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EXAMINING THE INCREASE OF GANG ACTIVITY IN INDIAN COUNTRY

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JULY 30, 2009

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EXAMINING THE INCREASE OF GANG ACTIVITY IN INDIAN COUNTRY

THURSDAY, JULY 30, 2009

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:15 p.m. in room 628, Dirksen Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. I will call the hearing to order. This is a hearing of the Indian Affairs Committee in the United States Senate.

I am pleased to welcome the newest Member of our Committee today, Senator Al Franken from the State of Minnesota.

Senator Franken, welcome to our Committee and we look forward to working with you.

Senator FRANKEN. Thank you. Thank you, Mr. Chairman. I am honored.

The CHAIRMAN. The Committee is meeting today to discuss the increase of gang activity in Indian Country, resulting from a series of reports that have been released recently. I do want to say that I believe we are going to have four votes starting somewhere around 3:00 or 3:15 this afternoon. We have four witnesses at this hearing, and I expect that we will probably complete within about an hour. And we appreciate very much having the witnesses join us.

In recent months, we have received detailed testimony about the public safety crisis that exists on many of our reservations across the Country. As you know, tribes face an epidemic of domestic and sexual violence against women. Reports indicate that more than one in three Native American woman will be raped or sexually assaulted. Two in five will suffer from domestic violence.

Many reservations face violent crime rates that are multiples of the national average. In my State of North Dakota, the Standing Rock Sioux Indian Reservation had a violent crime rate of 8.5 times, not double, triple or quadruple, but 8.5 times the national average in 2008.

If you are part of a population with a violent crime rate 8.5 times the rest of the Country, you don't feel very good about your daily life. Safety is very important. And the fact is, the Congress has not done its job. We have signed the treaties. We have made the prom-

ises. We have a trust responsibility to provide for law enforcement on these reservations, and frankly, we have fallen short.

We are trying very hard to put together a piece of legislation dealing with law enforcement. John Harte, our Policy Director, Allison Binney, the Staff Director of our Committee, Dave Mullon and others from our Committee have been around the Country meeting and visiting with Indian tribes, Indian leaders and members of tribes to talk about this crisis and what we can do to address it.

Past reports have noted that reservation gangs, gang activity, were relatively unorganized, and the crimes were limited. But these crimes are escalating, and on June 30, just weeks ago, of this year, the Department of Justice reported that "native gangs" are now involved in more violent offenses such as sexual assault, gang rapes, home invasions, drive-by shootings, beatings, and elder abuse.

I recently held a field hearing with Senator Kyl in the State of Arizona. At that hearing, a tribal leader testified that 55 drive-by shootings had occurred on her reservation of 8,000 people in one year.

The Committee has also received testimony that non-Indian gangs are exploiting the lack of police presence and complex jurisdiction that exists in Indian Country. When you have a reservation such as the Standing Rock Sioux Reservation that I have just described, straddling North and South Dakota, and that reservation, the size of the State of Connecticut, has 9 or 10 police officers to do 24/7 law enforcement, it does not work.

It means that a serious crime in progress with a call to the police may result in law enforcement showing up in an hour, maybe 12 hours, maybe the next day. I mean, that is the distance, and the few number of police officers available on many of these reservations.

The average native gang member is 15 years old and getting younger, and police report that gangs use Indian children as young as eight to carry drugs and be involved in gang activities to avoid prosecutions.

The American Indian youth are at the bottom of nearly every national indicator of well being. Indian kids commit suicide at twice the rate of the general population, but in the Northern Great Plains, it is much, much higher than that, in some cases, five and ten times. The reservation I just described, the Standing Rock Sioux Tribe, since January 1 of this year has had 11 suicides and 51 suicide attempts.

We are trying very hard to address these issues. As I conclude, I want to just show two photographs. Native youths are turning to gangs, we are told. They do that, we are told, to fill a void in the form of protection or family or in some cases have no other alternatives.

These are two photographs of American native teenage boys involved in gang activity at the Pine Ridge Reservation. Councilman Mousseau will expand on these photos, I am sure. These are very stark images. One teen is holding an assault weapon, the other receiving a gang-related tattoo. These are lost boys. They have no direction, and the end result of their path is violence.

This violence erupted on the nearby South Dakota reservation two years ago when two 14 year old girls stabbed a 15 year old girl to death in a gang-related incident. These senseless killings occur and this one occurred days before three other girls had committed suicide on the same reservation.

The problem with youth violence in Indian Country is that it is often unpunished, and that it escalates. The offenders are not provided mental health because adequate mental health services don't exist.

The crimes graduate then to rape and to murder, and frankly, we need a better response. Federal laws and lack of funding limit the tribal juvenile justice system. And because of this, tribes often rely on the Federal juvenile justice system and that simply doesn't work. The Bureau of Prisons reports that 143 juveniles in total are incarcerated in the Federal system; 116 are Indians. That is 81 percent of the Federal juvenile population.

We need stronger tribal and Federal juvenile systems. We need to provide opportunities for Indian youth to deal with gang violence, education opportunities, treatment opportunities, and most importantly, a safe environment in which to live. Gang activity, I might say, is just one other symptom of a culture of violence that exists on too many reservations.

I want to thank the witnesses who have traveled here today, and I want to thank especially all of those law enforcement officers who work on Indian reservations, understaffed, overworked, and do the best job they can in a very difficult circumstance.

It is my determination that the work on this Committee is to try to do an Indian law enforcement bill this year. We have introduced it. It has broad bipartisan support. The Vice Chairman of this Committee, Senator Barrasso, Senator Kyl from Arizona and many others, including Members of the majority side, have worked to put together a bill. We are continuing to perfect it, and we hope very much to pass it in this Congress.

I appreciate my colleagues being here.

Senator Johnson, did you have an opening statement?

STATEMENT OF HON. TIM JOHNSON,
U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Yes, I do.

Thank you, Mr. Chairman. I appreciate your scheduling this important hearing.

I would also like to welcome Mr. John Mousseau, Tribal Councilman for the Oglala Sioux Tribe in South Dakota. Accompanying him is Paul Iron Cloud, CEO of Oglala Sioux Housing Authority. Thank you both for being here today. Your first-hand knowledge of the effects of gangs in Indian communities is invaluable.

I hope this Committee works quickly and effectively to address the roots of violence in Indian Country. When given the tools to do so, our tribal leaders are capable of restoring civility, justice and respect in their own communities.

Thank you and I will submit my complete statement for the record.???

The prepared statement of Senator Johnson follows:]

The CHAIRMAN. Senator Johnson, thank you very much.

And Senator Franken?

STATEMENT OF HON. AL FRANKEN,
U.S. SENATOR FROM MINNESOTA

Senator FRANKEN. Thank you, Chairman Dorgan, for holding this important and timely hearing. This is my first hearing as a Member of the Committee, and I want to take a minute to extend my sincere gratitude to all my colleagues for their warm welcome. I am honored to join the Indian Affairs Committee which plays such an important role for our tribal communities all across the Country, and for the 11 tribes that we have in Minnesota.

And it is a special honor to serve on this Committee on the same Committee that my good friend and predecessor, Paul Wellstone, served on.

Chairman Dorgan, your work on this Committee and throughout the Senate is a blueprint for sensible and bipartisan policy-making. I have long admired your leadership on issues important to rural communities and native communities, and I am honored to serve alongside of you.

When I discovered that I was to become a member of this Committee, I noticed something about its makeup. Interestingly, I represent the most eastern State. The overwhelming majority of the 13 States represented are distinctively western. Minnesota is unique. The Mississippi runs through the middle of our State, dividing the rolling hills and deep valleys of the East from the open western prairie.

In some ways, we are a western State. Up north, we have strong rural communities that neighbor endless miles of public lands. But at the same time, with our dense urban populations, we are also eastern. In fact, Minneapolis has one of the largest urban Indian populations of any American city.

Across our State from the most rural northern corners to the most urban southern streets, you will find vibrant tribal communities. This is a unique perspective that I hope to bring to this Committee. So I look forward to working with all my colleagues to help these communities, urban or rural and on both sides of the Mississippi.

Now, let me turn to the incredibly important issue that we take up today. Across the Country, violence is threatening the health of many of our tribal communities. As most of you remember, a few years ago the Red Lake Reservation in Red Lake, Minnesota suffered a heart-wrenching tragedy. On the morning of March 21, 2005, a tormented 16 year old boy killed his grandfather and his grandfather's girl friend. He later drove his grandfather's police car to Red Lake Senior High School, where he shot and killed seven people.

But the violence that we are witnessing is not isolated on rural reservations or limited to an individual tormented youth. Two of our largest problems are the trafficking of drugs and the trafficking of young native women between urban areas and reservation land.

The Drug Enforcement Agency reports that an increasingly large percentage of the cocaine distributed in Minnesota is done by Native American gangs. In a recent Native American Times article, it was noted that "reservations offer near-perfect hideouts and lucra-

tive markets. They're often remote with few businesses and job opportunities. Selling drugs means easy money. Doing them means escape." The article goes on to highlight some of the ground-breaking work being done in Minnesota and Wisconsin to crack down on tribal crime. In Wisconsin, tribes have banded together to form a one of a kind task force that could be a template for other States to follow.

I am very eager to hear from each of the witnesses about their initiatives and their programs. And I would like to ask unanimous consent that this article from Native American Times be included in the record.

The CHAIRMAN. Without objection.

Senator FRANKEN. Thank you.

[The referenced document follows:]

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TRIBES, POLICE BAND TOGETHER TO FIGHT DRUGS, GANGS

Written by TODD RICHMOND

LAC DU FLAMBEAU, Wis. (AP) -- The two law officers meeting over breakfast at the Lake of the Torches Casino had not gone there looking for trouble. But they found it when they walked out into the sunshine and saw two teenagers flashing bills in the parking lot.

Quickly, they patted down the teens, then searched their casino hotel room. They netted a pocketful of marijuana, four bottles of vodka and a 17-year-old girl who had told her parents she was visiting a friend in Minnesota.

A small-time bust by any standard, but this one in April represented something larger. The lawmen were Lac du Flambeau tribal Police Capt. Bob Brandenburg and Wisconsin Justice Department Special Agent Tom Sturdivant, and the sight of a state agent working side-by-side with a tribal officer to fight reservation crime symbolized a new kind of teamwork.

And the effort to open communication and cooperation between tribal and state law enforcement agencies has gotten attention far from Wisconsin. While some have raised questions about the potential impact on tribal sovereignty, others point to the effectiveness of the new approach.

Over the past decade, gangs and drugs have run rampant in Indian Country as bad guys realized the lightly policed reservations made ideal playgrounds.

In Wisconsin, the state Justice Department quietly coaxed tribes to band together into a one-of-a-kind task force that could be a template for other states dealing with reservation crime.

The team, branded the Native American Drug and Gang Initiative, or NADGI, has developed a core of Indian undercover officers, enabling them to infiltrate tribal drug rings, given every tribe access to the state's central criminal data-sharing system and set up regular training for tribal drug officers.

"Five white guys driving nice vehicles in a (reservation) subdivision, we stand out like a sore thumb," said Sturdivant, the task force leader. "Now we've got Native American guys. They know the friends and foes."

Crime has long been a problem in Indian Country, but the violence has spiked.

According to FBI statistics, homicides and non-negligent manslaughter on reservations increased 14 percent between 2002 and 2006. Robberies jumped 123 percent between 2002 and 2006. Most of that rise is linked to drugs, authorities say.

Reservations offer near-perfect hideouts and lucrative markets. They're often remote, with few businesses and job opportunities. Reservation unemployment was 13.6 percent and almost 1-in-3 residents lived below the federal poverty line, according to the 2000 census. Selling drugs means easy money. Doing them means escape.

"There's nothing for the kids here," said Wanda LaBarge, a 48-year-old Lac Courte Oreilles tribal member who lives on the Lac du Flambeau reservation. "There's no jobs. You see 10-year-old kids in little four to five member gangs walking and breaking windows. Something's going to escalate."

Reservations pose myriad problems for police.

They're so large police can't patrol them adequately. Tribal departments often are understaffed and lack training and money. The Lac du Flambeau Police Department has only nine full-time and four part-time officers to cover about 3,000 people spread out over 108 square miles, Chief Elliot Rising Sun said.

Many agencies do not share information with other police departments, choosing instead to keep the data to themselves. As a result, police struggle to connect crimes and criminals.

Arizona Department of Public Safety Detective Michelle Vasey said the 21 tribes in her state didn't share any crime intelligence with anyone, even other tribes. She helped found a task force that meets monthly to share information, but only three tribes use the state's criminal information data collection system, she said.

"Anytime you talk about sovereignty, there's going to be trust issues," said Vasey, who also compared attitudes of some on reservation with those in small towns. "They don't want anyone to know their small town isn't a safe place to be."

In Alaska, some tribal villages have refused to turn offenders over to state police, said Meg Peters, a spokeswoman for the Alaska State Troopers.

"They want to be sovereign," Peters said. "A tribe might decide to dole out punishment on their own. They'll turn us away and say they'll do it."

Family networks run deep through reservations, too, adding to the challenge for undercover officers, especially whites, to infiltrate drug rings.

Wisconsin is home to 11 tribes, their reservations scattered across the pine forests and lakes in the state's northern third. About 38,250 people live on the eight reservations with tribal police departments. According to state Justice Department data, those agencies made 1,062 drug arrests between 2003 and 2006 – one arrest for every 36 people.

By 2002, the Latin Kings' Milwaukee chapter had so infiltrated the Lac Courte Oreilles reservation the tribe declared a state of emergency, turning to state and federal authorities to help control runaway cocaine trafficking and violence. The resulting investigation landed 47 people in federal prison.

The Lac du Flambeau reservation's idyllic setting in the wilderness about 20 miles from the border with Michigan's Upper Peninsula masks downtrodden subdivisions and drugs changing hands behind closed doors. By 2006 multiple drug rings had sprung up across the reservation. Tribal police, state and area sheriff's departments conducted a joint 18-month investigation that resulted in 27 arrests.

That year another investigation involving the state, sheriff's deputies, tribal police and the FBI resulted in six arrests in a cocaine-marijuana ring on the Menominee reservation.

Investigators realized dealers were moving from reservation to reservation. State Justice Department officials decided to form a task force to go after large-scale rings and dealers.

Task forces are common in law enforcement; the FBI has established more than a dozen to deal with reservation crime, but they typically operate with one or two tribes at a time on a case-by-case basis. But Wisconsin's version brought all eight tribal police agencies to the table – unheard of around the rest of the country.

The Justice Department won $461,000 in state and federal grants in 2007 and told Sturdivant to make it happen. The tall, bass-voiced agent had helped some of the tribes before, earning tribal police chiefs' respect and vice versa.

"You have to treat (tribal officers) like equals," Sturdivant said. "You have to check your attitude and ego at the door."

But there were caveats, too.

The Menominee Tribal Legislature, for example, agreed to join if other members understood they would have to abide by Menominee ordinances on that reservation. No task force officers could conduct an investigation or make arrests on the reservation without a Menominee officer's participation, tribal Chairwoman Lisa S. Waukau wrote in a letter authorizing participation.

Still, Oneida Police Chief Rich Van Boxtel said tribes had tried to come together for years. Finally they realized they were overwhelmed.

"Things were going to get worse before they got better," Van Boxtel said. "By ourselves, independently, we wouldn't have the resources to do anything with that."

In 2008, the NADGI task force made 105 arrests and helped dismantle a major crack ring on the St. Croix Chippewa reservation, resulting in 11 federal indictments, the state Justice Department said. As of mid-April this year, the team had made 59 arrests.

All the tribes now use the state's data-sharing network. The state covers tribal officers' overtime for NADGI operations, outfits the tribal agencies with surveillance equipment and trains tribal officers on everything from establishing informants to writing reports. In return, the tribal officers share what they know.

On a recent morning on the Oneida reservation just outside Green Bay, Sturdivant ran about a dozen tribal officers through a crash course in SWAT tactics moments before they stormed a suspected drug house. He showed them how to cover each other as they burst

in, clear the home of threats and quickly handcuff anyone they encountered. The officers followed everything to the letter and the raid went off without incident.

"It's a big, big thing for us," Larry Jordan, an Oneida officer and NADGI task force member, said of having Sturdivant help with training. "It's a motivating factor for everyone here to work as a team."

Minnesota and Wisconsin are using NADGI as a model for the Indian Crime Awareness, Research and Evaluation project, a common communication network for state, federal and tribal law enforcement agencies.

A NADGI subprogram that encourages tribes to share strategies for quickly placing children discovered during drug busts, too, is a model for similar efforts in Washington state and Bureau of Indian Affairs law enforcement training.

Not everyone sings NADGI's praises.

"They've got this big task force. It's not working," said former Lac du Flambeau tribal chairman Tom Maulson. "Today we've got kids drinking and drugging so bad on the reservation."

In interviews, half-a-dozen people on the Lac du Flambeau reservation said they had never heard of the task force. They all complained the tribe needs to get tough on drugs, particularly prescription drugs, or risk losing its youth forever. But none would give their name, illustrating again a distrust of outsiders.

People don't want to take responsibility for their community, said Nick Pendergast, another Lac du Flambeau drug investigator. In April, the tribal government held a community meeting to discuss crime. Ten people showed up, he said.

"It's sad to say, but I believe it's going to be the same," Pendergast said.

Sturdivant is more optimistic. NADGI's efforts can put dealers in prison and impede the drug trade at least for a while, he said, and he hopes to get enough federal stimulus dollars for NADGI so each tribe can devote at least one officer to full-time drug investigations. But lasting success depends on winning over the people, he said.

"Develop trust," he said. "We're breaking down the communication barriers ... (but) we're a work in a progress."

Senator FRANKEN. Back in Minnesota and all across the Country, young native women are also falling victim to sexual crimes and increased trafficking. Sadly, women who come forward to report sexual violence are caught in a jurisdictional maze that Federal, State and tribal police often cannot quickly sort out.

I am scheduled to preside over the Senate in about 20 minutes, so I apologize for not being able to stay for the entire hearing, but I look forward to working with all my new colleagues to find new and effective ways to protect our tribal communities from the destructive impacts of crime.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Franken, thank you very much.

Next, we will ask the witnesses to come forward. We have the Honorable John Mousseau, a Tribal Council Member and Chairman of the Tribal Judicial Council at the Oglala Sioux Tribe on the Pine Ridge Reservation in South Dakota; the Honorable Brian Nissen, the Tribal Council of the Confederated Tribes of the Colville Reservation in Washington State; Mr. Sampson Cowboy, Director, Department of Public Safety at the Navajo Nation in Window Rock, Arizona; and Mr. Carmen Smith, the Chief of Police, Confederated Tribes of Warm Springs, Warm Springs, Oregon.

Let me thank all of you for joining us today. As I indicated, we will begin a series of votes on the Senate Floor, so I would ask that you would attempt to summarize your statements. Your entire statements are a matter of the permanent record. As is usually the case, we will ask the witnesses to summarize in five minutes, and then we will have questions of the Committee.

Mr. John Mousseau, thank you for being here from South Dakota. I know Senator Johnson and I are very appreciative of your work down there. So why don't you proceed?

STATEMENT OF HON. HERMIS JOHN MOUSSEAU, CHAIRMAN, TRIBAL JUDICIAL COUNCIL, OGLALA SIOUX TRIBE; ACCOMPANIED BY PAUL IRON CLOUD, CEO, OGLALA SIOUX HOUSING AUTHORITY AND PAUL FORNEY, GANG SPECIALIST, OGLALA SIOUX DEPARTMENT OF PUBLIC SAFETY

Mr. MOUSSEAU. Thank you. First I wanted to say good afternoon, Mr. Chairman and Members of the Committee who have joined us today.

In light of my testimony, a couple of days ago we did have another gang-involved shooting where a young gentleman did lose his life. So it is an ongoing problem.

And just to introduce myself, my name is Hermis John Mousseau. I am a member of the Oglala Sioux Tribal Council. I am also the Chairman of our Tribal Judiciary Committee. I am also a former Oglala Sioux Tribal Police Officer and former Chief of Police.

And I want to thank you for allowing my testimony on the gang problem on our reservation, which to this day is still an ongoing problem.

Also accompanying me here today is Mr. Paul Iron Cloud, the Director of Housing Authority; and also Mr. Paul Forney, the gang expert from the Oglala Sioux Tribe Department of Public Safety.

Mr. Chairman, this issue is very important for me because in 2003, I was wounded in the line of duty by a tribal gang member when I was called to address a domestic disturbance. During that incident, I was forced to shoot the individual and memories like that live with you forever. And to this day, I can still remember the sound of that gun.

Violent crime is increasing on our reservation every day. Just this past weekend or a couple of weeks ago, we had a stabbing, a shooting and person brutally attacked by a gang member. The week before that, on July 12, one of our female police officers was brutally attacked by a gang member when she attempted to arrest him and she was forced to shoot the individual in order to save her own life. Now we have blogs, gang tags, and open talk in the gang community threatening the lives of that officer and also other police officers who work on our reservation. So she and her immediate family had to go into hiding.

This same female officer had her arm broken a year ago before when she attempted to arrest another known gang member for another domestic disturbance, and that heroic officer has gone through all this for a salary of $35,000 a year, with no health benefits and no police retirement.

While our police department lacks the resources necessary to track all gang-related activity on our reservation, we have identified at least 39 gangs operating on our reservation in a community of roughly 50,000 plus members. And we have logged 8,816 gang-related calls in the fiscal year 2008. This is up from 7,721 gang-related calls that we were able to log in 2006. These calls range

from simple assaults and burglaries to life-threatening fights and gun-related charges. Each one of these calls endangers the officers who respond and each one of these calls means that another member of our community has been a victim of some type of gang-related activity.

We have now included for your information the charter of our gang-related offense for calendar years 2006 and 2008. And we have also included a youth survey which was done by one of our consultants in April and May of this year. Participants in this survey were 1,137 students on our reservation schools. The results of that survey revealed that 55 percent of those students surveyed reported being a victim of gang-related activity; 72 percent reported having been threatened personally by a gang or gang member; and only 65 percent reported that they felt safe from gang activity at school. Only 35 percent of those surveyed said they felt safe from gang-related activity in their own immediate community.

So anyone that says gang activity does not impact educational advancement is very wrong. Gang activity started on our reservation because our young people were unhappy, powerless and bored. The joblessness and poverty on the Pine Ridge Indian Reservation has led far too many of our people towards alcohol and drugs.

In the past few years, we have seen more outside lawbreakers moving onto our reservation. It is not unusual to see a Mexican National fall in love with one of our tribal members and later where they are now selling drugs out of this housing development house.

Drugs are coming every day from Minneapolis, Denver and now Omaha. Large urban-based gangs such as the Texas Syndicate, Indian Mafia, Native Mob, MS–13, and Surenius-affiliated gangs now have members appearing on our reservation. To add to our fears, the Hells Angels biker gang has recently bought a bar in Scenic, South Dakota, less than 20 miles from our reservation border. Another biker gang affiliated with the Bandidos has been recruiting and they now have a base of operations in Pine Ridge, South Dakota.

Drug trafficking on the western side of our reservation relates mostly to marijuana and cocaine, while meth use is increasing every day. Because of the remoteness of our reservation, its centralized location in the United States, its jurisdictional complexities, and lack of police manpower, we have become a prime target area for gang-related crime and trafficking.

To talk more about those poster boards we showed, those are some gang members that we deal with every day. The gentleman getting the tattoo was a member of our Wild Boys gang and the guy who was giving the tattoo was a second generation gang member. And the other one is from one of our closer housing, Madison Housing, where they call themselves the AIMster Gangster, which is a generational gang.

To make matters worse, all of our police officers have to work alone, and backup is generally at least 40 minutes away. We have single officers walking alone into parties with 20 or more intoxicated or drugged individuals, often with gang affiliations.

Mr. Chairman, while we appreciate very much what you are trying to do to increase the BIA enforcement budget, I respectfully tell

you that it is simply not enough. Of the increase proposed in 2010, we at Pine Ridge are hearing that we will only get an increase of $125,000. While we appreciate it very much $125,000 to address 8,816 or more incidents of gang violence, plus our 65,000 regular calls, does not go very far. It does not even give us one more officer per shift.

Forgive me for speaking this bluntly, but the simple truth is we need more officers and we need them now. We have 5,000 gang members, but we also have 45,000 scared law-abiding people whose lives I have sworn to protect. Please help me in any way you can to accomplish this goal. We need more personnel to provide youth-based prevention activities in and after school. We need more investigators to review and investigate cases at the tribal level. We also need more officers to respond to these calls and merely to prevent the burnout of our current officers.

Finally, we need more staff in internal affairs to ensure that our citizen complaints are handled in a timely manner.

I would like to ask our Housing Authority Director, Mr. Paul Iron Cloud, to speak just for a little bit on the impact the gangs are having on the daily lives of our children.

[The prepared statement of Mr. Mousseau follows:]

PREPARED STATEMENT OF HON. HERMIS JOHN MOUSSEAU, CHAIRMAN, TRIBAL JUDICIAL COUNCIL, OGLALA SIOUX TRIBE

Good Afternoon Mr. Chairman and Members of the Committee:

My name is Hermis John Mousseau and I am a member of the Oglala Sioux Tribal Council. I am also the Chairman of our Tribal Judiciary Committee, a former Oglala Sioux Tribal Police Officer and a former Oglala Chief of Police. Thank you for allowing me to present testimony on the gang problems which are today endangering lives in my tribal community.

Mr. Chairman, this issue is very personal for me because in 2003 I was wounded in the line of duty by a tribal gang member when I was called to address a domestic disturbance. During that incident, I was forced to shoot that individual and memories like that stay with you forever.

Violent crime is increasing on our reservation every day. Just this past weekend, we had a stabbing, a shooting, and a person brutally attacked by a gang member. A week before that, on July 12th, one of our female officers was brutally attacked by a gang member when she attempted to arrest him, and she was forced to shoot that individual in order to save her own life. Now we have blogs, gang tags and open talk in our gang communities threatening the life of that officer and she and her immediate family have had to go into hiding. This same female officer had her arm broken a year before when she attempted to arrest another known gang member for another domestic disturbance and that heroic officer has gone through all of this for a salary of about $35,000 a year with no health benefits and no police retirement.

While our police department lacks the resources necessary to track all gang-related activity on our reservation, we have identified at least 39 gangs operating in our community of 50,000, and we have logged 8,816 gang-related calls in FY 2008. That is up from the 7,721 gang-related calls that we were able to log in FY 2006. These calls range from simple assaults and burglaries, to life threatening fights and gun related charges. Each one of these calls endangers the officer who responds, and each one of these calls means that another member of our community has been a victim of some type of gang related activity.

We have included for your information a chart of our gang related offenses for calendar years 2006–2008. We have also included a youth survey which was done by one of our consultants in April and May of this year. The participants in that survey were 1137 students in our on-reservation schools. The results of that survey revealed that 55 percent of those students surveyed reported being a victim of gang related activity, 72 percent reported having been threatened personally by a gang or gang member, and only 65 percent reported that they felt safe from gang activity at school. Only 35 percent of those surveyed said that they felt safe from gang re-

lated activity in their own immediate community. So anyone that says that gang activity does not impact educational advancement is very wrong.

Gang activity started on our reservation because our young people were unhappy, powerless and bored. The joblessness and poverty on Pine Ridge has led far too many of our people towards alcohol and drugs, and because we have no adequately funded programs or residential treatment facilities to address this alcoholism and drug problem, we have a large number of minors who live in alcoholic families and simply do not want to go home. This coupled with our lack of after school programs, youth recreation centers and youth employment monies has left many of our young people receptive to gang life . For young people who have never had a $20 bill to spend, the promise of easy money for stealing a few items and selling a few drugs has been hard for many of our teenagers to resist. Now, we have families who have three generations of gang members in their homes.

Over time, as drugs have become more common, our gangs have become more brazen and fights over territory and drug sales has escalated. Today, we have gangs being formed just to protect their members from other gangs, and to allow their members to move freely across our reservation without fear of attack or intimidation. We also have gangs which were formed just to keep watch out for the police, so people could smoke a little dope and get drunk without the threat of arrest or attack from another gang.

In the past few years, we have seen more outside law breakers moving on to our reservation. It is not unusual to see a male Mexican national "falling in love" with one of our female tribal members and before long he is selling drugs out of her on-reservation home. Drugs are coming in every day from Minneapolis and Denver, and now from Omaha. Large urban based gangs such as Texas Syndicate, Indian Mafia, Native Mob, MS–13, and Surenios affiliated gangs now have members appearing on our reservation. To add to our fears, the Hells Angels biker gang has recently bought a bar in Scenic, South Dakota less than 20 miles away from our reservation border. Another biker gang affiliated with the Bandidos has been recruiting and they now have a base of operations in of Pine Ridge, South Dakota. Drug trafficking on the western side of our reservation relates mostly to marijuana and cocaine, but meth use is increasing every day. Because of the remoteness of our reservation, its centralized location in the United States, its jurisdictional complexities, and its lack of police manpower, we have become a prime target area for gang related crime and drug trafficking.

But here are most telling statistics: 50,000+ people, a land base the size of Rhode Island, 39 gangs and 12 police officers per shift—if no one is sick or on injured reserve. At Pine Ridge, we receive approximately 73,000 calls for police service each year. That is about 6,083 calls per month. We are forced to answer those calls with 48 police officers. Now 48 police officers divided by 4 shifts equates to 12 officers per shift. That means that each officer has to respond to 506 calls per month. That is not manageable for a police officer in an urban area where the call is a few blocks away, but it is impossible for us because most of our calls are 50 or 60 miles apart. As a result, we have a sizable number of calls that simply go unanswered and when our officers can respond, our response time generally runs around 1 hour, for even the most serious acts of violence. That means by the time we respond, the activity is generally over and the perpetrators have left the scene. The office responding would like to investigate what happened and arrest the people involved, but by that time he or she generally has another two or three calls backed up and has to leave to try to help someone else.

To make matters worse, all of our police officers have to work alone and backup is generally at least 40 minutes away. We have single officers walking alone into parties with 20 or more intoxicated or drugged out individuals, often with gang affiliations, or with a subject banishing a deadly weapon and they know going in that they are completely on their own.

Mr. Chairman, while we appreciate very much all that you are trying to do to increase the BIA law enforcement budget, I must respectfully tell you that it is simply not enough. Of the increase proposed in 2010, we at Pine Ridge are hearing that we will only get an increase of around $125,000, and while we appreciate that very much, $125,000 to address 8,816 or more incidents of gang violence, plus our 65,000 regular calls, does not go very far. It does not even give us one more officer per shift. Forgive me for speaking this bluntly, but the simple truth is we need more officers and we need them now! We have 5,000 gang members, but we also have 45,000 scared law abiding people whose lives I have sworn to protect. Please help me in anyway that you can to accomplish that goal.

We need more personnel to provide youth based prevention activities in and after school. And we need more investigators to review and investigate cases at the tribal level. We also need more officers to respond to these calls and merely to prevent

the burnout of our current officers. Finally, we need more staff in internal affairs to ensure that our citizen complaints are handled in a timely manner.

Thank you again for this opportunity to speak to you about these very serious issues. I will be happy to answer any questions that you may have.

Attachments

Gang Related Offenses

Calendar Years 06-07-08

OFFENSE	CY 08	CY 07	CY 06
Aggravated Assault (Firearm)	18	4	9
Aggravated Assault (Hands/Fist/Feet)	431	268	208
Aggravated Assault (Cutting Instrument)	44	24	30
Aggravated Assault (Other Dangerous Weapon)	77	37	38
Aggravated Assault (Striking Object)	31	24	29
Assault	947	951	942
Assault with Injury	90	80	53
Assault with Weapon	11	8	4
Assault-Attempted to Commit	123	134	92
Attempted Forcible Rape	1	3	1
Breaking & Entering	99	66	44
Burglary	304	366	389
Criminal Mischief	164	120	124
Damage to Property	140	94	104
Dead Body	4	4	1
Disturbance with Horseback Riders	126	31	
Disturbance with Weapons	21	10	
Domestic Violence	1174	1199	975
Fights	1442	1642	1501
Fights with Weapons	4	10	
Gang Activity	110	77	81
Gang Fights	175	115	
Gun Call	124	148	199
Gun Call-BB/Pellet	132	86	
Gun Involved Incident	78	85	136
Huffing/Inhalants	140	108	42
Juvenile Out of Control	950	893	790
Malicious Damage	2	7	20
Murder/Homicide	1	1	2
Narcotics	139	170	171
Rape	17	31	15
Robbery	2	0	1
Sexual Assaults	40	37	31
Stabbing	77	58	52
Theft	782	933	912
Vandalism	795	718	724
Total	8815	8542	7720

June 2009 --OST Dept of Public Safety-- ADULT/JUVENILE

MINOR OFFENSES	Adult	Juvenile	Total
Abduction	0	0	0
Assault-no weapon	6	8	14
Assault & Battery (hands, feet)	23	0	23
Assault & Battery (club, bats, etc)	1	0	1
Assault & Battery (firearm)	0	0	0
Assault & Battery (knife, sharp object)	1	0	1
Assault & Battery (Other weapon)	5	1	6
Assisting Offenders	4	3	7
Bomb Threat	0	0	0
Braedon's Law	1		1
Breaking & Entering	1	6	7
Carrying a Concealed Weapon	2	0	2
Child Abuse/Neglect	78	0	78
Contributing to a Minor	5		5
Counterfeit	0	0	0
Criminal Mischief	10	5	15
Curfew Violation		11	11
Damage to Property	9	0	9
Dangerous Weapons Offense	6	0	6
Disorderly Conduct	144	28	172
Disturbing the Peace	0	0	0
Dog Attack	1	0	1
Domestic Violence/Spouse Abuse	31	2	33
Drug Laws-possession	10	5	15
Drug Laws-sell or make	1	0	1
DTLOC	22	0	22
Elderly Abuse	14	0	14
Escape	5	0	5
False Pretense	0	0	0
Fire (house/trailer/mobile/grass)	0	0	0
Firearms Violations	1	0	1
Forgery	0	0	0
Fraud	0	0	0
Gang Related Activities	13	13	26
Inhaling Toxic Vapors	1	2	3
Intoxication (Alcohol Beverage)	109	10	119
Involuntary Commitment	2	0	2
Juvenile In Need of Care (JINOC)		1	1
Kidnapping	1	0	1
Liquor Sale or Trade (Bootlegging)	6		6
Liquor Violation	680	39	719
Mental Hold	3	0	3
Minor Using (carrying) Tobacco		0	0
Obstruction of Justice	2	0	2
Offenses Against Family & Children	0	0	0
Refusing to Aid Officer	1	0	1
Resisting Arrest	36	7	43
Runaway		0	0
Sexual Abuse Offenses	4	0	4
Stolen Property-buy, sell, possess	2	0	2
Suspicious Persons Report	1	0	1
Theft	11	10	21
Trespassing	1	3	4
Truancy		1	1
TTCFWUUT (wrongful use)	1	0	1
Under Influence of Drug(s)	0	0	0
Vandalism	10	5	15
Violence/Assault to Police Officer	6	0	6
Weapons (In School)	0	0	0
Arrest Warrant	9	1	10
Bench Warrant	31	0	31
Federal Warrant	2	0	2
Pick Up Order		1	1
Other Misdemeanor Offenses	14	1	15
Total	1327	163	1490

MOTOR VEHICLE CRASHES	Adult	Juvenile	Total
Total MVC	23	2	**25**
Of Which was a FATALITY	1	0	**1**
Alcohol/Drug Related	1	0	1
Speed Factor	1	0	1
Seat Belt Worn	0	0	0
Of Which had INJURIES	8	1	**9**
Alcohol/Drug Related	3	1	4
Speed	0	0	0
Seat Belt Worn	0	0	0
Of Which had NO INJURIES	14	1	**15**
Alcohol/Drug Related	1	1	2
Speed	0	1	1
Seat Belt Worn	1	0	1
Of Which was Pedestrian	0	0	**0**
Alcohol/Drug Related	0	0	0
Of Which was Striking an Animal	9	0	**9**
Domestic (horse, cow, dog, cat)	6	0	6
Wild (deer, coyote)	3	0	3
Fender Bender	4	0	**4**
ATV Involved	0	0	0
Motorcycle Involved	1	0	**1**
Property Damage	0	0	**0**
Alcohol/Drug Related	0	0	0
Total	**23**	**2**	**25**

MAJOR OFFENSES	Adult	Juvenile	Total
Aggravated Assault-Cutting Instrument	2	0	2
Aggravated Assault-Fircarm	1	0	1
Arson-Attempted	2	0	2
Arson-Structural	0	2	2
Burglary-Forcible Entry	1	3	4
Larceny (All thefts excluding Auto)	4	0	4
Motor Vehicle Theft-Auto	2	1	3
Rape	2	0	2
Other	0	0	0
Total	14	6	20

TRAFFIC VIOLATION	Adult	Juvenile	Total
Driving While Intoxicated	23	1	24
Driving Under the Influence	10	2	12
Stop Sign/Red Light Violation	5	0	5
Duties of Driver Involved in an Accident	3	0	3
Eluding	7	4	11
Failure to Stop for Red Lights	1	0	1
Hit & Run	0	0	0
Leaving the Scene of an Accident	1	0	1
Reckless Driving	17	2	19
Careless Driving	6	0	6
Chemical Test Required (Refusal)	5	0	5
Seat Belt Ordinance	57	7	64
Speeding	64	1	65
Driver's License in Possession	83	11	94
Child Restraint	19	1	20
Unsafe Equipment (Headlight/Taillight/Brake/Signal Lights)	11	1	12
Driving on a Suspended/Revoked License	2	0	2
Permitting Unauthorized Person to Drive	0	0	0
Other Traffic Violations	11	0	11
Total	325	30	355

NON-ENFORCEMENT	Adult	Juvenile	Total
Assistance to Citizens	64	0	64
Assistance to other Depts.	26	0	26
Assistance to Sick & Injured	19	0	19
Court Process	16	0	16
Lost & Found	0	0	0
Prevention Activities	40	1	41
Search & Rescue	2	0	2
Visitation (Community Visit)	23	0	23
Prevention Patrol	108	0	108
Public Event	0	0	0
Educational	0	0	0
Community Involved Service	0	0	0
Prisoner Transport/Relay	5	0	5
Other Public Services	8	0	8
Total	311	1	312

DEATHS/ATTEMPTED SUICIDE	Adult	Juvenile	Total
Unattended Death	0	0	0
Attempted Suicide	0	0	0
Suicide	0	0	0
Suicide Threat (verbal)	1	0	1
Total	1	0	1

OST PARKS & RECREATION LIVESTOCK TICKETS	Adult	Juvenile	Total
CATTLE-Verbal Warning	0	0	0
CATTLE-Warning Ticket	0	0	0
CATTLE-Citation	0	0	0
HORSE-Verbal Warning	0	0	0
HORSE-Warning Ticket	0	0	0
HORSE-Citation	0	0	0
Total	0	0	0

GSA	Adult	Juvenile	Total
Motor Vehicle Crashes	3	0	3
Vehicle Damage	3	0	3
Property Damage	0	0	0
Vehicle Maintenance	1	0	1
Total	7	0	7

TOTAL	**2,008**	**202**	**2,210**

Other Calls for Service	**4,409**

Grand Total 6,619

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National Violence Prevention Resource Center
P.O. Box 41867 Tucson, AZ 85717

"Safe Communities, A New Horizon"

Oglala Sioux Tribe Department of Public Safety

PHASE ONE TRAINING

The National Violence Prevention Resource provided an expert in criminal street gangs for the Oglala Sioux Tribe Department of Safety for youth-driven workshops in building youth resiliency. The workshops' objectives were to raise awareness in the local schools, establish a collective base of knowledge, compile rudimentary baseline data, and create community momentum in order for the Tribe to offset the popularity of the gang subculture.

Youth resiliency-building workshops were held at the following locations during the months of April and May 2009:

American Horse	(102 students)
Crazy Horse	(89 students)
Little Wound	(263 students)
Loneman	(85 students)
Pine Ridge High School	(175 students)
Porcupine	(83 students)
Wounded Knee	(79 students)
Pine Ridge Middle School	(110 students)
Martin	(151 students)
	Total 1137

Topics for the workshops included recognizing the signs and symptoms of gangs in their communities, the impact of gang activity on families and siblings, empowering youth with positive decision-making skills, the impact of gangs on local culture, learning how to promote a safer community and insulating yourself from negative influences, and dealing with threats and intimidation.

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YOUTH SURVEY

Total presentations 18. Total number of students 1137. Total surveyed 385 (30%)

Distributed April/May 2009

1. Are there gangs active in your community? **Yes (89%) No (11%)**
2. Where do you see gang activity? **62% In the community 38% At school**
3. Has gang activity affected your family? **78% Yes 22% No**
4. Have you ever been victimized by a gang? **55% Yes 45% No**
5. Have you ever been threatened by a gang? **72% Yes 28% No**
6. Have you ever been a victim of bullying? **82% Yes 18% No**
7. How often are you bullied? **20% Daily 39% Weekly 41% Rarely**
8. Where do you feel safer? **65% School 35% Community**

9. Rank the following contributors/risk factors for your community 1 being most important and 8 being least important).

__3__Lack of family values

__2__Lack of parental supervision/discipline

__7__Truancy

__1__Substance abuse

__5__Lack of role models and mentors

__6__Lack of recreational opportunities

__4__Lack of cultural attachment

__8__Lack of conflict resolution skills

6. Please describe how you believe the community can work to reduce gang-related activity within the Tribe.

Enforcement/consequences

Parental responsibility

Taking the problem seriously/ community denial

Zero tolerance for drugs and alcohol

Identify the families of gang members

Increase activities

Expand Boys & Girls Club

Additional information gathered:

- Administrators wanted follow-up sessions or repeat sessions.
- Feedback was mostly positive from students.
- Conducted approximately personal 60 interviews with students wanting information about leaving the gang sub-culture.
- Other students specifically wanted help for friends and family members.

AN ASSESSMENT OF THE PINE RIDGE OGLALA SIOUX TRIBE'S

GANGS, YOUTH VIOLENCE & DRUGS

Prepared for the Pine Ridge Oglala Sioux Reservation
Sponsored by the Aberdeen Area Mental Health
Office of Indian Health Service

Accomplished by
The National Violence Prevention Resource Center
March 2006

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National Violence Prevention Resource Center
P.O. Box 41867 Tucson, AZ 85717

"Safe Communities, A New Horizon"

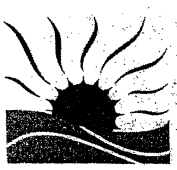
OUR MISSION

The National Violence Prevention Resource Center was established to ensure that schools, social service and community health agencies, law enforcement, judiciaries, legislatures and other governing bodies are aware of the most current statistics and legal precedents that affect youth violence. Our instructors and consultants are nationally recognized experts in their fields. We require that our instructors are current in their credentials and testify in criminal and civil cases. We offer training, assessments, consulting and programs to communities intending to use a multi-faceted approach to gang and juvenile violence reduction.

BACKGROUND

In October 2005, the National Violence Prevention Resource Center was contracted by the Aberdeen Area Mental Health Office of Indian Health Services to prepare an assessment of youth gang activity within the Pine Ridge Oglala Sioux Indian community. Between November 4-12, 2005 and December 8-9, 2005, Chris Cuestas, a consultant with the National Violence Prevention Resource Center, visited the Pine Ridge Oglala Sioux Indian Reservation. Meetings were scheduled for community members interested in providing input on their perceptions and experiences regarding gang and youth violence locally. Attendees completed surveys and also provided personal anecdotes. Mr. Cuestas also interviewed more than twenty individuals while following up on graffiti indicators and night-time observations. Program personnel were presented with NVPRC's mission and completed program surveys regarding youth services. In addition, quantitative data was compiled from housing, law enforcement, courts, planning and enrollment. The following report is the subsequent assessment of the youth gang activity within the Pine Ridge Oglala Sioux Indian Reservation. This information can be used to enhance efforts to develop a local strategy, increase awareness and apply for funding opportunities.

Stacy Van Dyke Director	Date
Christopher Y. Cuestas Consultant	Date



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CONSIDERATIONS

Criminal street gang activity within the cultural context of Native American communities involves a myriad of considerations. Of critical importance is the recognition that all tribal communities may share some similar challenges, but each tribal community is unique. Consideration include the proximity of the tribal community to urban centers, access to local prevention and intervention resources for youth, availability of family support programs, employment opportunities, community denial, access to public safety agencies, relations between local, state and federal judicial systems and cultural differences.

Despite their communities' unique aspects, there are many common current trends affecting tribal youth. Criminal street gangs have been slowly impacting tribes. The 2003 Annual Report by the Bureau of Indian Affairs identified 6,250 gang members and 1,576 in 520 gangs in the Aberdeen district. This number is a low representation due to the limited number of tribal responses received by the BIA. Because criminal activity is the central element of youth gangs, it is reflected in the number of Native American youth incarcerated. Since 1994, the custody of the Federal Bureau of Prisons (BOP) has increased more than fifty percent. More than seventy percent of youth incarcerated in the BOP on any given day are Native American (OJJDP, 1999). Arrest rates for Native American juveniles are twenty percent higher than the average rates (OJJDP, 2001). Additionally, Native Americans are the victims of crime at twice the rate for the Nation as a whole. In general, gangs threaten the well-being of Tribes at their roots; their children.

To assist tribal communities in ensuring the health and welfare of their youth, it is important that it be aware of the impact of street gangs. A site-based, comprehensive assessment can provide details and insight regarding the local scope of the problem. An assessment may also provide community stakeholders with the means to develop an overall strategy to impact the problem.

SCOPE OF WORK

The National Violence Prevention Resource Center provided the Pine Ridge Oglala Sioux Indian community with a nationally recognized expert in criminal street gangs, Chris Cuestas, to assess the local youth gang activity and community violence. Mr. Cuestas has been working in the field of criminal street gangs for more than twenty-four years and has worked in tribal settings since 1994. Mr. Cuestas has become one of the country's foremost authorities in addressing the gang problem in tribal communities. The ability to identify characteristics, assess communities and communicate with gang involved individuals takes a unique expertise. Mr. Cuestas combines these components and conducts in-depth professional training sessions throughout the country. He is often requested to headline national conferences in youth and gang crime, testify before tribal, state and national governments, and provide his expertise in court proceedings.

Mr. Cuestas is also called upon to develop unique strategies, programs and responses that can have an immediate impact in gang behavior reduction for communities throughout the United States. Mr. Cuestas has also provided his expertise to the Department of Justice as a peer grant reviewer.

Since 1996, Mr. Cuestas has been providing assessments of gang and youth violence for communities interested in reducing the impact of street gangs on their youth. The National Violence Prevention Resource Center provides a site-based, comprehensive assessment to provide details and insight regarding the local scope of the problem.

The assessment methodology for the Pine Ridge Oglala Sioux Indian community was four-fold. It included site visits, the recording of physical characteristics of gang activity, interviews with community stakeholders, interviews with active gang members within the affected community, after-hours community surveillance and reviewing community level indicators.

1. Site visit and surveys

The initial phase of the assessment began with site visits to the community. As coordinated through the Anpetu Luta Otipi Program, Mr. Cuestas provided the community with the opportunity to contribute their perceptions and experiences regarding gang and youth violence locally. The community members were asked to identify their opinions on the main risk factors currently affecting the Pine Ridge Oglala community. Following the input from community members, the community youth were surveyed regarding these concerns. Surveys were completed by 579 community members, students, adults and program personnel. The following were cited as the most significant community risk factors for local youth:

Note: Many respondents noted more than one risk factor.

Gangs
The influence of gangs on tribal youth and the subsequent crimes against the community were cited in **sixty-seven** percent of the responders as the most significant risk factor (see survey attachment).

Lack of parental supervision
The lack of continual parental supervision of local youth was cited in **fifty-nine** percent of the responders as the most significant risk factor (see survey attachment).

Substance abuse
The abuse of alcohol and illegal narcotics by adults and youth was cited in **fifty-five** percent of the responders as the most significant risk factor (see survey attachment).

Truancy
The high rate of juvenile truancy and drop-out rates were cited in **fifty-four** percent of the responders as the most significant risk factor (see survey attachment).

Lack of cultural attachment
An overall lack of cultural attachment and respect for local customs and traditions was cited by **thirty-nine** percent of the responders as the most significant risk factor (see survey attachment).

Lack of adult role models
A shortage of adult role models and mentors for local youth was cited by **twenty-six** percent of the responders as the most significant risk factor (see survey attachment).

Lack of recreational opportunities for youth
The limited access to after school and weekend recreational opportunities for youth was cited by **twenty-five** percent of the responders as the most significant risk factor (see survey attachment).

Overall, the responses indicated that gangs, lack of parental supervision and substance abuse were the most cited risk factors for the community. Other risk factors included a high truancy and drop-out rate, a lack of cultural attachment, family rivalries, program rivalries, apathy and denial and lack of recreation opportunities for youth.

During the site visits, Mr. Cuestas conducted **field interviews** with more than eighty community stakeholders, male and female between the ages of eleven and sixty, to gather pertinent community-level feedback. These field interviews revealed that the community perceives youth gang activity as a serious problem. Many of the youth interviewed have a fear for their personal safety both at their schools and in the evening hours in their communities. Youth cited a limited access to recreational activities in the evenings and weekends. Although there are youth facilities available, many youth indicated the distance to travel to use the programs and a lack of diversity in scheduling decreased their chance to use the facilities. While conducting several field interviews within the Kyle community, several youth indicated that they refused to participate in community

recreational opportunities because the programs were being administered by individuals they perceived to be active gang members. Others expressed a fear of being jumped while at a program due to the influence of the dominant gang involved in the program.

Several field interviews substantiated information received from program personnel regarding the increasing influence of adult gang members on area youth. Two of the most active gangs within the Oglala Sioux community are the Gangster Disciples and Surenos, both transplants from larger municipalities. According to the interviews with area youth and interpretation of recent graffiti, local or homegrown gangs are in active conflict with these transplants for control of the local drug trade and street influence. Drug and party crews know as 420 and 840 are becoming increasing predominate for older youth, especially in Pine Ridge and Manderson.

Interviews with elders indicated a predominant sense of fear of local youth perceived to be involved in destructive behavior. Others expressed a sense of anger over their reduced ability to enjoy their community at night. Many noted a fear of being assaulted and many adults expressed their concern regarding the "climate change" of their community within the past several years.

2. <u>After-hours observations</u>

During the after-hours observations, conducted between the hours of 6:00 pm and 1:00 am, several risk factors became obvious. The most obvious risk factor was the high number of unsupervised youth congregating during the late hours of the evening. There was constant foot traffic in Pine Ridge and Kyle and concentrated youth grouping in Pine Ridge, Kyle, and Manderson. Children as young a 9 and 10 years old were out within the community during high-risk hours.

Interviews with gang members or individuals who identified themselves as gang involved revealed that they do not fear accountability for their criminal activity. They believe they can continue to commit criminal acts with little if any negative results. Because of their lack of fear of accountability, there is little effort to hide obvious gang characteristics (tattoos and attire) or drug sales. Many of the juvenile gang members indicated that they became involved in gang activity because their extended family had animosities with other families. Many of these youth also aligned themselves with the dominant gang in the area for protection. **The adult gang members, who are often transplants from other communities, often had numerous youth with them.** This was especially prevalent in Kyle and Pine Ridge. This adult mentoring into the gang lifestyle accelerates a younger person's involvement in criminal activity and insulates the adult gang member from consequences or accountability. Many of those interviewed indicated that drug sales, including marijuana, methamphetamines and stolen prescription drugs, were increasing. On several occasions adults were observed parked behind the Shell station with youth coming up to their vehicle to purchase or transport on behalf of the adults. On a second evening observation, youth were seen running up to a vehicle and carrying items into the local gym and then returning several minutes later to hand cash over to the occupants of the vehicle.

Gang members indicated that drugs are sold within the community in several locations including local housing areas where vehicle traffic increases at night. Some of the locations were identified by tennis shoes strung over power lines, which is a common way drug sales locations are marked in larger communities. Gang involved youth also indicated an increased access to methamphetamines within the past several months.

Personal testimony was given regarding witnessing and knowledge of recent gang-related activity within the Pine Ridge community to include:

- Youth parties with excessive drug usage and intoxication
- Physical assaults and beatings with weapons
- Retaliatory fights and violence
- An increase in violent crime
- Campus disruptions including bullying and intimidation
- Increased drug traffic within the community
- Tagging and gang-related criminal damage at schools

3. Interviews with program personnel

This phase of the assessment included focused interviews with tribal program personnel and leaders to discuss program responses to local youth crime and gang activity. Interviewed were representatives from local law enforcement, Tribal Courts, Chemical Prevention, Tribal Leadership, Probation, Indian Health Services and Youth Programs.

Mr. Cuestas introduced NVPRC's methodology for the community assessment and solicited input from those interviewed. Generally, all of the responders indicated there are gaps in services for local tribal youth who are at-risk for gang involvement and substance abuse.

The following are general excerpts from their input regarding local gaps in services:

1) An overall lack of collaboration between youth-related services.
Program personnel cited a lack of collaboration between services when dealing with youth-related issues. Agencies that should dovetail their efforts include local law enforcement, tribal courts, youth and social services to include family services, area schools and housing.

2) A lack of a community-based approach to reducing youth criminality.
Program personnel worried that law enforcement suppression was the only current local method to deal with the increase in youth crimes.

3) The need for in-depth professional training and staff development regarding youth risk factors such as gang activity, violence and substance abuse.
Program personnel were concerned that they were not adequately trained nor prepared to identify risk factors or deal with their results.

4) A requirement for the collection of local data regarding youth-related issues.
Program personnel recognized the need for local data and felt they were missing out on funding opportunities as well as general baseline data that would assist them in understanding and addressing their local problems. The local Tribal Court system was handicapped by the lack of coordinated efforts to establish court administrative management protocols especially for probation and parole offenders. Tribal court personnel and law enforcement requested field drug kits the lack of which reduces their effectiveness at getting youth adjudicated under court supervision (to include intervention). The lack of coordinated management requirements (especially in documentation) between east and west limited each area's courts in their abilities to track ongoing criminally active youth and adults.

4. Community level indicators

During the assessment, Mr. Cuestas documented a substantial amount of gang-related graffiti within the Pine Ridge community. He interpreted each of the sites and ascertained which sites substantiated information from other sources. Gang-related graffiti is an indicator of the level of gang maturity in a community. If interpreted correctly, it can deliver information on the number of active gangs, the types of gangs, the influences of the gangs and be a record of past and future events (see graffiti attachment).

The National Violence Prevention Resource Center also requested local statistics from law enforcement, courts, housing, schools and enrollment. **As noted in the recommendations, many of the local programs and agencies did not have a methodology to track youth-related issues.**

Local law enforcement, OST Department of Public Safety, was able to provide records from 2003-2004. According to these local statistics, gang-related crime increased 60% during 2003-2004. Disorderly conduct, curfew and assaults decreased on average 35% during the same time frame. This may be due to an increased focus by local law enforcement. A relatively small number of calls for service for criminal damage complaints verses the significant amount of graffiti in each community may indicate a sense of entrenchment that community member's feel regarding gangs. Overall, the calls for service appear to be concentrated in those areas that have recognized indicators for gang activity. In other words, ongoing gang activity in a community directly correlates to criminal activity in that community.

OUTCOMES

OGLALA SIOUX TRIBE GANG THREAT ASSESSMENT

Upon completion of the four phases of the assessment methodology, the National Violence Prevention Resource Center has made the following determinations:

The Oglala Sioux Tribe is currently dealing with a serious youth gang problem with significant adult influence. It should be considered an established and evolving problem. Based on the U.S. Department of Justice projections on the average size of a criminal street gang, the number of gangs identified as active within the community and current tribal enrollment numbers, there are at least 252-504 active gang members, but according to field interviews with gang-involved youth there are an estimated 900-1300 total youth and adults involved in gang activity. There are at least 21 gangs affecting the community. These include but are not limited to: Westside Bloods, Deuce Crips, The Boyz, Eastside Killers, Gangster Disciples, Trey Treys, Crenshaw Mafia Gangsters, Kotton Mouth Kings, Juggalo Riders, Eastside True, Nomads, Wildboys, Northside Bloods, G-Unit, Igloo Gangster Crips, 69 Mafia, 420 and 840 Crews, Northside Gangster Disciples and Surenos that also use the moniker of Sur Trese. Some of these gangs may overlap in their influences and there may be other developing sets or cliques but they currently show no organization or structure for the purposes of this assessment. Some of these gangs are subsets or cliques of the larger gangs, but have separate distinguishing characteristics. The majority of these gangs are hybrids, or gangs developed on the characteristics of nationally recognized gangs and adapted locally. Hybrid gangs often develop their own signature activities that reflect the local pressures or opportunities. As an example, the Gangster Disciples represented in gang graffiti locally would probably not be recognized as Gangster Disciples in Chicago or Minneapolis. This hybridization most often occurs when tribal youth live or visit outside communities and bring influences back to the tribe. Hybridization also occurs when adults from outside communities, especially from prisons influence local youth. Outside influences, in addition to the prison system are large municipalities, including Minneapolis, Denver, Chicago and surrounding communities including Cheyenne River, Rosebud, Rapid City, and Sioux Falls. The Southern California influence is most likely due a family relocation.

An additional indication that the majority of the gangs in the Pine Ridge community are hybrid is the fact that many families have representation in more than one gang as well as in historically rival gangs.

One issue of more significant concern for the Pine Ridge community is the local street gang connection to organized prison gang entities. Several individuals interviewed were carrying and representing both street and prison gang characteristics. Representation of the prison based entities known as The Warrior Society, Native Brotherhood, AIMSTERS and Sur 13 were identified and documented.

According to the field interviews, there is a large contingent of adults influencing the community's youth and mentoring them in gang activity. Specifically, The Boyz and the Gangster Disciples have significant adult influence. This influence is often developed to shield the adults from the criminal consequences of drug sales. Field interviews also indicated that besides an increase in drug sales (especially methamphetamines and marijuana), there have been assaults, thefts of prescriptions, extortion, threats and intimidation, weapons crimes and contributing to the delinquency of minors all associated with gangs.

Local or homegrown gangs are also apparent in the Pine Ridge region. These gangs are often the result of long standing family rivalries. Youth will band together due to ongoing threats from hybrid gangs. As an example, during the interviews in Manderson, it became apparent that the Eastside True and 420 Crew (as many as 20 youth) formed to protect themselves against the local influence of Sur Trese and Gangster Disciples.

In addition, many of the local youth are emulating "gang like" characteristics for self preservation. Several community members interviewed found the youth gang behavior to be acceptable or normal. Several of the community members interviewed are in denial as the gang subculture surrounds them.

Another significant concern is the organization and development of groups known as "drug crews." These youth-oriented crews are solely interested with the procurement and ingestion of narcotic drugs that enhances their "partying" lifestyle. This problem is a nation-wide concern as more and more youth become trapped in the underground drug culture. This underground drug culture has been spurned by "hard core" punk rock groups and the "gangster rap" genre. These characteristics were specifically identified in the groups known as the "420 and 840 crews". It should be noted that the "840 crew" was specifically female in membership. The numbering of "420" (four twenty) comes from a seventies counter culture reference to the time of day a generic group of youth would meet to smoke marijuana. It is not indicative of a specific time to meet locally to smoke, rather a general term to identify a group of youth who like to use marijuana. The doubling of the number is intended to recognize the doubling of the effort and intensity to get loaded and party. Drug and party crews now commonly use the reference and the drug of choice is no longer just marijuana, but also methamphetamines and party drugs.

Finally, there are an increasing number of Mexican national citizens residing with tribal members in the various Pine Ridge communities. Several interviews within the region surfaced with information regarding the presence of Sinaloa Cowboys coming in and out of the area. This group is very well known as a narcotics distribution organization that has infiltrated tribal settings in the past. Local law enforcement sources confirmed the increased movement of vehicles with out-of-state plates in the region.

RECOMMENDATIONS

Communities that are successful in addressing evolving gang and juvenile violence issues recognize that simplistic short term strategies are not beneficial and only serve to mask the problems for short periods of time. Research indicates that the only effective method for reducing gang and juvenile violence is to support local, community-based multi-faceted strategies for prevention, intervention and suppression.

The most important element of a successful strategy for communities with an "established" gang problem is the development of a "specific strategy" for the community. This vision should be the basis of all subsequent goals, objectives and initiatives. Funding of the strategy must be long-term.

Based on the assessment, the National Violence Prevention Resource Center recommends the following opportunities for the Pine Ridge Oglala Sioux Indian Reservation:

Physical Improvements

- Based on site visits, field interviews, law enforcement reports and community surveys, an overall increase in lighting within each district would significantly increase community visibility and decrease loitering and minor property offenses. Metal security grating would reduce the number of broken or inoperable lights.
- A graffiti abatement strategy that is constantly enforced and involves youth in restorative community projects. Collaborative efforts between the Courts, Probation Department and Housing are an opportunity for diversion or first offenses.
- Increased community patrols. These tenant patrols can be overseen by law enforcement or Housing security. Tenant patrols can be a funded strategy through Housing funds.

Community

- Community empowerment sessions for parents to assist them in identifying at-risk behaviors and strategies to reduce the attraction of gangs.
- Developing a local pool of resources (cultural leaders, tribal elders, volunteers, coaches, etc.) to serve as mentors.
- Develop an alternative recreational and services youth program specifically for 12-17 year olds (including prevention measures for youth risk factors such as gangs, substance abuse; specifically methamphetamines and marijuana, sexually transmitted diseases, pregnancy, etc.).
- Develop neighborhood watch programs and elder protection strategies.
- Participate in a community-based task force.

Schools

- Conduct physical security surveys for each community school building and develop a school security strategy.
- Review and revise local policy to determine responsiveness to gang activity.

- Augment student handbook to include consistent policy and protocols.
- Develop a peer review panel to address disruptive conduct.
- Develop a truancy reduction initiative.
- Develop protocol and procedures for gang involved youth and their families (perhaps an early notification strategy).
- Train staff to recognize early indicators of gang activity and involvement.
- Review with each student and post within each classroom policy on gang activities and behaviors.
- Provide access to resources for families (act as a referral agency).
- Participate in community-based task forces.
- Examine the potential for school dress codes or uniforms to increase the safety of the facility.
- Provide workshops for youth in gang prevention, substance abuse, suicide prevention, and healthy choices and decisions.
- Host or sponsor parent awareness training sessions.
- Emphasize cultural attachment in curriculum.
- Examine the possibility of introducing school uniforms to the middle and elementary grade students.
- Bullying prevention - Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school buses, on school property, at school bus stops and at school sponsored events and activities that include the following components:
    - Procedure for pupils to confidentially report to school officials incidents of harassment, intimidation or bullying.
    - Procedure for parents and guardians of pupils to submit written reports to school officials of suspected incidents of harassment, intimidation or bullying.
    - A requirement that school district employees report suspected incidents of harassment, intimidation or bullying to the appropriate school official.
    - A formal process for the documentation of reported incidents of harassment, intimidation or bullying, except that no documentation shall be maintained unless the harassment, intimidation or bullying has been proven.
    - A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying.
    - Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.
    - A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

Tribal Responses

- Examination of existing tribal codes to determine if changes would impact gang activity.
- Examination of possible law enforcement techniques that would increase the effectiveness of law enforcement efforts within the community.
- Creation of a tribally recognized community-based task force whose specific mission is impacting the youth gang problem. Newly formed task forces are most

often successful when initially administered by an objective agency that reports directly to the Tribal Council. Successful task forces have representation from district leaders, community members, program personnel, courts, and health workers.

- Create and fund a Youth Services Coordinator who ensures that program resources for youth are distributed within the guidelines of the overall strategy or "vision". The Coordinator should be an active member of any youth task force and should report directly to the Tribal Council.
- Creation and distribution of a community resource guide listing all available resources for families and individuals.
- An overall audit of existing resources to determine potential impact and effectiveness in addressing youth. It is especially important that tribal leaders know what grants and funding options are available.
- Expansion of community radio programming that emphasizes cultural in relation to the role of youth within the tribal community.
- Programming that allows community elders to relay traditions, roles and culture to youth on a daily or weekly basis.
- Increase recreational opportunities in every district for youth after hours and on weekends.

Courts

- Develop an automated case management system and establish coordinated efforts between the two court systems.
- Increase the number of court advocates and probation services.
- Amend existing tribal codes regarding gang activity due to difficulty in the application.
- Support of a first offenders or diversion program.
- Expansion of the youth probationary services to enhance the current capability of the probation program and increase the ability to accomplish school attendance checks, field testing, home visits and curfew enforcement.
- Equip probation officers with field drug testing kits.
- Request additional training funds for probation officers and court personnel in youth violence and trends.
- Increase parental accountability by court ordered training, counseling and community service.
- Examine possibility of restorative justice and cultural mediation options.

Programs

- Request staff development training is risk factors associated with gang activity.
- Respond to best practice strategies developed in other communities.
- Work at establishing outreach programs for the more distant districts.
- Establish a methodology to collect important data regarding youth served.

- The Housing Authority can modify current policy to include lease agreement requirements regarding gang and drug-related activities and grounds for cancellation and eviction.
- Provide tribal leaders with information on current funding sources that can impact youth gang and substance abuse activity.
- Collaborate with other programs and apply for funding for youth gang and substance abuse programs and strategies.
- Assist in the development of a community resources guide.
- Participate in a community-based task force effort.
- Develop and provide training opportunities at a community level.
- Extend hours for services to be available to youth and families after hours.
- Work with area schools to provide resources for students and their families.

On behalf of youth

- Develop core of positive youth leaders as mentors for at-risk peers.
- Research area youth leadership conferences.
- Develop and financially support a youth-based leadership council.
- Organize youth participation in community wellness projects such as graffiti abatement.
- Create projects that increase interaction with elders (develop cultural programs for the schools).
- Develop a "wish list" of youth projects that will positively impact local youth and reduce risk factors.

Communities that are successful in addressing evolving gang and juvenile violence issues recognize that simplistic short term strategies are not beneficial and only serve to mask the problems for short periods of time. Research indicates that the only effective method for reducing gang and juvenile violence is to support local, community-based multi-faceted strategies for prevention, intervention and suppression.

The focus of any long-term community strategy must be focused on attainable priorities to ensured continued support from the community. Priorities should reflect issues of public safety, prevention and intervention, funding concerns, program longevity and community ownership.

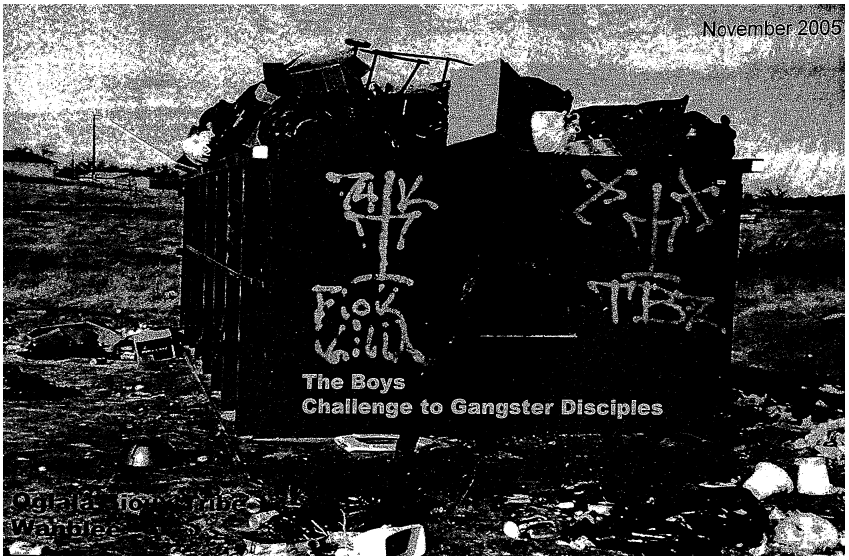
A Drugs, Gang & Youth Violence Assessment

Oglala Sioux Tribe

March 2006

Prepared by the National Violence Prevention Resource Center

Sponsored by the Aberdeen Area Mental Health
Office of Indian Health Services



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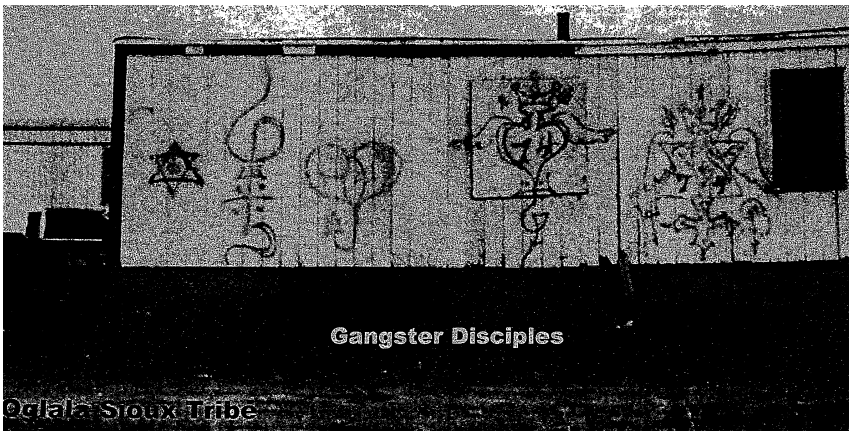
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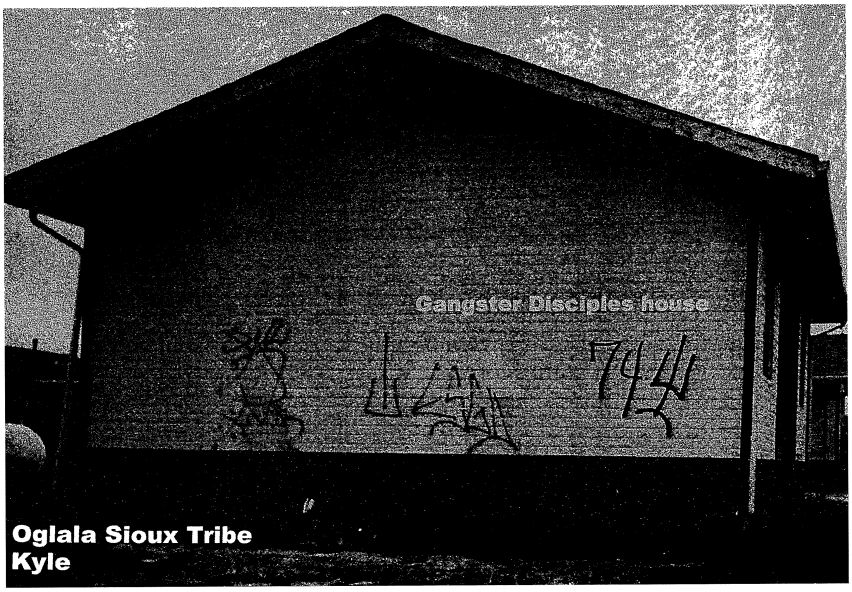
Gangster Disciples house
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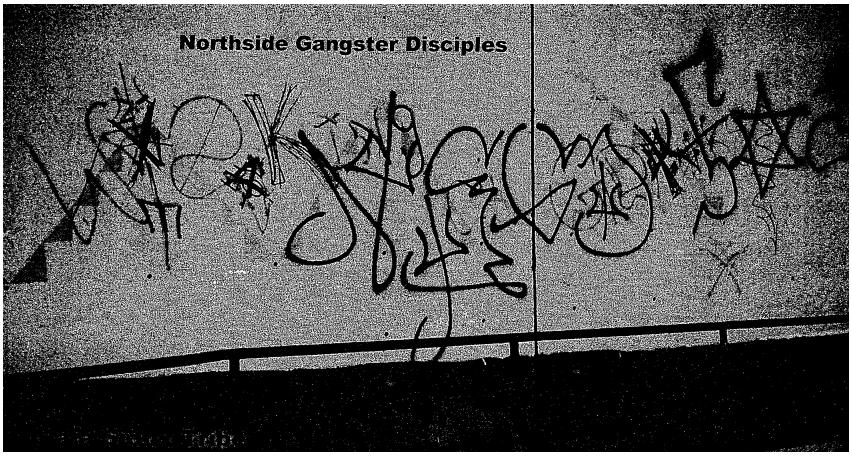
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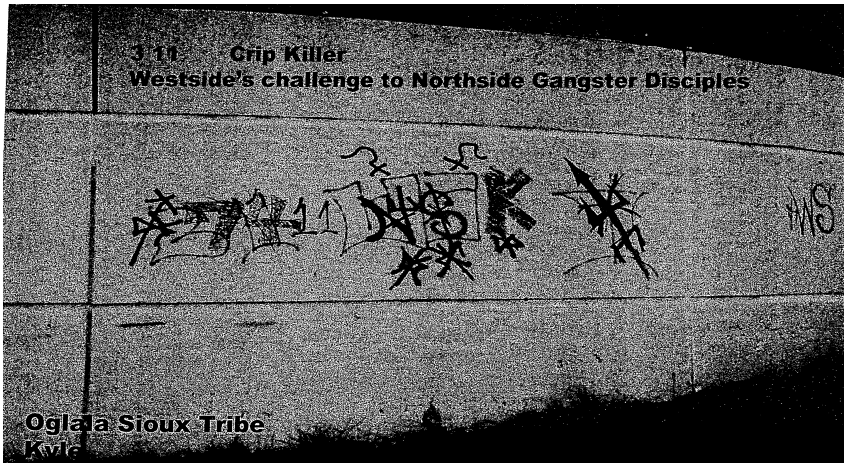
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Westside's challenge to Northside Gangster Disciples
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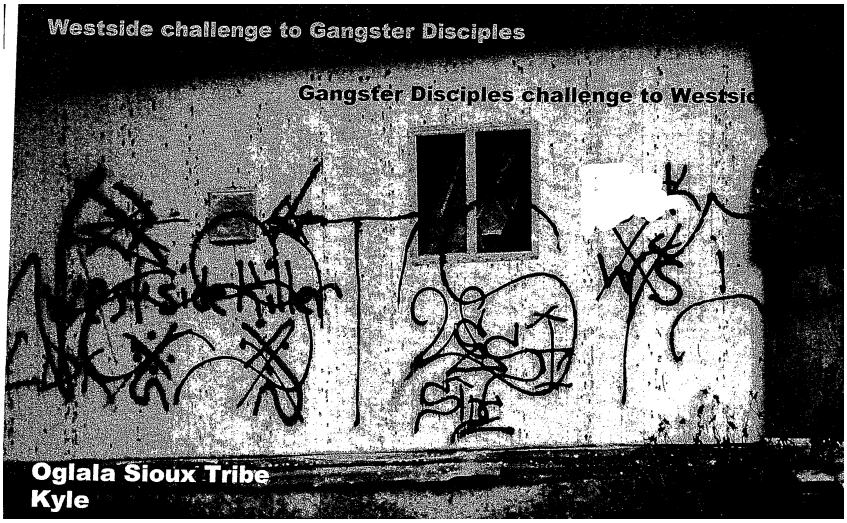
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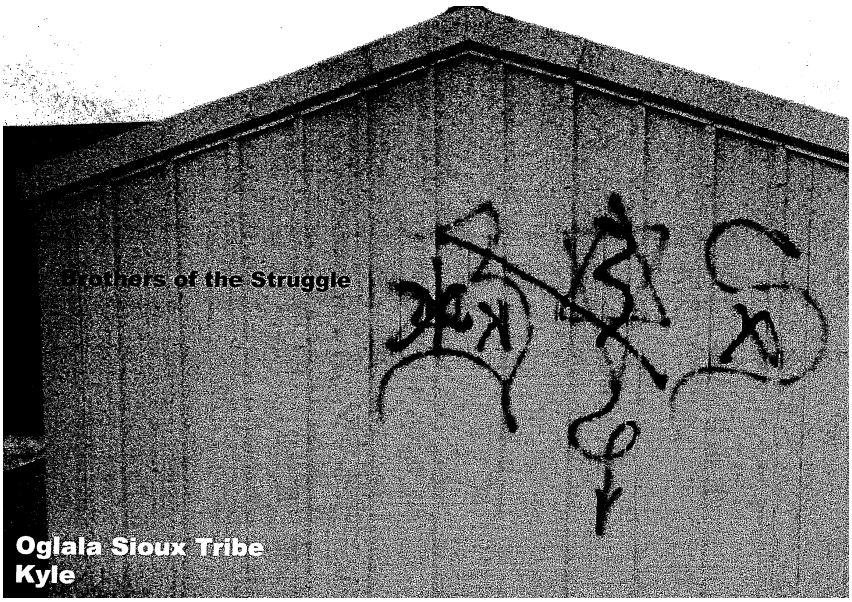

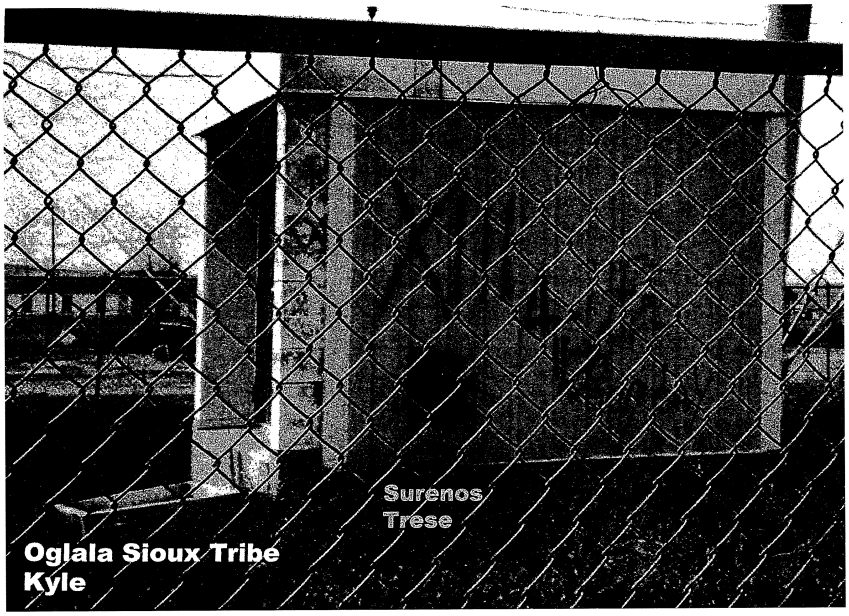

The CHAIRMAN. Mr. Mousseau, let me get the other witnesses' testimony. We will come back if we have time for some comments from your Housing Director, if that is all right with you.

Mr. MOUSSEAU. Yes.

The CHAIRMAN. The Honorable Brian Nissen, Tribal Council, the Confederated Tribes in Washington State. You may proceed. Thank you for being with us.

STATEMENT OF HON. BRIAN NISSEN, TRIBAL COUNCIL, CONFEDERATED TRIBES OF THE COLVILLE RESERVATION; ACCOMPANIED BY MATT HANEY, CHIEF OF POLICE, COLVILLE TRIBE

Mr. NISSEN. Good afternoon, Chairman Dorgan, Members of the Committee. My name is Brian Nissen, member of the Colville Business Council, which is the governing body of the Confederated Tribes of the Colville Reservation. I appreciate this opportunity to testify today on the increased gang activity in Indian Country.

I will be particularly discussing Colville's challenges in addressing gang activity, and a couple of examples of recent incidents, and maybe a few ideas for some recommendations to improve our current situation.

Accompanying today I have Matt Heney, our Chief of Police, who will be able to assist answering any questions.

Before I begin, I would like to commend the Committee and Members of the Committee and Committee staff on their efforts and the support for continued work on the Tribal Law and Order Act of 2009. The Colville Tribe is fully supportive of this important legislation and very grateful for the Committee's willingness to consider some suggestions and other recommendations from Indian Country in order to make the bill more effective.

The Colville Reservation is approximately 2,300 square miles located in north central Washington State. Although we are now considered a single tribe, the Confederated Tribes of the Colville Reservation is made up of a confederacy of 12 aboriginal bands spread out throughout Eastern Washington. Currently, we have just over 9,350 enrolled members, making us one of the larger tribes in the Pacific Northwest.

Although we are sparsely populated in this area, we still generate high demands for police services. Tribal gangs and predominantly Hispanic gangs are both attempting to exert control in areas of our reservation. Recently, the conflict has progressed from really threats to attempted murders. Much of the violence seems to be focused on new recruitment and defense of territories. Right now, we believe there are at least six gangs active on the reservation, two of which are predominantly Hispanic and based off the reservation bounds.

Two recent incidents illustrate the severity of the gang problem on the reservation, one of which a Hispanic member of the SUR 13 Crip gang, which originated in Southern California in the 1960s, who was beaten so severely that he suffered permanent brain damage. A second incident occurring in May of this year began as a fist fight between Hispanic members of the SUR 13 and Colville Tribal members of the Bloods gang. It escalated, each of them gathering reinforcements and culminated in a shooting. One person was injured, and currently the suspect is a Colville Tribal member. He was a juvenile at the time and now faces Federal charges for attempted murder.

Currently, the tribe has contracted law enforcement services through the Bureau of Indian Affairs under a 638 contract, but because of funding limitations, we are only able to have three officers on duty at any given time. And to further illustrate this funding limitation, the tribe's contribution to our police department exceeds

the amount that we receive from the BIA under the 638 contract. Because of this lack of funding, as was mentioned earlier, the response times to some of our remote areas of our reservation exceed over two hours.

You know, apart from law enforcement, we are making attempts to address the gang violence through education and intervention activities. We have a BIA-funded school on the reservation. The Paschal Sherman Indian School is a K–8 school that incorporates tribal culture into its curriculum. As gang activity has increased, however, we have observed tribal youth openly rejecting our tribal culture and values such as respect for elders and family members.

In response, we have included some cultural practices and beliefs, and including some of our tribal elders in some of the efforts to curtail this violence.

Despite these efforts, we still have reports of our young women, ages 13, 14, 15 being raped by these gang members. The worst thing about it is they have fear to come forward to have anything done because their lives have been threatened, their families have been threatened if they are to come forward.

I also have some personal implications. Some of my family members, my younger brother was involved in gang activities and he went down that path. Sorry.

Let me say that, we are pleased that the Tribal Law and Order Act of 2009 we believe contains thoughtful provisions that address some of these issues. We have a list of recommendations, and I would just like to highlight a couple of them.

First being to continue to emphasize the United States Attorneys' trust responsibility to investigate and prosecute violent crimes in Indian Country, particularly major crimes. We also ask you to authorize new programs or augment existing programs that provide grants to schools on or near Indian communities that have demonstrated gang problems, to implement culturally appropriate education, prevention and intervention activities similar to what we are attempting at Paschal Sherman Indian School.

This concludes my report at this time. I appreciate everybody's time and am open for questions following.

Thank you.

[The prepared statement of Mr. Nissen follows:]

PREPARED STATEMENT OF HON. BRIAN NISSEN, COUNCIL MEMBER, CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

Good afternoon Chairman Dorgan, Vice Chairman Barrasso, and members of the Committee. My name is Brian Nissen and I am a member of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation ("Colville Tribe" or "Tribe"). I appreciate this opportunity to testify today on the increase of gang activity in Indian country. Specifically, I will discuss the Colville Tribe's challenges in addressing gang activity, provide examples of recent gang related incidents on the Colville Reservation, and provide recommendations on how the current situation can be improved. Accompanying me today is Matt Haney, the Chief of Police of the Colville Tribe, who will assist me in answering questions.

Before I begin, I would like to commend the members of the Committee and the Committee staff for their support for and continued work on the Tribal Law and Order Act of 2009. The Colville Tribe enthusiastically supports this important legislation and is grateful for the Committee's willingness to consider our suggestions and other recommendations from Indian country to make the bill even more effective.

Gang Activity on the Colville Reservation

The Colville Indian Reservation encompasses approximately 2,275 square miles and is in north central Washington State. Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is, as the name states, a confederation of 12 smaller aboriginal tribes and bands from all across eastern Washington. The Colville Tribe has nearly 9,300 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest. About half of the Tribe's members live on or near the Colville Reservation.

The Colville Reservation is divided into four districts (Omak, Nespelem, Inchelium and Keller) that correspond to the population centers on the Reservation. The Omak district includes approximately half of the town of Omak, Washington, which is the largest town in Okanogan County. Although the Nespelem, Inchelium and Keller districts have seen an increase in gang activity, by far the highest incidence of known gang activity occurs in the Omak district.

Tribal gangs and predominately Hispanic gangs from Mexico are both attempting to assert control in the Omak area. The conflict between the rival gangs has progressed from threats to attempted murder. Much of the violence associated with gang activity on the Colville Reservation appears to be focused on the recruitment of new members and the gangs' defense of their prospective territory. These territories are important to the gangs in part due to drug distribution and gang recognition. The Tribe believes that at least six distinct gangs are active on the Colville Reservation, two of which are predominantly Hispanic gangs based outside the Reservation and the other four gangs predominated by tribal members.

Two recent incidents illustrate the severity of the gang problem on the Colville Reservation. One incident occurred on April 16, 2008, when the Tribe's police officers responded to an assault victim in the Moccasin Flat housing development outside the town of Omak. Moccasin Flat is one of the older Department of Housing and Urban Development communities in the Omak area. A Hispanic male was found lying in a ditch and had been beaten badly. The victim was well known to the Colville Tribal Police and to other tribal law enforcement as a member of the SUR 13 gang. SUR 13 stands for "Surenos 13," a gang affiliated with the Crips that originated in southern California in the 1960s.

The Tribe's investigation revealed that the victim had gone to a party in the Moccasin Flat BUD site that was mainly attended by younger tribal members between the ages of 15 and 25. Shortly after arriving, the victim was seen by a witness walking out of the house with several people. The witness saw that the victim had taken off his blue bandana, which signified that he was not seeking a confrontation. Upon going outside, the victim was attacked by several members of the party. Ultimately, he was left lying in a ditch with severe injuries.

Colville Tribal Police interviewed several individuals who attended the party, all of whom denied that they were gang members even though members of the tribal community and tribal law enforcement routinely observed them wearing gang colors, passing gang signs, and promoting their gang affiliation on websites such as My Space. None of these individuals, most of whom are Colville tribal members, were willing to identify the assailants. To date, no arrests have been made and the case remains open. The victim suffered permanent brain damage.

A second, even more disturbing incident occurred on May 4, 2009, within the city limits of the town of Omak on the Colville Reservation. The incident began as a fist fight between Hispanic members of SUR 13 and Colville tribal members of the Bloods, escalated when each side gathered reinforcements, and culminated in a shooting.

The victim, a Hispanic male, and his friends were in a car driving in east Omak when a tribal member, dressed in red, threw a rock at their car. As the victim exited the vehicle to confront the rock thrower, another car arrived and one of its occupants, also wearing red, retrieved a rifle from the car and opened fire. At least 18 rounds were fired, with the victim being struck once. Residents corroborated the victim's account and the suspect was later identified and arrested.

The suspect, a Colville tribal member, was a juvenile when the incident occurred and is currently facing federal charges for attempted murder.

Law Enforcement Challenges to Gang Activity on the Colville Reservation

As noted above, the Colville Reservation encompasses nearly 2,300 square miles. This area, while sparsely populated, generates a high demand for police services. The Colville Tribe has contracted law enforcement services from the Bureau of Indian Affairs ("BIA") under a 638 contract. Because of BIA funding limitations, however, only three tribal officers are available on any given shift to respond to calls. To illustrate these funding limitations, this year the Colville Tribe's contribution to the Tribe's Police Department exceeds the amount the Tribe receives for law en-

forcement from the BIA under its 638 contract. This lack of funding for law enforcement personnel translates into response times that often exceed two hours for calls to the more remote areas of the Reservation.

In absence of agreements with local governments, our tribal officers are generally responsible only for calls involving tribal members. Both the Okanogan and Ferry County Sheriffs Departments are severely understaffed, which has, for practical purposes, required the Colville Tribe to ensure that its officers are cross commissioned and can also enforce state laws within the boundaries of the Colville Reservation. To the extent that they are able, both Okanogan and Ferry counties assist the Tribe when they are called and the Tribe has a cooperative relationship with law enforcement from both counties.

Ideally, the Colville Tribe's officers would have sufficient resources in the form of manpower and training to address the burgeoning incidence of gang violence. In most cases, our officers know the individuals involved and could make a dramatic impact on the proliferation of gangs on the Reservation by preventing gang membership by vulnerable tribal youth. As in many Indian communities, nearly everyone knows each other's families. Tribal law enforcement leaders are constantly looking for opportunities to engage tribal members in "non-enforcement" situations in order to build relationships that will transcend traditional police officer stereotypes held by some in our community. This change cannot occur, however, until additional resources are available for tribal officers to allow for proactive, as opposed to reactive, policing.

Education and Intervention Activities

Apart from law enforcement, the Tribe has also attempted to address gangs through education and intervention activities. The Colville Reservation is home to a BIA-funded school that has incorporated a variety of strategies to deter tribal youth from gang activity. Located just outside Omak, Washington, the Paschal Sherman Indian School ("PSIS" or the "School") is a K–8 school that incorporates tribal culture into its curriculum. The School's mental health professionals and teachers work with students in group settings to discuss a variety of issues related to gangs within the tribal community. The School has recognized that a group environment more effectively fosters open discussion and awareness among the students of gang activity than other classroom methods.

PSIS staff have found that many of the School's students identify with the color red, a color associated with gangs, and tend to defend the importance of the color and how it represents a sense of pride. In conjunction with the group sessions, the School utilizes video programs to challenge the students' beliefs and to communicate the reality of gang life. An underlying theme in many of these sessions is how many families on the Colville Reservation have multiple generations that have been incarcerated for gang related criminal activity.

Many of the School's students feel, with these programs, they have a safe place to explore and discuss their concerns about peer pressure, gang violence, and the actual consequences of how their choices can and will impact their futures. As gang activity has increased on the Colville Reservation, the Tribe's members and law enforcement officers have observed some tribal youth openly rejecting tribal culture and values, such as respect for elders and family. In response, PSIS has expanded the group discussions to include cultural beliefs and how tribal elders would respond to the development of gangs in the community. The increase in the number of Colville tribal youth that are being held by the Okanogan County Juvenile Department in recent years for gang related criminal activity has also highlighted the negative impact of gang activity for the School's students.

Recommendations

Like many other Indian tribes, the Colville Tribe is hampered by insufficient funding, insufficient legal authority to fully punish offenders, and the reluctance of federal authorities to investigate and prosecute violent crimes that occur on the Colville Reservation. As the Committee is aware, when the United States declines to prosecute crimes in Indian country, tribal courts are only empowered to sentence perpetrators of any crime, regardless of its severity, to one year in jail. The May 4 gang shooting in Omak is illustrative of this predicament. Had the United States Attorney declined to prosecute, as is often the case, the only option for the Tribe would have been to prosecute the suspect for attempted murder under Colville Tribal law, with a maximum sentence of one year. The Colville Tribe is pleased that the tribal Law and Order Act of 2009 contains provisions that address many of these issues.

Based on our experience with gang activity on the Colville Reservation, we offer the Committee the following recommendations:

- Continue to emphasize at any given opportunity that United States Attorneys must perform their trust responsibility to investigate and prosecute violent crimes in Indian country, particularly major crimes;
- Continue to impress upon the Administration and the appropriators the need to increase funding for BIA law enforcement services and to ensure that any increases are used to put additional officers in Indian country;
- Authorize a new program (or augment existing programs) that would provide for grants to schools on or near Indian communities that have demonstrated gang problems to implement culturally appropriate education, intervention and prevention activities similar to what the Colville Tribe is currently doing at the PSIS;
- Ensure that existing gang prevention initiatives such as Police Activities Leagues and School Resource Officers are made available by the BIA to those Indian tribes that wish to implement these activities, including providing training to tribes that request it; and
- Identify and eliminate existing regulatory barriers that prevent the most effective use of tribal law enforcement resources. For example, the Colville Tribe has been working with the Committee to clarify in the Tribal Law and Order Act that Special Law Enforcement Commission Agreements should reflect the status of certified individuals as federal law enforcement officers for liability purposes when enforcing tribal laws. This technical change would relieve the Colville Tribe and other similarly situated Indian tribes from the need to purchase expensive umbrella liability insurance policies to cover instances where tribal officers might be sued in their individual capacities for good faith enforcement of tribal laws. Addressing this gap would allow tribes to use their resources for more critical purposes, such as paying for additional shifts or hiring new officers. This change also makes sense because in many cases, specifically where tribes have contracted law enforcement under P.L. 93–638, tribal officers by default investigate and enforce violations of both federal and tribal laws.

This concludes my statement. At this time, I would be happy to answer any questions the Committee may have.

SUPPLEMENTARY INFORMATION

Thank you Chairman Dorgan, Vice Chairman Barrasso, and members of the Committee for allowing me to provide supplemental information for the Committee's record in connection with the July 30, 2009, oversight hearing on the increase of gang activity in Indian country. Again, I would like to commend the members of the Committee and the Committee staff for their support for and continued work on the Tribal Law and Order Act of 2009. This legislation will address many of the issues discussed during the hearing, specifically the lack of patrol officers, jurisdictional complexities, and the reluctance of federal law enforcement officials to investigate and prosecute crimes in Indian country.

Chairman Dorgan mentioned in his opening statement that past reports indicated reservation gangs have been relatively unorganized and that gang-related crimes were limited but escalating. We are saddened to report that on August 8, 2009, a 25 year-old man from Lapwai, Idaho, was shot in the head shortly after midnight in Omak on our reservation in a drive-by shooting. The shooting occurred in an area known for drug and gang activity and the Colville Tribal Police, together with other law enforcement agencies, are currently investigating whether the shooting is related to gang activity. As of this writing, no suspects have been arrested and the victim remains in critical condition. Like Chairman Dorgan, we echo the statement "we need a better response" to address this complex issue.

At the conclusion of the July 30 oversight hearing, Chairman Dorgan requested that the witnesses supplement the record to address what their respective tribes would do to address gang activity through means other than law enforcement if they were provided with additional resources. The Colville Tribes' response would be to engage with our youth in ways that are relevant and meaningful to them. With additional resources to invest in our youth, the Tribes would choose to develop and implement multidisciplinary art and multimedia projects throughout the year, either in after school programs or on weekend evenings, to provide constructive outlets, encourage collaboration and reinforce self-esteem and cultural identity for youth, and particularly for those not thriving academically. Musical and theatrical performances would be used to foster collaboration. Other elements of the curriculum would incorporate lessons learned from providing these outlets in therapy and in jail settings as well as those learned from use of role-play and drama in schools to improve verbal skills and encourage creative dispute resolution. Murals

could cover graffiti. Scheduling regular public shows would focus these sessions and engage the larger community in this work. To the greatest extent possible, broadcast and print media would also be used to disseminate what the youth produce. Additional resources would also be helpful to support development and maintenance of a community radio project we've been working on for years.

While these projects focus on engaging youth in our community in constructive ways and serve as a deterrent to gang activities, the Colville Tribes are also looking to alternative sentencing and peacemaking programs as a way to combat the erosion of tribal authority in prosecuting major crimes. The Colville Tribes are implementing, and would continue to implement if provided additional resources, a Peacemaking Court. As the Committee is aware, Peacemaking courts allow for the resolution of conflicts using tribal traditions, customs and culture. Although not fully developed and implemented, the Colville Tribes plan to use this process in some capacity first with youth, introducing them to a culturally-based method that fosters respect for all including self and acknowledging responsibility. If feasible, the Peacemaking Court would then be expanded to include adult cases. The Peacemaking Court that the Colville Tribes is implementing would, among other things, (a) call on the wisdom and experience of Tribal elders; (b) address youth in conflict as a whole person to find the root causes of inappropriate or irresponsible behavior; (c) focus on restoration in the community rather than punishment; (d) mentor the youth in cultural traditions and rituals; and (e) give to the youth and invite the youth to give back to the community. Ultimately, the Peacemaking Court seeks to attain peace through healing by healing the causes of the behavior and the damage to the community caused by the behavior. Additional financial support would allow for the development, implementation and ongoing costs of culturally-based processes like the Peacemaking Court that hold youth accountable to their communities.

Finally, in addressing Chairman Dorgan's statement at the hearing that the "problem with youth violence is that it goes unpunished and then it escalates," the Colville Tribes continues to be concerned about finding the most appropriate mechanisms to encourage lawful behavior within the Colville Reservation. The Tribes recently disseminated a survey to our tribal citizens that sought their views about the types of penalties that should be available for criminal conduct. The survey included options for economic disincentives such as withholding per capita payments, banishment and, in extreme cases, disenrollment. The limits imposed on Tribal governments resulting from the Indian Civil Rights Act make it difficult to always "make the penalty fit the crime," but it may also result in a consideration of other mechanisms to address criminal behavior.

The more authority that can be returned to Indian tribes to tailor our response to crime in our communities, the more likely our efforts will be effective in preventing and deterring it. It is our belief that we must tie our response to criminal behavior to our culture so that our people see clearly the link between the laws to which they are subject and the ways of our people.

Again, we appreciate the Committee's willingness to examine these issues and look forward to continuing to assist the Committee in any way we can in addressing the causes and responses to gang activity in Indian country.

The CHAIRMAN. Mr. Nissen, thank you very much.

Next, we will hear from Mr. Sampson Cowboy, Director of the Department of Public Safety at the Navajo Nation, Window Rock, Arizona.

Mr. Cowboy, thank you.

STATEMENT OF SAMPSON COWBOY, EXECUTIVE DIRECTOR, DEPARTMENT OF PUBLIC SAFETY, NAVAJO NATION

Mr. COWBOY. Good afternoon. Chairman Dorgan and Members of the Committee, thank you for allowing the Navajo Nation to testify today regarding gang activity in Indian Country.

My name is Sampson Cowboy and I am Executive Director for the Navajo Division of Public Safety. I am President Shirley's designee at today's hearing. I would like to thank my staff also.

The famous phrase that is always used, "We do more with little," and that is what is happening in Navajo Nation. I want to make it clear that Navajo Division of Public Safety agrees with you,

Chairman Dorgan, that this issue has been analyzed and analyzed and analyzed, and we need an appropriate amount of funding so that Navajo Nation law enforcement has adequate resources to address and combat these issues.

Moreover, the Navajo Division of Public Safety agrees with the June, 2009 report from the Department of Justice that tribal communities and Federal law enforcement must have the flexibility to react to specific offenses and also to work collaboratively to address proactively up and coming criminal trends. Federal money and dedicated personnel can then leverage and maximize assisting tribal efforts.

My testimony today is divided in three parts: the community, with a brief introduction describing Navajo Division of Public Safety; provide Committee with the background of statistical information; and Navajo efforts to curtail proliferation of gangs. Lastly, I will provide the Committee with our recommendations on how stakeholders involved can successfully counter gang activities.

Navajo Division of Public Safety background. The Navajo Division of Public Safety has an annual budget of $60 million and 700 employees. Navajo Public Safety consists of seven police districts and six adult correctional facilities, which are dilapidated; 14 percent of Public Safety funds are from Navajo Nation general funds, while 86 percent are derived from Federal sources. However, the Division of Public Safety is staffed at a low ratio of .06 police officers per 1,000 people, compared to the national average of 2.5 per 1,000.

The crime statistics illustrate a daunting challenge for Navajo Nation. Navajo Nation law enforcement answers over 289,000 calls every year and make over 39,000 arrests, nearly 1,000 of which are major crimes. In 2008, the Navajo Nation experienced 14 homicides, 230 sexual offenses, 24 robberies, 363 assaults, 958 burglaries, 1,342 cases of larceny, and 266 cases of arson. We also had 46 cases of selling or manufacturing drugs and 471 cases of possession of drugs.

A brief history of gangs in Navajo Nation. In late 1990, Navajo Nation report indicated that Navajo youths join gangs for many of the same reasons that youth in urban areas join them: poverty, unemployment, child abuse and neglect, substance abuse within families and family breakups. The Navajo report indicated that gang violence is related to other navajo Nation social ills, including domestic and family violence, child abuse and neglect, substance abuse, poverty, unemployment, and loss of language and culture, the very things that fuel gang activity in urban areas.

In 1999, a Navajo report also indicated that Navajo youth gangs are not as heavily engaged in drug dealing, acquiring weapons, and the escalation of weapons violence as gangs in urban areas, but there is a danger of hardening and escalation of drug trade and weapons in the Navajo Nation unless the gang problem is effectively addressed.

Gentlemen, as we talk about this daunting issue and challenges, we also have established some resources that have handled some of these issues. The FBI Safe Trails Task Force in New Mexico, Arizona and Utah, they have combined the forces together and incar-

cerated several gang members, and today they are still serving time in Federal prison.

In the mid-2000s, the Navajo Nation once again saw a rise in gang activity partly due to the introduction of methamphetamine.

Statistical information. The Navajo Nation developed an information management system to track the involvement of gangs in the commission of crimes. The definition we utilize for a gang is an "ongoing formal or informal association of persons whose members or associates individually or collectively engage in the commission, facilitation and solicitation of any felony act, or who has at least one individual who is a criminal street gang member."

We currently have 225 documented gangs on the Navajo Nation. This is a significant increase from the 75 active gang sets that were documented in 1997. The total number of gang members on Navajo Nation is between 1,500 and 2,000. In 2008, our IMS tracked 71 cases of gang-related crimes were tracked. In 2009, we have tracked 35 gang-related crimes. The primary crimes committed by gangs on the Navajo Nation are property damage including graffiti, burglary, assaults, theft and public intoxication.

The recommendations for the Navajo Nation is to capable of tracking of this new emergence of gang activity with appropriate resources. Appropriate resources include funding for an additional six officers in the Drug and Gang Unit, Navajo Nation has its own gang unit; funding for an accurate tracking system of gang members and database; and funding for law enforcement equipment, including surveillance camera, night vision and other undercover vehicles.

In the bigger picture, the Navajo Nation continues to advocate for increased funding for criminal justice facilities to prosecute and incarcerate criminal gang members.

Thank you.

[The prepared statement of Mr. Cowboy follows:]

PREPARED STATEMENT OF SAMPSON COWBOY, EXECUTIVE DIRECTOR, DEPARTMENT OF PUBLIC SAFETY, NAVAJO NATION

Good afternoon Chairman Dorgan, ranking member Barrasso and members of the Committee. Thank you for allowing the Navajo Nation to testify today regarding gang activity in Indian Country. My name is Sampson Cowboy and I am the Executive Director of the Navajo Nation Division of Public Safety (DPS). I am President Shirley's designee at today's hearing.

I want to make it clear that the Navajo Nation DPS agrees with you Chairman Dorgan that this issue has been analyzed and analyzed and analyzed, and we need the appropriate amount of funding so that the Navajo Nation law enforcement has the adequate resources to address and combat these issues. Moreover, the Navajo Nation DPS agrees with the June, 2009, report from the Department of Justice that:

> "Tribal communities and federal law enforcement must have the flexibility to react to a specific criminal offense and also to work collaboratively to address proactively up and coming criminal trends. Federal money and dedicated personnel can then leverage and maximize existing tribal efforts."

My testimony today is divided in three parts: First, I will provide the Committee with a brief introduction describing the Navajo Nation Division of Public Safety. I will then provide the Committee with background and statistical information and Navajo Nation's efforts to curtail the proliferation of gangs. Lastly, I will provide the Committee with our recommendations on how all stakeholders involved can successfully counter gang activity.

Navajo Division of Public Safety Background

The Division of Public Safety is tasked with investigating crimes, protecting the Navajo People, and the Public, and maintaining and staffing the Nation's detention facilities. DPS has an annual budget of nearly $60 million with 700 employees. Navajo Public Safety consists of seven (7) Police Districts and six (6) adult correctional facilities. Fourteen (14) percent of Public Safety funds are from Navajo Nation General funds while eighty-six (86) percent are derived from federal sources. However, the Division of Public Safety is staffed at a low ratio of .06 Police Officers per 1000 people, compared to the national average of 2.5 per 1,000.

The crime statistics illustrate a daunting challenge for the Navajo Nation. Navajo Nation Law Enforcement answer over 289,000 calls every year and make over 39,000 arrests, nearly 1,000 of which are major crimes. In 2008, the Navajo Nation experienced 14 homicides, 230 sexual offenses, 24 robberies, 363 assaults, 958 burglaries, 1,342 cases of larceny, and 266 cases of arson. We also had 46 cases of selling or manufacturing drugs and 471 cases of possession of drugs.

Brief History of Gangs in the Navajo Nation

A late 1990 Navajo report indicated that Navajo youths join gangs for many of the same reasons that youths in urban areas join them—poverty, unemployment, child abuse and neglect, substance abuse within families and family breakup. The Navajo report indicated that gang violence are related to other Navajo Nation social ills, including domestic and family violence, child abuse and neglect, substance abuse, poverty, unemployment, and the loss of language and culture—the very things that fuel gang activity in urban areas.

The 1990 Navajo report also indicated that Navajo youth gangs are not as heavily engaged in drug dealing, acquiring weapons, and the escalation of weapons violence as gangs in urban areas, but there is a danger of hardening and an escalation of drug trade and weapons in the Navajo Nation unless the gang problem is effectively addressed.

The 1990's saw a dramatic rise in gang activity on the Navajo Nation. The Navajo Nation established the Window Rock Gang Unit as a result of this increase in gang activity. The Window Rock Gang Unit was successful in curtailing the rise of gangs by creating a task force of various governmental agencies that sought arrests and prosecutions of violent gang members. During the same time period the FBI initiated Operation Safe Trails in New Mexico, Utah, and Arizona to partly address the increase in gang-related activity on the Navajo Nation. These three task forces are still in existence and depend on federal funding. The United States Attorney's Office work diligently to bring criminal gang members to justice. Several of these convicted gang members are still serving time in federal prisons.

In the mid 2000's the Navajo Nation once again saw a rise in gang activity partly due to the introduction of methamphetamine. The Navajo Nation established the Navajo Police Drug and Gang Enforcement Unit as a result of this current increase in gang activity.

Statistical Information

The Navajo Nation DPS developed an Information Management System to track the involvement of gangs in the commission of crimes. The definition we utilize for a gang is "an ongoing formal or informal association of persons whose members or associates individually or collectively engage in the commission, attempted commission, facilitation, or solicitation of any felony act, or who has at least one individual who is a criminal street gang member."

We currently have 225 documented gangs on the Navajo Nation. This is a significant increase from the 75 active gang sets that were documented in 1997. The total number of gang members on the Navajo Nation is between 1,500 and 2,000. In 2008 our IMS tracked 71 cases of gang related crimes. In 2009 we have currently tracked 35 gang related crimes. The primary crimes committed by gangs on the Navajo Nation are property damage including graffiti, burglaries, assaults, theft and public intoxication. The gangs within the Navajo Nation are not currently organized on large scales nor are gangs coordinating with other gangs.

With the recent undercover drug and bootlegging operations that the Navajo Police Drug and Gang Enforcement Unit conducted, the Unit has not seen a significant relationship between Navajo Nation gangs and bootlegging. Undercover officers have encountered gangs members at some of the residences, but the gang members did not associate themselves with the criminal activity involved. The gang members appeared to be children of the individual bootleggers.

However with methamphetamines, the Drug and Gang Enforcement Unit has seen an increase in gang activity. Of the past and current sixty (60) targets that the Unit has come across five (5) of them were gang members. The Unit noticed that

the five (5) gang members dealing with methamphetamines were individual gang members and not the whole gang.

The Navajo Police Drug and Gang Enforcement Unit has its own Navajo Nation Gang Database. The Unit shares its Field Interview cards with the Arizona Gang Intelligence Team Enforcement Mission (GITEM) Database and will be submitting gang information to the Rocky Mountain Intelligence Network (RMIN).

It should be noted that the Navajo Nation's gathering of gang data is still in its infancy. The Navajo Nation's statistical information can be improved with appropriate funding for a tracking system and additional law enforcement officers to accurately track gang data. The rural aspect of the Navajo Nation creates a challenge for DPS regarding the tracking of gangs and their activities. We are in agreement with the Department of Justice assessment that the "remoteness and isolation creates obstacles to effective prevention, control, and reduction of violent crime, drug-related criminal activity, and gang activity."

Navajo Nation Efforts and Recommendations

The Navajo Nation is capable of tackling this new emergence of gang activity with the appropriate resources. Appropriate resources include funding for an additional six (6) officers in the Drug and Gang Enforcement Unit; funding for an accurate tracking system of gang members and database; and funding for law enforcement equipment including surveillance cameras; night vision and under cover vehicles. In the bigger picture the Navajo Nation continues to advocate for increased funding for criminal justice facilities to prosecute and incarcerate criminal gang members.

The Navajo Nation DPS employs a multi-faceted and collaborative approach in addressing the gang problem. The main ingredient in the Navajo Nation's arsenal has been the working task force between the Navajo Nation, and her federal and state counterparts and the tracking of gang members. A prime example of this collaboration is our pilot project in the Eastern Navajo Nation Dlo'ayazhi community located in western New Mexico. We employ an arsenal of law enforcement resources including our Gang unit. This pilot project will specifically address the problems experienced in that community.

In conclusion, the Navajo Nation DPS has risen to the challenge in combating the increase in gang activity and will be successful with continued support. On the Navajo Nation, violence and instability are not the norm when it comes to gangs.

The CHAIRMAN. Mr. Cowboy, thank you very much for being with us.

And finally, Carmen Smith, the Chief of Police, Confederated Tribes of Warm Spring, Warm Spring, Oregon.

Mr. Smith, thank you.

STATEMENT OF CARMEN SMITH, CHIEF OF POLICE, WARM SPRINGS TRIBAL POLICE DEPARTMENT; ACCOMPANIED BY BILL ELLIOT, DETECTIVE

Mr. SMITH. Good afternoon, Chairman Dorgan and Members of the Committee. I appreciate this opportunity to appear before the Committee on behalf of Warm Spring and the other tribal police departments in the Pacific Northwest. I hope my testimony will provide this Committee a perspective on criminal gang and drug activity in Indian Country from those who have to deal with these issues on a daily basis, the tribal police officer.

It is the responsibility of the over 22 tribal law enforcement organizations currently operating in this region to provide for the health and safety of our tribal membership and others residing, working or visiting Native American lands.

However, until now we have not had a voice in matters related to enforcement problems in our jurisdictions such as authority, funding, special commissions, grants, intelligence sharing, and other issues needed in order for us to successfully accomplish our mandates. We are the first responders and investigators, but often cut off from the needed tools.

There exists in Indian Country today the twin scourges of drug abuse and criminal gang activities. These two menaces left unchecked will undermine the very fabric of Native American society. The gang problem is an issue which is most distressing to our communities, as to become a gang member, you must dismiss your family and your culture in favor of the gang. This philosophy will create a generational loss that Indian society can ill afford.

In addition, the gangs on the reservation have brought with them the same violence as we are witnessing off the reservation with drive-by shootings, drug trafficking, home invasions, the assault of elders, the rape of minor females as initiation rites to gangs, and murders.

As presented in our charts, you will note that the gangs to which we refer are no longer just copycat, MTV gangsters, but rather criminal organizations. These organizations are growing in Indian Country at an alarming rate due to the high level of poverty and unemployment, and the increase in foreign nationals who have married tribal members, or simply moved onto the reservations. These subjects have brought with them the organizational skills and the access to guns and drugs needed for gangs to operate, and have links to Mexican drug trafficking cartels who are currently destabilizing that country.

The gang problem is compounded by the interrelationship of tribal members between reservations and the movement of tribal members from one reservation to another during events like the Pow Wow circuit. Yet, the tribal police departments in this region are denied, or have restricted access to federally funded criminal intelligence networks and funding from the High Intensity Drug Trafficking Area programs. There are not even any tribal police representatives who sit on the HIDTA boards so the needs of the reservations in this area are not heard.

However, even with these constraints, the tribal police agencies in this region recognize the gang problem, scratched together some funding and banded together with their off-reservation gang task forces to attack the gang and drug presence in the HUD housing projects on the reservation. Operation Counting Coup received the support of the U.S. Attorneys' Office and we even briefed the FBI.

The only issue was that of jurisdiction, as these criminal enterprises operated on and off the reservation. This was overcome by applying for United States Marshals Service deputations. After reviewing the tribal and local police applications, and the other supporting documentation, the U.S. Marshals Service authorized these deputations.

But, as the tribal and State officers were preparing to be sworn in, the Bureau of Indian Affairs inexplicably called the U.S. Marshals Service and had the deputations pulled. After this, the BIA refused to explain why, or even return calls, behaving in a manner that only can be described as unprofessional. The tribes were forced to seek answers from the Department of Interior and the President's Office of National Drug Control Policy, who could not understand why the BIA had done this, nor believe they even had the authority to do it.

The tribes were eventually told three weeks later by the Department of Interior that the BIA did this because they were not prop-

erly briefed, which is false, and the BIA Area Director who sponsored the deputations didn't have the authority. However, we believe this action was taken out of spite because the success of this operation would have made the BIA look worse than they are already perceived.

The incident aside, it does illustrate the greater problem of the bureaucracy that overwhelms any attempts by tribal law enforcement authorities to cope with the public safety issues in their jurisdictions. Congress seems to believe that by providing increased funding to BIA, this will translate into increased services in Indian Country. This has not been the fact in the Pacific Northwest. When Congress gave the BIA millions of dollars for drug enforcement, there was not even a survey sent out to tribal departments in order to ascertain problem areas or usage. Instead, they used these funds to create some sort of BIA-type DEA which the tribes have not seen any benefits.

The BIA law enforcement program is perceived by tribal police departments in this region as one of the biggest impediments to public safety issues. In their current structure, they are non-communicative and not a good fiduciary for federal funding to Indian Country law enforcement programs in this area.

On the other hand, the United States Attorneys' Office and the FBI, no matter how well-intentioned, can be an overwhelming presence which tends to stifle tribal initiatives. We truly appreciate their assistance, yet we need more parity in our relationship.

When problems arise in Indian Country, Congress assumes the tribes need or want more Federal agency assistance, when in fact the tribes just want tools and funding to handle their own problems. At the end of the day, the tribal police are the ones who will make the difference in the fight against drugs and criminal gangs.

Over the years, the tribal police agencies in this region have brought their officers training and experience comparable to or surpassing their off-reservation peers. If these tribal agencies could mutually support one another like the county and local agencies are able to do, access the same support systems and ability to create their own task forces like Operation Counting Coup, they will have a good chance of turning these problems around.

The HIDTA system that has been successful in meeting the individual needs of State and county agencies, provides for accountability. These HIDTA funds are administered by a board of county and State law enforcement managers, and is a very effective program. However, because of jurisdictional issues and the fact that there are no tribal representatives on any of the State HIDTA boards, this program is problematic for tribal departments.

However, we have proposed a HIDTA-type program for Indian Country in the Pacific Northwest. This program would allow for funding appropriated from Congress to go directly to the affected tribes with controls for accountability and direction. As such, we have proposed the creation of a Pacific Northwest Inter-Tribal Law Enforcement Mutual Aid Program. This would create the same type of system for Indian Country. This program will also create the transparency that currently is missing in the BIA drug and law enforcement programs.

Every time there is a law enforcement problem in Indian Country, everyone looks to outside agencies for a solution. I am saying that given the funding, personnel, access to programs, the ability to submit cases directly to the U.S. Attorneys' Office, and the ability to receive Federal deputations for our officers and our State and local partners, tribal police organizations would be able to handle most of the situations we currently face.

Thank you.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF CARMEN SMITH, CHIEF OF POLICE, WARM SPRINGS TRIBAL POLICE DEPARTMENT

Chairman Dorgan, Vice-Chair Barrasso and members of the Committee:

I appreciate this opportunity to appear before the committee on behalf of the Warm Springs, and other Tribal Police Departments in the Pacific Northwest. I hope my testimony will provide this committee with a perspective of criminal gang and drug activity in Indian Country from those who have to deal with this issue on a daily basis, the Tribal Police Officer.

It is the responsibility of the over twenty-two (22) Tribal Law Enforcement organizations currently operating in this region to provide for the Health and Safety of our Tribal membership, and others residing, working, or visiting Native American lands. However, until now we have not had a voice in matters related to enforcement problems in our jurisdictions such as authority, funding, special commissions, grants, intelligence sharing, and other issues needed in order for us to successfully accomplish our mandates.

Even though we have excellent working relationships with some of the federal entities that have responsibilities in Indian Country, such as the Federal Bureau of Investigation (FBI), and the United States Attorney's Office (USAO), it is we who are the first responders. It is our officers who must deal with the victims, families, and suspects. It is also our departments who have daily contact with the children who are most at risk of becoming gang members, like the disenfranchised and the abused.

It is also our detectives who are responsible for identifying problems as they are emerging, working drug deals, and having to gather intelligence and conduct investigations in an environment which does not provide them with the same access to the assets available to their off reservation counterparts.

There exists in Indian Country today the twin scourge of drug abuse and criminal gang activity. These two menaces left unchecked will undermine the very fabric of Native American society. The gang problem is an issue which is most distressing to our communities, as to become a gang member you must dismiss your family, and your culture in favor of the gang. This philosophy will create a generational loss that Indian society can ill afford.

In addition, the gangs on the reservation have brought with them the same violence as we are witnessing off the reservations with drive-by shootings, drug trafficking, home invasions, the assault of elders, the rape of minor females as initiation rights to the gang, and murders.

As presented on our charts (See gang organizational charts) you will note that the gangs to which we refer are no longer just copy cat, MTV gangsters, but rather criminal organizations. These organizations are growing in Indian Country at an alarming rate due to the high level of poverty and unemployment, and the increase in foreign nationals (illegal aliens) who have married tribal members, or simply moved onto the reservations. These subjects have brought with them the organizational skills and the access to guns and drugs needed for gangs to operate, and have links to the Mexican drug trafficking cartels who are currently destabilizing that country. The gang problem is compounded by the inter-relationship of tribal members between reservations, and the movement of tribal members from one reservation to another during events like the Pow-Wow circuit.

Yet, the Tribal Police Departments in this region are denied, or have restricted access to federally funded criminal intelligence networks, funding from the High Intensity Drug Trafficking Area (HIDTA) programs, and have even been denied funding from the Drug Enforcement Administration's (DEA) Domestic Cannabis Eradication Program (DCEP), which every other state and local agency can receive funding. There are not even any Tribal Police representatives who sit on the HIDTA boards, so the needs of the reservations in this area are not heard.

However, even with these constraints the tribal police agencies in this region recognized the gang problem, scratched together some funding, and banded together with their off reservation gang task forces to attack the gang and drug presence in the U.S. Housing and Urban Development (HUD) housing projects on the reservation. Operation "Counting Coup" received the support of the USAO in 3 judicial districts, and we even briefed the FBI. The only issue was that of jurisdiction as these criminal enterprises operated on, and off the reservation. This was overcome by applying for United States Marshal Service (USMS) deputations. After reviewing the tribal and local police applications, and the other supporting documentation the U.S. Marshal's Service authorized these deputations.

But, as the tribal and state officers were preparing to be sworn in, the Bureau of Indian Affairs (BIA) inexplicably called the USMS and had the deputations pulled. After this the BIA refused to explain why, or even return calls, behaving in a manner which can only be described as "childish," or at best unprofessional. The tribes were forced to seek answers from the Department of the Interior (DOI), and the President's Office of National Drug Control Policy (ONDCP), who could not understand why the BIA had done this, nor believed they even had the authority to do it. The tribes were eventually (3 weeks later) told by the DOI that the BIA did this because they were not properly briefed (which is false), and the BIA Area Director who sponsored the deputations didn't have the authority. However, we believe this action was taken out of spite because the success of this operation would have made the BIA look worse than they are already perceived.

This incident aside, it does illustrate the greater problem of the bureaucracy that smothers any attempts of Tribal Law Enforcement authorities to cope with the public safety issues in their jurisdictions, no matter how benevolent, or capricious these federal or state entities may be. Congress seems to believe that by providing increased funding to the BIA, will translate into increased services in Indian Country. This has not been the fact in the Pacific Northwest. When congress gave the BIA millions of dollars for drug enforcement there was not even a survey sent out to Tribal Departments in order to ascertain problem areas or ideas for this funding usage, instead they used these funds to create some sort of BIA type DEA which the tribes have not seen any benefits. The BIA law enforcement program is perceived by tribal police departments in this region as one of the biggest impediments to public safety issues. In their current structure they are non communicative, arrogant, and not a good fiduciary for federal funding to Indian Country law enforcement programs in this area.

On the other hand, the USAO and the FBI, no matter how well intentioned, can be an overwhelming presence which tends to stifle tribal initiatives. We truly appreciate their assistance, yet we need more parity in our relationship, more reminiscent of their relationships with off reservation police departments.

When problems arise in Indian Country, Congress assumes the tribes need, or want more federal agency assistance, when in fact the tribes just want the tools and funding to handle their own problems. At the end of the day, the tribal police are the ones who will make the difference in the fight against drugs and criminal gangs. Over the years, the Tribal Police agencies in this region have brought their officers training, and experience comparable to, or surpassing their off reservation peers. If these Tribal agencies are given the opportunity to mutually support one another (much like the county and local agencies are able to do), access the same support systems available to state and local officers, and the ability to create their own task forces like Operation "Counting Coup," they will have a good chance of turning these problems around.

The state and county agencies have the HIDTA system that has been successful in providing for the individual needs of each department, and accountability for the government agencies providing the funding. These HIDTA funds are administered by a board of county and state law enforcement managers and is a very effective program. However, because of jurisdictional issues, and the fact that there are no tribal representatives on any of the state HIDTA boards, this program is problematic for tribal departments. However, we have proposed a HIDTA type program for Indian Country in the Pacific Northwest. This program would allow for funding appropriated form Congress to go directly to the affected tribes with controls that provide for accountability and direction. As such, we have proposed the creation of a Pacific Northwest Inter-Tribal Law Enforcement Mutual Aid Program (ITLEMAP) would create the same type of system for Indian Country. This program will also create the transparency of operation that is currently missing in the current BIA drug enforcement and law enforcement programs.

Every time there is a law enforcement problem in Indian Country, everyone looks to outside agencies for a solution. I am saying that given the funding, personnel, access to programs, the ability to submit cases directly to the U.S. Attorney's Office,

and the ability to receive federal deputations for our officers and our state and local partners, Tribal Police organizations would be able to handle most of the situations we currently face.

The CHAIRMAN. Mr. Smith, thank you very much.

Mr. Mousseau, we are trying to determine now when the votes will start on the Floor of the Senate. I want to have opportunities to question. I know Senator Johnson will as well.

Is the Chairman of your Housing Agency here that you wished to have say a few words?

Mr. MOUSSEAU. Yes, he is here and I would like for him to say a few words.

The CHAIRMAN. Let's do that. If he would pull up to the table. He can pull a chair up to the table with you, if you like.

And would you identify yourself for the record?

Mr. IRON CLOUD. My name is Paul Iron Cloud. I am the Chief Executive Officer of the Oglala Sioux Housing Authority.

And I want to say thank you to you, Senator Dorgan, for having this most important oversight hearing.

And I also want to greet Senator Johnson, who is a Senator for the State of South Dakota.

Things that were said here by these four gentlemen is very true. The Oglala Sioux Housing Authority has 1,150 units, and we are 60 miles wide and 100 miles long. We have 40 police officers, and it seems that every day we are getting more violence.

You know, being a Housing Director, you hear all of the things that's going on on the reservation. Tenants calling in saying, Paul, I am scared. What can you do? You know, that touches my heart very deeply to have our people live in an unsafe environment.

We have some very good families living there, but this gang violence is taking over our reservation. There has got to be consequences for these lawbreakers. We have bootlegging that is there.

But I just want to mention something briefly here. When we had the drug elimination grant back in 2000, we curbed a lot of this violence because of tenant patrols, tenant organizations. Youth, they had things for the youth to do. And I felt it had a big impact on our Indian Housing Authority. And that, I want to thank Senator Tim Johnson for introducing the reauthorization of the drug elimination grant. That is going to help us curb some of this.

But I think our most important issue now is to get more police officers to get a control on our communities, because the way it is now, you know, they are having to travel 20 to 30 miles to answer a call. They don't have the backup that they need.

You know, everybody is living a real tough life at Pine Ridge, and I am pretty sure it is everyplace else. The sister tribe, Rosebud, is here today, Amos Prue. He had some things to say when we made our rounds with the Senate. And he, too, has the same problem areas.

But I feel that when we are an unsafe community, the decisions that are made with our people are not good. I think if we really put our environment back together where we have a safe house, you know, the mentality of our people is going to change, I would guarantee you that. The mentality of our people will change.

So we need police officers. We need a court system that is going to prosecute these perpetrators. There are just so many things that

I would like to say, but again, Senator Dorgan, I just want to thank you for holding these hearings. I know you had one at Standing Rock. I didn't have the opportunity to go, but I am looking that you have some oversight hearings maybe in South Dakota to hear, to tell what is going on on our reservations because it is pretty much the same at the Oglala Sioux Tribe has 40,000 plus members, and if we don't get enough police officers, you know, there is going to be a disaster.

And one other thing I want to say is that in one community, they were going to start packing guns if something wasn't done. So you know, you could really see a total disaster if we don't get anything done.

So I want to thank you for your time.

The CHAIRMAN. Well, let me thank you for your testimony and thank all of you for your work.

Let me mention to you that we are working, so far unsuccessfully, but we will be successful on questioning what has happened to FBI agents. In 1998, Attorney General Reno testified there are 102 FBI agents that are dedicated to Indian Country, 102. In 2000 and 2005, Congress appropriated 52 additional officers, FBI officers for Indian Country. That adds up to me to be 154 FBI agents dedicated to Indian Country. In fact, there are only 114.

So somewhere we have 40 FBI agents that disappeared from the requirements to participate on Indian Country criminal justice issues. And we are trying to determine why. We know why we appropriated the money in the Congress. We dedicated these positions to Indian law enforcement, and somehow they got appropriated to other duties.

So we are trying to work very hard with the Justice Department and FBI to reconcile what happened to the number of FBI folks that are supposed to be dedicated to Indian Country and to law enforcement in Indian Country.

Mr. Nissen, I know you were emotional about your brother, speaking about your brother being involved in gang activities. You did not provide a conclusion for that. Is there a hopeful conclusion, I hope, in your family for that?

Mr. NISSEN. Yes, there is actually. It is a sensitive subject. I could say, I mean, it could have been a lot worse, but he was down that path a while, and it ends up successful. He actually just graduated college recently, and he was really deep in gang activity five, ten years ago. And you know, it is just real emotional because I see it happening to other parts of my family, other cousins and everything else. With efforts of our family and more grassroots efforts, we were able to intervene and he, like I said, just graduated college, so it does end good.

It touches our family and I am more emotional over what is happening to our young girls on the reservation and the fact that we can't do anything about it because there has been threats of their lives, their families' lives. And ultimately, like these other gentlemen said, we need more resources, and we have 1.4 million acres and three officers covering that area at any given time.

I am hopeful that with some of our efforts and our cultural restoration that we are seeing, especially with the younger kids, we are seeing that they are realizing who they are. I know a lot of the

gang incidents are for a sense of identity and family. And so we are trying to bring that back into the community and help them realize they don't need that in their lives.

But, my brother, he is doing well now.

The CHAIRMAN. Well, thank you very much.

I assume all of you have seen circumstances like Mr. Nissen's brother, who perhaps could have tipped in either direction, beginning the activities of a gang and so on, and could have tipped in the direction of perhaps losing their lives or now being incarcerated in prison for the long term, or tipped in the other direction of all of a sudden straightening out and graduating from college and having some hope for the future.

I guess I would ask all of you, as you have seen these young people, what do you think represents the approach that leans over in the right direction for them? What are the things on your reservation that can best help them?

Some people say to me, the most important thing we need at the moment, we need youth clubs; we need facilities where they have someplace to go and something to do and supervised opportunities. Some say that is the most important.

But as you have watched children on your reservations, some move in the wrong directions, some move in the right direction. What are the elements that you think best describes success?

Mr. Smith?

Mr. SMITH. I believe it is the family. Also, what you said about the having things for the kids. On our reservation, they are trying to get things for kids, but it doesn't pan out. There is nothing for the kids to do. But family support, support from the social services programs, even police officers have talked to some of these gang members, and they have turned some of them around. Some have come back. Some got out of it, and they have come to me, this aid, this detective or this officer had talked with them, gave them some support, got them in the right direction, and next thing I know, they are off of that. They are going to school. They are working. Their proud before the family now.

So I think it is the support from the community and the family that does it.

The CHAIRMAN. Mr. Nissen just described something that sounded to me like Mr. Mousseau described, and that is violence against women, particularly young girls, by gang members apparently almost impervious to any sanctions or worry of being caught because there are so few police officers that violent crime, beatings and rape will occur with very few arrests.

Is that what you see, Mr. Mousseau? Was I accurate in hearing what you were saying?

Mr. MOUSSEAU. Yes. We do have a lot of our gang members who know how the court system. They know that the law enforcement sometimes may take, based on priorities, sometimes an hour for the call to be answered, so we have a lot of unreported sexual assaults, regular assaults on females, domestic violence is up.

And if we had something for kids like more for cultural and educational programs, I think that is the way to go. In my incident where the shooting I was involved in, I used to be a teacher prior to being a police officer, and this gang member was a student of

mine at one time as a young kid. And my next dealing with him was that fateful night of the shooting. And it went from a nice kid to this.

So I think we need to all sit back and take a realistic look and see what we can do realistically.

The CHAIRMAN. Mr. Cowboy, your assessment of what we can do and your assessment of seeing kids fall over on the right side of the path, I assume everyone in this panel agrees that we are woefully inadequate in the number of law enforcement resources that we commit. But it is probably also the case that committing more resources, more so-called "cops on the beat," more Indian law enforcement, is not by itself going to resolve the issue.

Is that correct, Mr. Cowboy?

Mr. COWBOY. Thank you, sir.

I think the two areas is idling. Our kids are idling out there and they start to sway in a different direction. The other is family. Some of them don't have family support. And in order to combat that, even from a law enforcement perspective, we have tried student youth academy, but with the lack of police personnel, that kind of hinders our effort in providing prevention. Even attacking graffiti, you know, the community, if there is a lack of police officers, then we really can't get in there and start handling some of these issues.

The CHAIRMAN. Let me ask you, is there a strong relationship between drugs and gangs, with drugs being a method of financing the gangs?

Mr. COWBOY. I think that is correct, sir. You know, money is always the driving force behind all evil. So I think that is where, especially with the economic condition on a lot of these reservations. I think that is why kids are drawn to that.

The CHAIRMAN. And the supply of drugs is in most cases coming from outside the reservation, so law enforcement I am sure is trying to track the supply of drugs that comes in to the formation of a gang or an existing gang on the reservation. What can you tell me about that, any of you, in terms of the source of, the supply of drugs? We know, for example, that Mexican drug suppliers, particularly in methamphetamine and so on, were targeting Indian reservations.

But Mr. Mousseau?

Mr. MOUSSEAU. If I can, I would like to ask our gang expert, Mr. Forney, to answer that on the basis of what our public safety has been.

Mr. FORNEY. Thank you, Mr. Chairman.

To answer your question, one of the things we have is, you notice the high number of gang members that we mentioned and those are what is fluctuating in and out of the reservation at any given time, because most of the drugs that we come across do come mainly out of Denver, Omaha and Minneapolis. So we don't have a lot of production there.

We did have some incidents of production of methamphetamines on the eastern side of our reservation, but most of it is coming out and the drug of choice right now is cocaine, which, you know, it's coming in mainly out of Denver and Minneapolis and Omaha.

The CHAIRMAN. And are the suppliers of that targeting gang activities especially?

Mr. FORNEY. Yes, they are coming in, doing a lot of recruitment. Like we mentioned in our testimony, I think that a lot of it is because of the rural-ness, the jurisdictional complexities, the lack of manpower. They want to use it sort of like a hub. They can come in and centralize. It is central United States, just like we said, the rural-ness of it.

We don't know if they have a lot of hiding places. With the lack of patrol, a lot of drug transactions are taking place. I know local law enforcement, like Rapid City, has interacted with some large transports. We don't know where that was going or where they were coming from.

The CHAIRMAN. Mr. Mousseau, you indicated that you were shot by a gang member. Is that correct?

Mr. MOUSSEAU. Yes.

The CHAIRMAN. And that recently, a female officer on your reservation had her arm broken and now she and her family are in hiding or at least threatened by gangs on the reservation?

Mr. MOUSSEAU. Yes, that was over a year ago she had her arm broken by a gang member, and up until July 12, where she was in a fight for her life when a gang member knocked her down and was choking her. So she had to use deadly force on that one, and that is where all the death threats do come from.

And the gang members know by threatening not only our police officers, but other reservations as well, because our police department lacks commission cards, so we don't fall under the protection of a Federal officer.

The CHAIRMAN. Right.

Mr. MOUSSEAU. So it is non-prosecuted on a Federal level and also sometimes on the tribal level, so there is no repercussions for them.

The CHAIRMAN. Well, you know, the law enforcement bill that we have created, bipartisan and now introduced in the Congress, would treat tribal officers as Federal officers, which means that in addition to authorizing tribal police to enforce Federal laws, the commissions would make it a Federal crime to assault or to threaten a tribal police officer, which I think would go a long way in trying to begin to address this, so you would have the same protections as other law enforcement officials.

Mr. MOUSSEAU. Yes, I want to personally thank you for that aspect because I think in Indian Country, this has been 15, 20 years coming, because we have not had the same protection afforded as every other national program.

Being a officer in Indian Country is a lot different because we have to enforce our own tribal laws, as well as Federal laws. So we have two sets of laws that we need to enforce, as opposed to just city laws.

The CHAIRMAN. Let me ask any of you whether you have had success in some alternatives to incarceration. I know that, I would guess, having visited a number of detention facilities, that if your reservation is like some I have visited, your detention facilities are full. Very often, you don't have separate facilities for juvenile of-

fenders. And so have you achieved success with alternatives, I should say, to incarceration? If so, what are those successes?

Mr. Smith?

Mr. SMITH. We don't have very many successes because there aren't very many programs that take these offenders in. There is a lot of, you know, gang activity in our reservation, too. The same thing that happens over there, happens in Warm Springs.

You know, he talked about deputizations, the BIA deputizations that we have been trying to get, too.

There is a case out of the Umatilla Reservation. The had a couple of rapes and a series of assaults over there, and they have been trying to get these commissions so that the State District Attorney said he would take these cases, but without that deputization, he wouldn't do that. So these cases that would have went into State court would have been prosecuted, but now they are not prosecuted because they don't have the deputization.

So you know, that is kind of a hang-up for all of us here and the other tribes. Without that, we can't prosecute them on our own. We don't have jurisdiction to go help another tribe because of that. So these are the jurisdictional issues that we talk about. And if we don't have that, then we can't pursue them like we normally would, like in tribal court or in Federal court.

So that is an issue.

The CHAIRMAN. Let me, Mr. Smith, let me ask you a couple of questions about the operation called Counting Coup which you described. My understanding is that a number of tribal police agencies in a region put together some joint funding and banded together with their off-reservation gang task forces so that you had Indian and non-Indian folks involved in the task force to attack gang and drug presence in HUD housing projects on the reservation.

You stated in your testimony here that you received support from three judicial districts of the U.S. Attorneys' Office. Is that correct?

Mr. SMITH. Yes.

The CHAIRMAN. And you briefed the FBI on what you were doing. Because the jurisdiction was operated on and off the reservation, you applied to the U.S. Marshals Service for deputizations for the officers involved. Correct?

Mr. SMITH. Yes.

The CHAIRMAN. After they reviewed the tribal and local police applications and other supporting documents, the U.S. Marshals Service authorized the deputizations. So at that point, you had a task force that had been deputized by the U.S. Marshals Service, approved by the U.S. Attorneys' Office, and had been acknowledged by the FBI at least through briefings. Is that correct?

Mr. SMITH. Yes, but they weren't approved.

The CHAIRMAN. I understand. I am going to get to that.

Mr. SMITH. Yes.

The CHAIRMAN. And at that point, the tribal and State officers were apparently going to be sworn in and they were going to be sworn in by whom for what?

Mr. SMITH. For the U.S. Marshals——

The CHAIRMAN. Was that the deputization?

Mr. SMITH. Deputization for U.S. Marshals.

The CHAIRMAN. Okay. So they had been approved, but not yet deputized, and now they are about to be deputized. What happened?

Mr. SMITH. Well, I received a call saying that——

The CHAIRMAN. From whom?

Mr. SMITH. From my colleague here, Bill Elliot, who works with me. He got a call from the U.S. Marshals Service in Portland, who called him and said, we came in on a Thursday. We sent everybody letters saying, hey, we are going to be sworn in on Friday morning. Everybody got there Thursday night. So that Friday morning, we were going in to be sworn in. I get a call just before five o'clock saying that, hey, the BIA called the U.S. Marshals in Portland, said that we didn't have the authority to do that, to hold onto the deputizations until they worked something out.

So at that time, the Marshals just held onto them. I called the Regional Director, who is Stan Speaks, because he was in D.C. at the time. He just met with the BIA. He was on his flight going back to Portland when I called him, and I said, hey, have you heard this, what I have just explained to you. And he said, no. I said here's what happened.

So he tried to call the BIA and says, hey, what is going on? He said we just met no more than 30 minutes ago. Everything is going to be fine. Now, there is an issue. And couldn't get any response.

So we kept trying to get a response on why this was stopped. We haven't gotten one. We were asked to come up to present some gang activity on Indian Country to ONDCP. We did that. In that meeting, we brought up what had happened, and they were concerned because they said they felt that they didn't have the right to pull those deputizations or the authority to do so.

And I said, well, what can we do? I said, we had this task force going. We are ready to go. We have operations going, but now it is on hold now because we didn't get that.

And later on again we got a, we finally got a response saying that they weren't informed. That is why it wasn't done.

The CHAIRMAN. And were they informed?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And who informed whom about this?

Mr. SMITH. Me and Detective Elliot did.

The CHAIRMAN. Who did you inform?

Mr. SMITH. Pat Ragsdale and Mario Redlegs. Pat Ragsdale is the Director of Law Enforcement Services and Mario Redlegs is a Supervisor Special Agent in charge of drug enforcement.

The CHAIRMAN. And you informed them personally?

Mr. SMITH. Yes.

The CHAIRMAN. And so they told you then later that you had not informed them, and therefore they stopped the deputization?

Mr. SMITH. Yes. We also presented this program that I mentioned here, the task force, with all these tribes. Everything that we have done in this program we sent copies and met with the BIA on it, the deputizations, the task force. We did a threat assessment. We presented that to them. Everything that we had, we presented, all the tribes that sponsored this task force, we gave them all that information of all the tribes; a proposal on what the program is about; what we are trying to do.

So everything was reported to them. I felt everything was a go.

The CHAIRMAN. Tell me the time frame on this. When was the deputization supposed to have occurred?

Mr. SMITH. Let's see, just trying to think.

The CHAIRMAN. This year, last year?

Mr. SMITH. This year.

The CHAIRMAN. This year. Within the last six months?

Mr. SMITH. Yes.

The CHAIRMAN. All right. You have put a portion of this in your testimony. Would you complete that with dates and contacts so that I can have all the details and resubmit that to the Committee? And we will then proceed to ask the BIA what has happened here.

My own view is the BIA is unbelievably bureaucratic. Things happen that are never quite explained. And I would like to understand what happened here. It just seems to me on its face that you were trying to advance law enforcement by connecting with off-reservation, reaching an agreement on how to do joint operations, getting deputization from the U.S. Marshals Service.

It appears to me that this is exactly the kind of thing that should happen and I don't have any idea why it would not have been allowed to continue. So I will inquire about it, but I will need to have you put dates, places and so on in an expanded memorandum.

Yes, sir?

Mr. SMITH. We have a chart here that I would like to go over, to let you see, and have Detective Elliot just brief you on it briefly, on the operations that we have going in the gang area and drug trafficking.

The CHAIRMAN. All right.

I will have to ask that—Detective?

Mr. ELLIOT. Yes, sir.

The CHAIRMAN. I will ask you to be brief. I understand now we are going to start a vote in about five minutes. But I appreciate having the opportunity to see this.

Mr. ELLIOT. I'll be brief. Actually, in building up our justification for this operation Counting Coup, we started working up who the drug traffickers are operating on the Warm Springs Indian Reservation and the organizational structure. It shows the whole criminal structure that was present in that they had a chain of command, and this is just one of the ways to identify that hierarchy and they had captains, lieutenants, street soldiers, and associates carry drugs. And then we also developed a connection with a Mexican cartel.

The CHAIRMAN. So is this is the work preparatory to doing this joint operation? You actually did the matrix and mapped out through investigative work, I assume, what this gang was, what the structure was?

Mr. ELLIOT. Yes, sir, Mr. Chairman. This was just on Warm Springs. We also did this for the off-reservation Tribes. We were working with Colville Reservation that also did similar workups of their gang structure and who was in charge, who was the target, who can make Federal cases in HUD housing areas and identify our top 10 gang members and drug traffickers on the reservations to break out the organization chart and identify the head of its cartel who now lives in Mexico, and trafficks methamphetamine down

there who has his Warm Springs address. These two women right here are Warm Springs members.

According to the Border Patrol, we have over 400 plus crossings between Mexico and Warm Springs. And then also we also discovered a lot of imported methamphetamine from intelligence briefings with the other tribal police departments on names that popped up on traffickers and gang members living on Nez Perce and on the reservations all around with tribal or interstate connection. That is about it.

The CHAIRMAN. All right. Well, Detective, thank you very much. You have obviously done a lot of work. This is not just some notion someone has of going after some gang that is amorphous. You have actually identified and described the structure, and when gangs have structure, that is not just some loose association in most cases.

So I appreciate the work you have done.

We will be inquiring of the BIA to find out what has happened here, but we would like to encourage, in fact, the law enforcement bill that we have created actually moves towards encouraging the very kinds of things, Mr. Smith, that you were engaged in. We want to try to create harmony between on-reservation and off-reservation activities because it will enhance law enforcement on the reservation if we can do that.

We understand the tribal justice system is not the same as the criminal justice system off the reservation, but that should not prohibit us from finding ways to cooperate. And the legislation that John Harte has worked, along with our staff, to put together attempts to try to see if we can find areas of cooperation and harmonization, so that is very much in line with what we are trying to do.

I think what you have described here is something of great urgency. It is not as if we haven't known that there is urgency. I held a hearing just in recent weeks on the Standing Rock Indian Reservation once again, and the Bureau of Indian Affairs had a surge of additional law enforcement activity there. It was very successful. It reduced the violent crime rates substantially.

Now, that surge is over and we are back to a lower level of law enforcement activity, which is troublesome, and we will see now. I would expect another spike in criminal activity on that reservation.

First and foremost, we have to find a way to reconcile the responsibilities of the Federal Government with the actions of the Federal Government. As I said when I started, we actually have signed the bottom line on treaties and said we promised. We actually have created trust responsibilities and said we commit ourselves. The fact is, over decades, many decades, the Federal Government has not met those promises and not kept its trust responsibility.

And so we are trying very hard on this Committee to find ways to improve law enforcement, to begin to push this Congress, push the Presidents to meet our trust responsibility and meet our obligations.

The gang activity is a bit of a different subject for us because we have had discussions about methamphetamine. We have had hearings about teen suicide. We have had hearings about violent crime.

And in many ways, I assume that gang activity threads the needle on all of these same subjects.

So I appreciate those of you who work in law enforcement every day, that you came here to tell us your experience. What I would like to do is this. I would like to ask you as you go back to your reservations and continue your work, if you would take a look at your testimony that you have submitted today and add that which you might think would be helpful to us, and what would you do if you had additional resources to invest, particularly in youth on your reservation?

How would you best invest those resources into the lives of young people on the reservation that you believe would move them in a direction that is counter towards gang activity? That would be very helpful to us, and frankly, you do this all day every day. It is what you have committed your lives to do, and I think you could be very, very helpful to this Committee in trying to evaluate the investment in youth that might be most productive.

I am going to end the hearing at that point, and I will tell those who are in the audience and others that we will keep the hearing record open for two weeks, and those who wish to submit written testimony are welcome to do so, to add to the permanent record of this Committee.

I thank the witnesses for the hearing. This hearing is adjourned.

[Whereupon, at 3:30 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Mr. Chairman, thank you for your continued leadership of this Committee and your dedication to finding ways to help Native America fight reservation crime and in particular the growing influence of gangs.

I would like to begin by welcoming Brian Nissan, a member of the Colville Tribal Council. Brian traveled 3,000 miles discuss his, and the Colville tribes' efforts to combat the influence of gangs on their reservation.

Over the last five years, the Colville tribal police have seen a large increase in gang activity on the reservation and have document the presence of at least six distinct gangs. More recently the tribe has had to deal with shocking incidences of violence between rival gangs with limited resources.

At any given time there are only three Bureau of Indian Affairs officers available to cover the tribes nearly 2,300 square mile reservation.

I know that the Colville tribe has implemented culturally appropriate programs in their schools to help keep their youth from becoming involved with gangs, but I also look forward to receiving the tribe's recommendations for combating gang violence.

I would also like to welcome Chief Carmen Smith from the Warm Springs Tribe of Oregon. Carmen has been working cooperatively with several tribes in my state to combat the drugs and gangs that are infesting reservations across the Northwest.

It is my hope that the Tribal Law and Order Act of 2009, when passed, will encourage these kinds of collaborative task forces and coalitions.

In the mean time I will continue to encourage the BIA too support tribal initiatives to fight crime on their reservations.

We are here today to receive testimony on the increased challenges tribes face in dealing with gangs, both homegrown and foreign. I believe that the Tribal Law and Order Act of 2009, which I co-sponsored, will play an important role in assisting tribes in combating the problem of gangs.

I am encouraged by all of the efforts these two tribes have taken to keep their reservations safe; however, I am concerned that we won't be hearing from any witnesses representing the Bureau of Indian Affairs or the Department of Justice.

These two agencies play a hugely significant role in law enforcement on reservations yet they are absent today.

Their absence combined with their recent admission that no verifiable data on the rate of violent crimes on Indian reservations exists further solidifies my belief that the Tribal Law and Order Act of the 2009 needs to be passed into law as soon as possible.

Once again, my thanks to Chairman Dorgan for his dedication to these issues, and I look forward to working with you to enact into law the Tribal Law and Order Act of 2009.

PREPARED STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

I want to thank Chairman Dorgan and the Indian Affairs Committee for holding this hearing to examine the increase in gang activity in Indian Country. My home state of Oregon has certainly been impacted by this problem, and I am especially pleased that the Confederated Tribes of Warm Springs are represented here by Police Chief Carmen Smith and Detective Bill Elliott. I share with Chief Smith and Detective Elliott very serious concerns about activities of organized gangs on Indian reservations.

I am pleased not only that the Committee is devoting attention to this issue, but also that other federal agencies are focusing on this problem. The Department of Justice (DOJ), Bureau of Indian Affairs (BIA), and the Federal Bureau of Investigation (FBI) are all studying this issue and working to address it. I applaud the efforts

of Associate Attorney General Thomas Perrelli to hold a series of regional meetings and to organize a national meeting to study the problem and formulate a response.

Already there is a great deal of evidence of that gang activity in Indian Country is a serious and increasing problem. The crime rate in Indian Country is higher per capita than for any other racial group. In Oregon, at least three Tribes have reported experiencing drug-related gang activity, including manufacturing, distributing, and selling meth, marijuana, and cocaine. The FBI and federal prosecutors report that gangs are also responsible for an increase in violent crime on Indian reservations, such as beatings, gang rapes, elder abuse, home invasions, and drive-by shootings. Gangs use these violent tactics to assert authority and terrorize Tribe members.

There is no doubt that this growing gang problem presents grave issues for both Native Americans as well as society beyond Indian Country. Gang activity disrupts and endangers the lives of those residing in Tribal Housing Authority residences. Gangs are also able to use Indian reservations as bases of operation to facilitate drug manufacturing and trafficking. It is clear that entrepreneurial drug gangs are able to exploit Indian Country due to a lack of tribal law enforcement resources, jurisdictional barriers, and other challenges that have prevented stronger coordination between local, state, federal, and tribal law enforcement agencies.

As the Native American population has become more centralized, an increasing number of tribal members reside in Tribal Housing Authority property managed by the Department of Housing and Urban Development (HUD). Drug gangs have infiltrated many of these housing developments by moving in with residents or by recruiting residents into the gang. These public housing communities are now experiencing the same problems that affect similar neighborhoods off reservations in urban areas.

For example, the Warm Springs Tribal Gang Unit has documented 86 gang members who are currently active on their reservation. Two-thirds of the gangs that are active on the Warm Springs reservation have members who are residents or live with residents of HUD districts. In the West Hills, the Warm Springs HUD district with the highest level of violence, gangs have been responsible for assaults, property damage, and drive by shootings.

The dramatic upsurge in the proliferation of street gangs on Indian reservations has generated a parallel increase in drug-related violence for the Northwest Tribes. Once established, it is very difficult to eliminate the gang presence and to end the commission of violent crime in these housing developments.

In addition to using violence to intimidate the community, gangs rely upon drug revenues and drug dependency to further control Indian reservation residents. Gangs understand that Indian reservations provide a vulnerable population that is prone to substance abuse. They also realize that Indian reservations present an opportunity to expand drug sales without infringing on established turf. The gangs have focused their expansion on communities with little or no law enforcement presence. They have also targeted youth on reservations, often directing activity towards schools, social centers, and residential areas where youth are prevalent.

A growing dynamic associated with gangs and drug trafficking in Indian Country in the involvement of Mexican Drug Trafficking Organizations (DTOs). A number of Mexican DTOs are using Indian reservations to stage their operations. Members of DTOs have taken control of residences in tribal housing developments. Most Tribal police departments simply lack the resources and capacity to handle the problems presented by these DTOs. In addition to being heavily armed and very violent, Mexican DTOs pose cultural and language challenges, as well as jurisdictional problems, for tribal law enforcement agencies. Further, the DTOs move their activities from reservation to reservation in order to avoid detection and apprehension, and to exploit the inability of local, state, and federal law enforcement authorities to operate on Tribal lands.

To help combat this growing problem, I support the establishment of an Inter-Tribal Law Enforcement Mutual Aid Program (ITLEMAP) patterned on the HIDTA model, but tailored to meet the challenges confronting Indian tribes. This program would enable tribal law enforcement agencies to pool resources and information, and would allow gang and drug issues in Indian Country to be addressed at a regional level. Just as HIDTA has proven to be a successful tool for non-tribal law enforcement, I believe ITLEMAP would help tribes tackle these challenges that are not isolated, but span reservations across the Northwest.

I want to commend the exceptional effort put forward by more than 20 tribes in Oregon, Washington, and Idaho to design ITLEMAP. I especially want to recognize Chief Smith and Detective Elliot for their leadership, without which this proposal would not have been possible. Reaching agreement on the vexing problems that had to be resolved in order to formulate this proposal was a daunting challenge.

ITLEMAP demonstrates that tribal law enforcement agencies not only have the capacity to cooperate across multiple Indian reservation and state boundaries but also understand the multi-faceted approach needed to address serious gang and drug issues.

If implemented, ITLEMAP would provide organization, funding, and personnel to tribal law enforcement efforts across the Pacific Northwest. It would allow tribes to address the pressing criminal challenges discussed at this hearing: gangs, drug manufacturing and trafficking, violent crime, and the general lack of manpower in Indian Country. ITLEMAP would give tribal law enforcement agencies expanded capacities such as specially-trained tactical units, temporary force enhancement, targeted investigations, and dedicated analytical assistance.

ITLEMAP would provide trained regional tactical response units capable of handling critical incident events, border security, and counter-drug operations such as marijuana surveillance and eradication efforts. This program would allow tribal police agencies to assist one another on large, complex violent crime or narcotics investigations, and to share information with each other in a way that facilitates investigations and enhances officer safety.

As stated, ITLEMAP is patterned on HIDTA, which provides states with an analytical division designed to support drug based investigation, and disseminate intelligence to agencies that may be affected by organized DTOs. Under the HIDTA model, the program provides specific funding for initiatives submitted by participating agencies. Each initiative receives the assistance of the HIDTA analytical division to build the funding justification and track the spending and results. The analytical division consolidates all of the data and intelligence to assess necessary funding levels and determine where increased funds are justified.

While based on HIDTA, ITLEMAP is tailored to meet tribal law enforcement needs. It would provide tribal officers with the authority to work in all Tribal jurisdictions in the region. They would be able to assist at the request and consent of the affected reservation, provide short-term manpower support, technical support, and criminal analysis support. Already tribal officers have begun to work together on projects including grants, aviation, equipment, and training. Officers are working to establish teams that could locate gang members, conduct surveillance and arrests, and carry out eradication operations.

The collaborative effort of all participating Tribal enforcement agencies will build on the strength of the regional law enforcement community. This program, if funded, could be easily replicated in other regions and would contribute to the overall strength of Indian Country. However, establishing this program will be expensive. Implementing ITLEMAP would costs tribes well over $100,000 a year. I believe serious nature of the gang and drug problems that exist in Indian Country justify federal expenditures to help fund ITLEMAP. I encourage the committee, BIA, and DOJ to work together to help facilitate this effort and fund the project.

Again I want to commend the Chairman for holding this very important hearing, and I look forward to working with him and the members of the Indian Affairs Committee to address the criminal problems posed by gangs and drugs in Indian Country.

PREPARED STATEMENT OF W. PATRICK RAGSDALE, DIRECTOR, OFFICE OF JUSTICE SERVICES, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Chairman Dorgan, Vice-Chairman Barrasso, and Members of the Committee, I am pleased to provide this statement for the record on behalf of the Department of the Interior regarding youth gangs in Indian country.

Law enforcement and judicial jurisdiction over criminal activity related to gang activity in Indian Country usually overlap with other jurisdictions. For example, numerous tribal jurisdictions border towns and cities that in many cases are home to significant Indian populations.

The 2007 National Youth Gang Survey, sponsored by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, reported that there are about 27,000 youth gangs and about 788,000 identified gang members in America. The Federal Bureau of Investigation (FBI) is currently conducting a study specifically focused on Indian country that will provide more detailed information. However, it is evident that Indian country communities face many of the same challenges that other rural and urban communities face, and require the same suite of law enforcement and community services in order to successfully counter the threats posed by increasing gang activity. Law enforcement, the courts, social and education services are critical to working with families and parents to provide resources to address problems associated with gang activity.

The Bureau of Indian Affairs (BIA) believes there is a direct influence between local drug distribution activity in Indian country and traffic involving larger drug distribution cartels. These cartels play an ancillary and sometimes direct role in the gang activity in Indian country.

The Bureau of Indian Affairs (BIA), working with our federal, tribal and state/local partners, is developing an intelligence program to improve our ability to address and eliminate gangs and drug cartels in Indian country. The Department proposed in the FY 2010 budget to add six additional intelligence analysts to improve information gathering and the ability to process data to determine proactive measures. The proposed analyst positions may be placed at critical locations to work in conjunction with other intelligence agencies. The two analyst positions currently are located at El Paso Intelligence Center (EPIC) in Texas. The two analyst positions at EPIC work in conjunction with all of the various federal intelligence agencies to track gang and drug activity in the southwest as well as other locations where there is known drug cartel activity.

An effective strategy for dealing with gangs that promote illegal activities must be holistic. This means the strategy must encompass community involvement through joint efforts by the police, courts, schools, and social services. Most importantly, this means developing programs that work with the families of youth to afford them more constructive activities and alternatives to gangs.

We must be more aggressive in policing to effectively enforce laws that prohibit crime. At the same time, police should be working with educators, community service providers and community leaders to address the issues that cause increased gang activity and related public safety concerns. There is a wealth of information, activities and programs that foster this end. The BIA recently advertised and hired a number of school resource officers that are or will be specially trained to teach and work in schools. We have also placed officers at strategic locations throughout the United States to work with other law enforcement agencies to combat and interdict criminal drug trafficking. We have engaged community policing resources to work with the communities to prevent and combat crime.

Cooperative policing by the various jurisdictions is essential in dealing with gangs because gang members seek to exploit perceived gaps in law enforcement capacity across jurisdictions. For example, communication, coordination and collaboration is vital with other jurisdictions that have gang units to share intelligence, develop strategies, and work cooperatively to enforce laws. The FBI safe trails task forces, the Drug Enforcement Administration, and the U.S. Marshals Service Investigative Operations task forces are prime examples of effective inter-jurisdictional policing. Police working with Boys and Girls Clubs, schools, child welfare and probation services are other mechanisms of a total community holistic approach.

Gang violence and influence as a conduit to other criminal activity is a problem. Better policing requires focused attention on all aspects of the community. The ability to respond to all types of calls for help in the community is critical. Gang activity thrives in situations where resources are limited and community support is lacking. A successful effort to thwart gang activity will require determined action by everyone involved, including law enforcement, parents of youth, communities, schools, courts, and federal, tribal, and state/local officials.

PREPARED STATEMENT OF ROBERT B. COOK, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Chairman Dorgan, and Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association with regard to the increase of gang activity in Indian country and its impact in education.

Founded in 1970, the National Indian Education Association is the largest organization in the nation dedicated to Native education advocacy issues and embraces a membership of nearly 4,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents, and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students. NIEA works to ensure that the federal government upholds its responsibility for the education of Native students through the provision of direct educational services and facilities that are safe and structurally sound. This is incumbent upon the trust relationship of the United States government and includes the responsibility of ensuring educational quality and access. The environment in which instruction and educational services are provided

is critical to the achievement of our students to attain the same academic standards as students nation-wide.

The health, well-being, and success of Native children are central to tribal sovereignty. Tribal governments are responsible for raising, teaching, and caring for children, and Native children in turn form the backbone of future tribal success. The National Congress of American Indians (NCAI), the National Indian Health Board (NIHB), the National Indian Education Association (NIEA), the National Indian Child Welfare Association (NICWA), and the National Council of Urban Indian Health (NCUIH) brought together their knowledge and expertise to create a joint policy agenda for American Indian and Alaska Native children's issues. The goal of this initiative is to set forth specific recommendations to improve the social, emotional, mental, physical, and economic health of children and to improve their learning capacity and developmental potential, which in turn will lead to increased self esteem and decreased negative lifestyle choices for Native youth.

This agenda is intended as a tool to assist tribal leaders and other policy-makers in creating and implementing a vision for a healthy community. It is also intended to guide stakeholders in identifying legislation and policy issues that may affect Native children. We identify four overarching themes that we believe must be guiding principles for improving children's lives and outcomes. Within each theme, the agenda sets forth tribal strategies and policy objectives to implement these principles. The themes are:

- **Healthy Lifestyles.** Our children must have the resources they need to develop strong self esteem and the life skills needed to usher them into adulthood. One of these resources is good health. Children who are physically and emotionally healthy are more able to play, learn, and work.
- **Safe and Supportive Environments.** Children who have their basic needs met, including love, shelter, food, clothing, and play, are children who are more likely to go on to thrive, explore, learn, and dream. Our children must be protected from unsafe environments and supported by our communities.
- **Successful Students.** Children who are healthy, safe, and nurtured achieve to the best of their abilities. Our children need skilled teachers, sound curricula, and family involvement so they can gain the abilities they need for present and future fulfillment.
- **Stable Communities.** In order to invest in children and the community structures that support them, tribal governments must have options for economic development and flexibility to channel tribal and federal funds into programs that best support their members. The objective is to foster economically self-sufficient communities which can support community programs that provide basic support for children and families.

In 2004, 22 percent of American Indian and Alaska Native high school students reported being threatened or injured with a weapon on school grounds in the previous twelve months, compared to 11 percent of black, 9 percent of Hispanic, and 8 percent of white students.[1] As reported in *A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems* a survey conducted in 2000 found that 23 percent of Indian country respondents had active youth gangs in their communities. A field study on gangs in the Navajo Nation found the spread of youth gangs was facilitated by specific structural factors in the community including: frequency with which families move off and onto the reservation, poverty, substance abuse, family dysfunction, housing, and a declining connection to traditional cultures.[2]

NIEA, NCAI, NIHB, NICWA, and NCUIH have formulated the following recommendations as strategies to comprehensively meet the needs of Native children and serve as preventative measures to address and reduce gang activity. NIEA supports increased resources for the following preventative policies and programs as a means to reduce destructive lifestyle choices for Native youth.

- Engage in tribally initiated partnerships with community members and nonprofit organizations to offer organized activities for at-risk or delinquent youth, such as Boys and Girls Clubs or elders as mentors.

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[1] U.S. Department of Education, National Center for Education Statistics. 2005b. *Status and trends in the education of American Indians and Alaska Natives* (NCES 2005–108). Washington, DC: Government Printing Office.

[2] Arya, Neelum & Rolnick, Addie C. (2008). *A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems,* 6. Campaign for Youth Justice.

- Invest in alternatives to detention and work to reduce over-reliance on secure detention in cases where it is not absolutely necessary. For the majority of delinquent youth, non-detention programs are more effective and economical.
- Construct and staff places for youth to spend time after school and during the summer months.
- Provide cultural activities and life skills programs that promotes leadership among Native youth.
- Create tribal reentry programs which are critical to ensuring that youth coming out of detention can transition back into work or school, rather than falling again into delinquent behavior or crime.

In the vein of the Native Children's Agenda, NIEA supports provisions that make tribes directly eligible for federal juvenile justice program funding, including funding for diversion, intervention, and rehabilitation services. This includes sufficient funding at the Department of Justice and Bureau of Indian Affairs (BIA) available to tribes through combined flexible tribal grant programs that combine education, preventative, and rehabilitative services. NIEA believes that the Bureau of Indian Education (BIE) schools at the Department of Interior offer the greatest promise for school based partnerships with the tribe and community for addressing gang activity through positive Native youth development, prevention and intervention programs. These potential programs for partnership include, but are not be limited, to the following: Tribal Courts (probation programs for juveniles), child protective services, and BIA/Tribal Social Services, BIA/tribal law and order, Boys and Girls Clubs, Indian Health Services, and BIA education programs such as the Johnson O'Malley program.

Additionally, NIEA recommends the establishment of an Interdepartmental Task Force on Native Youth with a focus similar to the Native Children's Agenda that will focus on comprehensively meeting the needs of Native youth. In addition to education issues, a priority focus of the Task Force should include gang prevention and intervention programs. The Departments of Education, Interior, Health and Human Service Justice, and Housing and Urban Development would comprise the Interdepartmental Task Force, and would be charged with identifying and establishing the levels of need, recommendations to meet the needs, and an implementation plan based on the recommendations.

Finally, intermediate sanctions and alternatives to detention are not widely available in tribal communities[3] and current policies result in Native youth over-representation among those youth in detention and among youth waived into the adult criminal system, despite that these acts are mostly low-level offenses.[4] As a result, Native youth are often forced to leave their communities in order to receive rehabilitative services, a practice that is reminiscent of the era when Native youth were sent away to federal boarding schools. Programs that rehabilitate, treat, and redirect delinquent youth in their communities are critical to ensuring that youthful misbehavior does not lead to dysfunction and criminality in adulthood.

In conclusion, NIEA thanks the Committee for their attention to this increasing problem in Indian country and encourages the Committee to support legislation that provides for increased federal resources in preventative programs and policies.

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[3] Arya, Neelum & Rolnick, Addie C. at 14.
[4] *Id.* at 8, 20–24.

PREPARED STATEMENT OF THE PUYALLUP TRIBE

Mr. Chairman, Ranking Member Barrasso, the Puyallup Tribe thanks you and the Committee for its support of many tribal issues and for your interest in tribal law enforcement issues. We support the Tribal Law and Order Act and the bill's goal to bring greater local control to tribal law enforcement agencies to combat reservation crime and to establish accountability measures for federal agencies responsible for providing public safety in Indian Country. We submit this testimony to offer recommendations for improving the legislation. We also submit for the record testimony that we provided to the Committee regarding gang violence and the work the Tribe was doing to respond to this issue. I also attach a recent news article that unfortunately reports that the gang activity on the Puyallup Reservation is again on the rise. We are working jointly with all of the local agencies to respond to this to ensure that it does not continue to escalate.

I. FUNDING

The lack of financial resources for law enforcement is a significant barrier to the provision of effective public safety services in Indian Country. For example, the Puyallup Nation Law Enforcement Division currently has a Chief of Police, twenty-eight (28) commissioned officers and one (1) reserve officer to cover 40 square miles of reservation, in addition to the Tribe's usual and accustomed areas. The officers are charged with the service and protection of the Puyallup Reservation seven days a week, twenty-four hours a day. The Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. The 18,061 acre reservation encompasses most of the City of Tacoma, but the area is a "checkerboard" of tribal lands, Indian-owned fee land and non-Indian owned fee land. Our reservation land includes parts of six different municipalities (Tacoma, Fife, Milton, Puyallup, Edgewood and Federal Way). The Puyallup Tribe also provides services for 4,004 tribal members and over 25,000 additional Native Americans from over 355 federally recognized Tribes and Alaskan Villages.

Again, a major concern of our urban Tribe remains the impact of gang activity on the Puyallup Reservation. Currently, there are forty (40) active gangs on the Reservation. Gang activities include drug trafficking, weapons sales and turf wars, which result in drive-by shootings, serious assaults and homicides. Interstate 5 runs through the Puyallup Reservation and is known as a drug corridor. With the continuing population growth in our area, the increase in gang-related activities on the Puyallup Reservation and the impact of the increase in the

manufacture of methamphetamine in the region, the services of the Puyallup Nation Law Enforcement Division are exceeding maximum levels.

Due to limited federal funding for law enforcement in Indian Country, only two (2) officers are funded with P.L. 93-638 funds. The remaining twenty-six (26) officer and nine (9) detention officer positions are funded by the Tribe. The total cost of justice services, including facilities operations and maintenance, exceeds $5.7 million per year. These costs are also paid for by the Tribe.

Recognizing the importance of adequate financial resources, the bill contains several provisions that authorize new or increased funding for tribal courts, detention facilities, treatment facilities, emergency shelters, and police. We support including these provisions in the bill, but the effort cannot end with passage of authorizing legislation. Each of these provisions will require a significant commitment of federal funding if they are to succeed. The bill's new grant programs will mean little if they are never funded. Larger initiatives, such as the construction of new detention facilities, must be funded at the full authorized level to accomplish the bill's objectives.

We also ask that you consider including the initiatives we describe below in your bill. Based on our experiences, we believe these changes would greatly improve tribes' ability to ensure that effective public safety services are provided for their members.

A. Pilot program for detention projects

The bill should create a pilot program within the Department of Justice in which a tribe could elect to receive all detention-related funding through the DOJ. A major contributing factor to the detention crises in Indian Country has been the lack of communication and coordination between the BIA and the DOJ. The DOJ provides grants to construct detention facilities and the BIA is responsible for licensing, operating, maintaining, and staffing those facilities, yet the two agencies seem to have different priorities and conflicting policies. Some detention facilities are built but never opened; others remain unfinished. Tribes are sometimes told that DOJ-funded facilities do not meet BIA standards. The DOJ currently requires a commitment of operational funding before it will provide a construction grant, but the BIA is reluctant to provide such a commitment.

The Puyallup Tribe has faced significant barriers because of this lack of communication and coordination. The Puyallup Tribe had been operating its regional detention facility out of a modular/temporary facility since our detention center was damaged in the February 2001 Nisqually earthquake. This temporary facility was recently inspected by the BIA OLESEM Division of Professional Standards and the inspection resulted in a failing grade for not meeting BIA standards. Prior to this, the Tribe had initiated the design and construction of a 28,000 square foot "Justice Center" to be located on the Puyallup Indian Reservation, but has run into procedural barriers for years. Tribes should have the option to work through a single agency to avoid these complications.

B. Streamlined Department of Justice grant program

In order to facilitate tribal participation in DOJ grant programs and to maximize efficiency, the bill should authorize tribes to enter into streamlined agreements with the Department of Justice through which they could apply for, receive, and administer funding from DOJ's various tribal grant programs, regardless of the agency through which the funds are administered. This option would simplify application requirements and could also allow tribes greater flexibility in how funding can be used. This is important because tribes must now expend significant resources simply tracking down the available DOJ grant programs and determining whether the funded activities fit within the tribe's current justice system needs. We have experienced this frustration firsthand, as we have expended innumerable resources trying to secure a grant to build our Justice Center. A model for this streamlined process can be found in the Education and Labor 477 Program.

This type of streamlined grant process was previously available through the DOJ's Comprehensive Indian Resources for Community and Law Enforcement (CIRCLE) Project. Evaluators found that streamlined funding created incentives and opportunities for system-wide improvements. We suggest reviving a similar program. Such a program should include at least the COPS grant program, the Tribal Courts Assistance Program, the Drug Court Discretionary Grant Program, the Correctional Facilities on Tribal Lands Program, the Tribal Youth Program, the Juvenile Accountability Block Grant Program, the Indian Alcohol and Substance Abuse Program, the Comprehensive Approaches to Sex Offender Management Program, and the OVW Tribal Grants Program. It should incorporate a single set of requirements and a single application procedure for all included grants, and it should require the DOJ to notify participating tribes of all included funding opportunities as they become available.

C. Direct eligibility for DOJ grant

The bill should amend authorizing statutes to make tribes directly eligible for local law enforcement assistance programs and similar block grant programs from the Department of Justice. In particular, the Edward Byrne Memorial Justice Assistance Grant program, Public Law No. 109-162, Title XI, Section 1111, does not provide for direct grants to tribes. However, block grant programs provide substantial law enforcement assistance to state and local governments. While some tribes receive pass-through funding from states, many states impose restrictions or matching requirements and other states do not pass funding through to tribes at all. If tribes are made directly eligible for these grants, tribal governments would be able to benefit from those programs that provide critical support for law enforcement departments across America.

D. Negotiated rulemaking

The bill requires agencies to review and update existing regulations relating to tribal law enforcement and justice programs. We believe this process would be most effective if these agencies were required to engage in a negotiated rulemaking process with tribes for each of the major new regulations or programs authorized in the bill. The negotiated rulemaking process would provide an important way to bring tribes and agencies together to work through some of the most significant issues that have plagued tribal justice systems in recent years.

Specific issues that could be addressed through negotiated rulemaking are the responsibility of various agencies to provide construction, operational, educational and health services in detention and correctional facilities and how all these elements will be addressed for each new facility.

E. Police officer hiring and retention

We support the efforts in the bill to address problems relating to police officer training, such as requiring the BIA to permit tribes to train at alternative locations more convenient to the tribes and strengthening the SLEC program. We strongly support these provisions and believe they will help tribes fill some of the gaps in law enforcement. We would urge that the bill be clarified so that its provisions regarding training flexibility include not only police officers but other law enforcement personnel as well, including detention officers.

Moreover, a lack of adequate and accessible training is not the only reason there are not enough officers in Indian country. The BIA and tribes have found it difficult to hire and retain enough qualified officers, especially on very remote reservations. This difficulty is compounded by the fact that funding is insufficient to pay officers an adequate salary or provide them with competitive benefits. The bill should also address and authorize funding for the hiring and retention of law enforcement officers, including pay increases, adequate housing, access to additional benefits and retention bonuses.

To assist tribes in addressing the short-term need for more officers, the bill could authorize a pilot project to support on-the-job training programs, which would permit officers-in-training to ride along with certified officers. The pay and training requirements for these officers-in-training would be less than for certified officers, helping tribes to supplement understaffed police departments and cultivate future officers with less expense to the tribes.

In closing, the Puyallup Tribe of Indians would like to thank you for introducing S.797 and for the opportunity to provide testimony on this important subject. We look forward to working with this Committee, the Administration and Tribal leaders to continue the development of legislation to address the serious law enforcement issues facing Indian Country today.

Attachments

Testimony of the Chairman Herman Dillon
Senate Committee on Indian Affairs
Oversight Hearing on Law Enforcement in Indian Country
June 21, 2007

I would like to thank the Committee for asking me to testify today on behalf of the Puyallup Tribe about law enforcement needs in Indian country. The Tribe was pleased to have Chairman Dorgan visit the Puyallup Reservation recently to see some of our needs firsthand. I would also especially like to thank Senator Cantwell for inviting us. As the Senator from Washington, she is all too familiar with the gang and drug problems we are facing. She understands that these problems affect all of us – Indians and non-Indians alike – and that we – tribes, states and the federal government – must cooperate in order to find solutions. I thank her for working with us to do this.

I. Law Enforcement in Indian Country

The need for basic law enforcement resources across Indian country is severe. In 1997, the Department of Justice estimated that at least 2000 additional officers were needed just to meet minimum safety standards.[1] This need has become even more pressing in recent years because of increased methamphetamine use, production and trafficking on reservations. Police officers working on reservations frequently patrol alone because of personnel shortages. Understandably, newly-trained and veteran officers often leave to take jobs that require less of a risk to their personal safety, exacerbating officer shortages. Equipment needs are equally significant. It is a vicious cycle – lack of funding for even the most basic elements of a law enforcement program is part of what contributes to the perception that reservations are "lawless" places. This perception is what makes our communities attractive to drug dealers, which in turn increases the need for federal resources.

And law enforcement in Indian country is much more than police. Tribes also operate court systems, detention facilities, drug treatment services and other alternatives to detention. Many tribes have invested in preventative programs, such as youth centers, youth activity programs and drug education. As governments, we recognize our responsibility for fostering positive change and rehabilitation, even in our jails. More often than not, the inmates are people from our community who will be returning to the community when they are released, so we have a particular incentive to help them pursue positive changes. Otherwise, we will be stuck in a cycle of arresting and locking up our own people.

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[1] U.S. Dep't of Justice, *Report of the Executive Committee for Indian Country Law Enforcement Improvements: Final Report to the Attorney General and the Secretary of the Interior* (October 31, 1997).

II. Puyallup Tribal Law Enforcement

The Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. Our 18,061-acre reservation encompasses most of the City of Tacoma, but the area is a "checkerboard" of tribal land, Indian-owned fee land, and non-Indian owned fee land. Our reservation land includes parts of six different municipalities (Tacoma, Fife, Milton, Puyallup, Edgewood and Federal Way). The Puyallup Tribe also provides services for 3,680 tribal members and over 24,000 additional Native Americans from over 345 Tribes and Alaska Native villages in our service area.[2] We share law enforcement authority with both the state/local and federal governments. Because so many governments are involved, because of the checkerboard nature of our land, and because the reservation touches many different local jurisdictions, the answer to which government has jurisdiction over a specific crime depends on who the defendant is, whether the land is trust land, and which local jurisdiction the land is in.

Washington is a Public Law 280 state, which means the state exercises some jurisdiction in Indian country, but the state's jurisdiction is limited to a few specific subject areas.[3] In addition to those specific areas, the state has jurisdiction over crimes committed by Indian people on non-trust land, and jurisdiction over all crimes committed by non-Indians on the Reservation. Of course, this does not mean that the Tribe has no law enforcement authority. PL-280 did not strip tribes of their inherent jurisdiction, so the Tribe shares authority with the state over Indian people who commit crimes on non-trust land and over Indian people on trust land in the subject areas described above. The Tribe also continues to exercise broad criminal jurisdiction – exclusive of the state – over Indian people on trust land. Finally, the federal government has responsibility for law enforcement on the reservation, particularly over major crimes committed by Indian people.

The Puyallup Nation Law Enforcement Division currently has 24 commissioned officers and three vacant positions. These officers are charged with the service and protection of the Puyallup Reservation seven days a week, twenty-four hours a day. Our officers are also responsible for enforcing tribal hunting and fishing laws in our "usual and accustomed" fishing areas off the reservation. For tribes in the Northwest and other areas with treaty-protected off-reservation hunting and fishing rights, enforcement of tribal hunting and fishing codes consumes an enormous amount of tribal law enforcement resources.

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[2] The City of Tacoma has the sixth highest percentage among U.S. cities of American Indians and Alaska Natives, 3.6% of the total population.

[3] In 1957, the Washington elected to assume jurisdiction over Indian country within the state pursuant to the voluntary provision of Public Law 280. 25 U.S.C. § 1231. Washington assumed criminal and civil jurisdiction only over eight specific subject areas – compulsory school attendance, juvenile delinquency, public assistance, domestic relations, mental illness, adoption, dependent children and certain motor vehicle offenses. Wash. Rev. Code § 37.12.010. It exercises more extensive jurisdiction over some reservations pursuant to tribal consent, *see* Wash. Rev. Code § 37.12.021, but Puyallup is not one of those tribes.

We also have a tribal court and an adult detention facility. We have an agreement with the county to house our juveniles in the county juvenile facility. Our tribal court has full criminal jurisdiction over Indian people, although under the Indian Civil Rights Act our court can only sentence people to up to one year in jail and/or up to a $5,000 fine. The Puyallup tribal court regularly handles minor drug sales and possession cases, some shootings, and other incidents. The United States Attorney has jurisdiction over serious crimes committed by Indians on the Reservation but, as I describe below, federal enforcement is very limited in practice. Instead, when more serious incidents occur, tribal prosecutors sometimes elect to have the county prosecute tribal members so that longer sentences can be imposed.

We operate our law enforcement department and our detention program pursuant to a self-determination contract with the BIA. Puyallup has also received COPS grant funding for several years. This funding has been very important to our law enforcement program, especially for purchasing new and updated equipment. However, the Committee should understand how little money tribes actually receive from federal sources. Contract funding covers the salary for one police officer and one detention officer. COPS funding helps us with equipment costs. But the other 26 police officer positions and nine detention officer positions are funded by the Tribe.

III. Gangs on the Puyallup Reservation

We have 28 active gangs on the Puyallup Reservation. A few of these gangs are Native gangs, others are national gangs with Native members, and still others are non-Native gangs that operate on or near the Reservation. Many members are teenagers, but we have seen gang members as young as eight years old. These gangs are involved in drug trafficking, weapons sales, and turf wars. I-5, which runs from Mexico through San Diego and up the coast all the way to Canada, runs through the Puyallup Reservation and is known as a drug corridor. We regularly encounter methamphetamine, crack cocaine and Oxycontin. Pierce County is also home to at least 31 meth labs – the highest in the state. We have drive-by shootings on a weekly basis.

Between December 2005 and March 1, 2006, we had a particularly brutal spell, with 15 drive-by shootings on the Reservation. Two of our tribal members were killed. One of them, Joseph Dillon, was not even involved in gangs. He was a graduate of our tribal high school. Just before Christmas, members of the East Side Pirus, a non-Native gang from the East Side of Tacoma, fired several shots through the side of Joe's mother's house. The shooters were probably after Joe's cousin, Donald George-Oya. Donald, who dropped out of high school after 10th grade, was affiliated with a gang called the Native Gangster Crips. NGC was involved in a gang war with the Pirus, and the drive-by was an act of revenge. But, as is the case in many drive-by shootings, the shooters just aimed blindly into the house where they thought Donald lived and fired. One shot hit Joe by mistake, killing him. At Joe's funeral, the police arrested his younger brother, Dale Oya, in connection with an earlier shooting. Then, just weeks later, the Pirus found Donald riding his bike and fired 29 rounds into his body. In a matter of weeks, this family lost three of its young men to gang warfare.

The escalating violence is just a symptom of a gang problem that now goes back three generations in our community, and we are worried about what this means for our youth in the future. Nearly half of Puyallup tribal members are 17 years old or younger, and one-third of them are under 10 years old. As they grow up, our children are facing many of the risk factors that we know can lead to gang involvement, such as poverty (73% of students at our tribal school qualify for free or reduced lunch), lack of education (the dropout rate for Native students in Washington state is consistently twice that of all students), and family instability (the number of dependency, guardianship and family services cases at Puyallup more than doubled between 2000 and 2006).[4]

The Puyallup Tribe has responded to the gang problem. We established a Gang Task Force about four years ago comprised of the Tribal Police Department, representatives from various Tribal Services Divisions and community members. The Gang Task Force developed a working definition of a street gang and a four-pronged approach to gang prevention activities: (1) enforcement, (2) intelligence, (3) education, and (4) and physical-mental health. We believe this fourth prong is often overlooked in other communities, and our police work closely with our family and social services departments to ensure that we address problems like substance abuse among our members.

The Tribe also pays each year to send its officers to receive specialized gang training from the National Gang Crime Research Center. In fact, Puyallup officers have recently become presenters at these conferences, drawing on our experience to assist other jurisdictions and partnering with the NGCRC to focus more on the needs of tribal communities. Of course, such a major law enforcement undertaking will require more officers, additional and continued training, specialized equipment, and better detention facilities for adults and juveniles. Right now, our police department could use an additional 3-4 officers dedicated to gang issues, so that the informal gang operations unit can focus on intelligence and tracking. We are doing what we can, but <u>we cannot afford to be shortchanged in law enforcement resources</u>.

IV. Cooperation with State Law Enforcement

The Tribe works closely with state and local law enforcement authorities. We recognize that in this day and age, such inter-jurisdictional cooperation is essential. We are fortunate to have a good working relationship with the state, county and city agencies. We have had intergovernmental agreements with Pierce County and the City of Tacoma for many years, and we recently entered into one with the City of Fife. Our tribal police officers are cross-deputized, so that we can arrest people under city or county jurisdiction, then turn them over to the local authorities to be processed. Working together with the state is especially important for us because much of the crime in our community is perpetrated by non-Indian people. Of all arrests made by Puyallup Tribal

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[4] In a report on youth gangs in Indian country, the Office of Juvenile Justice and Delinquency Prevention found that social problems in the community were the greatest contributor to growing gang problems on reservations. Major, et al., *Youth Gangs in Indian Country* (OJJDP Bulletin, March 2004), at 11.

Police, over three-fourths are of non-Indian people. Arrests of non-Indian people by tribal police increased 15% between 2004 and 2006, while the number of arrests of Native people decreased.

We are thankful that last summer, the Tacoma Police Department established a gang response unit. They also have an officer specifically assigned to tribal issues. The Puyallup Tribal Police Department now meets monthly with the Tacoma Police to share information. This kind of information-sharing is essential for gang work because the gangs would use any lack of communication between police departments to their advantage. We have also begun to work cooperatively on "gang emphasis patrols," in which officers saturate an area known to have a lot of gang activity. Through these patrols, we have already apprehended two of our three most wanted criminals and confiscated a number of handguns.

In July 2006, Senator Cantwell convened a roundtable discussion with tribal and local law enforcement agencies in order to discuss resources and solutions. What they found was that the Puyallup Tribe had the most highly-developed gang response strategies of any of the departments operating in the area. Our officers were often the first to come into contact with gang members for low-level offenses. They are also often the first responders to major gang-related crimes. Even more importantly, many of our officers are members of the tribal community, so they are familiar with young gang members and their families. This familiarity helps our officers to be able to do more prevention and intervention work, and it also helps with information-gathering. Our local law enforcement agencies understand this, so we have been able to forge a good working relationship in which the jurisdictions assist each other in order to provide the best possible law enforcement services.

V. Cooperation with Federal Law Enforcement Agencies

Legally, the federal government still has jurisdiction and law enforcement responsibility on the Puyallup Reservation under the Major Crimes Act. In addition, many of the gang and drug crimes we are experiencing would be federal offenses whether or not they were committed on an Indian reservation. The gangs that are active on the Reservation are mostly national gangs, including Crips, Bloods and several major Asian and Hispanic gangs. Drug dealers come through the Reservation as they transport drugs across state lines on I-5, also a federal crime. In particular, we depend on federal assistance when a major crime is committed by an Indian person because, although our jurisdiction is exclusive of the state's, we do not always have all the resources to investigate or the jurisdiction to impose long sentences.

Unfortunately, we get very little help from federal government. In practice, the tribal police have to request federal assistance each time a serious case arises. We recently had a rape occur on trust land, and our primary suspect was an Indian person. We asked the FBI to investigate, but got no response initially. Tribal police had to do almost all of the investigative work. When we had still heard nothing from the FBI, we prepared to prosecute the suspect in tribal court, despite our limited jurisdiction. The FBI

finally responded after the suspect had been in jail for 50 days – just one week before the deadline for a speedy trial. At that point, their role was limited to reviewing and reporting on the investigation already conducted by tribal police.

In another instance, a shooting occurred on trust property, and we were unable to get a response from federal officials. This put the Tribe in a difficult position in terms of investigating the crime because we do not have a Crime Scene Investigation unit. Fortunately, we were able to borrow the City of Tacoma's unit in order to perform the investigation. This example is emblematic of the level of basic law enforcement assistance we generally get from the federal government. Even though the federal government retains jurisdiction in name, it is the state that we rely on in practice to support our efforts.

A major area of concern for the Puyallup Tribe is the ability of tribes to work cooperatively with federal law enforcement agencies. This includes the BIA, but also the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Drug Enforcement Administration (DEA). We are also concerned that federal crime legislation, especially laws relating to gangs and drugs, should be developed in consultation with tribal governments. If tribes are made active partners in law enforcement efforts, and if we can access funding and assistance on at least the same level as other governments, our police departments and courts will be much better equipped to prevent these crimes and to go after these criminals.

VI. Funding

The Puyallup Tribe is in great need of a new detention center. Until 2001, the Puyallup Tribe operated a regional detention facility, providing detention services to many surrounding tribes on a contract basis. Due to damages from the February 2001 Nisqually earthquake, we have had to relocate to modular/temporary facilities, which were not built to any federal/state or tribal health or construction standards. The modular units are fare from secure, though. Since the relocation to modular facilities, the Tribe's ability to effectively and safely incarcerate detainees has been compromised due to the condition of the temporary detention facilities. Last year, an inmate housed in on of the modular units cut a hole in the floor and escaped.

In an effort to protect the safety and welfare of the Native community the Puyallup Tribe has initiated the planning and development of a Justice Center to be located on the reservation. The Justice Center will provide necessary facilities for the delivery of law enforcement and judicial services including a Tribal Court, Court Clerk, Prosecution, Probation, Public Defender and Law Enforcement services, including Police Headquarters and a 32-bed Adult Detention facility. The Tribe has set aside tribal land for the new facility, but we have been unable to get financial assistance for even the planning stages of our new facility.

Of course, we understand that money is tight. Every year, we come to Washington along with other tribal leaders to testify before the House Appropriations

Committee on funding needs for Indian country. For at least the past three years, law enforcement has been one of the most – if not the most – acute area of need. We have heard many other tribal leaders testify that they are in desperate need of funding for police and detention. The deplorable conditions existing in Indian Detention facilities are documented in the September 2004 report issued by the U.S. Department of Interior Inspector General's Office.[5] What is most frustrating, though, is being shuttled back and forth between various governmental offices.

We have approached both the BIA and the DOJ, but funding from both Departments has been at record low levels for the past several years. The agencies simply throw up their hands and tell us there is no more money to construct detention facilities. This year, an increase was proposed for yet another "Initiative" to improve Indian country law enforcement, but the Administration apparently decided to balance this cut by eliminating funding for all tribal justice programs – including courts, detention and intervention programs – within the DOJ. It is extremely difficult to chase scarce funding between two federal agencies which seem to have very little communication with each other, and both of which avoid responsibility by pointing to the other one. We do not believe these agencies – particularly the BIA – should be permitted to abdicate their trust responsibility for Indian issues in this way.

VII. Conclusion

We are very grateful to the Committee for turning its focus to the issue of law enforcement in Indian country. Effectively fighting crime in Indian country requires navigating a complex and shifting set of jurisdictional rules. It means cooperating with state, local and federal law enforcement agencies. It also means weaving together a patchwork of available sources of funding to create a stable funding base. As you move forward with your investigation, we encourage you to look at the following specific areas of concern:

- Limited tribal jurisdiction over serious crimes;
- Allocation of responsibility between the BIA and the DOJ for Indian country law enforcement issues;
- Barriers to cooperation between tribes and federal law enforcement agencies;
- Lack of stable funding for tribal police, courts and detention;
- Lack of funding for related services, such as gang prevention, youth intervention services, recreation, mental health and substance abuse treatment – services that are also essential to reducing crime.

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[5] Office of Inspector General, U.S. Department of the Interior, *Neither Safe Nor Secure: An Assessment of Indian Detention Facilities*, Report No. 2004-I-0056 (September 2004).

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Tribe revives gang task force

By Clare Jensen
Tacoma Weekly
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A recent resurgence of gang violence on the Puyallup Tribal Reservation, specifically tribal housing developments, has prompted a revival of a gang task force to help snuff out such activities.

Two shootings involving tribal members with gang affiliation occurred within two weeks of each other earlier this month. Both occurred within a Puyallup Tribal Housing Authority development at Columbia and 'I' streets. In both incidents, those involved in the shootings were not tenants of the development, but were guests of tribal members who occupied a tribal home.

In 2004, high gang crime rates prompted the development of a gang task force, which included stakeholders from a variety of tribal departments. Over four years, the group met several of its goals, creating prevention, intervention and awareness programs such as peace walks and rallies, the implementation of the Gang Resistance and Education Training (GREAT) program at Chief Leschi School and the addition of a tribal housing officer to help quell unwanted gang activity in housing developments. The task force slowly fizzled out in 2008.

By the end of July 2009, a revamped gang task force will have met three times during the month.

They are now calling themselves the community task force, and are aiming to include members from Puyallup Tribal Council, Puyallup Tribal Police Department, Community and Family Services, Children's Services, Chief Leschi Schools, the housing authority and mental and behavioral health specialists from Kwawachee Counseling Center.

"We've already got good cop suppression going on, but (activity is) kind of heating up on the East Side," said David Whited, grant writer for the tribe. "We need a more concerted effort of prevention and intervention. We need to offer families that are at risk more support services before kids and their parents go separate ways – before they pick another family to identify with, and wear their colors."

So far, the community task force has discussed a variety of ideas for solutions to increase awareness, prevention, intervention, suppression and support.

Reviving a community policing program, providing more support for families and gang members released from jail and increasing partnerships with neighboring jurisdictions and youth programs are all possible solutions that have been

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The task force has also discussed the possibility of banning known gang members from the reservation.

"We had a problem a couple of years ago and we thought we had curtailed this activity," said Puyallup Tribal Councilmember David Bean following the first recent task force meeting. "We're not sure why, but they're at it again – and it is worse than ever out there. We have got to do something so that (Tribal Housing Authority tenants) can feel safe in their homes.

"We're going to ask that gang members leave the reservation and not come back."

Tribal Housing

Authority Director

Annette Bryan noted the authority already has a zero tolerance policy for gang activity in tribal

housing developments. Tenants can be held accountable for hosting gang members as guests in their homes, and could be taken to court and evicted.

"We will continue to enforce our policies to ensure the safety and the welfare of our tenants," she said.

Published on July 30, 2009

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

Warm Springs Police Department
2144 Kota St., P.O. Box 1589
Warm Springs, Oregon 97761

Date: June 24, 2009

To: Carmen Smith, Chief of Police
Warm Springs Tribal Police Department

From: William V. Elliott, Detective
Warm Springs Tribal Police Department

Subject: Operation Counting Coup and interference with tribes obtaining U.S. Marshal Deputations.

On 12/28/2008, Operation "Counting Coup" was submitted to Warm Springs Tribal Police Department (WSTPD) Chief of Police Carmen Smith. Operation "Counting Coup" was an Inter-Tribal / Inter-Agency Task Force (TF) proposal to address the growing violent crime and drug trafficking activity associated with criminal gangs (see attached). These criminal gangs have been growing exponentially on Reservation in the Pacific Northwest, and a regional gang threat assessment prepared by the WSTPD indicated the problems are especially sever in Tribal Housing Areas (see attached), which are commonly the responsibility of the U.S. Housing and Urban Development (HUD) agency.

As this project depended on the enforcement of federal statutes covered under Title 18 United States Code concerning federal firearms violations, violations of the federal anti-gang provisions, and criminal violations of immigration laws we recognized the need for federal involvement. However, our initial efforts to get the HUD Office of the Inspector General's (OIG) involved in assisting us in enforcing federal law in these areas were flatly rejected, and other federal investigative agencies stated they had limited to no manpower to dedicate to this type of operation, so it was determined that this would have to be a Tribally driven project.

This was not a problem in that all of the investigators from the Warm Springs, Umatilla, Puyallup, Colville, Tulalip, Quinault, and Nez Perce Tribal Police Departments (TPD) were all graduates of federal and state law enforcement academies. In addition, we also had local gang and drug task forces who wanted to be part of this operation. thus, the easiest way to handle the various jurisdictional issues was to use the same mechanism that almost every other inter-agency anti-gang task force use across the country, which is to simply apply for United States Marshal Service (USMS) Deputations.

After examining the USMS regulations for the criteria needed to apply for these deputations, it was determined that Operation "Counting Coup" meet all of the criteria, and a letter of request was formulated for the USMS. One of the criteria in the USMS regulations was a letter of request from a sponsoring federal agency. As all of the TPD and local agencies making application operated in conjunction with reservations under the jurisdiction of the Bureau of Indian Affairs (BIA) Portland Area Office (PAO), and devoid of any internal direction with-in BIA policy regarding applications by TPD task forces for USMS commissions, it was felt that the BIA PAO Area Director (AD) Stanley Speaks was the most appropriate official to sponsor our request.

However, as USMS commissions do not cover the enforcement of federal drug statutes, the tribes also requested from AD Speaks' Office that he make application with the Deputy Director (DD) for the National BIA Law Enforcement (LE) program, Pat Ragsdale, for BIA Special Office Commissions (SOC). The BIA SOC did provide for the authority to enforcement of federal drug statutes in Indian Country, but unlike the USMS deputation these commissions need to be approved through DD Ragsdale's Office. Thus the following events and exchange of correspondence occurred:

On or about 2/15/2009 - A letter was delivered to BIA AD Speaks from WSTPD Chief of Police Carmen Smith requesting sponsorship of the Counting Coup application for USMS deputations.

On or about 2/25/2009 - AD Speaks forwarded a letter of sponsorship to the USMS

On or about 3/1/2009 - Operational plan for Counting Coup modified to include verbiage requested by the USMS (see attached).

On or about 4/15/2009 - Letter is submitted to AD Speaks from the tribes requesting that he forward this request to DD Ragsdale's Office which outlined Counting Coup in detail, and requested BIA SOC for task force members.

On or about 4/24/2009 - We were notified through AD Speaks' Office that the USMS Headquarters Office had completed a review of our request and were authorizing the USMS deputations for Operation "Counting Coup."

On or about 5/7/2009 - USMS were asked to add additional names to the deputation list as more local off reservation task forces were requesting participation in this project.

On or about 5/9/2009 - We were notified that all the names submitted to the USMS from the tribes had been certified for deputations. 5/15/2009 was selected as the date in which all of the participants could meet at the U.S. Marshals Service Office in Portland, Oregon to have a group swearing in ceremony. Note: We still had not even received a phone call, or any other form of contact from the BIA on the status of the BIA SOC applications.

On 5/14/2009 - We were notified by the USMS Office in Portland, OR that the deputations had been pulled per an order given from the BIA LE Directors Office in Washington, DC. The reason given for the BIA's action was that they had not been informed of this process, and they believed the AD didn't have the authority to be a sponsor.

On 5/14/2009 - A cancellation notice was sent out to all the agencies that had traveled to Portland, Or for this event, and AD Speaks was notified. AD Speaks was just leaving Washington, DC and stated that he had just met with DD Ragsdale, gave him an update briefing as to the status of Operation 'Counting Coup" and the USMS deputations, and believed everything was on track. AD Speaks arranged for a phone conference call at his office for the following day so that we could determine what the issues were.

On 5/15/2009 - No one from DD Ragsdale's Office was available for the conference call, and no one from DD Ragsdale would return any calls or inform anyone as to what had occurred.

On 5/18/2009 - WSTPD Chief Smith and I attended the Office of National Drug Control Policy (ONDCP) Public Lands Drug Control Council (PLDCC) in order to give an update of Operation "Counting Coup" and other drug enforcement efforts in Indian Country in the Pacific Northwest. All of the participants, including a representative from the Department of the Interior's (DOI) Office of Law Enforcement and Security (OLES) stated that they did not understand the reasons behind the BIA stopping this project, nor did they believe that the BIA actually had the authority to intervene as there were no BIA personnel involved in this operation. We received assurances that someone would try and discover the reason for the intervention, and get back with us.

Subsequent contacts with these agencies indicated that the BIA was being non-responsive to requests for information concerning this incident, and due to the line authority structure in which the BIA LE works, there was really no way of making them respond to anything. This seems to be an ongoing theme when talking about BIA LE accountability, and reporting requirements with Tribes, other agencies and DOI divisions.

On 6/17/2009 - On another trip to Washington, DC we were informed by DOI OLES personnel that the stated reason for BIA LE interfering with these deputations was that they had never been informed of this operation, and they believe that the BIA PAO AD didn't have the authority to act as the federal sponsor to the tribes request.

The claim that the BIA LE Washington, DC Office was not notified is completely false as both WSTPD Chief Smith, and BIA PAO AD Speaks had several conversations with DD

Ragsdale and his staff about this operation. The Tribes also have a problem with the way this intervention had occurred. If there had been a legitimate concern, then why didn't they simply contact us and address the problem. Maybe they could have actually helped move the process along and make any corrections they felt appropriate. Instead they caused sever damage to a major inter-tribal / inter-agency effort, and then insolated themselves in a manner which highly questions the professionalism of that office.

As we discussed in our meeting with congressional staff during our Washington, DC trip on 6/17/2009, there is a litany of other issues relating to problems between TPDs and the BIA LE program, but this was the event that has precipitated the tribes passing resolutions for the return of regional control of BIA LE programs.

Documentation and e-mails concerning these stated events are available upon request.

PREPARED STATEMENT OF MARTY SHURAVLOFF, CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Introduction

On behalf of the National American Indian Housing Council (NAIHC), I am pleased to submit the following statement to the Committee on Indian Affairs for the hearing record regarding its July 30, 2009, Oversight Hearing on Increased Gang Activity in Indian Country.

As the Committee knows, I serve as the Executive Director of the Kodiak Island Housing Authority in Kodiak, Alaska. I am an enrolled member of the Lesnoi Village, Kodiak Island, Alaska. I am also the Chairman of the National American Indian Housing Council (NAIHC).

The National American Indian Housing Council was founded in 1974 to support and advocate for tribes and tribally designated housing entities (TDHEs), and for 35 years, the NAIHC has worked to assist Indian tribes achieve their objectives of providing housing, housing-related infrastructure, and community development for their members.

The NAIHC is the only national Indian organization whose sole mission is to represent Native American housing interests throughout the Nation. The NAIHC consists of 267 members representing 460 Indian tribes in the lower 48 states and the State of Alaska. I am pleased to report to the Committee that in 2008, the Department of Hawaiian Homelands (DHHL) became an active and voting member of the NAIHC and we continue to work with the DHHL on issues of concern to their members.

At the outset, I would like to thank the Chairman, Vice Chairman and the Committee for holding this Oversight Hearing to Examine the Increase of Gang Activity in Indian Country. It is a sad but well-known fact that even before the collapse of the American housing and financial sectors in the fall of 2008, most American Indian and Alaska Native communities were plagued by extraordinarily high unemployment and poverty rates. These conditions, combined with geographical remoteness and scarce law enforcement resources, have made Native American communities ripe for crime and drug-related activity. A parallel development in our communities is the proliferation of gang activity and other criminal behavior.

I would also like to thank Chairman Dorgan for his leadership on tribal housing issues, which he has consistently recognized as the key to improved health and broad economic development in Native America. The year 2008 was a landmark year for Indian Country and Indian Housing, in particular, as the Native American Housing Assistance and Self-Determination Act (NAHASDA) was reauthorized and updated to provide tribes and Native American communities with new and creative tools necessary to develop culturally relevant, safe, decent and affordable housing for Native people.

While we celebrate the hope that NAHASDA presents us for improving the quality of life and living conditions for Native Americans, we must not lose sight of the stark conditions that still exist on most Indian reservations, in most Alaska Native communities, and on Hawaiian Home Lands. Housing conditions in Native communities compare very unfavorably with those of other Americans. An estimated 200,000 housing units are needed immediately just to meet current demand, and we estimate that there are approximately 90,000 Native families that are either home-

less or under-housed and living in overcrowded situations. A large percentage of existing homes are in great need of rehabilitation, repair and weatherization. Economic conditions are even worse: unemployment rates on Indian reservations, even before the current recessionary period, were typically well over 50 percent and in some places as high as 80 percent.

Against this backdrop, NAIHC presents the following perspectives and recommendations to improve housing and living conditions for Native Americans by taking proactive and creative approaches to crime and drug activity in Native communities.

The Indian Housing Block Grant

The Indian Housing Block Grant (IHBG) is the central feature of the NAHASDA and is the single largest Federal source of capital for housing development, housing-related infrastructure, and home repair and maintenance in Indian Country. Current funding levels do not meet all tribal housing needs and have not kept pace with increasing costs of construction materials, energy costs, and other inflationary factors since 1997. In fact, Federal funding for the IHBG has been relatively flat since Fiscal Year 2002 and with increasing housing demands and the erosion in purchasing power caused by inflation, Native communities have been hard hit by this failure of Congress to appropriate sufficient funding.

The NAHASDA statute contains a definition of the term "eligible affordable housing activities" and lists those activities that may be undertaken with NAHASDA assistance including new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing assisted with these funds may be either for rental units or for homeownership. NAHASDA funds can also be used for certain types of community facilities if the facilities serve eligible, low-income residents.

Housing development in Native American communities involves more than simply building dwelling units. Some of these affordable eligible activities can be designed to fight crime and drugs in tribal housing. The IHBG can also be steered towards crime prevention activities such as safety, security and law enforcement measures and activities that protect residents of affordable housing from crime. Certain activities, with HUD approval, can also be carried out as model activities.

The Use of "Drug Dogs" in Native Communities

One Indian tribe, the Bay Mills Indian Community in Brimley, Michigan, identified the growing prevalence of drugs as such a threat to their community that it devoted precious housing resources to partner with the tribal police. The Bay Mills Housing Authority contributed of a portion its IHBG to purchase, train and house a canine (K–9) unit and a squad car for the department. Maintaining a drug free community as a top priority, the Housing Authority determined that a K–9 unit is essential in their fight to keep the community safe and drug free by patrolling their properties and searching their buildings. The community experienced a drop in criminal activities almost immediately. In 2005, the officer and his K–9 partner were recognized with an "officer of the year" award.

Law Enforcement Exemption

Recognizing the value of community policing and the very physical presence of law enforcement personnel, the NAHASDA statute authorizes waivers of the low-income requirement in cases where the law enforcement officer and his or her family would reside in the tribe's service area. This provision, contained at 25 U.S.C. § 4131(4), is meant to provide housing to such officers and incentivize living in the community to deter criminal behavior.

Simple Maintenance and the "Broken Window Phenomenon"

One practice that has resulted in deterrence of criminal behavior in residential communities is to provide general timely maintenance to existing housing structures and undertake such activities as fixing broken windows in those units. These maintenance activities demonstrate the will of the community to not tolerate eyesores and other failed infrastructure and go a long way in preventing vandalism which, once begun, can escalate to include more serious property damage and related crime.

Tribal housing authorities are no stranger to the phenomenon and devote resources to maintaining housing units from ordinary wear and tear which becomes exacerbated by other activities. More resources spent on broken windows means less for new home development and other tenant services.

Methamphetamine

Crime and drugs are together fueling increasing disorder and pain in Native communities. Perhaps the starkest example of this unholy synergy is the proliferation

of methamphetamine "labs" on Indian reservations. Because most American Indian reservations and Alaska Native communities are in geographically remote and rural areas, methamphetamine producers have built "meth labs" in tribal housing units. These purveyors of pain are also targeting Indian populations—especially those tribes that regularly issue per capita payments to tribal members—which they view as a solid source of demand for their products. In the process, tribal housing resources get diverted into training housing personnel to identify meth labs. Scarce resources are further diverted to the abatement, clean up and remediation of tribal housing contaminated by the toxic chemical stew created by meth labs.

To help address this growing problem, the NAIHC has offered Methamphetamine Awareness and Abatement training to tribal housing staff since 2005. The overall goal of that training is to increase awareness of the impact that meth has on tribal housing employees, tenants, and community quality of life. The abatement section provides practical means to help tribal housing staff recognize use and trafficking patterns while strengthening proactive response through ordinances, inspections, codes and policy. In 2009, meth trainings accounted for about 6 percent of our total training sessions, however, in 2006, meth trainings were as high as 20 percent of our total training sessions and attendance exceeded all other training sessions combined that NAIHC offered. While targeted at tribal housing, the sessions where often attended by tribal police officers, tribal health department staff and other community organizations concerned with the meth problem and how to recognize its impacts on their community.

Indian Development Involves Multiple Programs and Agencies

Since its enactment, NAHASDA has enhanced tribal capacity to address the substandard housing and infrastructure conditions by encouraging greater self-management of housing programs, greater leveraging of scarce IHBG dollars, and greater use of private capital through Federal loan guarantee mechanisms. A related program to the IHBG is the Indian Community Development Block Grant (ICDBG), which can be used to construct law enforcement and justice facilities under certain conditions.

The ICDBG can be used for the development of community facilities such as a recreational center, shelter for the homeless or halfway house for drug offenders. It cannot be used for buildings for the "general conduct of government" which means offices where legislative, judicial or administrative activities take place. In other words, ICDBG can be used for the development of a police station or a jail or prison, but not a police headquarters or courthouse.

Although a great program, few tribes have capacity to apply for the grant. Not only is the ICDBG highly competitive, it has a rigorous application process. If a tribe decides to apply, Native communities that experience higher rates of criminal and drug activity will have to decide whether to prioritize addressing the criminal justice needs in the community at the expense of other community needs such as a hospital, a domestic violence shelter or a convalescent home for eldercare.

Department of Justice Programs

As with many local and state governments, tribes have to prioritize, plan and pay for their community development through a variety of funding sources including Federal resources. As housing and community development go hand in hand, governmental services for Native Americans are often associated with tribal housing programs.

The U.S. Departments of Justice (DOJ) and Housing and Urban Development (HUD) joined together to assist in the investigation, prosecution, and prevention of violent crimes and drug offenses in public and federally assisted housing, including Indian housing. This crime prevention effort, known as the Public Housing Safety Initiative (PHSI) is executed directly through U.S. Attorneys' Offices, Weed and Seed sites and local public housing authorities.

The PHSI sites develop strategic plans for federal state and local law enforcement. Advisory committees comprised law enforcement and community-based organizations to provide guidance and leadership in developing the plans. The PHSI plans, which may target anything from homicide to drugs to guns to gang crime, combine strong enforcement with vigorous prosecution efforts. Some crime prevention strategies may include programs such as Safe Haven, after-school enrichment activities, treatment options, and offender reentry initiatives. Other activities include inviting affordable housing developers, public housing authorities, and other partners to participate in planning and enhancing long-term solutions for the community. The strategic plans also include outcome-based performance measures to guide the implementation and documentation of these efforts.

The Drug Elimination Program and Indian Housing

The U.S. Department of Housing and Urban Development's (HUD) Public and Indian Housing Drug Elimination Program (PIHDEP) was enacted to reduce crime and drug use in public housing communities. PIHDEP was created by the Anti-Drug Abuse Act of 1988, and provided funds for activities that would reduce or eliminate drug related crime in public housing communities. These activities included employing security personnel, developing programs to reduce/eliminate the use of drugs, funding resident organizations to develop security and drug-abuse prevention programs, making physical changes to improve security, and reimbursing local police for additional security services. Specifically, PIHDEP provided resources for Housing Authorities to work with law enforcement, citizens groups, Boys and Girls Clubs, and other community-based organizations to develop anti-crime initiatives.

The total available funding for PIHDEP was $8.2 million in 1988 and had risen to $310 million in 2001. The PIHDEP program has been without authorization since 2002, but on June 23, 2009 Senator Tim Johnson (D–SD) introduced the "Public and Indian Housing Crime and Drug Elimination Program Reauthorization Act of 2009" (S. 1327). The legislation would authorize grants and direct payments to Public Housing Authorities, Tribally Designated Housing Entities, and Indian Housing Authorities for the prevention and elimination of crime and drug use in public housing.

Senator Johnson's bill would reauthorize the PIHDEP through 2014. The legislation also sets aside no less than two percent of the funding for HUD's Office of Policy Development and Research and requires HUD to conduct an effectiveness study on strategies that reduce and prevent violent and drug related crime in public and Indian low-income housing.

Conclusion

In very practical ways, community development in Native American communities suffers at the expense of fighting criminal and gang activity. Basic physical infrastructure and amenities such as water and wastewater infrastructure, electricity, heat and cooling systems, are extremely costly endeavors and one reason for the high cost of housing development in Native communities. While there are tools available for TDHEs to fight crime, devotion of these resources to combat drug and criminal activity decreases resources to build homes, community centers and housing related infrastructure.

Thank you for the opportunity to provide the perspectives of the NAIHC. Your continued support of Native American communities is truly appreciated and the NAIHC is eager to work with the Committee on initiatives to improve the Indian housing programs and living conditions for America's indigenous people.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO HON. HERMIS JOHN MOUSSEAU

Question 1. What role, if any, does [the] tribal housing authority play in providing programs for at-risk Indian youth?

Answer. Oglala Sioux (Lakota) Housing (OSLH) provides financial support for youth programs and sports on the Reservation. OSLH has committed $600,000 in Recovery Act funds to build nine new playground areas, one for each district on the reservation.

Question 2. How much does it cost the housing authority to repair or replace property that has been damaged by gang activity on your reservation?

Answer. OSLH estimates that it has spent $500,000 during the past twenty-four months to repair damage from criminal and gang-related activities in and around its housing units.

Question 3. Does your tribal housing authority provide security personnel to guard against property damage done by gang activity?

Answer. OSLH would like to provide more security patrols if it had the resources to do so. OSLH has applied for a Community Development Block Grant in the amount of $900,000 all of which would be used to provide security patrols at its housing developments. In some districts, OSLH tenants have taken the initiate to organize volunteer safe patrols.

Question 4. What resources are needed for your housing authority to assist tribal law enforcement in curtailing gang activity in HUD housing projects?

Answer. Restoration of the HUD Drug Elimination grants would provide OSLH with resources to better support activities for children on the Reservation. In addition to funding specific recreational activities, such funding might be used to support transportation to and from the recently constructed Boys and Girls Club center.

Other funds would be used to provide more security patrols in the outlying communities to assist Tribal law enforcement officers, who are often farther away and attempting to patrol much larger areas.

I feel very strongly that this is an issue that affects the quality of life on every reservation in the country. Unless we can do something to change the trends of gang activity, too many of our communities will be lost to violence and gang-related crimes.

If I can provide further information or be of other assistance to you and the Committee on this most important issue, please let me know.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO CARMEN SMITH

Question 1. Please describe your tribal juvenile justice system.

Answer. Our juvenile system consist of (2) Associate Judges who preside over all juvenile matters that come before the Warm Springs Tribal Court and (1) Juvenile Prosecutor who prosecutes all juvenile cases that are submitted to the tribal prosecution office.

We have a Children's Protective Services department, which provides for the safety and welfare of the children who have been victims of child abuse, neglect and sexual abuse, who have been awarded custody through the tribal court. The department has Case Workers who are assigned to each individual child's case and works with the Juvenile Prosecutor to file petitions in the tribal court. The Case Worker advocates for the child as the child goes through the juvenile justice system.

We have a Victims of Crimes department, which provides services to families and children who have been victims of adult and juvenile crimes. The department has advocates that are assigned to each family and helps them with processing paper work for obtaining shelter, food, clothing and counseling services. The advocates prepare petitions for restraining orders and protective orders through the tribal court. The advocates are with the families every step of the way as the families go through tribal court system.

We have the police department who provides for the safety and welfare of the children who become victims of child abuse, neglect, sexual abuse. The police department has the authority to take children out of the home for protective custody and place the children into child protective services. The police department investigates all cases involving children who have been abused. The officers and detectives testify before the juvenile court on all juvenile cases. The police department also has a juvenile officer who is assigned to help the Juvenile Prosecutor and be a resource officer in the schools. In addition, there is one detective under a Children's Justice Act Grant to investigate crimes against children.

The Tribal Court has a Tribal Youth Program Grant from Department of Justice which funds one (1) Tribal Youth Coordinator and focuses on prevention and intervention of juvenile delinquency and status offenses. The Tribes funds a second full time Tribal Youth Coordinator. These Coordinators work with the Tribal Juvenile Judges, the Prosecutor and the schools to provide one-on-one counseling, tutoring, and group activities aimed at educating our youth on cultural traditions to help them build strong identities and self-esteem.

Question 2. Please describe any interaction that your tribe or tribal police department has had with the federal juvenile justice system.

Answer. We had a homicide, which the suspect was a 16 year old. The case was taken federally. In federal court we were able to have the juvenile transferred as an adult for trial. The juvenile was convicted of First Degree murder.

The U.S. Attorney's Office serves on a multidisciplinary team with the Tribal Prosecutor and Children's Protective Services to assist with protecting children and ensuring that child sex offenders are held accountable for their crimes against Warm Springs children.

Question 3. Please inform the Committee of any recommendations you have to improve these systems.

Answer. The Warm Springs Tribes considers its children to be its most important asset and resource, and of course, they hold the keys to the Tribes future. Funding at appropriate levels to effective deal with the Tribes juvenile issues is very important.

Prevention services are extremely important to ensure that fewer children have to be subjected to the court and juvenile protective services and will have the most permanent and long term impacts. Drug and alcohol use on the reservation is involved in at least 90 percent of the crimes at Warm Springs and effectively reducing this number requires that the services to juveniles be expanded and better funded.

The next level, intervention, is also important as the children who are now in the system, and/or are at risk for coming into the system need assistance to help them turn their lives around and learn to make choices that will have positive impacts on their lives now and in the future.

Unfortunately there are a number of children who are now in the system and have been for a number of years. These children are the result of long-term neglect and many need strict and close supervision to help them overcome the behaviors they have developed as a result of neglect and abuse. These children could greatly benefit from a secure facility in or near the community that not only provides a good education but also provides cultural education so these kids will be able to be successful in both the Native and non-Native worlds.

Funding to help with all of the above is crucial to successfully combat juvenile neglect, abuse and delinquency issues. The Warm Springs Tribes is experiencing a drastic decline in revenues and has been for at least the last ten (10) years. This year the decline is even sharper as the fall in hydropower prices took a sudden and unexpected fall. As well timber prices have been falling considerably over the past decade. Forest products and hydro-power have been the mainstay of tribal revenues and of the tribal budget for many years. Although the Tribes are working hard to develop other revenue streams, these will not positively impact tribal revenues for a number of years.

Question 4. What alternatives were available to the tribal housing entities to address the gang and drug presence in tribal housing projects?

Answer. There were no alternatives for housing other than turning to the police for help to address the gang and drug issue.

Question 5. What role, if any does tribal housing authority play in providing programs for at-risk Indian youth?

Answer. Currently none, funding has been devoted to refurbish current units, material costs and other needed programs. Although, housing has put in playgrounds for kids to use in several housing areas at the cost of $100,000 dollars.

Question 6. How much does it cost the housing authority to repair or replace property that has been damaged by gang activity on your reservation?

Answer. Housing has put about 15,000 to 25,000 dollars for houses to repair walls, fixtures, appliances, paint, carpet, etc. Housing has spent $20,000 to $25,000 dollars on houses that had heavy meth use in the home for Hazmat materials such as heat pumps, duct work to clean and sanitize the homes.

Question 7. Does your tribal housing authority provide security personnel to guard against property damage done by gang activity?

Answer. No. The police provide security through routine patrols.

Question 8. What resources are needed for your housing authority to assist tribal law enforcement in curtailing gang activity in HUD housing projects?

Answer. The resources needed, is to provide funding for the "Counting Coup" project which addresses the gang issues in the HUD housing projects. The project can be funded from funds appropriated through HUD for the tribal housing authority.

Question 9. Can you elaborate on how that might be accomplished? FBI issue.

Answer. Yes, right now the Bend Resident Office of the FBI has designated crimes in Indian country as a priority. However, has limited resources to assign an agent to every major crime that occurs on the reservation. We have requested and the FBI has agreed to add more Warm Springs detectives to FBI Safe Trails Task Force which designate them as federal officers.

The only other option that would add further assistance in these investigations is if the FBI were able to increase their Agent compliment in the Bend Resident Office.

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