Discussion draft of model code will be circulated for comments before formal tribal consultation sessions begin

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WASHINGTON, D.C. – In furthering President Obama's efforts to support American Indian and Alaska Native families and protect tribal communities, Department of the Interior Assistant Secretary – Indian Affairs Kevin K. Washburn and Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Robert L. Listenbee today announced that the Bureau of Indian Affairs (BIA) and the Department of Justice are seeking to update the 1988 Model Indian Juvenile Code designed to assist federally recognized tribes in creating individual codes focused on juvenile matters and specifically addressing issues affecting Indian youth arrested for alcohol and/or drug-related offenses in Indian Country.

"Like the BIA's guidelines and regulations for state courts and agencies that implement the Indian Child Welfare Act, the Bureau's Model Indian Juvenile Code has long needed updating," said Assistant Secretary Washburn. "Tribes know best what will work in their communities, but the model will be updated to provide better federal guidance to tribes in an effort to insure proper respect for the rights and responsibilities of Indian juveniles arrested for alcohol or drug-related offenses and those of their parents, guardians or custodians. It also will provide tribes and their court systems greater clarity and flexibility in dealing with such cases."

"Safeguarding the fair and equitable treatment of all youth in the juvenile justice system is paramount to the mission of DOJ's Office of Juvenile Justice and Delinquency Prevention," said Administrator Listenbee. "This is an important step forward in ensuring tribal courts have the resources they need to respond effectively to at-risk and delinquent youth in Indian Country, and is a direct result of our collaboration with the Bureau of Indian Affairs."

The BIA's Office of Justice Services Tribal Justice Support Directorate (TJSD) has been working with the Department of Justice's Office of Juvenile Justice and Delinquency Prevention since 2012 to update the existing 1988 Model Indian Juvenile Code. That code was published in 1988 following passage of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) and pursuant to the law (25 U.S.C. 2454) directing the Secretary of the Interior to develop a Model Indian Juvenile Code, including provisions relating to the disposition of cases involving Indian youth arrested or detained by BIA or tribal law enforcement for alcohol or drug-related offenses. The Department of Justice's Office of Juvenile Justice and Delinquency Prevention has provided significant insight into the new draft provisions.

The Interior and Justice departments are seeking to develop an updated code that reflects changes in the field of juvenile justice since 1988, particularly with the enactment in 2010 of the Tribal Law and Order Act (P. L. 111-211) and the Patient Protection and Affordable Care Act (P. L. 111-148), and to comply with a provision in a 2011 Indian Alcohol and Substance Abuse Memorandum of Agreement

between the Interior and Justice departments to develop such a code in accordance with 25 U.S.C. 2454.

Starting this month, TJSD will circulate a discussion draft embodying an updated Model Indian Juvenile Code to gather comment and suggestions from tribal leaders and interested parties. The discussion draft is based on a Model Juvenile Code developed in 2013 by Professor Ron Whitener of the University of Washington School of Law. Whitener also serves as chairman of the Center of Indigenous Research and Justice in Seattle. This new Model Code has been modified with input from the departments of Justice and Interior and presents a comprehensive and flexible code which encourages the use of alternatives to standard juvenile delinquency, truancy, and child-in-need of services. The Model Code also reflects a core commitment to providing tribes with examples of juvenile statutes designed to assure the fundamental rights of children and their parents, guardians and custodians and focus on allowing the opportunity for restorative diversion at each decision point in the juvenile process.

Professor Whitener presented the discussion draft at the Federal Bar Association's 40th Annual Indian Law Conference in Scottsdale, Ariz., on April 9.

TJSD will provide additional opportunities for comments and input from the public at other national American Indian and tribal justice conferences during 2015. These additional opportunities for comment on the discussion draft are slated for the summer and fall of 2015. The exact dates will be published in the near future. Following this information-gathering phase, TJSD will revise the discussion draft based on the comments and information it has received and publish the new draft in preparation for conducting formal tribal consultation sessions on it.

The Assistant Secretary – Indian Affairs oversees the BIA, which is headed by a director who is responsible for managing day-to-day operations through four offices – Indian Services, Justice Services, Trust Services, and Field Operations. These offices directly administer or fund tribally based infrastructure, economic development, law enforcement and justice, social services (including child welfare), tribal governance, and trust land and natural and energy resources management programs for the nation's federally recognized American Indian and Alaska Native tribes through 12 regional offices and 81 agencies.

The Office of Justice Services Tribal Justice Support Directorate furthers the development, operation, and enhancement of tribal justice systems by providing guidance, technical support, and advisory services to tribal courts and Courts of Indian Offenses (also known as CFR courts). For more information, visit http://indianaffairs.gov/WhoWeAre/BIA/OJS/ojs-services/ojstjs/index.htm.

The Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice provides national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization. OJJDP supports states and communities in their efforts to develop and implement effective and coordinated prevention and intervention programs and to improve the juvenile justice system so that it protects public safety, holds offenders accountable, and provides treatment and rehabilitative services tailored to the needs of juveniles and their families. For more information, visit http://www.ojjdp.gov/.