

US Department of Justice
Consultation on Meeting the Public Safety and Criminal Justice Needs of Native Americans

Framing Paper

The Department of Justice considers it a priority to address the disproportionately high rates of violence experienced by Native Americans, and relatedly, the number of Indigenous persons reported missing.

On November 15, 2021, President Biden signed [Executive Order 14053](#), which is aimed at improving public safety and criminal justice for Native Americans and addressing the issues of missing or murdered Indigenous people. Pursuant to the Executive Order, the Departments of Justice, Interior, Health and Human Services, and Homeland Security will work with “Tribal Nations and Tribal partners to build safe and healthy Tribal communities and to support comprehensive law enforcement, prevention, intervention, and support services.”

In November 2021, the Department of Justice launched a [Steering Committee to Address the Crisis of Missing or Murdered Indigenous Persons](#). The Committee, which includes representatives across the Department, will review the Department’s current guidance, policies, and practices; make recommendations to better facilitate the work to address the issues of missing or murdered indigenous persons; and develop a comprehensive plan to strengthen the Department’s work, which will be submitted to the President within 240 days. As the Deputy Attorney General noted in her memorandum establishing the Steering Committee, “challenges faced by Tribes are best met by Tribal solutions.” Outreach and communication with Tribes will therefore be fundamental to the Steering Committee’s efforts.

On January 14, 2022, the Department of Justice invited Tribal Leaders to government-to-government consultations. This consultation is scheduled from March 16 to March 17, 2021. You can find the invitation and the links for registration [here](#). This framing paper is designed to support our discussion.

Please note that in addition to this consultation, the Departments of Justice and Interior will co-host a separate interagency consultation to solicit feedback on implementation of the Executive Orders. That consultation is scheduled for March 7- March 9, 2022. The Department is also in the process of holding separate consultations on its grant programs¹ and appreciates the feedback you have provided on ways to make

¹ For example, the Office on Violence Against Women holds an annual consultation, next [scheduled](#) for September 21-23, 2022, in Anchorage, Alaska. Likewise, the Office for Victims of Crime held a consultation on the Tribal Set-Aside for the Crime Victims Fund for Fiscal Year 2022 from January 13 to January 14, 2022.

those programs more accessible and equitable, which is critical to the assessment of grantmaking operations required by section 3(b) of the Executive Order.

Questions for Discussion

In this consultation, we seek your input on how the Department's work can better serve your public safety and justice needs. Below, we offer some specific questions for consideration in advance of our consultation sessions. These questions are not intended to limit feedback; DOJ welcomes broader input on our activities in support of public safety in Native communities.

I. How can the Department of Justice better meet your public safety needs?

The Department will use feedback during these sessions to review existing policies and practices across the Department of Justice, including guidance to the U.S. Attorney community and law enforcement agencies. In 2010, the Department issued new [guidance](#) to U.S. Attorneys in support of a broader Tribal public safety initiative. This guidance ushered in an era of increased communication and collaboration between Tribal Nations and the Department of Justice. Pursuant to that policy, DOJ now requires that every U.S. Attorney's Office located in a District that serves federally recognized Tribes appoint a Tribal Liaison and establish annual consultations with the Tribes in their Districts.

DOJ seeks to strengthen our nation-to-nation relationship and build on those policies and practices that are beneficial to Tribal communities. With that in mind, we would appreciate your perspective on the following questions:

- Do the Department's operations or programs address the most pressing public safety issues in your community?
 - If not, what issues are not being addressed by DOJ resources, including funding, law enforcement activities, policy, training, or programs?
- Are there ways that DOJ can strengthen partnerships between Tribes and its U.S. Attorney's Offices?
- How can DOJ strengthen its relationship between Tribes and DOJ's other law enforcement components, including FBI and USMS?

II. How can DOJ best implement the President's new Executive Order?

The Department of Justice will also use these discussions, along with the other consultations described above, to develop our response to the new Executive Order. During our March 7-9, 2022 interagency consultation, we will focus on how the federal government can promote cross-agency coordination to serve Tribal communities. During

our March 16-17, 2022, consultation, the Department hopes to follow up with more specificity on the following provisions covered in the new Executive Order:

Section 2 of the Executive Order

Section 2 of the Executive order directs the Department of Justice, working with the Department of Interior and other agencies, to build on existing efforts to develop a coordinated and comprehensive Federal law enforcement strategy to prevent and respond to violence against Native Americans, including to address missing or murdered indigenous people where the Federal Government has jurisdiction.

- Among other things, this strategy will include a plan to expand Native American participation in the Amber Alert in Indian Country initiative. OJJDP, through the AMBER Alert Training and Technical Assistance Program (AATTAP), has dedicated funding to support a 5-year plan to facilitate the national implementation of AMBER Alert in all qualified federally recognized tribes ([AMBER Alert in Indian Country initiative](#)). This plan will address State/tribal Amber Alert integration.
 - What are the unique needs of Tribes when it comes to cases of missing children?
 - What should DOJ keep in mind as it works to strengthen the AMBER Alert in Indian Country initiative?
- Since 2010, the Department’s National Indian Country Training Initiative has provided specialized training to thousands of Department prosecutors and federal, Tribal, and state criminal justice and social service personnel to address the challenges relevant to Indian Country investigations and prosecutions.
 - How have these services made a difference in your community?
 - Are there additional trainings that the Department should offer to:
 - Federal prosecutors or law enforcement officers?
 - State and local law enforcement officers?
 - First responders or prosecutors in your communities?
- Pursuant to the Executive Order, the Department’s strategy will include protocols for effective, consistent, culturally, and linguistically appropriate communication with families of victims and their advocates, including through the creation of a designated position within the Department of Justice assigned the function of serving as the outreach services liaison for criminal cases where the Federal Government has jurisdiction.

- Have you or your community members had experience with the Department's victim services? If so, what was that experience like?
- How can the Department, including its law enforcement components, improve its communication with victims and their families in your community?
- Are there additional efforts the Department should prioritize when developing this federal law enforcement strategy?

Section 3 of the Executive Order

Section 3(a)(iii) of the Executive Order directs the Department of Justice to promote coordination of Federal, State, local, and Tribal law enforcement, including, as appropriate, through the development and support of Tribal Community Response Plans (TCRPs). TCRPs, which are led by the Tribes, establish local protocols for handling missing person cases in a way that respects the views of victims and their families. During the past two years, the Department has worked with more than 20 Tribes to start developing TCRPs.

- Is your Tribe interested in developing and implementing a TCRP?
- How can DOJ help your Tribe develop a TCRP?
 - In June 2013, DOJ established an inter-Tribal working group to support Tribes exercising the special domestic violence criminal jurisdiction described in the 2013 reauthorization of the Violence Against Women Act. The inter-Tribal group continues to meet regularly to discuss challenges, best practices, and technical matters. Would an inter-Tribal working group on community response plans or MMIP-related topics be a good resource for your Tribe? Would your representatives have the time to participate?
 - DOJ plans to publish general guides on developing these community response plans. What additional assistance can DOJ provide to aid you in tailoring this guidance to your community?
- What else can the Department do to better promote coordination among Federal, Tribal, State, and local law enforcement partners?

Section 3(a)(v) of the EO directs DOJ and DOI to assist Tribal, state and local law enforcement entities' ability to apply linguistically appropriate, trauma-informed, and victim-centered practices when working with victims of crime, as well as to help Tribal

communities develop prevention strategies and recognize the indicators of human trafficking affecting Native Americans.

- Do any law enforcement agencies within your area, including Tribal law enforcement, utilize trauma-informed, victim-centered practices when working with victims of crime?
- What would you like to see, if anything, changed about how law enforcement entities work with victims of crime?
- Does your Tribal Community have a human trafficking prevention strategy?
- What does human trafficking look like within your community?

Section 4 of the Executive Order

Section 4 of the Executive Order addresses data collection, information sharing, access to data, and education and outreach around law enforcement databases. The Department held a consultation in June 2021 addressing many of these themes and appreciated the thoughtful feedback provided by Tribal members during those discussions. The Department is implementing changes in response to your feedback and its formal response to comments received during consultation is available [here](#). To follow up on those discussions:

- Has your Tribe experienced barriers to submitting tribal data to federal criminal databases and systems?
 - If so, which systems/databases? What were the barriers?
 - Can you describe any cases or activities impacted by this lack of access?
- Has your Tribe experienced barriers in accessing federal data, including from federal criminal databases and systems?
 - If so, from which systems/databases? What were the barriers?
 - Can you describe any cases or activities impacted by this lack of access?

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DOJ strongly encourages submission of comments in advance of the scheduled discussion. Submission of feedback prior to our discussions will help ensure DOJ representatives are able to address specific concerns and, where possible, ensure the right

agency representatives are in attendance to address specific topics of concern. Tribes are welcome to submit multiple times, before and after consultation discussions. Please submit advance feedback via email to OTJ@usdoj.gov. We hope you will be able to participate in these important government-to-government discussions about meeting your public safety needs.

Sincerely,

Tracy Toulou
Director