

## **Indian Country Accomplishments of the Justice Department, 2009-Present**

*“This administration is committed to building and sustaining safe and secure native communities across the country. We know too well that tribal communities face unique law enforcement challenges and are struggling to reverse unacceptable rates of violence against women and children. We have made solid strides in our work to improve public safety, ease and enhance tribes’ ability to receive federal support, and strengthen coordination and collaboration with our tribal law enforcement partners—but work remains, and our efforts continue daily.”*

-- Attorney General Eric Holder

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**

#### **Introduction of Legislation to Combat Violence Against Native Women**

- In July 2011, the Department of Justice proposed legislation that would significantly improve the safety of Native women and allow federal and tribal law enforcement agencies to hold more perpetrators of domestic violence accountable for their crimes. The proposed legislation would address three 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 persons, Indian or non-Indian; and (3) providing more robust federal sentences for certain acts of domestic violence in Indian Country.

#### **Native American Issues Subcommittee**

- U.S. Attorneys from 28 of 44 districts with Indian Country serve on the Attorney General’s Advisory Council (AGAC) Native American Issues Subcommittee (NAIS). 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. In September 2010, NAIS conducted a field meeting in Missoula, Mont., where the subcommittee engaged tribal leaders on environmental issues. In July 2011, the NAIS met 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 in Indian country, including violence against Native American women. Attorney General Eric Holder, Associate Attorney General Thomas Perrelli, Assistant Attorney General Ignacia Moreno, and other Department of Justice and Bureau of Indian Affairs officials participated in the meeting.

## **District-Level Operational Plans**

- In January 2010, then-Deputy Attorney General David Ogden issued a memorandum to all U.S. Attorneys declaring that “public safety in tribal communities is a top priority for the Department of Justice.” He directed that: (1) every U.S. Attorney’s Office (USAO) with Indian Country in its district, in coordination with our law enforcement partners, engage at least annually in consultation with the tribes in that district; and (2) every newly confirmed U.S. Attorney in such districts should conduct a consultation with tribes in his or her district and develop or update the district’s operational plan within eight months of assuming office, unless an extension of time is provided by the Executive Office for United States Attorneys (EOUSA).

## **Additional FBI Agents and Federal Prosecutors Assigned to Address Violent Crime in Indian Country**

- The Department added 28 new Assistant U.S. Attorneys dedicated to prosecuting crime in Indian Country in nearly two dozen districts. In addition, the FBI added 9 positions, including 6 agents to work on Indian Country investigations.

## **Additional Victim Specialists for Indian Country**

- In FY 2010, the FBI Office for Victim Assistance (OVA) added 12 additional Victim Specialist positions to provide victim assistance in Indian Country. The victim specialists have an invaluable role in Indian Country investigations, particularly in cases of domestic violence and child abuse, providing essential services and support.

## **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 USAO’s primary point of contact with tribes in the district.

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

- In July 2010, EOUSA launched the National Indian Country Training Initiative to ensure that Department prosecutors, 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.
- Through the Initiative, the Environment and Natural Resources Division (ENRD) of the Department is developing an important new training program for tribal law enforcement personnel and prosecutors that will help build tribal capacity to assume responsibility for enforcement of environmental and wildlife laws in Indian country.

## **Attorney General's Violence Against Women Federal and Tribal Prosecution Task Force**

- In 2011, the Attorney General launched a Violence Against Women Federal and Tribal Prosecution Task Force composed of federal and tribal prosecutors. The Task Force was created to facilitate dialogue and coordinate efforts between the Department and tribal governments regarding the prosecution of violent crimes against women in Indian Country, and to develop best-practices recommendations for both federal and tribal prosecutors.

## **Information Sharing with Tribal Governments**

- Since 2009, the FBI's Uniform Crime Reporting (UCR) Program Office has coordinated with the Bureau of Indian Affairs 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.

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

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

- On November 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.

### **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 allows any federally recognized tribe to request that BOP incarcerate a person convicted of a violent crime under the terms of the TLOA and authorizes BOP to house up to 100 tribal offenders at a time, nationwide.

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

- The Departments of Justice, the Interior and Health and Human Services entered into a Memorandum of Agreement (MOA) 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.

## **Long Term Plan for 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. Formal consultation sessions and focus groups were held to develop the plan.

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

- The Department is preparing a final rule to implement Section 221 of the TLOA, which authorizes the Attorney General to assume concurrent jurisdiction over crimes committed on certain tribal lands. Through this rule, an Indian tribe that is subject to Public Law 280 may request that the federal government accept concurrent jurisdiction within the tribe's Indian Country and, if the Attorney General consents, federal authorities can investigate and prosecute criminal offenses.

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

- The Department has created the position of Native American Issues Coordinator, designated in EOUSA. The Coordinator 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.

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

- In accordance with Section 265 of the TLOA, FBI's Office of Victim Assistance (OVA) is partnering with the Indian Health Service to expand and support Sexual Assault Nurse Examiner (SANE) and Sexual Assault Response Team (SART) programs in Indian Country.

## **Compendium of Crime Data for Indian Country**

- In June 2011, the Bureau of Justice Statistics (BJS) issued a Compendium of Crime Data for Indian Country, which focuses on existing data on criminal justice issues in Indian Country.

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## **GRANT OPPORTUNITIES**

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

- In February 2010, the Department announced a streamlined approach for American Indian and Alaska Native 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 2010, in the first set of CTAS grants, the Department awarded \$127 million to more than 130 American Indian and Alaska Native communities to enhance law enforcement, bolster justice systems, prevent youth substance abuse, serve sexual assault and elder abuse victims, and support other efforts to combat crime.
- In September 2011, the Department awarded \$118.4 million in CTAS grants to more than 150 American Indian and Alaskan Native nations to enhance law enforcement practices and sustain crime prevention and intervention efforts in eight purpose areas: public safety and community policing; methamphetamine enforcement; justice systems and alcohol and substance abuse; corrections and correctional alternatives; violence against women; elder abuse; juvenile justice; and tribal youth programs.

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## **PROTECTING TRIBAL RESOURCES AND SOVEREIGNTY**

### **Historic Settlement of *Cobell v. Salazar***

- In 2010, the Departments of Justice and the 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 by 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.

### **Securing Tribal Lands**

- The Department helped the Saginaw Chippewa Indian Tribe secure the existence and boundaries of its reservation through a 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, which expanded their land bases and authority.

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

- 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**

- 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 of *Hogan v. Kaltag Tribal Council* and the Ninth Circuit case of *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.

## **Ensuring Tribal Access to Water**

- The Indian Resources Section of the Department's Environmental and Natural Resources Division (ENRD) has helped tribes access safe and reliable water for drinking, sanitation, economic development, and other purposes. In particular, ENRD contributed to five landmark Indian water rights settlements which, when fully implemented, will resolve complex and contentious water rights issues in New Mexico, Arizona, and Montana.

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

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

- On October 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 (USDA) 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**

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

- On October 28-29, 2009, the Attorney General convened the Department's Tribal Nations Listening Session on Public Safety and Law Enforcement in St. Paul, Minn. 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.
- 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, and the TLOA. The Department has also engaged in significant outreach on environmental and natural resource issues.

### **Tribal Nations Leadership Council**

- The Department established a Tribal Nations Leadership Council, 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 12<sup>th</sup> National Indian Nations Conference**

- In December 2010, more than 900 persons attended the 12<sup>th</sup> National Indian Nations Conference on the Agua Caliente Reservation in California. Featured speakers included Attorney General Eric Holder and Assistant Secretary for Indian Affairs Larry Echo Hawk. The event provided training for law enforcement officials, prosecutors, judges, health and mental health professionals, social workers, and victim advocates from tribal, federal, state, and local levels.

### **Consultation with Native Youth at the National Intertribal Youth Summit**

- In July 2011, 150 young men and women from tribes across the country will attend the week-long National Intertribal Youth Summit in Santa Fe, New Mexico, featuring Administration officials from the White House and the Departments of Justice, the Interior, Health and Human Services, and Education. The Summit will provide 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.