

Why GAO Did This Study

The Department of Justice (DOJ) reports from the latest available data that from 1992 to 2001 American Indians experienced violent crimes at more than twice the national rate. The Department of the Interior (DOI) and DOJ provide support to federally recognized tribes to address tribal justice issues. Upon request, GAO analyzed (1) the challenges facing tribes in adjudicating Indian country crimes and what federal efforts exist to help address these challenges and (2) the extent to which DOI and DOJ have collaborated with each other to support tribal justice systems. To do so, GAO interviewed tribal justice officials at 12 tribes in four states and reviewed laws, including the Tribal Law and Order Act of 2010, to identify federal efforts to assist tribes. GAO selected these tribes based on court structure, among other factors. Although the results cannot be generalized, they provided useful perspectives about the challenges various tribes face in adjudicating crime in Indian country. GAO also compared DOI and DOJ's efforts against practices that can help enhance and sustain collaboration among federal agencies and standards for internal control in the federal government.

What GAO Recommends

GAO recommends that the Secretary of the Interior and the Attorney General direct the relevant DOI and DOJ programs to develop mechanisms to identify and share information related to tribal courts. DOI and DOJ concurred with our recommendation.

View [GAO-11-252](#) or key components. For more information, contact David Maurer at (202) 512-9627 or maurerd@gao.gov.

INDIAN COUNTRY CRIMINAL JUSTICE

Departments of the Interior and Justice Should Strengthen Coordination to Support Tribal Courts

What GAO Found

The 12 tribes GAO visited reported several challenges in adjudicating crimes in Indian country, but multiple federal efforts exist to help address some of these challenges. For example, tribes only have jurisdiction to prosecute crimes committed by Indian offenders in Indian country. Also, until the Tribal Law and Order Act of 2010 (the Act) was passed in July 2010, tribes could only sentence those found guilty to up to 1 year in jail per offense. Lacking further jurisdiction and sentencing authority, tribes rely on the U.S. Attorneys' Offices (USAO) to prosecute crime in Indian country. Generally, the tribes GAO visited reported challenges in obtaining information on prosecutions from USAOs in a timely manner. For example, tribes reported they experienced delays in obtaining information when a USAO declines to prosecute a case; these delays may affect tribes' ability to pursue prosecution in tribal court before their statute of limitations expires. USAOs are working with tribes to improve timely notification about declinations. DOI and the tribes GAO visited also reported overcrowding at tribal detention facilities. In some instances, tribes may have to contract with other detention facilities, which can be costly. Multiple federal efforts exist to help address these challenges. For example, the Act authorizes tribes to sentence convicted offenders for up to 3 years imprisonment under certain circumstances, and encourages DOJ to appoint tribal prosecutors to assist in prosecuting Indian country criminal matters in federal court. Federal efforts also include developing a pilot program to house, in federal prison, up to 100 Indian offenders convicted in tribal courts, given the shortage of tribal detention space.

DOI, through its Bureau of Indian Affairs (BIA), and DOJ components have taken action to coordinate their efforts to support tribal court and tribal detention programs; however, the two agencies could enhance their coordination on tribal courts by strengthening their information sharing efforts. BIA and DOJ have begun to establish task forces designed to facilitate coordination on tribal court and tribal detention initiatives, but more focus has been given to coordination on tribal detention programs. For example, at the program level, BIA and DOJ have established procedures to share information when DOJ plans to construct tribal detention facilities. This helps ensure that BIA is prepared to assume responsibility to staff and operate tribal detention facilities that DOJ constructs and in turn minimizes potential waste. In contrast, BIA and DOJ have not implemented similar information sharing and coordination mechanisms for their shared activities to enhance the capacity of tribal courts to administer justice. For example, BIA has not shared information with DOJ about its assessments of tribal courts. Further, both agencies provide training and technical assistance to tribal courts; however, they are unaware as to whether there could be unnecessary duplication. Developing mechanisms to identify and share information related to tribal courts could yield potential benefits in terms of minimizing unnecessary duplication and leveraging the expertise and capacities that each agency brings.