



NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION

Strengthening and Enhancing Tribal Justice Systems

An IRS 501(c)(3) Corporation
Federal ID # 84-0611428

RESOLUTION NO. 2013-001

TITLE: FEDERAL AGENCY CONSULTATION WITH TRIBAL JUSTICE SYSTEMS

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Kenaitze

WHEREAS, the National American Indian Court Judges Association (“Association”) was incorporated in the State of Delaware on March 31, 1969; and

WHEREAS, the objectives and purposes of the Association include: (a) to foster the continuing development, enrichment and funding of tribal justice systems as a visible exercise of tribal sovereignty and self-government, (b) to provide continuing education for tribal judges and justice system staff members in order to promote and enhance the operation of the tribal judiciary, (c) to further the public knowledge and understanding of tribal justice systems; and

WHEREAS, the Board of Directors are delegated with responsibility to carry out the objectives and purposes of the Association; and

WHEREAS, President William J. Clinton issued Executive Order 13175 of November 6, 2000 (“Executive Order”), “Consultation and Coordination With Indian Tribal Governments,” “. . . in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes . . .;”

WHEREAS, each federal agency is required to have “. . . an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications;”

WHEREAS, the phrase “policies that have tribal implications” is defined as regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes;”

WHEREAS, “Tribal officials” means “elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations;”

WHEREAS, in carrying out their consultation responsibilities, “Agencies shall respect Indian tribal self-government and sovereignty . . . ;”

WHEREAS, by Memorandum entitled, “Tribal Consultation. Memorandum for Heads of Executive Departments and Agencies” (“Obama Memorandum”) dated November 5, 2009, President Barack Obama reaffirmed the Executive Order stating, “History has shown that failure to include the voices of tribal officials in formulating policy affecting their communities has all too often lead to undesirable and, at times, devastating and tragic results. By contrast, meaningful dialogue between Federal officials and tribal officials has greatly improved Federal policy toward Indian tribes. Consultation is a critical ingredient of a sound and productive Federal-tribal relationship;”

WHEREAS, many American Indian tribal nations have established, often by constitutional provision, their tribal court or justice system as a separate and independent branch of tribal government;

WHEREAS, examples of such governmentally separate justice systems include, but are not limited to, the Cherokee Nation Judicial Branch, the Ho-Chunk Nation Judiciary Branch, Navajo Nation Judicial Branch, and the Pokagon Band of Potawatomi Tribal Court System;

WHEREAS, the members of the tribal judiciary constitute “tribal officials” as defined by the Executive Order and the Obama Memorandum;

WHEREAS, federal departments and agencies have proposed or will be proposing legislation, regulations and policies directly affecting the operation of tribal justice systems, including the “Pilot Project” established by S. 74, the Reauthorization of the Violence Against Women’s Act;

WHEREAS, consultation with the tribal judiciary, as duly elected or appointed tribal officials, in the best position to inform the development of sound and appropriate federal laws, policies and regulations has not occurred;

NOW THERE BE IT RESOLVED THAT the Association respectfully recommends that the Executive Order and the Obama Memorandum be fully implemented by requiring consultation with the tribal judiciary on “policies with tribal implications” with an impact or effect on the jurisdiction, operation or funding of tribal justice systems;

BE IT FURTHER RESOLVED that the Association respectfully requests that federal agency, particularly the Department of Justice’s and the Bureau of Indian Affairs’, tribal consultation plans and reports be amended immediately to include meaningful and direct consultation with the tribal judiciary in accordance with the Executive Order and Obama Memorandum.

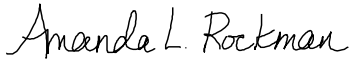
CERTIFICATION

The foregoing Resolution was considered and adopted by the Board of Directors of the National American Indian Court Judges Association on the 13th of April 2013 at Albuquerque, New Mexico and the vote was 11 in favor, 0 opposed and 0 abstaining.



JUSTICE JILL E. TOMPKINS, PRESIDENT
NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION

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JUDGE AMANDA L. ROCKMAN, SECRETARY
NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION