Indian Affairs - Office of Public Affairs

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WASHINGTON – The Department of Justice announced today a policy addressing the ability of members of federally recognized Indian tribes to possess or use eagle feathers, an issue of great cultural significance to many tribes and their members. Attorney General Eric Holder signed the new policy after extensive department consultation with tribal leaders and tribal groups. The policy covers all federally protected birds, bird feathers and bird parts.

Federal wildlife laws such as the Bald and Golden Eagle Protection Act generally criminalize the killing of eagles and other migratory birds and the possession or commercialization of the feathers and other parts of such birds. These important laws are enforced by the Department of Justice and the Department of the Interior and help ensure that eagle and other bird populations remain healthy and sustainable.

At the same time, the Department of Justice recognizes that eagles play a unique and important role in the religious and cultural life of many Indian tribes. Many Indian tribes and tribal members have historically used, and today continue to use federally protected birds, bird feathers or other bird parts for their tribal cultural and religious expression.

“This policy will help ensure a consistent and uniform approach across the nation to protecting and preserving eagles, and to honoring their cultural and spiritual significance to American Indians,” said Attorney General Holder. “The Department of Justice is committed to striking the right balance in enforcing our nation’s wildlife laws by respecting the cultural and religious practices of federally recognized Indian tribes with whom the United States shares a unique government-to-government relationship.”

The department is issuing this policy to address the concerns of tribal members who are unsure of how they may be affected by federal wildlife law enforcement efforts, and because of a concern that this uncertainty may hinder or inhibit tribal religious and cultural practices. The department first announced it was considering formalizing a policy on eagle feathers in October 2011 and sought tribal input at that time. The department held formal consultations with tribal leaders in June, July and August 2012.

“From time immemorial, many Native Americans have viewed eagle feathers and other bird parts as sacred elements of their religious and cultural traditions,” said Ignacia S. Moreno, Assistant Attorney General of the Justice Department’s Environment and Natural Resources Division. “The Department of Justice has taken a major step forward by establishing a consistent and transparent policy to guide federal enforcement of the nation’s wildlife laws in a manner that respects the cultural and religious practices of federally recognized Indian tribes and their members.”

“The Justice Department’s policy balances the needs of the federally recognized tribes and their members to be able to obtain, possess and use eagle feathers for their religious and cultural practices with the need to protect and preserve these magnificent birds,” said Donald E. “Del” Laverdure, Principal Deputy Assistant Secretary for Indian Affairs. “Its reasoned approach reflects a greater

understanding and respect for cultural beliefs and spiritual practices of Indian people while also providing much-needed clarity for those responsible for enforcing federal migratory bird protection laws."

"This policy helps to clarify how federal law enforcement goes about protecting these special birds and also should reassure federally recognized tribal members that they do not have to fear prosecution for possessing or using eagle feathers for their religious and cultural purposes," said Brendan V. Johnson, U.S. Attorney for the District of South Dakota and the Chairman of the Native American Issues Subcommittee of the Attorney General's Advisory Committee. "Eagles and other native migratory bird species are a vital part of our nation's natural heritage, and we remain dedicated to providing every American with the opportunity to experience them in the wild," said U.S. Fish and Wildlife Service Director Dan Ashe. "This new policy honors the past while looking to the future, contributing to the preservation of these species and ensuring that tribal members can continue their religious and cultural practices for generations to come." The policy provides that, consistent with the Department of Justice's traditional exercise of its discretion, a member of a federally recognized tribe engaged only in the following types of conduct will not be subject to prosecution:

- Possessing, using, wearing or carrying federally protected birds, bird feathers or other bird parts (federally protected bird parts);
- Traveling domestically with federally protected bird parts or, if tribal members obtain and comply with necessary permits, traveling internationally with such items;
- Picking up naturally molted or fallen feathers found in the wild, without molesting or disturbing federally protected birds or their nests;
- Giving or loaning federally protected bird parts to other members of federally recognized tribes, without compensation of any kind;
- Exchanging federally protected bird parts for federally protected bird parts with other members of federally recognized tribes, without compensation of any kind;
- Providing the feathers or other parts of federally protected birds to craftspersons who are members of federally recognized tribes to be fashioned into objects for eventual use in tribal religious or cultural activities.

The Department of Justice will continue to prosecute tribal members and non-members alike for violating federal laws that prohibit the killing of eagles and other migratory birds or the buying or selling of the feathers or other parts of such birds. The policy expands upon longstanding Department of Justice practice and Department of the Interior policy. It was developed in close coordination with the Department of the Interior. The Department of Justice's Environment and Natural Resources Division (ENRD) and United States Attorneys' Offices work closely with the Department of the Interior's U.S. Fish and Wildlife Service and Bureau of Indian Affairs on enforcement of federal laws protecting birds.

The view the policy and a fact sheet on the policy, visit: www.justice.gov/tribal.

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