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"The G&K Indian Nations Law Team provides a full range of legal services to Indian nations, tribal housing authorities, tribal corporations and other Indian country entities, with a focus on business and economic development, energy and environmental protection, and housing development."

Tribal Law and Order Act

Congress passed the Tribal Law and Order Act (TLOA) on July 21, 2010, and the President is expected to sign it into law. This legislation, originally introduced by Senator Dorgan and cosponsored by bi-partisan contingent of supporters, will bring accountability to the Federal administration of justice in Indian Country and strengthen tribal justice systems. The TLOA seeks to increase coordination and communication among Federal, State, tribal, and local law enforcement agencies; reduce violent crime, sexual violence, and drug and alcohol addiction in Indian Country; and increase the collection and sharing of criminal data among the different jurisdictional entities.

In addition to appointing qualified Tribal prosecutors to assist with prosecuting Federal offenses committed in Indian Country, the TLOA mandates the United States Attorney in a district that includes Indian Country to appoint at least one assistant United States Attorney to serve as a tribal liaison. Duties of a tribal liaison include coordinating prosecution of Federal crimes in Indian Country, addressing any backlog in the prosecution of major crimes, and conducting training sessions to improve law enforcement techniques. If the United States Attorney declines to prosecute a federal criminal law violation, the attorney is required to coordinate the prosecution and use of evidence with tribal justice officials.

Under the TLOA, tribes can request the United States to assist State governments in the prosecution of major crimes where States have jurisdiction. The jurisdiction shall be concurrent among the Federal, State, and, where applicable, tribal governments. To encourage supportive relationships among the different jurisdictions, federal assistance and resources may be provided to State, Tribal, and local governments that enter into cooperative law enforcement agreements.

The TLOA empowers Tribal Law enforcement agencies and tribal governments to combat crimes in their own communities through training opportunities and initiatives to increase police numbers. It allows Tribal Law enforcement agencies increased access to national criminal databases. The TLOA raises the maximum hiring age of BIA law enforcement officers to 47 in an effort to increase the number of potential candidates.

Under the TLOA, Tribal courts' sentencing authority is increased from one year to three years for any single offense. However, any Tribal court exercising this increased authority in a criminal case must provide the defendant with defense counsel, and the judge presiding over the case must be licensed to practice law in any jurisdiction. Tribes also can request the Bureau of Prisons to accept offenders convicted in tribal courts.

Funding and grant money is available for various programs and opportunities including: summer youth programs that address substance abuse; narcotics trafficking and source eradication; law enforcement and judicial training programs; and increasing employment of tribal court personnel. Both reservation crime rates and tribal law enforcement staffing needs are considered in determining the priority of funding. Grant money is also available for construction and maintenance of jails on Indian land, development of alternatives to incarceration, and creation and implementation of Tribal youth programs.

Recognizing that rates of domestic and sexual violence against American Indian and Alaskan Native women have reached epidemic proportions, the TLOA stresses prosecution and prevention of these crimes. The Act requires Federal officials to notify tribal officials when a sex offender is released into Indian Country from Federal custody. Tribal law enforcement officials will be required to receive specialized training in interviewing victims of domestic and sexual violence and preserving evidence in hopes of increasing the conviction rate. Additionally, the TLOA requires a study to be conducted focusing on the capabilities of Indian Health Services to collect, maintain, and secure evidence from sexual assault and domestic violence incidents.

Please contact Carl Artman or Brian Pierson, on Godfrey & Kahn's Indian Nations Team, if you have questions regarding the implementation of the TLOA, the impact of the TLOA on your tribal justice system, or the availability of grants associated with the new law. You may reach Carl Artman at cartman@gklaw.com or 414-287-9624, or Brian Pierson at bpiereson@gklaw.com or 414-287-9456.

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