

Editorial Notes

REFERENCES IN TEXT

Rule 6 of the Federal Rules of Criminal Procedure, referred to in subsec. (c)(2), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2010—Pub. L. 111-211 added subsecs. (a) to (c) and struck out former subsecs. (a) to (d) which related, respectively, to reports by law enforcement officials of the Bureau of Indian Affairs or Federal Bureau of Investigation, reports by United States attorneys, case files included within reports, and transfer or disclosure of confidential or privileged communication, information, or sources to tribal officials.

§ 2810. Assistant United States Attorney tribal liaisons**(a) Appointment**

The United States Attorney for each district that includes Indian country shall appoint not less than 1 assistant United States Attorney to serve as a tribal liaison for the district.

(b) Duties

The duties of a tribal liaison shall include the following:

- (1) Coordinating the prosecution of Federal crimes that occur in Indian country.
- (2) Developing multidisciplinary teams to combat child abuse and domestic and sexual violence offenses against Indians.
- (3) Consulting and coordinating with tribal justice officials and victims' advocates to address any backlog in the prosecution of major crimes in Indian country in the district.
- (4) Developing working relationships and maintaining communication with tribal leaders, tribal community and victims' advocates, and tribal justice officials to gather information from, and share appropriate information with, tribal justice officials.
- (5) Coordinating with tribal prosecutors in cases in which a tribal government has concurrent jurisdiction over an alleged crime, in advance of the expiration of any applicable statute of limitation.
- (6) Providing technical assistance and training regarding evidence gathering techniques and strategies to address victim and witness protection to tribal justice officials and other individuals and entities that are instrumental to responding to Indian country crimes.
- (7) Conducting training sessions and seminars to certify special law enforcement commissions to tribal justice officials and other individuals and entities responsible for responding to Indian country crimes.
- (8) Coordinating with the Office of Tribal Justice, as necessary.
- (9) Conducting such other activities to address and prevent violent crime in Indian country as the applicable United States Attorney determines to be appropriate.

(c) Effect of section

Nothing in this section limits the authority of any United States Attorney to determine the duties of a tribal liaison officer to meet the needs of the Indian tribes located within the relevant Federal district.

(d) Enhanced prosecution of minor crimes**(1) In general**

Each United States Attorney serving a district that includes Indian country is authorized and encouraged—

(A) to appoint Special Assistant United States Attorneys pursuant to section 543(a) of title 28 to prosecute crimes in Indian country as necessary to improve the administration of justice, and particularly when—

- (i) the crime rate exceeds the national average crime rate; or
- (ii) the rate at which criminal offenses are declined to be prosecuted exceeds the national average declination rate;

(B) to coordinate with applicable United States district courts regarding scheduling of Indian country matters and holding trials or other proceedings in Indian country, as appropriate;

(C) to provide to appointed Special Assistant United States Attorneys appropriate training, supervision, and staff support; and

(D) to provide technical and other assistance to tribal governments and tribal court systems to ensure that the goals of this subsection are achieved.

(2) Sense of Congress regarding consultation

It is the sense of Congress that, in appointing Special Assistant United States Attorneys under this subsection, a United States Attorney should consult with tribal justice officials of each Indian tribe that would be affected by the appointment.

(Pub. L. 101-379, §13, as added Pub. L. 111-211, title II, §213(b)(1), July 29, 2010, 124 Stat. 2268.)

§ 2811. Native American Issues Coordinator**(a) Establishment**

There is established in the Executive Office for United States Attorneys of the Department of Justice a position to be known as the "Native American Issues Coordinator".

(b) Duties

The Native American Issues Coordinator shall—

- (1) coordinate with the United States Attorneys that have authority to prosecute crimes in Indian country;
- (2) coordinate prosecutions of crimes of national significance in Indian country, as determined by the Attorney General;
- (3) coordinate as necessary with other components of the Department of Justice and any relevant advisory groups to the Attorney General or the Deputy Attorney General; and
- (4) carry out such other duties as the Attorney General may prescribe.

(Pub. L. 101-379, §14, as added Pub. L. 111-211, title II, §214(b), July 29, 2010, 124 Stat. 2271.)

§ 2812. Indian Law and Order Commission**(a) Establishment**

There is established a commission to be known as the Indian Law and Order Commission (referred to in this section as the "Commission").

(b) Membership**(1) In general**

The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President, in consultation with—

- (i) the Attorney General; and
- (ii) the Secretary;

(B) 2 shall be appointed by the Majority Leader of the Senate, in consultation with the Chairpersons of the Committees on Indian Affairs and the Judiciary of the Senate;

(C) 1 shall be appointed by the Minority Leader of the Senate, in consultation with the Vice Chairperson and Ranking Member of the Committees on Indian Affairs and the Judiciary of the Senate;

(D) 2 shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairpersons of the Committees on the Judiciary and Natural Resources of the House of Representatives; and

(E) 1 shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Members of the Committees on the Judiciary and Natural Resources of the House of Representatives.

(2) Requirements for eligibility

Each member of the Commission shall have significant experience and expertise in—

- (A) the Indian country criminal justice system; and
- (B) matters to be studied by the Commission.

(3) Consultation required

The President, the Speaker and Minority Leader of the House of Representatives, and the Majority Leader and Minority Leader of the Senate shall consult before the appointment of members of the Commission under paragraph (1) to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) Term

Each member shall be appointed for the life of the Commission.

(5) Time for initial appointments

The appointment of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(6) Vacancies

A vacancy in the Commission shall be filled—

- (A) in the same manner in which the original appointment was made; and
- (B) not later than 60 days after the date on which the vacancy occurred.

(c) Operation**(1) Chairperson**

Not later than 15 days after the date on which all members of the Commission have been appointed, the Commission shall select 1 member to serve as Chairperson of the Commission.

(2) Meetings**(A) In general**

The Commission shall meet at the call of the Chairperson.

(B) Initial meeting

The initial meeting shall take place not later than 30 days after the date described in paragraph (1).

(3) Quorum

A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(4) Rules

The Commission may establish, by majority vote, any rules for the conduct of Commission business, in accordance with this chapter and other applicable law.

(d) Comprehensive study of criminal justice system relating to Indian country

The Commission shall conduct a comprehensive study of law enforcement and criminal justice in tribal communities, including—

(1) jurisdiction over crimes committed in Indian country and the impact of that jurisdiction on—

- (A) the investigation and prosecution of Indian country crimes; and
- (B) residents of Indian land;

(2) the tribal jail and Federal prisons systems and the effect of those systems with respect to—

- (A) reducing Indian country crime; and
- (B) rehabilitation of offenders;

(3)(A) tribal juvenile justice systems and the Federal juvenile justice system as relating to Indian country; and

(B) the effect of those systems and related programs in preventing juvenile crime, rehabilitating Indian youth in custody, and reducing recidivism among Indian youth;

(4) the impact of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) on—

- (A) the authority of Indian tribes;
- (B) the rights of defendants subject to tribal government authority; and
- (C) the fairness and effectiveness of tribal criminal systems; and

(5) studies of such other subjects as the Commission determines relevant to achieve the purposes of the Tribal Law and Order Act of 2010.

(e) Recommendations

Taking into consideration the results of the study under paragraph (1),¹ the Commission shall develop recommendations on necessary modifications and improvements to justice systems at the tribal, Federal, and State levels, including consideration of—

- (1) simplifying jurisdiction in Indian country;
- (2) improving services and programs—
 - (A) to prevent juvenile crime on Indian land;
 - (B) to rehabilitate Indian youth in custody; and

¹ So in original. Probably should be "subsection (d)."

(C) to reduce recidivism among Indian youth;

(3) adjustments to the penal authority of tribal courts and exploring alternatives to incarceration;

(4) the enhanced use of chapter 43 of title 28 (commonly known as “the Federal Magistrates Act”) in Indian country;

(5) effective means of protecting the rights of victims and defendants in tribal criminal justice systems (including defendants incarcerated for a period of less than 1 year);

(6) changes to the tribal jails and Federal prison systems; and

(7) other issues that, as determined by the Commission, would reduce violent crime in Indian country.

(f) Report

Not later than 3 years after the date of enactment of this Act, the Commission shall submit to the President and Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the Commission; and

(2) the recommendations of the Commission for such legislative and administrative actions as the Commission considers to be appropriate.

(g) Powers

(1) Hearings

(A) In general

The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers to be advisable to carry out the duties of the Commission under this section.

(B) Public requirement

The hearings of the Commission under this paragraph shall be open to the public.

(2) Witness expenses

(A) In general

A witness requested to appear before the Commission shall be paid the same fees and allowances as are paid to witnesses under section 1821 of title 28.

(B) Per diem and mileage

The fees and allowances for a witness shall be paid from funds made available to the Commission.

(3) Information from Federal, tribal, and State agencies

(A) In general

The Commission may secure directly from a Federal agency such information as the Commission considers to be necessary to carry out this section.

(B) Tribal and State agencies

The Commission may request the head of any tribal or State agency to provide to the Commission such information as the Commission considers to be necessary to carry out this section.

(4) Postal services

The Commission may use the United States mails in the same manner and under the same

conditions as other agencies of the Federal Government.

(5) Gifts

The Commission may accept, use, and dispose of gifts or donations of services or property.

(h) Commission personnel matters

(1) Travel expenses

A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) Detail of Federal employees

On the affirmative vote of $\frac{2}{3}$ of the members of the Commission and the approval of the appropriate Federal agency head, an employee of the Federal Government may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(3) Procurement of temporary and intermittent services

On request of the Commission, the Attorney General shall provide to the Commission, on a reimbursable basis, reasonable and appropriate office space, supplies, and administrative assistance.

(i) Contracts for research

(1) Researchers and experts

(A) In general

On an affirmative vote of $\frac{2}{3}$ of the members of the Commission, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out the duties of the Commission under this section.

(B) National Institute of Justice

The National Institute of Justice may enter into a contract with the researchers and experts selected by the Commission under subparagraph (A) to provide funding in exchange for the services of the researchers and experts.

(2) Other organizations

Nothing in this subsection limits the ability of the Commission to enter into contracts with any other entity or organization to carry out research necessary to carry out the duties of the Commission under this section.

(j) Tribal Advisory Committee

(1) Establishment

The Commission shall establish a committee, to be known as the “Tribal Advisory Committee”.

(2) Membership

(A) Composition

The Tribal Advisory Committee shall consist of 2 representatives of Indian tribes

from each region of the Bureau of Indian Affairs.

(B) Qualifications

Each member of the Tribal Advisory Committee shall have experience relating to—

- (i) justice systems;
- (ii) crime prevention; or
- (iii) victim services.

(3) Duties

The Tribal Advisory Committee shall—

(A) serve as an advisory body to the Commission; and

(B) provide to the Commission advice and recommendations, submit materials, documents, testimony, and such other information as the Commission determines to be necessary to carry out the duties of the Commission under this section.

(k) Funding

For the fiscal year after July 29, 2010, out of any unobligated amounts available to the Secretary of the Interior or the Attorney General, the Secretary or the Attorney General may use to carry out this section not more than \$2,000,000.

(l) Termination of Commission

The Commission shall terminate 90 days after the date on which the Commission submits the report of the Commission under subsection (f).

(m) Nonapplicability of FACA

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(Pub. L. 101-379, §15, as added Pub. L. 111-211, title II, §235, July 29, 2010, 124 Stat. 2282; amended Pub. L. 113-4, title IX, §909(a), Mar. 7, 2013, 127 Stat. 126.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsections (b)(5) and (f), probably means the date of enactment of Pub. L. 111-211, which was approved July 29, 2010.

The Indian Civil Rights Act of 1968, referred to in subsection (d)(4), is title II of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 77, which is classified generally to subchapter I (§1301 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Tribal Law and Order Act of 2010, referred to in subsection (d)(5), is title II of Pub. L. 111-211, July 29, 2010, 124 Stat. 2261. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 2801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsection (m), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2013—Subsec. (f). Pub. L. 113-4 substituted “3 years” for “2 years” in introductory provisions.

§ 2813. Testimony by Federal employees

(a) Approval of employee testimony or documents

(1) In general

The Director of the Office of Justice Services or the Director of the Indian Health Serv-

ice, as appropriate (referred to in this section as the “Director concerned”), shall approve or disapprove, in writing, any request or subpoena from a tribal or State court for a law enforcement officer, sexual assault nurse examiner, or other employee under the supervision of the Director concerned to provide documents or testimony in a deposition, trial, or other similar criminal proceeding regarding information obtained in carrying out the official duties of the employee.

(2) Deadline

The court issuing a subpoena under paragraph (1) shall provide to the appropriate Federal employee (or agency in the case of a document request) notice regarding the request to provide testimony (or release a document) by not less than 30 days before the date on which the testimony will be provided.

(b) Approval

(1) In general

The Director concerned shall approve a request or subpoena under subsection (a) if the request or subpoena does not violate the policy of the Department to maintain impartiality.

(2) Failure to approve

If the Director concerned fails to approve or disapprove a request or subpoena for testimony or release of a document by the date that is 30 days after the date of receipt of notice of the request or subpoena, the request or subpoena shall be considered to be approved for purposes of this section.

(Pub. L. 101-379, §16, as added Pub. L. 111-211, title II, §263, July 29, 2010, 124 Stat. 2300.)

§ 2814. Policies and protocol

The Director of the Indian Health Service, in coordination with the Director of the Office of Justice Services and the Director of the Office on Violence Against Women of the Department of Justice, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall develop standardized sexual assault policies and protocol for the facilities of the Service, based on similar protocol that has been established by the Department of Justice.

(Pub. L. 101-379, §17, as added Pub. L. 111-211, title II, §265, July 29, 2010, 124 Stat. 2300.)

§ 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, 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.

(Pub. L. 111-211, title II, §222, July 29, 2010, 124 Stat. 2272.)