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Paper 2: Performance Paper

TO: Teresa Gerton

FROM: Policy Analyst of National Academy of Public Administration (NAPA) Project

DATE: April 10, 2023

RE: Performance Management Analysis in the Department of Justice's Office of Tribal Justice

Executive Summary

The Office of Tribal Justice (OTJ) is the primary contact and the advisor regarding indigenous affairs under the Department of Justice. Its performance management is strong with its complete interaction records, clearly stated next steps, strategic plans in the budget summary, and the accessible resources from its website. Nonetheless, the weaknesses are there are few independent statistical reports from the unit, lack of outcomes in the reports, and the data are not up to date. To pursue an advanced performance management and to address public accountability concerns, I suggest that the OTJ: 1) produce its own statistical reports describing its financial flows and action outputs and outcomes in a shorter term; and 2) appeal for fundings to launch independent programs according to feedback collected from tribal governments and the tribes.

Part I: The Office of Tribal Justice's Missions, Functions, Staffing, and Budget

The Office of Tribal Justice (OTJ) is a branch under the Department of Justice and is required to report directly to both the Deputy Attorney General and the Associate Attorney General due to its feature of cross-departmental affairs. It was first formed in 1995 and became permanent in 2010 summer. The OTJ has two main purposes. First, it serves as the primary contact between the federally recognized tribal governments and tribal organizations and the

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United States. Second, it is the advisor for development of trust relationship, regulatory policies and actions, and Indian law expertise to ensure the rights of indigenous people and tribal interests.¹

The Office is composed of five staff with a priority of employees coming from federally recognized tribes. It is headed by a Director appointed by the Attorney General², and assisted by a Deputy Director, a Chief of Staff, an Attorney Advisor, and a Staff Assistant. Native American Policies reaffirm the Justice Department's recognition of the sovereign status of federally recognized Indian tribes as domestic dependent nations.³ Resources and budget for tribal justice are allocated across departments, which the Office has partnership with, such as the Office of Justice Programs and the Office on Violence Against Women.⁴ For the Fiscal Year of 2023, the Department of Justice budget request provides a total of \$6.2 billion in funding for assistance of longstanding Justice Department grant programs and new programs to state, local, and tribal partners to prevent crime, reduce gun violence, and accelerate criminal justice system reform.⁵

Analytic Sources and Methods: the Outputs and Outcomes of the Publications online

¹ About OTJ. Office of Tribal Justice, Department of Justice. Retrieved on March 28, 2023, from <https://www.justice.gov/otj/about-otj>.

² Code of Federal Regulations. Office of Tribal Justice, Department of Justice. Retrieved on March 28, 2023, from <https://www.ecfr.gov/current/title-28/chapter-I/part-0/subpart-W-1>.

³ Ibid.

⁴ Grants. Office of Tribal Justice, Department of Justice. Retrieved on March 31, 2023, from <https://www.justice.gov/tribal/grants>.

⁵ Budget. Office of Tribal Justice, Department of Justice. Retrieved on April 2, 2023, from <https://www.justice.gov/jmd/page/file/1489621/download#:~:text=The%20Department%20of%20Justice's%20FY,local%2C%20and%20tribal%20assistance%20programs>.

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Performance of public sector can be divided into two perspectives: the production perspective referring to the ability of an organization to turn resources into “outputs” and “outcomes,” and the public value perspective deriving from the improved living conditions for the community, and public sector organizations produce value when they meet the needs of citizens.⁶ Since contacting stakeholders lies beyond the scope of this assignment, I will focus on the production perspective, looking into both the operational results/outputs and the process results/outcomes, in this paper. I will examine the efficacy of the OTJ by analyzing publications of 2020 Annual Report of National Institute of Justice⁷, Tribal Crime Data Collection Report⁸, Lessons Learned Report in Tribal Court⁹, Tribal Risk Management Consultation Report¹⁰, and Fiscal Year 2023 Budget Summary¹¹ by looking at the degree of match between functions, goals, and its actions, programs, and available resources. These publications are accessible from either the OTJ’s website, or on its partnership organizations’ web pages. All can be found

⁶ Vincenzo Vignieri. (2018.) Performance Management in the Public Sector. In: Farazmand, A. (eds) Global Encyclopedia of Public Administration, Public Policy, and Governance. Springer, Cham.
https://doi.org/10.1007/978-3-319-31816-5_3480-1.

⁷ National Institute of Justice. (2020.) 2020 Annual Report of National Institute of Justice. Retrieved on April 8, 2023, from <https://www.ojp.gov/pdffiles1/nij/304993.pdf>.

⁸ Steven W. Perry. (July 2015.) Technical Report: Tribal Crime Data Collection Activities. Bureau of Justice Statistics. Retrieved on March 23, 2023, from <https://bjs.ojp.gov/content/pub/pdf/tcdca15.pdf>.

⁹ Christine Folsom-Smith. (Jan 2015.) Enhanced Sentencing in Tribal Courts: Lessons Learned From Tribes. Retrieved on March 24, 2023, from <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/tloa-tribaltssentencing.pdf>.

¹⁰ Office of Tribal Justice. (Mar 2022.) Tribal Risk Management Consultation Report. Retrieved on March 22, 2023, from https://www.justice.gov/d9/fieldable-panel-panes/basic-panes/attachments/2022/06/08/risk_management_tribal_consultation_final_report_march_2022.pdf.

¹¹ Department of Justice. Fiscal Year 2023 Budget Summary. Retrieved on April 6, 2023, from <https://www.justice.gov/jmd/page/file/1489621/download#:~:text=The%20Department%20of%20Justice's%20FY,local%2C%20and%20tribal%20assistance%20programs>.

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through the DOJ's resources.

Part II: Performance Analysis

Findings: Strengths and Weaknesses of the OTJs Performance Management

The OTJ is committed to transparency and accountability in their actions. Reading through the published reports and websites, I conclude the following four strengths and three weaknesses.

Strength 1: Interactions between tribal governments, the federal government, tribes, and the public are documented

As a communication unit, the OTJ records consultation results for future work of improvement. The Risk Management Consultation Report published in March 2022 documents consulting conversations between the tribes, the tribal government, and the OTJ, including challenges in effective governance associated with risks to Tribal economic development, and suggestions of best practices for the government to plan and be prepared. This type of report crystalizes the conversations among stakeholders, presenting the ambition to a public management that better satisfies the target populations' needs and further aligns with its missions.

Strength 2: Actions that should be taken for improvements are clearly stated

In each of its independent investigation reports, OTJ analyzes current situations and

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forthcoming challenges that cause the conversation or investigation to take place. Followed by the analyses are suggestions of actions proposed by community members during the dialogue.

Collecting feedback from the target groups of service and including their words as recommendations into the documents not only show strong connection of the OTJ to its functions, but also assists the future work of the OTJ to plan for programs to reach its departmental goals.

Strength 3: Strategic plans are involved in budgeting summary

The strategic plans usually give guidance to the Department's employees, inform multi-interactors' relationships, and set public expectations about the nature of work the Department will undertake.¹² In DOJ's budget summary, it has included the strategic plan for fiscal year 2022-2026 which helps navigate solutions for complex and structured issues, and allows the public to concretely examine the Department's performance.

Strength 4: Relative and available resources can be easily found from its website

Intended to serve as the contact point between levels of governments, tribal governments, and the public, the design of the OTJ's website is customer-oriented and user-friendly. Readers can easily find descriptions about its organizational structure, submit a service request, and be directed to pages with cross-unit resources. The FAQs are also helpful for a first-time visitor to

¹² Ibid.

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so they can understand terminologies and tasks. The neatness and consistency of its pages may help resources to be allocated more effectively.

Weakness 1: Few independent performance reports

The OTJ is a small office that deals with multiple inter-departmental affairs and shares several resources with other offices or divisions under the DOJ, including the OJP which provides multiple fundings and awards. Due to this feature of its work, it seldom produces its own product report that provides statistics or quantitative results. Thus, it is not clearly and independently outlined of its results of actions in the collaborative publications, which reduces its accountability.

Weakness 2: Data are not up to date

Since the product report organizes all relative divisions of the DOJ, it takes a long time to gather data and correct mistakes before publishing. In addition, a data collection process, such as a census, may not recur annually. These result in the difficulty to retrieve the most up to date reports timely. As of now, the latest accessible annual report is for year 2020, the technical report for tribe crime data collection was completed in 2015, and the interviews with tribal court judges and personnel for investigation of the enhanced sentencing authority was also conducted in 2015. The lack of timely, formal presentations, again, reduces its accountability.

Weakness 3: Quantitative publications focus on outputs only

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The collaborative publications with quantitative results presented focus on outputs of what have been done but not outcomes of social impacts created. In the Tribal Crime Data Collection Report, digits presenting numbers of suspects, defendants, inmates, and many more as well as changes of numbers comparing to different data collection years. It does not, however, go further to reasons and programs that make these changes happen and thus causal inferences are not made for future improvements of work. In the 2020 Annual Report, there is little information about the OTJ, but the paragraphs also focus on what has been launched and the amount of grants for relative research, without elaboration of the differences. Sustainability of the program's impacts can then be vulnerable.

Public Management Failure: Overreach of the Overlapping Functions across DOJ Units

The aforementioned weaknesses may indicate an overreach of units within the DOJ as a federal level of governance that limits the OTJ's presentations. It is beneficial to have a unified entry list of resources that presents results and resources for visitors. However, the accountability of the OTJ has become risky because the public lacks insight into how financial challenges raised by tribal governments are formed, who to appeal to for mitigation, how much from the budget will be devoted to and when to expect the issues to be addressed. In addition, the OTJ should have more authority on launching independent programs that are suggested by the tribes; if not, OTJ may become mechanistic by seeking recommendations and crystalizing suggestions

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received without any changes being implemented, thereby enlarging the gaps between the tribes, the tribal government, and the federal government.

Part III: Comparisons and Recommendations on Improvements of Accountability

The U.S. Government Accountability Office (GAO) publishes its reports more frequently, which allows it to include more substantial events and organizational responsive actions, as well as an annual action tracker to examine the distinction of duties across departments that reduces efficiency and efficacy of public management. Following the conceptual framework of GAO being transparent and publicly accountable, I would first recommend that the OTJ produce its own departmental statistical reports centering on its financial flows and action outputs and outcomes. The reports are ideally published in a shorter term (e.g., monthly or quarterly). With these publications, it is easier for the public to examine what, when, and how the community challenges will be addressed. I would also recommend the OTJ ask for more funding to launch its own policy program based on conversations with community members, so that the tribes and the tribal governments' feedback on regulatory policies and actions ensuring the rights of indigenous people and tribal interests are addressed, and the trust relationship becomes stronger.

The Office of Tribal Justice shows strong intention to achieve its commitments. Its motivation to manage more effectively and enthusiasm to service for greater public good appeal

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to me. However, I am not eligible to secure a position in this government unit because I am considered a non-resident alien, holding a nonimmigrant visa to stay in the U.S. for advanced degree study. I selected the OTJ as my analytic target because from my observation, the U.S. has been proactively working on indigenous justice for years, which I believe my home country of Taiwan, despite its different political system, will benefit a lot from the process and the lessons learned of the U.S. on similar topics. After conducting the analysis, I have become more interested in researching the Taiwanese central government's organizational design and wish to fix the public management failures that do not do enough to protect indigenous Taiwanese.