Indian Affairs - Office of Public Affairs

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For Immediate Release: March 9, 1978
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Interior's Assistant Secretary for Indian Affairs Forrest J. Gerard said today he was disappointed by the United States Supreme Court ruling March 6 that Indian tribes do not have criminal jurisdiction over non Indians on reservations. He said that he thought the decision would inhibit the development of tribal self-government and the maintenance of criminal justice systems on the reservations.

Gerard also said that he did not believe that the decision applied to matters of civil jurisdiction. In a memorandum to Bureau of Indian Affairs field officers, Gerard wrote: “The Supreme Court did not consider or decide the issue of whether tribal courts may exercise civil jurisdiction over non-Indians. Your decision on approval of ordinances or resolutions asserting only civil jurisdiction over non-Indians should not be affected by this decision. “

The Supreme Court ruled in Oliphant v. Suquamish Indian Tribe that Indian tribal courts do not have inherent criminal jurisdiction to try and punish non-Indians. With the development of Indian self-determination as a national policy, a number of the tribes have asserted the need and the right to exercise criminal jurisdiction over non-Indians on the reservations. The Oliphant decision denies this right.

Gerard instructed BIA field officers that tribal ordinances or resolutions asserting tribal criminal jurisdiction over non-Indians must be disapproved. The memo also gave directions, in accordance with the ruling, for BIA law enforcement officers.

Gerard said that he would continue to work with the tribes, other Federal agencies and state and local governments to try to provide full protection against crime for all persons on the reservations.