

# Frienemies: Assessing the Interactions between Native American Tribes and the U.S. Government in Homeland Security and Emergency Management Policy

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## EXECUTIVE SUMMARY

*The working relationships between Native American tribes, the states, and the federal government have been strained for centuries. These intergovernmental interactions have led to a fragmented system whose attempt to deliver public service is consistently met with opposition. One area where this has become increasingly evident is within homeland security and emergency management policy. Guided by Agranoff (2012), this study used a cross sectional survey to gather information about the beliefs tribes held about the various aspects of their working relationships with states and the federal government within the context of homeland security and emergency management.*

## **BACKGROUND: NATIVE AMERICAN TRIBES WITHIN THE UNITED STATES OF AMERICA**

This study will help to provide a foundation upon which to build future studies in the field of public policy and homeland security focused on Indian country. As sovereign nations within the borders of the United States, Native American tribes hold a very distinct political and legal position. Native American tribes entered into agreements and compromises with the United States government; however, tribal nations never forfeited their sovereignty when entering into those agreements and as a result remain independent, occupying a position of sovereign immunity (Evans, 2011; McGuire, 1990) on U.S. soil.

Being sovereign nations within another sovereign nation, Wilkens (1993) acknowledges that from a theoretical and political perspective, tribes are in a legal and political quandary. As a result of these sovereign positions, much of the interaction between tribal nations and levels of the American government has been grounded in intergovernmental conflict for centuries. The conflict has consistently pit tribal governments against state, local, and the federal government regarding jurisdiction, gaming regulations, natural resources, tax obligations, and most recently, homeland security funding. In theory, tribes are to be sovereign, but in practice, they hold many other conflicting positions. As separate nations within another politically functioning nation they also simultaneously play subordinate roles.

Much of the existing literature on this topic paints a picture of hostility that is seated within the U.S. government, namely the states, and is directed towards tribal nations (Evans, 2001; Bays & Fouberg, 2002). In fact, the interactions between states and the tribal nations have been cited as one of the most divisive intergovernmental conflicts within United States history (McCool, 1993; Mason, 1998, 2002; Wilson, 2002; Steinman, 2004). Scholars have sought to increase awareness of these conflicts and their harm to intergovernmental relations between the two systems of governance. They have classified the historical and contemporary components of these relationships as crucial. In this study's effort to explain ways to move past this conflict in the area of homeland security emergency management policy, it is important to engage the information put forth by these authors.

Aside from various treaties, Presidential Executive Orders, and Supreme Court rulings, the Constitution is the only formal document that acknowledges tribal governance as a system apart from the American system of federalism. Native American tribes are referred to in the Commerce and the Apportionment Clauses of the Constitution. Based upon the wording, the relationship between the federal government and tribes is one between sovereign nations and exclusive authority over Native American affairs lie with the federal government, not the state (Ortiz, 2002; Jarratt-Ziemski, 1999; National Council of American Indians, n.d.). However, there

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