



**COALITION OF LARGE TRIBES**

Blackfeet Nation • Cheyenne River Sioux Tribe • Confederated Tribes of the Warm Springs Indian Reservation of Oregon • Crow Creek Sioux Tribe • Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation • Muscogee (Creek) Nation • Navajo Nation • Northern Arapaho Tribe • Northern Cheyenne Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe • San Carlos Apache Tribe • Shoshone-Bannock Tribes • Shoshone-Paiute Tribes of the Duck Valley Indian Reservation • Sisseton Wahpeton Sioux Tribe • Spirit Lake Nation • Spokane Tribe • Standing Rock Sioux Tribe • Ute Indian Tribe • Ute Mountain Ute Tribe • Walker River Paiute Tribe

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**Resolution: February 18, 2025, 2025-Resolution #03-2025 (Rapid City)**

**RESOLUTION OF COLT SUPPORT FOR FULL FUNDING OF TRIBAL PUBLIC SAFETY IN 2025 RECONCILIATION OF THE FEDERAL BUDGET**

**WHEREAS**, the Coalition of Large Tribes (COLT) was formally established in early April 2011, and is comprised of Tribes with large land base, including the Blackfeet Nation • Cheyenne River Sioux Tribe • Confederated Tribes of the Warm Springs Indian Reservation • Crow Creek Sioux Tribe • Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation • Muscogee (Creek) Nation • Navajo Nation • Northern Arapaho Tribe • Northern Cheyenne Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe • San Carlos Apache Tribe • Sisseton Wahpeton Sioux Tribe • Shoshone Bannock Tribes • Shoshone-Paiute Tribes of the Duck Valley Reservation • Spirit Lake Nation • Spokane Tribe • Standing Rock Sioux Tribe • Ute Indian Tribe • Ute Mountain Ute Tribe • Walker River Paiute Tribe and is Chaired by J. Garret Renville of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; and

**WHEREAS**, COLT was organized to provide a unified advocacy base on all issues affecting Tribes that govern large trust land bases and that strive to ensure the most beneficial use of those lands for Tribes and individual Indian landowners; and

**WHEREAS**, COLT further advocates for legislative, regulatory, and policy reforms that impact large land base Tribes and our citizens; and

**WHEREAS**, in Treaties, the United States pledged to protect Indian Tribes, guaranteed the right of Tribal self-government, protection, safety and economic development, and has undertaken a Trust responsibility to promote the viability of Indian reservations and lands as permanent homelands for Tribes. “From the commencement of our government, congress has passed acts to regulate trade and intercourse with the Indians; which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate.” *Worcester v. The State of Georgia*, 31 U.S. 515, 556-57 (1831). These are fundamental principles rooted in the separation of powers and the authority of Indian tribes as sovereign states. *Washington v. Washington State Commercial Passenger Fishing Vessel Ass’n*, 443 U.S. 658, 675, *modified sub nom. Washington v. United States*, 444 U.S. 816 (1979) (“A treaty, including one between the United States and an Indian tribe, is essentially a contract between two sovereign nations.”). Our



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Treaties are binding contracts in perpetuity entered into in exchange for the lands that make our United States of America great; and

**WHEREAS**, COLT believes it is imperative we remind the U.S. Government that Treaties are the Law of the Land and that Treaties and Sovereignty are “cornerstones” of the Budget process and Federal Indian policy to effectuate the nation-to-nation agreements between us. Congress and the President are vested with Treaty authority and the Budget process must follow the Treaties to protect those intergovernmental agreements; and

**WHEREAS**, the policy determinations of the Administration are a separate matter and the United States’ solemn Treaty obligations for adequate Indian Country budgets persist regardless of the scope of the general, widely-recognized Trust responsibility of the United States to Tribal Nations; and

**WHEREAS**, under the U.S. Constitution, “all Treaties made” are “the supreme Law of the Land.” Art. VI, cl. 2. Congress can pass laws to implement those treaties, *see, e.g., Bond v. United States*, 572 U. S. 844, 851, 855 (2014), and the Executive Branch must act in accordance with them, *see, e.g., Fok Yung Yo v. United States*, 185 U. S. 296, 303 (1902). A Treaty is “essentially a contract between two sovereign nations.” *Washington v. Washington State Commercial Passenger Fishing Vessel Assn.*, 443 U. S. 658, 675 (1979). COLT Tribes’ Treaties with the United States contain numerous obligations for the United States to provide healthcare, law enforcement, economic development and other supports that manifest in modern form the Federal Budget. The United States must honor its Treaty obligations and emphasize them in the Budget process per the intergovernmental contracts between us; and

**WHEREAS**, Congress has chronically underfunded the Bureau of Indian Affairs (BIA) resulting in insufficient funding for Tribes, including for COLT-member Tribes and their Tribal citizens that rely on programs implemented by the BIA and have vast needs for Tribal government resources and services for their citizens; and

**WHEREAS**, a cause of the BIA’s chronic underfunding is that Congress has not appropriated funding at the true level of need at the BIA and has also subjected BIA’s funding to discretionary funding through the annual appropriations process as opposed to mandatory funding; and



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**WHEREAS**, adequate funding is essential to public safety and yet unmet need as to public safety is right up front in the Tribal Law and Order Report released by BIA-OJS in March 2024:

This report fulfills the Bureau of Indian Affairs (BIA) reporting requirements (see Appendix C) in the Tribal Law and Order Act of 2010 regarding existing and needed spending, staffing, and estimated costs for BIA-funded Public Safety and Justice Programs in Indian Country for 2021. **Overall, Indian country BIA public safety and justice is funded at just under 13% of total need and an additional 25,655 personnel are required to adequately serve Indian country.** The need estimates are driven by scalable budget models applying operational benchmarks such as the Department of Justice benchmark of 2.8 officers per thousand members of the service population.

(Emphasis supplied)(noting the 2.8 officer standard is inadequate in communities like large land base tribes which face much more significant jurisdictional challenges than other rural governments). We need a new formula for officer baselines.

As of the 2021 budget, we are \$3 billion short on public safety and justice. 87% of Indian Country’s need is completely unmet; and

**WHEREAS**, COLT and other tribal organizations have long proposed solutions to address public safety gaps in Indian Country. See [Oversight Hearing “Opportunities and Challenges for Improving Public Safety in Tribal Communities” | Coalition of Large Tribes](#); [COLT-Resolution-04-2022.pdf \(largetribes.org\)](#); [SAC-22-043-FINAL-SIGNED-WITH-ATTACHMENT.pdf \(largetribes.org\)](#). This includes budgetary measures to recruit, train, and retain law enforcement officers, build and maintain adequate detention facilities on reservations, and invest in behavioral health and healthcare services to support detention population rehabilitation and wellness; and



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**WHEREAS**, Federal law enforcement experts have testified over and over and over that the proposals for funding and jurisdictional fixes are what is required to make Indian Country safer, and by extension, neighboring communities and the entire nation, safer;<sup>1</sup> and

**WHEREAS**, Congress has demonstrated its ability to address the proper division of responsibility and authority among Federal, State and Tribal officials through the legislative process, including with respect to the scope of criminal jurisdiction and resources among the three sovereigns. To give just two examples, Congress enacted the Tribal Law and Order Act (2010) “to clarify the responsibilities of Federal, State, tribal, and local governments with respect to crimes committed in Indian country; . . . (3) to empower tribal governments with the authority, resources, and information necessary to safely and effectively provide public safety in Indian country; (4) to reduce the prevalence of violent crime in Indian country and to combat sexual and domestic violence against American Indian and Alaska Native women.” TLOA § 202; and

**WHEREAS**, another example of Congress expanding Indian Country law enforcement comes from the Muscogee (Creek) Reservation in Oklahoma, the massive devotion of Federal resources to liquor prosecutions, as noted by the Court in *United States v. Birdsall*, 233 U.S. 223 n.4 (1914):

In 1906 criminal dockets in Indian territory became so crowded and the possibility of early trial so remote that disregard of the statutes forbidding

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<sup>1</sup> See e.g., *Examining Federal Declinations to Prosecute Crimes in Indian Country: S. Hrg. 110-683 Before the S. Comm. on Indian Affairs*, 110<sup>th</sup> Cong. 31 (2008)(statement of Thomas B. Heffelfinger); *Hearing on S. 1763, Stand Against Violence and Empower Native Women Act; S. 872, A Bill to Amend the Omnibus Indian Advancement Act to Modify the Date as of which Certain Tribal Land of the Lytton Rancheria of California is Considered to be Held in Trust and to Provide for the Conduct of Certain Activities on The Land*; S. 1192, *Alaska Safe Families and Villages Act*, S. Hrg. 112-489, 112<sup>th</sup> Cong. 22 (2011) (statement of Thomas B. Heffelfinger); *Law Enforcement in Indian Country, Hearing Before the S. Comm. on Indian Affairs*, S. Hrg. 110-136, 110<sup>th</sup> Cong. 62 (2007) (statement of Thomas B. Heffelfinger); *Tribal Law and Order One Year Later: Have We Improved Public Safety and Justice Throughout Indian Country, Oversight Hearing Before the Senate Committee on Indian Affairs*, 112<sup>th</sup> Cong. 31-32 (Sept. 22, 2011) (statement of Brendan V. Johnson, U.S. Attorney, District of South Dakota); *Tribal Law and Order One Year Later: Have We Improved Public Safety and Justice Throughout Indian Country, Oversight Hearing Before the Senate Committee on Indian Affairs*, 112<sup>th</sup> Cong. (Sept. 22, 2011) (testimony of Troy A. Eid, Chairman, Indian Law and Order Commission); *Oversight Hearing on the Law and Order Commission Report: “A Roadmap for Making Native America Safer”*: Before the S. Comm. on Indian Affairs, 113<sup>th</sup> Cong., 2nd Session (2014)(testimony of Timothy Q. Purdon, U.S. Attorney, District of North Dakota); *Oversight Hearing on the Law and Order Commission Report: “A Roadmap for Making Native America Safer”*: Before the S. Comm. on Indian Affairs, 113<sup>th</sup> Cong., 2nd Session (2014) (testimony of Troy A. Eid, Chairman, Indian Law and Order Commission).



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introduction of intoxicants assumed large importance. To meet the emergency, Congress, in the act of June 21, 1906, appropriated \$25,000 to be used to suppress the traffic in intoxicating liquors among Indians, and in August, 1906, a special officer was commissioned and sent to Oklahoma that he and his subordinates might, through detective operations, supplement the efforts of superintendents in charge of reservations. In the fiscal year 1909, when the appropriation had grown to \$40,000, this service began to operate throughout all states where Indians needed protection. In 1911 the service had grown until it had an appropriation of \$70,000 and an organization including 1 chief special officer, 1 assistant chief, 2 constables, 12 special officers, and 143 local deputies stationed in 21 states. The increasing success of the service appears in the fact that in 1909, 561 cases which the service secured came to issue in court, resulting in 548 convictions, whereas in 1911, 1,202 cases came to issue, 1,168 defendants were convicted, and but 34 defendants were acquitted by juries. In 1911 fines imposed amounted to \$80,463, or more than the appropriation for the service.' H. Doc. No. 933, 62d Cong. 3d Sess. pp. 11, 12.

In 1912, Congress gave these agents the powers of United States marshals and deputy marshals. Act of August 24, 1912, 37 Stat. 518, 519. These efforts marked a substantial devotion of Federal law enforcement resources in their time and provide important precedent for the cross-deputation and funding of Tribal law enforcement; and

**WHEREAS**, fentanyl is a crisis on many COLT Member Tribes' reservations. Conditions exist that incentivize omni-present criminal activity by non-Indians on our reservations, which criminals use in their drug distribution networks because they know they will not be prosecuted, with little investigative or prosecutorial efforts by the FBI and U.S. Attorneys' offices. *See, e.g., [Tribal Leaders Warn Biden's Menthol Ban Will Only Further Empower Cartels | National Review](#)* ("The cartels have a 'big presence' in his community, where tribal police don't have authority over nonmembers. They pretty much feel unmatched; they're just brazen, out in the open. It's almost like it's raining fentanyl on our community"); [Mexican drug cartels are targeting America's 'last best place'](#); and

**WHEREAS**, criminal elements who target reservations are empowered by tribes' lack of criminal jurisdiction over non-Indians. They know they can get away with anything—that little to no law



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enforcement presence is available and prosecution is exceedingly unlikely even if they are arrested because of federal declination rates. Congress has known this for decades. Indeed, a generation after the U.S. Supreme Court’s decision in *Oliphant v. Suquamish Tribe*, finding that tribes had been implicitly divested of criminal jurisdiction over non-Indians because of tribes’ status as “conquered peoples,” then-United States Senator Ben Nighthorse Campbell questioned the impact of *Oliphant* and observed that “the word is out that people can get off the hook, so to speak, if they are not Indian and they do something on Indian land.” S. Hrg. 107-605.

**WHEREAS**, the Trump-Vance Administration has taken steps to address the public safety and border emergencies, including the fentanyl crisis, facing the United States, such as President Trump’s January 20, 2025 Executive Order, *Protecting the American People Against Invasion*;

**WHEREAS**, fully funded Tribal law enforcement could be cross-deputized as Customs & Border Patrol agents; detention facilities could efficiently and quickly be sited on large land base reservations; Tribes need community-based officer training facilities, particularly in the Great Plains Region, to support the additional 25,655 officers that are needed at a minimum to support our reservations’ rural law enforcement; and Tribal governments can best provide IDs to Tribal citizens who need identification to prove their citizenship status, whether on or off reservations—and all of these initiatives would further support public safety broadly. Tribal governments can be critical partners to the United States in addressing the border and public safety crises facing the nation, if funded at the same rate as comparable off-reservation facilities and officer salaries;

**NOW THEREFORE BE IT RESOLVED**, that the Coalition of Large Tribes (COLT) formally supports the Congress including full funding of Tribal law enforcement and public safety in any reconciliation budget, for at least \$4.5 billion in **direct** funding to Tribes inclusive of salaries and benefits and support for on-reservation housing for law enforcement officers to be able to live where they work—as tribes are critical partners in maintaining public safety and combatting the border crisis, particularly with respect to large land base tribes in the West; and

**BE IT FURTHER RESOLVED**, COLT calls upon Congress to lower the eligibility age for federal officers from 21 to 18 in order to increase the recruitment pool for law enforcement officers (as voted on favorably at the 2024 Tribal Interior Budget Council meeting); and





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**BE IT FURTHER RESOLVED**, COLT calls upon Congress to fund, in addition to BIA-OJS funds and ISEP funds, at least 183 school resource officers (as voted on favorably at the 2024 Tribal Interior Budget Council meeting) as part of this reconciliation funding initiative on public safety. This must be separate funding because officer insurance is cost-prohibitive for schools and instead should be a separate budget line item; and

**BE IT FURTHER RESOLVED**, COLT calls upon Congress to enact the BADGES for Native Communities Act, S. 465 (118<sup>th</sup> Congress), including implementing improvements in background check speed and efficiency and credentialing as recommend in the Indian Law and Order Commission Report and discussed in the Tribal Law and Order Act of 2010; and

**BE IT FURTHER RESOLVED**, that COLT calls upon Congress to encourage detention facility siting, construction and maintenance on reservations to allow for safe, efficient, affordable and reliable detention services to support the implementation of President Trump’s Executive Order, *Protecting the American People Against Invasion*, ensuring adequate facility space for the local population and additional detainees; and

**BE IT FURTHER RESOLVED**, that COLT calls upon Congress to enact COLT’s [public safety proposal](#) to eliminate the public safety jurisdiction gaps that make Indian reservations a safe haven for criminals and tie the hands of Tribal law enforcement (linked and attached); and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of COLT until it is withdrawn or modified by subsequent resolution.



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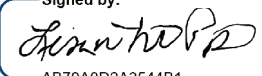
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Attest:

Signed by:  
  
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J. Garret Renville, Chairman, Coalition of Large Tribes

Signed by:  
  
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Lisa White Pipe, Secretary / Treasurer, Coalition of Large Tribes

**CERTIFICATION**

This resolution was enacted at virtual meeting of the Coalition of Large Tribes held February 18, 2025 at which a quorum was present, with the resolution approved unanimously.

Dated this February 18, 2025





Coalition of Large Tribes

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## **Coalition of Large Tribes (COLT)**

### **Resolution: 08-16-2022-Resolution #03-2022 (NN-Twin Arrows)**

#### **Resolution in Support of the Intertribal Legislative Proposal for Addressing Non-Indian Crime in Indian Country**

**WHEREAS**, the Coalition of Large Tribes (COLT) was formally established in early April 2011, and is comprised of Tribes with large land base, including the Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nations • Navajo Nation • Northern Arapaho Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe • Sisseton Wahpeton Sioux Tribe • Shoshone Bannock Tribes • Spokane Tribe • Ute Indian Tribe and is Chaired by President Kevin Killer, Oglala Sioux Tribe: and

**WHEREAS**, COLT was organized to provide a unified advocacy base on all issues affecting Tribes that govern large trust land bases and that strive to ensure the most beneficial use of those lands for tribes and individual Indian landowners; and

**WHEREAS**, a number of COLT member Tribes have participated in the development and advocacy in support of the attached draft Intertribal Legislative Proposal Addressing Non-Indian Crime in Indian Country and believe that the solutions offered in the draft would materially improve public safety in Indian Country, especially for large land-base tribes who suffer from a dearth of law enforcement resources and attention.

**NOW THEREFORE BE IT RESOLVED**, it is the policy of COLT to support the attached Intertribal Legislative Proposal Addressing Non-Indian Crime in Indian Country- as it might be amended from time to time as Tribes work to see it enacted.

**NOW THEREFORE BE IT FURTHER RESOLVED**, it is the policy of COLT to also support related administrative actions to the same purpose, including but not limited to: (1) seeking a Solicitor's Opinion from the Department of the Interior recognizing and affirming Tribes' inherent sovereign rights to exclude persons from our Reservations, including law enforcement personnel; and (2)



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seeking a directive from Assistant Secretary for Indian Affairs Bryan Newland instructing the BIA Office of Justice Services not to cooperate with state law enforcement unless and until specifically requested by a Tribe to do so.

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of COLT until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

This resolution was enacted at a duly called meeting of the Coalition of Large Tribes held on Navajo Nation, Twin Arrows Casino, 22181 Resort Blvd. Flagstaff, AZ on August 16<sup>th</sup>, 2022 at which a quorum was present, with the resolution approved unanimously.

Dated this August 16<sup>th</sup>, 2022

Attest:

  
\_\_\_\_\_  
Nathan Small, Secretary, Coalition of Large Tribes

  
\_\_\_\_\_  
Kevin Killer, Chairman, Coalition of Large Tribes

## ADDRESSING NON-INDIAN CRIME IN INDIAN COUNTRY

Just as Congress passed the “*Duro fix*” in 1991, Congress must amend the Indian Civil Rights Act (ICRA) to address a looming public safety crisis. In *Oliphant v. Suquamish Indian Tribe*,<sup>1</sup> the U.S. Supreme Court eliminated tribal criminal prosecutorial authority over non-Indians. In *Oklahoma v. Castro-Huerta*, the Court has given States concurrent jurisdiction with the federal government to prosecute non-Indians who commit crimes against Indians.<sup>2</sup> Collectively, *Oliphant* and *Castro-Huerta* stripped Indian tribes of criminal jurisdiction over crimes on tribal lands and gave it to States, creating a well-known “maze of injustice” and “indefensible morass.” Resultantly, at least “[Seventy] percent of violent crimes generally committed against AI/ANs involve an offender of a different race. This statistic includes crimes against children twelve years and older. . . [I]n domestic violence cases, 75 percent of the intimate victimizations and 25 percent of the family victimizations involve an offender of a different race. Furthermore, national studies show that men who batter their companion also abuse their children in 49 to 70 percent of the cases.”<sup>3</sup> Non-Indian-on-Indian crime on Indian reservations is a crisis.

Congress must reaffirm that Tribal Nations have criminal jurisdiction to punish wrongdoers who commit crimes on tribal lands:

### *25 U.S.C. §1301 Definitions*

*For the purposes of this subchapter, the term –*

*(2) “powers of self-government” means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all ~~Indians~~ persons located on or within “Indian country” as defined by 18 U.S.C. § 1152;*

As the *Castro-Huerta* dissenting opinion recognized, the majority’s ruling is “ahistorical and mistaken,” contrary to “a mountain of statutes and precedents making plain that Oklahoma possesses no authority to prosecute crimes against tribal members on tribal reservations until it amends its laws and wins tribal consent.” The *Castro-Huerta* majority offers “contrived interpretations”<sup>4</sup> of the Court’s longstanding precedents. This results-driven posture is solely aimed at addressing the jurisdictional gap resultant from *McGirt v. Oklahoma* that decided that the Muscogee (Creek) Nation’s reservation had not been disestablished or diminished by Oklahoma’s entry into the Union and therefore, the federal government alone had prosecutorial authority for Major Crimes committed by Indians on the Creek Reservation. *McGirt* affirmed long-understood dividing lines on criminal prosecutorial authority. The *Castro-Huerta* majority invented “inherent” authority for Oklahoma whole-cloth to bridge the perceived gap in prosecutions created by: (1) the Court’s elimination of tribal criminal prosecutorial authority over non-Indians in *Oliphant*; (2) chronic federal dereliction of its Trust and Treaty obligations to secure public safety in Indian Country; and (3) difficulties in coordinating and funding law enforcement activities to respond to the legal structure recognized in *McGirt*.

But two wrongs don’t make a right. The Court was wrong to erase tribal criminal jurisdiction in *Oliphant*—on grounds that such jurisdiction was “inconsistent with [tribes’] status”<sup>5</sup> as conquered peoples. Tribes are not mere conquered peoples. They are domestic nations that retain all the inherent powers they had as nation-states at the time of the founding of the United States unless and until Congress acts to limit that sovereignty in some way. Time and time again, Congress

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<sup>1</sup> 435 U.S. 191 (1978).

<sup>2</sup> ICRA was amended in 1991 in order to overturn the Supreme Court’s decision in *Duro v. Reina*, 495 U.S. 676 (1990). The *Duro* decision held that tribal courts lack criminal jurisdiction over non-member Indians. Congress overturned the *Duro* decision (the so-called Congressional “*Duro-fix*”) by adding the language “...and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians” to the definition of “powers of self-government.” This Congressional *Duro-fix* restored tribal court criminal jurisdiction over all Indians (members and non-members).

<sup>3</sup> U.S. Attorney General’s Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, *Ending Violence So Children Can Thrive*, November 2014. Available: [Ending Violence So Children can Thrive \(justice.gov\)](https://www.justice.gov/ending-violence-so-children-can-thrive).

<sup>4</sup> *Torres v. Texas Dep’t. of Pub. Safety*, No. 20-603 (June 30, 2022, Thomas, J., dissenting).

<sup>5</sup> 435 U.S. at 208.

has safeguarded tribal criminal jurisdiction, not assailed it. The *Castro-Huerta* Court has wrongly encroached on tribal sovereignty by rewriting a revisionist history and satiating colonizers' aspirations—that States have always had jurisdiction in Indian Country—when in fact the opposite has been true from the earliest days of the republic. Long settled law that tribes are territorial sovereigns with power and authority over public safety in Indian Country is based on Treaties, the United States' Trust responsibilities, and Congress' plenary authority over Indian relations enshrined in the Constitution.

Congress can both (a) respect that tribal governments are best positioned to make decisions about their local public safety needs by relaxing previous limitations on the exercise of tribal territorial jurisdiction and enacting the above suggested changes to 25 U.S.C. §1301, and (b) also ensure proper safeguards for individual liberties by enacting a companion amendment:

*Any tribe seeking to exercise criminal jurisdiction over person not otherwise provided for by other independent statutory authority may only do so if the due process requirements set forth in 25 U.S.C. § 1302(c) are ensured.*

Additionally, we recommend elimination of ICRA's current sentencing limitations, restricting tribes to a sentence of three years for certain crimes, and when stacked with other crimes, nine years total. This proposed amendment would do away with the limitations on tribes' sentencing altogether.

*Subparagraphs (B) through (D) of section 202(a)(7) and section 202(b) shall be eliminated in their entirety.*<sup>6</sup>

Lastly, as outlined in Justice Gorsuch's dissenting opinion, PL-280 should be amended to ensure that the *Castro-Huerta* Court's recognition of a previously unknown State authority in Indian Country does not create confusion or reduce accountability of the federal and tribal governments primarily responsible for Indian Country public safety by limiting States' exercise of criminal jurisdiction on tribal lands to only those circumstances in which they have obtained tribal consent and amended their constitutions in compliance with procedures outlined in § 1324:

*§ 1321. Assumption by State of criminal jurisdiction*

*(a) Lack of State Jurisdiction Absent Compliance with § 1321 and § 1324*

*Except as otherwise authorized pursuant to, or provided by, law, a State shall not have criminal jurisdiction over a crime committed by or against an Indian in Indian country unless the State complies with the procedures to obtain tribal consent outlined in 25 U. S. C. § 1321, and, where necessary, amends its constitution or statutes pursuant to 25 U. S. C. § 1324.*

In sum, Congress' enactment of this menu of options, and coordinate appropriation of resources to federal and tribal governments will address the current crisis of non-Indian crime in Indian Country, best ensure Indian Country public safety and accountability, and honor the United States' solemn Trust and Treaty obligations.

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<sup>6</sup> NOTE—this would eliminate the following text (in purple) from ICRA:

**(B)** except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

**(C)** subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

**(D)** impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years; ...

**(b) Offenses subject to greater than 1-year imprisonment or a fine greater than \$5,000**

A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than \$5,000 but not to exceed \$15,000, or both, if the defendant is a person accused of a criminal offense who--

**(1)** has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

**(2)** is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.