

place the minor in a foster care or shelter care facility which has been approved by the tribe, and follow the adoption procedures of the tribe, or, in their absence, the adoption procedures of the state within which it is located.

(2) If parental rights to a child are not terminated, the children's court shall make a disposition according to § 11.1112 of this part.

(g) The termination order constitutes a final order for purposes of appeal.

(h) No adjudication of termination of parental rights shall affect the minor's enrollment status as a member of any tribe or the minor's degree of blood quantum of any tribe.

#### § 11.1115 Information collection.

(a) The information collection requirements contained in § 11.600 and § 11.606 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned approval number 1076-0094. The information is being collected to obtain a marriage license (§ 11.600) and a divorce decree (§ 11.606) from the Courts of Indian Offenses, and will be used by the courts to issue a marriage license or divorce decree. Response to this request is required to obtain a benefit.

(b) Public reporting for this information collection is estimated to average .25 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information collection. Direct comments regarding the burden estimate or any other aspect of this information collection to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 336-SIB, 1849 C Street, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Project 1076-0094], Office of Management and Budget, Washington, DC 20502.

## PART 12—INDIAN COUNTRY LAW ENFORCEMENT

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.

SOURCE: 62 FR 15611, Apr. 2, 1997, unless otherwise noted.

**Subpart A—Responsibilities**

**§ 12.1 Who is responsible for the Bureau of Indian Affairs law enforcement function?**

The Commissioner of Indian Affairs, or in the absence of a Commissioner, the Deputy Commissioner, is responsible for Bureau of Indian Affairs-operated and contracted law enforcement programs, and for overall policy development and implementation of the Indian Law Enforcement Reform Act, Public Law 101–379 (25 U.S.C. 2801 *et seq.*).

**§ 12.2 What is the role of the Bureau of Indian Affairs Director of Law Enforcement Services?**

The Director of the Office of Law Enforcement Services for the Bureau of Indian Affairs (Director) has been delegated the responsibility for the development of law enforcement and detention policies, standards, and management of all Bureau of Indian Affairs (BIA) criminal investigations, drug enforcement, training, internal affairs, inspection and evaluation, emergency response forces, and other national level Indian country law enforcement initiatives. The Director publishes these policies and standards in law enforcement manuals and handbooks. The Director is also directly responsible for developing crime prevention and outreach programs within Indian country law enforcement.

**§ 12.3 Who supervises Bureau of Indian Affairs criminal investigators?**

All BIA criminal investigators are supervised by other criminal investigators within the Office of Law Enforcement Services.

**§ 12.4 Who supervises the Bureau of Indian Affairs uniformed police, detention, and conservation enforcement functions?**

The agency superintendent is directly responsible for the operation and management of BIA uniformed police operations, detention facilities, and conservation enforcement operations at any agency having these programs. The agency superintendent must also ensure technical support is provided to any agency contracting the law enforcement and/or detention program.

**Subpart B—Policies and Standards**

**§ 12.11 Do I have to follow these regulations?**

You must follow the minimum standards outlined in the regulations in this part if you are part of a BIA or tribal law enforcement program receiving Federal funding or operating under a BIA law enforcement commission.

**§ 12.12 What about self-determination?**

The regulations in this part are not intended to discourage contracting of Indian country law enforcement programs under the Indian Self-determination and Education Assistance Act (Pub. L. 93–638, as amended, 25 U.S.C. 450). The Deputy Commissioner of Indian Affairs will ensure minimum standards are maintained in high risk activities where the Federal government retains liability and the responsibility for settling tort claims arising from contracted law enforcement programs. It is not fair to law abiding citizens of Indian country to have anything less than a professional law enforcement program in their community. Indian country law enforcement programs that receive Federal funding and/or commissioning will be subject to a periodic inspection or evaluation to provide technical assistance, to ensure compliance with minimum Federal standards, and to identify necessary changes or improvements to BIA policies.

**§ 12.13 What happens if I do not follow the rules in this part?**

Your BIA law enforcement commission may be revoked, your law enforcement contract may be canceled, and

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you may no longer be eligible for tribal shares allocated from the law enforcement budget.

### § 12.14 Where can I find specific policies and standards for law enforcement functions in Indian country?

BIA will ensure that all Indian country law enforcement programs are provided a copy of the most current policy manuals and handbooks. Every Indian country law enforcement program covered by the regulations in this part must maintain an effective and efficient law enforcement program meeting minimal qualitative standards and procedures specified in chapter 68 Bureau of Indian Affairs Manual (BIAM) and the Law Enforcement Handbook.

### Subpart C—Authority and Jurisdiction

#### § 12.21 What authority is given to Indian country law enforcement officers to perform their duties?

BIA law enforcement officers are commissioned under the authority established in 25 U.S.C. 2803. BIA may issue law enforcement commissions to other Federal, State, local and tribal full-time certified law enforcement officers to obtain active assistance in enforcing applicable Federal criminal statutes, including Federal hunting and fishing regulations, in Indian country.

(a) BIA will issue commissions to other Federal, State, local and tribal full-time certified law enforcement officers only after the head of the local government or Federal agency completes an agreement with the Commissioner of Indian Affairs asking that BIA issue delegated commissions. The agreement must include language that allows the BIA to evaluate the effectiveness of these special law enforcement commissions and to investigate any allegations of misuse of authority.

(b) Tribal law enforcement officers operating under a BIA contract or compact are not automatically commissioned as Federal officers; however, they may be commissioned on a case-by-case basis.

#### § 12.22 Can Bureau of Indian Affairs law enforcement officers enforce tribal laws?

BIA officers will enforce tribal laws only with the permission of the tribe. Local programs are encouraged to make arrangements and agreements with local jurisdictions to facilitate law enforcement objectives.

#### § 12.23 What are the jurisdictional limits in Indian country?

The Department of the Interior and the Department of Justice must maintain and periodically review and update a memorandum of understanding describing the relationship between the Federal Bureau of Investigation and the Bureau of Indian Affairs in the investigation and prosecution of major crimes in Indian country. Any law enforcement programs performing duties under the authority of 25 U.S.C. 2803 must follow the guidelines in the memorandum of understanding and any local United States Attorney's guidelines for the investigation and prosecution of Federal crimes.

### Subpart D—Qualifications and Training Requirements

#### § 12.31 Are there any minimum employment standards for Indian country law enforcement personnel?

The Director must develop, maintain, and periodically review the qualification standards, including medical qualification standards, for all BIA law enforcement, detention, and conservation enforcement occupational series. The standards will be no less stringent than the minimum standards established by the U.S. Office of Personnel Management (OPM) for these occupational series, and may exceed the OPM standards. BIA standards are available for review at any BIA personnel office. All tribal programs are encouraged to develop standards at least as stringent as those established for BIA officers.

#### § 12.32 Do minimum employment standards include a background investigation?

Law enforcement authority is only entrusted to personnel possessing adequate education and/or experience,

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training, aptitude, and high moral character. All Indian country law enforcement programs receiving Federal funding and/or authority must ensure that all law enforcement officers successfully complete a thorough background investigation no less stringent than required of a Federal officer performing the same duties. The background investigations of applicants and employees must be adjudicated by trained and qualified security professionals. All background investigations must be documented and available for inspection by the Bureau of Indian Affairs.

#### **§ 12.33 Are Indian country law enforcement officers paid less than other law enforcement officers?**

An officer's pay is determined by his/her grade and classification. The Commissioner of Indian Affairs must ensure that all BIA law enforcement officer positions are established at no lower grade level on the Federal scale than similar Federal law enforcement officer positions in other agencies. No BIA position performing commissioned law enforcement duties will be classified in other than the GS 0083, police officer series, for uniformed officers and the GS 1811, criminal investigating series, for criminal investigators.

#### **§ 12.34 Do minimum salaries and position classifications apply to a tribe that has contracted or compacted law enforcement under self-determination?**

Any contract or compact with the BIA to provide law enforcement services for an Indian tribe must require a law enforcement officer to be paid at least the same salary as a BIA officer performing the same duties.

#### **§ 12.35 Do Indian country law enforcement officers complete any special training?**

Law enforcement personnel of any program funded by the Bureau of Indian Affairs must not perform law enforcement duties until they have successfully completed a basic law enforcement training course prescribed by the Director. The Director will also prescribe mandatory supplemental and in-service training courses.

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#### **§ 12.36 Does other law enforcement training count?**

All requests for evaluation of equivalent training must be submitted to the Indian Police Academy for review, with final determination made by the Director. Requests for a waiver of training requirements to use personnel before completing the required courses of instruction must be submitted to the Director and approved or disapproved by the Commissioner of Indian Affairs. In no case will such a waiver allow personnel to be used in any position for more than one year without achieving training standards. Failure to complete basic training requirements will result in removal from a law enforcement position.

### **Subpart E—Records and Information**

#### **§ 12.41 Who keeps statistics for Indian country law enforcement activities?**

The Director maintains a criminal justice information system for Indian country. The Director will prescribe the types of data to be collected and the reporting format to be used to collect information and assemble reports on crime reported in Indian country. These reports may be provided to the Department of Justice. Any law enforcement program receiving funding from the BIA must use the same reporting format and submit the same statistical reports to the Office of Law Enforcement Services as prescribed by the Director and as are required of all BIA law enforcement programs.

#### **§ 12.42 Do Indian country law enforcement programs share information with their own communities or other agencies?**

At intervals established by the Director, each BIA criminal investigations program, and any investigations program receiving BIA funds will consult with local tribal leaders and managers of local patrol and detention programs. They will discuss the quality of the local investigations program and offer feedback and technical assistance. There will be no requirement to disclose confidential investigative information or to compromise ongoing investigations during this process.

**Subpart F—Conduct****§ 12.51 Must Indian country law enforcement officers follow a code of conduct?**

All law enforcement programs receiving Bureau of Indian Affairs funding or commissioning must establish a law enforcement code of conduct which establishes specific guidelines for conduct on and off duty, impartiality, and professional conduct in the performance of duty, and acceptance of gifts or favors. Each officer must acknowledge in writing receiving and understanding of this code of conduct. The acknowledgment will remain on file with the law enforcement program manager as long as the officer is employed there. Training will be conducted on this code of conduct and other ethics issues at least once each year.

**§ 12.52 How do I report misconduct?**

The Director will develop and maintain a reporting system that allows any resident of or visitor to Indian country to report officer misconduct. Each law enforcement program in Indian country will maintain instructions on how to register a complaint. An overview of these steps must be posted for public viewing at each law enforcement facility in Indian country.

**§ 12.53 Who investigates officer misconduct?**

The Director, Office of Law Enforcement Services maintains an internal affairs program that investigates all allegations of misconduct by BIA officers, and any officer receiving funding and/or authority from the BIA. All allegations of misconduct must be thoroughly investigated and appropriate action taken when warranted. Any person having knowledge of officer misconduct must report that information to the officer's supervisor. The supervisor must immediately report allegations to the internal affairs unit. Depending upon the severity of the allegation, the matter may be dealt with locally or it will be investigated by the internal affairs unit. Failure of any BIA employee to report known allegations may be considered misconduct in itself. Citizens may report officer mis-

conduct directly to the internal affairs unit if that is more practical.

**§ 12.54 What can I do if I believe my civil rights have been violated?**

All allegations of civil rights violations must be reported immediately to the internal affairs unit. That office will ensure that allegations are immediately reported to the Civil Rights Division of the U. S. Department of Justice through established procedures. BIA's internal affairs unit may also investigate the matter and make recommendations for additional action as necessary.

**§ 12.55 Are there any limits on how much force an officer can use when performing law enforcement duties?**

The Director will develop and maintain the use of force policy for all BIA law enforcement personnel, and for programs receiving BIA funding or authority. Training in the use of force, to include non-lethal measures, will be provided annually. All officers will successfully complete a course of instruction in firearms, to include judgement pistol shooting, approved by the Indian Police Academy before carrying a firearm on or off duty.

**Subpart G—Support Functions****§ 12.61 Can I be paid for information that helps solve a crime?**

The Director can spend money to purchase evidence or information, or to offer a reward, in the investigation of a crime. This is subject to the availability of funds. This authority may be delegated in writing to supervisory criminal investigators within the Office of Law Enforcement Services in the BIA. The Director must develop policies and procedures for the expenditure, control, and audit of these funds before their use.

**§ 12.62 Who decides what uniform an Indian country law enforcement officer can wear and who pays for it?**

Each local law enforcement program must establish its own uniform requirements for patrol and detention

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personnel. Uniformed BIA police officers may be paid an annual uniform allowance not to exceed \$400. Local programs may provide uniforms and related equipment to officers in lieu of this payment. All law enforcement officers must also have their official identification on their person at all times when performing law enforcement duties. Uniforms, when worn, will be plainly distinguishable from the uniforms of any non-law enforcement personnel working on the reservation.

**§ 12.63 Do Indian country law enforcement officers perform other duties as well?**

Law enforcement commissions will only be issued by the Bureau of Indian Affairs to persons occupying positions as full-time officers. Bureau of Indian Affairs funded or commissioned criminal investigators will not be responsible for supervising or managing any patrol, detention, or other uniformed police programs.

**PART 13—TRIBAL REASSUMPTION OF JURISDICTION OVER CHILD CUSTODY PROCEEDINGS**

**Subpart A—Purpose**

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**Subpart B—Reassumption**

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13.12 Criteria for approval of reassumption petitions.

13.13 Technical assistance prior to petitioning.

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13.15 Administrative appeals.

13.16 Technical assistance after disapproval.

AUTHORITY: 25 U.S.C. 1952.

SOURCE: 44 FR 45095, July 31, 1979, unless otherwise noted.

**Subpart A—Purpose**

**§ 13.1 Purpose.**

(a) The regulations of this part establish the procedures by which an Indian tribe that occupies a reservation as defined in 25 U.S.C. 1903(10) over which a state asserts any jurisdiction pursuant to the provisions of the Act of August

15, 1953 (67 Stat. 588) Pub. L. 83-280, or pursuant to any other federal law (including any special federal law applicable only to a tribe or tribes in Oklahoma), may reassume jurisdiction over Indian child custody proceedings as authorized by the Indian Child Welfare Act, Pub. L. 95-608, 92 Stat. 3069, 25 U.S.C. 1918.

(b) On some reservations there are disputes concerning whether certain federal statutes have subjected Indian child custody proceedings to state jurisdiction or whether any such jurisdiction conferred on a state is exclusive of tribal jurisdiction. Tribes located on those reservations may wish to exercise exclusive jurisdiction or other jurisdiction currently exercised by the state without the necessity of engaging in protracted litigation. The procedures in this part also permit such tribes to secure unquestioned exclusive, concurrent or partial jurisdiction over Indian child custody matters without relinquishing their claim that no Federal statute had ever deprived them of that jurisdiction.

(c) Some tribes may wish to join together in a consortium to establish a single entity that will exercise jurisdiction over all their members located on the reservations of tribes participating in the consortium. These regulations also provide a procedure by which tribes may reassume jurisdiction through such a consortium.

(d) These regulations also provide for limited reassumptions including jurisdiction restricted to cases transferred from state courts under 25 U.S.C. 1911(b) and jurisdiction over limited geographical areas.

(e) Unless the petition for reassumption specifically states otherwise, where a tribe reassumes jurisdiction over the reservation it occupies, any land or community occupied by that tribe which subsequently acquires the status of reservation as defined in 25 U.S.C. 1903(10) also becomes subject to tribal jurisdiction over Indian child custody matters.

**§ 13.2 Information collection.**

The information collection requirement contained in §13.11 has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*