

TESTIMONY

OF

KAROL V. MASON
ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS
U.S. DEPARTMENT OF JUSTICE

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

At the

HEARING ENTITLED
"THE PRESIDENT'S FY 2017 INDIAN COUNTRY BUDGET"

March 9, 2016

**TESTIMONY OF
KAROL V. MASON
ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS
U.S. DEPARTMENT OF JUSTICE
Before the
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
At a Hearing Entitled
“THE PRESIDENT’S FY 2017 INDIAN COUNTRY BUDGET”
March 9, 2016**

Chairman Barrasso, Vice-Chairman Tester, and members of the Committee:

Thank you for inviting the Department of Justice to testify regarding the substantial support that the President’s FY 2017 Budget requests for the Department of Justice for public safety initiatives in Indian country. I am Karol Mason, Assistant Attorney General for the Department of Justice’s Office of Justice Programs (OJP). Among my many responsibilities are overseeing tribal grant programs and other efforts to improve tribal criminal and justice systems and help tribal victims of crime. Tribal justice has been a critical priority for me during my time in the Administration, both in my current service at OJP and in my prior work for the Department’s Office of the Associate Attorney General.

The Justice Department’s commitment to supporting our tribal partners has never been stronger. From law enforcement to litigation to funding, our engagement with tribes has never been more dynamic or more robust. Resources available through the Tribal Law and Order Act (TLOA) of 2010 and the Violence Against Women Reauthorization Act of 2013, coupled with other substantial public safety investments from across the Department throughout this

Administration, have resulted in an unprecedented level of engagement, coordination, and action on behalf of public safety in Indian country.

Current Efforts

Improving public safety among tribal communities continues to be a top priority for the Department and OJP. In FY 2010, as a result of consultation with tribes, the Department launched the Coordinated Tribal Assistance Solicitation (CTAS), which offers a comprehensive, streamlined application process encompassing most of our available tribal government-specific grant programs. Through CTAS, the Department has awarded over 1,400 grants totaling more than \$620 million to hundreds of tribal communities. CTAS grantees invest in a variety of public safety-related purpose areas including community policing; justice systems planning; alcohol and substance abuse; corrections and correctional alternatives; violence against women; tribal youth programs; juvenile justice; and crime victims' assistance.

In addition to CTAS, many DOJ components provide other tribal-specific programs. OJP's Bureau of Justice Assistance's (BJA) Tribal Civil and Criminal Legal Assistance Program (TCCLA) provides grants training, and technical assistance to support federally recognized tribal nations in enhancing their tribal justice systems and improving access to those systems. TLOA reinforced the provisions of TCCLA which authorize the provision of legal defense services to all defendants in tribal court criminal proceedings and prosecution, judicial services for tribal courts, and capacity building to tribes and tribal justice systems. BJA has also invested in tribal-state collaborative efforts such as joint jurisdictional courts. For example, one such court originated in Minnesota between the Leech Lake Band of Ojibwe and Cass County and expanded to Itasca County. This court has been operating for a decade, and an evaluation has shown

promising results. Graduates of the joint jurisdictional court in Itasca County between 2007 and 2014 avoided at least 8,000 days in jail, and the total economic value of these positive outcomes is estimated at over \$2 million.

OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) worked with the Bureau of Indian Affairs to update the Model Indian Juvenile Code, which helps federally recognized tribes create individual codes focused on juvenile matters. The Code, which was released just last week, specifically addresses issues affecting tribal youth arrested for alcohol and/or drug-related offenses in Indian country. It follows through on one of the recommendations listed in *Ending Violence So Children Can Thrive*, the report developed by the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence. OJJDP also stands ready to work with the Committee on appointing a tribal member to the federal Coordinating Council on Juvenile Justice and Delinquency Prevention, as provided for under TLOA.

OJP's Office for Victims of Crime (OVC), through its Vision 21 Initiative, is leading a nationwide effort to expand the vision and impact of the victim assistance field in the 21st century. In FY 2015 OVC funded Vision 21: Tribal Victim Services Resource Mapping Project, which addresses a critical barrier for tribal crime victims from seeking services – a lack of information. Our grantee, the National Center for Victims of Crime (NCVC), is collecting information about services available to American Indian and Alaskan Native crime victims at all levels -- tribal, state, regional and federal. NCVC will then use this data to develop a state-of-the-art mapping and referral tool, which will be available to the public and service providers alike.

As this Committee is aware, American Indians and Alaska Natives experience high rates of violence, particularly domestic violence and sexual assault against Native women. Next month, OJP's National Institute of Justice (NIJ) will release a new study about violence against American Indian and Alaska Native women and men. The report provides estimates of sexual violence, physical violence by intimate partners, stalking, and psychological aggression by intimate partners. We will share the findings as soon as they are available, but I am aware that the research confirms what we have long suspected about the high rate of victimization. NIJ is also working on another study, expected for 2017, about domestic violence, sexual assault, and stalking committed against Indian women living in tribal lands and Alaska Native villages. In addition, NIJ is examining Alaska Village Public Safety Officers' response to violence against Indian women.

OJP's Bureau of Justice Statistics (BJS) is addressing how to best measure crime on tribal lands. This task is complicated by federal, state, local and tribal justice systems that have overlapping jurisdiction for these crimes. In order to build a more complete picture of the crime problem on tribal lands, BJS is implementing an expanded set of data collections involving federal, state, local and tribal law enforcement agencies and prosecutor offices. This information will provide decision makers with a far better assessment of crime on tribal lands than has been available to them previously.

In August 2015, OJP's SMART Office worked with the Department's Justice Management Division and Office of Tribal Justice (OTJ) to launch the Tribal Access Program (TAP) which provides federally recognized tribes the ability to access and exchange data with national crime information databases, such as those managed by the Federal Bureau of Investigation, for both civil and criminal purposes.. This new program helps fulfill DOJ's

obligation to support tribes' implementation of the Sex Offender Registration and Notification Act (SORNA), TLOA and the Violence Against Women Act. TAP is heavily informed and driven by the needs of tribes and the Department's commitment to ensuring tribes' consistent access to critical crime data. The SMART Office also continues to tailor and expand its work with tribal nations working to implement SORNA. To date 99 tribal jurisdictions have substantially implemented SORNA and many more are continuing work towards that goal. In addition, the SMART Office designed and supports a project identifying best practice resources for the treatment, management, and reentry of Native American adults and juveniles who have committed sex offenses. As a result of TLOA, our partners at the Office of Community Oriented Policing Services (COPS Office) have made significant improvements to the Tribal Resources Grant Program (TRGP), eliminating local matches, allowing indirect costs, and expanding allowable costs. The COPS Office also provides publication resources and training and technical assistance to tribal law enforcement – such as the publication, *Successful Tribal Community Policing Initiatives*, which highlights 15 tribes' community policing efforts around alcohol and substance abuse, gangs, partnerships, and other topics.

The Department's Office on Violence Against Women (OVW) has funded several technical assistance projects to support tribal grantees under CTAS, as well as tribal coalitions and sexual assault service providers. For example, to address the shortage of legal representation for American Indian and Alaska Native sexual assault survivors, OVW funded a certification course for lay advocates representing survivors in tribal courts. The course combines distance learning and a week-long trial advocacy institute conducted by the National Tribal Trial College in collaboration with the University of Washington School of Law. Similarly, OVW supports training for advocates on the litigation of civil protection orders for Native survivors of domestic

and sexual violence and on addressing the unique legal and service needs of Native victims with disabilities. In 2015, OVW also supported a tribal listening session and site visits with tribal communities receiving Abuse in Later Life Program grants to develop a guide to assist tribes in addressing elder abuse, taking into account their unique circumstances and culture.

The Department's other responsibilities in Indian country have also expanded, and the priorities identified by the Attorney General have led to a number of new initiatives and enhancements. Senior Departmental leadership holds regular meetings with tribes through the Tribal Nations Leadership Council and has pursued interagency collaboration with the Departments of the Interior and Health and Human Services to promote compliance with the Indian Child Welfare Act.

Each U.S. Attorney's Office with Indian country jurisdiction has developed a specific plan to address tribal public safety challenges and has assigned at least one Assistant United States Attorney (AUSA) to serve as the Tribal Liaison. The Tribal Liaison exercises an important role in helping to facilitate communication between the United States Attorney's Office, federal law enforcement partners, tribal leaders, tribal law enforcement officers, and members of the tribal communities. AUSAs who serve as Tribal Liaisons are among the most skilled, dedicated and accomplished attorneys in our nation. In addition, the Department's enhanced Tribal Special Assistant U.S. Attorney (SAUSA) Program fosters coordination between federal prosecutors and their tribal counterparts. The Tribal SAUSA program, serves as an important tool, contributing to improved collaboration. Tribal SAUSAs, who are cross-deputized tribal prosecutors, receive training in federal criminal law, procedure, and investigative techniques and are able to prosecute crimes in both tribal court and federal court as appropriate. Moreover, OVW has funded four tribal prosecutors through its Violence Against Women Tribal

SAUSA Pilot Project, who serve as Tribal SAUSAs specially dedicated to prosecuting cases of domestic violence and sexual assault in both tribal and federal courts. The Tribal SAUSAs strengthen a tribal government's ability to fight crime and increase the USAO's coordination with tribal law enforcement personnel. The work of Tribal SAUSAs also helps to accelerate a tribal criminal justice system's implementation of TLOA and VAWA 2013.

FY 2017 Budget Request

The FY 2017 President's Budget for the Department of Justice requests \$420 million in total resources to address public safety in Indian country, or \$297 million excluding funding for the Bureau of Prisons. If enacted, this budget would represent a historic level of funding for tribal communities.

The Budget's investments support activities across many Department of Justice components and address a range of criminal and civil justice issues facing Native American communities. The Budget includes significant and versatile grant funding totaling \$230 million, an increase of 87 percent over FY 2016 enacted levels.

I am proud that the FY 2017 Budget request for OJP includes \$111 million in discretionary resources for Indian country that would build on CTAS by providing a consistent source of significant, tribal-specific grant funding flexibly directed at tribes' most important criminal justice priorities. As in previous budget requests made during this Administration, this funding would come via the Flexible Tribal Grant seven percent set-aside from all OJP programs (excepting the Crime Victims Fund and the Public Safety Officers' Benefits programs).

OJP also requests \$25 million from the Crime Victims Fund to support tribal assistance for victims of violence, who, despite our long-standing efforts, remain chronically underserved.

The funding would further expand OVC's efforts to develop evidence-based, culturally appropriate victims' services programs for the nation's tribal communities.

The Budget also includes \$38 million for the COPS TRGP Program, an \$8 million increase over the FY 2016 level. The Indian Law and Order Commission's (ILOC) Report noted a nearly 3,000 officer shortfall when tribal law enforcement agencies are compared to national averages. The Budget will also address the high demand for equipment, including vehicles, radios, laptops, and communications and records systems.

Within the \$8 million increase, \$3 million would facilitate tribal access to national crime information databases. This increase supports the Department's TAP Program for National Crime Information, which, as noted, allows tribes to more effectively serve and protect their tribal members by ensuring the exchange of criminal data across systems, such as those managed by the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

The FY 2017 President's Budget for the Office on Violence Against Women (OVW) includes approximately \$56 million in total funding to support programs and initiatives that work to prevent and address domestic violence, dating violence, sexual assault, sex trafficking, and stalking in Indian country, including \$39 million in set-asides from seven OVW grant programs for the Grants to Indian Tribal Governments Program. This program is part of CTAS and funds tribes to develop a comprehensive, multi-faceted response to violence against Indian women, including strengthening tribal criminal justice systems, improving services for victims, and creating community education and prevention campaigns. With increased funding, OVW awards could support more tribes in their efforts to provide holistic services to victims and to hold people who commit crimes accountable.

OVW is requesting approximately \$7 million, through set-asides, for the Tribal Domestic Violence and Sexual Assault Coalitions Grant Program, which supports the development and operation of nonprofit, nongovernmental tribal coalitions to provide technical assistance to member Indian service providers and enhance the federal, state, and tribal response to violence against Indian women. These funds allow tribal coalitions to participate more fully in coordinated efforts to address violence against native women and help communities develop culturally appropriate responses.

OVW's request includes a \$3.5 million set-aside from its Sexual Assault Services Program to support direct services for victims of sexual assault and their families in Indian country and Alaska Native villages, including intervention, advocacy, and accompaniment to places such as courts, medical facilities, and police departments.

OVW is also requesting \$5 million, a \$2.5 million increase over FY 2016, for the Tribal Special Domestic Violence Criminal Jurisdiction Program, which would support tribal efforts to exercise "special domestic violence criminal jurisdiction" over non-Indians who commit violence against their Indian spouses, intimate partners, or dating partners, or who violate protection orders, in Indian country. In FY 2016, Congress first appropriated \$2.5 million for this new Tribal Jurisdiction Program. OVW is currently developing a solicitation for the program but expects that tribal demand will far exceed available funding, and that, in this first year of funding, at least 50 tribes may apply. Currently, 45 tribes participate in the Inter-Tribal Technical-Assistance Working Group (ITWG) on Special Domestic Violence Criminal Jurisdiction. OVW expects that all or most ITWG members are candidates for the new funding, in addition to some number of tribes that have not yet joined the ITWG. Moreover, tribes wishing to exercise this new jurisdiction will need grant funding to address a host of new

activities, including updating criminal codes, providing counsel for indigent defendants, expanding jury pools, and addressing increased costs for law enforcement, pre-trial services, prosecution, courts, probation, incarceration, parole and victim services. With additional funding in FY 2017, the Department expects that even more tribes will be able to replicate the successes of the first “pilot project” tribes, each of which has demonstrated the ability of tribal criminal justice systems to hold people who commit crimes accountable and keep their communities safe. In addition, the OVW’s request also includes language that would authorize the Attorney General to use \$3.9 million in funds previously appropriated to create tribal sex offender and protection order registries to support the TAP Program. The proposal to use these funds for the Tribal Access Program was developed after consultation with tribal leaders, who stated that facilitating tribal access to federal databases would be more valuable than creating separate tribal registries for sex offenders and protection orders.

In addition to new grant funding, the Environment and Natural Resources Division is requesting an increase of \$1.5 million for an additional four attorneys to support environmental enforcement on tribal lands. This request will promote increased federal and tribal litigation of environmental violations in Indian country, particularly in response to the rapid expansion of oil and gas extraction on Indian lands in the last decade and its impact on public health and surface and drinking water quality.

Also, OTJ requests \$240,000 in new resources for one additional attorney position to ensure that the Department meets its Indian country consultation and coordination responsibilities.

In addition to the Department’s efforts to consistently consult with tribal leaders to craft and implement policies that work for tribes and empower tribal governments, investments in

federal agents, prosecutors, and grant programs remain critically important to protecting tribal communities. Appropriators must consider many competing priorities for scarce taxpayer dollars, but public safety in Indian country is an investment that we cannot afford to forgo.

The FY 2017 President's Budget request for the Department of Justice represents a major commitment to addressing the public safety issues afflicting tribal communities, and maintains the federal government's promise to fulfill its trust responsibility to Indian country.

The Department thanks the Committee for its interest in these critical issues and for its support of our tribal partners.