



Office of the Attorney General
Washington, D. C. 20530

December 3, 2014

MEMORANDUM: FOR HEADS OF DEPARTMENT COMPONENTS
FOR ALL UNITED STATES ATTORNEYS

FROM:  THE ATTORNEY GENERAL

SUBJECT: Guidelines Stating Principles for Working with
Federally Recognized Indian Tribes

Honoring the government-to-government relationship between the United States and each federally recognized Indian tribe and respecting the tribes' authority to exercise their inherent sovereign powers are high priorities for the Department of Justice. I am therefore issuing guidelines stating principles for working with federally recognized Indian tribes. This statement of principles was developed after extensive consultation with tribal officials from throughout our Nation. These principles will guide and inform all of the Department's interactions with federally recognized Indian tribes.

To maximize transparency, the guidelines shall be published in the *Federal Register*. Furthermore, heads of Department of Justice components and United States Attorneys shall distribute the guidelines within their respective components and offices, as appropriate, to ensure their prompt and effective implementation. The guidelines shall be effective immediately.

The guidelines and principles are intended to improve the internal management of the Department of Justice. They are not intended to and do not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party in any matter, civil or criminal, against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person, nor do these guidelines or principles place any limitations on otherwise lawful litigative prerogatives of the Department of Justice.

Questions about the guidelines may be directed to the Office of Tribal Justice (OTJ) at (202) 514-8812.

Attachment

**United States Department of Justice
Attorney General Guidelines
Stating Principles for
Working with Federally Recognized Indian Tribes**

December 2014

Overarching Principles

- The Department of Justice honors and strives to act in accordance with the general trust relationship between the United States and tribes.
- The Department of Justice is committed to furthering the government-to-government relationship with each tribe, which forms the heart of our federal Indian policy.
- The Department of Justice respects and supports tribes' authority to exercise their inherent sovereign powers, including powers over both their citizens and their territory.
- The Department of Justice promotes and pursues the objectives of the United Nations Declaration on the Rights of Indigenous Peoples.
- The Department of Justice is committed to tribal self-determination, tribal autonomy, tribal nation-building, and the long-term goal of maximizing tribal control over governmental institutions in tribal communities, because tribal problems generally are best addressed by tribal solutions, including solutions informed by tribal traditions and custom.

Consultation and Communication with Tribes

- The Department of Justice recognizes that its commitment to tribal self-determination requires regular, meaningful, and informed consultation with American Indian and Alaska Native tribal officials when developing new or amended policies, regulations, and legislative actions initiated by the Department that may affect tribes, as detailed in the Department's Policy Statement on Tribal Consultation.
- The Department of Justice recognizes that — in addition to, but not in lieu of, formal consultation — there can be great benefit in timely, detailed, informal communications with tribal officials and other community leaders.
- The Department of Justice supports the Attorney General's Tribal Nations Leadership Council and other task forces and advisory groups that allow elected tribal representatives to provide direct input to the Department's leaders and components.

Culture and Mutual Respect

- The Department of Justice recognizes that each tribe's history and contemporary culture are unique, and that solutions that work for one tribe may not be suitable for others.
- The Department of Justice works to respectfully consider traditional tribal cultural practices and values, and is sensitive to the need for effective cross-cultural communication.
- The Department of Justice seeks to foster an internal Departmental culture, from top to bottom, that will encourage its officers and employees to identify and be responsive to the needs of tribes routinely, not merely as an afterthought.

Law Enforcement and Litigation

- The Department of Justice is committed to helping protect all Native Americans from violence, takes seriously its role in enforcing federal criminal laws that apply in Indian country, and recognizes that, absent the Department's action, some serious crimes might go unaddressed.
- The Department of Justice prioritizes helping protect Native American women and children from violence and exposure to violence, and works with tribes to hold perpetrators accountable, to protect victims, and to reduce the incidence of domestic violence, sexual assault, and child abuse and neglect in tribal communities.
- The Department of Justice is committed to protecting tribal treaty rights, tribal lands and natural resources, and tribal jurisdiction through litigation, where appropriate, and to handling litigation involving tribes in a manner that is mindful of the government-to-government relationship.
- The Department of Justice promotes the proper application of the Indian Child Welfare Act of 1978 (ICWA), and seeks to protect tribes and Native American families from unwarranted removal of their children.
- The Department of Justice works to safeguard the civil rights of Native Americans by prosecuting hate crimes, protecting the right to vote, and otherwise helping ensure that Native Americans are free from illegal discrimination.

Nation-Building and Tribal Justice Systems

- The Department of Justice believes that stable funding at sufficient levels for essential tribal justice functions is critical to the long-term growth of tribal institutions.
- The Department of Justice seeks to increase tribes' flexibility to administer grant programs and thus design solutions appropriate to their communities, while ensuring strict accountability.

- The Department of Justice believes that pilot and demonstration projects that are available to state or local governments should be available to similarly situated tribal governments, and endeavors, where appropriate and practicable, to give serious consideration to locating projects in tribal communities.
- The Department of Justice is committed to fully implementing the Indian Civil Rights Act of 1968 (ICRA), the Tribal Law and Order Act of 2010 (TLOA), and the Violence Against Women Reauthorization Act of 2013 (VAWA), and believes that working with tribes to strengthen their justice systems, including indigent defense services, is critical to fulfilling the promise of these statutes.
- The Department of Justice supports tribes' efforts to build innovative approaches to law enforcement, public safety, and victim services, and, where appropriate, to evaluate those approaches by collecting empirical evidence and conducting scientific and statistical research.

Coordination and Outreach

- The Department of Justice, when working with other federal agencies on issues involving tribes, advocates respecting tribal self-determination, tribal autonomy, tribal nation-building, and the government-to-government relationship.
- The Department of Justice works to facilitate communication and build relationships among the federal agencies engaged with tribal governments and to promote the sharing of federal resources and expertise.
- The Department of Justice works to facilitate communication and build relationships between tribes and state, local, and private partners in law enforcement, public safety, victim services, and civil rights, to promote prosperous and resilient tribal communities, and to use dispute resolution techniques such as mediation to resolve community conflicts and tensions.

- The Department of Justice recognizes the link between healthy, prospering families and public safety, and the need to coordinate law enforcement efforts with educational, housing, environmental-protection, and public-health services.

Sustainability

- The Department of Justice will continue taking steps to institutionalize its commitment to tribal justice and to make its officers and employees aware of these Attorney General Guidelines stating principles for working with federally recognized Indian tribes, so that progress in areas important to tribes continues regardless of changes in Department personnel.

These guidelines and principles are intended to improve the internal management of the Department of Justice. They are not intended to and do not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party in any matter, civil or criminal, against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person, nor do these guidelines or principles place any limitations on otherwise lawful litigative prerogatives of the Department of Justice. Please contact the Department's Office of Tribal Justice (OTJ) with any questions about these guidelines and principles.