ICWA &amp; advocacy for parents in child welfare cases.</li> </ul>	<p><b>8: ICWA</b></p> <ul style="list-style-type: none"> <li>• ICWA issues at <i>Lakota</i>, State taking children &amp; terminating parental rights.</li> </ul>	<p><b>8: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• <i>Lakota</i> proposed to find resources to find their children &amp; bring them back. (<i>Disproportionate removal of Indian children despite ICWA may be an issue.</i>)</li> </ul>
	<p><b>9: Tribal Authority</b></p> <ul style="list-style-type: none"> <li>• Since tribal courts have limited sentencing authority, offenders remain in the community.</li> </ul>	<p><b>9: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• Increase sentencing authority for tribal courts so that victims can rely on tribal courts to provide some remedy.</li> </ul>	<p><b>9: Tribal Authority</b></p> <ul style="list-style-type: none"> <li>• Tribal courts do not recognize court orders from other courts or nontribal courts.</li> </ul>	<p><b>9: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• Honor non-tribal court orders.</li> </ul>
	<p><b>10: Adam Walsh (AWA)</b></p> <ul style="list-style-type: none"> <li>• Need for coordination with AWA implementation &amp; SORNA</li> </ul>	<p><b>10: Specific Solution</b></p> <ul style="list-style-type: none"> <li>• Multijurisdictional coordination</li> </ul>	<p>Not addressed</p>	<p>Not addressed</p>

	<p><b>11: Suicide Prevention</b></p> <ul style="list-style-type: none"> <li>Community had 11 recent suicides &amp; called IHS for support. IHS required additional approval for outreach, not clear if services were available.</li> </ul>	<p>No solutions offered</p>	<p><b>11: Suicide Prevention</b></p> <ul style="list-style-type: none"> <li><i>Pine Ridge</i> is seeking help with suicide prevention. They are not accessing adequate services through the state.</li> <li>Participants once again mentioned the lack of suicide prevention services through IHS.</li> </ul>	<p><b>11: General Solutions</b></p> <ul style="list-style-type: none"> <li>More reliance on traditional tribal practices – ceremonies, increasing tribal connection to culture through language.</li> </ul>
	<p><b>Feedback about Consultation Process</b></p> <ul style="list-style-type: none"> <li>Concern over group consultation efforts because of the need for tribal specific service providers.</li> <li>Consultation with SAMHSA panel of “cultural experts” may be problematic because this panel consists of non-Native DC policymakers. Statement that, “Federal agencies should not be dabbling in local cultural property rights,” indicates concern about whether culturally appropriate solutions can be attained in this process.</li> </ul>	<p><b>Suggestions for Improvement</b></p> <p>All problems with the consultation process should be brought up &amp; discussed with the group, since the essence of collaboration requires open dialogues between the different parties involved.</p>	<p>Not addressed</p>	<p>Not addressed</p>

<b>Juvenile Justice Matrix</b>	<b><u>NEXT STEPS – Proposed overall solutions offered by workgroup</u></b>		No access to afternoon session notes
	<ul style="list-style-type: none"> <li>• Formulate plan – coordinated efforts required. Overlapping areas of jurisdiction, need more work on jurisdictional issues.</li> <li>• Aggregate solutions &amp; divide into short-term, moderate-term, &amp; long-term, prioritize goals, &amp; evaluate. SAMHSA reauthorization is timely; the agency needs to ensure tribes receive block grants.</li> <li>• Agencies identify short-term goals &amp; work on these.</li> <li>• Tribes focus on working together on approaches that don't require direct funding. Tribes need to develop intertribal solutions. Tribal federal group need to develop a timeframe.</li> <li>• October session suggestions: 1) NCAI take the lead in the October session to work on tribal solutions. Identify budget impacts, take to budget workgroups; 2) Discuss reauthorization; 3) States: discuss strategies about getting state involved, 4) Discuss programs for child safety &amp; protection.</li> <li>• States: Wisconsin EO 39: consult with tribes on a yearly basis; each department creates a consultation plan. Consult with Oregon &amp; set up quarterly &amp; annual meetings with state agencies. Assign tribal liaisons to all state agencies</li> <li>• Develop matrix by first 2 weeks in December.</li> </ul>		
	<b>1: Lack of juvenile services in Indian Country</b> <ul style="list-style-type: none"> <li>• Need truancy prevention programs.</li> <li>• Juvenile law &amp; order code</li> <li>• Problem is responsibility of tribal, state, &amp; federal governments.</li> </ul>	<b>1: General Solutions</b> <ul style="list-style-type: none"> <li>• Offer juveniles treatment facilities that foster youth identity, culture, &amp; spirituality.</li> <li>• Mental health issues need to be addressed along with detention.</li> <li>• Collaborative efforts need to include all government entities.</li> </ul>	
	<b>2: Insufficient 911 emergency response technologies.</b> <ul style="list-style-type: none"> <li>• Lack of emergency response plans.</li> </ul>	<b>2: General Solutions</b> <ul style="list-style-type: none"> <li>• Get word out when one exists</li> </ul>	
<b>3: Grant Process is not user-friendly</b> <ul style="list-style-type: none"> <li>• Insufficient notice (Grants.gov need to check periodically, self-monitored)</li> <li>• Limited internet accessibility for those online grants</li> <li>• Lack of technical assistance (no interface, no mechanism to notify that there is a need to edit the application before it looks too much like spam).</li> </ul>	<b>3: Specific Solutions by number</b> <ul style="list-style-type: none"> <li>• OJP &amp; HHs are working on longer notice periods</li> <li>• Tribes should be permitted the option of paper submissions when connectivity is an issue.</li> <li>• Grants.gov has an online tutorial</li> <li>• Agency is going research on whether matches are agency policy or statutory, have made a list of grants that include this</li> </ul>		

	<ul style="list-style-type: none"> <li>• Policy requiring the demonstration of sustainability can be difficult for tribes to meet.</li> <li>• Not aware that annual updates of registration are required</li> <li>• Time limitations of paper applications – interference with decision speed.</li> </ul>	<p>info &amp; may later release this information. Some matches may be fulfilled with federal funds. If match language is in the authorizing legislation, tribes need to ask the appropriations committee to delete the requirement. (Sedgwick also explained the rationale behind this policy as a demonstration of a tribe's good faith efforts to keep the program going).</p>		
	<p><b>4: Lack of treatment facilities</b></p> <ul style="list-style-type: none"> <li>• Distant locations make transport more costly.</li> <li>• Don't have the resources to hold highly intoxicated juveniles &amp; typically have to release them with high BACs. (equal to or higher than 2.65) (<i>maybe community specific</i>)</li> <li>• \$\$\$ to build facilities, but not to staff them</li> <li>• Practice of using tribal disparity data to get funding for the facility, but charging the tribe to use the facility &amp; not assisting the tribe.</li> </ul>	<p><b>4: Specific Solutions by number</b></p> <ul style="list-style-type: none"> <li>• Place the facility in central regions to provide service to multiple tribes, &amp; other closer to larger tribes to serve more people.</li> <li>• Partner with CDC &amp; IHS Mental Health to better treat co-occurring disorders. Follow SAMSHA Co-occurring systems of care model &amp; family-oriented / community-based treatment. Wrap around services.</li> <li>• Federal oversight for state awarded funding for detention or detoxification facilities. Make states accountable to tribes &amp; increase the level of tribal consultation.</li> <li>• Natives should be part of decision making for policy appropriations. Natives should be part of the administration.</li> </ul>		
	<p><b>5: Lack of mental health counselors/services</b></p> <ul style="list-style-type: none"> <li>• Drastically short-staffed within community</li> <li>• Expensive for tribes to get outside services.</li> <li>• Insufficient funding &amp; insurance.</li> </ul>	<p><b>5: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Increase funding for culturally based mental health services.</li> <li>• IHS should provide resources to hire culturally sensitive staff &amp; require sensitivity training before placement</li> <li>• Develop infrastructure so</li> </ul>		

<ul style="list-style-type: none"> <li>• Stigma &amp; negative perceptions of mental health care in the community</li> <li>• Lack of recognition &amp; resistance to accommodate tribal member's traditional healing methods.</li> </ul>	<p>sufficient care visits are affordable.</p> <ul style="list-style-type: none"> <li>• Fund more mental health services to reach out to all communities.</li> <li>• Recognize &amp; develop policies with Tribal input to recognize traditional methods of healing, practitioners, &amp; elders.</li> <li>• Fund education for tribal members who want to enter the mental health field.</li> </ul>		
<p><b>6: Available grants become depleted far too quickly &amp; fragmented funding does not adequately address root problems</b></p> <ul style="list-style-type: none"> <li>• One program will be funded at the expense of another.</li> <li>• Alcohol &amp; drug programs don't get to tribes.</li> <li>• Alaskan organizations serve up to 50 tribes &amp; don't have funds to reach the local community.</li> <li>• Matching funds issue – tribes don't have the resources to match funds &amp; often are pressed for time to match.</li> </ul>	<p><b>6: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Long term general funding</li> <li>• Increase the years for grant periods</li> <li>• Build in planning years for grant periods</li> <li>• Build in planning years to increase capacity</li> <li>• Build in levels of grants</li> <li>• Hold Congressional hearings to determine the impact of funding on all tribes</li> <li>• Establish enhanced diversion programs for offenses</li> <li>• Matching: Offer additional time to tribes to match – 90 days.</li> </ul>		
<p><b>7: Data collection</b></p> <ul style="list-style-type: none"> <li>• In PL 280 states data is not disaggregated</li> <li>• No reliable data</li> </ul>	<p><b>7: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Enter into MOUs to share/receive crime data</li> <li>• Achieve PL 280 retrocession</li> <li>• Add tribal affiliation to disproportionate minority contract data collection to make states accountable</li> </ul>		
<p><b>8: BIA alcohol &amp; substance abuse program is no longer funded</b></p> <p>1. This BIA program has not been funded since 2006, the money went to IHS. As a result, some tribes lost funding.</p>	<p>No solutions offered</p>		



	<p><b>9: Registering juveniles under the Adam Wash Act</b></p> <p>1. Juveniles are not treated differently than adults under AWA.</p>	<p><b>9: General Solutions</b></p> <ul style="list-style-type: none"> <li>• Notify tribal communities about AWA implementation, not just tribal councils.</li> <li>• Partner with states' administering agency to help implement AWA (technical assistance)</li> <li>• Expunge AWA crimes after juveniles turn 18 (like other juvenile crimes).</li> </ul>		
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**MATRIX CONSULTATION SUMMARY for NCAI 2009 Mid-Year Executive Meeting**

Throughout the interdepartmental sessions, NCAI has worked with federal partners to not only examine tribal concerns, but to help engage tribes in an ongoing dialogue to develop practical solutions to address the needs of Indian country. During this consultation process, five workgroup subject areas were established: 1) Police Presence & Investigations, Cooperative Agreements & Data Sharing, 2) Jurisdiction & Prosecution, 3) Prevention & Early Intervention Programs, Treatment & Rehabilitation, Prisoner Re-entry Program, 4) Victim's Services, and 5) Juvenile Justice. The discussions that took place in Billings, Montana August 18 - 22, 2008 are organized into each of these workgroup areas. After this meeting, a Matrix was developed to examine proposed solutions from previous sessions which were then classified as either short-term, moderate-term, and long-term solutions.

<p><b>Police Presence &amp; Investigations, Cooperative Agreements &amp; Data Sharing Workgroup</b></p> <p>This workgroup was co-facilitated by Christopher Chaney, Deputy Director, Office of Tribal Justice, at the DOJ.</p>	<p>Discussed solutions include strategies to improve police presence, address lack of funding, improving conditions in jail facilities, jurisdictional issues, enhancement of data sharing and tribal access to the National Crime Information Center (NCIC), mechanisms for improving communication between law enforcement agencies, and strategies for respecting tribal sovereignty.</p>
<p><b>Jurisdictional &amp; Prosecution Workgroup</b></p> <p>This workgroup was co-facilitated by Tracy Toulou, Director, Office of Tribal Justice, at the DOJ.</p>	<p>Issues discussed in the included lack of training resources, need for more training resources and police officers, a standardized, timely declination process, tribal access to state crime labs, evidence-based prosecution of domestic violence, tribal coordination with the FBI and BIA, and inter-tribal police collaboration, possible addition of an Indian country DOJ deputy position or associate position, and increased use of deputization agreements.</p>
<p><b>Prevention &amp; Early Intervention Programs, Treatment &amp; Rehabilitation, Prisoner Re-entry Program Workgroup</b></p> <p>Co-facilitators were Daryl W. Kade, Director, Office of Policy, Planning, and Budget, at SAMHSA and Cynthia Hansen, Ph.D., Special Expert, Center for Mental Health Service, Division of Prevention, Traumatic Stress and Special Programs, also at SAMHSA.</p>	<p>Broader issues of justice, safety and wellness in tribal communities were discussed in the context of limited resource allocation, disparate jail conditions, state inflexibility, lack of long-term sustainability, outsourcing of tribal services, lack of prevention programs, the data gap, and the need to foster Indian professional development.</p>
<p><b>Victims Services Workgroup</b></p> <p>Co-facilitated by Leslie Hagen, Senior Counsel, SMART, at the DOJ and by Beverly Watts Davis, Senior Advisor to Administrator, at SAMHSA.</p>	<p>These sessions discussed restrictive policies within agencies, use of multi-disciplinary teams, improving victim's services, training service providers, communications, tribal justice, and data collection issues.</p>
<p><b>Juvenile Justice Workgroups</b></p> <p>Co-facilitators were Laura Ansera, Tribal Youth Programs Policy Coordinator, Office of Juvenile Justice and Delinquency Prevention, OJP, DOJ &amp; Sheila Cooper, Chairperson, Youth Commission, Administration for Children and Families, at HHS.</p>	<p>This workgroup discussed the lack of funding, juvenile services in Indian country, truancy prevention programs, and tribal juvenile law and order codes.</p>

**AMERICAN INDIAN AND ALASKA NATIVE  
CRIME, VIOLENCE AND VICTIMIZATION  
CONCERNS AND ISSUES**

**PREPARED BY:**

**Ada Pecos Melton, TJAG Alternate**

**for the**

**TRIBAL JUSTICE ADVISORY GROUP (TJAG)**

**DECEMBER 2008**

Opinions or points of view expressed in this report are those of the author and TJAG and do not necessarily reflect official positions of the U.S. Department of Justice (USDOJ) or the USDOJ Office of Justice Programs.

**AMERICAN INDIAN AND ALASKA NATIVE  
CRIME, VIOLENCE AND VICTIMIZATION CONCERNS AND ISSUES  
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**AMERICAN INDIAN AND ALASKA NATIVE  
CRIME, VIOLENCE AND VICTIMIZATION CONCERNS AND ISSUES  
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**INTRODUCTION**

Between 2007 and 2008 the U.S. Department of Justice (USDOJ), Office of Justice Programs (OJP) and other federal agencies conducted a series of interdepartmental consultation meetings with Indian nation policy makers, administrators and practitioners to discuss concerns related to public safety and public health, including crime, violence, and victimization by or against American Indian and Alaska Native (AI/AN) people. In response to tribal requests for greater and more effective communication between Indian nations and the OJP bureaus and officers, the OJP Assistant Attorney General (AAG) created the Tribal Justice Advisory Group (TJAG) by Charter on September 19, 2007. The TJAG is comprised of tribal leaders, administrators and practitioners working in tribal government or with AI/AN organizations. The TJAG responsibilities include: 1) identifying opportunities and programs relevant to AI/AN tribes and communities, 2) addressing issues of concern to AI/AN tribes and communities, 3) serving as a focal point within OJP for coordination, outreach and consultation on justice and safety issues affecting the AI/AN population nationwide; 4) serving as a liaison advisory body to other USDOJ agencies, bureaus, and offices, including the Office of Tribal Justice, (OTJ) the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office), and the Office on Violence Against Women (OVW).

This paper is an overview of concerns and issues related to the strengthening of tribal criminal justice systems. It includes discussion of tribal, state and federal relationships needed to create a cooperative and coordinated justice response to crime, violence and victimization committed by or against Indian people living on and/or off tribal lands. The views and opinions are a combination of concerns expressed by TJAG members during regular meetings and extracted from reports outlining the OJP tribal consultation meetings held in 2007 and 2008. As the TJAG conducts its work, updates or additions may be added to this document.

**OVERVIEW OF CRIME AND VIOLENCE**

American Indian and Alaska Native crime, violence, and victimization have been on the rise for several decades. This challenges tribal governments to create effective and culturally relevant capacity building approaches, methods and strategies to develop human, financial, policy and program capacity to control and reduce crime and violence. These are needed to enhance the quality of life for AI/AN children, youth, families and communities. The following sections while not in any prioritized order describe areas the TJAG believes are essential to develop responsive tribal justice systems. These issues provide the core justification for Congress to appropriate funding authorized by Public Law (P.L.) 110-293, Title VI-Emergency Plan enacted on July 30, 2008 for Indian Safety and Health for up to \$2,000,000,000.

**I. Crime and Violence**

The following points while not prioritized highlight issues and concerns AI/AN governments face in responding to urgent crimes areas and to other crimes in general.

- 1) Urgent Crime Areas
  - a) Violent crime, such as child abuse and child sexual abuse; elder abuse; domestic or partner violence; sexual assaults, other sex offenses such as sex trafficking; murdered and missing persons; and terrorism;

- b) Alcohol related crimes, such a Driving While Intoxicated (DWI), including vehicular homicide; and development and enforcement of underage drinking laws and policies;
  - c) Gang related crime, which may include the above crimes and other felony level crimes; and
  - d) Drug related crimes, such as sales, distribution, and manufacture of methamphetamine.
- 2) Investigation and Prosecution
- a) Local improvement needs include:
    - Funding to hire law enforcement personnel and tribal prosecutors,
    - Investigation and prosecution training,
    - Development of policies supportive of interagency and intergovernmental relationships, and
    - Support to access county and state facilities for short and long-term confinement by AI/AN tribes that lack or do not have adequate adult or youth detention or correctional facilities.
  - b) Cross-deputizing tribal, state and federal law enforcement to enable investigation,
  - c) Certification or other means to allow tribal prosecutors to present tribal cases in federal court, and
  - d) Federal involvement in the following areas:
    - Coordinating investigations between tribal, the USDOJ Federal Bureau of Indian Affairs (FBI), and U.S. Department of Interior (DOI) Bureau of Indian Affairs (BIA) law enforcement for drug-related cases, child exploitation, gangs, missing persons, terrorist intelligence, etc.;
    - Training on data collection and evidence collection that enables sharing information and data exchange among tribal and federal law enforcement agencies, including access to national databases, such as the FBI National Crime Information Center (NCIC), and others managed by the FBI Criminal Justice Information Service (CJIS);
    - Defining the 30 different ways indicated by federal statutes that U.S. Attorneys (USA) can decline a case, which can then be applied to set standards guiding declination of felony cases by U.S. Attorneys. Additionally, for the USA to share criteria applied in declination decisions with tribal law enforcement and/or prosecutors;
    - Leveraging tribal access to state and federal crime labs, cross-training, and technical assistance; and
    - Assistance for tribal law enforcement agencies to obtain an FBI Originating Agency Identifier (ORI) number.
- 3) Tribal Court
- a) Increase sentencing authority of tribal courts to more than one-year confinement;
  - b) Full faith and credit for enforcement of tribal court orders, especially orders of protection in cases involving domestic violence or child victimization; sex offender registration and U.S. Marshals (USMS) support for non-compliance and absconders;
  - c) Comprehensive training for judges and other court personnel; and
  - d) Incorporation of indigenous justice and other culturally relevant problem solving techniques, such as peacemaking, village courts, circle sentencing, etc.
- 4) Public Defender Services
- a) Develop support for public defense programs, especially to incorporate alternatives to incarceration for alcohol or drug use.

- 5) Information Sharing and Data Exchange
  - a) Tribal support to develop systems to share the most frequently requested information—tribal criminal history records—that are accurate and complete and contain an offender’s history of arrest, prosecutions and dispositions;
  - b) Tribal participation in national database and information sharing systems managed by the FBI CJIS such as NCIC, the Law Enforcement National Data Exchange (N-DEx) and others; and national registries for sex offenders and protection orders; and
  - c) Tribal participation in fusion centers to access and provide criminal and terrorist intelligence.
  
- 6) Probation and Parole
  - a) Development of comprehensive tribal probation services, operation policies and procedures, training, and technical assistance;
  - b) Federal and state probation to engage tribal agencies in supervision plans, community based support services, victim notification, and sex offender registration; and
  - c) Federal and state parole decisions to engage tribal agencies in re-entry planning and aftercare, sex offender registration, and victim notification.
  
- 7) Short- and Long-term Confinement Options
  - a) Design and development of culturally relevant and appropriate facilities located on tribal lands;
  - b) Provision of culturally relevant programs and services, especially by AI/AN staff and/or cultural experts that can be verified by tribal sources;
  - c) Support for family contact or visitations in-person, teleconferencing or video conferencing for incarcerated AI/AN people, especially youth in state controlled facilities; and
  - d) Federal and state involvement in the following areas:
    - Cooperation to provide health care, mental health, detoxification services through the U.S. Department of Health and Human Services (DHHS) Indian Health Service (IHS), Substance Abuse and Mental Health Services Administration (SAMHSA), Office of Minority Health (OMH), Veterans Affairs (VA), or state health care agencies;
    - Cooperation to provide education through the US DOI Bureau of Indian Education (BIE) or state education systems;
    - Federal correction notification to tribal agencies of placement decisions regarding adults in federal prisons and youth in federal custodial institutions, which could include use of tribal correctional facilities rather than state facilities; and
    - Policies guiding notification and consultation to engage tribal agencies in development of rehabilitation plans, re-entry planning, and victim notification.

## **II. Victimization**

Property crime and violent crimes often result in single or multiple victims. The following concerns and issues highlight victim needs that require support from tribal, state and federal and non-governmental agencies and organizations. These include:

- 1) Victim rights that include criminal and civil justice advocacy, representation by a guardian ad litem or court-appointed special advocate, or special domestic violence prosecutor support;
- 2) Coordinated law enforcement and victim/witness coordinator response to crime scenes, including quick and persistent investigation by tribal or federal agencies resulting in immediate prosecution and trials;

- 3) Victim/Witness support for court appearances, development of victim impact statements, and victim notification of offender status and whereabouts by tribal, state and federal facilities; and the use of sex offenders registries and protection order registries;
- 4) Access to protective services such as shelter care, medical treatment, crisis intervention, removal of offenders or perpetrators; and coordination of referral and service delivery systems between tribal, state, and federal agencies;
- 5) Collaboration and coordination of interviews and investigations by multi-disciplinary teams to limit re-traumatizing victims or witnesses, particularly, with creation of child advocacy centers; and development of policies supporting intergovernmental and interagency collaboration;
- 6) Codes addressing victim-related crimes, offender bonds and release conditions, and public policies supporting victim rights;
- 7) Access to quick and adequate victim compensation and restitution;
- 8) Community education and awareness regarding the impact of violence on the lives of victims and aimed at increasing community mobilization;
- 9) Provision of culturally relevant treatment and healing support; and
- 10) Support for long-term treatment needs, financial support, transitional housing, education and/or job skills training.

### **III. Wellness, Prevention and Intervention**

Indian tribes face many societal problems that require long-term intervention and strain tribal resources. The following points describe needs for prevention and intervention supporting community wellness.

- 1) Collaboration with criminal justice and behavioral health agencies are needed to develop culturally relevant and appropriate strategies and programs to support secondary prevention options, aimed at re-directing youth or non-violent offenders from further law-violating behavior;
- 2) Cross-agency collaboration is needed in particular to address co-occurring mental health, substance abuse and/or criminal or delinquent behavior, which could affect access to service or payment of services. Substance abuse interventions could begin with detoxification services from IHS, SAMHSA, OMH, county or state health care providers at detention centers to increase entry into inpatient substance abuse treatment;
- 3) Extensive collaboration is needed to increase access or to develop local substance abuse treatment services and programs that are infused with cultural elements and features and use Native healing approaches and healers;
- 4) Criminal justice agencies such as detention and probation need effective screening tools to detect suicide risks that enable diagnosis and linkage to appropriate referral sources. Suicide prevention requires collaboration from all criminal justice and behavior health agencies, education systems and others to increase detection and link at-risk adults and youth to appropriate interventions.
- 5) Greater collaboration is needed between criminal justice agencies, behavioral health and medical health experts to address HIV/AIDS contracted through sexual activity or needles for intravenous drug use.
- 6) Collaboration across federal agencies, initiated by OJP under the Tribal Justice and Safety initiative these past two years must continue and be expanded to include additional federal agencies. IHS, SAMHSA, OMH, such as the Center for Disease Control (CDC), National Institute of Health (NIH), IHS, OJP bureaus and offices, BIA, and others are already participating, however, the Center for Disease Control (CDC), National Institute of Health (NIH) and Veterans Affairs (VA) are several examples where additional collaborations are needed to assist AI/AN tribes and organizations to develop evidence based programs and to increase program evaluations.



#### **IV. Capacity and Capability Building**

- 1) Infrastructure development is needed for tribal governments to strengthen their governance capacity and enhance their criminal justice systems. It also includes areas to address the above issues and concerns.
  - a) Affordable and low-income housing are needed to help families without the means to pay mortgages or to own a home. Too often individuals and/or families have unstable housing arrangements that can be quickly lost due to involvement with tribal justice systems due to crime, violence, or victimization;
  - b) Housing needs include support for domestic violence shelters, youth group homes, transitional living for recovering addicts, offender reentry, or victims transitioning from a shelter;
  - c) Paved roads are essential to make services accessible by clients or provide them to people who may be injured, harmed, or in danger due to crime, violence or victimization; and
  - d) Building projects are needed for new construction and/or renovation of facilities to support intervention, such as treatment facilities, add detox units, and confinement options for adults and youth.
  
- 2) Information Technology
  - a) Infrastructure Development
    - Incompatibility due to uncoordinated upgrading of hardware and software;
    - Aging IT hardware and software challenged by limited and fragmented funding to purchase newer and more technologically advanced hardware and software;
    - Incomplete understanding of what IT equipment is needed to support electronic sharing, data management, back up, retrieval, and access to tribal, state and national registries;
    - Need for geospatial tools to locate sex offender resident addresses with post office addresses or lacking street names and house numbers; and
    - Fragmented data interoperability planning with internal and external jurisdictions.
  
  - b) Information Sharing and Data Exchange
    - Lack of comprehensive records and case management systems (RCMS) tailored for tribal justice systems, which hinders justice integration across justice agencies;
    - Fragmented application of GJXDM standards across agencies with different RCMS, which hinders access to timely, complete, accurate and relevant information by public safety, allied service agencies and citizens;
    - Lack of security and privacy standards;
    - Lack of standards and methods to assess data quality;
    - Tracking repeat offenders, those committing crimes in other jurisdictions, those prosecuted by federal courts, in federal prisons, or on federal parole or probation; and
    - Issuance of ORI numbers to tribal law enforcement and other justice agencies to enable access to NCIC and other CJIS databases or networks.
  
  - c) Public Policy and Governance
    - Respectfully and accurately conveying the intent and purposes of unwritten law into policies and procedures;
    - Dealing with the affect and impact of “midnight rider” provisions put into legislation without tribal consultation;

- The lack of funding to meet costs to update tribal codes, policies and procedures to reflect requirements of the Adam Walsh Act (AWA) and Sex Offender Registration and Notification Act (SORNA) guidelines;
  - Fragmented information sharing planning, governance, and intergovernmental agreements related to sex offender registration requirements or to support multi-jurisdictional collaboration; and
  - Enforcement of registration of non-Indian sex offenders living, working or attending school on tribal lands.
- d) Community and Political Support
- Addressing tribal leaders and citizen fears about sharing tribal sex offender and other criminal history information;
  - Educating tribal communities about participation with national registries for sex offenders, firearms, and protection orders and joining state fusion centers;
  - Notifying victims of offender status, especially with offenders prosecuted in state or federal courts, or in state or federal prisons and returning to tribal communities.
- e) Staff Capabilities
- Lack of training for tribal staff on IT infrastructure and software capabilities, use of national systems and fusion centers;
  - Long-term existence of stand alone RCMS has contributed to tribal practitioners' and administrators' reluctance for justice integration, which isolates agencies and contributes to turfism and resistance to change;
  - Disconnect with improved service delivery and/or decision making with effective tools for data management, storage, retrieval and sharing; and
  - Difficulty prioritizing training due to the overwhelming amount of IT training needed in multiple areas and at multiple levels.
- 3) Program of Research and Evaluation
- a) Aggregate data analysis of crime, violence and victimization statistics from large tribes does not accurately reflect the specific needs of tribes, especially smaller tribes. This affects funding formulas for program development or to conduct effective local research or evaluations;
- b) A program of research is needed in all areas of crime, violence and victimization including those that are gender or age specific, e.g., violence against AI/AN women, juvenile delinquency, elder abuse studies, etc.;
- c) A program of evaluation is needed to evaluate programs and initiatives, including training and technical assistance provided by OJP bureaus and offices. This will create a body of knowledge and information on tribal or AI/AN operated programs and strategies that work for AI/AN populations and training and technical assistance that are effective; and
- d) The AAG, JPCNAA, and TJAG guidance is needed to assure collaboration is needed among OJP bureaus and offices to provide resources to the OJP National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to implement a program of research and evaluation focusing on AI/AN crime, violence and victimization studies and evaluation.
- 4) Intergovernmental Relations
- a) Extensive and ongoing support is needed to maintain or develop intergovernmental and interagency relationships between AI/AN tribes, states and federal entities. These governments often have shared and overlapping responsibilities or mutual interests to respond effectively to crime, violence and victimization needs such as services, programs, information sharing, policy, and a multitude of other areas; and

- b) Federal cross-agency coordination is needed to support criminal justice responses, wellness initiatives and programs, resource development, and for infrastructure growth and development.

## **V. Sovereignty**

- 1) Consultation—In March 2007, OJP implemented tribal government-to-government consultation with tribal governments through their newly established Interdepartmental Tribal Justice, Safety and Wellness Sessions with eight sessions having been held to date, and six of those sessions including consultation forums.
  - a) Ongoing government-to-government consultation is essential to maintain effective communication between tribal, state and federal governments. In order to conduct meaningful consultations it is essential for the federal government to direct full participation by high level federal representatives from all USDOJ components, bureaus and offices, such as OTJ, OJP, OVW, FBI, USA, USMS, Community Oriented Policing Services, Department of Corrections, Bureau of Prisons, Administrative Office of the Courts, and Federal Probation and Parole. This has been accomplished in varying degrees at each of these sessions, but OJP is not authorized to require full participation by others and can only continue to invite other USDOJ components to participate;
  - b) Cross federal consultation requires full participation by high level representatives from the DOI BIA and BIE; DHHS, IHS, SAMHSA, CDC, Administration for Native Americans, Administration for Children and Families, Department of Transportation, Housing and Urban Development, and U.S. Treasury, the White House Office of Management and Budget; and others as identified and needed to respond to AI/AN needs and wants. OJP successfully expanded its consultation efforts to include DOI-BIA, DHHS-SAMHSA, IHS, and OMH, HUD-ONAP, SBA, and more recently, Corporation for National and Community Service, but ongoing participation is also effected on a voluntary basis by other federal agencies;
  - c) Consultation also includes conducting field visits and at tribal locations which OJP has implemented and should continue. These provide opportunities for high-level federal officials and public servants to witness first hand the needs of AI/AN populations and communities;
  - d) Results and proceedings from OJP consultation meetings need to be written and provided in a timely manner. Written analysis has recently been completed and presented to tribal leaders for additional comment at the Interdepartmental Tribal Justice, Safety and Wellness Session held on December 9, 2008.. The document identifies crosscutting issues that affect other federal agencies and that may require a joint response. Funds need to be identified to ensure a final document is completed and distributed to Tribal leaders and tribal organizations as a form of accountability and response. Additionally, OJP Bureaus and Offices need to provide responses either in program plans or other strategies that address the needs and wants articulated in consultation meetings. Written explanations should also be provided to convey why some needs or wants cannot be addressed; and
  - e) It is essential for the USDOJ to establish high-level positions, such as deputy directors and assistant attorney generals in OJP, OVW, and OTJ to institutionalize communication and collaboration with AI/AN tribes nationwide. These concerns are described in greater detail under Section 2 - Organizational Structure.
- 2) Federal Indian Policy
  - a) Examination of federal Indian policy regulating criminal jurisdiction in P.L. 280 is needed to enable better retrocession proceedings for AI/AN tribes in those states. This

- is needed to enable AI/AN tribes to address crime, violence, and victimization needs and disparities; and
- b) Review and recommendations addressing sentencing authority by tribal courts needs to be addressed, especially as it affects limitations placed on tribes by the AWA and the Indian Civil Rights Act.
- 3) Strengthening and Respect for Culture
- a) Support for AI/AN culture is essential and should be incorporated in all OJP Bureaus and Offices' program plans wherever possible. In particular, these are essential elements to be included in funding announcements, particularly when they include open competition. It is important that tribal governments and/or organizations manage OJP grants and contracts to promote cultural competence and to support tribal capacity and capability building by the federal government. Culture-based elements include supporting the use of AI/AN beliefs, philosophies, customs and traditions in programs; extensive experience working with AI/AN populations and communities; key positions held by AI/AN people in programs and service delivery; and the use of natural healers and practitioners knowledgeable of tribal methods, approaches, law-ways, and tribal or culture based knowledge, skills and abilities.

## **SECTION 2 – RESOURCES**

The passage of the Tom Lantos and Henry J. Hyde US Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 on July 30, 2008 (P.L. 110-293 in the 110<sup>th</sup> Congress authorized appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes, referred to as the President's Emergency Plan for AIDS Relief (PEPFAR). Within this Act, Title VI established an Emergency Plan for Public Safety and Health in Indian country. Authorizations for appropriations for Indian country are as follows:

- (1) *In general.--There is authorized to be appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, \$2,000,000,000 for the 5-year period beginning on October 1, 2008.*
- (2) *Availability of amounts.--Amounts deposited in the Fund under this section shall—*
  - (A) *be made available without further appropriation;*
  - (B) *be in addition to amounts made available under any other provision of law; and*
  - (C) *remain available until expended.*
- (c) *Expenditures From Fund.--On request by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, the Secretary of the Treasury shall transfer from the Fund to the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, as appropriate, such amounts as the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services determines to be necessary to carry out the emergency plan under subsection (f).*
- (d) *Transfers of Amounts.--*
  - (1) *In general.--The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.*

- (2) *Adjustments.*--Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.
- (e) *Remaining Amounts.*--Any amounts remaining in the Fund on September 30 of an applicable fiscal year may be used by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services to carry out the emergency plan under subsection (f) for any subsequent fiscal year.
- (f) *Emergency Plan.*--Not later than 1 year after the date of enactment of this Act, the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services, in consultation with Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), shall jointly establish an emergency plan that addresses law enforcement, water, and health care needs of Indian tribes under which, for each of fiscal years 2010 through 2019, of amounts in the Fund—
  - (1) the Attorney General shall use—
    - (A) 18.5 percent for the construction, rehabilitation, and replacement of Federal Indian detention facilities;
    - (B) 1.5 percent to investigate and prosecute crimes in Indian country (as defined in section 1151 of title 18, United States Code);
    - (C) 1.5 percent for use by the Office of Justice Programs for Indian and Alaska Native programs; and
    - (D) 0.5 percent to provide assistance to--
      - (i) parties to cross-deputization or other cooperative agreements between State or local governments and Indian tribes (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)) carrying out law enforcement activities in Indian country; and
      - (ii) the State of Alaska (including political subdivisions of that State) for carrying out the Village Public Safety Officer Program and law enforcement activities on Alaska Native land (as defined in section 3 of Public Law 103-399 (25 U.S.C. 3902));
  - (2) the Secretary of the Interior shall--
    - (A) deposit 15.5 percent in the public safety and justice account of the Bureau of Indian Affairs for use by the Office of Justice Services of the Bureau in providing law enforcement or detention services, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and
    - (B) use 50 percent to implement requirements of Indian water settlement agreements that are approved by Congress (or the legislation to implement such an agreement) under which the United States shall plan, design, rehabilitate, or construct, or provide financial assistance for the planning, design, rehabilitation, or construction of, water supply or delivery infrastructure that will serve an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)); and
  - (3) the Secretary of Health and Human Services, acting through the Director of the Indian Health Service, shall use 12.5 percent to provide, directly or through

*contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)-*

- (A) contract health services;*
- (B) construction, rehabilitation, and replacement of Indian health facilities; and*
- (C) domestic and community sanitation facilities serving members of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) pursuant to section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).*

During the August 20, 2008 TJAG meeting held with Assistant Attorney General (AAG) Jeffrey Sedgwick in Billings, Montana, the TJAG requested an OJP plan for implementing this authorization and conducting the required consultation with Indian tribes. As an AAG advisory body, the TJAG is poised to review and advise the AAG on how funds can be allocated to address the pressing public safety challenges identified in this document as Indian country priorities. These PEPFAR percentages equate to approximately \$750 million for public safety purposes in which an estimated \$440 million or 20.5% would be available to OJP as follows:

- \$370M - 18.5% - Detention Facilities
- \$30M - 1.5% for OJP AI/AN programs
- \$10M - 0.5% for Law Enforcement Cooperative Agreements

As mentioned previously, the TJAG believes that tribal set aside funding is an important criteria for these funds. OJP has made grants available to tribes for a relatively short period of time (mid-late 1990s to date), and funding allocated by several bureaus and offices is not always coordinated or distributed in consistent fashion, or with appropriate cultural knowledge and sensitivity. The TJAG believes it is imperative that AAG oversight is essential, and complemented by advice and assistance from the Justice Programs Council on Native American Affairs (JPCNAA) and the TJAG. Such a significant infusion of resources for Indian country public safety needs will require close monitoring to ensure appropriated funds are allocated by OJP for their intended purpose, expended by grantees as obligated, or returned to be re-distributed to the eligible tribal population as authorized. This fundamental concern should be equally considered for any stimulus funding identified for similar purposes. Funds must be set aside to assure continuity of the authority for the JPCNAA, TJAG, Executive Director, and the related activities in OJP to support this Emergency Plan for Public Safety and Health in Indian country. The following points highlight what needs to occur with resource development:

1) Resource Development

- a) Economic development includes development of commercial codes to assist tribes in attracting private businesses;
- b) Assistance is needed to help AI/AN programs access capital for business start-ups or growth, and strategies to attract business development that will create jobs and boost local economies;
- c) Assistance is needed for AI/AN people to acquire financial literacy training, personal financial management and budgeting;
- d) Extensive training is needed for tribes to develop resource development plans that include grant writing training, resource searches, fund development, and marketing services provided by programs. Additionally, longer time periods are needed to respond to federal funding notices and announcements;

- e) Tribal set asides are essential to enable AI/AN tribes, private and non-profit organizations to access funding for programs, research and evaluation, and training and technical assistance grants or contracts specifically to serve AI/AN populations and communities. Often AI/AN organizations cannot compete for funding that is sole sourced to non-Indian entities located in off-reservation settings and that have no AI/AN staff in key positions to deliver services;
- f) Matching requirements on federal grants and contracts are often difficult to meet, especially for AI/AN tribes with few financial or in-kind resources; and
- g) Grant management training is needed to ensure effective operations, timely reporting and accountability by programs to tribal leaders, funding agencies, and to the AI/AN populations served by government supported programs or initiatives.

Additionally, funds are needed to support the OJP tribal organization structure since the JPCNAA, TJAG, Executive Director and OJP Tribal Liaisons are largely dependent on the discretionary authority of whoever is serving as the AAG. This creates an unstable environment in a situation where tribal issues should be receiving top priority as an extremely vulnerable population suffering high crime and victimization rates. The TJAG has identified several preliminary projects for funding that should be implemented. A detailed strategic plan is needed and the TJAG has requested to meet in Washington, DC the first full week of March 2009 to meet with the new OJP leadership, bureaus and offices, and the JPCNAA to prepare a strategic plan.

**Organizational Structure Resources**

JPCNAA (2) meetings	
Materials	\$ 20,000
TJAG (3) meetings	
Materials	\$ 60,000
Mailings/Communications	\$ 5,000
Travel for 15 X 3 mtgs @ 3.5 days (\$2000)	\$ 90,000
Executive Director	\$160,000
Tribal Specialist	\$ 65,000
Staff Travel 2 X 3 @ 3.5 days (\$2000)	\$ 12,000
Senior Leadership Tribal Site Visits	\$ 13,000
 Total Organizational Structure	 \$425,000
 Projects:	
Tribal Consultation Policy/Guidance	\$100,000
Annual Report/Resource Guide	\$ 75,000
Federal Staff Cultural/Tribal Training	\$ 25,000
Interdepartmental Training & TA Sessions	\$600,000
 Total Priority Projects	 \$800,000
 <b>TOTAL</b>	 <b>\$1,225,000</b>

**ORGANIZATIONAL STRUCTURE**

The OJP Justice Programs Council on Native American Affairs (JPCNAA) was the first Council of this kind formed in OJP in November 2005. It was followed by the development of a new OJP senior tribal position, Executive Director and Senior Advisor to the AAG for Tribal Affairs, in September 2006, to ensure tribal issues were represented at the highest level where decisions regarding policy, budget, operations, consultation, and other communications reflected

tribal policy expertise and input. As stated in the introduction, the TJAG was formed in September 2007 to permit the AAG to receive direct advice and assistance from Tribal leaders and their designees to expand and improve OJP intergovernmental relations, tribal policy, and programs serving AI/AN communities. These bodies and position were designed and approved by the AAG to ensure tribal governments were given high priority within the Office of the Assistant Attorney General (OAAG). The JPCNAA and TJAG operate under an approved Charter. The Executive Director report directly to the AAG, and supports the JPCNAA and TJAG as a senior staff member and also serves as the Senior Advisor to the AAG for Tribal Affairs. The TJAG has voiced its support for the Executive Director to be elevated to a Deputy Assistant Attorney General-Tribal Affairs to acknowledge the appropriate level designated for tribal governments that is respectful of the government-to-government relationship, and to hold senior staff accountable for the resources dedicated to serving AI/AN communities.

## **CONCLUDING COMMENTS**

The concerns and issues articulated in this paper reflect five categorical areas that address urgent crime areas and what AI/AN tribes need to effectively respond to their citizens and communities. While Indian nations have primary responsibility to address crime, violence and victimization issues and concerns, support from local, state and federal governments is needed. As the Nation prepares for leadership changes, Indian nations join their state and federal counterparts in local and national government agencies to develop meaningful relationships that will reduce crime, violence and victimization by or against AI/AN people on or off tribal lands. This paper provides an overview of the urgent issues and concerns AI/AN governments face to provide safety and protection and improve the quality of life for all AI/AN people. It underscores the urgent need for Congress to make appropriations up to the \$2,000,000,000 authorized under P.L. 110-293 to support AI/AN tribes and organizations nationwide to support their efforts in addressing crime, violence and victimization by or against AI/AN people and make their communities safe for all citizens.



JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP  
OFFICE OF JUSTICE PROGRAMS  
U.S. DEPARTMENT OF JUSTICE

May 15, 2009

The Honorable Laurie O. Robinson  
Acting Assistant Attorney General  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street, NW  
Washington, D.C. 20531

Dear Acting Assistant Attorney General Robinson:

As the Chairwoman of the Justice Programs Council on Native American Affairs (JPCNAA), Tribal Justice Advisory Group (TJAG), I want to congratulate you on your recent nomination for the Assistant Attorney General, Office of Justice Programs. I am very pleased to learn of your willingness to serve President Barack Obama and Attorney General Eric Holder in this role, and of course to serve the American people.

We recognized and appreciated that you met with us via teleconference in early February shortly after you arrived at the Office of Justice Programs (OJP). This made the TJAG members feel welcomed and acknowledged by the new leadership, which was very important in a time of transition.

I commend you and your staff for all of the work performed during the recent two-day evaluation and work session that OJP hosted on April 27-28, 2009. As a newly formed advisory group we have much remaining to be accomplished to assist OJP with tribal justice and safety issues, concerns, and priorities. We are planning an ambitious agenda to tackle the myriad issues affecting public safety in tribal communities. We are also excited about the recent funding made available through the American Recovery and Reinvestment Act. Indian country will be ready to implement projects that will put these resources to work creating new infrastructure, jobs, and economic stimulus in communities with dire needs.

Thank you for providing an audience with Associate Attorney General Thomas J. Perrelli and your staff. It was a fruitful hour of discussion and we look forward to continuing the dialogue.

Eugenia Tyner-Dawson, Executive Director and Tribal Advisor, captured our top priorities at the conclusion of our meeting which I listed below. We will work to further

define and update these areas with her in the upcoming weeks to present our recommendations to you as the Council Chairwoman.

Acting Assistant Attorney General Robinson

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Tribal Justice Advisory Group – Top Priorities

1. Strengthen Tribal Consultation and Coordination
2. Improve Communications and Internet-Technology
3. Improve Tribal Data Systems, Collection, Reporting, and Analysis
4. Conduct Revenue/Resource Mapping to Identify Gaps
5. Provide for Tribal Input on Budgets and Legislative Proposals

Please extend our sincere appreciation to everyone that participated in the recent OJP meetings, and thank you for supporting the Tribal Justice Advisory Group, Tribal leaders, and Tribal communities.

Sincerely,



Hope MacDonald LoneTree  
Chairwoman, Tribal Justice Advisory Group  
Councilwoman, Navajo Nation

cc: Tribal Justice Advisory Group Members

JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP  
OFFICE OF JUSTICE PROGRAMS  
U.S. DEPARTMENT OF JUSTICE

May 15, 2009

The Honorable Thomas J. Perrelli  
Associate Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Dear Associate Attorney General Perrelli:

As the Chairwoman of the Justice Programs Council on Native American Affairs (JPCNAA), Tribal Justice Advisory Group (TJAG), I want to express our appreciation for the opportunity to meet with you, Laurie Robinson, Acting Assistant Attorney General, Office of Justice Programs, your new Deputy Associate Attorney General, Karol Mason, and the many Department of Justice (DOJ) senior staff we engaged over the course of a two-day tribal evaluation and work session.

Tribal leaders have long sought an open Nation-to-Nation dialogue with the Federal government regarding an array of issues and challenges before us. It is refreshing that we are able to have regular and ongoing discussions with OJP, but as you heard from us on April 27, 2009, our issues often demonstrate the need for us to expand our conversations with other Department leadership to address matters that are outside OJP purview. However, with Ms. Robinson's Council leadership and her willing liaison role, we are afforded this opportunity to be invited by you and other DOJ staff for additional conversations to exchange helpful ideas, and to encourage your support for her agency efforts; it is how we envisioned the TJAG should function.

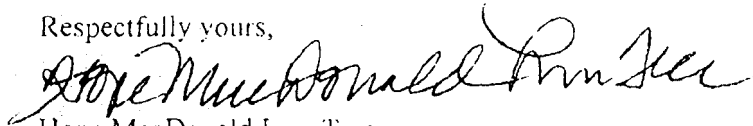
The TJAG is working with OJP to complete a consultation policy and guidance for their agency. However, absent a Department written tribal consultation policy in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, we lack an understanding of the Department's position. This is why we are so pleased that you are willing to respond to our inquiry regarding the Department's tribal consultation position, and we look forward to hearing back from you as tribal leaders plan for the National Congress of American Indian's mid-year meeting June 14-17, 2009.

We also wish to follow up with you and Acting Assistant Attorney General Laurie Robinson to schedule future meetings you kindly offered to convene with TJAG members and other Tribal leaders to address the priorities and concerns we raised at the meeting.

The TJAG members believe that Attorney General Eric Holder will bring new hope and opportunity for tribal justice and safety in our communities. We look forward to strengthening this relationship and offering our advice and assistance to the Department.

Please extend our sincere appreciation to everyone that participated in the recent OJP meetings, and thank you for expressing the Department's commitment to working with Tribal leaders.

Respectfully yours,



Hope MacDonald LoneTree  
Chairwoman, Tribal Justice Advisory Group  
Councilwoman, Navajo Nation

cc: Laurie O. Robinson, Acting Assistant Attorney General  
Office of Justice Programs

Tribal Justice Advisory Group Members

JUSTICE PROGRAMS COUNCIL ON NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP  
OFFICE OF JUSTICE PROGRAMS  
U.S. DEPARTMENT OF JUSTICE

August 25, 2009

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Dear Attorney General Holder:

As the Chairwoman of the Justice Programs Council on Native American Affairs (JPCNAA), Tribal Justice Advisory Group (TJAG), I have the pleasure of working with Laurie O. Robinson, Acting Assistant Attorney General, Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), in an advisory role along with my fellow Tribal leaders and colleagues.

Through Acting Assistant Attorney General Robinson's Council leadership and her willing liaison role, we respectfully request to meet with you to introduce the TJAG members, and to learn how we can support your upcoming National Tribal Listening Session scheduled for the end of October 2009. This will provide all of us an opportunity to exchange helpful ideas, and to encourage your support for tribal issues and concerns that will be raised by Tribal leaders at the national meeting, which is how we envisioned the TJAG should function.

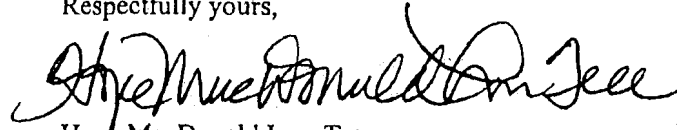
We are excited to realize that this DOJ leadership is actively engaging Tribal leaders to learn about our issues and concerns. We have long sought an open Nation-to-Nation dialogue with the Federal government regarding an array of issues and challenges before us. It is refreshing that the TJAG has been able to have regular and ongoing discussions with OJP during these past two years, but as we have stated at our TJAG meetings and in other meetings with DOJ officials, our issues often demonstrate the need for us to expand our conversations with other Department leadership to address matters that are outside OJP purview. The TJAG members represent two prominent national tribal governmental organizations, the National Congress of American Indians and the National Indian Health Board, and Tribal leaders or their designees from tribal governments in all twelve Bureau of Indian Affairs (BIA) regions. During the past two years the TJAG has gained a great deal of knowledge about the DOJ, and we are cognizant that Tribal leaders will call on our experience to present issues and proposed solutions to you in October 2009. Therefore, we hope you will be receptive and find it helpful for us to conduct a brief meeting prior to the National Tribal Listening Session.

Eric H. Holder, Jr.

Page Two

We believe that President Obama and his Administration leaders bring new hope and opportunity for tribal justice and safety in our communities. We look forward to strengthening this relationship, and offering our advice and assistance to the Department.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Hope MacDonald LoneTree". The signature is fluid and cursive, written over a white background.

Hope MacDonald LoneTree  
Chairwoman, Tribal Justice Advisory Group  
Councilwoman, Navajo Nation

cc: Laurie O. Robinson, Acting Assistant Attorney General  
Office of Justice Programs

Eugenia Tyner-Dawson, JPCNAA Executive Director  
Office of Justice Programs

Tribal Justice Advisory Group Members

## TRIBAL JUSTICE ADVISORY GROUP: PROPOSED TRIBAL CONSULTATION AND COORDINATION POLICY FOR OFFICE OF JUSTICE PROGRAMS

1. Introduction
2. Background
3. Tribal Sovereignty
4. Trust Responsibility
5. Policy
6. Policy Making Criteria
7. Policy Implementation
8. Objectives
9. Roles
10. Tribal Consultation
11. Consultation Process
12. Establishment of Tribal Workgroups and/or Taskforces
13. Measuring Tribal Consultation and Collaboration
14. Accountability - Evaluation, Recording of Meetings and Reporting
15. Education and Training
16. Disclaimer
17. Effective Date
18. Summary
19. Definitions
20. Acronyms

### 1. INTRODUCTION

The Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), and Indian Tribes share the goal of increasing public safety and improving the fair administration of justice through innovative leadership and programs for American Indians and Alaska Natives (AI/AN). Strengthening consultation improves coordination of information, research and development, statistics, training, and support to help the tribal justice community build the capacity it needs to meet public safety goals; and, embrace local decision-making, while encouraging local innovation through national policy leadership. To achieve this goal, and to the extent practicable and permitted by law, it is essential that federally-recognized Indian Tribes and OJP engage in open, continuous, and meaningful consultation. True consultation leads to information exchange, mutual understanding, and informed decision-making. The importance of consultation with Indian Tribes was affirmed through an Executive Order (EO)13175, Tribal Consultation and Coordination with Tribal Governments (November 6, 2000).

The EO requires meaningful consultation and collaboration with tribal officials in the development of regulations, legislation and “other policy statements or actions that have substantial direct effect on one or more Indian tribes.” Agencies are required to provide certification of compliance to OMB when submitting new regulations or proposed legislation that effect tribes.

## **2. BACKGROUND**

Since the formation of the Union, the United States (U.S.) has recognized Indian Tribes as sovereign nations. A unique government-to-government relationship exists between AI/AN Indian Tribes and the Federal Government. This relationship is grounded in numerous treaties, statutes, and executive orders as well as political, legal, moral, and ethical principles. This relationship is not based upon race, but rather, is derived from the government-to-government relationship.

The DOJ Policy on Indian Sovereignty and Government-to-Government relations with Indian tribes was implemented on June 1, 1995, recognizing Indian sovereignty and the federal trust responsibility, and established principles to guide the Department’s interactions with Indian tribes: 1) the sovereignty of Indian tribes; 2) government-to-government relationships with Indian tribes; 3) self-determination and self-governance; 4) trust responsibility; 5) protection of civil rights; and, 6) protection of tribal religion and culture. (taken from DOJ Sovereignty Policy).

An integral element of this government-to-government relationship is that consultation occurs with Indian Tribes. This policy applies to all OJP Bureaus and Offices. OJP shall provide an opportunity for Tribes to participate in policy development to the greatest extent practicable and permitted by law. The implementation of this policy is in recognition of this special relationship.

This special relationship is affirmed in the U.S. Constitution, treaties, statutes and various Presidential Executive Orders including, but not limited to:

- Presidential Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000; and
- Violence Against Women Act
- Major Crimes Act
- Indian tribal Justice Technical and Legal Assistance Act



### **3. TRIBAL SOVEREIGNTY**

This policy does not waive any Tribal governmental rights, including treaty rights, sovereign immunities, or jurisdiction. Additionally, this policy does not diminish any rights or protections afforded other AI/AN people or entities under Federal law.

Our Nation, under the law of the United States and in accordance with the Constitution, treaties, statutes, Executive orders, and judicial decisions, has recognized the right of Indian Tribes to self-govern.

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 Tribal self-government, Tribal trust resources, and Tribal treaty and other rights.

A constitutional relationship among sovereign governments is inherent in the very structure of the Constitution and treaties and is formalized in and protected by Article I, Section 8. Increasingly, this special relationship has emphasized self-determination and meaningful involvement for Indian Tribes in Federal decision-making (consultation) where such decisions affect Indian Tribes. The involvement of Indian Tribes in the development of public health and human services policy allows for locally relevant and culturally appropriate approaches to public issues.

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.

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.

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.

The Supreme Court has long held that Congress has broad power to recognize Indian tribes. As the Court stated in *United States v. Lara*, 541 U.S. 193, 200 (2004), “the Constitution grants Congress broad general powers to legislate in respect to Indian tribes, powers that we have consistently described as ‘plenary and exclusive.’” In *Morton v. Mancari*, 417 U.S. 535, 551-552 (1974), the Court observed that Congress’s “plenary power” to recognize and legislate on behalf of Indian tribes “is drawn both explicitly and implicitly from the Constitution itself” and is based on “a history of treaties and the ‘guardian-ward’ status.”

More specifically, the federal government derives its power to deal with the Indian tribes primarily from the Indian Commerce Clause, U.S. Const. art. 1, § 8, cl. 3, which explicitly gives Congress the power to regulate commerce not only among the States and with foreign nations but also with “the Indian Tribes,” and the Treaty Clause, U.S. Const. art. II, § 2, cl.2. The federal government’s authority to deal separately with the Indian tribes is thus grounded in two constitutional provisions that recognize the Indian tribes as sovereign political entities.

The Supreme Court has numerous times defined tribes based on this concept of sovereignty. Most recently, in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55 (1978), the Court described Indian tribes as “‘distinct, independent political communities, retaining their original natural rights’ in matters of local self-government.”

#### **4. 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.

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

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 prosperity 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.

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.

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.

## **5. POLICY**

It is the OJP policy that consultation with Indian Tribes will occur to the extent practicable and permitted by law before any action is taken that will significantly affect Indian Tribes. Such actions refer to policies that have Tribal implications and 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.

Nothing in this policy waives the Government's deliberative process privilege. For example, in instances where the Department is specifically requested by Members of Congress to respond to or report on proposed legislation, the development of such responses and of related policy is a part of the Executive Branch's deliberative process privilege and should remain confidential. In addition, in specified instances where Congress requires the Department to work with Tribes on the development of recommendations that may require legislation, such reports, recommendations or other products are developed independent of a Department position, the development of which is governed by Office of Management and Budget (OMB)-Circular A-19.

## **6. POLICY MAKING CRITERIA**

In accordance with E.O. 13175, **Sec. 3.  *Policymaking Criteria.*** In addition to adhering to the fundamental principles set forth in section 2, OJP shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) OJP 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.

### **Increasing Flexibility for Indian Tribal Waivers.**

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

OJP 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.

OJP 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 OJP, or as otherwise provided by law or regulation. If the application for waiver is not granted, OJP shall provide the applicant with timely written notice of the decision and the reasons therefore.

This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by OJP.

### **Legislative Proposals**

OJP shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in E.O. 13175, Section 3.

In transmitting proposed legislation that has tribal implications to OMB, 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.

## 7. POLICY IMPLEMENTATION

- A. OJP Bureau and Offices shall have an accountable process to ensure meaningful and timely input by Tribal officials in the development of policies that have Tribal implications.
- B. To the extent practicable and permitted by law, OJP will not promulgate any regulation that has Tribal implications, that imposes substantial direct compliance costs on Indian Tribes, or that is not required by statute, unless:
  - 1. Funds necessary to pay the direct costs incurred by the Indian Tribe in complying with the regulation are provided by the Federal Government; or
  - 2. OJP, prior to the formal promulgation of the regulation,
    - a) Consulted with Tribal officials early and throughout the process of developing the proposed regulation;
    - b) Provided a Tribal summary impact statement in a separately identified portion of the preamble to the regulation as it is to be issued in the *Federal Register* (FR), which consists of a description of the extent of OJP's prior consultation with Tribal officials, a summary of the nature of their concerns and the OJP'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) Made available to the Attorney General any written communications submitted to OJP by Tribal officials.
- C. To the extent practicable and permitted by law, OJP will not promulgate any regulation that has Tribal implications and that preempts Tribal law unless OJP, prior to the formal promulgation of the regulation,
  - 1. Consulted with Tribal officials early and throughout the process of developing the proposed regulation;
  - 2. Provided a Tribal summary impact statement in a separately identified portion of the preamble to the regulation as it is to be issued in the FR, which consists of a description of the extent of the OJP's prior consultation with Tribal officials, a summary of the nature of their concerns and OJP'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
  - 3. Made available to the Attorney General any written communications submitted to OJP's bureaus and offices by Tribal officials.

On issues relating to Tribal self-governance, Tribal self-determination, Tribal trust resources, or Tribal treaty and other rights, OJP should explore, and where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

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

The Office of Tribal Justice (OTJ) is identified as the responsible organization within DOJ for monitoring compliance with EO 13175.

- D.** Consistent with federal law and other Departmental duties, OJP will consult with Tribal leaders in its decisions that relate to or affect the sovereignty, rights, resources or lands of Indian tribes. OJP will conduct such consultation in light of its mission.
- E.** In accordance with Department policy, OJP will consult with tribal governments concerning law enforcement priorities in Indian country, support duly recognized tribal governments, defend the 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.
- F.** OJP established a Justice Programs Council on Native American Affairs to provided agency-wide coordination and communication on consultation, policy, budget and legislative matters that implicate Indian Tribes and tribal communities.

The JPCNAA is organized for the following purposes:

In keeping with the President's priorities and the Attorney General's goals and objectives, the Justice Programs Council on Native American Affairs, hereinafter referred to as JPCNAA or Council, is established at a senior level in the Office of Justice Programs (OJP) to ensure tribal justice and safety policy issues and strategies are developed and embraced by OJP leadership in response to the OJP Strategic Plan's "One OJP" model. This policy advisory body will (a) help to identify opportunities and programs relevant to Indian tribes and Native communities, (b) address issues of concern to Indian tribes and Native communities, (c) serve as a focal point within OJP for coordination, outreach and consultation on justice and safety issues affecting the American Indian, Alaska Native, and Native American (AI/AN/NA) population nationwide, and (d) serve

as a liaison advisory body to other Department of Justice (DOJ) agencies, bureaus and offices that desire to participate on the Council.

To effectuate these goals, the JPCNAA performs the following activities.

1. Formalize a structure for programs, policy priorities, and soliciting feedback by creating an environment for leadership to introduce innovation and recommend action required to effect new and improved Native American strategies.
2. Educate employees and increase attention to the need to address AI/AN/NA justice and safety issues.
3. Create baseline measures, and establish and achieve goals that are consistent with the AI/AN/NA challenges and priorities.
4. Reaffirm the Department of Justice's (DOJ) recognition of the sovereign status of federally recognized Indian tribes as domestic dependent nations and the adherence to the principles of government-to-government relations.
5. 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 guide the Department in its work in the field of Indian affairs.
6. Develop and promote a DOJ policy to provide greater access and quality services for American Indians, Alaska Natives and Native Americans (AI/AN/NAs) throughout the Department and where possible, the Federal government.
7. Promote implementation of DOJ policy and DOJ agency plans with AI/AN/NAs and Tribal governments in accordance with statutes, executive memorandum and executive orders.
8. Identify and develop legislative, administrative, and regulatory proposals which promote an effective, meaningful AI/AN/NA policy to improve tribal justice systems and public safety for AI/AN/NAs.
9. Identify and develop a comprehensive Departmental strategy proposal which promotes self-sufficiency and self-determination for all AI/AN/NA people.
10. Promote the Tribal/Federal government-to-government relationships on a Department-wide basis that builds on the principals of Executive Orders 13336, 13270, 13175, 13132, and 13007.

#### JPCNAA FUNCTIONS

The functions of the JPCNAA may include, but are not limited to, the following:

1. Promote the highest quality tribal justice systems and enhance the public safety of AI/AN/NA people by enhancing the coordination, collaboration, and consultation processes with AI/AN/NAs, Tribal leaders and local communities in the design of Federal policies regarding tribal justice and safety.
2. Promote a Departmental strategy to provide a comprehensive service delivery system for AI/AN/NAs, which identifies and targets priority needs related to tribal justice and safety in the AI/AN/NA Community and focuses on interagency coordination with other Departments and non-Federal



organizations to meet these needs, in accordance with Presidential executive memorandum, executive orders, and the DOJ Policy on Tribal Sovereignty and government-to-government relations with Indian tribes.

3. Monitor and track Departmental Attorney General initiatives for AI/AN/NA inclusion.
4. Provide recommendations for developing short, intermediate and long-range solutions to improve Department policy and programs that target AI/AN/NAs.
5. Distribute information, data and statistics that accurately describe the tribal justice and safety needs of AI/AN/NAs and the Departmental resources expended to meet these needs.
6. Advise and provide input to the OTJ on Department-wide implementation of the DOJ policy in furtherance of Executive Order 13175 (November 2000) which reiterates the government-to-government relationship and the requirement that each Department develop a mechanism to coordinate and consult with Tribal governments. It is the policy of the Department to consult with AI/AN/NA people to the greatest practicable extent and to the extent permitted by law before taking actions that affect these governments and people. The OTJ has lead responsibility for DOJ consultation, including consultations with Tribal Governments and AI/AN/NA communities, and serves as the DOJ central point of contact for AI/AN/NA governments and their representative organizations.

#### **JPCNAA AUTHORITY**

The JPCNAA is responsible for achieving the purposes set forth in its Charter, is established in the Office of the Assistant Attorney General (OAAG), Office of Justice Programs (OJP), with oversight provided by the Assistant Attorney General for OJP (AAG) as the Council Chairperson, and the JPCNAA executive direction provided by the Senior Advisor to the AAG for Tribal Affairs/JPCNAA Executive Director. This Charter is established for the JPCNAA to reflect the responsibilities conferred on the JPCNAA by the AAG, authorized under the general authority of the AAG. *See, e.g.*, Omnibus Crime Control and Safe Streets Act (Public Law 90-351), 42 U.S.C. Chapter 46, subchapter I and 42 U.S.C. Chapter 46, subchapter VIII; Section 108(a) of the Department of Justice Appropriations Act, 2000, (Public Law 106-113); and Atty Gen. Order No. 1473-91, ¶¶ 1, 7 (Feb. 19, 1991).

Implementing the policy is the responsibility of the OJP leadership. The OJP Consultation and Coordination Policy and Guidance will comply with E.O. 13175, and the Department Policy on Indian Sovereignty and Government-to-Government Relations with Indian Tribes.

The Tribal Justice Advisory Group formed in September 2007, provides advice and assistance to the AAG on tribal justice and safety matters. The TJAG developed a tribal priorities document for the development of an OJP strategic plan and this policy. These priorities may change over time, but serve as a guide to OJP for its programs and services to tribes.

The Tribal Nations Leadership Council established by the Attorney General will serve as an advisory body on intergovernmental and policy matters implicating tribal governments in OJP.

The Justice Programs Council on Native American Affairs (JPCNAA) will provide the overall internal coordination and policy guidance for compliance. The JPCNAA will ensure this policy is followed and maintained in accordance with E.O. 13175 to assist OJP and Tribes with tribal consultation and coordination regarding:

- Fundamental Principles of Tribal Sovereignty
- Policymaking Criteria
- Legislative Proposals
- Consultation
- Regulatory Waivers
- Accountability

**8. OBJECTIVES**

- A.** To formalize the requirement of OJP to seek consultation and the participation of Indian Tribes in policy development and program activities to ensure that tribal justice and public safety priorities and goals are recognized.
- B.** To establish a minimum set of OJP requirements and expectations with respect to consultation and participation.
- C.** To identify critical events at which Tribal consultation and participation will be required.
- D.** To identify events and partnerships that OJP would participate with national tribal organizations that will establish and foster partnerships to complement and enhance consultation with Indian Tribes.
- E.** To promote and develop innovative methods of involving Indian Tribes in OJP policy development and regulatory processes.
- F.** To uphold the responsibility of OJP to consult with Indian Tribes on new and existing policies, programs, functions, services and activities that have tribal implications.
- G.** To be responsive to an Indian Tribe's request for consultation and technical assistance in obtaining OJP resources.
- H.** To charge the OJP Bureaus and Offices with the responsibility for enhancing partnerships with Indian Tribes which will include, technical assistance, access to programs and resources.

- I. Each OJP Bureau and Office will designate a representative through the JPCNAA to serve as a Liaison and a point of contact for Indian Tribes.

## 9. ROLES

- A. **Indian Tribes:** The government-to-government relationship between the U.S. and Indian Tribes dictates that the principal focus for OJP consultation is with individual Indian Tribes.
- B. **Tribal Organizations:** It is necessary that the OJP communicate with Tribal organizations to solicit consensual Tribal advice and recommendations. Although the special “Tribal-Federal” relationship is based on the government-to-government relationship with Indian Tribes, other statutes and policies exist that allow for consultation with other Tribal organizations. These organizations by the sheer nature of their business serve and represent Indian Tribes issues and concerns that might be negatively affected if these organizations were excluded from the consultation process.
- C. **Justice Programs Council on Native American Affairs (JPCNAA):** The OJP JPCNAA plays a critical role in the execution of the OJP consultation policy. The JPCNAA is charged to: (1) develop and promote an OJP policy to provide greater access and quality services for AI/AN/NAs, (2) promote implementation of OJP policy and Bureau and Office plans on consultation with AI/AN/NAs and Indian Tribes in accordance with statutes and EOs, (3) promote an effective, meaningful AI/AN/NA policy to improve tribal justice and public safety for AI/AN/NAs, (4) develop a comprehensive tribal strategy that promotes self-sufficiency and self-determination for all AI/AN/NA people, and (5) promote the Tribal/Federal government-to-government relationship on an OJP-wide basis in accordance with EO 13175. The underpinning concept of the Council is the premise within OJP that all Bureaus and Office bear responsibility for the government’s obligation to AI/AN/NA.

### JPCNAA ORGANIZATION

- A. Justice Programs Council on Native American Affairs:
  1. **Chairperson:** The AAG will serve as the Council Chairperson and the Chief of Staff (COS) for OJP will serve as the alternate.
  2. **Council:** The JPCNAA will serve as a senior level advisory body to the AAG regarding Native American affairs. The authority exercised by the JPCNAA to implement its various actions is the authority of the JPCNAA and not the individual authority of its respective members. This authority shall always rest within the JPCNAA, but may be delegated with the approval of the AAG to Committees, Workgroups, Officers, or representatives, as determined by the JPCNAA.

3. **Members:** The JPCNAA membership shall be appointed by the Chairperson, and shall be the heads of principal operating divisions within the OJP, as determined by the Chairperson, and such persons in the Office of the AAG as the Chairperson may designate. The Chairperson may also appoint other DOJ agency, bureau or office heads, or their designees, who wish to participate.
4. **Executive Director:** The Senior Advisor to the AAG for Tribal Affairs will serve as the JPCNAA Executive Director. The Executive Director is responsible to the JPCNAA Chairperson. The Executive Director serves as the principal management officer for all JPCNAA functions and is the principal JPCNAA liaison between and among the JPCNAA's membership, and other agencies.
5. **Liaisons:** Each JPCNAA member shall identify at least one staff person to serve as a liaison to the Council. The Council Liaison must be knowledgeable about their respective agency, bureau, or office's programs and budgets, and have ready access to senior program leadership and be empowered to speak on behalf of their respective DOJ agency, bureau, or office. Members may identify additional agency, bureau, or office staff members they believe are necessary to perform the JPCNAA Liaison functions.
6. **Workgroups and Advisory groups:** The JPCNAA may create workgroups and advisory groups as necessary to carry out the work of the JPCNAA. Members may identify staff experts they believe are necessary to perform the JPCNAA Workgroup or Advisory group activities.

B. Responsibilities of the Chairperson

The Chairperson of JPCNAA is charged with the overall direction of the JPCNAA. The Chairperson shall preside over all JPCNAA meetings or activities.

The JPCNAA Chairperson, through the Executive Director, will be responsible for the flow of information between and among participating JPCNAA members, the Department, and other interested parties.

The Chairperson may make all other appointments, officers, representatives and staff, as may be considered necessary and appropriate to accomplish the functions of the JPCNAA.

## JPCNAA ADMINISTRATION

### A. Management and Administrative Staff

The JPCNAA's Executive Director is responsible for the management and administration of JPCNAA activities; the administration of funds provided for JPCNAA activity; preparation of agendas for meetings, and maintaining the records of all JPCNAA business, including the preparation and dissemination of minutes from JPCNAA meetings.

JPCNAA staff may be provided to the JPCNAA through the Office of Assistant Attorney General, as directed by the JPCNAA Chairperson. JPCNAA staff shall be directly responsible to the Executive Director. Staff support for the JPCNAA may come through personnel details of DOJ staff. Staff identified as potential details to the JPCNAA should be highly qualified with knowledge and/or experience in AI/AN/NA issues. Detailed employees to the JPCNAA will be selected by the Chairperson, and Executive Director, with the concurrence of the applicable agency, bureau, or office head.

When necessary, the Council Liaisons will be assigned to assist the Executive Director on special projects, with the concurrence of the applicable agency, bureau, or office head.

Space, equipment, supplies, materials, administrative support, and funds for JPCNAA activities will be managed and coordinated by the Executive Director.

### B. Meetings

The JPCNAA shall meet at such places it considers appropriate, on no less than a bi-annual basis. The Chairperson through the Executive Director shall make every effort to provide JPCNAA members a thirty-day advance notice of JPCNAA meetings.

The JPCNAA Tribal Liaisons, and other established committees or work groups, shall meet with such frequency and at such places as it considers appropriate.

### C. Quorum

A majority of Members of the JPCNAA shall constitute a quorum for the transaction of official business.

D. Issue Resolution

The JPCNAA will make every effort to resolve issues by developing a consensus among the Members. In the event an consensus cannot be reached, the JPCNAA will resolve issues based on a vote of the members present at a meeting, conducted through a show of hands.

JPCNAA REPORTS

The JPCNAA shall prepare reports and other such publications, documents and information for distribution within the Department, other Federal agencies, Tribal Governments and the AI/AN/NA community as the JPCNAA Chairperson and Members may consider appropriate.

JPCNAA SPECIAL PROJECTS

The JPCNAA may make recommendations to the Chairperson regarding special studies, research and development activities or demonstrations to improve the delivery of DOJ services and benefits to AI/AN/NA people, consistent with the purposes of the JPCNAA.

**10. TRIBAL CONSULTATION**

**A. Consultation occurs:**

1. When the AAG or Bureau or Office Head, or their designee, and a Tribal President/Chair/Governor and/or elected/appointed Tribal Leader meet or exchange written correspondence to discuss issues concerning either party.
2. When an OJP Head meets or exchanges written correspondence with an elected/appointed Tribal Leader to discuss issues or concerns of either party.
3. When the AAG or Head, or their designee, meets or exchanges written correspondence with a Tribal representative designated by an elected/appointed Tribal leader to discuss issues or concerns of either party.

**B. Consultation Criteria:** Trust between OJP and Indian Tribes is an indispensable element in establishing a good consultative relationship. The degree and extent of consultation will depend on the identified critical event. While this policy does not provide specific guidelines, OJP will utilize the following criteria to ensure that the requirements of this policy are satisfied.

1. Identify the Critical Event: Complexity, implications, time constraints, issue (funding, policy, programs) [need to develop language to clarify whether events may impact one or more tribes, has local, regional or national impact, and where possible OJP must determine with the tribes whether or not consultation is required]

2. Identify affected/potentially affected Indian Tribe(s), etc.
3. Determine level of Consultation – The level of consultation can be determined after considering the critical event and Indian Tribes affected/potentially affected. Identify the scope of the issue and steps necessary to determine if consultation is required.
  - 1) **Correspondence:** Written communications should clearly provide affected/potentially affected Indian Tribes of the critical event and the manner in which to provide comment. OJP frequently uses a “Dear Tribal Leader Letter” (DTLL) format to notify individual Indian Tribes of consultation activities. Divisions should work closely with the Office of Communications (OCOM) if technical assistance is required for proper format, current mailing lists, and content.
  - 2) **Technology Based Communications** – Where viable, OJP will develop or incorporate teleconference capability, e-mail, web-based, video-conference communications to improve and enhance coordination, expand communication options and capabilities.
  - 3) **Meeting(s):** The OJP Bureaus and Offices shall convene a meeting with affected/potentially affected Indian Tribes to discuss all pertinent issues in a national or regional forum, or as appropriate, to the extent practicable and permitted by law, when the critical event is determined to have substantial direct impact.

Other types of meetings and/or conferences occur which may not be considered consultation sessions, but these meetings may provide an opportunity to share information, conduct workshops, and provide technical assistance to Indian Tribes.

- 4) **Notice:** Upon the determination of the level of consultation necessary, proper notice of the critical event and the level of consultation utilized shall be communicated to affected/potentially affected Indian Tribes using all appropriate methods including mailing, broadcast e-mail, FR, and other outlets. The FR is the most formal OJP form of notice used for consultation.
- 5) **Receipt of Comment:** OJP shall develop clear and explicit instructions for the submission of comments.
- 6) **Reporting of Outcome:** OJP shall report to the Indian tribes on the outcomes of the consultation on no less than an annual basis.

- C. Tribal Resolution:** Communications from Indian Tribes frequently come in the form of Tribal resolutions. These resolutions may be the most formal declaration of an Indian Tribe's position for the purpose of Tribal consultation. Once OJP receives a Tribal resolution, OJP should respond appropriately. Appropriate response may include Tribal consultation.
- D. Policy Development Through Tribal Consultation Process:** The need to develop a policy may be identified from within OJP or may be identified by Indian Tribes. This need may result from external forces such as Executive, Judicial, or Legislative Branch directives. Once the need to develop a policy is identified the consultation process must begin in accordance with critical events and level of consultation.
- E. Development of Regulations or Standards**

**In accordance with E.O. 13175, OJP** shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. To the extent practicable and permitted by law, OJP shall not 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) OJP, prior to the formal promulgation of the regulation,
  - (A) consulted with tribal officials early in the process of developing the proposed regulation in accordance with this policy;
  - (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 Office of Tribal Justice for submission 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 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 Office of Tribal Justice for the submission to the Director of OMB any written communications submitted to the agency by tribal officials.

To the extent practicable and permitted by law, OJP shall not 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 Office of Tribal Justice for submission 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 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 Office of Tribal Justice for submission to the Director of OMB any written communications submitted to the agency by tribal officials.

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.

## 11. CONSULTATION PROCESS

Work sessions will be held to solicit official Tribal comments and recommendations on policy and budget matters affecting Indian Tribes. These sessions at roundtables, forums and meetings will provide the opportunity for meaningful dialogue and effective participation by Indian Tribes.

Indian Tribes have the ability to meet one-on-one with a Head or designated representative to consult on issues specific to that Indian Tribe.

The OJP bureau or office upon completion of a consultation session will document and follow-up on any unresolved issues that would benefit from ongoing involvement of Indian Tribes in implementation and evaluation.

OJP will consult with Tribally-elected/appointed Leaders on the Tribal consultation policy to ensure effective and meaningful participation.

The OJP Tribal consultation policy will be posted on the Tribal Justice and Safety (TJS) web site homepage and offered to appropriate Tribal organization web sites.

OJP will continue to inform Indian Tribes on the Tribal Consultation Policy by conducting meetings, roundtables, teleconferences, forums, and placing information on the TJS website homepage and other appropriate web sites.

OJP will develop specific mechanisms that will be used to consult with Tribal governments include, but are not limited to: mailings, meetings, teleconferences, and roundtables.

## 12. ESTABLISHMENT OF TRIBAL WORKGROUPS AND/OR TASK FORCES

### A. Consultation:

1. **New Policy:** When new or revised national policy/policies affect an Indian Tribe/Tribes, OJP may establish a workgroup and/or task force to develop recommendations on various technical, legal, or policy issues. In such cases, the following process is generally followed:
  - a) **Tribal Workgroups and/or Taskforces:** Although the special “Tribal-Federal” relationship is based in part on the government-to-government relationship it is necessary for OJP to establish Tribal Workgroups and/or Task Forces to complete work needed to develop new policies, practices, issues, and/or concerns and/or modify existing policies, practices, issues, and/or concerns. These Tribal Workgroups and/or Task Forces do not take the place of Tribal consultation, but offer an enhancement by gathering individuals with extensive knowledge of a particular policy, practice, issue and/or concern to work collaboratively and offer recommendations for consideration by federally recognized Tribal governments and federal agencies. The subsequent work products and/or outcomes developed by the Tribal Workgroup and/or Task Forces will be handled in accordance with this policy.
  - b) **Membership Notices:** The Department is allowed to meet with various representatives of organizations on an individual basis. However, if the Bureaus and Offices desire to form an advisory committee or workgroup, which includes representatives from organizations, assurance must be provided to the OJP Office of General Counsel (OGC) which demonstrates compliance with FACA. If such organizations are exempt from FACA because of the intergovernmental committee exemption found under U.S.C. 1534, then documentation must be provided..
  - c) **Meeting Notices:** The purpose, preliminary charge, time frame, and other specific tasks shall be clearly identified in the notice. All meetings should be open and widely publicized by the Bureau or Office initiating the policy.
  - d) **Workgroups:** Tribal membership should be selected based on the responses received from prospective volunteers as a result of the notice, and if possible, should represent a cross-section of affected parties.

## **B. Participation:**

1. **Attendance at Meetings:** Workgroup members must make a good faith effort to attend all meetings.
2. **Appointment of Alternates:** Each workgroup member may appoint an alternate by written notification. In cases where an elected Tribal leader appoints an alternate who is not an elected official, the alternate shall represent the primary member on a workgroup. The alternate will have the same voting rights as the primary member, as designated.
3. **Workgroup Protocols:** The workgroup may establish protocols to govern the meetings. Such protocols will include, but are not limited to the following:
  - a) Selection of workgroup co-chairs, if applicable
  - b) Role of workgroup members
  - c) Process for decision-making (consensus based or otherwise)
  - d) Process for determining drafting and availability of all final workgroup products and documents
4. **Workgroup Charge:** Prior to the workgroup formulation, OJP may develop an initial workgroup charge in enough detail to define the policy concept. The workgroup will develop recommendations for the final workgroup charge for the approval of the OJP Assistant Attorney General (AAG), or appropriate Bureau or Office head.
5. **Workgroup Final Products:** Once a final draft of the workgroup has been created by the workgroup the following process will be used to facilitate additional consultation:
  - a) Upon completion, the draft policy documents will be distributed informally to Indian Tribes and national tribal organizations for review and comment and to allow for maximum possible informal review.
  - b) Comments will be returned to the workgroup, which will meet in a timely manner to discuss the comments and determine the next course of action.
  - c) If the proposed policy is considered to be substantially complete as written, the workgroup will forward the draft policy to the AAG or as final recommendation for consideration.
  - d) The workgroup will also recognize any contrary comments in its final report.

- e) If it is determined that the policy should be rewritten, the workgroup will rewrite and begin informal consultation again at the initial step above.
  - f) If the proposed policy is generally acceptable, final processing of the policy by the workgroup will be accomplished.
6. **Recommendations and Policy Implementation:** All final recommendations made by the workgroup should be presented to the AAG or appropriate Bureau or Office head. Before any final policy decisions are adopted, the proposed policy shall be widely publicized and circulated for review and comment to Indian Tribes and national tribal organizations, Once the consultation process is complete and a proposed policy is approved and issued, the final policy shall be broadly distributed to all Indian Tribes.

### 13. **MEASURING OJP TRIBAL CONSULTATION PERFORMANCE AND COLLABORATION**

OJP will measure and report results and outcomes of their Tribal consultation performance to fulfill the government-to-government relationship with Indian Tribes. OJP shall address the Department's and OJP's mission and performance objectives in carrying out the OJP Tribal Consultation Policy.

1. The impact of OJP activities on Tribal trust resources shall be adequately assessed and tribal interests considered before activities are undertaken;
2. The removal of governmental procedural impediments to work directly with Indian Tribes on activities that affect trust property or governmental rights of the Indian Tribes;
3. OJP will work to reduce regulatory burdens by streamlining the application process for and increase the availability of waivers to Indian Tribes; and,
4. OJP will operate in a collaborative manner to accomplish the goals of Executive Order 13175 and this policy.

OJP will evaluate its Tribal Grants Policy to measure whether or not the intended objectives are being accomplished and to determine effective implementation by OJP Bureaus and Offices.

#### **14. ACCOUNTABILITY - EVALUATION, RECORDING OF MEETINGS, AND REPORTING**

The consultation process and activities conducted within the policy should result in a meaningful outcome for OJP and for the affected Indian Tribes. In order to effectively evaluate the results of a particular consultation activity and OJP's ability to incorporate Indian Tribes' consultation input, the OJP should measure, on an annual basis, the level of satisfaction of the Indian Tribes.

1. OJP should develop and utilize appropriate evaluation measures to assess Indian Tribes' response to OJP consultation conducted during a specific period to determine if the intended purpose of the consultation was achieved and to receive recommendations to improve the consultation process. Bureaus and Offices will maintain a record of the consultation, evaluate whether the intended results were achieved, and report back to the affected Indian tribe(s) on the status or outcome.
2. Upon completion of consultation, OJP, and affected Indian Tribes, shall determine if there are any unresolved issues that would benefit from ongoing involvement of Indian Tribes in implementation and evaluation, including, but not limited to: assess the impact of OJP's plans, projects, programs and activities on tribal and other available resources; removing any procedural impediments to working directly with Indian Tribes; and working collaboratively with other Federal agencies in these efforts.
3. With the assistance of Indian Tribes, OJP will measure the implementation and effectiveness of this Policy. OJP will assess the Tribal Consultation Policy, and utilize comments from Indian Tribes and federal participants to determine whether amendment to the Policy may be required.
4. OJP will prepare a record of all consultation meetings and recommended actions which will be made available to Indian Tribes. Once the consultation process is complete and any policy decision is finalized, all recommended follow-up actions adopted shall be implemented and tracked by the appropriate OJP bureau or office and reported to the Indian Tribes.

[Does OJP create an annual report to tribes on the issues raised by tribes regarding the activities, accomplishments, and action items taken or pending to track the progress made on policy matters and issues raised in consultation? Does the TNLC report to tribes? 12/3/09]

## **15. EDUCATION AND TRAINING**

In accordance with OJP Tribal Grants Policy, OJP Managers and Supervisors will be provided annual education and training on AIANs.. OJP will also encourage new employees to participate in education and training forums that will increase federal employees' knowledge and understanding of the government-to-government relationship with Indian Tribes.

OJP staff will complete the "Working Effectively with Tribal Governments" online training program <http://tribal.golearnportal.gov>, or an equivalent program if this online program is no longer available.

## **16. DISCLAIMER**

This policy is intended only to improve the internal management of the Office of Justice Programs 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, officers, or any person.

## **17. EFFECTIVE DATE**

Nothing in the Policy creates a right of action against OJP for failure to comply with this Policy. The OJP Tribal Consultation Policy, is effective on the date of the signature by the Assistant Attorney General, Office of Justice Programs.

## **18. SUMMARY**

In developing this Policy a wide range of needs across OJP as well as the unique characteristics of the bureaus and offices that comprise it were taken into account. As there is diversity among the OJP bureaus and offices, there is also a need to be responsive to changes, which occur within their programs and within their constituency. Hence, it is important that policies and plans developed remain dynamic and changing as circumstances and Indian Tribes input indicate.

## 19. DEFINITIONS

*Definitions.* For purposes of this policy

1. **Agency** – Any authority of the United States that is an “agency” under 44 USC 3502(1) other than those considered to be independent regulatory agencies, as defined in 44 USC 3502 (5).
2. **Communication** – The exchange of ideas, messages, or information, by speech, signals, writing, or other means.
3. **Consultation** – An enhanced form of communication, which emphasizes trust, respect and shared responsibility. It is an open and free exchange of information and opinion among parties, which leads to mutual understanding and comprehension. Consultation is integral to a deliberative process, which results in effective collaboration and informed decision making with the ultimate goal of reaching consensus on issues.

(The EO requires meaningful consultation and collaboration with tribal officials in the development of regulations, legislation and “other policy statements or actions that have substantial direct effect on one or more Indian tribes.” Agencies are required to provide certification of compliance to OMB when submitting new regulations or proposed legislation that effect tribes.)

4. **Coordination and Collaboration** – Working and communicating together in a meaningful government-to-government effort to create a positive outcome.
5. **Critical Events** – Planned or unplanned events that have or may have a substantial impact on Indian Tribes or Native communities, e.g., issues, polices, or budgets which may come from any level within OJP.
6. **Deliberative Process Privilege** – Is a privilege exempting the government from disclosure of government agency materials containing opinions, recommendations, and other communications that are part of the decision-making process within the agency.
7. **Executive Order** – An order issued by the Government’s executive on the basis of authority specifically granted to the executive branch (as by the U.S. Constitution or a Congressional Act).
8. **Federally Recognized Tribal governments** – Indian Tribes with whom the Federal Government maintains an official government-to-government relationship; usually established by a federal treaty, statute, executive order, court order, or a Federal Administrative Action. The Bureau of Indian Affairs (BIA) maintains and regularly publishes the list of federally recognized Indian Tribes.

9. **JPCNAA Tribal Liaisons** – OJP staff designated by the head of a Bureau or Office that are knowledgeable about the programs and budgets, and have ready access to senior program leadership, and are empowered to speak on behalf of the bureau or office for AI/AN/NA programs, services, issues, and concerns.
10. **Indian Organization** – Any group, association, partnership, corporation, or legal entity owned or controlled by Indians or a majority whose members are Indians.
11. **Indian Tribe** – “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.
12. **Indian** – Indian means a person who is a member of an Indian tribe. 25 U.S.C. 450b (d). Throughout this policy, Indian is synonymous with American Indian/Alaska Native.
13. **Justice Programs Council on Native American Affairs (JPCNAA)** – Authorized by Charter in September 2007. The JPCNAA serves primarily to perform functions and develop recommendations for short, intermediate, or long-term solutions to improve AI/AN/NA policies and programs.
14. **Tribal Workgroups and or/Task Forces** – A group composed of individuals who are elected Tribal officials, appointed by federally recognized Tribal governments and/or federal agencies to represent their interests while working on a particular policy, practice, issue and/or concern.
15. **Native American (NA)** – Broadly describes the people considered indigenous to North America.
16. **Policies that have Tribal Implications** – Refers to regulations, 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.
17. **Public Participation** – When the public is notified of a proposed or actual action, and is provided meaningful opportunities to participate in the policy development process.
18. **Reservation** – Lands reserved with the Federal Government for Tribal use and are usually held in trust by the Federal Government or within certain defined boundaries.
19. **Self Government** – Government in which the people who are most directly affected by the decisions make decisions.



- 20. Sovereignty** – The ultimate source of political power from which all specific political powers are derived.
- 21. Substantial Direct Compliance Costs** – Those costs incurred directly from implementation of changes necessary to meet the requirements of a federal regulation. Because of the large variation in Tribes, “substantial costs” is also variable by Indian Tribe. Each Indian Tribe and the Secretary shall mutually determine the level of costs that represent “substantial costs” in the context of the Indian Tribe’s resource base.
- 22. To the Extent Practicable and Permitted by Law** – Refers to situations where the opportunity for consultation is limited because of constraints of time, budget, legal authority, etc.
- 23. Treaty** – A legally binding and written agreement that affirms the government-to-government relationship between two or more nations.
- 24. Tribal Government** – An American 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 USC 479a.
- 25. Tribal Officials** – Elected or duly appointed officials of Indian Tribes or authorized intertribal organizations.
- 26. Tribal Resolution** – A formal expression of the opinion or will of an official Tribal governing body which is adopted by vote of the Tribal governing body.
- 27. Tribal Self-Governance** – The governmental actions of Tribes exercising self-government and self-determination.

## 20. ACRONYMS

<b>AAG</b>	Assistant Attorney General
<b>AI/AN:</b>	American Indian/Alaska Native
<b>AI/AN/NA:</b>	American Indian/Alaska Native/Native American
<b>BIA</b>	Bureau of Indian Affairs
<b>EO:</b>	Executive Order
<b>FACA:</b>	Federal Advisory Committee Act
<b>FR:</b>	<i>Federal Register</i>
<b>JPCNAA</b>	Justice Programs Council on Native American Affairs
<b>NPRM:</b>	Notice of Proposed Rule Making
<b>OCOM</b>	Office of Communications
<b>OGC</b>	Office of General Counsel
<b>OJP</b>	Office of Justice Programs
<b>TNLC</b>	Tribal Nations Leadership Council
<b>TJAG:</b>	Tribal Justice Advisory Group
<b>U.S.:</b>	United States
<b>U.S.C.:</b>	United States Code

**JUSTICE PROGRAMS COUNCIL  
ON NATIVE AMERICAN AFFAIRS  
TRIBAL JUSTICE ADVISORY GROUP  
(TJAG)**

**STRATEGIC PLAN**

**Opinions or points of view expressed in this report are those of the TJAG and do not necessarily reflect official positions of the U.S. Department of Justice (USDOJ) or the USDOJ Office of Justice Programs.**

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## **TRIBAL JUSTICE ADVISORY GROUP STRATEGIC PLAN**

### **TRIBAL JUSTICE ADVISORY GROUP**

In response to tribal requests for greater and more effective communication between Indian nations and the U. S. Department of Justice Office of Justice Program (OJP) Bureaus and Offices, the OJP Assistant Attorney General (AAG) created the Tribal Justice Advisory Group (TJAG) by Charter on September 19, 2007. The TJAG is comprised of tribal leaders or their designees (administrators and practitioners) working in tribal government or with AI/AN organizations that represent tribal governments.

### **TJAG PURPOSE, ROLES AND RESPONSIBILITIES**

The TJAG purpose is to provide advise to the OJP Bureaus and Offices to work on a government-to-government basis with Indian Tribes, and to work more effectively with Tribal governments on criminal justice and public safety policy matters that affect AI/AN Tribes and Native communities.

The TJAG responsibilities include:

1. Assist in identifying opportunities and programs relevant to AI/AN tribes and communities,
2. Addressing issues of concern to AI/AN tribes and communities,
3. Serving as a focal point within OJP for coordination, outreach and consultation on justice and safety issues affecting the AI/AN population nationwide; and
4. Serving as a liaison advisory body to other USDOJ agencies, bureaus, and offices.

### **STRATEGIC PLAN**

Since its initial meeting in November 2007, the TJAG has met several times during the last two years. Meetings have occurred with OJP and other DOJ agencies to learn about their responsibilities related to tribal governments and American Indian and Alaska Native people. The TJAG has received several briefings from DOJ leadership and staff, reviewed pre-decisional documents and offered advice and assistance to OJP and the Justice Programs Council on Native American Affairs (JPCNAA) regarding tribal policy and other matters that have tribal implications.

The TJAG has used the information collected during the OJP Tribal Justice and Safety sessions in 2008 and 2009 along with information provided by the OJP Bureaus and Offices, other DOJ components, and several federal agencies to develop the following strategic plan.

The intent of the strategic plan is to aid the OJP and its Bureaus and Offices in fulfilling their roles and responsibilities to respond to the issues and concerns raised by tribal leaders regarding tribal public safety and justice issues.

**Mission**

Increase resources and access to services that create and support thriving and safe tribal communities and sustain fair justice systems for all.

**Vision**

Provide a consistent voice for American Indian and Alaska Native governments, communities and people that promotes the government-to-government relationship, improves public safety in tribal communities and assures tribal justice systems uphold the laws and protect citizens deserving of fair and equal justice.

**Goals**

1. Improve tribal consultation and communications between tribal governments and federal, state and local officials, and provide guidance for implementing protocols and procedures.

<b>Objectives</b>	<b>Timeframe</b>
a. Establish a permanent TJAG in OJP directly under the AAG.	08/09 - 12/31/09
b. Establish a tribal consultation workgroup composed of TJAG members who will provide written input on the draft OJP tribal consultation and coordination policy.	07/09 - 12/31/09
c. Provide written comments/input on the DOJ tribal consultation and coordination policy on behalf of the TJAG.	10/09 - 12/31/09
d. Develop and submit recommendations to OJP on how to promote dialogue between tribal, state and local entities and officials by providing a TJAG guidebook for enhancing dialogue between tribal and state governments.	11/09 - 04/30/10
e. Disseminate OJP consultation protocols to AI/AN tribes.	11/09 (within 30 days after final OJP approval)
f. Promote development of proceeding summaries by OJP for dissemination to tribes within 45 days of completed events through electronic communication or web access.	Within 45 days upon completion of each event.
g. Promote provision of summarized follow up activities and/or actions resulting from consultation between OJP Bureaus and Offices with tribes through electronic communication or web access.	Within 90 days after consultation

2. Educate federal, local and state officials and tribal governments regarding the government-to-government relationship that results in new or enhanced agreements and relationships with these governments.

<b>Objectives</b>	<b>Timeframe</b>
a. Support the requirement that all OJP employees complete a course entitled "Working Effectively with Tribal Governments" offered	Semi-annually

<b>Objectives</b>	<b>Timeframe</b>
by the federal government or some comparable curriculum.	
b. Support the establishment of a “Working Effectively with Tribal Governments” workshop for mandatory inclusion at all OJP sponsored events involving state and local officials.	Semi-annually or as events are offered.
c. Prepare an IGA primer.	6 months from JPCNAA approval

3. Identify gaps in services, training and technical assistance for tribal communities that improve their capacity to administer federal resources by assisting with development of strategies to address areas of unmet need.

<b>Objectives</b>	<b>Timeframe</b>
a. Establish a CIRCLE workgroup within the TJAG to research the previous CIRCLE model and develop recommendations on how to enhance and/or replicate the CIRCLE model within the existing OJP framework.	01/01/2010 - 06/30/2010
b. In collaboration with OJP, study the streamlining of the solicitation and award process, the collaboration and communication between OJP Bureaus and Offices, and ways to support the development of tribal infrastructure development.	01/01/2010 - 06/30/2010
c. Develop recommendations based on current TJAG concerns and issues.	01/01/2010 - 04/30/2010
d. Use the summarized proceedings document from ongoing OJP and tribal consultations to highlight new gaps or new crime phenomena and make recommendations to address them.	Within 60 days of events.

4. Assist in identifying strategies aimed at improving tribal data systems to capture public safety and public health conditions in tribal communities.

<b>Objectives</b>	<b>Timeframe</b>
a. Identify available T/TA providers and other OJP resources that can assist tribal governments with infrastructure development of information technology, information sharing and data exchange.	01/01/2010 - 12/31/2010
b. Advocate for the establishment of a program of research and evaluation for programs and initiatives that are successful in tribal communities through formal TJAG letter to NIJ and OJP Council and/or schedule as agenda item for next TJAG meeting.	01/01/2010 - 04/30/2010

5. Identify OJP strategies to ensure cultural competencies of T/TA providers awarded contracts or grants to delivery T/TA to Indian nation governments, communities, organizations and people.

<b>Objectives</b>	<b>Timeframe</b>
a. Obtain information on all OJP providers of T/TA to AI/AN tribal	01/01/2010 to

Objectives	Timeframe
governments, programs, communities or individuals that describes the available assistance and what is the process to request assistance	12/31/2010
b. Request OJP to outline the strategies used to ensure cultural competencies of T/TA providers awarded contracts or grants to delivery T/TA to Indian nation governments, communities, organizations and people.	01/01/2010-12/31/2010
c. Request all OJP T/TA providers to outline institutionalized strategies to ensure cultural competencies to deliver culturally relevant and appropriate T/TA to tribal governments, programs, communities, and individuals.	Within 45 days of award.
d. Develop minimum cultural competency standards to guide OJP Offices and Bureaus to ensure provision of culturally relevant T/TA to tribal grantees by T/TA providers.	01/01/2010 to 06/30/2010
e. Provide advice to the agency on appropriate cultural protocols and competencies required to work with tribal governments and tribal communities.	Ongoing.

6. Provide leadership, direction, coordination, and identify resources to prevent, treat and control crime for all AI/AN populations (elders, women, and children).

Objectives	Timeframe
a. Provide recommendations to OJP on how OJP resources and those from other federal agencies can be better coordinated, streamlined and communicated to tribal communities.	01/01/2010 - 04/30/2010

## CONCLUDING COMMENTS

The above mission, vision and goals provide direction for how the TJAG will work in collaboration with the OJP, JPCNAA, and OJP Bureaus and Offices to address the concerns and issues outlined in the TJAG white paper.<sup>1</sup> By implementing the TJAG goals and objectives, we hope to assist AI/AN governments and communities to work with the USDOJ to address crime, violence and victimization problems and to improve the quality of life for AI/AN people.

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<sup>1</sup> 2008, Melton, A. and TJAG, *American Indian and Alaska Native Crime, Violence and Victimization Concerns and Issues*, unpublished document, distribution to be determined.







## TJAG Final Report—June 17, 2010

### Glossary of Acronyms

**AAG** - Assistant Attorney General, the head of the Office of Justice Programs

**AG** - Attorney General, the head of the Department of Justice

**AI/AN/NA** - American Indian/Alaska Native/Native American

**ARRA** - American Recovery and Reinvestment Act, or the Recovery Act, an emergency funding and stimulus package passed by Congress with the intent of averting greater economic downturn. The package consisted of funding for grants and a number of construction and investment projects.

**AWA** - Adam Walsh Child Protection and Safety Act of 2006, the act which created a system of registration and notification mandates for all convicted sex offenders (SORNA)

**BIA** - Bureau of Indian Affairs, an agency within the Department of the Interior charged with the maintenance of the more than fifty million acres of land held in trust to AIAN communities

**BJIS** - Bureau of Justice Statistics, an office within OJP that concerns itself with compiling statistical data on crime and law enforcement

**CFR** - Code of Federal Regulations, the codification of all administrative law published in the Federal Register

**COPS** - Office of Community Oriented Policing Services, a grants-making division of the Department of Justice that seeks to encourage and strengthen local law enforcement efforts

**CTAS** - Coordinated Tribal Assistance Solicitation, a new OJP initiative aimed at bringing together grants application processes from all offices to streamline the process for tribes

**DOJ** - Department of Justice, one of the main divisions of the Executive Branch, which is tasked with all things related to law enforcement and justice administration

**FACA** - Federal Advisory Committee Act, a law which outlines the allowable behaviors of official advisory committees, one of the most important of which is that all advisory committee actions are to be public knowledge. This does not include working groups, subcommittees, or task forces

**FY** - Fiscal Year, referring to October 1<sup>st</sup> to the following Sept 30<sup>th</sup>, a division of time related to government budgets and spending

**HHS** - Department of Health and Human Services, a division of the Executive Branch dealing with health and welfare issues

**HUD** - Department of Housing and Urban Development, a cabinet-level department of the Executive Branch that is charged with providing equal access to quality housing to all Americans

**HUD/ONAP** - HUD's Office of Native American Programs, a division of HUD specifically for addressing the housing and community development needs of AIAN communities

**IHS** - Indian Health Service, a division of HHS focused on health and wellness issues of AIAN communities

**JPCNAA** - Justice Programs Council on Native American Affairs, consisting of members of OJP who together advise OJP on matters concerning AIAN programs and Indian Country

**NCAI** - National Congress of American Indians, an organization that advocates on behalf of AIAN and maintains a comprehensive listing of all federally recognized tribes

**NCIC** - National Crime Information Center, an FBI-maintained, computerized index of information on criminals and criminal activities in the U.S. that is made available to state, local, and tribal law enforcement agencies

**NCVS** - National Crime Victimization Survey, administered by BJS, seeks statistical data from American households on the frequency of victimization for a number of crimes including rape, burglary, assault, etc

**N/DEx** - National Data Exchange, an FBI criminal information gathering system that collects crime reports from state, local, and tribal partners

**NIHB** - National Indian Health Board, a non-profit organization that advocates on behalf of tribes in health care-related matters and tracks health care legislation for its impacts on Indian Country

**OAAG** - Office of the Assistant Attorney General, an office headed by the AAG that coordinates the efforts of all other OJP offices

**OJP** - Office of Justice Programs, one of the grant-making divisions of DOJ

**OMB** - Office of Management and Budget, an office of the Executive Branch whose mission it is to oversee the writing and management of the budget

**OMH** - Office of Minority Health, a division of HHS that specifically serves members of minority communities

**OTJ** - Office of Tribal Justice, the primary point of contact within DOJ for all issues and policy related to AIAN tribes and communities

**OVW** - Office of Violence Against Women, a grant-making agency of the Department of Justice that works to implement the Violence Against Women Act as well as generally reduce occurrences of violence against women

**PEPFAR** - President's Emergency Plan for AIDS Relief, a program begun under the George W. Bush administration to combat the global HIV/AIDS epidemic by increasing access of financially disadvantaged communities to antiretroviral treatment and by preventing new infections

**PL 280** - Public Law 280, a 1953 law that transferred criminal jurisdiction pass from the control of tribes to states in six states: California, Minnesota, Nebraska, Oregon, Wisconsin, and later Alaska. Since then ten other states have assumed some jurisdiction over Indian Country

**SAMHSA** - Substance Abuse and Mental Health Services Administration, a division of HHS that aims to increase capacity for prevention and treatment of addiction to controlled substances and illegal drugs

**SBA** - Small Business Administration, a federal agency that provides support and aid to owners of small businesses

**SMART** - Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, a grant-making office of OJP with the mission, among other things, to fulfill the Sex Offender Registration and Notification Act

**SORNA** - Sex Offender Registration and Notification Act, Title 1 of the Adam Walsh Child Protection and Safety Act of 2006, which sets comprehensive minimum standards for sex offender procedure in all fifty states

**TJAG** - Tribal Justice Advisory Group, a group of tribal leaders and representatives created to advise JPCNAA and OJP

**TNLC** - Tribal Nations Leadership Council, a new secretary-level advisory group made up of tribal leaders and representatives that will take over where TJAG left off

**T/TA or TCT&TA** - Training and Technical Assistance or Tribal Consultation, Training, and Technical Assistance, consisting of all efforts and initiatives of grant-making offices to help past, current, and potential grant recipients successfully apply for and manage grants

**TTAC** - Tribal Technical Advisory Committee, similar to TJAG and acting as the tribal advisory group for SAMHSA