

**INDIAN COUNTRY ACCOMPLISHMENTS OF THE JUSTICE DEPARTMENT,**  
**2009-PRESENT**

*“Our obligations to our tribal partners run deep, and our commitment is strong. Over the last six years, the Department of Justice has made significant strides in advancing and expanding the promise of equal rights, equal opportunity, and equal justice for American Indian and Alaska Native communities. From creating the Tribal Nations Leadership Council to promoting the Tribal Law and Order Act and from fighting for historic protections in the Violence Against Women Reauthorization Act to establishing a Task Force on American Indian and Alaska Native Children Exposed to Violence, we have taken concrete steps to improve collaboration and understanding between the federal government and sovereign tribes. One of my first acts as Attorney General was to call on Congress to remove barriers to voting faced by American Indians and Alaska Natives and in the days ahead, I look forward to working with our friends and partners in Indian Country to continue advancing our common mission and deepening our relationship of support and trust.”*

-- Attorney General Loretta Lynch

In June 2009, Attorney General Eric Holder launched a Department-wide initiative to enhance public safety in Indian Country. Significant progress has been made since then. This document offers highlights of the department’s progress in the following areas: enhanced prosecution and training efforts; implementation of the Tribal Law and Order Act of 2010 (TLOA); grant opportunities; general litigation; civil rights; and outreach and consultation.

**ENHANCING PROSECUTION, TRAINING AND OUTREACH EFFORTS TO**  
**KEEP TRIBAL COMMUNITIES SAFE**

**Passage of Landmark Legislation to Combat Violence Against Native Women**

- On March 7, 2013, President Obama signed into the law the reauthorization of the Violence Against Women Act (VAWA 2013). This law contains provisions that significantly improve the safety of Native women and which, importantly, allow federal and tribal law enforcement agencies to hold more perpetrators of domestic violence accountable for their crimes. Many of these critical provisions were drawn from the Department of Justice’s July 2011 proposal for new federal legislation to combat violence against native women. The tribal provisions in VAWA 2013 address three significant legal gaps by: (1) recognizing certain tribes’ power to exercise concurrent criminal jurisdiction over domestic violence cases, regardless of whether the defendant is Indian or non-Indian; (2) clarifying that tribal courts have full civil jurisdiction to issue and enforce protection orders involving any person, Indian or non-Indian; and (3) creating new federal statutes to address crimes of violence, such as strangulation, committed against a spouse or intimate partner and providing more robust federal sentences for certain acts of domestic violence in Indian Country. The Senate-passed version of VAWA Reauthorization, S. 47, including these tribal provisions, passed both Houses of Congress with significant bipartisan support.
  
- By the end of February 2015, federal prosecutors had charged 210 defendants under VAWA 2013’s enhanced federal assault statutes and obtained 164 convictions. These

numbers include more than 60 cases involving charges of strangulation or suffocation, which are often precursor offenses to domestic homicide.

### **Pilot Project for Tribal Jurisdiction Over Crimes of Domestic Violence**

- VAWA 2013 recognizes tribes' inherent power to exercise special domestic violence criminal jurisdiction over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. This new law generally takes effect on March 7, 2015, but also authorized a voluntary "Pilot Project" to allow certain tribes to begin exercising special jurisdiction sooner. On Feb. 6, 2014 the Pascua Yaqui Tribe of Arizona, the Tulalip Tribes of Washington and the Umatilla Tribes of Oregon were selected for this Pilot Project. Prior to the law generally taking effect, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana and the Confederated Tribes of the Umatilla Indian Reservation in Oregon were also selected to participate in the Pilot Project. Since the Pilot Project began, more than 20 criminal cases have been charged by tribal prosecutors against non-Indian domestic violence offenders and several have been convicted of domestic violence crimes. Information related to the Pilot Project, related consultations, and other resources, may be found on the [VAWA Reauthorization 2013 page](#).

### **Native American Issues Subcommittee**

- Currently, U.S. Attorneys from 25 districts with Indian Country or one or more federally recognized tribes serve on the Native American Issues Subcommittee (NAIS) of the Attorney General's Advisory Committee (AGAC). The NAIS focuses exclusively on Indian Country issues, both criminal and civil and is responsible for making policy recommendations to the Attorney General regarding public safety and legal issues. The NAIS met on several occasions in 2014 including in August on the Navajo Nation in Arizona in conjunction with the Four Corners Conference, which is hosted by the U.S. Attorneys in Utah, Arizona, Colorado and New Mexico. The NAIS meeting focused on the issues of juvenile justice and offender reentry. During this meeting, the NAIS and senior Department of Justice and Interior officials consulted with tribal leaders from across the Southwest.
- In 2011, 2012 and 2013 the NAIS convened on numerous occasions. During that time, the NAIS has met and consulted with tribes in Rapid City and Pine Ridge, South Dakota; Missoula, Montana; Bismarck, North Dakota; and Hood River, Oregon. In July 2011 the NAIS joined Attorney General Eric Holder in Rapid City, South Dakota, and on the Pine Ridge Indian Reservation, to hear from tribal leaders, law enforcement officials, and community members about public safety issues, including violence against Native American women.
- NAIS Chair Tim Purdon testified before the Senate Committee on Indian Affairs regarding the Indian and Law and Order Act Commission's report, *A Roadmap for Making Native America Safer*

- NAIS has provided support to USAOs bringing domestic violence charges in Indian Country, following the enactment of VAWA 2013. As of the end of February 2015, federal prosecutors had charged 210 defendants under VAWA 2013's enhanced federal statutes and obtained 164 convictions.
- In October 2014, U.S. Attorneys Carter Stewart and Tim Purdon sent a letter to Chief Judge Patti B. Saris, Chair of the U.S. Sentencing Commission, reiterating the department's support for formation of a Tribal Issues Advisory Group to investigate potential unwarranted sentencing disparities in sentences received by American Indians and Alaskan Natives prosecuted in the federal courts. The letter also contained recommendations regarding the scope duration, and membership of the proposed Advisory Group. The group was formed in February 2015. U.S. Attorney Michael W. Cotter, one of two co-chairs of the NAIS, represents the NAIS on the Tribal Issues Advisory Group.
- Tribal Liaisons in many districts have helped develop Multi-Disciplinary Teams comprised of prosecutors (Assistant U.S. Attorneys and tribal prosecutors); tribal, local and federal law enforcement; physicians; counselors; child protective services personnel; and child advocates to foster collaboration and coordination.

#### **U.S. Attorney's Office Tribal Liaisons**

- Every U.S. Attorney with Indian Country jurisdiction has appointed at least one tribal liaison to serve as the U.S. Attorney's Office's (USAO) primary point of contact with tribes in the district.

#### **Supporting Implementation of the Sex Offender Registration and Notification Act (SORNA)**

- Through the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART), the department continues to provide support to tribal jurisdictions that have opted to implement SORNA. Of the 161 eligible tribes, 74 have been found to have substantially implemented SORNA and the rest are continuing to work towards substantial implementation of the Act.
- In order to support substantial implementation of SORNA, the department developed a number of innovative projects through the SMART Office, including: (1) funding the development of a new Tribal Access Project which will assist tribes submitting and searching information in federal databases such as the National Crime Information Center (NCIC) and will allow access to the NCIC subfolder dedicated to sex offender information.; (2) developing the Native American Sex Offender Management program (NASOM) in four sites, to design culturally-specific reentry tools and programs to address offenders who are being released back into tribal communities; and (3) beginning a pilot project in the Pueblo of Santo Domingo (Kewa) to explore culturally-appropriate application of the community-driven supervision model "Circles of Support and Accountability" to prevent reoffending, improve victim safety, and access of victims and offenders to important tribal events and programs.

- The SMART Office maintains the Tribal and Territory Sex Offender Registry System (TTSORS), which allows tribes to set up a SORNA--compliant public website and public notification system at no cost. Over 110 tribes have utilized TTSORS to set up public sex offender websites linked to the National Sex Offender Public Website. The SMART Office also continues to provide onsite technical assistance and training to SORNA tribes, including four regional trainings for law enforcement and SORNA staff, a training with the U.S. Marshal Service to enhance registration programs in the Dakotas, four onsite meetings with NASOM participants, and numerous other conferences and events to assist tribes in developing sex offender registration and management programs.

### **Enhanced Training for Prosecutors and Law Enforcement Working in Indian Country**

- In July 2010, the Executive Office of U.S. Attorneys (EOUSA) launched the National Indian Country Training Initiative (NICTI) to ensure that federal prosecutors and agents, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian Country prosecutions. The training effort is led by the department's National Indian Country Training Coordinator. Since 2010, the NICTI has delivered residential training at the National Advocacy Center (NAC) in Columbia, South Carolina, webinars and regional training for federal agencies, tribes and technical assistance providers to thousands of federal, state and tribal stakeholders on a host of criminal justice issues. Importantly, the Department of Justice's Office of Legal Education covers the costs of travel and lodging for tribal attendees at classes sponsored by the NICTI. This allows many tribal criminal justice officials to receive cutting-edge training from national experts at no cost to the student or tribe.
- The NICTI, with funding from the Office for Victims of Crime, completed a training DVD and resource manual on "Using Federal Law to Prosecute Domestic Violence Crimes in Indian Country." This free training DVD highlights the substantive law and four successful federal prosecutions; it models best practice where federal and tribal partners worked collaboratively to ensure justice for the victim and accountability for the offender.
- The Federal Bureau of Investigation's (FBI) Indian Country Crimes Unit (ICCU) has developed a comprehensive training program to include intermediate and advanced classes on various topics related to the investigation of crimes in Indian Country. The mission of ICCU is to support Indian Country Special Agents in the field and to develop and implement strategies to address the most egregious crimes committed in Indian Country. Over the last several years, the FBI has partnered with the NICTI to develop and deliver over 15 courses for federal agents, tribal law enforcement officers and prosecutors. Many of these classes were paid for by the NICTI.
- In January 2013, the NICTI partnered with the National Strangulation Training Institute to deliver the first-ever national Indian Country training on the investigation and prosecution of non-fatal strangulation and suffocation offenses. The training was attended by 17 tribes, several USAOs, the FBI and the Bureau of Indian Affairs. The

training, which was held at the National Advocacy Center in Columbia, South Carolina, provided an in-depth examination of the mechanics of strangulation and suffocation from a medical, legal and law enforcement perspective. This training was offered again in February 2015.

- In October 2012, the Environment and Natural Resources Division (ENRD) of the department, in partnership with the NICTI, developed and held the first-ever joint federal-tribal training program on wildlife and pollution enforcement issues. The course was held again in June 2015. The course is designed for tribal and federal enforcement personnel and prosecutors who work to protect tribal lands and resources. The course promotes federal-tribal partnerships in this area and helps tribes further develop the capacity to assume a greater role in enforcing environmental and wildlife laws affecting tribal lands.
- Since 2011, the department's Access to Justice Initiative (ATJ) has partnered with the Department of the Interior's Bureau of Indian Affairs (BIA) Office of Tribal Justice Services to develop the Tribal Court Trial Advocacy Training Program. This three-day trial advocacy course is designed to improve the trial skills of judges, public defenders and prosecutors who appear in tribal courts. Nine trainings have been held in Rapid City, South Dakota, Phoenix, Arizona, Duluth, Minnesota, Ignacio, Colorado, Great Falls, Montana, Chinle, Navajo Nation, Seattle, Washington, and Albuquerque, New Mexico, and additional trainings are being scheduled for the coming year. All trainings are free and are staffed by attorneys from the initiative, BIA, Assistant U.S. Attorneys who practice in Indian Country, the EOUSA Native American Issues Coordinator, Assistant Federal Public Defenders and tribal prosecutors, public defenders and judges.

#### **Traditional Justice Practices as Alternatives to Incarceration:**

- ATJ and the Department of the Interior's BIA, Office of Justice Services, Division of Tribal Justice Support co-sponsored an expert group meeting in April 2013 on the use of traditional Native American justice practices to respond to criminal and delinquent behavior. The one-day roundtable meeting brought together leaders and experts on the use of traditional justice practices to discuss the benefits and challenges of these programs and processes and developed recommendations to the federal government on how to support these practices. In September 2014, ATJ issued a report summarizing the expert group's discussions and recommendations, which was disseminated to tribal criminal justice stakeholders in furtherance of the Tribal Law and Order Act's mandate that both departments help tribes develop alternatives to incarceration: <http://www.justice.gov/sites/default/files/atj/legacy/2014/10/09/expert-working-group-report--native-american-traditional-justice-practices.pdf>. The Department of Justice Bureau of Justice Assistance's FY 2015 Tribal Civil and Criminal Legal Assistance Program's solicitation authorizes training and technical assistance to support these practices.

#### **Information Sharing with Tribal Governments**

- Since 2009, the FBI’s Uniform Crime Reporting (UCR) Program Office has coordinated with BIA and the Justice Department’s Office of Justice Programs to increase the number of tribes that qualify for Justice Assistance Grants (JAG) eligibility. This has been accomplished primarily through liaison efforts and presentations to increase awareness at tribal law enforcement conferences.
- In May 2015, a five tribe law enforcement consortium in Arizona successfully used BJA (Bureau of Justice Assistance) funding and RISS (Regional Information Sharing Systems) technology support to establish a tribal specific multi-agency criminal intelligence database entitled “Tribal RISS7.” The five tribes: Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, Tohono O’odham Nation, Fort McDowell Yavapai Nation, and the Ak-Chin Indian Community are all located within Maricopa County, Arizona. They are the first multi-tribe partnership to successfully envision, coordinate, approve, and activate a multi-tribe shared, secure, 28 CFR Part 23 criminal intelligence database using standardized forms, internal controls, intelligence oversight training, and common inquiry/submission procedures used by all participating tribes.

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## SAFEGUARDING INDIAN CHILDREN

### Department of Justice Initiative to Promote Compliance with ICWA

On Dec. 3, 2014, at the White House Tribal Nations Conference, Attorney General Holder announced the department’s initiative to promote compliance with the Indian Child Welfare Act of 1978 (ICWA). The department’s ICWA initiative has three primary components: (1) participating as *amicus curiae* in state-court and federal-court litigation regarding interpretation of ICWA; (2) partnering with the Departments of the Interior and of Health and Human Services to make sure that all the tools available to the federal government are used to promote compliance with ICWA; and (3) engaging in other targeted actions to increase awareness of ICWA’s requirements and promote compliance with the statute, including training and outreach. The department has made progress in each of these areas, including:

- In April 2016, the department announced a memorandum of understanding with the Departments of the Interior and Health and Human Services to promote ongoing cooperation to promote ICWA implementation and compliance.
- The department filed a successful *amicus curiae* brief in South Dakota district court supporting the Oglala Sioux Tribe’s argument that the emergency-removal policies and practices of one of the South Dakota circuit courts and certain state officials in cases involving Indian children violate ICWA and the due process clause of the Constitution. The district court agreed, and granted partial summary judgment for the tribe on March 30, 2015.
- On Nov. 26, 2014, the United States filed an *amicus curiae* brief supporting the tribe’s request for rehearing in *Native Village of Tununak v. Alaska* in the Alaska Supreme

Court. The Alaska Supreme Court held that an Indian child's grandmother did not formally seek to adopt the child in court, and thus did not qualify for consideration under ICWA's placement preferences. On April 15, 2015, the state of Alaska issued an emergency regulation clarifying that a request to adopt an Indian child may be made in a number of ways and that a formal court petition is not required, thus removing a significant barrier to adoption of tribal children by their family or tribal members.

- The United States also filed a brief in support of the tribes in *Alaska v. Central Council of the Tlingit and Haida Tribes* in the Alaska Supreme Court, arguing that tribal courts retain inherent, non-territorial jurisdiction to rule on child support issues for tribal children. The Alaska Supreme Court agreed, and went on to determine that tribal courts retain this authority even if the case involves a parent who is not a member of the tribe.
- The department, along with the Departments of the Interior and Health and Human Services, has participated in listening sessions and conducted outreach to tribes, state officials, and child welfare workers.

#### **American Indian and Alaska Native Children Exposed to Violence Task Force**

- Attorney General Holder created the task force in 2013 as part of his Defending Childhood initiative to prevent and reduce children's exposure to violence as victims and witnesses. The task force was also a component of the Justice Department's ongoing collaboration with leaders in American Indian and Alaska Native communities to improve public safety. The task force was comprised of a federal working group that includes U.S. Attorneys and officials from the Departments of the Interior, Justice and Health and Human Services and an advisory committee of experts on American Indian studies, child health and trauma and child welfare.
- On Nov. 18, 2014, the Advisory Committee of the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence released a report entitled "Ending Violence so Children Can Thrive" which outlines significant policy recommendations to the Justice Department. The report recommends a rebuilding of the current services provided to Indian Country, through increased partnering and coordination with tribes and increased funding for programs to support American Indian and Alaska Native children. The report provides the advisory committee's vision for the development of effective, trauma informed and culturally appropriate programs and services to protect American Indian and Alaska Native children exposed to violence.
- The report was the outcome of a year of public hearings of the advisory committee held in Alaska, Arizona, Florida and North Dakota. The advisory committee hearings included tribal researchers, child advocates, domestic violence and sexual assault advocates and local community members, tribal leaders, juvenile court judges and juvenile justice system experts.

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#### **TRIBAL LAW & ORDER ACT (TLOA) IMPLEMENTATION**

On May 30, 2013, and Aug. 26, 2014, the department released the first two reports to congress entitled *Indian Country Investigations and Prosecutions* which provide a range of enforcement statistics required under the Tribal Law and Order Act of 2010. The reports, based on data compiled from the FBI and the case management system used by USAO with Indian Country jurisdiction shows among other things a substantial increase in Indian Country criminal prosecutions since fiscal year (FY) 2009.

Among other facts and information, the reports showed the following:

- Federal prosecutors continue to bring a substantial number of cases to federal court. Cases filed against defendants in Indian Country have increased by 34 percent from FY 2009 to FY 2013, from 1,091 cases filed in fiscal year (FY) 2009 to 1,138 in FY 2010 to 1,547 in FY 2011 to 1,677 in FY 2012 and to 1,462 in FY 2013.
- USAO data for calendar year (CY) 2013 show that 34 percent (853) of all Indian country submissions for prosecution (2,542) were declined for prosecution. In CY 2012, USAOs declined approximately 31 percent (965) of all (3145) Indian country submissions for prosecution. USAO data for CY 2011 indicate that just under 37 percent (1,041) of all Indian country submissions for prosecution (2,840) were declined. Overall, a substantial majority of Indian Country criminal cases opened by USAOs were prosecuted.
- Of the cases that were declined for federal prosecution, most were declined for insufficient evidence or because they were referred to another prosecuting authority, such as the tribe, for potential prosecution.
- Although declination rates are an inadequate means of evaluating the effectiveness of criminal justice in Indian country or elsewhere, the second report shows that with few exceptions, areas where the largest populations of American Indian people live and suffer from the most serious crime rates, such as the Southwest and the Northern Plains states (which together handled approximately 70 percent of the 2,542 cases resolved in 2013), federal declination rates were the lowest in the nation. For instance, South Dakota had the second to highest number of cases resolved in the country last year, 470 cases and one of the lowest declination rates of 26 percent. Arizona resolved the highest number of cases, 733 cases and had a declination rate of 28 percent.

Read the reports at [www.justice.gov/tribal/tribal-law-and-order-act](http://www.justice.gov/tribal/tribal-law-and-order-act)

#### **Access to National Crime Information Databases**

- On August 29, 2015 The U.S. Department of Justice launched the initial phase of the Tribal Access Program for National Crime Information (TAP) to provide federally-recognized tribes access to national crime information databases for both civil and criminal purposes.
- TAP will support tribes in analyzing their needs for national crime information and help provide appropriate solutions, including a-state-of-the-art biometric/biographic computer workstation with capabilities to process finger and palm prints, take mugshots, and submit records to national databases, as well as the ability to access CJIS systems for

criminal and civil purposes through the Department of Justice. TAP will also provide specialized training and assistance for participating tribes.

- In the initial phase of the TAP program, the biometric/biographic workstations will be deployed to up to 10 federally-recognized tribes who will provide user feedback. This phase will focus on assisting tribes that have law enforcement agencies, while in the future the Department will seek to address needs of the remaining tribes and establish a long-term funding solution.

### **Establishment of the Office of Tribal Justice as Separate Component within the Justice Department**

- On Nov. 17, 2010, Attorney General Holder announced the establishment of the Office of Tribal Justice (OTJ) as a separate component within the organizational structure of the department. OTJ has a key role in the Department's ongoing initiative to improve public safety in Indian Country and serves as an important resource on matters of Indian law. In 2012, Tracy Toulou, who had served on detail as OTJ Director since 2000, was selected as the first permanent director of the office.

### **Bureau of Prisons Pilot Project to House Tribal Offenders Sentenced in Tribal Courts**

- In November 2010, the Bureau of Prisons (BOP) launched a four-year pilot program to accept certain tribal offenders sentenced in tribal courts for placement in BOP institutions. The pilot program allowed any federally recognized tribe to request that BOP incarcerate a person convicted of a violent crime under the terms of the TLOA. Since the first inmate was accepted on Nov. 20, 2012, an additional five inmates were admitted under the program before its conclusion in November 2014.

### **Memorandum of Agreement on Alcohol and Substance Abuse**

- The Departments of Justice, Interior and Health and Human Services entered into a Memorandum of Agreement that the agencies would collectively, among other things: determine the scope of the alcohol and substance abuse problems faced by American Indians and Alaska Natives, identify the resources each agency can bring to bear on the problem and set minimum standards for applying those resources. This multi-agency collaboration has produced quarterly "Prevention and Recovery" newsletters with information about grant programs, tribal programs and policy initiatives designed to address alcohol and substance abuse in American Indian and Alaska Native communities. The newsletters and more information about this evolving collaboration are available at [www.samhsa.gov/tloa/](http://www.samhsa.gov/tloa/).

### **Building and Sustaining Tribal Justice Systems**

- The Departments of Justice and the Interior, working in close coordination with other federal agency partners, developed a long term plan to build and sustain tribal justice systems. Both agencies continue to coordinate on efforts to address the tribal justice plan recommendations. Efforts include working with tribes to implement alternatives to incarceration and improving the coordination of resources to assist tribes with addressing tribal justice infrastructure needs. Read more about the plan here: [www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf](http://www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf)

Resources can be found at the Department's Tribal Justice and Safety website [www.justice.gov/tribal://www.justice.gov/tribal](http://www.justice.gov/tribal://www.justice.gov/tribal).

- On July 13-14, 2015, the Bureau of Justice Assistance (BJA) hosted *A Dialogue on the Tribal Law and Order Act (TLOA) Implementation of the Enhanced Sentencing Authority (ESA)* with over 75 attendees from 24 Indian tribes, 6 legal services offices, 5 federal agencies, and others. Through peer-to-peer training, Indian tribes learned about various implementation strategies employed by five Indian tribes (Salt River Pima Maricopa Indian Community, Gila River Indian Community, Pascua Yaqui, Eastern Band of Cherokee Indians, and Hopi Tribe) who are actively prosecuting under the enhanced felony authority. BJA identified federal resources to help support implementation of enhanced sentencing authority and released a publications entitled, [\*Tribal Law and Order Act: Enhanced Sentencing Authority – Tribal Code Development Considerations Quick-Reference Overview & Checklist\*](#). The information gathered at the Dialogue Session informed a Fiscal Year 2015 BJA award for additional training and technical assistance resources to support Indian tribes who will implement the enhanced sentencing authority. Resources can be found at the BJA TLOA website: [www.bja.gov/ProgramDetails.aspx?Program\\_ID=88#horizontalTab6](http://www.bja.gov/ProgramDetails.aspx?Program_ID=88#horizontalTab6).
- BJA continues to fund the Tribal Law and Order Resource Center website hosted by the National Congress of American Indians and the National Criminal Justice Association. The website is a one-stop website for information on the implementation of TLOA activities. The site can be found at: [tloa.ncai.org/](http://tloa.ncai.org/).
- In response to requests of tribal justice practitioners who reported that they often have difficulty finding practical information about how other tribes are addressing common challenges, BJA funded the creation of the Tribal Access to Justice Innovation website to help tribal justice practitioners learn about emerging and promising justice-related programs in Indian Country. This resource highlights successful programs and connects tribal justice practitioners. Created and maintained by the Tribal Justice Exchange at the Center for Court Innovation this site will continue to catalog and highlight additional emerging and promising tribal justice programs on an ongoing basis. For more information, visit: <http://tribaljustice.org>

On October 6-7, 2014, BJA sponsored *Traditional Peacemaking: Exploring the Intersections between Tribal Courts and Peacemaking*, the second of three events focused on traditional justice and holistic justice. The goal of this training was to explore the ways in which tribal courts integrate traditional justice and community values into the tribal civil and criminal justice process, to provide experiential training and tips for accessing tribal judicial systems that utilize cultural forms of justice, and to demonstrate how traditional peacemaking can unlock new approaches to provide effective representation of civil and criminal legal services clients. The training brought together

more than 60 tribal justice practitioners from across the country and introduced them to the various peacemaking models utilized in tribal courts, including those that are being used as alternatives to detention. Information gathered from the three training events will be compiled into a single publication scheduled for release in the Spring of 2016.

#### **Rule on Assumption of Concurrent Federal Criminal Jurisdiction**

- The department published its final rule in December 2011 to implement Section 221 of the TLOA, which authorizes the Attorney General to assume concurrent federal criminal jurisdiction over certain crimes committed on tribal lands. Through this rule, an Indian tribe that is subject to Public Law 280 may request that the federal government accept concurrent federal criminal jurisdiction within the tribe's Indian Country and, if the Attorney General consents, federal authorities can investigate and prosecute criminal offenses. Public Law 280 is the 1953 law that mandated the transfer of federal law enforcement jurisdiction for certain tribes to six states. Several tribes have submitted requests for assumption by the Attorney General of concurrent federal criminal jurisdiction, which the department currently is reviewing.
- On January 12, 2016, the Department of Justice granted a request by the Mille Lacs Band of Ojibwe for the United States to assume concurrent criminal jurisdiction on the tribe's reservation in central Minnesota. The decision was the second assumption of jurisdiction granted by the Department of Justice under TLOA, which gave the department discretion to accept concurrent federal jurisdiction to prosecute violations of the General Crimes Act and the Major Crimes Act within areas of Indian country that are also subject to state criminal jurisdiction under Public Law 280. Public Law 280 is the 1953 law that mandated the transfer of federal law enforcement jurisdiction for certain tribes to six states, including Minnesota. The first assumption of federal jurisdiction took place on Minnesota's White Earth Reservation in March 2013.
- The decision will take effect on Jan. 1, 2017. Tribal, state and county prosecutors and law enforcement agencies will also continue to have criminal jurisdiction on the reservation.

#### **Native American Issues Coordinator Designated in EOUSA**

- The department's Native American Issues Coordinator, designated in EOUSA, provides advice and assistance to USAOs on legal and policy issues pertaining to Native Americans and Indian Country and serves as a liaison between the USAOs, the NAIS and other department components and law enforcement agencies. The coordinator's work involves several issues affecting Indian Country, including, among many others, the implementation of the Tribal Justice Plan, which focuses on reentry, alternatives to incarceration and detention; jurisdictional issues for criminal and civil matters; outreach efforts between the department, other federal agencies and local jurisdictions; requests for assumption of concurrent federal jurisdiction under the TLOA; and issues involving

federal, state and tribal law enforcement authority, cooperation and emergency response in Indian Country.

### **Additional Resources to Combat Sexual Assault in Indian Country**

- In accordance with Section 265 of the TLOA, the Office for Victims of Crime (OVC), in partnership with the FBI's Office of Victim Assistance (OVA) and the Indian Health Service, is leading an effort to enhance the response to tribal victims of sexual violence. The American Indian / Alaska Native (AI/AN) Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative addresses the comprehensive needs of tribal victims of sexual violence. From the outset of the project in 2010, OVC and its federal and tribal partners have focused on the challenge of building the capacity of tribal communities to provide coordinated, community-based, victim-centered responses to sexual violence. The 5-year project encompasses three demonstration sites, coordinators at the Indian Health Service and the FBI, training and technical assistance and support from the Attorney General's federal advisory committee and multidisciplinary working groups—all committed to institutionalizing sustainable, culturally relevant, evidence-based practices to meet the needs of tribal victims of sexual assault. More information about the initiative and its multiple components is available at [www.ovc.gov/AIANSane-Sart/](http://www.ovc.gov/AIANSane-Sart/)

Highlights from the initiative's efforts in the past 12 months include the following:

- Three tribal demonstration sites are now operating functional SANE-SART programs and are poised to provide services to both child and adult victims of sexual assault.
- OVC established a multi-disciplinary working group of Indian country professionals who have significant experience in developing a coordinated community response to sexual violence to aid in the creation of a national strategy to enhance the ability of tribal governments and their partners to respond to sexual violence. The first draft of the national strategy was completed in early 2014 based on the recommendations of the working group members.
- In June 2014, OVC's National Coordination Committee on the AI/AN SANE-SART Initiative finalized and submitted its *Report to the U.S. Attorney General on Improving Federal Agency Response to Sexual Violence in Tribal Nations: Issues and Recommendations*.
- In November 2014, representatives of the Committee briefed the Attorney General on the report. As a follow-up to the briefing, OVC developed a memorandum detailing action steps that could be taken by the Attorney General to begin implementation of the Committee's recommendations.
- In October 2015, the Attorney General approved the recommendations detailed in the memorandum, and has begun the implementation process.

### **Tribal Crime Data Collection Activities, 2015**

- In July 2015, the Bureau of Justice Statistics (BJS) released the report *Tribal Crime Data Collection Activities 2015*, pursuant to TLOA which requires annual reporting on Indian country crime data. The report summarizes BJS's efforts in 2015 to field a survey on the capabilities and caseloads of tribal court systems; develop a survey of all state and local law enforcement agencies and prosecutors' offices serving Indian country; study the handling of American Indian and Alaska Native juvenile and adult criminal cases in the federal justice system; and enhance current funding programs to support tribal participation in regional and national criminal justice databases. It summarizes tribal eligibility for Edward Byrne Memorial Justice Assistance Grant awards from 2008 to 2015, and presents Uniform Crime Reporting Program statistics on offenses reported by tribal law enforcement agencies from 2008 to 2013:  
<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5323>

### **Intergovernmental Collaboration**

- The TLOA directs the Attorney General to provide technical assistance on strategies to promote intergovernmental collaboration and relationships among state, tribal and local partners that effectively combat crime and fill jurisdictional and service gaps to enhance public safety and access to justice for all citizens. BJA continues to promote and support tribal-state-federal collaborations, including the Walking on Common Ground website ([www.WalkingOnCommonGround.org](http://www.WalkingOnCommonGround.org)), which highlights tribal/state courts collaboration, promising strategies, and provides toolkits to assist others.

Some of these outcomes and promising strategies of joint collaborative efforts are highlighted in BJA's 2014-2015 Intergovernmental Collaboration on Criminal Justice Webinar Series. For more information, visit the webinar series at:  
[www.ncja.org/webinars-events/state-tribal-collaboration-webinar-series](http://www.ncja.org/webinars-events/state-tribal-collaboration-webinar-series).

- On June 4, 2015, BJA hosted a Listening Session on enhancing tribal and state collaborations to build sustainable partnerships with Alaska Native Tribes and tribal organizations, the State of Alaska, and local entities. An Alaska-specific curriculum will be developed. BJA and its partners are planning to convene a curriculum development workgroup and to pilot the curriculum through a training session.
- The Leech Lake Band of Ojibwe Tribal Court and the Cass and Itasca County District Courts in Minnesota have successfully operated joint-jurisdiction Wellness Courts for nearly a decade. Not only have the courts reduced recidivism by chronic alcohol and drug offenders, they have helped improve relationships between the tribe and local governments. The tribal court and the State district courts have agreed to expand joint hearings, focusing on juvenile delinquency and child welfare cases subject to the Indian Child Welfare Act (ICWA). The joint jurisdictional court makes Indian child welfare a priority, promotes system accountability and compliance with ICWA, and ensures that all available resources (tribal and state) can be tapped to ensure better outcomes.

- In FY 2015, BJA, in partnership with the Executive Office for U.S. Attorneys' National Indian Country Training Initiative, hosted three 2½ day Intergovernmental Reentry Workshops (IRW). The purpose of the meetings was to provide tribes interested in developing reentry initiatives with guidance based on evidence-based practices; an opportunity to learn from two tribes that had effective programs; and an opportunity to work with state and federal counterparts to begin discussing how their tribe could become more involved in reentry planning and service provision for tribal members planning to return to their communities.
- These workshops were delivered regionally in collaboration with U.S. Attorneys' Offices with Indian country responsibility. The workshops included regional representatives from the Bureau of Prisons and U.S. Probation. Eleven tribes participated in the workshops. Currently, BJA is following up with these tribes to provide additional training and technical assistance.

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## GRANT OPPORTUNITIES

### **Streamlined Grant Solicitation Process for Tribal Communities**

- In February 2010, the department announced a streamlined approach for AI/AN tribes to apply for funding opportunities. The Coordinated Tribal Assistance Solicitation (CTAS) serves as a single application for existing tribal government-specific grant programs administered by the Office of Justice Programs (OJP), Community Oriented Policing Services (COPS) and the Office on Violence Against Women (OVW). The creation of this streamlined process comes in response to tribes' concerns that the department's grants were not flexible enough and that a single application would significantly improve the ability to apply for and receive funding. In September 2015, the department announced the award of 209 grants totaling over \$97 million to American Indian tribes and Alaska Native villages, tribal consortia and tribal designees. Over the past six years, the department has awarded over 1400 grants totaling more than \$620 million.
- The FY 16 CTAS solicitation is scheduled to open in mid-November, 2015 and close in mid-February 2016. Information about the consolidated solicitation is available at [www.justice.gov/tribal/](http://www.justice.gov/tribal/). A fact sheet on CTAS is available at <http://www.justice.gov/tribal/file/771781/download>.

### **Vision 21**

- In October 2015 OVC awarded a Vision 21 cooperative agreement in the amount of \$1,999,727 to the *National Center for Victims of Crime* (NCVC), who will work in partnership with the *Tribal Law and Policy Institute* (TLPI), the *National Congress of American Indians* (NCAI), and *Kauffman and Associates, Inc.* (KAI) to collaborate with the field to plan, develop, and begin to implement a *Tribal Victim Services Resource*

*Mapping Project*, a national scope project that envisions that tribal victims have access to information about comprehensive services wherever and whenever they seek assistance. The grantees will work to collect and categorize information about available services for AI/AN victims at all levels, including tribal, state, regional, national, and federal; developing this data into a state-of-the-art resource mapping and referral tool; and publishing the tool to the public in a user-friendly format.

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## **PROTECTING TRIBAL RESOURCES AND SOVEREIGNTY**

### **Historic Settlements of Trust Litigation**

- In 2010, the Departments of Justice and Interior reached a historic \$3.4 billion settlement resolving the litigation in *Cobell v. Salazar*, an Indian trust class-action lawsuit that had been pending for 15 years. The settlement, approved by the court and congress, provides for payments to over 400,000 individual Indians who had Individual Indian Money accounts or an interest in trust or restricted land managed by the Department of the Interior.
- Since January 2009, the United States has settled the trust accounting and trust mismanagement claims of more than 90 federally recognized tribes and paid more than \$2.9 billion in compensation to those tribes, resolving decades-long and costly litigation. For instance, in September 2014, Attorney General Holder and U.S. Secretary of the Interior Sally Jewell announced the settlement of a lawsuit filed by the Navajo Nation regarding the U.S. government's management of funds and natural resources that it holds in trust for the Navajo Nation. Also, in October 2015, Secretary Jewell attended a ceremony commemorating the settlement of a case filed by the Chickasaw Nation and the Choctaw Nation regarding the government's alleged breaches of trust regarding the management of the tribes' funds and natural resources by the government. The settlements resolve long-standing disputes, with some of the claims dating back more than 50 years and bring to an end protracted litigation that has burdened both the tribes and the United States.
- All of the tribal trust case settlements provide for measures that will lead to strengthened management of tribal trust assets and non-monetary resources and to improved communications between the Department of the Interior and the tribes. The department, along with the Interior and Treasury Departments, are continuing settlement negotiations with other tribes that still have pending trust accounting and trust mismanagement claims against the United States.

### **Securing Tribal Lands**

- ENRD litigates in support of tribal lands. For example, the department supported the Omaha Tribe in tribal court, U.S. district court, the Eighth Circuit Court of Appeals, the and Supreme Court, arguing that the Omaha Reservation remained intact and had not been diminished by 1882 legislation authorizing the sale of land on the western edge of the reservation to non-Indian settlers. In March 2016, the Supreme Court confirmed its

prior holdings that only Congress can diminish a reservation, and held that the 1882 legislation did not do so.

- The department helped the Saginaw Chippewa Indian Tribe establish the existence and boundaries of its reservation through a 2010 settlement between the tribe, the United States, the state of Michigan and local governments, which included a series of landmark intergovernmental agreements that provide much-needed clarity regarding authority over law enforcement, child welfare, taxation and land use matters. In addition, the department successfully supported the existence of the Yankton Sioux Reservation in South Dakota by defeating claims that the reservation had been disestablished.
- The department also successfully defended the Secretary of the Interior's decisions to take land into trust for various tribes. These decisions expand tribes' land bases and enhance their ability to provide housing and economic development opportunities for their communities.
- The department has worked closely with the Department of the Interior to address the Supreme Court's 2009 decision in *Carcieri v. Salazar* holding that Interior could not take land into trust for tribes that had not been "under federal jurisdiction" when the Indian Reorganization Act was enacted in 1934. The department helped Interior develop a framework to determine whether a tribe was "under federal jurisdiction" at that time, thus addressing the uncertainty created by the *Carcieri* decision and allowing Interior to address the backlog of trust applications that developed in the wake of that decision.
- Since then, the department has defended Interior's decisions to take land into trust under the new post-*Carcieri* framework and it continues to do so. In the first major district court decision regarding tribal land acquisition after the *Carcieri* decision, on Dec. 12, 2014, the district court upheld the Department of the Interior's decision to acquire land into trust for the Cowlitz Indian Tribe based on a determination that the Tribe was "under federal jurisdiction" in 1934. The court also upheld the National Indian Gaming Commission's approval of gaming on that land. Also, in January 2013, the department secured favorable decisions in two cases where plaintiffs sought, based in part on *Carcieri*, a preliminary injunction or restraining order precluding Interior from taking land into trust on behalf of two Indian tribes in California.
- In a case of first impression, the department secured dismissal of a case that concerned the assertion of local authority over Indian trust lands. The department argued in *Oneida Nation of Wisconsin v. Village of Hobart* that state or local regulation of tribal lands was improper under the facts of that case. The court ultimately provided the relief that the Oneida Nation sought.

#### **Preserving Tribal Culture through Access to Eagle Feathers**

- On Oct. 12, 2012, the department announced a policy addressing the ability of members of federally recognized Indian tribes to use the feathers and other parts of eagles and other federally protected birds, an issue of great cultural and religious significance to

many tribes and their members. Attorney General Holder signed the new policy after extensive department consultation with tribal leaders and tribal groups. The Attorney General's memorandum is the first formal policy statement adopted by the Justice Department on this issue. It clarifies and expands on longstanding department practice, consistent with the Department of the Interior's 35-year old Morton Policy, of not prosecuting tribal members for possessing or using eagle feathers and other protected bird parts while continuing to prosecute tribal members and nonmembers alike for killing protected birds without a permit or for commercializing federally protected birds or bird parts. The policy is located at [www.justice.gov/ag/ef-policy.pdf](http://www.justice.gov/ag/ef-policy.pdf)

- In an important victory, the Tenth Circuit held in *United States v. Wilgus* that the government could provide tribal members with exclusive access to eagle feathers for religious purposes, under exceptions to federal laws prohibiting possession of these wildlife resources.

### **Supporting Tribal Courts and Tribal Sovereignty**

- The department successfully argued as *amicus curiae* in the Supreme Court that the Bay Mills Indian Community's sovereign immunity barred the state of Michigan's action against the tribe for operating an off-reservation gaming facility. The Supreme Court's decision in *Michigan v. Bay Mills Indian Community* affirmed the Supreme Court's prior case law that absent an unequivocal expression by congress abrogating tribal sovereign immunity, tribes enjoy immunity from suit for off-reservation activities, whether commercial in nature or not.
- ENRD also regularly litigates in support of tribal sovereignty. For example, in *Water Wheel Camp Recreation Area, Inc. v. Gary LaRance*, the department successfully supported tribal court jurisdiction to exclude non-Indians from tribal land. The Ninth Circuit's ruling will help address long-standing problems with non-Indians encroaching on tribal lands and provides strong precedent in support of tribal courts.
- In the Supreme Court case *Hogan v. Kaltag Tribal Council* and the Ninth Circuit case *Parks v. Native Village of Minto*, the department helped successfully support the inherent sovereignty of Alaska Native village tribal courts to adjudicate child custody matters.
- The department defended the validity of tribe-specific employment preferences in leases relating to a particular tribe's trust resources. The department successfully argued that such preferences are based on political classifications, grounded in the government-to-government relationship between the United States and tribal nations and are therefore permissible under Title VII of the Civil Rights Act.

### **Protecting Tribal Rights and Natural Resources**

- ENRD's Indian Resources Section continues to assert water rights claims for the benefit of tribes in order to secure safe and reliable drinking water for tribes, as well as water for sanitation, economic development and other purposes. For example, the department successfully argued that the Agua Caliente Band of Cahuilla Indians' federal reserved water rights include groundwater. Further, the department contributed to six landmark

Indian water rights settlements and corresponding statutes which, when fully implemented, will resolve complex and contentious water rights issues in New Mexico, Arizona, Montana and Nevada. The department also successfully defended claims for the benefit of the Klamath Tribes in the Klamath Basin Adjudication in Oregon; for the Confederated Tribes of the Yakama Nation in the Yakima River Basin in Washington; and the Pyramid Lake Paiute Tribe in Nevada. The department remains involved in 29 complex water rights adjudications in nearly every western state.

- The department is engaged in litigation to protect treaty fishing rights of tribes in the Pacific Northwest. In *United States v. Washington*, the United States sought to address decline in the quality and quantity of fish habitat caused by development pressures in western Washington and in particular, the question of habitat loss caused by poorly constructed and maintained culverts beneath state roads, which impede the passage of fish to spawning grounds and block the access of juvenile fish to the ocean. In March 2013, the court issued a permanent injunction requiring the state to inventory remaining fish-blocking culverts within six months and provide for fish passage at culverts with specified upstream habitat within 17 years.

### **Protecting the Environment in Indian Country**

- As part of a settlement agreement with the Navajo Nation negotiated by ENRD, the federal government will place \$13.2 million into an environmental response trust to pay for the evaluations of 16 priority abandoned uranium mines located across Navajo lands. The evaluations focus on the mines that pose the most significant hazards and will form a foundation for their final cleanup.
- The department is committed to the principles of environmental justice, including for tribal communities and has incorporated environmental justice principles into its cases by working with tribal members to address pollution on their lands. For example, ENRD worked closely with members of the Ute Indian Tribe in reaching a consent decree that resolved Clean Air Act violations at five natural gas compressor stations on the Uintah and Ouray Reservation in Utah. Under the settlement, defendant QEP Field Services, formerly Questar Gas Management Company, will fund a Tribal Clean Air Trust Fund that will fund beneficial environmental projects on the Reservation. In addition, the defendant will pay a \$3.6 million penalty and install pollution controls that will reduce emissions.
- The department also successfully sought recovery for cleanup of environmental contamination in Indian country. In *Tronox, Inc. v. Anadarko Petroleum Corp.*, the United States obtained a \$5.15 billion settlement related to the environmental liabilities of the historic Kerr-McGee Corporation, including \$985 million to be paid to the Environmental Protection Agency to fund the cleanup of approximately 50 abandoned uranium mines in and around the Navajo Nation.
- ENRD also successfully defended the Indian Health Service's efforts to supply modern sewer and water supply systems on the Santa Ysabel reservation in San Diego County for

homes whose occupants had previously hauled water from a communal tank on a daily basis.

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## **PROTECTING THE CIVIL RIGHTS OF AMERICAN INDIANS AND ALASKA NATIVES**

### **American Indian and Alaska Native Voting Rights**

- On June 9, 2014, Attorney General Holder criticized election practices that adversely affect the ability of American Indian and Alaska Native populations to exercise their right to vote, including inaccessible polling places in tribal areas, English-only ballots for areas with limited English proficiency and "precinct realignment" practices that attempt to combine geographically isolated Native communities. Attorney General Holder announced that the Justice Department would officially enter formal consultations with sovereign tribes to consider a legislative proposal that would require any state or local election administrator whose territory includes part or all of an Indian reservation, an Alaskan native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government. The department has completed consultations and remains firmly committed to seeking a legislative solution to this problem.
- On May 21, 2015, the department formally proposed legislation that would require states or localities whose territory includes part or all of an Indian reservation, an Alaska Native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government. This proposal followed formal consultation with Indian tribes and recognizes that AI/AN communities have faced significant obstacles that have prevented them from enjoying equal access to polling places and equal opportunities to cast a ballot. In addition to suffering from a long history of discrimination, the distance many AI/AN citizens must travel to reach a polling place presents a substantial and ongoing barrier to full voter participation.
- The department's Civil Rights Division has been active in enforcing the voting rights of Native Americans, including the right to vote without discrimination and the right, in some jurisdictions, to have voter information available in certain Native languages. Since 2009, the division has enforced Native American voting rights in Alaska, Arizona, Mississippi, New Mexico and South Dakota.
- In 2013 and 2014, the Civil Rights Division has filed amicus briefs/statement of interest briefs in *Toyukak, et al. v. Treadwell, et al.* and *Wandering Medicine, et al. v. McCulloch, et al.* two cases brought by AI/AN private plaintiffs under the Voting Rights Act. *Toyukak* involves a challenge under the language minority provisions of Section 203 of the Act regarding the translation of election information into the Alaska Native languages in the Dillingham, Wade Hampton and Yukon-Koyokuk Census Areas in Alaska. The *Wandering Medicine* plaintiffs allege that the lack of early voting and late registration opportunities for Native American voters in Big Horn, Blaine and Rosebud Counties in Montana is a violation of Section 2 of the Act.

- For the November 2014 general election, the division monitored elections in three counties under the Voting Rights Act where there are significant populations of Native American voters: Cibola County, New Mexico, Charles Mix County, South Dakota and Shannon County, South Dakota.

### **Navajo Nation Human Rights Commission**

On July 15, 2013, the Civil Rights Division's Indian Working Group (IWG) signed a Memorandum of Understanding (MOU) between the Navajo Nation Human Rights Commission. The commission was established by the Navajo Nation to operate as a clearinghouse entity to address discriminatory actions against citizens of the Navajo Nation. The commission is authorized to receive reports of discriminatory and racially motivated acts perpetrated against citizens of the Navajo Nation and refer such incidents to the proper authorities.

The MOU:

- Establishes a communication process that will ensure that civil rights violations are brought to the IWG when the civil rights of a member of the Navajo Nation is violated.
- Outlines procedures and provides guidance to the commission and IWG in sharing information about civil rights
- Provides for a series of discussions, including face-to-face meetings and teleconferences. There have been several teleconferences between the IWG and the commission and two in-person meetings between the commission and the IWG including representatives from other department components, the USAO's in New Mexico and Arizona and the FBI.

Almost every Civil Rights Division Section has some involvement in American Indian and Alaska Native civil rights enforcement.

In 2014 alone:

- The Educational Opportunities Section reached a settlement (February 2014) with the Ganado School District to make sure its Navajo students and parents who are English language learners have equal access to school programs (under the Equal Educational Opportunities Act of 1974). The school will work to identify English language learners, provide language access instruction and materials, train teachers, tell students and parents about ELL programs and other essential information in accessible language and monitor its success.
- The division participated as amicus in support of plaintiffs-appellees in the Eighth Circuit case *Native American Council of Tribes, et al. v. Weber, et al.* under the Religious Land Use and Institutionalized Persons Act. Prison officials banned tobacco use in the prison, including the ritual use of tobacco in plaintiffs' Native American worship, claiming that tobacco use was "not traditional" in plaintiffs' faith. The district court ruled in plaintiffs' favor and entered a remedial decree providing for limited ritual tobacco use in the prison. The division argued that prison officials improperly relied on their own interpretation of plaintiffs' religious tenets in banning tobacco and that the district court appropriately called on them to show they considered less restrictive alternatives before they imposed

the tobacco ban. The division also argued that the district court correctly relied on other prisons' policies permitting ritual tobacco when it concluded that a total tobacco ban was not the least restrictive means available for controlling contraband and ensuring prison security. The Eighth Circuit agreed with the department's brief and affirmed the district court's decision.

### **Landmark Settlement Reached with Native American Farmers Claiming Discrimination by USDA**

- On Oct. 19, 2010, Attorney General Holder and Secretary of Agriculture Tom Vilsack announced a landmark settlement of the *Keepseagle* class-action lawsuit filed against the Department of Agriculture by Native American farmers and ranchers. The settlement ends more than a decade of litigation concerning discrimination complaints from Native Americans generally covering the period from 1981 to 1999.

### **Prosecution of Hate Crimes and Human Trafficking**

Since January 2009, the department's Civil Rights Division, working with the U.S. Attorneys' Offices, has prosecuted civil rights crimes victimizing Native Americans through sex trafficking, hate crimes and police brutality, including prosecuting:

- Defendants for sex trafficking Native American children and adults in South Dakota;
- Police officers for beating Native American victims in Arizona and Montana;
- Corrections officers for beating a Native American detainee in North Carolina;
- Defendants who committed hate crimes against Native Americans, including three defendants in New Mexico for using force to cause bodily injury to a Native American man under the Shepard Byrd Hate Crimes Prevention Act of 2009 and two defendants who assaulted and threatened an Alaska Native in Anchorage.

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## **OUTREACH AND CONSULTATION WITH TRIBAL PARTNERS**

### **Publication of the Department's Consultation Policy and Statement of Principles for Working with Federally-Recognized Tribes**

- In accordance with Executive Order 13175 and President Obama's memorandum on Tribal Consultation, the Department of Justice published the policy statement on Tribal Consultation on Aug. 29, 2013. This consultation policy, which applies to all components of the Department of Justice, reflects this agency's commitment to engaging in a meaningful, transparent way with tribal governments. Read the consultation policy here: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-12/pdf/2014-28903.pdf>
- On December 3, 2014, at the White House Tribal Nations Conference, Attorney General Holder announced that the Department of Justice has adopted a Statement of Principles to guide and inform all of the department's interactions with federally recognized Indian

tribes. Developed in consultation with tribal leaders, this statement of principles will memorialize the department's determination to serve as a partner in fighting crime and enforcing the law in Indian country. As Attorney General Holder said in his remarks to tribal leaders, the statement of principles, "was meant to codify our intention to serve not as a patron, but as a partner, in Indian country – and to institutionalize our efforts to reinforce relationships, reform the criminal justice system and aggressively protect civil rights and treaty rights. And it will serve as a guide for this Administration – and every Administration – as we seek to build the more perfect Union, and the more just society, that every individual deserves." Read the Statement here:

<http://www.gpo.gov/fdsys/pkg/FR-2014-12-12/pdf/2014-28903.pdf>

### **Increased Cooperation and Consultation with Tribes**

- In October 2009, the Attorney General convened the department's Tribal Nations Listening Session on Public Safety and Law Enforcement in St. Paul, Minnesota. Nearly 300 tribal leaders representing approximately 100 tribes attended the session. In addition to representatives from nearly all of the department's components, representatives of the Departments of the Interior, Health and Human Services, Housing and Urban Development, Education and Homeland Security also participated.
- Since this time, department leaders have made dozens of trips to Indian country to consult and meet with tribal leaders and members, including a July 2011 trip by Attorney General Holder to Rapid City, South Dakota, and the Pine Ridge Reservation. In June 2014, Attorney General Holder spoke at the Fourth Annual Tribal Consultation Conference at United Tribes Technical College in Bismarck, North Dakota, meeting with a group of American Indian teenage boys to discuss their experiences and interactions with the criminal justice system.
- Most recently, in August 2015, Deputy Attorney General Sally Quillian Yates and Acting Associate Attorney General Stuart F. Delery attended the Four Corners Indian Country Conference, and met with tribal leaders and tribal youth during a visit to the Southern Ute Reservation in Colorado.
- During the conference, Attorney General Holder also.
- The department has engaged in dozens of consultations with tribes on issues important to public safety, justice and law enforcement, including violence against American Indian and Alaska Native women, implementation of the Sex Offender Registration and Notification Act, the Prevent All Cigarette Trafficking Act, enforcement of federal bird protection laws in a manner sensitive to tribal concerns and the TLOA.
- The department through the Community Relations Service (CRS) has engaged with tribal communities to assist in reducing tension and improving area communications and partnerships. For example, in November 2013, CRS, at the request of the Oneida Nation of Wisconsin, assisted in addressing racial tensions and law enforcement concerns stemming from increased acts of violence in and around the reservation following a series of shootings involving American Indian, Latino and African American youth. In another

instance, in 2014, CRS services were requested by the Muhu Tasen practicing American Indian groups around tensions over civil penalties imposed on non-reservation land around the use of temporary structures, water containment, sweat lodges and food service related to the groups' cultural practices. CRS held multiple mediation sessions with Muhu Tasen leaders and officials of Ventura County, California, which resulted in an agreement between the parties respecting long standing American Indian tradition and cultural practices in line with existing county code regulations.

- The department has also engaged in significant outreach on environmental and natural resource issues. In particular, ENRD has teamed up with U.S. Attorneys' Offices in Wisconsin, New Mexico, Montana and North Dakota to conduct listening sessions and follow-up meetings on critical issues relating to protection of the environment and tribal resources. In conjunction with EPA, the National Oceanic and Atmospheric Administration and the Natural Resources Conservation Service, ENRD has also conducted outreach meetings with consortia of Puget Sound tribes related to protection of treaty fishing rights. In order to further enhance its tribal outreach and consultation efforts, ENRD has designated a new position, Senior Counsel for Indian Affairs, in its front office.

#### **Tribal Nations Leadership Council**

- The department established a Tribal Nations Leadership Council (TNLC), composed of tribal leaders selected by the tribes themselves and charged with advising the Attorney General on issues critical to tribal governments and communities. The TNLC has met regularly since late 2010 with the Attorney General, most recently in October 2015.

#### **National Indian Nations Conference**

- OVC continues to support the National Indian Nations Conference, held every two years. Conferences were held in December of 2010, 2012, and 2014, each drawing more than 1,000 participants, including tribal leaders, victim advocates, victims, victim service providers, community volunteers, prosecutors, judicial and law enforcement personnel, family violence and sexual assault specialists, medical providers, social services and mental health personnel, probation/corrections, criminal justice and juvenile justice personnel, as well as federal and state agency representatives. The purpose of the Indian Nations Conferences is to share knowledge, experiences and ideas for developing programs that serve the unique needs of crime victims in Indian country. The 14<sup>th</sup> National Indian Nations Conference was held in December 2014 at the reservation of the Aqua Caliente Band of Cahuilla Indians. Last year's theme, Generational Voices Uniting for Safety, Justice, and Healing, underscores the intergenerational impact that violence and victimization have on American Indian and Alaska Native communities. For additional information on that conference and prior conferences, please visit the conference website at [www.ovcinc.org](http://www.ovcinc.org).

#### **National Intertribal Youth Summit**

- More than 300 Native American youth from tribes across the country attended week-long National Intertribal Youth Summits in Santa Fe, New Mexico (July 2011) and in Washington, D.C. (August 2012), featuring Administration officials from the White

House and the Departments of Justice, Interior, Health and Human Services and Education. The summits were coordinated by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and provided an opportunity for Administration officials to hear directly from youth in Indian Country on critical issues such as healthy relationships and lifestyles, education, substance and alcohol abuse, cultural preservation, community development and protecting the environment. In July of 2015, the first White House Tribal Youth Gathering was held in Washington, D.C. in tandem with the OJJDP Youth Summit. Over 1,000 Native American youth from 170 tribes attended this event, which was highlighted by remarks from the First Lady and cabinet officials, including Attorney General Loretta Lynch.

#### **National Intertribal Youth Leadership Development Initiative**

- Beginning with a grant award in 2013, the department launched the National Intertribal Youth Leadership Development Initiative, known as Today's Native Leaders, which offers youth gatherings, opportunities and services to develop leadership skills among cohorts of tribal youth. The initiative spans a project period of four years and supports eight regional trainings and two national gatherings of tribal youth and their adult advisors. During 2014, regional trainings were held in Portland, Oregon, and Fort Lauderdale, Florida. The initiative also offerings trainings via webinar for youth and adults seeking to start their own tribal youth council.

#### **White House Council on Native American Affairs**

- Since the formation of this council in June of 2013, the department has been an active participant at the staff and principal levels.

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### **REPORT ON PRESCRIPTION DRUG MONITORING IN INDIAN COUNTRY**

In October 2011, in accordance with the Indian Health Care Improvement Act, the Attorney General submitted a report on the issue of prescription drug monitoring to the Senate Committee on Indian Affairs and the House Committee on Natural Resources. The report describes the capacity of federal and tribal agencies to carry out data collection and analysis and information exchanges as described in the Act; training conducted for Indian health care providers, tribal leaders, law enforcement officers and school officials regarding awareness and prevention of prescription drug abuse and strategies for improving agency resources for addressing prescription drug abuse in Indian communities; infrastructure enhancements required to carry out the activities described in the Act; and statutory or administrative barriers to carrying out the activities required by the Act. Read the full report at [www.justice.gov/tribal/publications.html](http://www.justice.gov/tribal/publications.html)

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### **RESEARCH AND STATISTICS**

#### **National Institute of Justice's Tribal Crime and Justice Research & Evaluation Studies**

### **NIJ's Program of Research Examining Violence Against AI/AN Women living in Indian Country and Alaska Native villages**

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), calls for the National Institute of Justice (NIJ), in consultation with OVW, to conduct analyses and research on violence against Indian women living in Indian Country and in Alaska Native villages. In conducting its analyses and research, NIJ is asked to focus on dating violence, domestic violence, sexual assault, sex trafficking, stalking, and murder, and to evaluate the effectiveness of responses to those crimes.

As a direct result of this legislation, NIJ has developed a comprehensive research program consisting of multiple research studies that will be accomplished over an extended period of time. The capstone of this program is the National Baseline Study (NBS)—the first national study conducted in Indian Country and Alaska Native Villages. The NBS is being conducted in geographically dispersed tribal communities across the U.S. and its primary aim is to provide an accurate *national* victimization rate of violence committed against AI and AN women. The NBS is critical to quantifying the magnitude of violence and victimization in tribal communities and understanding service needs.

NIJ's Violence Against Indian Women (VAIW) research program also supports other extramural and intramural research and evaluation studies that will: produce a deeper understanding of the issues faced by Native American women; expand the body of criminal justice policy-relevant research; and help formulate public policies and prevention strategies to decrease the incidence of violent crimes committed against AI and AN women. Results from all of these studies are anticipated to help establish and enhance justice systems that will successfully restore victim safety and promote healing. For more on NIJ's program, see <http://nij.gov/topics/tribal-justice/vaw-research/Pages/welcome.aspx>.

### **Federal Advisory Task Force on Research on Violence Against AI/AN Women living in Tribal Communities**

Prior to and during the development of the VAIW program of research, NIJ sought input and feedback from multiple sources including prominent researchers and experts in the field, federal stakeholders and partners, and the Federal Advisory Task Force. Title IX, Section 904(a)(3) of the VAWA 2005 required that the U.S. Attorney General establish a federal advisory committee to assist NIJ and OVW in the development of the research program to study violence against Native American women. *The Task Force on Research on Violence against American Indian and Alaska Native Women* (Task Force) was officially chartered on March 31, 2008 and includes representatives from tribal governments, national tribal domestic and sexual violence non-profit organizations, and other national tribal organizations.

Task Force members have provided feedback on NIJ's program of research priorities, research design strategies, research and evaluation protocol issues, findings from studies conducted to date; assisted with recommendations resulting from study findings; and assisted in developing new research questions to be addressed. Task Force input continues to be invaluable to ensuring the program's success. This forum has provided an important opportunity for tribal leaders, representatives, and stakeholders to work together with the U.S. Department of Justice to better understand the nature and scope of violence experienced by Native women and to bring about

systemic change to address the needs of victims and their families and to hold offenders accountable. Moving forward the Task Force will continue to play an important role in shaping the program and will assist NIJ and OVW with disseminating results that will influence policy and practice. More information on the Task Force can be found here:  
<http://www.justice.gov/ovw/section-904-task-force>.

**Lifetime prevalence of interpersonal and sexual violence of self-identified AI/AN men and women living in the U.S. (2012-2016)**

This study comprises a nationally representative sample of self-identified AI/AN men and women using the Centers for Disease Control and Prevention's National Intimate Partner and Sexual Violence survey and offers the most comprehensive overview on the prevalence of violence and includes both lifetime and past year measures. Most women (83%) and most men (79%) were affiliated or enrolled with a tribe or village. Over half of both women and men (54%) had lived within reservation boundaries or in an Alaska Native village in the past year. This forthcoming report provides estimates of sexual violence victimization, physical violence by intimate partners, stalking victimization, and psychological aggression by intimate partners. It also provides estimates of interracial and intra-racial victimizations and it briefly examines the impact of violence victimization. This study will provide the best representation of self-identified AI/AN people living in the U.S. than is currently available.