TRIBAL LAW AND ORDER ACT OF 2010
PRE-TLOA
RANDY GOODWIN
DIRECTOR OF PUBLIC SAFETY
WHITE EARTH DEPARTMENT OF PUBLIC SAFETY
218-983-3285 EXT 5703
RANDYG@WHITEEARTH.COM
The White Earth Nation was working with the Bush Foundation.

Seeking/Self-Educating the Governing body on the Retrocession Process as PL280 Nation.

Educating the people of the White Earth Nation on the Retrocession Process.

- Some resisting from the local terrorists.
- A lot of people didn’t understand the process or even cared.
- Learned that a lot of people were not happy with current Justice System.
- Change was wanted and needed.
I was brought on as the Chief of Police.
- Tribal Council asked my opinion on Retrocession.
I was present at the last 2 presentations in the last 2 villages.
Tribal Law and Order Act was close to being finalized.
The Tribal Council asked for opinion on whether to pursue Retrocession or the TLOA.
My recommendation was to pursue the TLOA.
- It seemed like an easier process as compared to the Retrocession Process.
- The Police Department remained as State Licensed Police Officers which had it’s benefits.

The Tribal Council motioned and approved the White Earth Nation moving forward with the TLOA process.

Allowed me put together a Planning Committee.

The Tribal Council reached out Jim Hamilton to assist in this process.
Attorney Jim Hamilton was asked and agreed to assist the White Earth Nation in undertaking this process.

A Planning Committee was selected to set the wheels in motion.

The Planning Committee consisted of the following:

- White Earth Tribal Attorney Jim Schlender
- White Earth Tribal Court Administrator Lori Thompson
- Public Safety Director Randy Goodwin
- WEPD Administrative Sergeant Jeremy Cossette
626.93 LAW ENFORCEMENT AUTHORITY; TRIBAL PEACE OFFICERS.

Subdivision 1. Definition.

As used in this section, "tribe" means a federally recognized Indian tribe, as defined in United States Code, title 25, section 450b(e), located within the state of Minnesota, but does not include a tribe, band, or community described in section 626.91 or 626.92, or the Mille Lacs Band of Chippewa Indians for purposes of exercising law enforcement authority in Mille Lacs County only under section 626.90. Tribe includes the Mille Lacs Band of Chippewa Indians for purposes of exercising law enforcement authority on Mille Lacs Band of Chippewa Indians Reservation lands which lie outside of Mille Lacs County.
Subd. 2. Tribal law enforcement agency requirements.

A tribe may exercise authority under subdivision 3 only if it satisfies the following requirements:

(1) the tribe agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of a law enforcement agency function conferred by section 626.84, subdivision 1, paragraph (f), to the same extent as a municipality under chapter 466, and the tribe further agrees, notwithstanding section 16C.05, subdivision 7, to waive its sovereign immunity with respect to claims arising from this liability;

(2) the tribe files with the Board of Peace Officer Standards and Training a bond or certificate of insurance for liability coverage with the maximum single occurrence amounts set forth in section 466.04 and an annual cap for all occurrences within a year of three times the single occurrence amount;

(3) the tribe files with the Board of Peace Officer Standards and Training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution; and

(4) if the tribe's governing body has authorized its peace officers to enforce criminal laws within the boundaries of the tribe's reservation, the tribe agrees to be subject to section 13.82 and any other laws of the state relating to data practices of law enforcement agencies.
Subd. 3. Concurrent jurisdiction.
If the requirements of subdivision 2 are met and the tribe enters into a cooperative agreement pursuant to subdivision 4, the tribe shall have concurrent jurisdictional authority under this section with the local county sheriff within the geographical boundaries of the tribe's reservation to enforce state criminal law.

Subd. 4. Cooperative agreements.
In order to coordinate, define, and regulate the provision of law enforcement services and to provide for mutual aid and cooperation, governmental units and the tribe shall enter into agreements under section 471.59. For the purposes of entering into these agreements, the tribe shall be considered a "governmental unit" as that term is defined in section 471.59, subdivision 1.

Subd. 5. Effect on federal law.
Nothing in this section shall be construed to restrict a tribe's authority under federal law.

Subd. 6. Construction.
This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving a tribe or current reservation boundaries.
White Earth Police Department was going through some changes and implementation under my tenure.

Operating under 3 separate Law Enforcement Cooperative Agreements with the 3 County Sheriff’s Departments that had jurisdiction on the White Earth Nation.

None of the Agreements were the same which led to a complex maze to work through.
The 3 Sheriff’s Departments appeared to have little or no confidence in the White Earth Police Department.

Calls and response from the Sheriff’s Departments needed to improve in Indian Country.

Prosecution from the County Attorney’s Offices needed improvement.

Crimes of Violence and “Street Justice” was rising.

Building the trust and confidence between the Tribal Police and our people was very difficult.
WEPD started to document cases involving SA/DV, Violent Crimes, ICR’s, CFS’s, etc.
WEPD started to document cases the same type of cases that were submitted to the County Attorney’s Offices for charging.
We discovered that some cases were not being charged or dropped for many different reasons.
Part of the documentation was for a Correctional Feasibility Grant.
We had some serious issues with 1 County Sheriff’s Department.

- Secure radio channel that used on calls.
- Sending Deputies to high risk calls with no back up due because WEPD didn’t know of the call.
- Failed to notify WEPD of a missing person on New Eve’s.

We had a protest and lacked support from another Sheriff’s Department and County Attorney.

Appeared to lack support from the District Court.
I still continued to build the Police Department.

- New hires.
- Rank Structure.
- Equipment.
- Training.
- Investigators.
- Professional Standards.
- Uniform appearance.
- Department brand and motto.
- Officer accountability.
I had the mindset of working with the Sheriff’s. But I was willing to go over, around or through them to progress the Police Department.

Soon, the “Road Grunts” from our partners started to see the improvements and make comments to their supervisors and their Sheriff’s on the improvements of WEPD.

City of Mahnomen contrated with WEPD for Police Services.

Word got out the WEPD was a progressive and professional Police Department.
The MN US Attorney started to invite the Tribal Chiefs of Police to a quarterly meeting.
  - This was outlined in the TLOA.

The Chiefs of Police met with the Federal Law Enforcement Agencies and the Staff of the US Attorney.

The Chiefs of Police were allowed to discuss issues that were happening in their jurisdictions.

Seemed to be the same trend of “concerns”.
  - Ironic that this trend is resonated throughout all Indian Country

These meetings continue to this day.
The White Earth Nation submitted our application to the US Department of Justice.

Asking for Assumption of Concurrent Federal Jurisdiction.

Section 221 of the TLOA.

Attorney Jim Hamilton took the lead in the application process.

Traveled to Washington, DC to meet with Tracy Toulou as part of the official "Consultation".

- Tribal Chairwoman, Executive Director, Jim Hamilton and myself.
APPLICATION CONTENTS

- Administrative letter from Tribal Chairwoman Erma Vizenor
- Executive Summary
- Resolution from Tribal Council approving the request
- Revised Constitution and Bylaws of the Minnesota Chippewa Tribe
- Organization Charts of the White Earth Department of Public Safety and the White Earth Tribal Court
White Earth Police Department Resources

2010 Major Crimes Statistics on the White Earth Nation
- Arrest/Non-Arrest/Presented to County Attorney

2010 Traffics Stops & DUI Arrests on the White Earth Nation

Proposed White Earth Correctional Facility Bed Plan

Preliminary Estimate of Construction & Other Initial Costs for the White Earth Correctional Center
Space Needs and Preliminary Footprint Requirements
White Earth Correctional Facility Staff Needs
White Earth Correctional Facility Estimated Personnel Costs
White Earth Correctional Operations Budget
During the application process the White Earth Nation was visited by numerous Federal Law Enforcement Agencies.

- Federal Bureau of Investigation
  - Local level, district level and DC level
- US Marshall Service
- DEA
- Homeland Security
- US Probation
- BIA
  - District level and DC level
  - Department evaluation was conducted
Many letters and emails were sent back and forth between Jim Hamilton and many other people.

Numerous Notification Letters of the White Earth Nation’s request were sent to the following Federal, State, County, Local and Tribal Agencies:

- Bureau of Alcohol, Tobacco, Firearms and Explosives
- Federal Bureau of Investigation
- Drug Enforcement Administration
- United States Marshal Service
- United States Attorney for Minnesota
- BIA Office of Justice Services
NOTIFICATION LETTERS

- United States Department of Homeland Security
- COPS Office
- Office of Justice Programs
- Minnesota Governor Mark Dayton
- Minnesota Bureau of Criminal Apprehension
- Becker, Clearwater and Mahnomen County Sheriffs’
- Becker, Clearwater and Mahnomen County Attorneys’
PILOT PROJECT(S)

- Minnesota Department of Public Safety Office of Justice Programs
  - Initiated a Justice Pilot Project in an effort to bridge the gap between Federal, State, County, Local and Tribal Justice Systems.

- Federal Bureau of Prisons
  - Sent information about the project they were tasked with as a result of the TLOA.
March 14, 2013 White Earth Tribal Chairwoman Erma Vizenor and the White Earth Tribal Council received a telephone call from Mr. Tracy Toulou announcing that our application was approved.

Letters dated March 14, 2013 were later received of the official notification.

Effective June 1, 2013 General Crimes and Major Crimes can be prosecuted by the Federal Government.
CONGRATULATORY LETTER FROM
THE DEPUTY ATTORNEY GENERAL

March 14, 2012

Chairwoman Loan Visser
White Earth Reservation Tribal Council
P.O. Box 426
White Earth, Minnesota 56594

Dear Chairwoman Visser,

This is in response to the request of the White Earth Nation for the Department of Justice to accept concurrent jurisdiction over crimes occurring within the White Earth Indian reservation pursuant to the Tribal Law and Order Act of 2010 and implementing regulations. The Department of Justice has determined that it is in the best interest of all involved parties to accept concurrent jurisdiction.

The Tribal Law and Order Act grants the Department of Justice discretion to accept concurrent jurisdiction over crimes occurring within the White Earth Indian reservation. The Department of Justice has determined that it is in the best interest of all involved parties to accept concurrent jurisdiction.

I am pleased to announce that the Department has accepted the Tribe's request for concurrent jurisdiction over crimes occurring within the White Earth Indian reservation. This decision will take effect on April 1, 2012.

In the specific facts and circumstances relevant to the request of the White Earth Nation, the information we have received supports the conclusion that acceptance of Federal criminal jurisdiction will provide the necessary enforcement for the members of the Tribe. Under the specific circumstances that exist on the White Earth Indian reservation, we believe that the Federal Government will be able to employ the necessary enforcement tools to effectively address the specific concerns raised. In our experience, such cooperation is often essential to the success of law enforcement efforts in Indian country.

Sincerely,

James M. Cole
Deputy Attorney General
TRIBAL LAW AND ORDER ACT OF 2010
BENEFITS & ONGOING PRACTICES
The White Earth Nation, Becker, Clearwater and Mahnomen Counties (WEBCAM) created a Team to discuss the implementation of TLOA on the White Earth Nation.

Monthly Meetings were set up to formulate a working plan.

Every entity with interest from the Federal, State, County, Local and Tribal government are invited to participate on this Team

A rough draft of a TLOA Prosecutorial Flow Chart was generated.
PROSECUTION FLOW CHART

Following Offenses Committed on Reservation

- Murder - All Degrees
- Assaults - 1st & 2nd
- Kidnapping
- Aggravated Robbery
- Controlled Substance Crimes - 1st & 2nd
- Felony Domestic Assaults
- 1st Rughlary
- Arson - 1st & 2nd
- Felon in Possession of Firearm
- Any felony level offense where a firearm was used in the commission of the crime
- All Offenders who have a criminal history score of 4 or more

Offender

Indian

Non-Indian

Victim

Victim

Non-Indian

Indian

Non-Indian

U.S. Att'y Office

Refer to U.S. Att'y

Concurrent w/Feds

Concurrent w/Feds

State Exclusive for all other crimes

Jurisdiction Feds Possible Under 11,04
(Concurrent State)

State Probation
Better relationships between all the County Sheriffs and the White Earth Chief of Police.
- Discussing unifying the Cooperative Agreements
- Radio infrastructure in process
- Combined RMS System
- Continue to have open discussions at monthly WEBCAM meetings

Better relationships between all the County Attorneys, the White Earth Chief of Police and the White Earth Tribal Attorney.
- Better prosecution of cases presented
- Search warrants seem to come easier and quicker
May 31, 2013 Criminal Prosecution Guidelines for the District of Minnesota US Attorney’s Office were sent out by electronic email outlining what/how they would consider a case for prosecution.

Not available for disbursement.
Domestic violence
- Suspect had a short barrel shot gun
- Career criminal
- Case was referred with approval by all of the County Attorneys and the Tribal Attorney
- Suspect plead
- Pre-sentence Investigation being completed

Drug dealer
- Suspect is one of the main suppliers
- Vehicle stopped produced small amount
- Presented to the US Attorney
- Denied to prosecute
TRIBAL LAW AND ORDER ACT OF 2010