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A BILL TO AMEND THE TRIBAL LAW AND ORDER ACT OF 2010 AND THE INDIAN LAW ENFORCEMENT REFORM ACT TO PROVIDE FOR ADVANCEMENTS IN PUBLIC SAFETY SERVICES TO INDIAN COMMUNITIES, AND FOR OTHER PURPOSES

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DECEMBER 9, 2016.—Ordered to be printed

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Mr. BARRASSO, from the Committee on Indian Affairs,  
submitted the following

### R E P O R T

[To accompany S. 2920]

The Committee on Indian Affairs, to which was referred the bill (S. 2920) to amend the Tribal Law and Order Act of 2010 and the Indian Law Enforcement Reform Act to provide for advancements in public safety services to Indian communities, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute), and recommends that the bill, as amended, do pass.

#### PURPOSE

The *Tribal Law and Order Act Reauthorization and Amendments Act of 2016*, S. 2920, builds on the improvements to criminal justice systems serving Indian communities that were enacted in the *Tribal Law and Order Act of 2010* (TLOA). It is also intended to provide additional tools to law enforcement officials to reduce crime, overcrowded jail conditions, and recidivism, and address justice for Indian youth. It seeks to clarify the responsibilities of federal, state, tribal, and local governments with respect to crimes committed in Indian Country. The bill extends authorization of the *Tribal Law and Order Act of 2010* until 2021, while also improving justice for tribal youth. The bill, S. 2920, contains other provisions to develop justice within Indian Country.

#### NEED FOR LEGISLATION

Based on testimony received at the Committee on Indian Affairs' hearings, roundtables, and meetings, since passage of the TLOA, crime rates have diminished, but the overall levels still remain

high on some Indian reservations. Continued enhancements for public safety are necessary to provide additional tools to law enforcement officials, reduce crime and overcrowded jail conditions, reduce recidivism, and address justice for Indian youth.

#### BACKGROUND

The TLOA was introduced on April 2, 2009 in the 111th Congress. It was incorporated into the bill H.R. 725, the *Indian Arts and Crafts Act Amendments* (which had passed the House of Representatives on January 19, 2010 and was pending in the Senate). On June 23, 2010, H.R. 725, as amended, passed the Senate. The amended bill, H.R. 725 was passed by the House of Representatives on July 21, 2010 and became Public Law No. 111–211 on July 29, 2010.

This law is a comprehensive approach to improving the efficiency and effectiveness of criminal justice systems in Indian Country. It reflected the efforts of Congress and Indian tribes to develop legislation toward these goals.<sup>1</sup>

The purpose was to increase the capacity of tribal governments and their law enforcement agencies to better coordinate among Federal and state agencies and to better manage public safety concerns in Indian Country.

The intent of the TLOA was aimed at reducing violent crime, combating sexual and domestic violence against American Indian and Alaska Native women, reducing drug trafficking, reducing rates of drug and alcohol addiction, and standardizing interagency sharing of information among Federal, state, and tribal stakeholders. It also encouraged the hiring, training, and support of more law enforcement officers, whether tribal or Federal, to assist in preventing and addressing unacceptably high rates of crimes in Indian communities.

Since the enactment of TLOA, the Committee has held two hearings on the implementation of the TLOA.<sup>2</sup> While some reductions in crimes have occurred, the levels still remain high as reflected in the following chart (based on information from the Department of Justice Bureau of Statistics).<sup>3</sup>

	2010 143 Tribes	2013 158 Tribes
Violent: <sup>4</sup>		
Murder and non-negligent manslaughter .....	133	79
Forcible Rape .....	852	812
Robbery .....	280	309
Aggravated Assault .....	4,267	4,200

<sup>1</sup> See also S. Rep. No. 111–93, at 4 (2009).

<sup>2</sup> *Tribal Law and Order Act One Year Later: Have We Improved Public Safety and Justice Throughout Indian Country?* Hearing Before the S. Comm. on Indian Affairs, 112th Cong. (2011). *The Indian Law and Order Commission Report: A Roadmap for Making Native America Safer*, Hearing Before the S. Comm. on Indian Affairs, 113th Cong. (2014).

<sup>3</sup> *Tribal Crime Data Collection Activities, 2012*. Bureau of Justice Statistics, Department of Justice (2012), at 5. *Tribal Crime Data Collection Activities, 2015*. Bureau of Justice Statistics, Department of Justice (2015), at 8 and 12. The number of tribal law enforcement agencies reporting to the Uniform Crime Reporting Program in 2010 was 143 and in 2013, the figure rose to 158. Steven Perry, *Tribal Crime Data Collection Activities, 2015*. Bureau of Justice Statistics, Department of Justice (2015), at 1.

	2010 143 Tribes	2013 158 Tribes
Property:		
Burglary .....	4,990	5,461
Larceny-theft .....	10,495	14,643
Motor vehicle theft .....	2,228	2,816
Arson .....	818	801

The TLOA required the following key reports:

- Tribal Court Sentencing Guidelines and Process, which was completed by the Bureau of Indian Affairs (BIA) in 2011;
- Long Term Plan to Build and Enhance Tribal Justice Systems from the Department of Justice (DOJ) and the Department of the Interior, which was completed in August, 2011;
- Tribal Prisoner Pilot Program Progress from the DOJ, which was completed in 2014;
- Annual Crime Statistics Report by the Bureau of Justice Statistics (BJS);
- Annual Report on the Bureau of Indian Affairs Office of Justice Services spending and unmet needs;
- Annual Indian Country Investigations and Prosecutions reported by the United States Attorney General; and
- The Indian Health Service capability to collect and secure domestic and sexual assault evidence, which was completed by the Government Accountability Office in 2012.

*Tribal Law and Order Act: Long Term Plan to Build and Enhance Tribal Justice Systems*

The report for the *Tribal Law and Order Act: Long Term Plan to Build and Enhance Tribal Justice Systems* was intended to provide information on alternatives to incarceration for jails and other public safety buildings. The major focus was to critically assess and improve tribal public safety infrastructure and institutional methods to develop alternatives to incarceration.

From this report, both the Departments of Justice and the Bureau of Indian Affairs have engaged in additional actions or studies regarding incarceration and alternatives. For example, the Bureau of Justice Assistance (BJA) completed a study of strategies to validate an offender risk assessment tool called *Level of Service Inventory-Revised (LSI-R)* for use in tribal justice systems.<sup>5</sup>

Tribal leaders have encouraged establishing culturally sensitive alternatives to incarceration. These types of alternatives would

<sup>4</sup>The U.S. Attorneys' Offices data for CY 2011 indicate that just under 37 percent (1,041) of all Indian Country submissions for prosecution (2,840) were declined by the U.S. Attorneys' Offices. *U.S. Department of Justice Indian Country Investigations and Prosecutions, 2011 2012*. Department of Justice (2012), at 5. The data for CY 2013 show that 34% (853) of all Indian Country submissions for prosecution (2,542) were declined for prosecution. According to the Federal Bureau of Investigation reports, all the cases that had been denied for prosecution were denied because no evidence could be found regarding foul play. *U.S. Department of Justice Indian Country Investigations and Prosecutions, 2013*. Department of Justice (2013) at 7.

<sup>5</sup>An LSI-R identifies problem areas in an offender's life and predicts his or her risk of recidivism. Evidence-based practices to reduce recidivism stress the importance of assessing the individual on risk, needs, and responsivity of the offender to rehabilitation practices, as a result the LSI-R for Tribal justice systems was a basic step to enhance tribal justice systems. Crime and Justice Institute, *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*. Boston, MA: Crime and Justice Institute and U.S. Department of Justice (2004).

allow offenders to remain close to their Native communities and focus on treating the root cause of criminal behavior with an emphasis on rehabilitation rather than retribution. As a result, tribes may now use the Department of Justice funding for electronic alcohol/offender monitoring devices and related equipment as an alternative to incarceration. The Department of Justice has also provided training and capacity building for tribes to implement and develop these intervention efforts.<sup>6</sup>

The Committee recognized in the TLOA and in S. 2920 that these alternatives must be combined with active prevention efforts to begin addressing the crime rates in Indian communities. To that end, various approaches are being undertaken to reduce recidivism and encouraged in the bill. For example, one such approach is based on early crime prevention efforts through school and summer programs for Native youth and data-driven research on key trends in tribal jail populations. While these types of programs hold promise, the continuing efforts need to be assessed for long-term benefits.

*U.S. Department of Justice: Indian Country Investigations and Prosecutions—2014*

Section 212(B) of the Tribal Law and Order Act of 2010 (TLOA) requires the Federal Bureau of Investigation (FBI) and the Attorney General to submit an annual report to Congress on investigations and prosecutions that were terminated or declined in Indian Country. The latest report from 2014 outlines the following information: types of crimes alleged; status of accused as Indian or non-Indian; status of victim as Indian or non-Indian; reason for deciding against referring the investigation for prosecution by the FBI or the reason for deciding to decline or terminate the prosecution.

In FY 2014, the FBI closed 2,064 Indian Country cases—a margin increase of 7 cases from FY 2013.<sup>7</sup> The most common reason noted for case closure was that the investigation concluded no Federal crime had occurred. Most notably, the report also highlighted the difficulties in prosecuting sex crimes in Indian Country.<sup>8</sup>

The FBI does not solicit or integrate information from the Bureau of Indian Affairs or tribal governments for this report. As a result, the total numbers in the report would not include many of the misdemeanor crimes still occurring in Indian Country<sup>9</sup> and impacting recidivism which still remains high in Indian communities.<sup>10</sup>

*Tribal Law and Order Act Report on Enhanced Tribal-Court Sentencing Authority*

Section 234(B) of the TLOA requires the Attorney General and the Secretary of the Interior, no later than 4 years, to submit a report to Congress on the effectiveness of enhanced tribal court sen-

<sup>6</sup><https://www.bja.gov/Publications/TLOA-TJP-Webinar-Summary.pdf>, 2 (last reviewed December, 2016).

<sup>7</sup>*U.S. Department of Justice Indian Country Investigations and Prosecutions, 2013*. Department of Justice (2013) at 11.

<sup>8</sup>These problems stem from several challenges: long distances and economic burdens in traveling to medical facilities for forensic evidence capture as well as cultural barriers to corroborating physical evidence. *U.S. Department of Justice Indian Country Investigations and Prosecutions, 2014*. Department of Justice (2014) at 36.

<sup>9</sup>*Id.*, at 11.

<sup>10</sup>*Id.*, at 2.

tencing authority in curtailing violence and improving the administration of justice on Indian lands. In addition, the report is to include further guidance on the enhanced authority at the levels provided by TLOA.<sup>11</sup>

As of January 2015, only nine tribes are exercising the enhanced sentencing provisions of TLOA.<sup>12</sup> However, several others were in the process of gaining enhanced sentencing authority.

#### *Tribal Prisoner Pilot Program*

From November, 2010 to November, 2014, the Bureau of Prisons (BOP) received requests for six tribal inmates from three Indian nations to participate in the prisoner pilot program under TLOA. In this pilot program, Indian prisoners sentenced by tribal courts for violent offenses may be accepted by and housed within the BOP facilities. According to the BOP, all six offenders were accepted and transferred to appropriate Federal facilities.

The information in the report indicated that an extension of this program would continue to assist in reducing overcrowding within tribal jails. However, an assessment of the services available to those prisoners and the effectiveness of those services are needed as part of any program extension.

#### *U.S. Department of Justice: Tribal Crime Data Collection Activities, 2015*

Section 251(g) of the TLOA requires the Bureau of Justice Services (BJS) to annually report on data collected relating to crimes in Indian Country and to support tribal participation in national records and information systems as described in the TLOA. The ability to access and comprehend data of tribal crimes has advanced as more tribal law enforcement agencies have participated in the FBI's Uniform Crime Reporting Program—increasing from only 12 tribes in 2008 to 158 in 2014.

The report indicated a 3.3 percent decrease in total inmates in Indian Country jails from 2012 to 2013 midyear totals. The number of jails or detention centers being utilized in Indian Country has increased by 16 percent, from 68 facilities in 2004 to 79 in 2014.<sup>13</sup>

Within other state and local jails, over the same period, there were about 10,400 American Indian and Alaska Native inmates—1.4% of total inmate jail populations. Most American Indian and Alaska Native inmates were located in the western states.

The BIA and the Department of Justice have provided training to and improved the data collection and sharing systems for tribal justice officials.<sup>14</sup> Preliminary information from Indian tribes and the agencies indicate that these improved systems appear to hold promising benefits for public safety. The bill, S. 2920, provides for improving the data collection and sharing systems.

<sup>11</sup> Tribal Law and Order Act Report on Enhanced Tribal-Court Sentencing Authority, Department of Justice, at 6.

<sup>12</sup> Christian Folsom-Smith, *Enhanced Sentencing in Tribal Courts*, The National Tribal Justice Center, (2015) at 8.

<sup>13</sup> Steven W. Perry, Tribal Crime Collection, Bureau of Justice Statistics, Department of Justice (2015) at 4.

<sup>14</sup> The Department of Justice established the tribal access to criminal databases on a pilot basis. See <http://www.justice.gov/tribal/tribal-access-program-tap> (last reviewed December 1, 2015). The Department Budget Request for FY 2016 had proposed changes to the Working Capital Fund in its Justice Management Division to allow tribes to reimburse the fund for expenses related to law enforcement databases.

*Indian Health Service: Continued efforts needed to help strengthen response to sexual assaults and domestic violence*

Section 266(b) of the TLOA requires, no later than one year after enactment of the Act, the Comptroller General report to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives on certain capabilities of the Indian Health Service. This report would describe the results from the study of Indian Health Service's (IHS) capabilities for post-exams and collections in remote Indian reservations and Alaska Native villages concerning sexual assaults and domestic violence incidence for criminal prosecution.

The report concluded that the ability of IHS hospitals to collect and preserve medical forensic evidence in cases of sexual assault and domestic violence from patients varies from hospital to hospital. Of the 45 hospitals in the IHS network, 26 reported they are able to perform medical forensic exams on site for victims of sexual assault, and the remaining 19 hospitals choose to refer sexual assault victims to other facilities.<sup>15</sup>

Before March 2011, the IHS did not have an agency wide standardized plan on how to issue these services. Purportedly, the agency is now making progress to improve their capacity for these services by completing a network wide standard. According to the IHS, systemic issues such as funding for appropriate training and equipment, distances to rural communities on reservations, staff burn-out, and high turnover are challenges to the long term viability of this type of care in many hospitals.

In addition, the GAO report highlighted the inability of IHS to keep records on the frequency of forensic exams and how many staffers within the agency have the appropriate training or certification. The GAO further found that "the March 2011 sexual assault policy does not address how its hospitals should respond in cases of discrete domestic violence without a sexual component or in cases of child sexual abuse."<sup>16</sup>

*Community Oriented Policing Services grants*

Other reports regarding public safety in Indian Country have provided additional information for consideration in the development of S. 2920. For example, Section 243 of the TLOA requires the Attorney General to provide a report to Congress describing the extent and effectiveness of the Community Oriented Policing Services (COPS) grants in Indian communities. The COPS grants in Indian Country focus primarily on activities for combating drugs, offering support to mental health, and increasing the capacity of the tribal justice system overall. The report provides data on grant programs that assist Indian tribes through grant programs, training, and technical assistance.

From 1994 to 2009, COPS grants were awarded to over 2,000 tribal grant recipients of Indian tribes and tribal organizations totaling more than \$400 million. In FY 2010, the last year data is available in the report, \$48.6 million in grants were awarded to 141 entities. However, the majority of FY 2010 funds were used for

<sup>15</sup> U.S. Gov't Accountability Office, GAO-12-29, Indian Health Service: Continued Efforts Needed to Help Strengthen Response to Sexual Assaults and Domestic Violence 2 (2011).

<sup>16</sup> *Id.* at 47.

non-officer related expenditures since only 23 officers were funded through COPS.

The purposes of the grants continue to serve much needed areas of public safety such as combatting drug abuse. Better data systems, developed in part by the provisions relating to data collection and sharing system improvements in S. 2920, would be useful in evaluating the effectiveness of these grants.

*Indian Law and Order Commission*

The Indian Law and Order Commission was authorized by the TLOA in 2010. The Commission began its work in late Summer, 2011 and issued its final report entitled “A Roadmap for Making Native America Safer” on November 12, 2013.

The Commission was required to examine—

- Jurisdiction;
- Tribal and Federal incarceration systems;
- Tribal and Federal juvenile justice systems;
- The impact of the Indian Civil Rights Act of 1968; and
- Other subjects relevant to achieving the purposes of the

TLOA.

The Commission was required to develop recommendations on necessary modifications and improvements to justice systems at the tribal, Federal, and state levels to—

- Simplify jurisdiction in Indian Country;
- Improve juvenile justice services and programs;
- Adjust tribal penal authority, including detention alternatives;
- Enhance the use of Federal magistrates in Indian Country;
- Change the tribal and Federal detention systems;
- Address other issues that would reduce crime in Indian

Country.

Most disturbing about this report is the Commission’s findings that Native American youth are overrepresented in both Federal and state juvenile justice systems and receive harsher sentences. The Commission reported that, in the Federal system, there is no special juvenile division, *i.e.*, no special juvenile court judges, probation system, and no juvenile detention, diversion, or rehabilitation facilities. Generally, there is no requirement that an incarcerated Indian child’s tribe be contacted for services or any other reason.

The Commission recommended that tribes be allowed to opt-out of the Federal juvenile justice system or have a right to consent before the U.S. Attorney files charges against an Indian child. The Commission recommended that the funding structures for Native youth be reorganized to a block grant, rather than burdensome grant programs.

The Commission recommended that Federal and state systems maintain proper records of tribal youth in their custody and a single Federal agency should coordinate data, needs, and make recommendations for Native youth. The Commission also recommended better cooperation between the governments and within the governments on the care and services for the Native youth in the juvenile justice systems.

THE TRIBAL LAW AND ORDER REAUTHORIZATION ACT

To continue the public safety improvements facilitated by the TLOA, Senator Barrasso and Senator McCain, introduced S. 2920, *Tribal Law and Order Reauthorization and Amendments Act of 2016* on May 11, 2016. The bill aims to reauthorize the provisions within TLOA from FY 2017 to FY 2021 and to secure improvements related to interagency coordination and information sharing. It requires additional measures for timely reporting by the BIA, the DOJ, and the DOI concerning the reports outlined in TLOA.

*Principles*

The bill, S. 2920, is built upon the fundamental principles of reducing recidivism and improving justice for Indian youth, among others. In 2014, according to the Department of Justice, the expected average length of stay in an Indian Country jail was about six days. However, these jails are primarily designed for short term stays and many do not provide treatment services. If successful, preventing recidivism in a Native community can reduce a host of costs (financial and otherwise) as well as federal and tribal transportation costs. Cost reduction is only one benefit of reducing recidivism.

In nearly every Committee hearing on public safety-related matters, the Committee received testimony that drug and alcohol abuse were contributing factors in most nearly every crime committed in Indian communities. Clearly, reducing recidivism would require significant efforts in addressing drug and alcohol abuse. To that end, S. 2920 is intended to require more efforts, coordination, and participation from the Department of Health and Human Services' agencies in addressing such substance abuse and recidivism.<sup>17</sup>

*Improving justice for Indian youth*

The TLOA contained important requirements to improve justice for Indian youth such as the development of a long-term plan for the construction, renovation, and operation of Indian juvenile detention and treatment centers and alternatives to detention for juvenile offenders and the expansion of certain grant funding to be used for Indian youth judicial-related services including public defenders, appointed defense counsel, guardians ad litem, and court-appointed advocates for juveniles.

On July 15, 2015, the Committee held a hearing on *Juvenile Justice in Indian Country: Challenges and Promising Strategies*. This hearing highlighted several recommendations for improving justice for Indian youth.

The Commission report and the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence report both found that Indian children are exposed to higher rates of violence than other children.<sup>18</sup> The unacceptably disproportionate rate of incarceration of Indian youth is com-

<sup>17</sup>This requirement is consistent with the recommendations that were highlighted in testimony before the Committee during the hearing on juvenile justice. See *Juvenile Justice in Indian Country: Challenges and Promising Strategies, Hearing Before the S.Comm. on Ind. Affairs, 114th Cong.* (2015).

<sup>18</sup>See Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending Violence So Children Can Thrive, Department of Justice (2014); See also Addie Rolnick, *Untangling the Web: Juvenile Justice in Indian Country* (2016). 19 N.Y.U. J. Legis. & Pub. Pol'y 49, (2016), <http://ssrn.com/abstract=2779767>.



pounded by this disturbing finding. These particular children are exposed to trauma after trauma, seemingly without appropriate intervention or services.

Building upon the requirements in TLOA and the recommendations of the two reports and hearing, S. 2920 provides for extensive enhancements to the *Juvenile Justice and Delinquency Prevention Act of 1974* and other laws which involve Indian juveniles. These provisions are based upon tribal recommendations which were proposed in 2008 when the *Juvenile Justice and Delinquency Prevention Act of 1974* was being considered for reauthorization.

For example, S. 2920 would amend the *Juvenile Justice and Delinquency Prevention Act of 1974* to include an Indian representative on state advisory groups which address juvenile justice policy and requires in state plans for funding that notice be provided to Indian tribes when one of their tribal member juveniles comes in contact with the juvenile justice system of the state or local unit of government.

This bill would also require more robust consultation by the Administrator of the Office of Juvenile Justice and Delinquency Prevention. Moreover, the bill would also require the Administrator include in his report to Congress the recommendations from the Coordinating Council on Juvenile Justice and Delinquency Prevention regarding improving service delivery to Indian communities.

The TLOA required that an Indian representative be appointed to the Council. In 2016, that representative, the Honorable William A. Thorne, a member of the Federated Indians of Graton Rancheria, distinguished jurist, and expert on Indian children's issues, was appointed by the Chairman of the Committee on Indian Affairs, in consultation with the Vice Chairman of the Committee on Indian Affairs of the Senate, and the Chairman and Ranking Member of the Natural Resources of the House of Representatives. It stands to reason that the recommendations from the Council be included in the report.

#### LEGISLATIVE HISTORY

During the 114th Congress, the Committee held an oversight hearing on the TLOA on December 2, 2015, and a roundtable on the TLOA on February 25, 2016. On May 11, 2016, Chairman Barrasso, along with Senator McCain, introduced S. 2920, the *Tribal Law and Order Reauthorization and Amendments Act of 2016*.

The Committee held a legislative hearing on S. 2920 on May 18, 2016, at which the Director of the Bureau of Indian Affairs, Mr. Michael S. Black, testified in support of the bill with recommendations for modifying the bill. The Director of the Office of Tribal Justice, Mr. Tracy Toulou, testified on behalf of the U.S. Department of Justice in support of the goals of the bill, and recommended some changes throughout the bill.

On June 22, 2016, the Committee held a duly called business meeting to consider S. 2920. One substitute amendment was offered by Chairman Barrasso to address the recommendations from the Departments of Justice and Interior, the Federal Defenders Organization, tribal organizations, and Indian tribes. The substitute amendment was adopted by a voice vote.

An additional amendment was offered by Senator McCain to add an assessment of unmet staffing needs for health care, behavioral

health, and tele-health needs at tribal jails to the BIA annual unmet needs and spending report. This amendment was also adopted by a voice vote. The Committee then ordered the bill, as amended, to be reported favorably to the Senate by a voice vote.

#### SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

##### *Section 1—Short title*

The short title is the “Tribal Law and Order Act Reauthorization and Amendments Act of 2016.”

##### *Section 2—Findings*

This section contains several findings including that:

- The *Tribal Law and Order Act of 2010* was enacted to address accountability and enhance law enforcement responses in Indian community.
- Drug and Alcohol abuse is a key contributing factor to violence and crime in Indian Country and substance abuse prevention and treatment would help reduce recidivism rates in Indian Country.
- Crimes rates on some reservations have risen and jails continue to operate in overcrowded conditions.
- The Indian Law and Order Commission found that American Indian and Alaska Native youth are incarcerated in the Federal and state systems at rates higher than other juveniles and there is a lack of services and coordination among agencies regarding juvenile justice for Indian youth.

#### TITLE I—TRIBAL LAW AND ORDER

##### *Section 101—Bureau of Indian Affairs law enforcement*

This section adds additional requirements for the annual Bureau of Indian Affairs unmet needs and spending report. This section also withholds funding if the Secretary fails to submit the required annual unmet needs and spending report with some qualifications. This section also authorizes the Secretary to establish applicable rental rates for quarters and facilities for employees of the Office of Justice Services.

##### *Section 4b—Integration and coordination of programs*

This subsection requires, not later than one year after enactment, the Attorney General and the Secretaries of the Interior and the Department of Health and Human Services to consult with tribes regarding the feasibility of integrating and consolidating Federal law enforcement, substance abuse, and mental health programs for which tribes may be eligible, similarly to the integrated job-training and related programs under Public Law No. 102-477.

This section requires improving interagency cooperation, by requiring the Attorney General to evaluate and report to the respective Congress on Department of Justice programs for current requirements encouraging intergovernmental cooperation, the benefits and barriers to intergovernmental cooperation, and recommendations for incentivizing such cooperation.

*Section 103—Data sharing with Indian tribes*

This section amends 28 U.S.C. 534 to require the Attorney General to share a report with an Indian tribe with jurisdiction that is created from the analysis of information submitted to the Federal criminal information database. It also authorizes the Attorney General to use unobligated funds for a tribal data access program.

This section also directs the Attorney General to consult with Indian tribes regarding the required Annual Declination Reports to improve data collection, the information reporting process, and information sharing.

The Attorney General is also required to ensure technical assistance and training is provided to Indian law enforcement so they can access the national crime databases. This provision transfers the responsibility from the BIA to the DOJ. The Federal Bureau of Investigation is required to coordinate with the BIA to ensure tribes have the appropriate credentials (an ORI identification number) to be able to input their data into the national crime databases.

*Section 104—Judicial administration in Indian country*

This section directs the Director of the Bureau of Prisons to maintain the pilot program allowing certain tribally-convicted persons to serve their time in Federal prisons established by the Tribal Law and Order Act of 2010. The pilot program would be extended for seven years after the date of enactment of this Act.

This section also requires consultation with Indian tribes by the Bureau of Indian Affairs, Indian Health Service, and the Substance Abuse and Mental Health Services Administration regarding Indian juvenile justice and incarceration.

*Section 105—Federal notice*

This section requires the appropriate United States Attorney's Office to give notice of the conviction, and other pertinent information, of an enrolled member of a federally recognized Indian tribe convicted in the respective Federal District court to the Indian tribe (or appropriate tribal justice official).

*Section 106—Detention facilities*

This section amends 25 U.S.C. 2802 and 3613 to allow an Indian tribe with an *Indian Self-Determination and Education Assistance Act* contract or compact to use its available detention funding to provide for alternatives to detention as agreed upon with the Secretary of the Interior, acting through the Office of Justice Services.

This section also reauthorizes funds for the Secretary of the Interior and the Attorney General to construct and staff juvenile detention centers and for the Attorney General to carry out programs for incarceration on Indian lands.

*Section 107—Reauthorization for tribal courts training*

This section reauthorizes funds for Indian tribal justice technical and legal assistance training, technical assistance, and civil and criminal legal assistance grants from Fiscal Year 2017 to Fiscal Year 2021.

*Section 108—Amendments to the Indian Civil Rights Act*

This section amends the *Indian Civil Rights Act* to establish the requirement for jury trials in an Indian tribal court for offenses punishable for at least six months or more.

*Section 109—Public defenders*

Similarly to the tribal liaison and Special Assistant U.S. Attorney provisions for U.S. Attorneys' Offices established in the *Tribal Law and Order Act of 2010*, this section requires that at least one Assistant Federal Public Defender serve as a tribal liaison for Federal Public Defender Offices located in a district that includes Indian Country. It provides a Sense of Congress that the tribal liaison to consult with tribal justice officials from each affected Indian tribe.

The tribal liaisons will communicate with tribal leaders and tribal communities and provide technical assistance and trainings regarding criminal defense, techniques, strategies, forensics, and re-entry programs. The Sense of Congress is that the tribal liaison's program will be part of the Federal Defender's staff and that the Director of Administrative Office of the United States Courts and the Attorney General ensures that Indian Country has sufficient resources for adequate representation.

*Section 110—Trespass on Indian lands*

This section establishes penalties for repeated violations of certain trespass offenses on Indian lands. It further establishes a new Federal offense for violating an exclusion order issued by a tribal court.

*Section 111—Resources for public safety in Indian country*

This section maintains the Shadow Wolves drug trafficking prevention program within the Bureau of Immigration and Customs Enforcement and authorizes the Commissioner of U.S. Customs and Border Protection to transfer funds to the Director of the Bureau of Indian Affairs for road maintenance and repair under the Director's jurisdiction. This section also reauthorizes funds for international illegal narcotics trafficking eradication on certain Indian reservations from Fiscal Year 2017 to Fiscal Year 2021.

*Section 112—Substance abuse prevention tribal action plans*

This section amends the Indian Alcohol and Substance Abuse and Prevention and Treatment Act of 1986 to add the Secretary of the Department of Agriculture and the Secretary of the Department of Housing and Urban Development to the current inter-departmental agencies required to enter the Memorandum of Agreement for substance abuse prevention and reauthorizes funds for the tribal action plans.

*Section 113—Office of Justice Services spending report*

This section includes an assessment of unmet staffing needs for health care, behavioral health, and tele-health needs at tribal jails to the needs report for tribal and Bureau of Indian Affairs justice agencies that is submitted to appropriate committees of Congress at each fiscal year.

## TITLE III—JUSTICE FOR INDIAN YOUTH

*Section 201—Federal jurisdiction over Indian juveniles*

This section amends 18 U.S.C. 5032 to allow the Attorney General to defer to tribal jurisdiction over an Indian juvenile before proceeding with the matter in Federal court. It is similar to the deferral to state courts in current law.

*Section 202—Reauthorization of tribal youth programs*

This section reauthorizes funds for programs for Bureau of Indian Education and tribal schools, emergency shelters for Indian youth from Fiscal Year 2017 to Fiscal Year 2021.

*Section 203—Justice for Indian youth*

This section amends the *Juvenile Justice and Delinquency Prevention Act* to include Indian tribes in its purpose. It directs the Administrator of the Office of Juvenile Justice and Delinquency Prevention to consult with Indian tribes bi-annually on strengthening the government-to-government relationship, improving juvenile delinquency programs, improving services, improving coordination among Federal agencies to reduce juvenile offenses, delinquency, and recidivism, developing cultural and evidence based programs, and other matters for Indian youth.

This section adds the Director of the Indian Health Service and the Assistant Secretary for Indian Affairs to the Coordinating Council on Juvenile Justice and Delinquency Prevention.

This section requires the Administrator of the Office of Juvenile Justice and Delinquency Prevention to include in the annual report information regarding whether the offenses occurred in Indian Country, the tribal membership or affiliation of the juvenile, a description of the types of funding provided to tribes, and recommendations from the Coordinating Council on Juvenile Justice and Delinquency Prevention.

This section requires, as part of its plan, states to include an Indian tribal representative(s) in the state advisory groups and requires states to provide notice to an Indian tribe when a tribal member juvenile comes in contact with the state juvenile justice system. It also authorizes, as part of the state plans submitted to receive funding, the tribal cultural or traditional programs designed to reduce delinquency. It also authorizes grants to be used to establish partnerships with Bureau of Indian Education or tribal schools.

This section includes tribal needs as part of the survey of state and local needs submitted to the Administrator. It includes tribal communities in the research on the frequency, seriousness, and incidence of drug use by youth in state schools and communities. It also includes tribes in the research on the barriers faced by states in providing services to juveniles.

This section reauthorizes the *Tribal Law and Order Act* provisions which authorized funding for tribal juvenile justice grants.

*Section 204—GAO report on justice for juveniles*

This section directs the Comptroller General to conduct a baseline study on Indian youth involved in juvenile justice systems, facilities holding Indian youth, Federal agency coordination, existing

programs, the barriers to providing services. This section directs the Comptroller General to submit the findings and recommendations to Congress not later than 18 months after the date of enactment of this Act.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 2920.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 2920 will have a minimal impact on regulatory or paperwork requirements.

COST AND BUDGETARY CONSIDERATIONS

Summary: S. 2920 would amend the Tribal Law and Order Act of 2010 and the Indian Law Enforcement Reform Act. It would establish and reauthorize various programs and offices within the Bureau of Indian Affairs (BIA), the Department of Justice (DOJ), and the Judiciary concerning public safety services to Indian communities.

CBO estimates that implementing S. 2920 would cost \$865 million over the 2017–2021 period, assuming appropriation of the authorized and necessary amounts. Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any such effects would be insignificant.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027. S. 2920 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would provide a number of benefits to Indian tribes. Any costs to tribal governments would result from complying with conditions of federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2920 is shown in the following table. The costs of this legislation fall within budget functions 750 (administration of justice) and 450 (community and regional development).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Indian Law Enforcement, Courts, and Detention Facilities:						
Estimated Authorization Level .....	165	165	165	165	165	825
Estimated Outlays .....	71	114	137	151	164	637
Alcohol and Drug Abuse and Juvenile Delinquency Prevention:						
Estimated Authorization Level .....	60	53	53	53	53	272
Estimated Outlays .....	26	35	42	49	53	205
Other Programs:						
Estimated Authorization Level .....	6	5	4	4	4	23
Estimated Outlays .....	6	5	4	4	4	23
Total Costs:						
Estimated Authorization Level .....	231	223	222	222	222	1,120

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
Estimated Outlays .....	103	154	183	204	221	865

Basis of estimate: For this estimate, CBO assumes that S. 2920 will be enacted near the start of fiscal year 2017. Estimated outlays are based on information from BIA, DOJ, the Administrative Office of the United States Courts (AOUSC), and historical spending patterns for similar programs.

S. 2920 would specifically authorize the appropriation of about \$1.0 billion over the 2017–2021 period for BIA and DOJ to carry out the bill’s provisions. In addition, based on an analysis of information from BIA, DOJ, and the AOUSC, CBO estimates that appropriations totaling about \$0.1 billion over the five-year period also would be necessary to carry out those purposes.

*Indian law enforcement, courts, and detention facilities*

CBO estimates that implementing the provisions of S. 2920 that would authorize funding for Indian law enforcement, courts, and detention facilities would cost \$637 million over the 2017–2021 period, assuming appropriation of the authorized and estimated amounts.

Over the five-year period the bill would authorize the annual appropriation of:

- \$40 million for DOJ to make grants to Indian tribes to hire, train, and properly equip law enforcement officers;
- \$17 million for BIA to construct, renovate, and staff new or existing juvenile detention centers;
- \$35 million for DOJ to make grants to Indian tribes for the construction and maintenance of detention facilities and tribal justice centers;
- \$8 million for BIA to operate the Office of Tribal Justice Support; and
- \$50 million for BIA to financially aid tribal justice systems.

S. 2920 also would authorize the appropriation of such sums that are necessary over the 2017–2021 period for two DOJ grant programs to improve tribal courts and to provide technical and legal assistance to tribes. In 2016, about \$14 million was appropriated for those programs. CBO estimates that continuing those programs over the 2017–2021 period would require appropriations totaling \$75 million.

*Alcohol and drug abuse and juvenile delinquency prevention*

Assuming appropriation of the authorized and estimated amounts, CBO estimates that implementing the provisions of S. 2920 concerning programs to reduce alcohol and drug abuse and juvenile delinquency on tribal lands would cost \$205 million over the 2017–2021 period.

S. 2920 would authorize the appropriation of \$255 million over the 2017–2021 period for alcohol and drug abuse and juvenile delinquency prevention. Specifically, over the five-year period, the bill would authorize the annual appropriation of:

- \$4 million for BIA to combat illegal narcotics trafficking on tribal land;
- \$5 million for BIA to implement summer youth programs to prevent substance abuse;
- \$17 million for BIA to construct, renovate, and staff emergency shelters for Indian youth who abuse alcohol or illegal substances; and
- \$25 million for DOJ to make grants for local and tribal delinquency prevention programs.

S. 2920 also would authorize the appropriation of \$7 million over the 2017–2021 period for BIA to provide assistance to combat substance abuse on tribal land. The bill also would authorize the appropriation of such sums as are necessary for BIA to provide training for Indian law enforcement and judicial personnel on matters relating to substance abuse and illegal narcotics. In 2016, about \$20 million was allocated for all Indian police and judicial training by BIA. Based on information from BIA about the components of that training, CBO estimates about \$2 million of that sum was used for substance abuse and illegal narcotics training. Continuing such training at the current level and adjusting for anticipated inflation would require an appropriation of \$10 million over the 2017–2021 period.

#### *Other programs*

Sections 102 and 104 would require BIA and DOJ to consult with Indian tribes on the effectiveness of tribal law enforcement. Based on information from BIA about the level of effort expected for this activity, CBO estimates those requirements would cost \$2 million in 2017 and \$1 million in 2018.

Also, section 109 would require offices of federal public defenders in judicial districts that include tribal lands to appoint one assistant Federal Public Defender to serve as a tribal liaison and to ensure that each of those districts has adequate representation for tribal members. According to information from the AOUSC, this provision would require about 20 additional full time employees, added travel expenses, and additional technology and training costs. CBO estimates that implementing section 109 would cost about \$4 million a year over the 2017–2021 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. S. 2920 would establish a new federal crime relating to trespassing on tribal lands. Because those prosecuted and convicted under S. 2920 could be subject to criminal fines, the federal government might collect additional amounts if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation action. CBO expects that any additional revenues and subsequent direct spending would not be significant in any year because the legislation would probably affect only a small number of cases.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 2920 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.



Intergovernmental and private-sector impact: S. 2920 contains no intergovernmental or private-sector mandates as defined in the UMRA and would provide a number of benefits to Indian tribes. The bill would authorize programs and grants to address tribal public safety, offender incarceration, alcohol and substance abuse programs, and treatment and prevention programs for juvenile delinquents. It would create tribal liaisons in offices of federal public defenders, and those liaisons would coordinate the cases of defendants who are accused of federal crimes on Indian land. The bill would direct the Department of Justice to share information from criminal databases with Indian tribes, and it would require the Office of the U.S. Attorney to notify tribes when an enrolled member is convicted in a district court. The bill also would benefit tribes by extending a pilot program to allow offenders convicted in tribal courts to be held in Bureau of Prisons facilities. Any costs to tribal governments would result from complying with conditions of federal assistance.

Estimate prepared by: Federal costs: Robert Reese and Mark Grabowicz; Impact on state, local, and tribal governments: Rachel Austin; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes to existing law made by S. 2920, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and new matter is printed in italic):

\* \* \* \* \*

**TITLE I—TRIBAL LAW AND ORDER**

\* \* \* \* \*

**Indian Law Enforcement Reform Act**

\* \* \* \* \*

SPENDING REPORT

**SEC. 3.**

(a) \* \* \*

\* \* \* \* \*

(c) \* \* \*

[(13) providing technical assistance and training to tribal law enforcement officials to gain access and input authority to utilize the National Criminal Information Center and other national crime information databases pursuant to section 534 of Title 28;]

[(14)] (13) \* \* \*

[(15)] (14) \* \* \*

[(16)] (15) \* \* \*

(C) a list for which any tribal information may be summarized by State of the unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies, the replacement and repair needs of tribal and Bureau corrections facilities, needs for tribal police and court facilities, [and public safety and emergency communications and technology needs] public safety and emergency communications and technology needs, and other administrative and supporting needs of program operations, including information technology and other equipment, travel, and training; and \* \* \*

[(17)] (16) \* \* \*

[(18)] (17) \* \* \*

\* \* \* \* \*

**ENFORCEMENT OF REPORTING REQUIREMENTS**

\* \* \* \* \*

(f) \* \* \*

(g) **ENFORCEMENT OF REPORTING REQUIREMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), on the failure of the Director of the Office of Justice Services to submit a report in accordance with paragraph (15) or (16) of subsection (c), the Secretary shall withhold funding for the Office of the Assistant Secretary for Indian Affairs used for the administration of services, including functional expenses such as overtime, personnel salaries, and associated benefits or related tasks that directly affect those functions, to the extent that the withholding does not adversely impact the capacity of the Secretary to provide law enforcement services in Indian communities in accordance with this Act.

(2) **RESTORATION.**—The Secretary shall restore funding withheld in accordance with paragraph (1) on submission of the applicable report in accordance with paragraph (15) or (16) of subsection (c)

\* \* \* \* \*

**ALLOWANCE FOR RENTALS OF QUARTERS AND FACILITIES**

**[SEC. 8. UNIFORM ALLOWANCE**

**[Notwithstanding the limitation]**

**SEC. 8. ALLOWANCES.**

(a) **UNIFORMS.**—Notwithstanding the limitation . . .

(b) **RENTALS FOR QUARTERS AND FACILITIES.**—Notwithstanding section 5911 of title 5, United States Code, the Secretary, on recommendation of the Director of the Office of Justice Services, shall establish applicable rental rates for quarters and facilities for employees of the Office of Justice Services.

\* \* \* \* \*

**Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986**

\* \* \* \* \*

LAW ENFORCEMENT AND JUDICIAL TRAINING

SEC. 4218.

(a) \* \* \*

(b) AUTHORIZATION.—For the purposes of providing the training required by subsection (a) of this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1993 and such sums as are necessary for each of fiscal years [2011 through 2015] 2017 through 2021.

\* \* \* \* \*

**Omnibus Crime Control and Safe Streets Act of 1968**

\* \* \* \* \*

PUBLIC SAFETY AND COMMUNITY POLICING GRANTS

SEC. 1701.

(a) \* \* \*

\* \* \* \* \*

(j) GRANTS TO INDIAN TRIBES.—

(1) IN GENERAL.—Notwithstanding subsection (i) and section 3796dd–2 of this title, and in acknowledgment of the Federal nexus and distinct Federal responsibility to address and prevent crime in Indian country, the Attorney General shall provide grants under this section to Indian tribal governments, for fiscal year 2011 and [any fiscal year] each fiscal year thereafter, for such period as the Attorney General determines to be appropriate to assist the Indian tribal governments in carrying out the purposes described in subsection (b).

\* \* \* \* \*

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$40,000,000 for each of fiscal years [2011 through 2015] 2017 through 2021.

\* \* \* \* \*

**Title 28, Section 534(d)**

\* \* \* \* \*

[(a) THE ATTORNEY GENERAL]

(1) IN GENERAL.—The Attorney General . . .

[(1)] \* \* \*

(A) \* \* \*

[(2)] \* \* \*

(B) \* \* \*

(2) TRIBAL ACCESS PROGRAM.—Out of any funds available and not otherwise obligated the Attorney General shall estab-

*lish and carry out a tribal access program to enhance the ability of tribal governments to access, enter information into, and obtain information from, Federal criminal information databases as authorized under this section.*

*(3) INFORMATION SHARING.—Any report issued as a result of the analysis of information entered into Federal criminal information databases or obtained from Federal criminal databases, including for the purpose of conducting background checks, shall be shared with Indian tribes of jurisdiction.*

\* \* \* \* \*

**Tribal Law and Order Act of 2010**

\* \* \* \* \*

**ACCESS TO NATIONAL CRIMINAL INFORMATION DATABASES**

**SEC. 233**

(a) \* \* \*

(b) REQUIREMENT.—

**[(1) IN GENERAL.—The Attorney General shall ensure that tribal law enforcement officials that meet applicable Federal or State requirements be permitted access to national crime information databases.] (1) IN GENERAL.—The Attorney General shall ensure that—**

*(A) tribal law enforcement officials that meet applicable Federal or State requirements be permitted access to national crime information databases;*

*(B) technical assistance and training to Bureau of Indian Affairs and tribal law enforcement officials is provided to gain access and input authority to use the National Criminal Information Center and other national crime information databases pursuant to section 534 of title 28, United States Code; and*

*(C) the Federal Bureau of Investigation coordinates with the Office of Justice Services, Bureau of Indian Affairs, to ensure Indian tribal law enforcement agencies are assigned appropriate credentials or ORI numbers for uniform crime reporting purposes.*

\* \* \* \* \*

**Omnibus Crime Control and Safe Streets Act of 1986**

\* \* \* \* \*

**BUREAU OF JUSTICE STATISTICS**

**SEC. 302.**

**[(d) JUSTICE STATISTICAL COLLECTION, ANALYSIS, AND DISSEMINATION.—**

**[(1) IN GENERAL.—To ensure]**

(d) *JUSTICE STATISTICAL COLLECTION, ANALYSIS, AND DISSEMINATION.*—

(1) *IN GENERAL.*—*To ensure that all justice statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director is authorized to—*

- \* \* \* \* \*
- (E) encourage replication, coordination and sharing among justice agencies regarding information systems, information policy, and data; **and**
  - (F) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this subchapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data**and**; *and*
  - (G) confer and cooperate with the Bureau of Indian Affairs as needed to carry out the purposes of this part, including by entering into cooperative resource and data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

(2) *CONSULTATION WITH INDIAN TRIBES.*—

**【The Director】** (A) *IN GENERAL.*—*The Director, acting jointly with the Assistant Secretary for Indian Affairs (acting through the Office of Justice Services) and the Director of the Federal Bureau of Investigation, shall work with Indian tribes and tribal law enforcement agencies to establish and implement such tribal data collection systems as the Director determines to be necessary to achieve the purposes of this section.*

(B) *INFORMATION SHARING REQUIREMENT.*—*Analysis of the information collected under subparagraph (A) shall be shared with the Indian tribe that provided the information that was collected.*

\* \* \* \* \*

## Indian Law Enforcement Reform Act

\* \* \* \* \*

### REPORTS TO TRIBES

**SEC. 10.**

(b) **【The Attorney General】** (1) *IN GENERAL.*—*The Attorney General shall submit to Congress annual reports containing, with respect to the applicable calendar year, the information compiled under paragraphs (2) and (4) of subsection (a)—*

- 【(1)】** (A) organized—
  - 【(A)】** (i) in the aggregate; and
  - 【(B)】** (ii)
    - 【(i)】** (I) for the Federal Bureau of Investigation, by Field Division; and
    - 【(ii)】** (II) for United States Attorneys, by Federal judicial district; and
- 【(2)】** (B) including any relevant explanatory statements.

ments Act of 2016, the Attorney General shall consult with Indian tribes, including appropriate tribal justice officials, regarding—

(A) the annual reports described in paragraph (1) to improve the data collected, the information reported, and the reporting system; and

(B) improvements to the processes for the satisfaction of the requirements for coordination described in paragraphs (1) and (3) of subsection (a), or to the reporting requirements under paragraph (1).

(3) ENFORCEMENT OF REPORTING REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), on the failure of the Attorney General to submit a report in accordance with paragraph (1), the Attorney General shall withhold funding for the Director of the Federal Bureau of Investigation and the Director of the Executive Office for United States Attorneys used for the administration of services, including functional expenses such as overtime, personnel salaries, and associated benefits or related tasks that directly affect those functions, to the extent that the withholding does not adversely impact the capacity of the Attorney General to provide law enforcement, investigation, or prosecution services.

(B) RESTORATION.—The Attorney General shall restore funding withheld in accordance with subparagraph (A) on submission of the applicable report in accordance with paragraph (1).

\* \* \* \* \*

**Tribal Law and Order Act of 2010**

\* \* \* \* \*

**BUREAU OF PRISONS TRIBAL PRISONER PROGRAM**

**SEC. 234**

- (a) \* \* \*
- (c) \* \* \*

(5) REPORT.—Not later than [3 years after the date of establishment of the pilot program] 5 years after the date of enactment of the Tribal Law and Order Reauthorization and Amendments Act of 2016, the Attorney General shall submit to Congress a report describing the status of the program, including recommendations regarding the future of the program, if any.

(6) CONSULTATION.—Not later than 1 year after the date of enactment of the Tribal Law and Order Reauthorization and Amendments Act of 2016, the Director of the Bureau of Prisons and the Director of the Office of Justice Services of the Bureau of Indian Affairs shall coordinate and consult with Indian tribes to develop improvements in implementing the pilot program, including intergovernmental communication, training, processes, and other subject matters as appropriate.

[(6)] (7) TERMINATION.—Except as otherwise provided by an Act of Congress, the pilot program under this [paragraph shall expire on the date that is 4 years after the date on which the program is established] subsection shall expire on the date that

*is 7 years after the date of enactment of the Tribal Law and Order Reauthorization and Amendments Act of 2016.*

\* \* \* \* \*

**Indian Law Enforcement Reform Act**

\* \* \* \* \*

**CONSULTATION FOR JUVENILE JUSTICE REFORM**

**SEC. 3.**

(a) \* \* \*

\* \* \* \* \*

*(h) CONSULTATION FOR JUVENILE JUSTICE REFORM.—Not later than 1 year after date of enactment of this subsection, the Director of the Bureau of Indian Affairs, the Director of the Bureau of Prisons, the Director of the Indian Health Service, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Administrator of the Substance Abuse and Mental Health Services Administration shall consult with Indian tribes regarding Indian juvenile justice and incarceration, including—*

*(1) the potential for using Bureau of Indian Affairs or tribal juvenile facilities for the incarceration of Indian youth in the Federal system as alternative locations closer to the communities of the Indian youth;*

*(2) improving community-based options for the services needed and available for Indian youth in Federal incarceration;*

*(3) barriers to the use of—*

*(A) alternatives to incarceration; or*

*(B) cross-agency services for Indian youth in incarceration; and*

*(4) the application of the Federal sentencing guidelines to Indian youth.*

\* \* \* \* \*

**SEC. 105 FEDERAL NOTICE**

**SEC. 10.**

(a) \* \* \*

\* \* \* \* \*

*(d) FEDERAL NOTICE.—On conviction in any district court of the United States of an enrolled member of a federally recognized Indian tribe, the Office of the United States Attorney for the district in which the member was convicted shall provide to the appropriate tribal justice official notice of the conviction and any other pertinent information.*

\* \* \* \* \*

**SEC. 106. DETENTION FACILITIES**

**SEC. 3.**

(a) \* \* \*

\* \* \* \* \*

(i) *ALTERNATIVES TO DETENTION.*—In carrying out the responsibilities of the Secretary under this Act or title II of Public Law 90—284 (commonly known as the ‘Indian Civil Rights Act of 1968’) (25 U.S.C. 1301 et seq.), the Secretary shall authorize an Indian tribe carrying out a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), on request of the Indian tribe, to use any available detention funding from the contract or compact for such appropriate alternatives to detention to which the Indian tribe and Secretary, acting through the Director of the Office of Justice Services, mutually agree.

\* \* \* \* \*

**Indian Tribal Justice Act**

\* \* \* \* \*

INDIAN TRIBAL JUSTICE ACT

**SEC. 103.**

(a) \* \* \*

\* \* \* \* \*

(c) *ALTERNATIVES TO DETENTION.*—In carrying out the responsibilities of the Secretary under this Act or title II of Public Law 90—284 (commonly known as the ‘Indian Civil Rights Act of 1968’) (25 U.S.C. 1301 et seq.), the Secretary shall authorize an Indian tribe carrying out a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), on request of the Indian tribe, to use any available detention funding from the contract or compact for such appropriate alternatives to detention to which the Indian tribe and Secretary, acting through the Director of the Office of Justice Services, mutually agree.

[(c)] (d) \* \* \*

\* \* \* \* \*

**Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986**

\* \* \* \* \*

JUVENILE DETENTION CENTERS

**SEC. 4220(b).**

(b) AUTHORIZATION.—

(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a) of this section, there are authorized to be appropriated \$10,000,000 for each of fiscal years [2011 through 2015] 2017 through 2021.

(2) For the purpose of staffing and operating juvenile detention centers, there are authorized to be appropriated \$7,000,000 for each of fiscal years [2011 through 2015] 2017 through 2021.

\* \* \* \* \*



**Violent Crime Control and Law Enforcement Act of 1994**

\* \* \* \* \*

PAYMENTS FOR INCARCERATION ON TRIBAL LAND

**SEC. 20109.**

(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this part, of amounts made available to the Attorney General to carry out programs relating to offender incarceration, the Attorney General shall reserve \$35,000,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021* to carry out this section.

\* \* \* \* \*

**Indian Tribal Justice Act**

\* \* \* \* \*

TRIBAL JUSTICE SYSTEMS

**SEC. 201.**

(a) OFFICE.—There is authorized to be appropriated to carry out sections 3611 and 3612 of this title, \$7,000,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*. None of the funds provided under this subsection may be used for the administrative expenses of the Office.

(b) BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.—There is authorized to be appropriated to carry out section 3613 of this title, \$50,000,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*.

(c) ADMINISTRATIVE EXPENSES FOR OFFICE.—There is authorized to be appropriated, for the administrative expenses of the Office, \$500,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*.

(d) ADMINISTRATIVE EXPENSES FOR TRIBAL JUDICIAL CONFERENCES.—There is authorized to be appropriated, for the administrative expenses of tribal judicial conferences, \$500,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*.

\* \* \* \* \*

**Indian Tribal Justice Technical and Legal Assistance Act of 2000**

\* \* \* \* \*

AUTHORIZATION OF APPROPRIATIONS

**SEC. 107.**

For purposes of carrying out the activities under this subchapter, there are authorized to be appropriated such sums as are necessary for fiscal years **[2011 through 2015]** *2017 through 2021*.

\* \* \* \* \*

**SEC. 201**

(a) \* \* \*

\* \* \* \* \*

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out the activities under this section, there are authorized to be appropriated such sums as are necessary for fiscal years [2011 through 2015] 2017 through 2021.

\* \* \* \* \*

**Indian Civil Rights Act of 1968**

\* \* \* \* \*

CONSTITUTIONAL RIGHTS

**SEC. 202**

(a) \* \* \*

(10) deny to any person accused of an offense punishable by imprisonment for 180 days or more the right, upon request, to a trial by jury of not less than six persons.

\* \* \* \* \*

RIGHTS OF DEFENDANTS

**SEC. 204**

(a) \* \* \*

\* \* \* \* \*

(d) RIGHTS OF DEFENDANTS.—In a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction, the participating tribe shall provide to the defendant—

- (1) all applicable rights under this Act;
- (2) if a term of imprisonment of any length may be imposed, all rights described in section 1302(c) of this title;
- (3) [the right] if a term of imprisonment of 180 days or more may be imposed, the right to a trial by an impartial jury that is drawn from sources that—

\* \* \* \* \*

**The Indian Law Enforcement Reform Act**

\* \* \* \* \*

PUBLIC DEFENDERS

**SEC. 13**

(a) \* \* \*

\* \* \* \* \*

**SEC. 13A. TRIBAL LIAISONS.**

(a) APPOINTMENT.—

(1) IN GENERAL.—The Federal Public Defender for each district that includes Indian country shall appoint not less than 1 assistant Federal Public Defender to serve as a tribal liaison for the district.

(2) *SENSE OF CONGRESS.*—It is the sense of Congress that in appointing tribal liaisons under paragraph (1), the Federal Public Defender should consult with tribal justice officials from each Indian tribe that would be affected by the appointment.

(b) *DUTIES.*—

(1) *IN GENERAL.*—The duties of a tribal liaison shall include the following:

(A) *Developing working relationships and maintaining communication with tribal leaders and tribal community, including the interchange and understanding of cultural issues that may impact the effective assistance of counsel.*

(B) *Providing technical assistance and training regarding criminal defense techniques and strategies, forensics, and reentry programs and strategies for responding to crimes occurring in Indian country.*

(2) *SENSE OF CONGRESS.*—It is the sense of Congress that—

(A) *in evaluating the performance of tribal liaisons, and as part of the staffing formulas for Federal Defenders, the Administrative Office of the United States Courts should take into consideration the multiple duties of tribal liaisons described in paragraph (1); and*

(B) *the Director of the Administrative Office of the United States Courts and the Attorney General should work together to ensure that each district that includes Indian country has sufficient resources to provide adequate representation.*

\* \* \* \* \*

**Section 1165 of title 18, United States Code**

\* \* \* \* \*

**OFFENSES IN INDIAN COUNTRY: TRESPASS ON INDIAN LAND**

**SEC. 1165.**

**§ 1165. [Hunting, trapping, or fishing on Indian land] *Criminal trespass***

**[Whoever, without lawful authority]** (a) *HUNTING, TRAPPING, OR FISHING ON INDIAN LAND.*—Whoever, without lawful authority or permission, willfully and knowingly goes upon any land that belongs to any Indian or Indian tribe, band, or group and either are held by the United States in trust or are subject to a restriction against alienation imposed by the United States, or upon any lands of the United States that are reserved for Indian use (*referred to in this section as ‘tribal land’*), for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, shall be fined under this title or imprisoned not more than ninety days, or both, and all game, fish, and peltries in his possession shall be forfeited.

(b) *VIOLATION OF TRIBAL EXCLUSION ORDER.*—

(1) *DEFINITION OF EXCLUSION ORDER.*—In this subsection, the term ‘*exclusion order*’ means an order issued in a proceeding by a court of an Indian tribe that temporarily or permanently ex-

cludes a person from tribal land because of a conviction under the criminal laws of the tribal government—

(A) for a violent crime (as defined under applicable tribal law); or

(B) for the sale or distribution of controlled substances.

(2) VIOLATION DESCRIBED.—It shall be unlawful for any person to knowingly violate the terms of an exclusion order that was issued by a court of an Indian tribe in accordance with paragraph (4).

(3) PENALTY.—Any person who violates paragraph (2) shall be fined up to \$5,000 or imprisoned for up to 1 year, or both.

(4) REQUIREMENTS.—The violation described in paragraph (2) applies only to an exclusion order—

(A) for which—

(i) the respondent was served with, or had actual notice of, the underlying complaint; and

(ii) the underlying complaint included—

(I) a plain statement of facts that, if true, would provide the basis for the issuance of an exclusion order against the respondent;

(II) the date, time, and place for a hearing on the complaint; and

(III) a statement informing the respondent that if the respondent fails to appear at the hearing on the complaint, an order may issue, the violation of which may result in—

(aa) criminal prosecution under Federal law; and

(bb) the imposition of a fine or imprisonment, or both;

(B) for which a hearing on the underlying complaint sufficient to protect the right of the respondent to due process was held on the record, at which the respondent was provided an opportunity to be heard and present testimony of witnesses and other evidence as to why the order should not issue;

(C) that—

(i) temporarily or permanently excludes the respondent from tribal land under the jurisdiction of the applicable Indian tribe; and

(ii) includes a statement that a violation of the order may result in criminal prosecution under Federal law and the imposition of a fine or imprisonment, or both; and

(D) with which the respondent was served or of which the respondent had actual notice.”.

\* \* \* \* \*

**Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986**

\* \* \* \* \*

REAUTHORIZATION OF FUNDING TO COMBAT ILLEGAL NARCOTICS TRAFFICKING

SEC. 4216

(a) \* \* \*

(3) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this subsection \$2,000,000 for each of fiscal years [2011 through 2015] 2017 through 2021.

(b) \* \* \*

(2) For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated \$2,000,000 for each of fiscal years [2011 through 2015] 2017 through 2021.

\* \* \* \* \*

INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT

SEC. 4205

(a) IN GENERAL.—Not later than 1 year after July 29, 2010, the Secretary of the Interior, the Attorney General, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) \* \* \*

(2) IDENTIFY.—

(A) The resources and programs of the Bureau of Indian Affairs, Office of Justice Programs, Substance Abuse and Mental Health Services Administration, the Department of Agriculture, the Department of Housing and Urban Development, and Indian Health Service, and \* \* \*

(5) Delineate the responsibilities of the Bureau of Indian Affairs, Department of Justice, Substance Abuse and Mental Health Services Administration, the Department of Agriculture, the Department of Housing and Urban Development, and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels.

(6) \* \* \*

(7) Provide for an annual review of such agreements by the Secretary of the Interior, the Attorney General, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services.

\* \* \* \* \*

REAUTHORIZATION OF TRIBAL ACTION PLANS FUNDS

SEC. 4206

(a) \* \* \*

\* \* \* \* \*

(d) \* \* \*

(2) There are authorized to be appropriated for grants under this subsection not more than \$2,000,000 for the period of fiscal years **【2011 through 2015】** *2017 through 2021*.

\* \* \* \* \*

GRANTS FOR TRAINING, EDUCATION, AND PREVENTION PROGRAMS

SEC. 4206.

(f) \* \* \*

(3) There are authorized to be appropriated to carry out the provisions of this subsection \$5,000,000 for fiscal years **【2011 through 2015】** *2017 through 2021*.

\* \* \* \* \*

**Indian Law Enforcement Reform Act**

\* \* \* \* \*

OFFICE OF JUSTICE SERVICES SPENDING REPORT

SEC. 3

(a) \* \* \*

(c) \* \* \*

(16) \* \* \*

(C) a list of the unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies, the replacement and repair needs of tribal and Bureau corrections facilities, needs for tribal police and court facilities, *healthcare, behavioral health, and tele-health needs at tribal jails*, and public safety and emergency communications and technology needs; and

\* \* \* \* \*

TITLE II—IMPROVING JUSTICE FOR INDIAN YOUTH

\* \* \* \* \*

**Section 5032 of title 18, United States Code**

\* \* \* \* \*

FEDERAL JURISDICTION OVER INDIAN JUVENILES

SEC. 5032

A juvenile alleged to have committed an act of juvenile delinquency, other than a violation of law committed within the special maritime and territorial jurisdiction of the United States for which the maximum authorized term of imprisonment does not exceed six months, shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate district court of the United States that (1) the juvenile court or other appropriate court of a State or Indian tribe does not have jurisdiction or refuses to assume jurisdiction over said ju-

venile with respect to such alleged act of juvenile delinquency, (2) the State *or Indian tribe* does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3)), section 922(x) or section 924(b), (g), or (h) of this title, and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State *or Indian tribe*. For purposes of this section, the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States. *In this section, the term 'Indian tribe' has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).*

If an alleged juvenile delinquent is not surrendered to the authorities of a State *or Indian tribe* pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information or as authorized under section 3401(g) of this title, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State *or Indian tribal* authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel, *or of a representative of an Indian tribe of which the juvenile is a member*, to be proceeded against as an adult, except that, with respect to a juvenile fifteen years and older alleged to have committed an act after his fifteenth birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 922(x) of this title, or in section 924(b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice. In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), "thirteen" shall be substituted for "fifteen" and "thirteenth" shall be substituted for "fifteenth". Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe

has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However, a juvenile who is alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844(d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this paragraph or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.

\* \* \* \* \*

**Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986**

\* \* \* \* \*

SUMMER YOUTH PROGRAMS

**SEC. 4212**

(a) \* \* \*

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the programs under this subsection \$5,000,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*.

\* \* \* \* \*

EMERGENCY SHELTERS

**SEC. 4213**

(a) \* \* \*

(e) AUTHORIZATION.—

(1) For the planning and design, construction, and renovation of, or purchase or lease of land or facilities for, emergency shelters and half-way houses to provide emergency care for Indian youth, there are authorized to be appropriated \$10,000,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*.

(2) For the staffing and operation of emergency shelters and half-way houses, there are authorized to be appropriated \$5,000,000 for fiscal year 1993 and \$7,000,000 for each of fiscal years **[2011 through 2015]** *2017 through 2021*.

\* \* \* \* \*



**Juvenile Justice and Delinquency Act of 1974**

\* \* \* \* \*

JUSTICE FOR INDIAN YOUTH

**SEC. 102**

The purposes of this subchapter and subchapter II of this chapter are—

- (1) to support **[State and local]** *State, tribal, and local* programs that prevent juvenile involvement in delinquent behavior;
- (2) to assist **[State and local]** *State, tribal, and local* governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; **[and]**
- (3) to assist **[State and local]** *State, tribal, and local* governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of **[information on effective programs]** *information on effective and evidence-based programs and practices* for combating juvenile delinquency**【.】**; and
- (4) *to support a continuum of evidence-based or promising programs (including delinquency prevention, intervention, mental health and substance abuse treatment, family services, and services for children exposed to violence) that are trauma-informed, reflect the science of adolescent development, and designed to meet the needs of at-risk youth and youth who come into contact with the justice system.*

\* \* \* \* \*

CONCENTRATION OF FEDERAL EFFORTS

**SEC. 204**

- (a) \* \* \*
- (b) \* \* \*

- (6) provide for the auditing of monitoring systems required under **[section 5633(a)(15)]** *section 223(a)(14)* of this title to review the adequacy of such systems; and
- 【(7) not later than 1 year after November 2, 2002, issue model standards for providing mental health care to incarcerated juveniles.】** *(7)(A) not less frequently than biannually, consult with Indian tribes regarding—*
  - (i) *the implementation of this Act;*
  - (ii) *strengthening the government-to-government relationship between the Federal Government and Indian tribes;*
  - (iii) *improving juvenile delinquency programs, services, and activities affecting Indian youth and Indian tribes;*
  - (iv) *improving coordination among Federal departments and agencies to reduce juvenile offenses, delinquency, and recidivism;*
  - (v) *the means by which traditional or cultural tribal programs may serve or be developed as promising or evidence-based programs; and*
  - (vi) *any other matters relating to improving juvenile justice for Indian youth; and*

*(B) not later than 1 year after the date of enactment of this subparagraph, issue a tribal consultation policy for the Office of Juvenile Justice and Delinquency Prevention to govern the consultation to be conducted under subparagraph (A).*

\* \* \* \* \*

COORDINATING COUNCIL ON JUVENILE JUSTICE AND  
DELINQUENCY PREVENTION

**SEC. 206.**

(a) ESTABLISHMENT; MEMBERSHIP.—

(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention composed of the Attorney General, the Secretary of Health and Human Services, *the Director of the Indian Health Service*, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, the **Commissioner of Immigration and Naturalization** *Assistant Secretary for Immigration and Customs Enforcement*, *the Secretary of the Interior*, *the Assistant Secretary for Indian Affairs*, such other officers of Federal agencies who hold significant decision making authority as the President may designate, and individuals appointed under paragraph (2).

(2)(A) Ten members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the **United States** *Federal Government*. \* \* \*

(c) FUNCTIONS.—

(1) The function of the Council shall be to coordinate all Federal juvenile delinquency programs (in cooperation with State, *tribal*, and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles, and all Federal programs relating to missing and exploited children. The Council shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and shall make recommendations to the President, and to the Congress, at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities and all Federal programs and activities that detain or care for unaccompanied juveniles. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of paragraphs (12)(A), (13), and (14) of section 5633(a) of this title. The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency rep-

resented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.

(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) of this section shall collectively—

(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 5614(a)(1) of this title; and

(B) not later than 180 days after November 4, 1992, submit such recommendations to the Administrator, the Chairman of the Committee on Education and the Workforce of the House of Representatives, *the Chairperson and Vice Chairperson of the Committee on Indian Affairs of the Senate*, and the Chairman of the Committee on the Judiciary of the Senate.

\* \* \* \* \*

ANNUAL REPORT

SEC. 207.

Not later than 180 days after the end of **[a fiscal year]** *each fiscal year*, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged *and whether the offense occurred in Indian country (as defined in section 1151 of title 18, United States Code)*;

(B) the race **[and gender of the juveniles]**, *gender and ethnicity (as defined by the Bureau of the Census) of the juveniles, and, for any Indian juvenile, the tribal membership or affiliation of the Indian juvenile*;

(C) \* \* \*

(5) A description of—

(A) *the amount of funding provided to Indian tribes under this Act, or for a juvenile delinquency or prevention program under the Tribal Law and Order Act of 2010 (25 U.S.C. 2801 note; Public Law 111-211) or the amendments made by that Act, including direct Federal grants and funding provided to Indian tribes through a State or unit of local government; and*

*(B) recommendations of the Council for improving resource and service delivery to Indian tribal communities.*

\* \* \* \* \*

STATE PLANS

SEC. 223

(a) \* \* \*

(3) \* \* \*

(A) \* \* \*

(ii) \* \* \*

(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; **[and]**

(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence; and

*(IX) for States in which 1 or more Indian tribes are located, at least 1 Indian tribal representative with knowledge of services or issues relating to law enforcement, juvenile justice, behavioral health, youth, and social services in Indian tribal communities, as nominated by the applicable Indian tribes; \* \* \**

**[(4) provide for the active consultation with and participation of units of local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of units of local government, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;]**

*(4) subject to the condition that nothing in the plan requirements, or any regulations promulgated to carry out those requirements, shall prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group, provide for—*

*(A) active consultation with, and participation of, units of local government or combinations of those units in the development of a State plan that adequately takes into account the needs and requests of units of local government; and*

*(B)(i) notice to an Indian tribe in any case in which a juvenile member of that Indian tribe comes in contact with the juvenile justice system of the State or other unit of local government; and*

*(ii) intervention by, the provision of services by, or coordination with, such an Indian tribe for any Indian juvenile member of that Indian tribe in the juvenile justice system of the State or other unit of local government;*

(5) \* \* \*

(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (11), (12), and (13), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age[.]; \* \* \*

(7)(A) provide for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State (including any geographical area in which an Indian tribe [performs law enforcement functions] *has jurisdiction, or in Indian country (as defined in section 1151 of title 18, United States Code)*, a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State; and \* \* \*

(8) provide for the coordination and maximum utilization of [existing] *evidence-based and promising* juvenile delinquency programs, programs operated by *Indian tribes*, public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;

(9) \* \* \*

(G) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, *tribal*, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, *tribal*, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained; \* \* \*

(L) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of pro-

bation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

(ii) assist in the provision [by the provision] by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior; \* \* \*

(R) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system; [and]

(S) programs designed to provide mental health services for incarcerated juveniles suspected to be in need of such services, including assessment, development of individualized treatment plans, and discharge plans[.]; and

(T) tribal cultural or traditional programs designed to reduce delinquency among Indian youth; \* \* \*

(20) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, tribal, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, tribal, local, and other non-Federal funds;

(21) \* \* \*

(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State, tribal, and local needs, that it considers necessary; and

\* \* \* \* \*

AUTHORITY TO MAKE GRANTS

SEC. 241

(a) \* \* \*

(4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, tribal, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, tribal, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organiza-

tions and agencies) who are properly screened and trained;  
\* \* \*

(22) programs to establish partnerships [between State educational agencies and local educational agencies] among State educational agencies, local educational agencies, and Bureau funded schools (as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)) for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness; \* \* \*

(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; [and]

(25) tribal cultural or traditional programs designed to reduce delinquency among Indian youth; and

[(25)] (26) other activities that are likely to prevent juvenile delinquency.

\* \* \* \* \*

ELIGIBILITY OF ENTITIES

SEC. 245

(a) ELIGIBILITY.—Except as provided in subsection (b) of this section, to be eligible to receive a grant under section 5654 of this title, a unit of general purpose local government, an Indian tribe, or a tribal organization acting jointly with not fewer than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles, shall submit to the State an application that contains the following:

(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in one or more of paragraphs (1) through [(25)] (26) of section 5651(a) of this title as specified in, such application.

\* \* \* \* \*

RESEARCH AND EVALUATION; STATISTICAL ANALYSES;  
INFORMATION DISSEMINATION

SEC. 251.

(a) RESEARCH AND EVALUATION.—

(1) \* \* \*

(B) \* \* \*

(ix) evaluating services, treatment, and aftercare placement of juveniles who were under the care of [the State] a State or tribal child protection system before their placement in the juvenile justice system;

(x) determining—

(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in

【the State】 *States or Indian tribes* using, if appropriate, data submitted by 【the State】 *States or Indian tribes* pursuant to this subparagraph and subsection (b) of this section; and \* \* \*

(4) Not later than 1 year after November 2, 2002, the Administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of 【the State child】 *a State or tribal child* welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of 【the State】 *a State or Indian tribe*. Such study shall include

(D) barriers faced by 【State】 *States and Indian tribes* in providing services to these juveniles; \* \* \*

(e) \* \* \*

(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State, *tribal*, and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

\* \* \* \* \*

ADMINISTRATIVE AUTHORITY

SEC. 299

(a) \* \* \*

(d) RULES, REGULATIONS, AND PROCEDURES.—The Administrator is authorized, after appropriate consultation with representatives of States, *Indian tribes*, and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and only to the extent necessary to ensure that there is compliance with the specific requirements of this subchapter or to respond to requests for clarification and guidance relating to such compliance.

\* \* \* \* \*

**Incentive Grants for Local Delinquency Prevention Programs Act of 2002**

\* \* \* \* \*

GRANTS FOR DELINQUENCY PREVENTION PROGRAMS

SEC. 504

(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), or to federally recognized Indian 【tribe】 *tribes* or consortia of federally recognized Indian tribes under subsection (d), for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of— \* \* \*

(d) \* \* \*



(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$25,000,000 for each of fiscal years **【2011 through 2015】** *2017 through 2021*.

