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except to the extent that United States Attorneys utilize the list pursuant to section 11015(b) of Public Law 107–273.

(2) By submitting a Declaration to the Department of Justice, the individual annuity broker agrees that the Declaration and the list each may be made public in its entirety, and the annuity broker expressly consents to such release and disclosure of the Declaration and list.

[Order No. 2667–2003, 68 FR 18120, Apr. 15, 2003]

§ 50.25 Assumption of concurrent Federal criminal jurisdiction in certain areas of Indian country.

(a) *Assumption of concurrent Federal criminal jurisdiction.* (1) Under 18 U.S.C. 1162(d), the United States may accept concurrent Federal criminal jurisdiction to prosecute violations of 18 U.S.C. 1152 (the General Crimes, or Indian Country Crimes, Act) and 18 U.S.C. 1153 (the Major Crimes, or Indian Major Crimes, Act) within areas of Indian country in the States of Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin that are subject to State criminal jurisdiction under Public Law 280, 18 U.S.C. 1162(a), if the tribe requests such an assumption of jurisdiction and the Attorney General consents to that request. Once the Attorney General has consented to an Indian tribe's request for assumption of concurrent Federal criminal jurisdiction, the General Crimes and Major Crimes Acts shall apply in the Indian country of the requesting tribe that is located in any of these "mandatory" Public Law 280 States, and criminal jurisdiction over those areas shall be concurrent among the Federal Government, the State government, and (where applicable) the tribal government. Assumption of concurrent Federal criminal jurisdiction under 18 U.S.C. 1162(d) does not require the agreement, consent, or concurrence of any State or local government.

(2) Under 25 U.S.C. 1321(a)(2), the United States may exercise concurrent Federal criminal jurisdiction in other areas of Indian country as to which States have assumed "optional" Public Law 280 criminal jurisdiction under 25 U.S.C. 1321(a), if a tribe so requests and after consultation with and consent by

the Attorney General. The Department's view is that such concurrent Federal criminal jurisdiction exists under applicable statutes in these areas of Indian country, even if the Federal Government does not formally accept such jurisdiction in response to petitions from individual tribes. This rule therefore does not establish procedures for processing requests from tribes under 25 U.S.C. 1321(a)(2).

(b) *Request requirements.* (1) A tribal request for assumption of concurrent Federal criminal jurisdiction under 18 U.S.C. 1162(d) shall be made by the chief executive official of a federally recognized Indian tribe that occupies Indian country listed in 18 U.S.C. 1162(a). For purposes of this section, a chief executive official may include a tribal chairperson, president, governor, principal chief, or other equivalent position.

(2) The tribal request shall be submitted in writing to the Director of the Office of Tribal Justice at the Department of Justice. The first page of the tribal request shall be clearly marked: "Request for United States Assumption of Concurrent Federal Criminal Jurisdiction." The tribal request shall explain why the assumption of concurrent Federal criminal jurisdiction will improve public safety and criminal law enforcement and reduce crime in the Indian country of the requesting tribe. The tribal request shall also identify each local or State agency that currently has jurisdiction to investigate or prosecute criminal violations in the Indian country of the tribe and shall provide contact information for each such agency.

(c) *Process for handling tribal requests.* (1) Upon receipt of a tribal request, the Office of Tribal Justice shall:

- (i) Acknowledge receipt; and
- (ii) Open a file.

(2) Within 30 days of receipt of a tribal request, the Office of Tribal Justice shall:

- (i) Publish a notice in the FEDERAL REGISTER, seeking comments from the general public;

- (ii) Send written notice of the request to the State and local agencies identified by the tribe as having criminal jurisdiction over the tribe's Indian country, with a copy of the notice to

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the governor of the State in which the agency is located, requesting that any comments be submitted within 45 days of the date of the notice;

(iii) Seek comments from the relevant United States Attorney's Offices, the Federal Bureau of Investigation, and other Department of Justice components that would be affected by consenting to the request; and

(iv) Seek comments from the Department of the Interior (including the Bureau of Indian Affairs), the Department of Homeland Security, other affected Federal departments and agencies, and Federal courts.

(3) As soon as possible but not later than 30 days after receipt of a tribal request, the Office of Tribal Justice shall initiate consultation with the requesting tribe, consistent with applicable Executive Orders and Presidential Memoranda on tribal consultation.

(4) To the extent appropriate and consistent with applicable laws and regulations, including requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, governing personally identifiable information, and with the duty to protect law enforcement sensitive information, the Office of Tribal Justice may share with the requesting tribe any comments from other parties and provide the tribe with an opportunity to respond in writing.

(5) An Indian tribe may submit a request at any time after the effective date of this rule. However, requests received by February 28 of each calendar year will be prioritized for decision by July 31 of the same calendar year, if feasible; and requests received by August 31 of each calendar year will be prioritized for decision by January 31 of the following calendar year, if feasible. The Department will seek to complete its review of prioritized requests within these time frames, recognizing that it may not be possible to do so in each instance.

(d) *Factors.* Factors that will be considered in determining whether or not to consent to a tribe's request for assumption of concurrent Federal criminal jurisdiction include the following:

(1) Whether consenting to the request will improve public safety and criminal law enforcement and reduce crime in

the Indian country of the requesting tribe.

(2) Whether consenting to the request will increase the availability of law enforcement resources for the requesting tribe, its members, and other residents of the tribe's Indian country.

(3) Whether consenting to the request will improve access to judicial resources for the requesting tribe, its members, and other residents of the tribe's Indian country.

(4) Whether consenting to the request will improve access to detention and correctional resources for the requesting tribe, its members, and other residents of the tribe's Indian country.

(5) Other comments and information received from the relevant United States Attorney's Offices, the Federal Bureau of Investigation, and other Department of Justice components that would be affected by consenting to the request.

(6) Other comments and information received from the Department of the Interior (including the Bureau of Indian Affairs), the Department of Homeland Security, other affected Federal departments and agencies, and Federal courts.

(7) Other comments and information received from tribal consultation.

(8) Other comments and information received from other sources, including governors and State and local law enforcement agencies.

(e) *Decision.* (1) The decision whether to consent to a tribal request for assumption of concurrent Federal criminal jurisdiction shall be made by the Deputy Attorney General after receiving written recommendations from the Office of Tribal Justice, the Executive Office for United States Attorneys, and the Federal Bureau of Investigation.

(2) The Deputy Attorney General will:

(i) Consent to the request for assumption of concurrent Federal criminal jurisdiction, effective as of some future date certain within the next twelve months (and, if feasible, within the next six months), with or without conditions, and publish a notice of the consent in the FEDERAL REGISTER;

(ii) Deny the request for assumption of concurrent Federal criminal jurisdiction; or

(iii) Request further information or comment before making a final decision.

(3) The Deputy Attorney General shall explain the basis for the decision in writing.

(4) The decision to grant or deny a request for assumption of concurrent Federal criminal jurisdiction is not appealable. However, at any time after a denial of such a request, a tribe may submit a renewed request for assumption of concurrent Federal criminal jurisdiction. A renewed request shall address the basis for the prior denial. The Office of Tribal Justice may provide appropriate technical assistance to any tribe that wishes to prepare and submit a renewed request.

(f) *Retrocession of State criminal jurisdiction.* Retrocession of State criminal jurisdiction under Public Law 280 is governed by 25 U.S.C. 1323(a) and Executive Order 11435 of November 21, 1968. The procedures for retrocession do not govern a request for assumption of concurrent Federal criminal jurisdiction under 18 U.S.C. 1162(d).

[AG Order 3314–2011, 76 FR 76042, Dec. 6, 2011]

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