



## U.S. Department of Justice

Office of Tribal Justice

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January 23, 2026

Dear Tribal Leader:

We are pleased to invite you to a government-to-government consultation with the Department of Justice regarding legislative proposals that address a range of public safety issues in Tribal communities. Please see the attached framing paper for more information about the proposed legislation.

The consultation discussions will be held virtually as follows:

Date	Time	Proposals for Discussion
March 16, 2026	3 p.m. Eastern	<ul style="list-style-type: none"><li>• Expand the Bureau of Prisons Tribal Prisoner Program</li><li>• Remove Statute of Limitations for Second Degree Murder</li><li>• Amend Tribal Law Enforcement Access to Firearms</li></ul>
March 17, 2026	3 p.m. Eastern	<ul style="list-style-type: none"><li>• Amend U.S. Marshals Service Authority to Execute Tribal Violent Felony Warrants</li><li>• Amend Unlawful Flight to Avoid Prosecution Statute</li></ul>
March 18, 2026	3 p.m. Eastern	<ul style="list-style-type: none"><li>• Establish a Felony Child Abuse and Neglect Statute</li><li>• Extend Federal Criminal Jurisdiction Over Sexual Abuse Crimes Against Children in Alaska Native Villages</li><li>• Amend the Stored Communications Act</li></ul>
March 19, 2026	3 p.m. Eastern	<ul style="list-style-type: none"><li>• Expand Authority for the Entry of Domestic Violence Protection Orders</li><li>• Amend Tribal Background Check Authorities</li><li>• DOJ Training and Technical Assistance to InterTribal Consortia</li><li>• Clarify Responsibility for NCIC Training for Law Enforcement Officers</li></ul>
March 20, 2026	3 p.m. Eastern	<ul style="list-style-type: none"><li>• Recap</li><li>• Open discussion and opportunity to revisit any proposals</li></ul>

Please note that the consultation discussions will be closed to the press.

If you are interested in attending, [please register](#)<sup>1</sup> by 5pm Eastern on March 13, 2026. We strongly encourage written comments, which will be accepted until April 20, 2026. Please submit comments by email to [OTJ@usdoj.gov](mailto:OTJ@usdoj.gov), or by mail to Office of Tribal Justice, U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530-0001.

If you have questions, have difficulty registering, or need any accommodations for the sessions, please contact the Office of Tribal Justice at [OTJ@usdoj.gov](mailto:OTJ@usdoj.gov). We hope you will be able to participate in this important government-to-government consultation.

Sincerely,



Gina L. Allery  
Director

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<sup>1</sup> You may also use this link to access the registration site: [U.S. Department of Justice Consultation Regarding Legislative Proposals that Address a Range of Public Safety Issues in Tribal Communities Survey](#)

## **Indian Country Public Safety Legislative Proposals Consultation Framing Paper**

The legislative proposals that follow this introductory section reflect feedback the Department of Justice (“the Department”) has received from Tribes over several years and input from internal subject matter experts, including our operational agencies. These proposals are focused on improving public safety in American Indian and Alaska Native communities. Each proposal that follows includes a summary with additional context for the proposed changes. Where the proposal is amending an existing statute, that amendment is highlighted in the existing statutory text. Following is a list of the proposals:

- I. Expand the Bureau of Prisons Tribal Prisoner Program (pg. 2)
- II. Remove Statute of Limitations for Second Degree Murder (pp. 3-4)
- III. Amend Tribal Law Enforcement Access to Firearms (pp. 5-7)
- IV. Amend U.S. Marshals Service Authority to Execute Tribal Violent Felony Warrants (pp. 8-9)
- V. Amend Unlawful Flight to Avoid Prosecution Statute (pp. 10-11)
- VI. Establish a Felony Child Abuse and Neglect Statute (pp. 12-13)
- VII. Extend Federal Criminal Jurisdiction Over Sexual Abuse Crimes Against Children in Alaska Native Villages (pp. 14-15)
- VIII. Amend the Stored Communications Act (pp. 16-20)
- IX. Expand Authority for the Entry of Domestic Violence Protection Orders (pg. 21)
- X. Amend Tribal Background Check Authorities (pg. 22)
- XI. DOJ Training and Technical Assistance to InterTribal Consortia (pg. 23)
- XII. Clarify Responsibility for National Crime Information Center (NCIC) Training for Law Enforcement Officers (pg. 24)

Please note that the Department separately consulted on legislation that addresses the Supreme Court’s decision in *Oklahoma v. Castro-Huerta* and is considering that issue separately. The Department welcomes feedback on all the proposals. The questions included after each proposal are not intended to limit discussion; the Department welcomes any questions and feedback from consultation participants.

## I. Expand Bureau of Prisons Tribal Prisoner Program - 28 U.S.C. § 566

The Tribal Law and Order Act of 2010 (TLOA) established the Bureau of Prisons (BOP) Tribal Pilot Program, which authorized the BOP to accept, pay for, and house in BOP custody certain offenders convicted in tribal court. The Violence Against Women Reauthorization Act of 2022 amended the TLOA statute, authorizing a permanent BOP Tribal Prisoner Program that allows up to 100 offenders from tribal courts, effective March 15, 2022. After developing solid program processes in consultation with Tribes, the [Bureau of Prisons \(BOP\) Tribal Prisoner Program](#) has been running smoothly and is at full capacity with a waiting list. The following proposal would amend the statute to expand the program:

### 25 U.S.C. § 1302a. Bureau of Prisons tribal prisoner program

....

#### (2) CONDITIONS

**(A) In general** As a condition of participation in the program described in paragraph (1), the tribal court shall submit to the Attorney General a request for confinement of the offender, for approval by the Attorney General (or a designee) by not later than 30 days after the date of submission.

**(B) Limitations** Requests for confinement shall be limited to offenders **sentenced in a tribal court of law for committing** a violent crime (comparable to the violent crimes described in *section 1153(a) of title 18, United States Code*) for which the sentence includes a term of imprisonment of 1 or more years. **Participants will not be eligible for federal term reductions or community placements available to offenders sentenced in federal court.**

**(C) Custody conditions** The imprisonment by the Bureau of Prisons shall be subject to the conditions described in **section 5003 of title 18, United States Code**, regarding the custody of State offenders, except that the offender shall be placed in the nearest available and appropriate Federal facility; **be afforded equal access to rehabilitation, education, and vocational programming**; and imprisoned at the expense of the United States.

**(D) Floor.** The Bureau of Prisons shall accept at least 300 tribal offenders at any time. The Bureau of Prisons may accept more tribal offenders as resources permit, as determined by the Bureau of Prisons.

#### Questions for Discussion:

1. Is your Tribe a participant in the BOP Tribal Prisoner Program? If so, does your Tribe have any feedback on the existing Program and its implementation? If not, what are the barriers to your Tribe participating?
2. Would the expansion of this program assist your Tribe in addressing its correctional needs?
3. If not, what changes to the proposed expansion would meet your needs?

## II. Remove Statute of Limitations for Second Degree Murder

There is currently a five-year statute of limitations for murder in the second degree charged under 18 U.S.C. § 1111. Removing the statute of limitations would reconcile existing federal law limiting the statute of limitations for murder in the second degree to align it with every state statute of limitations addressing murder in the second degree. Although the proposed statutory amendment is not retroactive and thus will not assist victims and their families in current pending second-degree murder investigations, the proposal will resolve the problem that prohibits prosecution of meritorious cases, while eliminating the inconsistency between federal and state prosecutions for the same crime in future cases. There are two possible proposals that would eliminate the statute of limitations for murder in the second degree:

### Option 1

#### 18 U.S.C. § 1111

**(a)** Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

**(b)** Within the special maritime and territorial jurisdiction of the United States,

- (1)** Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;
- (2)** Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life.

**(c)** For purposes of this section—

- (1)** the term “assault” has the same meaning as given that term in section 113;
- (2)** the term “child” means a person who has not attained the age of 18 years and is—
  - (A)** under the perpetrator’s care or control; or
  - (B)** at least six years younger than the perpetrator;
- (3)** the term “child abuse” means intentionally or knowingly causing death or serious bodily injury to a child;

- (4) the term “pattern or practice of assault or torture” means assault or torture engaged in on at least two occasions;
- (5) the term “serious bodily injury” has the meaning set forth in section 1365; and
- (6) the term “torture” means conduct, whether or not committed under the color of law, that otherwise satisfies the definition set forth in section 2340(1).

**(d) Non-applicability of Certain Limitations.** – Notwithstanding section 3282, in the case of an offense under subsection (b)(2) of this section, an indictment may be found, or information instituted, at any time without limitation.

#### **Option 2 (new provision rather than amendment to existing statute)**

- (a) In General.—Chapter 213 of Title 18, United States Code, is amended by adding at the end the following:  
“3302. Murder in the Second Degree  
“Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation for murder in the second degree under section 1111.”.
- (b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:  
“3302. Murder in the Second Degree.”.

#### *Questions for Discussion:*

1. Would either proposal enhance public safety in your community?
2. Do you prefer option 1 or option 2? Why?
3. Do you have any changes you would like to suggest to the proposed legislation?

### **III. Tribal Law Enforcement Access to Firearms**

Section 3(a) of the National Firearms Act (NFA), 26 U.S.C. § 5811(a), imposes a \$200 tax on the transfer of certain firearms. However, it exempts the following governmental entities from payment: the United States or any department, independent establishment, or agency thereof, and any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations. *See §§ 27 C.F.R. 479.89, 479.90.* Tribal law enforcement agencies are not exempt from this tax and amending the statute would put them on equal footing with other law enforcement agencies that are exempt.

The Gun Control Act (GCA) of 1968 generally prohibits the interstate shipment of firearms to unlicensed persons, but Section 102, 18 U.S.C. § 925(a)(1), of the GCA contains an exception for shipments to the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof. The GCA also prohibits the transfer or possession of post May 18, 1986, machineguns, except with respect to a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof. 18 U.S.C. § 922(o). Tribes and their police departments are not part of, or agencies of, the United States government, or of a state government or a political subdivision of a state and are not eligible to receive firearms interstate and cannot possess a post-1986 machinegun. Amending the GCA would put Tribal law enforcement agencies on the same footing as other law enforcement agencies regarding the transportation, shipment, receipt, and possession or importation of certain firearms. The NFA and GCA would be amended as follows:

#### **26 U.S.C. § 5853 – Transfer and making tax exemption available to certain governmental entities**

##### **(a) TRANSFER**

A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, federally recognized Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 5130), possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

##### **(b) MAKING**

A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, federally recognized Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 5130), or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

\* \* \*

## **18 U.S.C. § 922 – Unlawful Acts**

**(o)**

- (1)** Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.
- (2)** This subsection does not apply with respect to—
  - (A)** a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof, or a State or federally recognized Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 5130), or a department, agency, or political subdivision thereof; or
  - (B)** a transfer to or by a federally recognized Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 5130) for the use of its certified law enforcement officers and possession by any certified law enforcement officer of that tribe while in the discharge of official duties; or
  - (C)** any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

\* \* \*

## **18 U.S.C. § 925 - Exceptions: Relief from disabilities**

**(a)**

- (1)** The provisions of this chapter, except for sections 922(d), 922(g), and 922(n) and provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or the certified law enforcement agencies of a federally recognized Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 5130).

\* \* \*

## **18 U.S.C. § 1715 - Firearms as nonmailable; regulations**

Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such articles may be conveyed in the mails, under such regulations as the Postal Service shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Air Force, Coast Guard, Marine Corps, Space Force, or Organized Reserve Corps; to officers of the National Guard or Militia of a State, Territory, Commonwealth,

Possession, or District; to officers of the United States or of a State, Territory, Commonwealth, Possession, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; to watchmen engaged in guarding the property of the United States, a State, Territory, Commonwealth, Possession, or District; and to certified law enforcement officers of federally recognized Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 5130). Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postal Service shall prescribe.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be fined under this title or imprisoned not more than two years, or both.

*Questions for Discussion:*

1. Would providing these authorities be helpful to your Tribe?
2. Would this proposal improve the capabilities of your Tribal law enforcement?
3. Do you have any changes you would like to suggest to the proposed legislation?

#### **IV. Amend U.S. Marshals Service Authority to Execute Tribal Violent Felony Warrants - 28 U.S.C. § 566; 34 U.S.C. § 41503**

A core mission of the U.S. Marshals Service (USMS) task force operations is the adoption and execution of federal, state, and local serious violent felony arrest warrants in cooperation with state and local law enforcement partners. The authority to conduct these investigations is clearly established in 28 U.S.C. § 566, 34 U.S.C. § 41503, and DOJ policy. The statutory revisions described below would make clear that the USMS may offer Tribal governments the same assistance in executing serious violent felony warrants that the USMS has offered state and local governments for decades and supports a consistent government focus on promoting safety in Indian Country.

The USMS has clear legal authority to assist state and local governments with the execution of their violent felony offender warrants. At the same time, absent a request for assistance, the USMS does not assist with the execution of state and/or local arrest warrants. When assistance with warrant execution is requested by a state/local entity, the USMS may then “adopt” and execute the warrant. The adoption process involves ascertaining, among other things, if extradition on the warrant is feasible. The USMS, which functions nationwide across all state boundaries, does not adopt a warrant if a funded, lawful, and constitutionally sound extradition is not possible.

Currently, and in coordination with the Office of Tribal Justice, USMS responds on an ad-hoc basis to individual requests from Tribes for assistance with Tribal violent felony warrants. However, with the increasing number of outstanding Tribal felony warrants, this ad-hoc, case-by-case approach to Tribal warrants is unwieldy and over time will not provide meaningful, consistent, and predictable support to the Tribes requiring assistance with their most severe violent felony warrants.

Modification of 28 U.S.C. § 566(e)(1)(B) and (D), and 34 U.S.C. §§ 41503 (a) and (c) to explicitly clarify USMS’s authority to adopt, investigate, and execute Tribal violent felony warrants will provide much-needed support to Tribal law enforcement and enhance public safety. Adding “Tribal” to § 566(e)(1)(B) clarifies that Tribal fugitive matters are included in the fugitive matters to which the Attorney General can direct assistance. Adding “Tribal” to § 566(e)(1)(D) clarifies that Tribes are among the entities that can request USMS assistance with the recovery of missing children. And adding “Tribal” to 34 U.S.C. §§ 41503(a) and (c) clarifies that Tribal law enforcement authorities are among the entities that can participate in fugitive apprehension task forces. The following proposal would amend the statute as follows:

##### **28 U.S.C. § 566 - Powers and duties**

....

**(e)**

**(1)** The United States Marshals Service is authorized to—

....

**(B)** investigate such fugitive matters, **including Tribal fugitive matters**, both within and outside the United States, as directed by the Attorney General;

...

(D) assist State, local, **Tribal**, and other Federal law enforcement agencies, upon the request of such an agency, in locating and recovering missing children.

\* \* \*

**34 U.S.C. § 41503 - Fugitive Apprehension Task Forces**

**(a) IN GENERAL** The Attorney General shall, upon consultation with appropriate Department of Justice and Department of the Treasury law enforcement components, establish permanent Fugitive Apprehension Task Forces consisting of Federal, State, **Tribal**, and local law enforcement authorities in designated regions of the United States, to be directed and coordinated by the United States Marshals Service, for the purpose of locating and apprehending fugitives.

....

**(c) OTHER EXISTING APPLICABLE LAW** Nothing in this section shall be construed to limit any existing authority under any other provision of Federal, **Tribal** or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

*Questions for Discussion:*

1. Would establishing authority for the USMS to execute Tribal warrants improve public safety in your communities?
2. Do you have concerns about how the USMS would assert this authority?
3. Would adding “Tribal” to § 566(e)(1)(B) to clarify that Tribal fugitive matters are included in the fugitive matters to which the Attorney General can direct assistance help your Tribe?
4. Are there other ways in which the Attorney General could assist your Tribe in addressing fugitive matters? If so, what?
5. Would adding “Tribal” to § 566(e)(1)(D) clarifying that Tribes are among the entities that can request USMS assistance with the recovery of missing children assist your Tribe regarding matters involving missing children? Are there other ways in which the federal government could assist your Tribe in addressing matters involving missing children?
6. Would adding “Tribal” to 34 U.S.C. §§ 41503(a) and (c) to clarify that Tribal law enforcement authorities are among the entities that can participate in fugitive apprehension task forces assist your Tribe in addressing public safety?
7. Are there other ways in which the USMS specifically could assist your Tribe in addressing matters of public safety in your community?

## V. Amend Unlawful Flight to Avoid Prosecution Statute - 18 U.S.C. § 1073

Currently, the process to arrest an American Indian or Alaska Native fugitive with a state warrant who is located on Tribal lands is through the specific Tribe's extradition/warrant domestication process. Many Tribes have enacted extradition statutes which set forth a formal legal process for the arrest and extradition of fugitives. In those instances, the Tribal police must conduct the investigation and make the arrest. However, USMS, at the request of Tribal law enforcement, can assist in the execution of a Tribal arrest warrant.

Amending 18 U.S.C. § 1073 by adding "federally recognized Tribe" to the list of jurisdictions that fall under the definition of "State" in Subsection 1 would allow authorized federal agencies to apprehend fugitives seeking to avoid prosecution in violation of the Unlawful Flight to Avoid Prosecution (UFAP) statute. This amendment would extend the UFAP statute to Indian Country in the same way that Congress has already extended violations of Interstate Domestic Violence 18 U.S.C. § 2261, Failure to Register 18 U.S.C. § 2250, and Stalking 18 U.S.C. § 2261A. The proposed legislation would state:

### **18 U.S.C. § 1073- Flight to avoid prosecution or giving testimony**

Whoever moves or travels in interstate or foreign commerce, or enters or leaves Indian country, with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, is charged, or (3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities, shall be fined under this title or imprisoned not more than five years, or both. For the purposes of clause (3) of this paragraph, the term "State" includes a State of the United States, the District of Columbia, federally recognized Tribes as defined in the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131), and any commonwealth, territory, or possession of the United States.

Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated.

*Questions for Discussion:*

1. Would allowing authorized federal agencies to apprehend fugitives with state-issued arrest warrants on Tribal lands improve public safety in your communities?
2. Do you have concerns about extending this authority to federal law enforcement?
3. Is there an alternative way to address these issues without amending the statute?

## VI. Felony Child Abuse and Neglect

Currently, there is no federal statute that addresses felony child abuse or neglect, which are enumerated violations in Indian Country pursuant to 18 U.S.C. § 1153. Instead, Assistant United States Attorneys must assimilate state child abuse laws, to include sentencing maximums, which leads to inconsistencies across the federal judicial districts. This proposal would create a federal felony child abuse and neglect statute that could be used in Indian Country.

Here is the proposed statute:

### **18 U.S.C. § 120. Felony Child Abuse or Neglect**

(a) Any person, being a caregiver to a child, who knowingly commits child abuse or neglect against that child within the special maritime and territorial jurisdiction of the United States or Indian country, shall be punished as provided in subsection (b).

(b) Whoever violates subsection (a) shall be punished as follows:

(1) by a fine under this title, imprisonment for not more than five (5) years, or both;

(2) by a fine under this title, imprisonment for not more than ten (10) years, or both if the offender has a final conviction on at least two separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction, any assault, sexual abuse, or child abuse or neglect against a spouse, intimate partner, parent, sibling, or child of or in the care of the person committing the child abuse or neglect; or

(3) by a fine under this title, imprisonment for not more than fifteen (15) years, or both if the abuse or neglect results in serious bodily injury to the child, or if a dangerous weapon, controlled substance, or controlled substance analogue is used in furtherance of the offense,

### **(c) Definitions**

(1) "Child" mean an individual who has not attained the age of 18 years;

(2) "Caregiver" means any of the following persons:

- i. The child's parent or step-parent.
- ii. The child's guardian.
- iii. The child's physical or legal custodian..
- iv. The child's foster parent.
- v. A person who resides or has resided regularly or intermittently in the same residence as the child and has access to and provides care to the child.

- vi. An employee or volunteer of a residential facility or residential care center for children and youth in which the child is placed.
- vii. A person who provides care for the child in or outside of the child's home.
- viii. Any other person who assumes or exercises temporary or permanent control over the child or who temporarily or permanently supervises the child;

(3) The term "child abuse or neglect" means the physical or mental injury, or negligent treatment, of a child, or allowing or permitting the sexual abuse or exploitation of a child by another;

(4) The terms "physical injury," "mental injury," "sexual abuse or exploitation" have the meaning given to those terms in section 20341(c) of title 34;

(5) The term "negligent treatment of a child" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(6) The term "child abuse" shall not include discipline administered by the caregiver to the child provided it is reasonable in manner.

*Questions for Discussion:*

1. Would establishing a federal felony child abuse and neglect statute be helpful?
2. Do you have any concerns about the scope or language of the proposed legislation?
3. Do you have any concerns about how cases would be investigated or prosecuted under this statute, if it is enacted?
4. Do you have any changes you would like to suggest to the proposed legislation?

## VII. Extend federal criminal jurisdiction over sexual abuse crimes against children in Alaska Native Villages - 18 U.S.C. § 2244

Children in Alaska Native Villages suffer from high levels of sexual abuse. Due to limited resources and challenging logistics, the State of Alaska's ability to respond to these crimes is severely limited. The U.S. Department of Justice routinely prosecutes child sexual abuse cases involving American Indian victims in those areas over which it has jurisdiction. This amendment would establish federal jurisdiction in Alaska over child sexual abuse in addition to the existing State jurisdiction, but it would not add any additional funding [for personnel or equipment] to effectuate the statute. The proposed legislation would amend 18 U.S.C. § 2244 as follows:

### 18 U.S.C. § 2244 - Sexual abuse of a minor, a ward, or an individual in Federal custody

**(a) Of a minor.** Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

**(a) Sexual Contact with Children in Alaska Native Villages.**

(1) In General. It shall be unlawful, in an Alaska Native Village, to knowingly engage in or cause sexual contact with or by another person, if to do so would violate section 2241(c) or section 2243(a) had the sexual contact been a sexual act.

(2) Penalties. Any person who violates paragraph (1) shall be punished as provided in subsections (a) and (d).

### 18 U.S.C. § 2246 - Definitions for chapter

As used in this chapter [[18 USCS §§ 2241](#) et seq.]—

(8) the term "Alaska Native Village" means the Alaska Native Village Statistical Area covering all or any portion of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), as depicted on the applicable Tribal Statistical Area Program Verification map of the Bureau of the Census. Nothing in this Act: (1) diminishes the jurisdiction of the State or the Federal Government in effect on the date of enactment of this Act over any criminal or civil matter; (2) creates or eliminates any area of Indian country (as defined in 18 U.S.C. § 1151) in the State; or (3) diminishes any authority of an Indian tribe in the State under any other law.

*Questions for Discussion:*

1. Would establishing federal criminal jurisdiction over sexual abuse crimes against children in Alaska Native Villages be helpful?
2. Law enforcement in Alaska is extraordinarily resource dependent—it takes a lot of people and equipment to respond to reports of crime throughout the state, particularly in rural communities. This statutory change would provide for additional federal jurisdiction, but it would not provide any new or additional resources to effectuate this jurisdiction. Will the lack of resources to address these crimes render these statutory changes meaningless?
3. Would establishing federal authority over these crimes allow for more cross-jurisdictional partnerships? Or is it possible that adding federal jurisdiction will create confusion?
4. Do you have any concerns about how cases would be investigated or prosecuted under this statute, if it is enacted?
5. Is there a more effective way for federal agencies to help address these crimes against children?
6. Do you have any changes you would like to suggest to the proposed legislation?

### VIII. Amend Stored Communications Act - 18 U.S.C. § 2711

This proposal would amend the Stored Communications Act to allow Tribal law enforcement and courts to issue search warrants for electronic communications, such as Facebook. In this increasingly digital world, the ability to search these entities is critically important. This statutory amendment is one of the recommendations in the [Not Invisible Act Commission's Final Report](#).<sup>2</sup> The proposed statutory amendments would be as follows:

#### 18 U.S.C. § 2703 - Required disclosure of customer communications or records

##### (b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—

**(1) IN STORAGE 180 DAYS OR LESS.**—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication, that is in electronic storage in an electronic communications system for one hundred eighty days or less, only pursuant to a warrant issued by a court of competent jurisdiction—

- (A) issued using the procedures described in the Federal Rules of Criminal Procedure; or
- (B) in the case of a State court, issued using State warrant procedures; or
- (C) in the case of a court-martial or other proceeding under chapter 47 of title 10 (the Uniform Code of Military Justice), issued under section 846 of that title, in accordance with regulations prescribed by the President); or
- (D) in the case of a Tribal court, issued using warrant procedures that comply with section 202(a)(2) of Public Law 90-284 (commonly known as the 'Indian Civil Rights Act of 1968') (25 U.S.C. 1302(a)(2)).

**(2) IN STORAGE MORE THAN 180 DAYS.**—A governmental entity may require the disclosure by a provider of electronic communications services of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

##### (b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—

**(1)** A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

- (A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued in accordance with subsection (a)(1) by a court of competent jurisdiction; or

- (B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

- (i) uses an administrative subpoena authorized by a Federal, Tribal, or State statute or a Federal, Tribal, or State grand jury or trial subpoena; or

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<sup>2</sup> See Chapter 1, recommendation G1 (pg. 55); Chapter 6, recommendation K6 (pg. 144).

(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title [[18 USCS § 2705](#)].

(2) Paragraph (1) is applicable with respect to any wire or electronic communication that is held or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

**(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—**

(1) A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications) only when the governmental entity—

(A) obtains a warrant issued in accordance with subsection (a)(1) by a court of competent jurisdiction;

...

(2) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the—

(A) name;

(B) address;

(C) local and long distance telephone connection records, or records of session times and durations;

(D) length of service (including start date) and types of service utilized;

(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) means and source of payment for such service (including any credit card or bank account number), of a subscriber to or customer of such service when the governmental entity uses an administrative subpoena

authorized by a Federal, Tribal, or State statute or a Federal, Tribal, or State grand jury or trial subpoena, or any means available under paragraph (1).

...

**(d) REQUIREMENTS FOR COURT ORDER.—** A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal

investigation. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. In the case of an Indian Tribe or political subdivision thereof, such a court order shall not issue if prohibited by the law of such governmental entity or applicable law. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

\* \* \*

## 18 U.S.C. § 2705 - Delayed notice

### (a) DELAY OF NOTIFICATION.—

(1) A governmental entity acting under section 2703(b) of this title [[18 USCS § 2703\(b\)](#)] may—

...

(B) where an administrative subpoena authorized by a Federal, Tribal, or State statute or a Federal, Tribal, or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title [[18 USCS § 2703\(b\)](#)] for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

\* \* \*

## 18 U.S.C. § 2707 - Civil action

....

(g) IMPROPER DISCLOSURE. — Any willful disclosure of a “record”, as that term is defined in [section 552a\(a\) of title 5, United States Code](#), obtained by an investigative or law enforcement officer, or a governmental entity, pursuant to section 2703 of this title [[18 USCS § 2703](#)], or from a device installed pursuant to section 3123 or 3125 of this title [[18 USCS § 3123](#) or [3125](#)], that is not a disclosure made in the proper performance of the official functions of the officer or governmental entity making the disclosure, is a violation of this chapter [[18 USCS §§ 2701](#) et seq.]. This provision shall not apply to information previously lawfully disclosed (prior to the commencement of any civil or administrative proceeding under this chapter [[18 USCS §§ 2701](#) et seq.]) to the public by a Federal, State, Tribal, or local governmental entity or by the plaintiff in a civil action under this chapter [[18 USCS §§ 2701](#) et seq.].

\* \* \*

## 18 U.S.C. § 2710 - Wrongful disclosure of video tape rental or sale records

....

**(b) VIDEO TAPE RENTAL AND SALE RECORDS. —**

....  
**(2)** A video tape service provider may disclose personally identifiable information concerning any consumer—

....  
**(C)** to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a warrant issued by a Tribal court using warrant procedures that comply with section 202(a)(2) of Public Law 90–284 (commonly known as the ‘Indian Civil Rights Act of 1968’) (25 U.S.C. 1302(a)(2)), a grand jury subpoena, or a court order;

....  
**(d) PERSONALLY IDENTIFIABLE INFORMATION.** — Personally identifiable information obtained in any manner other than as provided in this section shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, a political subdivision of a State, or an Indian Tribe.

\* \* \*

**18 U.S.C. § 2711 - Definitions for chapter**

As used in this chapter [[18 USCS §§ 2701](#) et seq.]—

....  
**(3)** the term “court of competent jurisdiction” includes—

**(A)** any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—

**(i)** has jurisdiction over the offense being investigated;

**(ii)** is in or for a district in which the provider of a wire or electronic communication service is located or in which the wire or electronic communications, records, or other information are stored; or

**(iii)** is acting on a request for foreign assistance pursuant to section 3512 of this title [[18 USCS § 3512](#)];

**(B)** a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants;

**(C)** a Tribal court; or

**(D)** a court-martial or other proceeding under chapter 47 of title 10 (the Uniform Code of Military Justice) [[10 USCS §§ 801](#) et seq.] to which a military judge has been detailed; and

**(4)** ~~the term “governmental entity” means a department or agency of the United States or any State or political subdivision thereof.~~ the term ‘governmental entity’ means a department or agency of—

**(A)** the United States;

**(B)** any State or political subdivision thereof; or

**(C)** any Indian Tribe or political subdivision thereof;

**(5)** the term 'Indian Tribe' means any federally recognized Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131); and

**(6)** the term 'Tribal court' means a court of general criminal jurisdiction of an Indian Tribe authorized by the law of that Indian Tribe to issue search warrants.

*Questions for Discussion:*

1. Would amending the Stored Communication Act be helpful to your Tribe?
2. The Stored Communications Act imposes requirements on jurisdictions that choose to assert authorities under the Act and would allow Tribes to be sued in certain scenarios. Do you have any concerns about the requirements that Tribes would be subject to?
3. Would Department of Justice support for [S.1574, the Tribal Access to Electronic Evidence Act](#), achieve the same result as this proposed legislation?
4. Do you have any changes you would like to suggest to the proposed legislation?

## **IX. Entry of Domestic Violence Protection Orders - 28 U.S.C. § 534**

Revision of 28 U.S.C. § 534 would expand authority for the entry of domestic violence protection orders into the FBI CJIS National Crime Information Center (NCIC) Protection Order File to civil courts. Many Tribal courts issue domestic violence protection orders which are entitled to nationwide full faith and credit pursuant to the Violence Against Women Act; 18 U.S.C. § 2265. Tribal courts typically issue such orders through a civil petition process; this is especially true in Tribal jurisdictions that do not maintain criminal courts where Public Law 280 or similar jurisdictional laws apply. Entry of protection orders into the NCIC Protection Order file provides notice of those orders to law enforcement agencies nationwide. Currently, 28 U.S.C. § 534 allows civil courts to access domestic violence protection orders from other jurisdictions but it does not authorize them to enter those orders for sharing with other jurisdictions. The following proposed statutory amendment would allow civil courts to enter protection orders into NCIC:

### **28 U.S.C. § 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials**

....

**(f)**

- (1)** Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.
- (2)** Federal, tribal, and State criminal justice agencies, **civil courts, and criminal courts** authorized to enter information into criminal information databases may include—

- (A)** arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and
- (B)** protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

#### *Questions for Discussion:*

1. Would establishing this authority be helpful to your Tribe?
2. Do you have any changes you would like to suggest to the proposed legislation?

## **X. Amend Tribal Background Check Authorities - 42 U.S.C. §9858f**

Tribal governments do not have statutory authorizations to complete certain mandatory background checks for child care providers because the Child Care Block Grant and Development Act of 2014 (Act) did not authorize Tribes to access national (FBI CJIS) criminal history record information for that purpose. This amendment would authorize Tribes to access the information necessary for childcare staff background checks by allowing Tribes to have the same access as states. Amending 42 U.S.C. § 9858f, which is part of the Act, and adding a new subsection (k), would establish the needed authority. The proposed legislation would read:

### **42 U.S.C. § 9858f - Criminal Background checks**

#### **(b) REQUIREMENTS**

...

(4) a Federal Bureau of Investigation fingerprint check using the FBI's Next Generation Identification System; and

[adding a new subsection at the end]

**(k) TRIBAL FINGERPRINT BACKGROUND CHECKS** — For purposes of conducting background checks on child care staff members or prospective child care staff members of Tribal child care providers that are licensed, regulated, or registered under Tribal law or that receive assistance provided under this subchapter—

(1) **IN GENERAL** Federally Recognized Tribes are authorized to conduct a Federal Bureau of Investigation fingerprint check, as specified in subsection (b)(4); and

(2) **LEAD AGENCY** The appropriate Tribal lead agency designated by a Federally Recognized Tribe, pursuant to the Federally Recognized Tribe List Act of 1994 (25 U.S.C. 5131), may use information obtained through the searches and checks described in subsection (b), if available.

#### *Questions for Discussion:*

1. Would establishing Tribal authority to conduct these background checks be helpful to your Tribe?
2. Do you have any changes you would like to suggest regarding the proposed legislation?

## **XI. DOJ Training and Technical Assistance to Tribal Governments - 25 U.S.C. § 2815**

Section 25 U.S.C. § 2815 of the Tribal Law and Order Act of 2010 authorizes the Attorney General to provide training and technical assistance to State, Tribal, and local governments for various purposes to improve cooperation among governments as to law enforcement efforts in Indian Country. Many Tribes – especially small Tribes in remote areas – are developing intertribal consortia models to provide public safety services and many DOJ grants already authorize intertribal consortia to serve as grantees, but the list of purposes for which DOJ may provide technical assistance to Tribes is outdated. Amendment to this section would specify that information sharing and development of intertribal consortia are approved purposes. The legislation would be amended as follows:

### **25 U.S.C. § 2815 - State, tribal, and local law enforcement cooperation**

The Attorney General may provide technical and other assistance to State, tribal, and local governments that enter into cooperative agreements, including agreements relating to mutual aid, hot pursuit of suspects, **information sharing, intertribal consortia**, and cross-deputization for the purposes of—

- (1) improving law enforcement effectiveness;
- (2) reducing crime in Indian country and nearby communities; and
- (3) developing successful cooperative relationships that effectively combat crime in Indian country and nearby communities.

#### *Questions for Discussion:*

1. Would supporting intertribal consortia in this way be helpful to your Tribe?
2. Do you have any changes you would like to suggest to the proposed legislation?

## **XII. NCIC Training for Law Enforcement Officers – 25 U.S.C. § 2802**

Section 25 U.S.C. § 2802(c)(13) is part of the Tribal Law and Order Act of 2010. This Section requires the Bureau of Indian Affairs, Office of Justice Services to provide training and technical assistance to Tribal law enforcement agencies regarding the National Crime Information Center (NCIC) and other databases managed by FBI Criminal Justice Information Services (CJIS). This section is not necessary and is duplicative because federal and state CJIS systems agencies have the lead on providing NCIC services to Tribal law enforcement agencies and already have the infrastructure, curricula, and staff to provide this needed training. The legislation would be amended as follows:

### **25 U.S.C. § 2802 - Indian law enforcement responsibilities**

....

**(c) ADDITIONAL RESPONSIBILITIES OF DIVISION** Subject to the provisions of this chapter and other applicable Federal or tribal laws, the responsibilities of the Office of Justice Services in Indian country shall include—

....

**(12)** conducting meaningful and timely consultation with tribal leaders and tribal justice officials in the development of regulatory policies and other actions that affect public safety and justice in Indian country;

**(13) ~~providing technical assistance and training to tribal law enforcement officials to gain access and input authority to utilize the National Criminal Information Center and other national crime information databases pursuant to section 534 of title 28, United States Code;~~**

....

**(17)** promulgating regulations to carry out this Act, and routinely reviewing and updating, as necessary, the regulations contained in subchapter B of title 25, Code of Federal Regulations (or successor regulations).

### *Questions for Discussion:*

1. Would providing this clarification be helpful?