

Highlights of the Tribal Law and Order Act

The Federal government has enacted the Tribal Law and Order Act, in response to the "complicated jurisdictional scheme" which has hurt efforts to provide public safety in Indian country, allows criminals to exploit the system, and requires great cooperation between Federal State and tribal law enforcement. (P.L. 111-211, sec. 202[a]). This law seeks to increase coordination between these branches, empower tribal governments with more authority, resources and information, reduce prevalence of violent crime, prevent drug trafficking and reduce addiction, and facilitate collection of criminal data. (Sec. 202[b]).

Among its key provisions:

- Encouraging aggressive prosecution of Federal crimes committed in Indian country by authorizing tribal police to prosecute violations of federal law, appointing additional Federal prosecutors to prosecute crimes in Indian country, appointing tribal liaisons to coordinate prosecution, and encouraging federal prosecutors to consult with tribal officials in administering justice and in decisions to prosecute Federal crimes. (Sec 213[b][d]; cf. sec. 221). The law requires the Department of Justice to maintain data on each case where Federal officials decline to prosecute a violent crime or sexual assault. (Sec. 212[a][4]).
- Expanding tribal court authority to sentence offenders, from a current maximum of one year in prison to three years, coupled with added protections for defendants. (Sec. 234[c]).
- Providing tribal police with access to criminal history records such as data in the National Crime Information Center, which officers can use when encountering a suspect. (Sec. 233, 251-252).
- Assistance and training relating to domestic and sexual violence: The law requires tribal and federal officers in Indian country to receive specialized training for interviewing victims of sexual assault and collecting crime scene evidence. It requires Indian Health Service facilities to implement consistent sexual assault protocols, and requires federal officials to share their evidence with tribal officials to aid in prosecutions before tribal courts. (Sec. 231[a]; 261-266).
- Provisions to improve programs, and updating of laws, relating to alcohol and substance abuse and programs for at risk youth on Indian lands. (Sec. 241).
- Creation of an Indian Law and Order Commission to undertake a comprehensive study of law enforcement and criminal justice in tribal communities, and make recommendations for improvements, including: simplifying jurisdiction, improving programs relating to juvenile crime, rehabilitation of Indian youth in custody, reducing recidivism, and protecting rights of victims and defendants. (Sec. 235[e]).
- Creation of the Indian Law Enforcement Foundation to accept private donations and Federal government support and administer the funds to assist in education and support of public safety and justice services. (Sec. 231[c], adding new sections 701-703 to 25 USC).
- Additional programs to assist and strengthen tribal justice programs, including enhancing the tribal resources grant program (sec. 243), creating a Tribal Jails Program including grants to build jails, tribal justice centers and regional detention centers (sec. 244), and other technical and legal assistance (sec. 242).

The bill was signed into law on July 29, 2010.