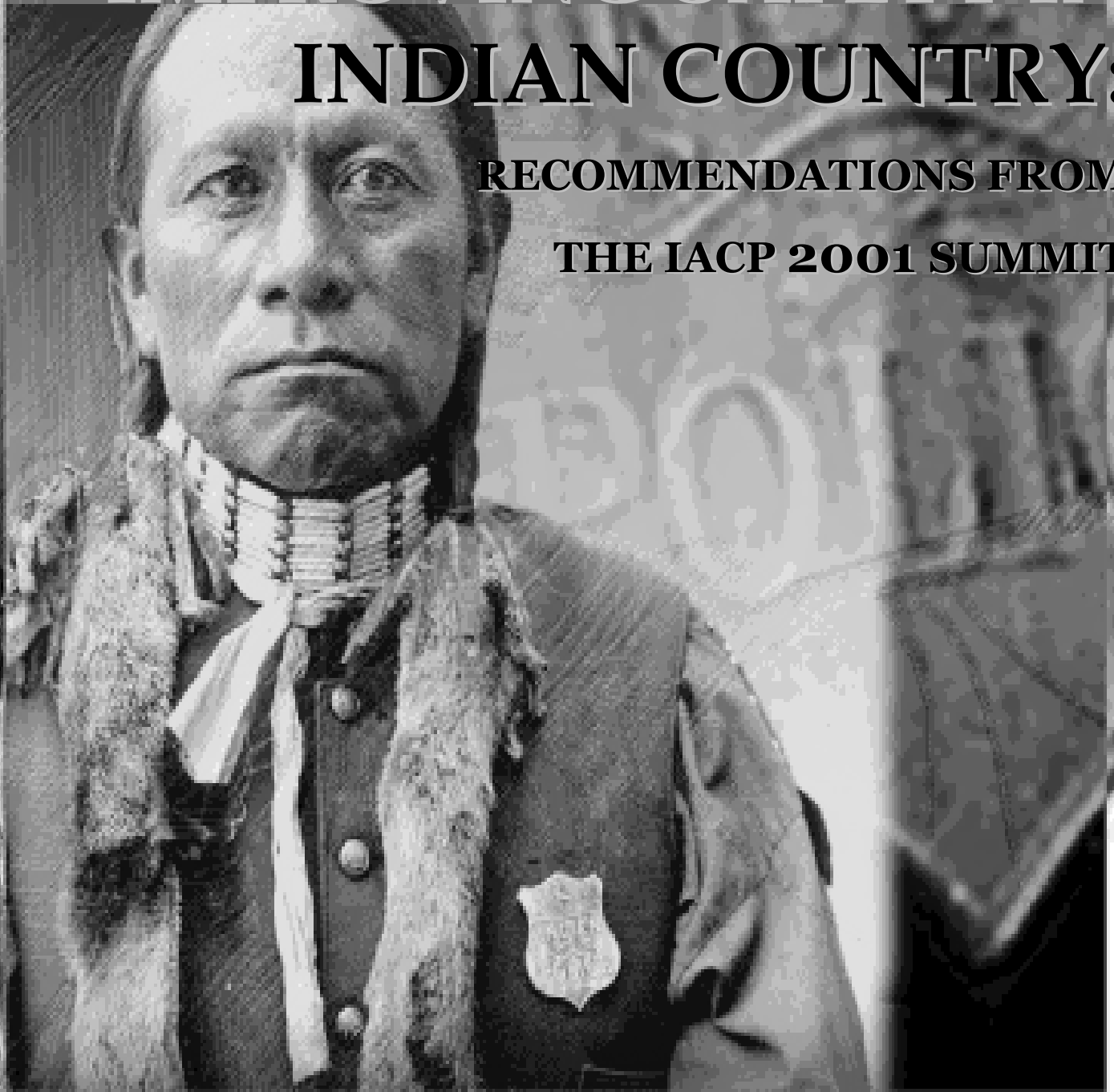


# IMPROVING SAFETY IN INDIAN COUNTRY:

RECOMMENDATIONS FROM  
THE IACP 2001 SUMMIT



OCTOBER, 2001



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Throughout the project, but particularly during the conceptualization and planning stages, the summit benefited from the collaboration and contributions of the Advisory Board, whose members are recognized individually in Appendix 2.

We are indebted most to the summit participants who worked so diligently and productively to fashion the recommendations that appear in this report. We hope that we have synthesized and conveyed their contributions faithfully and accurately. Each participant is also acknowledged in Appendix 1.

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## Executive Summary

Concerns about safety and justice are a defining characteristic of life in Indian country, and recent studies highlight the extent of the problem. Findings show, for example, that American Indians experience violent victimization at a rate that is twice the national average.

These problems stand in stark contrast to two important trends, one outside Indian country and one within. Outside Indian country, the 1990s were characterized by decreasing crime and victimization rates. Problems that have been effectively addressed across the rest of the US are not being addressed successfully in tribal communities. Inside Indian country, increased powers of self-governance gained over the last 30 years have brought many Indian tribes substantial economic success, spurred population growth and return migration, and resulted in innovative solutions to a variety of social concerns. At the outset of the 21<sup>st</sup> century, Indian tribes are, in many respects, stronger than they have been since contact and colonization. Crime and safety issues are a noteworthy exception to these positive trends.

It is both critical and timely for policymakers at all levels of government (tribal, federal, state and local) to respond to Indian country's crime and safety concerns. In responding, however, it is important to remember that the problems are multi-faceted, and that the responses must be multi-faceted as well. Improving safety in the day-to-day lives of the residents of Indian country is the responsibility of a broad range of justice institutions both within and outside of Indian country – not just law enforcement officials. Improving safety necessitates the involvement of social service and public health providers, tribal and non-Indian politicians, federal and state officials, youth workers and the residents of tribal communities, among others.

The International Association of Chiefs of Police (IACP) joined with tribal communities and their justice systems in addressing this challenge through the summit **Improving Safety in Indian Country**. Summit organizers embraced the complexity of the problem and its solutions by including the broadest possible range of participants. Using a well-tested format, participants were able, over two days, to produce a comprehensive agenda for improving safety in Indian country. The IACP's facilitation will help ensure that action follows.

The summit recommendations – drafted in breakout groups and then affirmed by all participants – address six issue areas in which change is necessary in order to improve safety in Indian country:

- Jurisdictional Issues in Indian Country
- Resources for Indian Country Law Enforcement, Justice and Program Agencies
- Training and Education for Indian Country Law Enforcement, Justice and Program Agencies

- Coordination and Cooperation among Indian Country Law Enforcement, Justice and Program Agencies
- Response to Victims of Crime in Indian Country
- Prevention Strategies to Reduce Crime

The recommendations are summarized below, and are discussed in more detail in Section IV.

### ***Recommendations on Jurisdictional Issues in Indian Country***

Law enforcement officers working in Indian country operate in a complex jurisdictional environment. All too often, limits on, or overlaps in jurisdictional authority prevent Indian country's justice system from protecting the safety of Indian country residents. Thus, summit participants focused on this objective:

*To identify jurisdictional authority issues that impede the ability of tribal law enforcement, justice and program agencies to provide safety in Indian country, and to recommend short and long term strategies to eliminate these problems, thereby increasing safety in Indian country.*

Summit recommendations are:

1. Policymakers should address the problems generated by *Oliphant v. Suquamish Indian Tribe*, preferably through legislative action that revisits case law.
2. Policymakers should address the problems generated by other limitations on tribal jurisdiction (for example, those contained in Public Law 280, the Indian Civil Rights Act, the Major Crimes Act and various Indian land claims settlement acts).
3. Tribal, federal, state and local law enforcement agencies should pursue cross-jurisdictional cooperation whenever and however it is possible.

Recommendations 4-6 are subsidiary and even more specific:

4. Tribal, federal, state and local agencies should convene regularly scheduled meetings to discuss problems, share information and focus on collaborative cross-jurisdictional solutions.
5. Tribes and states should recognize each other's properly trained officers wherever there is concurrent jurisdiction between a tribe and a state.
6. The federal government and the IACP should encourage tribal and local governments and agencies to develop plans for mutual cooperation.
7. All law enforcement officers working in Indian country should receive specialized training about Indian country.

8. Tribal, federal, state and local governments, as well as professional law enforcement organizations should work to inform the public about the expertise and authority of tribal law enforcement officers.
9. The U.S. Department of Justice and U.S. Department of the Interior should improve their cooperation and coordination between their respective Departments.

***Recommendations on Resources for Indian Country Law Enforcement, Justice and Program Agencies***

Recent studies suggest that tribal law enforcement, tribal detention facilities, tribal justice systems, tribal prosecutors, members of the defense bar and important justice-related health and social service providers all operate with limited resources compared to their non-Indian counterparts. Increased monetary resources – and the translation of these resources into manpower, training, facilities, equipment, program development, research and evaluation, and community outreach – are critical to improved safety in Indian country. Summit participants focused on this objective:

*To identify sources and shortfalls in resources to tribal justice systems and to develop resource acquisition strategies for these agencies that will improve safety in Indian country.*

Summit recommendations are:

10. The federal government should immediately and permanently increase the funding it provides for tribal justice systems and the federal agencies that complement their work.

Recommendations 11-16 extend the point:

11. The federal government should strengthen tribal justice systems by providing permanent formula funding to tribal governments for their justice agencies.
12. Congress should maintain and improve the Community Oriented Policing Services (COPS) Tribal Resources Grant Program.
13. Congress should legislate changes in programs so that more programs provide direct funding to tribal governments, (which honors the government-to-government relationship and limits the problems with pass through funding from states).
14. The federal government should increase the flow of existing resources to Indian country by improving information dissemination, consolidating funding and simplifying funding application processes.
15. Congress should require federal agencies to provide maximum flexibility to tribal governments in program administration.

16. The federal government should revisit the proposal to move the funding and oversight of Indian country law enforcement from the U.S. Department of the Interior's Bureau of Indian Affairs to the U.S. Department of Justice.
17. Tribal governments should position themselves to receive greater financial and institutional support from other governments.

Recommendations 18-23 provide further detail:

18. Tribal governments should develop strategic plans for their tribal law enforcement organizations (including mission statements and quantifiable goals and objectives), so that tribal law enforcement is better able to define critical issues and craft appropriate solutions.
19. Tribal governments should develop and utilize evaluation procedures to identify and fix poor programs and to justify support for good programs (those that meet community needs and *work*).
20. Tribal governments should establish and improve data collection systems, and use them to manage tribal justice resources.
21. Tribal governments should become more entrepreneurial in seeking funding for tribal justice systems.
22. Tribal governments should seek out and take advantage of technical assistance programs that facilitate and enhance grant writing.
23. Tribal governments should request that Congress and the U.S. Department of Justice maintain the Office of Tribal Justice.
24. To improve safety in Indian country, tribal governments and the other governments with which they work must collaborate to share resources and information.

Recommendations 25 and 26 extend this point:

25. To avoid overlapping and contradictory policymaking, the federal government should invest in and improve information sharing between federal agencies, and those agencies should document and disseminate information about their programs to tribal law enforcement and justice agencies.
26. To save time and money, all governments should share information about promising approaches to improving safety in Indian country.

### **Recommendations on Training and Education for Indian Country Law Enforcement, Justice and Program Agencies**

A majority of Indian country's public safety officers have received high quality baseline training. However, law enforcement personnel and the employees of collaborating agencies have continuing in-service training needs. As long as these training gaps exist, Indian country's justice personnel are less equipped to respond to their communities' most pressing crime and safety concerns. Summit participants addressed this objective:

*To develop a strategy to respond to the deficiencies in the quality and quantity of education and training available to tribal and non-tribal law enforcement, justice and program agencies, and to develop a set of education and training strategies that will improve safety in Indian country.*

Summit recommendations are:

27. A means must be found to provide easy access to information about the many training programs available to Indian country law enforcement and justice agency personnel.
28. All agencies and organizations involved in training Indian country law enforcement and criminal justice practitioners must help ensure that those who need the training have access to it.
29. Tribes, in partnership with other governments that hire Indian country law enforcement personnel, must adopt policies that help them recruit and train to retain.
30. Tribal law enforcement departments and related justice and program agencies should develop budget policies and procedures that both acknowledge the importance of training and make it easier to secure adequate funding for training.
31. Tribal law enforcement departments and related justice and program agencies should communicate the importance of training to tribal leaders, and tribal leaders should both support and participate in training efforts.
32. The federal government should increase its support for Indian country law enforcement training.

### **Recommendations on Coordination and Cooperation Among Indian Country Law Enforcement, Justice and Program Agencies**

By making the application of justice more consistent, coordination and cooperation improve the response of the justice system to a wide variety of safety concerns. For this reason, the summit participants focused on this objective:

*To identify areas where coordination and cooperation among tribal justice agencies among state, county, local and federal agencies which serve Indian*

*Country are lacking and to design collaborative strategies to increase safety in Indian country.*

Summit recommendations are:

33. The federal government and tribal governments should form additional multi-jurisdictional investigative units to work across tribal/state/federal jurisdictional boundaries.
34. Tribal governments, with the support of the IACP, should collaborate with the National Sheriffs Association (NSA) as a means of improving relations between county sheriffs and tribal chiefs of police.
35. The federal government and other non-Indian governments should recognize and support the work of traditional tribal service providers, such as traditional tribal sheriffs.
36. DOJ should host a tribal law enforcement and promising practices summit that focuses on collaboration and cooperation between governments and agencies serving Indian country.
37. Tribal governments and the federal government should support the development of comprehensive tribal justice systems.
38. Tribes, with the assistance of the IACP, should pursue tribe-to-tribe information sharing and department-to-department mentoring.

Recommendations 39 and 40 provide more detail on this point:

39. Tribal governments should seek to improve the technological capacity of their justice systems; ultimately working toward integrated systems for information sharing between tribes; the federal government and other sources of funding should support such efforts.
40. Tribal law enforcement departments should work to standardize their crime reporting systems; compatibility with federal crime reporting systems may be the preferred standard.

### ***Recommendations on the Response to Victims of Crime in Indian Country***

Providing services to victims of crime is a critical means of improving safety in Indian country, since many services help remove victims from harm's way and prevent re-victimization. The high rates of violent crime that typify tribal communities further justify investments in victim services. When individuals are victimized, there is a much higher probability that they will subsequently suffer a harsher form of victimization and, hence, require more extensive support in the wake of the crime. Based on these considerations, the summit participants focused on this objective:

*To identify the nature and extent of crime victimization in Indian country and the specific needs of those victimized, and to recommend strategies to help tribal law enforcement, justice and program agencies meet these needs effectively.*

Summit recommendations are:

41. The US Attorney's Office should enhance its relationships with tribes, work to better understand tribes' needs and be proactive in providing resources to help victims of crime.
42. Federal agencies (including the US Attorney's Office, BIA, FBI, etc.) should support data collection regarding gaps and delays in criminal justice proceedings, in an effort to better understand and remedy the effect of such gaps on victims of crime.
43. Congress should review federal sentencing guidelines to ensure that they reflect contemporary values and sentencing trends in Indian country.
44. The federal government should establish and strengthen follow-up victim assistance programs at all levels of government.
45. The federal government should provide funding for tribes to hire, equip and train first responders.
46. Law enforcement, justice and related program agencies at all levels of government (tribal, state, county, local and federal) should provide their employees with training on victim issues.
47. Tribal leaders should support the work of tribal victim service providers and afford them respect as part of the tribal justice system.
48. Tribes should be encouraged to meet together on a regular basis to coordinate their responses to victims and to share information.

### ***Recommendations on Prevention Strategies to Reduce Crime***

While much of the most visible work of law enforcement and justice providers in Indian country occurs in response to crime, less visible crime prevention efforts may be even more effective at combating and reducing crime in Indian country. This has been the finding in many non-Indian urban areas that once suffered from entrenched crime and violence. Given the great potential of strategic prevention efforts, summit participants addressed this objective:

*To identify types of crimes that are frequent in occurrence and to develop strategies for tribal law enforcement, justice and program agencies to prevent those crimes, and to educate and inform potential victims and to decrease the overall level of victimization in Indian country.*

Summit recommendations are:

49. The federal government and tribal governments should increase their support of prevention programs and create abundant opportunities for intervention in the cycle of crime and violence.
50. To combat racial intolerance and violence, state governments should develop curricula to educate policymakers, non-Indian law enforcement officials and citizens at large about accurate US history, Indian tribes' unique political and legal relationship with the US government and the basics of tribal government, including the Indian country justice system.
51. Tribal governments should determine which crime prevention programs have the greatest potential in their communities and commit to the development and expansion of these programs.
52. Indian families must re-engage in the process of crime prevention.

### ***Next Steps***

Beyond the development of policy recommendations, a set of long-term implementation goals was part of summit planning. IACP intends to work with its Indian Country Law Enforcement Section, the Office of Tribal Justice, the Office of Justice Programs and all other relevant U.S. Department of Justice agencies, as well as the Bureau of Indian Affairs, to implement summit recommendations. Work on this second phase of the summit will begin immediately upon the publication and dissemination of this report.

## I. Introduction

Two recent national studies (“American Indians and Crime,” February 1999 and “Violent Victimization and Race, 1993-98,” March 2001, both from the Bureau of Justice Statistics) reveal a disturbing picture of American Indian<sup>1</sup> involvement in crime as both victims and offenders. For example, estimates from the National Crime Victimization Survey indicate that between 1993 and 1998, American Indians sustained a rate of violent victimization about 2 times that experienced by blacks, 2½ times that sustained by whites and 4½ times that experienced by Asians.<sup>2</sup> Other statistics are equally startling:

- American Indians ages 16-24 suffer the highest violent victimization rate (207.5 victimizations per 1,000 American Indians in the age range).<sup>3</sup>
- Approximately 70 percent of the violent victimization experienced by American Indians is committed by persons not of the same race.<sup>4</sup>
- The 1997 arrest rate among American Indians for alcohol-related offenses was more than double that found among all races.<sup>5</sup>
- On a per capita basis, American Indians have had a rate of prison incarceration about 38 percent higher than the national rate<sup>6</sup>; the rate is double the rate for the white population in the US.<sup>7</sup>
- American Indians are more likely than members of any other population subgroup to sustain a serious injury during a violent incident.<sup>8</sup>

While these statistics encompass the problems experienced by all American Indians living in the United States, they also reflect similar levels of crime felt by individuals living in tribal communities. Concerns about safety are often a defining characteristic of their lives.

Indeed, the comparisons between Indian country and the rest of the US population at large direct our focus to another important fact: The data describing the high rates of crime and victimization typical of many tribal communities emerged when, in much of the rest of the US, crime and victimization rates were falling. Problems that are being effectively addressed outside Indian country – even very complex problems with crime and victimization – are not being effectively addressed in Indian country. In other words, the residents of tribal communities not only experience lower levels of safety than non-residents, but by comparison, they are growing even less safe.<sup>9</sup>

The rising crime and victimization rates stand in contrast to another trend in Indian country. During the last 30 years, which has been termed the “era of Indian self-determination,” Indian tribes have gained greater control over their institutions of governance, and in so doing, crafted more workable solutions to many of their economic and social problems.<sup>10</sup> Increased powers of self-governance have brought some Indian tribes economic success with natural resource-based industries, tourism, gaming, small enterprise development and even Wall Street-style “big business.”<sup>11</sup> Based on early returns from the 2000 US Census, American Indians will have marked a third decade of

substantial population growth.<sup>12</sup> At the outset of the 21<sup>st</sup> century, Indian tribes are, in many respects, stronger than they have been since contact and colonization. Crime and safety issues in Indian country are a noteworthy exception to these other positive trends.

It is both critical and timely for policymakers to focus on law enforcement, crime and safety in Indian country, to assess current responses and craft more effective solutions. In conducting this assessment, however, it is important for policymakers to remember that the problems are multi-faceted, and that appropriate responses may also be multi-faceted. Improving safety in the day-to-day lives of the residents of Indian country is the responsibility of a broad range of justice institutions both within and outside of Indian country – not just law enforcement officials. Improving safety necessitates the involvement of social service and public health providers, tribal and non-Indian politicians, federal and state officials, youth workers and Indian country residents, among others. Yet the goals of this broad range of parties can be reduced to just two things: 1) increasing the capacity of Indian country public safety providers to *protect* residents and, 2) increasing the ability of Indian country law enforcement officers and residents to *prevent* crime and violence.

The International Association of Chiefs of Police (IACP) joined with tribal communities and their justice systems in addressing these issues through the summit ***Improving Safety in Indian Country***. Summit organizers embraced the complexity of the problem and its solutions by including the broadest possible range of participants. And, through the commitment and knowledge of summit planners, advisors and participants, the recommendations that emerged from the summit were squarely focused on the dual challenges of protection and prevention. After briefly reviewing the IACP summit process and providing some background on Indian country justice systems, this document moves immediately to a detailed discussion of these recommendations. They are the core product of the summit and are intended as a challenge and a guide for all future policymaking concerning safety in Indian country.

## II. Summit Background and Purpose

Since 1994, the IACP has held annual summits on critical issues facing law enforcement agencies and the communities they serve. Each has brought together law enforcement and community leaders, justice system decision-makers, scholars and others with diverse expertise to share information, deliberate on issues, and craft recommendations and action plans. Summit themes over the years have included: "Violence in the United States," "Murder in America," "Youth Violence in America," "Family Violence in America: Breaking the Cycle for Children Who Witness," "Hate Crime In America," "What Do Victims Want?" "Juvenile Crime and Victimization," and "Child Protection."

At the urging of the IACP Indian Country Law Enforcement Section, and with a recognition that the complex issues surrounding crime and safety in Indian country have a profound effect not only on American Indians but also on the many non-Indian communities that are geographically, economically and politically intertwined with Indian country, the IACP-sponsored summit steering committee chose "Improving Safety in Indian Country" as a summit topic for 2001.

### ***Summit Planning and Design***

In collaboration with the Office of Justice Programs, in particular, the Director the American Indian and Alaska Native Affairs Office (Indian Desk), Norena Henry; the Office of Tribal Justice and the Chair of the IACP Indian Country Law Enforcement Section; IACP staff identified 35 experts to serve as advisors for summit planning. The summit framework emerged from advisors' debate, deliberation and consensus. Among their many statements and conclusions, two defined the nature of the summit:

- Indian country has markedly different cultural characteristics than mainstream America, and these differences must be respected in the conduct of the summit, in the breakout group objectives, and the communication of summit results.

In adherence with this advice, summit organizers departed from their usual opening sequence and invited an elder from Taos Pueblo to conduct the opening ceremony. Similarly, summit organizers relied on Native people to moderate and facilitate sessions, to help keep the style and content of the discussions as culturally appropriate as possible.

- The issues that surround crime and safety in Indian country are complex and reach beyond traditional law enforcement, and thus, the summit design should include a broad range of representatives.

To support this decision, the summit advisors worked with summit organizers to identify the appropriate types of participants. They also advocated that a diverse panel of experts make a presentation early on in

the summit, to help set the scene. Finally, their vision contributed to the wording of the summit objective, which appears immediately below.

### **Summit Objective**

This objective was recommended by the summit advisors and agreed upon by IACP's leadership:

*To create strategies and recommendations to address critical Indian country law enforcement and justice issues, with a guiding focus on improving safety in Indian country.*

### **Summit Proceedings**

The summit approach – designed, tested and applied to all IACP summits since 1995 – created a forum for candid information exchange among participants and provided an opportunity to synthesize differing viewpoints about the ways to improve safety in Indian country. After the opening, introductory remarks and a panel presentation on the breadth of issues, participants separated into six breakout groups, consistent with the necessary action and policymaking areas identified by the summit's advisors. The groups reconvened the next morning to summarize their discussions and present recommendations to the assembly. Following each presentation, summit participants were offered the opportunity to comment on, critique and refine the recommended actions. This participatory approach generated a set of consensus recommendations from leading Indian and non-Indian practitioners, policymakers, researchers and scholars on how best to improve safety in Indian country.

### III. The Indian Country Justice System

#### **General Background**

The United States has a unique legal relationship with Indian tribes.<sup>13</sup> By virtue of their status as sovereigns that pre-exist the federal Union,<sup>14</sup> Indian tribes continue to possess “attributes of sovereignty over both their members and their territory”<sup>15</sup> that have never been ceded by treaty or extinguished by statute. Tribes exercise their powers of self-government by operating governmental programs, including law enforcement agencies, judicial systems, health and educational programs, and other services. For its part, the United States owes trust responsibilities to Indian tribes, a “relationship [that] has been described as ‘one of the primary cornerstones of Indian law.’”<sup>16</sup> To carry out its treaty and trust responsibilities, the federal government operates a host of programs to benefit Indian tribes and their members. While most of those programs are operated by the Bureau of Indian Affairs (BIA), within the U.S. Department of the Interior, and the Indian Health Service, within the Department of Health and Human Services, many others are dispersed among other federal agencies, including the U.S. Department of Justice. Since the Nixon Administration, the federal government has engaged in a “policy of encouraging self-government,”<sup>17</sup> which includes an increasing practice of devolving to the tribes’ control over federal programs operated for their benefit.<sup>18</sup> The relationship between tribes and the federal government is a direct government-to-government one, under which “tribal sovereignty is dependent on, and subordinate to, only the federal government, not the states.”<sup>19</sup>

#### **Tribal Communities’ Law Enforcement and Justice Systems**

In most of Indian country, federal law provides for shared federal-tribal-state authority to combat crime and promote public safety. Indian country consists of “all land within the limits of any Indian reservation;”<sup>20</sup> “all dependent Indian communities;”<sup>21</sup> and “all Indian allotments, the Indian titles to which have not been extinguished.”<sup>22</sup> The federal government has exclusive jurisdiction to prosecute crimes by non-Indians against Indians in Indian country.<sup>23</sup> The federal government also has jurisdiction to prosecute the offenses listed in the Major Crimes Act when Indians commit them.<sup>24</sup> Tribes retain concurrent jurisdiction to punish these offenses,<sup>25</sup> but tribal authority to sentence offenders is limited to 1 year or less of imprisonment and/or a \$5,000 fine, regardless of the seriousness of the offense.<sup>26</sup> Tribes have exclusive jurisdiction to prosecute crimes by Indians against other Indians that are not listed in the Major Crimes Act.<sup>27</sup> The federal government and tribes also share jurisdiction to prosecute crimes by Indians against non-Indians, although the federal government may not punish any offender whom the tribe has punished.<sup>28</sup> States, meanwhile, have exclusive jurisdiction to prosecute most offenses by non-Indians against other non-Indians that occur in Indian country and non-Indian “victimless” crimes.<sup>29</sup>

The BIA Office of Law Enforcement Services provides primary law enforcement services and support in much of Indian country. It funds and staffs patrol, dispatch, detention and criminal investigation functions on most reservations, either directly or through contracts under Public Law 93-638. However, because federal laws vest the

U.S. Department of Justice (DOJ) with jurisdiction over most felonies that occur in Indian country, DOJ also has a strong presence in Indian country law enforcement – particularly through the involvement of the Federal Bureau of Investigations (FBI) and United States Attorney’s Offices.<sup>30</sup> These agencies are responsible for investigating and prosecuting the crimes over which the federal government has jurisdiction, although they increasingly share the responsibilities with BIA and tribal criminal investigators. Tribal law enforcement agencies are also responsible for investigating and prosecuting most misdemeanors that occur in Indian country. Tribal law enforcement agencies are often first responders to crimes on tribal land and provide necessary assistance to federal investigators for crimes committed within Indian country.

A host of federal agencies (including agencies of the U.S. Departments of the Interior, Justice, Housing and Urban Development, and Health and Human Services), tribal agencies and nonprofit organizations provide other justice and related program services to support Indian country law enforcement. They include such services as alcohol and drug treatment and detoxification, batterer reeducation programs, women’s shelters, children’s protective services and neighborhood watch groups, and are part of the broad focus of this report, as noted in references to “law enforcement, justice and program agencies.”

## IV. Summit Recommendations

During the two-day summit, participants produced a comprehensive agenda for improving safety in Indian country. Following the structure of the breakout groups, the agenda addressed the multi-faceted and complex problems of safety in Indian country by developing recommendations to affect policy and change practice on many fronts. The policy breakout group topics were:

- Jurisdictional issues in Indian country
- Resources for Indian country law enforcement, justice and program agencies
- Training and education for Indian country law enforcement, justice and program agencies
- Coordination and cooperation among Indian country law enforcement, justice and program agencies
- Response to victims of crime in Indian country
- Prevention strategies to reduce crime

The recommendations that emerged from the breakout groups and which were subsequently affirmed by summit participants are detailed in the remainder of this section.

### ***Jurisdictional Issues in Indian Country***

Law enforcement officers working in Indian country operate in a complex jurisdictional environment. Jurisdiction depends on a number of factors including:

- Where the crime was committed (inside or outside Indian country<sup>31</sup>);
- Who committed the crime (Indian or non-Indian);
- Who the victim is (Indian or non-Indian); and,
- What crime was committed (felony, misdemeanor, and victimless crime).

Whenever tribal law enforcement officers are forced to make on-the-spot determinations as to whether a suspect is Indian or non-Indian and whether the victim is Indian or non-Indian, public safety in Indian country is severely compromised. For example, if a non-Indian offender commits a simple assault on an Indian, a tribal law enforcement officer has limited authority to make an arrest. In such a scenario, neither the tribe, nor the state, but rather the federal government has jurisdiction over the crime. Generally; however, the federal government will handle only major crimes, not misdemeanors. Consequently, there is a jurisdictional void, one that leaves victims of crime unprotected and perpetrators undeterred. Given the jurisdictional morass that currently describes Indian country, it is not uncommon for non-Indian offenders to commit crimes in Indian country knowing that there will be little, if any, retribution for their crimes.

Jurisdictional considerations also prevent other components of the criminal justice system from protecting the safety of Indian country residents. They can limit the remedies that are available under tribal law, create situations in which individuals who have violated state or federal law are allowed to remain in the community without being prosecuted, and undermine the authority of tribal criminal justice systems by allowing defendants to seek rulings in state and federal systems. Such limits on tribal jurisdiction can prevent Indian country authorities from protecting citizens (both Indian and non-Indian alike) and significantly diminish any deterrent effect the criminal justice system might have on potential lawbreakers.

Due to the importance of jurisdictional authority to safety in Indian country, summit participants focused on this objective:

*To identify jurisdictional authority issues that impede the ability of tribal law enforcement, justice and program agencies to provide safety in Indian country, and to recommend short and long term strategies to eliminate these problems, thereby increasing safety in Indian country.*

Summit recommendations are:

**1. Policymakers should address the problems generated by *Oliphant v. Suquamish Indian Tribe*, preferably through legislative action that revisits the case law.**

In this 1978 decision,<sup>32</sup> the United States Supreme Court held that American Indian tribes, and thus tribal justice systems, do not have criminal jurisdiction to prosecute non-Indians for crimes occurring in Indian country. When the victim is an Indian, states generally also lack jurisdiction. Thus, the ruling limits the effectiveness of Indian country law enforcement and reduces safety in Indian country by essentially creating law enforcement-free zones for non-Indian offenders. Past history has demonstrated that non-Indian offenders have often committed misdemeanor crimes without apprehension by the appropriate law enforcement officers. The result is cultivated scorn for tribal authority and continued abuse of victims.

More recently in *Nevada v. Hicks*, the United States Supreme Court decided that tribal courts did not have jurisdiction to adjudicate a state official's tortious conduct in executing a search warrant on tribal land for an off-reservation crime.<sup>33</sup>

The summit participants' core recommendation is that, because of the case's sweeping effects, Congress must revisit *Oliphant* as soon as possible. As noted in the introduction to this report, American Indians suffer rates of violent victimization and victimization with injury at rates at least twice as high as the rate for any other ethnic subgroup of the US population.<sup>34</sup> Any less than an expedited legislative solution to the problems caused by *Oliphant* allows for further victim trauma, including physical and mental injury and loss of life.

Recognizing that legislative action requires additional quantitative data to demonstrate the decision's negative effects, summit participants recommend that researchers and

Indian country law enforcement officials compile specific information about the policy's impact. This course of action could strengthen the case for congressional action, and publication of findings may create the opportunity for a legislative solution.

Notably, the time may be ripe for action. Recommendations emerging from tribal Violence Against Women Office programs specify the need for tribal authority over non-Indian offenders – based on the observation that women should not have to leave their home communities in order to secure safety for themselves and for their children. While ultimately unsuccessful, the Salt River Pima-Maricopa Indian Community took a request for exactly such tribal authority directly to Congress.

Participants in the IACP Summit ***Improving Safety in Indian Country*** add their recommendation for immediate action to these efforts. Indeed, *Oliphant's* sweeping impact is the reason the summit report leads with a recommendation to change the case law, and the remainder should be read with *Oliphant* in mind. For example, if the *Oliphant* decision were to be overturned, it is expected that respect for tribal authority would rise; demands on multi-governmental victim services providers would shrink; Indian country law enforcement and justice resources could be more directly targeted at safety improvements and crime prevention; officers' in-service training would be greatly simplified; and memoranda of agreement and understanding between tribal, local and state law enforcement agencies would be less necessary and more targeted. If the *Oliphant* decision were reversed, Indian sovereignty over tribal lands would be affirmed and tribes' ability to protect the safety of their citizens (both Indian and non-Indian alike) would greatly improve.

## **2. Policymakers should address the problems generated by other limitations on tribal jurisdiction.**

A variety of other case and statutory laws (including the Major Crimes Act, Public Law 280, the Indian Civil Rights Act, and various Indian land claims settlement acts) limit the jurisdiction of tribal law enforcement and tribal justice systems. These limits may not be as troubling for Indian tribes that currently lack the capacity (for example, court and prosecution resources, jail space) to exercise full jurisdictional authority over all people on tribal lands. But other tribes have, or could readily develop such capacity. Summit participants recommend that legislation be developed that allows Indian tribes to make a sovereign choice about the extent of their jurisdictional authority on tribal lands. In particular, tribes should be allowed to "opt in" or "opt out" of providing jurisdiction over all people on tribal land. The requirement that non-Indians prosecuted in tribal court must first exercise all tribal appeals before taking advantage of a writ of *habeas corpus* should be a part of the legislation as well.

## **3. Tribal, federal, state and local law enforcement agencies should pursue cross-jurisdictional cooperation whenever and however it is possible.**

Not only tribal law enforcement officers, but also federal, state and local officers are impeded by jurisdictional limitations on their enforcement powers (over civil versus criminal law, misdemeanor versus felony violations, Indian versus non-Indian offenders, and on Indian versus non-Indian land). Recognizing these difficulties, summit

participants recommend that tribal, federal, state and local law enforcement agencies pursue increased cooperation. Specifically:

**4. Tribal, federal, state and local agencies should convene regularly scheduled meetings to discuss problems, share information and focus on collaborative cross-jurisdictional solutions.**

In addition to law enforcement, these meetings should include tribal prosecutors, US Attorneys, states attorneys, representatives of state Attorney General's Offices, and other appropriate tribal and state authorities.

**5. Tribes and states should recognize each other's properly trained officers wherever there is concurrent jurisdiction between a tribe and a state.**

Joint recognition is most commonly practiced through cross-deputization under state laws and tribal laws. The goal is to make law enforcement more seamless, but in a way that is mutually agreed upon by all parties. The summit participants acknowledge that joint recognition will be easiest when each recognizing party (the state, the tribe) is comfortable with the training the other's officers have received. Thus, they also recommend that law enforcement officers working in Indian country pursue and receive certified training. States and tribes should recognize both state-certified training and training received at the BIA Law Enforcement Training Academy (Artesia, New Mexico) as meeting the appropriate standards.

**6. The federal government and the IACP should encourage tribal and local governments and agencies to develop plans for mutual cooperation.**

The Santee Sioux Tribe's arrangement with the Flandreau, South Dakota police department is an instructive example of local mutual cooperation. In this instance, the tribe and the adjacent non-Indian jurisdiction practice a version of metropolitan policing, with the tribal chief of police supervising the combined department.<sup>35</sup> Counties and tribes in Wisconsin also have developed formal means of cooperation for law enforcement and child protection in response to PL 280.<sup>36</sup> More generally, the IACP's model Memorandum of Understanding could serve as a template for engaging in mutual aid and limiting the liability of doing so. The organization could amend this document with language specific to Indian country.

**7. All law enforcement officers working in Indian country should receive specialized training about Indian country.**

In order to function the best in the midst of great jurisdictional complexity, not only tribal officers but all law enforcement officers working in Indian country (city police, county sheriffs, state police, FBI agents, US marshals, DEA officers, Border Patrol agents, etc.) must learn about the federal, state and tribal laws and ordinances that govern Indian

country law enforcement. To whatever extent possible, non-tribal officials must also understand the standards and expectations of the particular Indian tribes that they will jointly police with tribal officers. The summit participants recommend that the IACP develop model curricula on law enforcement in Indian country (which would emphasize tribal authority and sovereignty as well as cultural differences), make the curricula available to all training academies upon request and urge its adoption.

**8. Tribal, federal, state and local governments, as well as professional law enforcement organizations should work to inform the public about the expertise, training and authority of tribal law enforcement officers.**

The participants recognize that educating the public about the jurisdictional framework in Indian country poses a difficult challenge. Those U.S. citizens who are not also tribal citizens often lack information about the expertise and authority of tribal police officers and, as a result, may disobey or disregard them. The participants point out the responsibility that all governments and agencies have in filling this educational gap, and recommend that the IACP and tribal departments themselves bring their public information machinery to bear. For example, the IACP, working closely with the leadership of its Indian Country Law Enforcement Section, could issue press releases about the expertise, training and authority of tribal law enforcement officers and publish articles in *Police Chief* magazine about law enforcement in Indian country.

**9. The U.S. Department of Justice and U.S. Department of the Interior should improve their cooperation and coordination between their respective organizations.**

The jurisdictional issues discussed thus far are not the only jurisdictional problems that affect law enforcement and safety in Indian country. The two federal agencies involved in Indian country law enforcement, the U.S. Department of the Interior (and its Bureau of Indian Affairs) and the U.S. Department of Justice, have long struggled to coordinate their respective responsibilities. To the extent that inter-governmental cooperation is a solution to the on-the-ground jurisdictional problems faced by Indian country law enforcement officers, the summit participants recommend that, as long as both DOI and DOJ remain involved in Indian country law enforcement, improved cooperation and coordination also be seen as a solution to the jurisdictional challenges experienced by the two departments.

***Resources for Indian Country Law Enforcement, Justice and Program Agencies***

Recent studies suggest that Indian country law enforcement officers operate with only 55-80 percent of the resources available to their counterparts who work outside of Indian country.<sup>37</sup> These estimates are based on comparisons of the number of officers per capita, law enforcement dollars per capita and law enforcement dollars per officer in communities with a similar population size and geography. Comparisons to communities with similar crime rates might be more appropriate – and cast the resources available to law enforcement in Indian country in an even less favorable light. Jails and other detention facilities on tribal lands, tribal justice systems, tribal prosecutors, members of the defense bar, and important justice-related health and

social service providers (such as the providers of drug and alcohol detoxification services) also operate with limited resources by comparison to their non-Indian counterparts. Indeed, the improvement of tribal justice systems was one of the most prominent and detrimental “unfunded mandates” of the 1990s.<sup>38</sup>

Certainly law enforcement, justice and related program agencies in Indian country have provided remarkable services despite these shortages, but it is also clear that limited resources prevent these agencies from providing similar levels of protection and a similar degree of participation in community life as is typical outside of Indian country. In other words, resource limitations place direct constraints on the ability of law enforcement and justice agencies to protect the safety of Indian country residents and to prevent crime and victimization. Increased monetary resources – and the translation of these resources into manpower, training, facilities, equipment, program development, research and evaluation, and community outreach – are critical to improved safety in Indian country.

Given these considerations about the importance of appropriate resources for law enforcement, justice and related programs to safety in Indian country, summit participants focused on this objective:

*To identify sources and shortfalls in resources to tribal justice systems and to develop resource acquisition strategies for these agencies that will improve safety in Indian country.*

Summit recommendations are:

**10. The federal government should immediately and permanently increase the funding it provides for tribal justice systems and the federal agencies that complement their work.**

The participants’ core concern is that more resources are needed to improve and expand the services offered by law enforcement and related justice and program agencies in Indian country. They suggest that funding increases be targeted at tribal and federal justice system staffing levels (law enforcement, judges, prosecutors, detention officers, public defenders, drug treatment counselors, etc.) in particular. Money is needed to improve these workers’ pay and training, provide technical assistance, and create effective recruitment and retention programs.

Participants advocate that a variety of means be used to accomplish these goals, including the development of new programs, expansion of existing programs, and more effective channeling of current funds to Indian country agencies and programs. They specifically recommend that:

**11. The federal government should strengthen tribal justice systems by providing permanent formula funding to tribal governments for their justice agencies.**

Historically, the federal government did not support the development of Indian tribes’ justice systems, since tribal governments were essentially

viewed as mechanisms for reservation economic development and social service provisions. Later, this underdevelopment severely limited the funding options available for tribal justice systems. The American Indian Self Determination and Education Assistance Act (Public Law 93-638) allows tribal governments to contract functions and services once administered by the federal government, and contracting provides these programs with relatively permanent funding streams. If, however, the federal government ran few or no programs in a particular issue area (as in the case of tribal justice programs), few or no funds are available for tribes to develop programs of their own. To remedy this situation, it is necessary for the federal government to recognize the necessity of effective tribal law enforcement and justice agencies and to provide permanent funding for these functions.

**12. Congress should maintain and improve the Office of Community Oriented Policing Services Tribal Resources Grant Program.**

Grants provided by the Office of Community Oriented Policing Services (COPS) in the U.S. Department of Justice have had a dramatic and positive effect on many law enforcement departments in Indian country.<sup>39</sup> The grants have allowed tribal governments to increase the size of their departments and allowed departmental administrators to use officers more strategically. Yet, the grant program has significant problems. Since grants cannot be made directly to the BIA, tribal agencies whose law enforcement services are provided exclusively by the BIA must apply through their tribal governments – an administrative complication that can lead to more serious difficulties in line authority. More debilitating, however, is the statute's retention (sunset) clause and lack of specific phase-out provisions. While perhaps reasonable for localities with firmer funding bases for government services and a longer history of self-policing, the clause severely tests the already limited resources of Indian law enforcement departments. Most tribal governments lack the funds to take over COPS officers' salaries, as stipulated in the retention clause. This leaves the impression that federal dollars are exiting just as Indian country is beginning to address its crime concerns. Instead of eliminating a program that has been a success in Indian country, the summit participants recommend that the COPS Tribal Resources Grants Program be maintained and improved significantly and coordinate with OJP tribal programs.

**13. Congress should legislate changes in programs so that more programs provide direct funding to tribal governments.**

Because tribal governments have a government-to-government relationship with the United States, (which should be recognized in program administration) and because state pass through programs are not working optimally (too often, tribes receive an inequitable share of these funds), summit participants recommend that more federal programs

provide direct funding to tribal governments. While no tribes currently participate in the program, the Local Law Enforcement Block Grant does allow direct support of tribes and is a good model for other grant making program areas.

**14. The federal government should increase the flow of existing resources to Indian country by improving information dissemination, consolidating funding and simplifying funding application processes.**

Tribes are already eligible to receive direct funding for a number of federal programs (offered by DOJ and other departments) that would improve safety in Indian country. Unfortunately, limited information dissemination means that few tribal governments understand the full range of options available to them. When they do, the lack of coordination between sources of funding and limited consolidation of funding programs is a further impediment to the acquisition of funds. While the federal government sometimes creates “packages” of grant opportunities, it has still been necessary to apply separately for each program. This keeps the paperwork burden high and, worse, deters tribal governments from developing law enforcement strategies that are directly tailored for their communities’ needs. Without the latter, tribal justice programs tend to be mere patchworks of program opportunities. To address these problems, the federal government should pursue truly coordinated and consolidated funding for law enforcement and safety improvements in Indian country, actively disseminate information about available funds, encourage tribes to develop law enforcement strategies, help train tribal grant writers to think in a strategic framework (stressing tribal needs rather than opportunistic grant writing) and simplify the grant application process.

**15. Congress should require federal agencies to provide maximum flexibility to tribal governments in program administration.**

Tribal governments will be best able to meet their communities’ needs if program development and administration is not overly constrained by federal guidelines. Thus, funding agencies (such as the COPS Office and the Office of Justice Programs) should allow tribal governments to have a high degree of flexibility in administering programs. This is not a recommendation to abandon accountability procedures, but to address the unique needs of Indian country residents and tribal governments.

**16. The federal government should revisit the proposal to move the funding and oversight of Indian country law enforcement from the U.S. Department of the Interior’s Bureau of Indian Affairs to the U.S. Department of Justice.**

Increasingly, the various branches of the federal government recognize that they, and not only the Bureau of Indian Affairs, are responsible to provide services to Indian country. As part of this movement,

consideration was made in the late 1990s to move the entire responsibility for Indian country law enforcement funding and oversight from DOI/BIA to DOJ. At that time, the proposal was rejected, although adjustments were made in the oversight of law enforcement within BIA. Today, ongoing carve outs of BIA funding, decreasing political support of Indian-only initiatives and the increasing involvement of DOJ in Indian country law enforcement and justice program development may indicate that the time has come to revisit this proposal.

**17. Tribal governments should position themselves to receive greater financial and institutional support from other governments.**

Proactive tribal governments do everything they can to promote the development of appropriate and effective justice systems. Their leaders understand that there are specific actions *they* can take to garner greater financial and institutional support from other governments for Indian country law enforcement and safety improvements. Recommendations 18-20 provide more detailed strategies to accomplish this.

**18. Tribal governments should develop strategic plans for their tribal law enforcement organizations (including mission statements and quantifiable goals and objectives), so that tribal law enforcement is better able to define critical issues and craft appropriate solutions.**

**19. Tribal governments should develop and utilize evaluation procedures to identify and fix poor programs and to justify support for good programs (those that meet community needs and *work*).**

**20. Tribal governments should establish and improve data collection systems and use them to manage tribal justice resources.**

Recommendations 18-20 acknowledge that it is difficult to raise ongoing financial support for programs that lack direction, have limited prospects for success or are entirely unproven. Strategic planning and evaluation based on those plans help tribes and tribal agencies target areas for fundraising in a deliberate (as opposed to crisis-driven) manner. They promote decision-making based on a program's real prospects and, later, track record. These actions are not only attractive to sources of funding (and hence improve the resources available for improving safety in Indian country), but they also place tribes in a leadership role when it comes to program development. Given the importance of evaluation and quantification, better data collection capacities – for everything from crime trends and officer response times to placements in substance abuse treatment facilities and collaborations between tribal law enforcement and social service providers – are critical.

**21. Tribal governments should become more entrepreneurial in seeking funding for tribal justice systems.**

**22. Tribal governments should seek out and take advantage of technical assistance programs that facilitate and enhance grant writing.**

Recommendations 21 and 22 are essentially counterparts to recommendation 14, which calls upon the federal government to improve information dissemination and the grant application process. Tribes also have a responsibility to find out about programs from which their justice systems could benefit, and they must take steps to ensure that their applications are not dismissed on account of avoidable errors. Notably, both the federal government and a number of non-governmental organizations offer technical assistance in grant writing. It is essential that tribes seek out and take advantage of these opportunities. For example, the IACP's "Services and Support to Smaller Law Enforcement Agencies" program offers training, best practices and informational bulletins on grant writing.

**23. Tribal governments should request that Congress and the U.S. Department of Justice maintain the Office of Tribal Justice.**

The Office of Tribal Justice (OTJ) serves a variety of functions that are beneficial to tribal justice programs. It facilitates coordination between DOJ components working on Indian country issues and helps DOJ fulfill its broad and complex responsibilities to Indian tribes. It provides an important point of contact and channel of communication between tribal governments and DOJ. And, because Indian country issues cut across so many entities within the Executive branch, OTJ serves to increase awareness of tribal needs and concerns, and unify the federal response. Unfortunately, OTJ is vulnerable to budget cuts and national politics. In order to keep Indian country justice and safety issues as federal priorities, tribal governments should urge that OTJ be kept in place.

**24. To improve safety in Indian country, tribal governments and other governments with which they work must collaborate to share resources and information.**

Through sharing, it is possible for all tribal governments and other governments to maximize their effectiveness. While it is sometimes difficult to imagine sharing resources directly (even among the agencies of a single government, let alone between governments), there are a number of untried possibilities with great potential, and many ways in which resource sharing already occurs that deserve to be practiced more broadly. For example, community prosecution emphasizes resource and information sharing between law enforcement and probation officers and has met with great success in urban America, but is relatively untried in Indian country. Where there is cross-deputization, tribal, municipal, county and state officers share the responsibility of

responding to tribal, municipal, county and state dispatchers. Because of this coordination, which is essentially a means of sharing staff and equipment, response times often decrease and officers waste less time arranging for the appropriate disposition of offenders over whom they lack jurisdictional authority. These timesaving strategies allow the same number of officers to answer more calls and focus on more problems – thus freeing up more resources for improving the safety of Indian country residents.

While there are opportunities for sharing financial resources, equipment, technology and training, summit participants recommend that special attention be focused on information sharing as a means of resource enhancement. Specifically:

**25. The federal government should invest in and improve information sharing between federal agencies, and those agencies should document and disseminate information about their programs to tribal law enforcement and justice agencies.**

With good information sharing, federal funding agencies avoid overlap or, worse, contradictory policymaking that can waste federal agencies' and tribes' time and money. Good information exchange can also lead to better cooperation between programs. A myriad of federal agencies address and support Indian country justice issues (for example, the Office of Tribal Justice, the Office of Justice Programs, the Bureau of Indian Affairs Office of Law Enforcement Services, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, the Violence Against Women Office, the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Community Oriented Policing Services Office, the Indian Health Service and programs within the Department of Housing and Urban Development). Coordinated information sharing and dissemination among and by these agencies is paramount.

The approach taken by OJP is exemplary. By creating an American Indian and Alaska Native Affairs Desk (Indian Desk), all OJP agencies are able to seek and/or receive program advice from an Indian country expert. The desk advises the Assistant Attorney General on tribal affairs and coordinates programming, training, and technical assistance across OJP bureaus and program offices impacting Indian tribes. As the department acts on the congressionally-mandated reorganization of OJP, the OJP American Indian and Alaska Native Affairs (Indian Desk) should be maintained. To insure that their respective and collaborative efforts are targeted and avoid redundancy, this office's coordination of all funding for the IACP summit (8 DOJ agencies) is an example of the effectiveness of this coordinated approach.

**26. All governments (tribal, local, county, state, federal, etc.) should share information about promising approaches to improving safety in Indian country.**

This type of information sharing prevents tribes from wasting time and money trying to reinvent the wheel. Information about best practices and promising approaches allows tribal law enforcement departments and justice agencies to move more quickly and more cost effectively toward solutions to particular law enforcement, justice and safety concerns.

***Training and Education for Indian Country Law Enforcement, Justice and Program Agencies***

In general, the sworn officers in Indian law enforcement departments are graduates of certified law enforcement training academies.<sup>40</sup> In the late 1990s, for example, a survey of large tribes indicated that approximately 85 percent of tribal law enforcement officers held such credentials; most of the shortfall (the 15 percent without certified training) could be explained by recent increases in force size (largely through COPS grants) and the necessity of waiting until slots for these new recruits opened at the relevant training academies.

Despite high-quality baseline training, Indian country's public safety officers suffer from significant gaps in in-service training and continuing education needs, as do the employees of related and collaborating justice and program agencies. Offenses such as domestic violence, child sexual abuse and domestic terrorism require technically proficient responses not only by law enforcement but also by a variety of service providers. All responders need training in order to learn this information and to coordinate their actions. Additionally, there are clear needs for training that is specific to Indian country and to the tribe that law enforcement officers and agency employees serve. Training that develops officers' cultural competence is one example.

As long as these training gaps exist, the personnel of Indian country's justice agencies are not as well equipped to respond to their tribes' most pressing crime and safety concerns as they might be. Seen in this light, improved training for the personnel of law enforcement, justice and related program agencies results in improved safety in Indian country. Thus, summit participants focused on this objective:

*To develop a strategy to respond to the deficiencies in the quality and quantity of education and training available to tribal and non-tribal law enforcement, justice and program agencies, and to develop a set of education and training strategies that will improve safety in Indian country.*

Summit recommendations are:

**27. A means must be found to provide easy access to information about the many training programs available to Indian country law enforcement and justice agency personnel.**

Tribal, state, federal and private programs offer training in a wide variety of topics that would be useful to personnel working on law enforcement, justice and safety issues in Indian country. Unfortunately, practitioners are often unaware of the many kinds of training that are available to help them perform their jobs better. Efforts have been made by several organizations, including the National Tribal Justice Resource Center and the National Native American Law Enforcement Association, to fill this information gap (each lists a number of programs on its website), but the efforts are not yet sufficient. Many in Indian country are unaware of the sites. The listings, while diverse, are not complete. There are no generalized evaluation systems in place on the websites that allow participants to rate and provide feedback on the programs. There is no easy way to tell if a program equips participants with the knowledge and skills necessary to meet established professional standards. There is no regular means of removing defunct programs from the lists. And, there is no way to easily move back and forth between the different training programs' websites (where they exist) to allow comparison.

Together, these concerns raise the question, "How can Indian country law enforcement training programs more effectively disseminate information about training opportunities?" These agencies must also take account of cost, as some of the criticisms of the current system would be quite expensive to correct. Databases would have to be maintained and updated, training programs would have to be screened by a knowledgeable party (such as the IACP, COPS Office, or BIA), and a neutral agency would have to be recruited to undertake the evaluation process and be appropriately remunerated so that ongoing neutrality could be assured.

In sum, there is a vital need for easy access to good and useful training information. The summit participants' recommendation is that one leadership organization or agency *must* address the question of how to best disseminate information about training.

**28. All agencies and organizations involved in training Indian country law enforcement and criminal justice practitioners must help ensure that those who need the training have access to it.**

Both the geography of Indian country (distance from training sites) and the typically small size of law enforcement departments and justice agencies in Indian country (having even a few people away at a training session can significantly limit a department's performance) make accessible training a necessity. Summit participants emphasize that training can be made more accessible if training organizations publicize the presence of local trainers, engage in partnerships with community and tribal colleges, and pursue technological options such as video satellite links and distance learning through internet courses. They also stress the advantages of multi-jurisdictional training agreements (in which personnel from adjacent or overlapping jurisdictions receive identical training) as a means of bringing training to the locality. Manpower exchanges are one simple and cost-effective means of multi-jurisdictional training, and

the summit participants recommend that the IACP develop a sample agreement for such exchanges.

**29. Tribes, in partnership with other governments that hire Indian country law enforcement personnel, must adopt policies that help them “recruit and train to retain.”**

Appropriate training is an important adjunct to the recruitment and retention of Indian country’s law enforcement personnel. For example, the training available to tribal law enforcement officers affects the types of individuals the department attracts and, once they are hired, affects their decision to stay. Conversely, the types of individuals recruited affect the type of training the department will need to offer. For example, individuals well versed in community culture will need little extra training in cultural competency.

Given these connections, summit participants address both general and training-specific elements of personnel recruitment and retention. Participants recommend that tribes provide law enforcement personnel with career development plans, enhance staff salaries and benefits (especially retirement and health packages), implement mentoring programs for new and even prospective recruits, and publicize the successes, unique features, and ceremonies related to the job. They stress the importance of recruiting (tribal) community leaders to law enforcement and other justice-related careers. They suggest that officers be encouraged to join county, state and regional and/or national professional organizations, in order to broaden their colleague groups. Finally, they note that if officers’ formal field training stressed cultural competency, they would be more tightly bound both to the community and to the department. This final recommendation also requires development of curricula (see recommendation 7).

Overall, summit participants recommend that the training offered to tribal law enforcement personnel should enhance a department’s ability to attract and retain the most community active, professional and useful employees.

**30. Tribal law enforcement departments and related justice and program agencies should develop budget policies and procedures that both acknowledge the importance of training and make it easier to secure adequate funding for training.**

Tribal departments and agencies should create training plans to clarify their budget needs and work to secure these funds in an equitable manner from all of their funding sources. Department and agency guidelines requiring that a set percentage of each grant budget be dedicated to training is one option. Setting a training target or goal within the overall law enforcement (or other agency) budget is another. For example, a department could have the goal of dedicating 5 percent of its budget to training.

**31. Tribal law enforcement departments and related justice and program agencies should communicate the importance of training to tribal leaders, and tribal leaders should both support and participate in training efforts.**

Tribal leaders should be actively involved in the work of creating safer tribal communities. With respect to training, this means that tribal leaders should both support

and participate in training efforts. They should partner with justice agencies in the development of training and crime prevention initiatives, support policy efforts to secure funding for training, attend training sessions along with officers, train community members through participation in crime prevention forums and train themselves through participation in justice activities (for example, they could make a point of observing law enforcement activities). Critically, they should lay the groundwork for strategic training aimed at the tribe's most pressing safety concerns by supporting the development, maintenance and dissemination of accurate tribal and local criminal justice statistics.

Given the many demands on tribal leaders' time, they may have difficulty taking on these responsibilities. Agencies working to improve safety in Indian country should reinforce tribal leaders' central role (particularly with regard to training) and encourage them to get involved. Selection of training times and locations that facilitate tribal leader attendance will help.

### **32. The federal government should increase its support for Indian country law enforcement training.**

While tribes should develop strategies to improve training and garner increased support (including funding) for training activities, the federal government has a special responsibility to respond to and complement these initiatives. It should expand its efforts to provide information about training programs (see recommendation 27). It should support training by helping disseminate current research findings and data on promising practices (see recommendations 26 and 36). It should provide funds for the development of local training facilities (at tribal or other local colleges, for example, or for distance learning technologies) and commit to sustaining these facilities. It should support training programs for non-Indian law enforcement officers working in Indian country (FBI agents, non-tribal criminal investigators, county sheriffs and states attorneys, etc.) that focus both on Indian country generally and on the specific tribes located in the region, including relevant aspects of their cultures (see recommendations 7 and 50). And, the federal government should support tribal governments' efforts to develop customized training.

### ***Coordination and Cooperation Among Indian Country Law Enforcement, Justice and Program Agencies***

As the recommendations relating to jurisdictional issues make clear, the safety of residents of Indian country is threatened by inconsistencies in the enforcement of laws across territorial, race and crime classification boundaries. Coordination and cooperation improve the response of the justice system not only to jurisdictional problems but also to a wide variety of other safety concerns. Safety is improved *whenever* coordination and cooperation make law enforcement more consistent. Collaboration is useful at the intergovernmental level (between tribal and non-tribal entities) *and* at the local level among tribal agencies. Summit participants focused on this objective:

*To identify areas where coordination and cooperation among tribal justice agencies and among Indian country, state and federal agencies are*

*lacking and to design collaborative strategies to increase safety in Indian country.*

Summit recommendations are:

**33. The federal government and tribal governments should form additional multi-jurisdictional investigative units to work across tribal/state/federal jurisdictional boundaries.**

Multi-jurisdictional investigative units and task forces (such as the Navajo Safe Trails Task Force) have been an effective means of addressing issues that span jurisdictional boundaries. Given the promise of multi-jurisdiction input and cooperation to move crime prevention and safety initiatives forward, it might be useful to employ this model even more often – with appropriate adjustments to its administration. Tribes, not the FBI or other federal agencies, should drive the agenda whenever a task force’s primary focus is on Indian country. They should be provided with task force-specific resources so that their “seat at the table” is acknowledged. Critically, memoranda of agreement governing the task forces should not intrude upon tribal sovereignty or unduly hamper independent tribal police investigations. With these administrative changes and improved incentives for tribal participation, multi-jurisdictional teams might have great impact. Notably, task forces can be established to pay sustained attention to deeply rooted problems (such as gang violence) or formed around the more short-term needs of a particular case.

**34. Tribal governments, with the support of the IACP, should collaborate with the National Sheriffs Association (NSA) as a means of improving relations between county sheriffs and tribal chiefs of police.**

Given the substantial overlap of county and tribal jurisdiction, positive relationships between county sheriffs and tribal law enforcement are essential. Any lack of cooperation between these agencies is detrimental to safety in both Indian country and the adjacent county jurisdictions. The National Sheriffs Association and the IACP should work together to promote dialogue and strengthen relationships wherever possible.

**35. The federal government and other non-Indian governments should recognize and support the work of traditional tribal service providers, such as traditional tribal sheriffs.**

In many tribal communities, there are two somewhat separate justice systems in operation – a traditional system and a Western system. Tribal communities need to make contextual decisions about how these systems will work together. As they do, the federal government (and other partners in the provision of justice) should acknowledge and support these decisions. For example, if a community decides that its traditional tribal sheriff(s) should continue to play a central role in the provision of public safety, these individuals should be eligible to receive training and other resources from external governments. Likewise, tribes’ peacemaker courts deserve the same respect and support as their Anglo counterparts. As sovereign nations, it is the tribes’ right to pursue these traditional approaches, and it is appropriate for other organizations or governmental entities to support such efforts.

Unfortunately, it can be easy to disregard tribes' rights to such respect. If non-tribal officials are completely oriented toward Western systems of law enforcement and justice, they may automatically ignore the fact that tribes can have very different ways of conducting the same business. That said, it must also be noted that certain traditional forms of tribal justice may be inappropriate as solutions to modern problems. For example, questions have been raised about the appropriateness of "peacekeeping" approaches to domestic violence.<sup>41</sup> The key is for tribes to be clear about the fit and overlap between the Western and traditional systems and, if and when necessary, to help outsiders understand their relationship.

**36. The U.S. Department of Justice should host a tribal law enforcement and promising practices summit that focuses on collaboration and cooperation between governments and agencies serving Indian country.**

This recommendation coincides with the recommendations in the resources section (recommendations 25 and 26) about the federal government's role in information sharing. A DOJ summit focused on successful collaboration would improve tribes' resources by helping them avoid costly mistakes *and* by suggesting appropriate partners for their work. Topics ripe for discussion include collaborative technology projects, court management projects and integrated tribal/state/local law enforcement practices.

**37. Tribal governments and the federal government should support the development of comprehensive tribal justice systems.**

"Comprehensive" tribal justice systems better integrate law enforcement with other justice agencies and social services, so that offenders and others who come into contact with the law enforcement system are given the most appropriate penalties for their offenses and the most appropriate services for their needs. For example, comprehensive programs provide better continuity across law enforcement, corrections and prison aftercare/community re-entry services.

As sensible as this approach sounds, it is relatively revolutionary in Indian country. Federal funding processes have inadvertently focused tribal governments on the creation of stand-alone programs, which frequently result in piecemeal responses. Comprehensive strategies may combat these tendencies, but changes are difficult for both the federal and tribal governments. The difficulties should not argue against comprehensive programs, however. Instead, more and better attempts should be made to develop them – especially since experience outside Indian country suggests that comprehensive justice programs have a better chance of rehabilitating offenders, thereby preventing the slide from delinquency into more serious criminal activity.

Summit participants singled out corrections as an area in which comprehensive approaches were especially necessary. They recommend that tribal governments create programs that provide a "continuum of care" between juvenile and adult corrections and between tribal and state/federal correctional resources. They also emphasized the importance of a public health view of criminal involvement. As an individual passes through the corrections system, this orientation shifts the focus from

punishment to healing. For youthful offenders, for example, the approach prioritizes alternatives to youth incarceration and encourages policy innovations (such as youth law enforcement explorer programs). Of course, ensuring a comprehensive continuum of care that focuses on healing rather than punishment is hard enough at the tribal level, where juvenile and adult corrections programs are at least part of the same justice system. The approach is much harder to implement across the tribal and state/federal systems, and can only occur when leaders of institutions collaborating across the systems are committed to the principles of comprehensive care and are convinced of the benefits of inter-governmental cooperation. The New Mexico Children's Code is one instructive model.<sup>42</sup>

**38. Tribes, with the assistance of the IACP, should pursue tribe-to-tribe information sharing and department-to-department mentoring.**

Intertribal cooperation and collaboration is as necessary as cooperation between Indian and non-Indian governments and agencies, yet it receives much less attention. Recognizing this, the summit participants emphasized the opportunities for and importance of intertribal collaboration. They specifically recommend that tribes pursue information sharing, consider department-to-department mentoring whenever they face similar crime and safety problems, and implement similar justice programs or share related cultures.

Participants also made two specific recommendations to facilitate information sharing:

**39. Tribal governments should seek to improve the technological capacity of their justice systems; ultimately working toward integrated information-sharing systems between tribes; the federal government and other sources of funding should support such efforts.**

For example in Indian Country, *Full Court*, an automated case management system used by the Pueblo of Zuni. The system links the tribal court, probation, detention and jail facility, child welfare, substance abuse treatment center and domestic violence service provider to one another. Automatic linkage permits joint (coordinated) case management of offenders as they move through the justice system. Just as importantly, it permits coordinated service delivery for children, battered spouses, youthful offenders, and families in need of services and crime victims as they move through relevant institutions. The U.S. Department of Justice is also supporting the *Inter tribal Integrated Justice Pilot Project* between the Navajo Nation, Hopi Tribe, and Pueblo of Zuni to increase the electronic sharing of information on protection orders on domestic violence, 24-hour emergency services, and driving under the influence. To reach the goal, each tribe will participate in three phases of the project. Phase I is to integrate tribal justice systems (law enforcement, courts, prosecutor, etc.). Phase II is to share information between the Navajo Nation, Hopi Tribe,

and Pueblo of Zuni. Phase III is to share information with other jurisdictions (state, county, etc.). Given the three tribes' strong connections (which arise from geographic proximity, economic connections and family linkages), the expanded *Full Court* system should make each community's law enforcement and justice programs even more effective.

**40. Tribal law enforcement departments should work to standardize their crime reporting systems; compatibility with federal crime reporting systems may be the preferred standard.**

Standards are necessary for effective information sharing and for useful data analysis. Summit participants suggested that it may make sense for Indian country law enforcement and justice agencies to adopt an already well defined set of standards, such as the National Crime Information Center (NCIC) and the National Incident Based Reporting System (NIBRS). To ensure that the standards are appropriate to Indian country, participants further recommend that an IACP Indian Country Law Enforcement Section representative (and perhaps also a tribal judge, tribal prosecutor and a community leader) be appointed to serve on the NCIC/NIBRS Criminal Justice Information System Policy Advisory Board and Work Group.

***Response to Victims of Crime in Indian Country***

Providing services to victims of crime is a critical component of crime prevention and improved safety in Indian country, since many services help remove victims from harm's way and prevent re-victimization. Even when responses to victims of crime do not have direct protection and prevention benefits, they improve safety in Indian country by increasing an individual's sense that Indian country is a safe place.

The high rates of violent crime and crime with injury that typify Indian country further justify investments in the establishment and enhancement of victim services. When individuals are victimized, there is a much higher probability that they will suffer a harsher form of victimization and require more extensive support in the wake of the crime. Federal and tribal victimization services will assist in reducing further victimization and helping ensure that victims receive appropriate support, treatment and care.

Based on these considerations, summit participants focused on this objective:

*To identify the nature and extent of crime victimization in Indian country and the specific needs of those victimized, and to recommend strategies to help tribal law enforcement, justice and program agencies meet these needs effectively.*

Summit recommendations are:

**41. The U.S. Attorney's Office should enhance its relationships with tribes, work to better understand tribes' needs and be proactive in providing resources to help victims of crime.**

The federal government has jurisdiction over major crimes committed in Indian country, and because of this, tribal law enforcement agencies must rely on the U.S. Attorney's Office to bring the perpetrators of such crimes to justice. Unfortunately, the relationships between tribes and local U.S. Attorneys may not always be marked by a sufficient level of cooperation and a sense of mutual purpose. In part, this is due to the fact that Indian country crime generally comprises a mere fraction of any U.S. Attorney's caseload. U.S. Attorneys therefore have competing priorities, and tribes may (correctly or incorrectly) conclude that the U.S. Attorney's Office considers Indian country crime unimportant. Another reason for slow prosecution is that Indian country cases may simply be harder to prosecute (child abuse cases likely fall into this category). Nevertheless, when U.S. Attorneys decline cases or delay prosecutions, victims of crime in Indian country are hurt.

To its credit, the U.S. Attorney's Office has already implemented a tribal liaison program. Yet it should also undertake to better understand tribes' needs – especially the reasons why tribal authorities feel that more crimes must be prosecuted – and use this information and the powers of the U.S. Attorney's Office to prevent victims of crime from suffering further harm.

**42. Federal agencies should support data collection regarding gaps and delays in criminal justice proceedings, in an effort to better understand and remedy the effect of such gaps on victims of crime.**

Offices and agencies such as the US Attorney's Office, the Bureau of Indian Affairs Office of Law Enforcement Services, the Federal Bureau of Investigation, and US Federal Probation and Parole should participate in the proposed data collection effort. Data collection might focus on the number of case declinations by tribal, federal and state prosecutors, the length of time between arrest and prosecution, the types of services provided to victims, and the severity and nature of offenders' sentences. With information of these types in hand, advocates can work strategically both to improve victim services and to address systemic problems that worsen victims' situations.

Coordination with the Office of Justice Programs and Bureau of Justice Statistics' Tribal Justice Agencies survey instrument and data collection activity this year would be an essential starting point for Federal coordination. BJS has developed, in cooperation with Federal agencies and the public, a survey instrument to collect criminal justice data of law enforcement and tribal justice systems. The annual activity will provide essential, initially a base line of, information on how many offices, tribal justice systems, caseload, etc. BJS authored the "American Indians and Crime" document that provides national information on victimization and offenders of American Indian national (both in urban and rural areas).

**43. Congress should review federal sentencing guidelines to ensure that they reflect contemporary values and sentencing trends in Indian country.**

The broad sweep of federal jurisdiction in Indian country means that federal guidelines affect many Indian offenders' sentences. Yet because Native cultures may place less value on retributive punishment and greater value on restorative justice and peacemaking, federal sentencing guidelines can be markedly out of step with contemporary values and sentencing options. These differences mandate a reexamination of the applicability of federal sentencing guidelines to Indian country offenses and/or the adjustment of guidelines to permit flexibility to respond to Indian country sentencing values.

**44. The federal government should establish and strengthen follow-up victim assistance programs at all levels of government.**

Funding for victim assistance programs is already available through the Office for Victims of Crime (OVC), but summit participants feel strongly that even more is needed (the amount has been less than \$4 million annually). For instance, the federal government should provide funding for each tribe to have a victim rights advocate. It should assist tribal prosecutors' offices in designating resources that support prosecutors' work with victims, victims services providers and law enforcement. And, it should support tribal efforts to create women's shelters, youth group homes, and treatment and re-education facilities for offenders.

Participants pay particular attention to the needs of victims of sexual assault. They call on the federal government (and other funding agencies) to cover the costs of confidential services such as forensic exams, medical treatment, counseling, and follow-up medical and mental health care. They also stress that the Indian Health Service should not be the exclusive provider of such confidential services, but that victims be offered a choice of providers to meet these sensitive needs.

Participants focus especially on the disproportionate level of victimization in Indian country. In summit discussions, there is clear support for a review and potential adjustment of VOCA/Crime Victim Funds to be considered to provide additional support to Indian country victims.

**45. The federal government should provide funding for tribes to hire, equip and train first responders.**

Statistics show that the majority of crimes reported and responded to by law enforcement, do not move to subsequent arrest and prosecution phases when the offender cannot be found. Thus, in many cases, first responders are the only justice system representatives with whom the victims will have contact. In order to best meet victims' needs, tribes may need more law enforcement officers, more dispatchers, more emergency medical technicians and more specialized program staff (for responses to suicide, domestic violence, child sexual abuse, etc.) to serve as first responders. These staff need basic equipment such as vehicles, medical supplies, and telephones or radios. They may need specialized programs, such as critical incident stress management training, to help them deal with their own victimization (which occurs as they repeatedly deal with the shock generated by an immediate and direct knowledge of

crime). And, they need training to deal with the incidents that only they face, such as domestic preparedness (anti-terrorism) training.

Based on the incidents of September 11, 2001, issues of domestic preparedness, interoperability of information systems become paramount. First responders in Indian country can and have previously played a critical role. For example, during the Oklahoma City bombing, tribes responded to initial calls for police/EMS/fire support. Ironically, Indian tribes are not included in the national strategy for domestic preparedness. Under current legislation, Indian tribes are not eligible for planning, equipment, or coordination resources.

**46. Law enforcement, justice and related program agencies at all levels of government (tribal, local, county, state and federal) should provide their employees with training on victim issues.**

First responders and victim service providers are already well trained in victim services issues. Their skills should be kept sharp through training updates. Training needs are more acute among the staff of other justice and program agencies. For example, court personnel and even community leaders must learn to be sensitive to victim needs, aware of the resources and services available to victims, and knowledgeable about victim rights. Such training requires investments in curricula and trainers, so summit participants also recommend that law enforcement, justice and related program agencies at all levels of government commit resources to victim issues training.

**47. Tribal leaders should support the work of tribal victim service providers and afford them respect as part of the tribal justice system.**

As relatively new members of the tribal justice system, victim services agencies must sometimes struggle to gain support, legitimacy and access within the system itself and the tribal government overall. Tribal leaders can help combat these difficulties and, thus improve the services offered to victims of crime by actively promoting the agencies and respecting the confidentiality of their work.

**48. Tribes should be encouraged to meet together on a regular basis to coordinate their responses to victims and to share information.**

As noted in the recommendations on justice agency cooperation and collaboration, tribe-to-tribe information sharing is an extremely useful tool. It can have particular advantages for the delivery of victim services. Through tribe-to-tribe information sharing, providers can learn about promising responses to victims of crime from each other. And, it may be possible for services offered in one tribe to be used by victims in another.

***Prevention Strategies to Reduce Crime***

While much of the most visible work of law enforcement and justice providers in Indian country occurs in response to crime, less visible crime prevention efforts may be even more effective at combating crime in Indian country. Indeed, this is the finding in many non-Indian urban areas that once suffered from entrenched crime and violence. As strategic, problem-solving, community-oriented policing and prevention approaches

were applied to communities' safety concerns, crime and violence diminished significantly. Similar promises exist in Indian country, especially as cultural methods are applied to crime prevention.<sup>43</sup>

Given the great potential of strategic prevention efforts, summit participants focused on this final objective:

*To identify types of crimes that are frequent in occurrence and to develop strategies for tribal law enforcement, justice and program agencies to prevent those crimes, and to educate and inform potential victims and to decrease the overall level of victimization in Indian country.*

Summit recommendations are:

**49. The federal government and tribal governments should increase their support of prevention programs and, thus, create abundant opportunities for early intervention in the cycle of crime and violence.**

The prominence of violent crime in Indian country should not divert attention from promising prevention approaches. Summit participants recommend a shift in emphasis, as evidenced by their call for ample funding for prevention programs and the creation of abundant opportunities for early intervention.

Participants pay particular attention to the prevention and treatment of substance abuse. Anecdotes and empirical studies consistently cite alcohol and drug abuse as factors in crime in Indian country. Given this connection, the federal government should provide additional funding to assist tribes with substance abuse law enforcement and with substance abuse treatment, and consider these efforts a means of crime prevention.

**50. To combat racial intolerance and violence, state governments should develop curricula to educate policymakers, non-Indian law enforcement officials and citizens at large about accurate U.S. history, Indian tribes' unique relationship with the U.S. government and the basics of tribal government, including the Indian country justice system.**

Nationwide, diversity training is being used to combat racial intolerance and violence, and this recommendation is part and parcel of those efforts. For example, teaching the public about Indian tribes' special relationship with the U.S. government and their sophisticated modern governments would improve the public's understanding of American Indians and may decrease their vulnerability to racially motivated violence.

With regard to tribal justice and the safety of Indian individuals, it is likely that such education will have even broader prevention benefits. For example, teaching policymakers and law enforcement officials about Indian history and Indian country today should improve the prospects for collaboration and cooperation between jurisdictions around crime prevention issues.

**51. Tribal governments should determine which crime prevention programs have the greatest potential in their communities and commit to the development and expansion of these programs.**

When a tribal government – in conjunction with its law enforcement, justice and related program agencies – has determined which crime prevention programs will work best in its community (a determination that includes tests of cultural appropriateness), it should work to secure long-term funding for those programs. The federal government, state governments and foundations are possible funding sources, but tribes should also be willing to commit their own scarce resources to such programs.

Furthermore, program development does not depend on dollars alone. For example, staff training is often necessary for program effectiveness. Summit participants expressed dissatisfaction with available crime prevention training programs. They felt that many training contractors lack the cultural competence to work effectively in Indian country and sometimes fail to train community people in a patient, respectful manner. Participants recommend that tribes build capacity to conduct their own training and/or to qualify/certify non-tribal trainers as culturally competent.

If tribes are to develop effective programs, they must also commit to challenging certain “standard operating procedures.” For example, if it is more effective from a preventative standpoint to serve entire families and not just children, they must challenge the programmatic piecemeal approach and work to integrate programs that serve children with those that serve adults. Similarly, if a system of victim restoration and reparations is seen by the community as having preventative benefits, tribes should institute such systems even though they are historically non-Western and “non-standard.”

**52. Indian families must re-engage in the process of crime prevention.**

At its very root, crime prevention in Indian country depends on changing behavior within families and at home. American Indian parents must accept the challenges of being role models for their children. And, entire families must engage in intergenerational learning and sharing, a process that emphasizes listening to and addressing the concerns of all family members. Of course, these efforts will be most successful if families have support from tribal social workers, clergy, elders, educators and school officials, law enforcement officials and, especially, community and tribal leaders.

## **V. Next Steps and Action Agenda**

Beyond the development of policy recommendations, a set of long-term implementation goals was part of summit planning. The IACP intends to work with its Indian Country Law Enforcement Section, the Office of Tribal Justice, the Office of Justice Programs and all other relevant U.S. Department of Justice agencies, as well as the Bureau of Indian Affairs, to implement summit recommendations. Work on this second phase of the summit will begin immediately upon the publication and dissemination of this report.

For example, the IACP will take advantage of opportunities to share summit recommendations with Indian country professional organizations including the National Native American Law Enforcement Association (NNALEA) and the National Congress of American Indians (NCAI). If a National Commission on Criminal Justice issues as proposed by the IACP is implemented, the IACP will advocate that Indian country issues be addressed as part of the commission's work and that IACP Indian Country Law Enforcement Section members be included on the Commission.

The 52 recommendations emerging from the summit can be viewed also as directly applicable to various DOJ/OJP agencies. Looking at these recommendations in another way, they call for action in program areas genuine to various DOJ/OJP programs. For example:

- **Law Enforcement** (COPS)
- **Training and Education** (OJP)
- **Youth Violence** (OJJDP)
- **Tribal Justice Systems** (BJA)
- **Victim Services** (OVC)
- **Violence Against Indian Women** (VAWO)
- **Research and Evaluation** (NIJ) (BJS)

Now that the summit has concluded and this report has been made available to a broad audience of policy-makers, IACP will move toward implementation of selected recommendations. Specifically, we will begin dialogue with leaders of all DOJ/OJP agencies to 1) identify recommendations that may appropriately fit their agencies' missions, and 2) develop follow-up programs of action to pilot summit recommendations throughout Indian country.

## Endnotes

<sup>1</sup> For the purposes of this report, the term “American Indian” is used to refer jointly to both American Indians and Alaska Natives.

<sup>2</sup> Callie Rennison, “Violent Victimization and Race, 1993-1998,” Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC, March 2001, p. 1.

<sup>3</sup> Rennison, p.3. The rate is both higher than the rate suffered by their peers in other ethnic groups and higher than the rate suffered by American Indians in other age groups.

<sup>4</sup> This finding emerges both in Rennison (p. 10) and in Lawrence A. Greenfeld and Steven K. Smith, “American Indians and Crime,” Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC, February 1999 (p. vi).

<sup>5</sup> Greenfeld and Smith, p. vii.

<sup>6</sup> Greenfeld and Smith, p. viii.

<sup>7</sup> Rennison, p. 3.

<sup>8</sup> Rennison, p. 7.

<sup>9</sup> See Rennison.

<sup>10</sup> See for example, “Honoring Nations 2000: Tribal Governance Success Stories,” Honoring Contributions in the Governance of American Indian Nations, Harvard Project on American Indian Economic Development, Harvard University, Cambridge, MA, April 2001.

<sup>11</sup> One useful discussion of this phenomenon is found in Stephen Cornell and Joseph P. Kalt, “Reloading the Dice: Improving the Chances for Economic Development on Indian Reservations,” in Stephen E. Cornell and Joseph P. Kalt, eds., *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* (Berkeley: University of California, 1992), pp. 2-59.

<sup>12</sup> According to the 2000 Census, approximately 2.5 million people reported American Indian or Alaska Native as their race. This compares to 2 million in 1990, 1.4 million in 1980 and 827,000 in 1970. (Edna L. Paisano, “The American Indian, Eskimo and Aleut Population,” Bureau of the Census, US Department of Commerce, Washington, DC, [www.census.gov/population/www/pop-profile/amerind.html](http://www.census.gov/population/www/pop-profile/amerind.html) (accessed August 9, 2001), and Elizabeth M. Grieco and Rachel C. Cassidy, “Overview of Race and Origin: Census 2000 Brief,” document C2KBR/01-1, Bureau of the Census, US Department of Commerce, Washington, DC, 2001.)

<sup>13</sup> The term “Indian tribe” means “any Indian tribe, band, nation or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act..., which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.” 25 USC § 450b(e).

<sup>14</sup> *Talton v. Mayes*, 163 US 376, 384 (1896).

<sup>15</sup> *Atkinson Trading Co. v. Shirley*, 121 S. Ct. 1825 (May 29, 2001) (quoting *United States v. Mazurie*, 419 US 544, 557 (1975)).

<sup>16</sup> *U.S. Department of the Interior v. Klamath Water Users Protective Association*, 121 S. Ct. 1060, 1067 (2001) (quoting Felix M. Cohen’s *Handbook of Federal Indian Law* (1982 ed.) at 221). In Indian law, the term “trust responsibility” is used in two senses. In its narrow sense, it refers to specific, legally enforceable obligations to manage tribal land, water, and other resources. In its more general sense, it refers to “the distinctive obligation of trust incumbent upon the Government in its dealings with these dependent and sometimes exploited peoples.” *United States v. Mitchell*, 463 US 206, 225 (1983) (quoting *Seminole Nation v. United States*, 316 US 286, 296 (1942)).

<sup>17</sup> *Iowa Mutual Insurance Co. v. LaPlante*, 480 US 9, 14 (1987); see also 6 (Part 2) Weekly Comp. Pres. Doc. 894 (July 8, 1970) (President Nixon).

<sup>18</sup> See, e.g., The Indian Self-Determination and Education Assistance Act of 1975, 25 USC § 450 *et seq.*; Tribal Self-Governance Program, 25 USC § 458aa *et seq.*; Native American Housing Assistance and Self-Determination Act, 25 USC § 4101 *et seq.*; Tribally Controlled Schools Grants Act, 25 USC § 2501 *et seq.*

<sup>19</sup> *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 US 134, 154 (1980).

<sup>20</sup> 18 USC § 1151(a).

<sup>21</sup> 18 USC § 1151(b).

<sup>22</sup> 18 USC § 1151(c).

<sup>23</sup> 18 USC § 1152.

<sup>24</sup> 18 USC § 1153. The specific offenses are murder, manslaughter, kidnapping, maiming, felony child sex abuse, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault against a person under 16, arson, burglary, robbery and felony theft.

<sup>25</sup> See *Wetsit v. Stafne*, 44 F.3d 823 (9<sup>th</sup> Cir. 1995).

<sup>26</sup> 25 USC § 1302(7). Tribal police and prosecutors sometimes charge alleged criminals with misdemeanors (over which Indian tribes have jurisdiction) in addition to (or instead of) felonies (over which federal authorities typically have jurisdiction). This allows tribal governments to prosecute the alleged criminal when the federal authorities, for whatever reason, do not pursue prosecution.

<sup>27</sup> *Ibid.*

<sup>28</sup> 18 USC § 1152.

<sup>29</sup> See *Solem v. Bartlett*, 465 US 463, 464 n. 2 (1984). In short, jurisdiction over crimes committed by Indians in Indian country lies with the tribal and/or the federal government and not with states, absent congressional authorization. In 1953, Congress expressly granted such authorization to certain states when it enacted Public Law 83-280 (PL 280). PL 280 conferred jurisdiction on certain states over most or all of Indian country, within their borders and suspended enforcement of the Major Crimes Act, 18 USC § 1153, and the General Crimes Act, 18 USC § 1152, in those areas. The statute also authorized other states to assume such jurisdiction.

<sup>30</sup> Other agencies, besides the U.S. Department of Justice and the Federal Bureau of Investigation, investigate federal crimes in Indian lands; including the Fish and Wildlife Service and the EPA Criminal Investigation Division.

<sup>31</sup> The “whose land?” question poses a problem whenever there is non-Indian fee land within a reservation’s boundaries, but is especially complex when a reservation is checker boarded – that is, when non-Indian fee parcels are common but are distributed like checkerboard squares across the breadth of the reservation. In that case, a law enforcement officer with jurisdiction in Indian country, but not outside, must be very careful about exactly where citations and arrests occur.

<sup>32</sup> *Oliphant v. Suquamish Tribe*, 435 US 191 (1978).

<sup>33</sup> 121 S. Ct. 2304 (2001).

<sup>34</sup> See Remison.

<sup>35</sup> See Cara Hetland, “Tribe and City Combine Efforts on Law Enforcement,” Minnesota Public Radio, May 14, 2001, [news.mpr.org/features/200105/14\\_hetlandc\\_jointforce-m/index.shtml](http://news.mpr.org/features/200105/14_hetlandc_jointforce-m/index.shtml) (accessed August 9, 2001).

<sup>36</sup> A brief discussion is provided by John Niemesto, “Minutes: State-Tribal Relations Team Meeting,” May 17, 2000, [222.gov.state.ak.us/STRT/May17.htm](http://222.gov.state.ak.us/STRT/May17.htm) (accessed August 12, 2000).

<sup>37</sup> Stewart Wakeling, Miriam Jorgensen, Susan Michaelson and Manley Begay, “Policing on American Indian Reservations,” National Institute of Justice, Washington, DC, July 2001. The study polled BIA, 638, self-

government and combined BIA-tribal departments on their line staff. Most respondents included patrol, detention and dispatch staff in their counts and, in some cases, criminal investigators as well.

<sup>38</sup> In general, the term “unfunded mandate” refers to legislation that directs a branch or level of government to do something but does not provide the money to do so. The term is used loosely here, as the legislation supporting the improvement of tribal justice systems included specific dollar figures simply never appropriated (provided with dollar support in the budget process) by Congress. Thus, it was possible for the federal government to appear to support the development and improvement of tribal justice systems without actually doing so.

<sup>39</sup> The COPS Tribal Resources Grant Program focuses on tribal communities, many of which are affected by high rates of crime and violence and have limited law enforcement resources. The program was designed to meet the most serious needs of law enforcement in these communities and to enhance their law enforcement infrastructures and community policing efforts by offering a comprehensive and flexible hiring program. Funding options under the program include officer salary and benefits, background investigations, basic law enforcement training and equipment, law enforcement technology and vehicles.

<sup>40</sup> Wakeling *et al.*

<sup>41</sup> Personal communication with Eileen Luna, national evaluator of Violence Against Women/Violence Against Indian Women programs.

<sup>42</sup> A brief discussion is provided by Joseph F. Baca, “Testimony Before the Committee on Indian Affairs, United States Senate,” June 3, 1998, [www.senate.gov/~scia/1998hrgrs/0603\\_jfb.htm](http://www.senate.gov/~scia/1998hrgrs/0603_jfb.htm) (accessed August 12, 2001).

<sup>43</sup> See Wakeling *et al.*, especially chapter 6, “Conclusions and Recommendations.”