



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

PRE-TLOA AND PRE-RANDY

- 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.

PRE-TLOA

- 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.

PRE-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.

PRE-TLOA

- 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

MN STATUTE 626.93

- ◉ **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.

PRE-TLOA

- ◉ 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.

PRE-TLOA

- 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.

PRE-TLOA

- 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.

PRE-TLOA

- 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.

PRE-TLOA

- 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.

PRE-TLOA

- ◉ 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 Mahanomen contracted with WEPD for Police Services.
- ◉ Word got out the WEPD was a progressive and professional Police Department.

PRE-TLOA

- 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.

TRIBAL LAW AND ORDER ACT OF 2010 APPLICATION PROCESS



APPLICATION

- ◉ 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

APPLICATION CONTENTS

- ◉ 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

APPLICATION CONTENT

- ◉ Space Needs and Preliminary Footprint Requirements
- ◉ White Earth Correctional Facility Staff Needs
- ◉ White Earth Correctional Facility Estimated Personnel Costs
- ◉ White Earth Correctional Operations Budget

SITE VISITS

- 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

NOTIFICATION LETTERS

- 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.

TRIBAL LAW AND ORDER REQUEST APPROVED

- ◉ 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



Office of the Deputy Attorney General
Washington, D.C. 20530

March 14, 2013

Chairwoman Erna Vizenor
White Earth Reservation Tribal Council
P.O. Box 418
White Earth, Minnesota 56591

Dear Chairwoman Vizenor:

This is in response to the request of the White Earth Nation of Ojibwe that the Department of Justice accept concurrent jurisdiction over crimes occurring within the White Earth Indian reservation pursuant to the Tribal Law and Order Act of 2010 and regulations implementing that Act, 18 U.S.C. § 1162(d) and 28 C.F.R. § 50.25. The request of the White Earth Nation is the first such request I have received for consideration.

The Tribal Law and Order Act granted the Department of Justice discretion to accept concurrent Federal jurisdiction to prosecute violations of 18 U.S.C. §§ 1152 and 1153 within areas of Indian country that are subject to State criminal jurisdiction under Public Law 280. A decision to assume Federal criminal jurisdiction over a particular Tribe's Indian country under Section 1162(d) is made by the Deputy Attorney General after written request by the Tribe. In accordance with Department of Justice regulations, we have carefully considered the information provided by the White Earth Nation, as well as by the Office of Tribal Justice, the Executive Office for United States Attorneys, the Federal Bureau of Investigation, the United States Attorney's Office for the District of Minnesota, the Federal district court, State and local law enforcement and prosecution partners, and other sources. See 28 U.S.C. § 50.25(d).

I am pleased to inform you that the Department consents to the request for concurrent Federal criminal jurisdiction over the Indian country of the White Earth Nation. To allow the parties involved sufficient time to establish appropriate guidelines and procedures to effectuate concurrent Federal jurisdiction on the White Earth reservation, this decision will take effect June 1, 2013.

Given the specific facts and circumstances relevant to the request of the White Earth Nation, the information we have received supports the conclusion that assumption of Federal criminal jurisdiction offers the potential for improving public safety and criminal law enforcement for the members of the Tribe. Under the specific circumstances that exist on the White Earth reservation, we anticipate that the Federal government will be able to rely on existing relationships to establish the necessary coordination with Tribal, State and local law enforcement officials that share concurrent jurisdiction on the reservation. In our experience, such cooperation is often essential to the success of public safety efforts in Indian country.

Letter to Chairwoman Erna Vizenor
Page 2

The Department of Justice's consent to the Tribe's request means that the Federal government will assume concurrent jurisdiction to prosecute violations of Sections 1152 and 1153, and will also retain its existing jurisdiction to prosecute crimes of general applicability, such as organized drug trafficking. The Department's jurisdiction will be concurrent to, and will in no way change, the existing jurisdiction of Tribal, State, or local law enforcement agencies. We intend to work cooperatively with the Tribe's law enforcement officials and other law enforcement partners having criminal jurisdiction on the White Earth reservation.

As in all cases in which the Department exercises Federal criminal jurisdiction, whether in Indian country or elsewhere, decisions regarding whether or not the Department of Justice will investigate or bring charges for a crime arising on the White Earth reservation, and any other Federal prosecutorial decisions, will be made solely by Department of Justice officials. Assumption of jurisdiction does not mean that the Department of Justice will prosecute all crimes, or even all major criminal cases occurring on the reservation. Rather, consistent with its exercise of prosecutorial discretion in all criminal matters, the Department will determine which cases can most effectively be prosecuted at the Federal level and will pursue those cases. In this regard, we do not anticipate that we will bring a large number of cases; rather, we will focus on bringing cases that will have the greatest impact in increasing public safety on the White Earth reservation.

I have directed the United States Attorney's Office for the District of Minnesota, the Federal Bureau of Investigation, the Executive Office for United States Attorneys, and other affected Departmental components to immediately begin preparations for investigating and prosecuting cases occurring within the White Earth reservation. We look forward to a continuing and productive cooperation with the White Earth Nation.

If you have any questions concerning this request, please do not hesitate to contact Tracy Toulou, Director of the Department's Office of Tribal Justice, at (202) 514-5994. In addition, if you have questions regarding investigations or potential cases, you may contact Deidre Anstad, Tribal Liaison for the United States Attorney's Office for the District of Minnesota, at (612) 664-5710.

Sincerely,

James M. Cole
Deputy Attorney General

cc: Jim Hamilton
Tracy Toulou
B. Todd Jones
H. Marshall Jarrett
Ronald T. Hosko

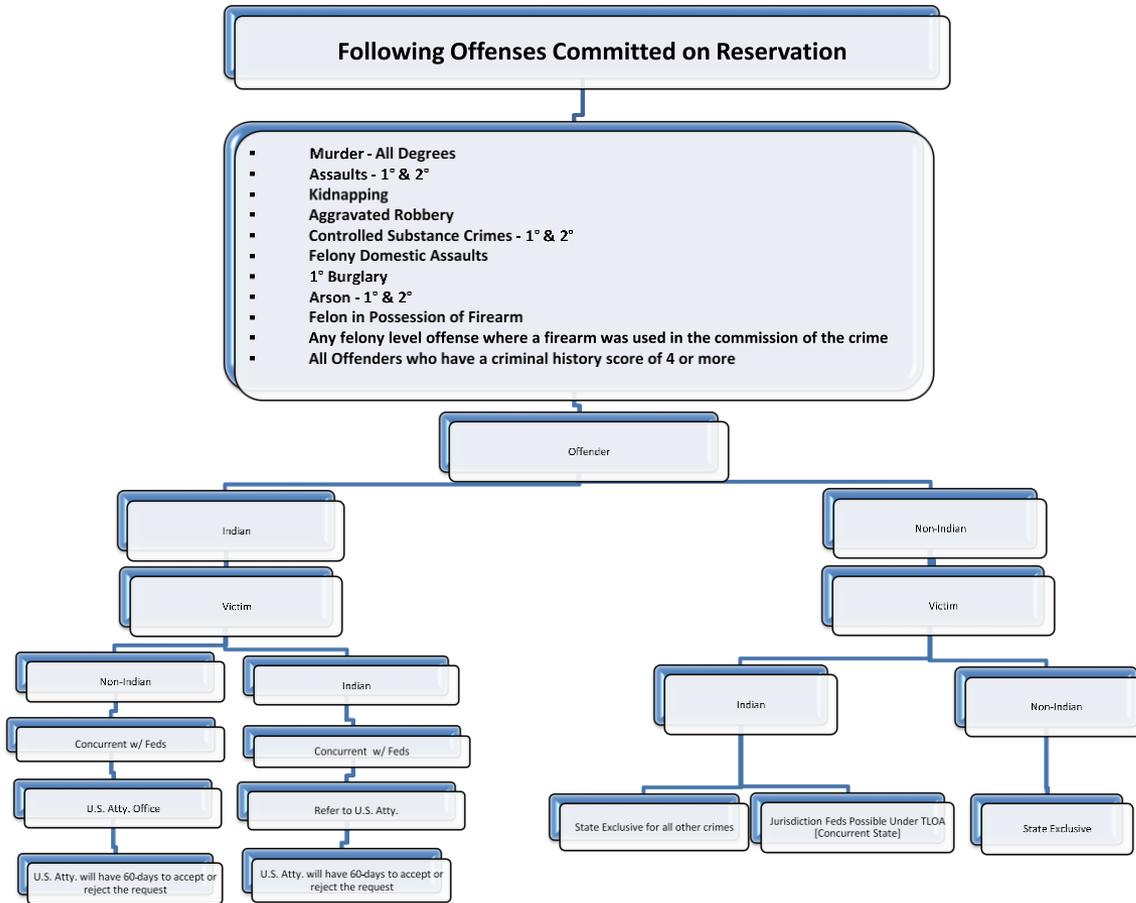
TRIBAL LAW AND ORDER ACT OF 2010 BENEFITS & ONGOING PRACTICES



WEBCAM WAS CREATED

- 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



BUILDING RELATIONSHIPS

- 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

PROSECUTION GUIDELINES

- 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.

CASES REFERRED

⦿ 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



