

Indian tribes because of their status as Indians.

(4) The term “judicial personnel” means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term “Office” means the Office of Tribal Justice Support within the Bureau of Indian Affairs.

(6) The term “Secretary” means the Secretary of the Interior.

(7) The term “tribal organization” means any organization defined in section 5304(l) of this title.

(8) The term “tribal justice system” means the entire judicial branch, and employees thereof, of an Indian tribe, including (but not limited to) traditional methods and forums for dispute resolution, lower courts, appellate courts (including intertribal appellate courts), alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

(Pub. L. 103-176, §3, Dec. 3, 1993, 107 Stat. 2004.)

SUBCHAPTER I—TRIBAL JUSTICE SYSTEMS

§ 3611. Office of Tribal Justice Support

(a) Establishment

There is hereby established within the Bureau the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems and Courts of Indian Offenses.

(b) Transfer of existing functions and personnel

All functions performed before December 3, 1993, by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of December 3, 1993, are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) Functions

In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Provide funds to Indian tribes and tribal organizations for the development, enhancement, and continuing operation of tribal justice systems.

(2) Provide technical assistance and training, including programs of continuing education and training for personnel of Courts of Indian Offenses.

(3) Study and conduct research concerning the operation of tribal justice systems.

(4) Promote cooperation and coordination among tribal justice systems and the Federal and State judiciary systems.

(5) Oversee the continuing operations of the Courts of Indian Offenses.

(6) Provide funds to Indian tribes and tribal organizations for the continuation and en-

hancement of traditional tribal judicial practices.

(d) No imposition of standards

Nothing in this chapter shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) Assistance to tribes

(1) The Office shall provide technical assistance and training to any Indian tribe or tribal organization upon request. Technical assistance and training shall include (but not be limited to) assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes or tribal organizations.

(f) Information clearinghouse on tribal justice systems

The Office shall maintain an information clearinghouse (which shall include an electronic data base) on tribal justice systems and Courts of Indian Offenses, including (but not limited to) information on staffing, funding, model tribal codes, tribal justice activities, and tribal judicial decisions. The Office shall take such actions as may be necessary to ensure the confidentiality of records and other matters involving privacy rights.

(Pub. L. 103-176, title I, §101, Dec. 3, 1993, 107 Stat. 2005.)

§ 3612. Survey of tribal judicial systems

(a) In general

Not later than six months after December 3, 1993, the Secretary, in consultation with Indian tribes, shall enter into a contract with a non-Federal entity to conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding, including base support funding, needed to provide for expeditious and effective administration of justice. The Secretary, in like manner, shall annually update the information and findings contained in the survey required under this section.

(b) Local conditions

In the course of any annual survey, the non-Federal entity shall document local conditions of each Indian tribe, including, but not limited to—

(1) the geographic area and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case-loads;

- (4) the facilities, including detention facilities, and program resources available;
- (5) funding levels and personnel staffing requirements for the tribal justice system; and
- (6) the training and technical assistance needs of the tribal justice system.

(c) Consultation with Indian tribes

The non-Federal entity shall actively consult with Indian tribes and tribal organizations in the development and conduct of the surveys, including updates thereof, under this section. Indian tribes and tribal organizations shall have the opportunity to review and make recommendations regarding the findings of the survey, including updates thereof, prior to final publication of the survey or any update thereof. After Indian tribes and tribal organizations have reviewed and commented on the results of the survey, or any update thereof, the non-Federal entity shall report its findings, together with the comments and recommendations of the Indian tribes and tribal organizations, to the Secretary, the Committee on Indian Affairs of the Senate, and the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

(Pub. L. 103-176, title I, §102, Dec. 3, 1993, 107 Stat. 2006.)

Editorial Notes

CHANGE OF NAME

Subcommittee on Native American Affairs changed to Subcommittee for Indigenous Peoples of the United States.

§ 3613. Base support funding for tribal justice systems

(a) In general

Pursuant to the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.], the Secretary is authorized (to the extent provided in advance in appropriations Acts) to enter into contracts, grants, or agreements with Indian tribes for the performance of any function of the Office and for the development, enhancement, and continuing operation of tribal justice systems and traditional tribal judicial practices by Indian tribal governments.

(b) Purposes for which financial assistance may be used

Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

- (1) planning for the development, enhancement, and operation of tribal justice systems;
- (2) the employment of tribal court personnel, including tribal court judges, prosecutors, public defenders, appointed defense counsel, guardians ad litem, and court-appointed special advocates for children and juveniles;
- (3) training programs and continuing education for tribal judicial personnel;
- (4) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;
- (5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of records management systems;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) juvenile services and multidisciplinary investigations of child abuse; and

(E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

(c) Formula

(1) Not later than 180 days after December 3, 1993, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulation, a formula which establishes base support funding for tribal justice systems in carrying out this section.

(2) The Secretary shall assess caseload and staffing needs for tribal justice systems that take into account unique geographic and demographic conditions. In the assessment of these needs, the Secretary shall work cooperatively with Indian tribes and tribal organizations and shall refer to any data developed as a result of the surveys conducted pursuant to section 3612 of this title and to relevant assessment standards developed by the Judicial Conference of the United States, the National Center for State Courts, the American Bar Association, and appropriate State bar associations.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the caseload and staffing needs identified under paragraph (2);

(B) the geographic area and population to be served;

(C) the volume and complexity of the caseloads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing and administering the formula for base support funding for the tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

(Pub. L. 103-176, title I, §103, Dec. 3, 1993, 107 Stat. 2007; Pub. L. 111-211, title II, §242(a)(1), July 29, 2010, 124 Stat. 2292.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), is Pub. L. 93-638,