

# Tribal Law & Order Act: Implementation



National Association of Drug Court Professionals  
National Harbor, Maryland  
July 18, 2011

## Tribal Law & Order Act

- Signed in to law by President Obama on July 29, 2010.
- Public Law 111-211.



## Confirmation of Existing Practices

- Authorizes and mandates:
  - That tribal prosecutors are specifically eligible for SAUSA status,
  - That USAOs must designate tribal liaisons with statutorily specified duties, and
  - That DOJ Office of Tribal Justice become a permanent component at Main Justice.

## Federal Declinations

- When federal investigation terminated or USAO declines prosecution, US “shall coordinate” with tribal law enforcement officials.
- EOUSA to submit annual reports to Congress.

## Information Sharing

- Statutorily confirms existing FBI CJIS policy to allow tribal law enforcement access to “Federal criminal information databases” including NCIC (28 USC 534).
- Requires BIA OJS to report UCR crime data to FBI CJIS on a tribe-by-tribe basis.



## Public Law 280 Jurisdictional Reform

- Amends “Public Law 280” (18 USC 1162).
- Prior to TLOA, retrocession required State concurrence and approval by the Secretary of the Interior.
- TLOA allows for re-assumption of concurrent federal jurisdiction by the Attorney General; no State concurrence is required.

## Public Law 280 Jurisdictional Reform

- DOJ proposed rule published in Federal Register at 76 FR 29675 (May 23, 2011).
- Comments were due July 7, 2011.

## Public Law 280 Jurisdictional Reform

- DOJ Proposed Rule highlights:
  - Tribe proposes re-assumption of federal criminal jurisdiction.
  - Extensive consultation with tribe, federal, & state/local agencies.
  - Factors: improved access to criminal justice resources.
  - Deputy AG decides after recommendation from FBI, EOUSA, & OTJ.

## Felony Criminal Jurisdiction

- Amends Indian Civil Rights Act.
- Prior to TLOA: tribal courts limited to one year of imprisonment per count.
- Now: TLOA authorizes up to three years per count and nine years per case.

## Felony Criminal Jurisdiction

Tribal courts that opt-in must provide:

- Bar-licensed indigent defense counsel,
- Judge with “sufficient training” to conduct criminal trial,
- Tribal criminal laws/rules be publicly available, and
- Court proceedings must be recorded.

## Tribal Prisoner Pilot Program

- DOJ Bureau of Prisons Tribal Prisoner Pilot Program.
- Up to 100 prisoners at BOP expense.
- Must be sentenced under new tribal court felony sentencing authority.
- Must be for a violent crime.
- Sentence must be for at least two years.

## Prisoner Re-entry

- BOP must notify tribe's chief law enforcement officer when releasing to tribal jurisdiction a prisoner convicted of violent crime, drug trafficking, or sex offense.
- Authorizes Federal Pretrial & Probation Services to appoint officers in IC which can provide for substance abuse & other treatment services.

## DOJ Grant Funding

- Prior to TLOA: DOJ jail construction grant program was limited to construction of facilities for incarceration; tribal matching funds required.
- Now: allows for construction of “tribal justice centers”; no match required.

## Law and Order Commission

- Creates new Indian Law & Order Commission to conduct a comprehensive study of IC criminal justice system.
- Will submit report to President & Congress.



On March 1, 2011, Ted Quassula was administered the Oath of Office by U.S. District Court Judge Lloyd D. George in Las Vegas, NV. Ted was appointed to the Indian Law and Order Commission by President Obama on January 19, 2011.

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