

**THE NEEDS AND CHALLENGES  
OF TRIBAL LAW ENFORCEMENT  
ON INDIAN RESERVATIONS**

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**OVERSIGHT FIELD HEARING**

BEFORE THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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Friday, June 1, 2007, in Lower Brule, South Dakota

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**OVERSIGHT FIELD HEARING ON “THE NEEDS  
AND CHALLENGES OF TRIBAL LAW  
ENFORCEMENT ON INDIAN RESERVATIONS”**

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**Friday, June 1, 2007  
U.S. House of Representatives  
Committee on Natural Resources  
Lower Brule, South Dakota**

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The Committee met, pursuant to call, at 12:15 p.m., at the Lower Brule Tribal Headquarters, 187 Oyate Circle, Lower Brule, South Dakota, Hon. Stephanie Herseth Sandlin presiding.

Members Present: Representative Herseth Sandlin.

Staff Present: Cynthia L. Freeman, Clerk, Office of Indian Affairs; Janet Erickson, Counsel; Chris Fluhr, Staff Director; and Phil Asmus, Legislative Assistant to Ms. Herseth Sandlin.

**STATEMENT OF THE HON. STEPHANIE HERSETH SANDLIN, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
SOUTH DAKOTA**

Ms. HERSETH SANDLIN. The House Natural Resources Committee field hearing will now come to order.

Good afternoon to all of you. I'm very pleased to be here today to convene this field hearing which follows a string of Natural Resources Committee oversight hearings in Washington, D.C., but has the important distinction of being the Committee's first Native American focused field hearing in the 110th Congress.

Though he isn't here today, I would like to extend a word of thanks to Chairman Nick Rahall for his leadership in this Congress and his willingness to support this.

I also want to extend my appreciation to Ranking Member Don Young of Alaska, who has a long record of service to his state, to Alaska Natives, and to all Native Americans.

Additional thanks are certainly due to the Natural Resources Committee staff who worked with my office to schedule, organize, and prepare for this hearing. And I want to introduce them, Janet Erickson, Cynthia Freeman, Chris Fluhr, and certainly to the Lower Brule Sioux Tribe and all of those who worked with us and have graciously offered to host this hearing in the beautiful tribal headquarters.

I want to thank each of our witnesses who have taken the time to travel here today and who have such important leadership roles within their communities and within the administration.

I want to acknowledge and thank Tonya Peterson from Senator Johnson's office as well as Jeannie Faber from Senator Thune's office and both of our senators for their interest and their dedication to these issues as well.

The focus of today's hearing is law enforcement in Indian Country and this oversight opportunity is long overdue. I've been repeatedly alarmed by reports from tribal leaders across South Dakota both during meetings in Washington and through my own travels back in the state.

Last summer, almost one year ago, I toured the jail facilities both here in Lower Brule and across the river in Fort Thompson on the Crow Creek Indian Reservation. At that time neither tribe was left with a working detention facility and I'm deeply troubled by the fact that the same situation remains in effect today.

I look forward to the testimony from our first panel which will include testimony from the two tribes so badly affected by this situation as well as from the Bureau of Indian Affairs.

Beyond the acute gap in detention services on Lower Brule and Crow Creek, many tribes in South Dakota and across the country are being forced to make due with dilapidated justice facilities literally crumbling around them. The 2004 Interior Inspector General report aptly entitled *Neither Safe Nor Secure* speaks to this broader crisis.

I expect that the tribal leaders on both our first and second panels will have much to say about their respective situations with respect to both the facilities and other issues like staffing shortages, funding shortfalls, and the methamphetamine epidemic. I look forward to their testimony on those problems and, more importantly, I look forward to the solutions that they will suggest.

Certainly the easiest remedy to many of the law enforcement shortages and troubles in Indian Country can only be fixed with greater financial resources. I am greatly encouraged by early signs from the House Interior Appropriations Committee which marked out the first draft of the Fiscal Year 2008 funding bill for the Bureau of Indian Affairs last week. That bill must still proceed through the full committee but already includes an increase for law enforcement services beyond what the President requested which itself was an increase over FY '07 levels. Now, I have no illusions that these increases will address all of the unmet needs that are well identified, but this progress is certainly welcome.

In spite of the importance of adequate funding, Congress can and must do more than simply appropriate funds when it comes to law enforcement in Indian Country. Congress also has an important and fundamental oversight role to play ensuring that the Bureau of Indian Affairs is delivering the services it is obligated to provide transparently, efficiently, and according to the sovereign wishes of the tribes it serves.

These responsibilities are particularly important when considering the scope of the problems faced by Indian communities but also because of the special government-to-government relationship and obligations created by the history of treaties and the U.S. Constitution itself.

Earlier this year a researcher from Harvard University, in testimony before the Interior Appropriations subcommittee, shared the

contents of a soon to be published book that examines the economic status of Indian Country. There were many encouraging facts. In particular, that the last few decades of tribal sovereignty and self-determination have been key proponents of economic development to counteract the poverty that continues to grip so many reservation communities.

A Federal policy that supports tribal sovereignty has led to measurable economic gains because it has allowed local tribal leadership to flourish rather than, as it has in other times, working to preempt it. While this trend is certainly encouraging as it speaks to both the vast potential of Indian Country economy as well as the importance of tribal self-determination, its news was delivered with one important caveat, a troubling increase in crime threatens to halt this progress.

Native American families, like every other family in the United States, deserve to raise their children in a safe environment supported by robust law enforcement services with adequate resources and facilities. As resources are allocated from Washington and as decisions are being made that affect the services provided to tribes, they have a fundamental right to meaningful consultation and the free flow of information.

It is toward these goals that I hope today's testimony and the accompanying oversight jurisdiction of the House Natural Resources Committee brings us closer.

With all of this in mind, I'm pleased to begin today's testimony by going to our first panel of witnesses. First we'll hear from Mr. Pat Ragsdale, Director of the Bureau of Indian Affairs in Washington, D.C. I appreciate his willingness to travel here today and look forward to his testimony.

Following Mr. Ragsdale's comments we'll hear from two distinguished and passionate tribal leaders who will certainly have much to say about the state of law enforcement services for the tribal members and communities they represent. I've greatly appreciated both Chairman Jandreau's and Chairman Thompson's strong leadership and advocacy on behalf of their tribes and look forward to hearing from them as well.

So let's begin with the first testimony today on the first panel, Mr. Ragsdale, please.

[The prepared statement of Ms. Herseth Sandlin follows:]

**Statement of The Honorable Stephanie Herseth Sandlin, a Representative in Congress from the State of South Dakota**

Good afternoon. I am very pleased to be here today to convene this field hearing which follows a string of Natural Resources Committee oversight hearings in Washington, DC but has the important distinction of being the Committee's first Native American focused field hearing in the 110th Congress. Though he is not here today, I would like to thank Chairman Nick Rahall for his leadership in this Congress and his willingness to support this hearing and Ranking Member Don Young for his many years of leadership on behalf of Native Americans and Alaska Natives.

Additional thanks are certainly due to the Natural Resources Committee staff, and in particular Janet Erickson and Cynthia Freeman from Chairman Rahall's office and Chris Fluhr from Ranking Member Young's. From my own staff, I would like to thank Laura McNaughton, Phil Assmus Maeve King, and Lesley Kandaras who all helped to organize and shape this event. Thanks should also be directed towards the Lower Brule Sioux tribe who graciously offered to host this hearing in their beautiful Tribal Headquarters. I would like to thank all of the witnesses who have taken the time travel here today and who play important leadership roles

within their own communities. Finally, I would like to recognize Tonya Peterson who is here today in our audience representing Senator Tim Johnson and Jeannie Faber who is here on behalf of Senator John Thune.

The focus of today's hearing is law enforcement in Indian Country and this oversight opportunity is long overdue. I have been repeatedly alarmed by reports from tribal leaders across South Dakota both during meetings in Washington and through my own travels back in the state. Last summer—almost one year ago—I toured the jail facilities both here on Lower Brule and across the River at Fort Thompson in Crow Creek. At that time, neither tribe was left with a working detention facility and I am deeply troubled by the fact that the same situation remains in effect today. I look forward to the testimony from our first panel which will include testimony from the two tribes so badly affected by this situation as well the Bureau of Indian Affairs.

Beyond the acute gap in detention services on Lower Brule and Crow Creek, many tribes in South Dakota and across the Country are being forced to make due with dilapidated justice facilities literally crumbling around them. The 2004 Interior Inspector General report, aptly entitled “Neither Safe Nor Secure” speaks to this broader crisis. I expect that the tribal leaders on both our first and second panels will have much to say about their tribe's respective situations with respect to facilities and other issues like staffing shortages, funding shortfalls, and the methamphetamine epidemic. I look forward to their testimony on those problems and, more importantly, I look forward to the solutions they will suggest.

Certainly, the easiest remedy to many of the law enforcement shortages that trouble Indian Country can only be fixed with greater financial resources. I am greatly encouraged by early signs from the House Interior Appropriations Committee which marked out the first draft of the Fiscal Year 2008 funding bill for the Bureau of Indian Affairs last week. That bill must still proceed through the full committee but already includes an increase for law enforcement services beyond what the President requested which itself was an increase over the FY07 level. I have no illusions that these increases will address all of the unmet needs that are well identified, but this progress is certainly welcome.

In spite of the importance of adequate funding, Congress can and should do more than simply appropriate funds when it comes to law enforcement in Indian Country. Congress also has an important and fundamental oversight role to play—ensuring that the Bureau of Indian Affairs is delivering the services it is obligated to provide transparently, efficiently, and according to the sovereign wishes of the tribes it serves. These responsibilities are particularly important when considering the scope of the problems faced by Indian communities, but also because of the special government to government relationship and obligations created by a history of treaties and the U.S. Constitution itself.

Earlier this year, a researcher from Harvard University, in testimony before the Interior Appropriations Subcommittee shared the contents of a soon to be published book that examines the economic status of Indian Country. There were many encouraging facts—in particular, that the last few decades of tribal sovereignty and self determination have been key proponents of economic development to counteract the poverty that continues to grip so many reservation communities. A federal policy that supports tribal sovereignty had led to measurable economic gains because it has allowed local tribal leadership to flourish rather than, as it has in other times, working to preempt it. While this trend is certainly encouraging—as it speaks to both the vast potential of Indian Country economies as well as the importance of tribal self-determination, its news was delivered with one important caveat: a troubling increase in crime threatens to halt this progress.

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Following Mr. Ragsdale's comments, we will hear from two distinguished and passionate tribal leaders who will certainly have much to say about the state of law enforcement services for the tribal members and communities they represent. I have greatly appreciated both Chairman Jandreau's and Chairman Thompson's strong



leadership and advocacy on behalf of their tribes and look forward to hearing from them as well.

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**STATEMENT OF MR. W. PATRICK RAGSDALE, DIRECTOR,  
BUREAU OF INDIAN AFFAIRS**

Mr. RAGSDALE. Thank you, Madam Chair.

If I may, my full statement has been provided to the Committee for the record and if it's OK with you, I will just highlight my statement and try to summarize it as briefly as I can to allow time for questioning.

Ms. HERSETH SANDLIN. OK. Thank you.

Mr. RAGSDALE. Thank you.

There are an abundance of needs and challenges concerning tribal and Federal policing in our communities. The BIA sponsors and supports 191 law enforcement programs in the lower 48 states. The BIA operates 42 of these law enforcement agencies by itself and the tribes operate the other 149.

\$217 million was provided in FY 2007 for law enforcement detention and courts and in Fiscal Year 2008, \$234 million is proposed in the President's budget, and as I understand it, the House has already marked it up and we asked for the proposed increases that soon we'll have a chance to reconcile.

Crime rates are deceptively high as detailed in my full statement. The report by Amnesty International supports the increase we're seeing in too many communities as it relates to domestic violence and child abuse of women and children. We believe this has been exacerbated by the epidemic of drug use and in particular meth, the distribution and use.

Secretary of Interior Kempthorne is leading an initiative to address tribal and community concerns over violence and crime in Indian Country. This is a good start to address the concerns which we believe Congress will support.

Our detailed testimony provides the Committee with our Gap Analysis of what is and what should be regarding resources to address the problems in Indian Country. We are working with other Federal agencies such as the Department of Justice, U.S. Attorneys, the FBI, and other related agencies within the Department of Justice to effect better cooperative working relationships. The Indian Health Service and Samson of HHS are also key partners in this effort.

There are complex jurisdictional issues related to Indian reservation policing which we are trying to address with cooperative policing. We can't overemphasize effective cooperation between and among the Federal, tribal, and state communities. Criminals do not recognize artificial boundaries made by man.

Madam Chair, we appreciate the Committee's support and pledge to continue to work with tribal leaders and our other Federal partners to improve public safety.

And last, just in closing, let me just say I was reading a report that my deputy, Chris Chaney, provided me. In 1883 the Congress had authorized over 1100 police officers in Indian Country, which is more than the totals that we have now. Of course, they were only paid \$5 a month and \$15 for the supervisors, but that's where we are.

Thank you.

[The prepared statement of Mr. Ragsdale follows:]

**Statement of W. Patrick Ragsdale, Director,  
Bureau of Indian Affairs, U.S. Department of the Interior**

Mr. Chairman and Members of the Committee, I am pleased to provide a statement on behalf of the Department of the Interior regarding the needs and challenges of tribal law enforcement on Indian Reservations. With me today are Christopher Chaney, Deputy Director, Office of Justice Services (OJS) for the Bureau of Indian Affairs (BIA), and Elmer Four Dance, Special Agent in Charge for our District 1 Office located in Aberdeen, South Dakota. We thank you for inviting us to provide testimony on an issue that significantly impacts the welfare of our American Indian and Alaska Native communities.

The BIA has a service population of about 1.6 million American Indians and Alaska Natives who belong to 562 federally recognized tribes. The BIA supports 191 law enforcement programs with 42 BIA-operated programs and 149 tribally-operated programs. Approximately 78 percent of the total BIA OJS programs are outsourced to Tribes.

OJS provides a wide range of law enforcement services to Indian country, including police services, criminal investigation, detention facilities, tribal courts, and officer training by the Indian Police Academy.

Indian Country law enforcement provides services to a population that is predominantly under the age of 25, experiences high unemployment rates, and lacks municipal infrastructure. Indian lands range from remote wilderness to urban settings. The close proximity of a number of reservations to the international borders of Mexico and Canada make these locations the perfect targets for drug trafficking and other smuggling operations. Recent reports and news articles outline the extreme shortcomings of the criminal justice systems in Indian Country. Crime rates on most reservations are unacceptably high.

Earlier this year, Secretary Kempthorne echoed the concern he heard from tribal leaders about the serious increase in violent crimes on their homelands, when he announced his Safe Indian Communities Initiative, which will increase law enforcement services where they are most needed in Indian country. The Initiative is part of the President's FY 2008 budget request. It includes a \$16 million increase in funding to strengthen law enforcement capabilities on tribal lands by providing \$5 million to hire additional law enforcement officers; \$5 million to increase staff at Indian detention facilities; and \$6 million to provide specialized drug enforcement training for officers and public awareness campaigns about the dangers of methamphetamine use. The Initiative will bring the total funding for BIA law enforcement to \$233.8 million.

The BIA coordinates with the Department of Justice (DOJ) in many areas: coordination regarding funding for Law Enforcement police staffing, consultation regarding construction of detention facilities, and day-to-day coordination with the FBI and United States Attorneys offices. The BIA is working in collaboration with DOJ on implementing the Amber Alert program in Indian Country and on developing effective means of sharing criminal justice information. In addition, the BIA is working with private industry to explore ways to bring new technology to Indian Country law enforcement.

For many of our Indian citizens who live on or near Indian reservations, life has become much more violent. In the past year, we conducted an analysis that included the service populations of each tribe that had a law enforcement program (including BIA direct service programs and tribal programs that were at least partially funded by the BIA through either a Public Law 93-638 contract or a "self-governance" compact) to determine appropriate High Crime and High Priority fund distributions. The distribution is based upon the comparison of individual tribal violent crime rates with the national crime rate. In addition, we looked at the number of officers that serve each reservation as compared to the national average and compared that figure for each tribe. This analysis helped us to pinpoint the law enforcement programs with the greatest need.

Further, we contracted to have a Gap Analysis conducted, which was completed in 2006. The Gap Analysis measured current organizational functions and practices against a standard or benchmark, such as industry best practices, and examined organizational strategic goals. This analysis relied on quantitative and qualitative factors to help focus management's attention on the "gap" between "what is" and "what should be". This, in turn, required management to ask "How do we get there?"

Part of what the Gap Analysis found was the need to hire additional law enforcement officers in Indian Country. The Safe Indian Communities Initiative would pro-

vide for the hiring of 51 new law enforcement officers and 91 new corrections officers for Indian country. This is a positive step in our efforts to get needed public safety resources to our tribal communities.

As of the second quarter of FY 2007, 48 percent of BIA funded law enforcement agencies were staffed to the national average of 2.6 officers per 100,000 inhabitants in non-metropolitan communities. Of the agencies that are at the national average of staffing, 5 percent are BIA operated law enforcement agencies and 43 percent are tribally operated agencies under Public Law 93-638 contracts or Self-Governance compacts. On many reservations there is no 24-hour police coverage. Police officers often patrol alone and respond alone to both misdemeanor and felony calls. Our police officers are placed in great danger because back up is sometimes miles and hours away, if available at all.

Today, there are 191 tribal/BIA law enforcement programs supported through Congressional appropriations to the BIA. One hundred eight tribes have Public Law 93-638 contracts (57%), 41 have self-governance compacts (21%), and 42 tribes have BIA police (22%). Additionally, many tribes supplement BIA funding with funding from the tribal treasury, grants from DOJ or other sources. Under Public Law 83-280 and similar legislation, the remaining tribes rely on state and local law enforcement for major crimes. In addition, there are three legal avenues for prosecuting felonies involving Indians on Indian lands: the Federal criminal justice system; Public Law 83-280; and other authorized state and local criminal justice systems.

Various statutes and provisions of case law make jurisdictional determinations extremely difficult. The BIA encourages cross-commissioning so that federal, tribal, and state authorities can make arrests for each jurisdiction. For instance, BIA offers qualified tribal and state officers federal Special Law Enforcement Commissions so they can enforce federal law. This closes loopholes and allows police to focus on investigating the crime instead of sorting out jurisdictional details, which can be done later with the assistance of legal counsel.

Another part of the problem is the state of equipment such as vehicles, weapons, and radio communications equipment. Higher quality and better maintained equipment would help police officers in their response to crime in Indian country.

Since FY 2001, we have requested and Congress has appropriated funds to implement the conversion from existing telecommunications equipment to the narrowband radio system to address the National Telecommunications and Information spectrum efficiency mandate. The mandate required that all Federal agencies convert to narrowband land mobile radio operations. Outdated radios and insufficient radio coverage place officers at risk and have led to a loss of lives in Indian country due to the inability of officers to radio for assistance. Reliable land mobile radio communication systems are vital in supporting program functions and improving public safety within Indian country. Land mobile radio is one of the most critical infrastructure components for tribal community safety and is the basis for wireless communication affecting public safety, education, public works, wildfire, and tribal communities.

Tribes also face a mounting drug problem. Tribal leaders describe a methamphetamine crisis that has the potential to destroy an entire generation if action isn't taken. Some tribal leaders refer to the prevalence of the use and access to the drug as the second smallpox epidemic and rank it as the number one public safety problem on their reservations. On many reservations organized crime and drug cartels are producing and distributing the drug and are contributing to increased criminal activity in those communities.

During a hearing on methamphetamine (meth) in Indian Country last April, before the Senate Committee on Indian Affairs, one tribal chairwoman stated that an estimated 25 percent of the babies born on her reservation were addicted to methamphetamine. We are committed to helping Indian Country remove this scourge from its midst.

In April 2006, the OJS published the results of the National Methamphetamine Initiative Survey. The survey consisted of 20 questions and was responded to by 96 agencies. Seventy-four percent of all respondents indicated that methamphetamine poses the greatest drug threat to the communities they serve. This is followed by marijuana at 11 percent; Crack cocaine and powder cocaine followed at 6 percent. Five percent of responding agencies indicated powder cocaine as their primary drug problem. Heroin and pharmaceutical drugs rounded out the responses with 3 percent and 1 percent respectively.

In response to the meth crisis, the BIA currently has eight certified drug enforcement officers to cover all of Indian country. The Safe Indian Communities Initiative will help combat the highly visible drug problem by enabling the development and provision of specialized drug enforcement training for BIA and tribal officers. As a result of the Initiative, more officers on patrol will have the essential knowledge and

tools to break up drug trafficking, disrupt the activities and organization of crime groups, and seize controlled substances. This will lead to positive outcomes such as increased drug seizures and a substantial reduction in drug trafficking. Additionally, Initiative funding will allow the program to develop a meth public awareness campaign to educate Indian country on the dangers of the drug and how to combat those dangers. By certifying officers and educating the public about the dangers of meth, the BIA is taking proactive measures against meth and other drugs in Indian country to provide for safe and healthy Indian communities.

As for detention centers, there are 82 detention facilities in Indian Country, some holding (one to two cells) facilities located on 57 reservations. Of the 82 detention facilities, 27 are used to detain juveniles. Twenty jails are operated by the BIA and 62 by individual tribes. Most of these facilities were built in the 1960s and 1970s. Many of these facilities were designed to hold only 10-30 adult inmates.

In September 2004, the Department's Office of the Inspector General (OIG) published a report, titled "Neither Safe Nor Secure: an Assessment of Indian Detention Facilities," that highlighted the problems with Indian Country Detention facilities. The OIG found that serious safety, security, and maintenance deficiencies exist at the majority of BIA and tribal detention centers, and pose a hazard to inmates, staff, and the public. Out of this report came 25 recommendations. As a result, a corrective action plan was developed to satisfy those recommendations and, to date, we have addressed 16 of the 25 recommendations; the remaining 9 require additional resources to be fully resolved.

One of the primary recommendations the OIG made was with regard to staffing shortages. Determining appropriate staffing levels for the detention facilities requires careful analysis of facility needs. To correct this safety deficiency, Corrections Division staff has calculated the "Standard Space Staffing Requirement" for each facility throughout Indian country. This study was careful to differentiate the size and layout of the facility according to a standard consistent with the standards of the National Institute of Corrections and the Bureau of Prisons.

As I mentioned above, the Safe Indian Communities Initiative includes \$5 million in additional funding to staff, operate, and maintain BIA and tribal detention facilities for FY 2008. This will aid BIA in continuing to implement the recommendations of the 2004 report by the Department's OIG. These funds will provide for the hiring of 91 additional corrections officers in Indian country.

The detention center funding will be distributed to detention centers based on the results of the application of the staffing model. The additional funding will enable BIA to increase the percent of detention centers staffed to minimal safety standards, thereby helping to reduce the types of serious incidents identified in the IG report. The 2008 budget continues to aggressively confront construction and repair issues at detention centers by requesting \$8.1 million for four major Facilities Improvement and Repair projects and several smaller projects designed to help bring Indian detention centers up to national standards.

Some tribal leaders have approached us about regional and multi-tribal use facilities. We recognize that "regionalization" will likely not work everywhere due to the size and remoteness of many reservations. However, we support the idea and are working with some tribes in regions where these facilities will benefit a number of communities located on or near Indian lands.

BIA also operates the Indian Police Academy, which provides basic police training (16 weeks) and a variety of other police, jail and radio dispatch courses for tribal and BIA law enforcement and corrections officers. The Academy is co-located with the Department of Homeland Security's Federal Law Enforcement Training Center (FLETC) at Artesia, New Mexico. Academy staff provide basic police, criminal investigation, and detention coursework. In addition, the Academy offers numerous advanced training courses such as child abuse investigation procedures, community policing, drug investigation, use of force, firearms instruction, archeological resource protection, police management and supervision, crime scene processing, detention, and dispatcher training.

Our training partnership has proven to be very cost effective because we share trainers and facilities. BIA and tribal criminal investigators receive specialized advanced training at the main FLETC facility in Glynco, Georgia. Select BIA and tribal law enforcement managers also participate in the FBI's National Academy in Quantico, Virginia. Many tribal communities choose to use respective state Peace Officers Standards and Training courses to supplement training of their police.

Mr. Chairman, we want to thank you for holding this hearing on such an important subject for Indian Country. We will continue to work closely with you and your staff, tribal leaders, and our Federal partners to improve the safety of our people who reside on Indian lands.

We will be happy to answer any questions you may have.

Ms. HERSETH SANDLIN. Thank you, and I appreciate your testimony and again appreciate your presence here at the hearing today.

I'd now like to ask The Honorable Chairman Michael Jandreau for his testimony.

**STATEMENT OF THE HONORABLE MICHAEL B. JANDREAU,  
CHAIRMAN, LOWER BRULE SIOUX TRIBE, LOWER BRULE,  
SOUTH DAKOTA**

Mr. JANDREAU. Thank you.

I, too, have a written testimony that I would ask to be a part of the record.

Ms. HERSETH SANDLIN. Without objection.

Mr. JANDREAU. First of all, let me communicate to you my deep appreciation for you having this hearing here today. I think it's—it's one of the most historic moments in the history of our tribe and I appreciate that.

The other day I—I was listening to a group of people talk and one of the statements I heard is, you know, it's impossible to weigh the facts if the scale is full of your own opinions, and so taking that very much into consideration, I will try to talk from the point of indicating the facts as they exist here for us today.

Ten years ago, while being housed in a condemned jail, it was this decision of this Council to create the situation that we have with the new facility. We built the courthouse and police station and a detention facility.

You know, \$13 million have been placed into the construction of that facility. Five and a half million dollars of that came directly from the tribe. The rest was grants that we received from the Department of Justice, always under the insurance that we were going to be able to have this fully staffed and functional upon completion. Of course, you know that's not so.

Seven years ago we met with the people from Interior's law enforcement and indicated to them our complete staffing needs. We received every assurance that that was going to happen and, of course, that has not happened.

Last year in June we met with the folks from law enforcement and we were told at that time that we had a budgetary amount that was available to us to continue our process. What we did find was that \$1.2 million in April had been taken and assigned to other reservations, i.e., Turtle Mountain, Spirit Lake, and Standing Rock. We asked to be informed who was consulted in that process and who signed off on the reprogramming of that money. We were never given that information.

Those are two year dollars and so we go forward already hampered in our capacity. Our people who are trained for our detention positions are sent to other reservations because of the lack of trained personnel at those particular sites. We know that for a fact.

What we are asking for, more than anything else, is to be treated fairly and straightforwardly. We ask that the dollars that are appropriated for our agency be restored and allow us to begin operation of our facility. We have some good people.

You know, there's part of the good book that says, you know, our battle is not against questions but against principalities and pow-

ers in high places. We believe that to be the truth. Our fight is not with the human beings who are making these decisions but the process that is allowing what is occurring here to happen. We ask that the Committee would look very deeply into this process.

Last, we have before the Committee a potential bill prepared for dollars in a settlement. If those dollars were forthcoming, our ability to handle these things ourselves would become real and we ask that that happens. We are not here to beg anyone. We are here because we have a problem. We are here because we need to be a part of solving that problem.

Thank you.

[The prepared statement of Mr. Jandreau follows:]

**Statement of Michael B. Jandreau, Chairman, Lower Brule Sioux Tribe**

**WELCOME AND INTRODUCTION**

On behalf of our Tribe, allow me to welcome the Committee on Natural Resources to Lower Brule. We greatly appreciate your visiting the Reservation for this hearing in an attempt to improve the quality of life for our Members and all Indian people. I have been Chairman for 28 years and served on the Council for seven years before being elected Chairman.

The Lower Brule Sioux Tribe a constituent band of the Great Sioux Nation with a proud history. We were a signatory of the Fort Laramie Treaty of 1851 and the Fort Sully Treaty of 1865.

**TRIBAL LAW ENFORCEMENT**

Law enforcement at Lower Brule has been a great concern for our Tribe. People must feel safe in their environment if they are to enjoy their surroundings and their family. In many areas of the country, law enforcement is taken for granted. We do not think about law enforcement except when it is lacking. In fact, law enforcement is fundamental in order to develop human potential, to raise our families, to work and enjoy our private time.

The life experiences of those living in Indian country have been more violent, vulnerable and insecure than those living in the rest of America. According to a 2004 Department of Justice report, American Indians experienced violent crime at a rate twice the national average—by far the highest experienced by any racial group.<sup>1</sup> Moreover, this increased exposure to violence affects every member of the community. When measured in their respective demographic, all Indians—male, female and of every age group—are victims of violent crime at greater rates than the national average. Most disturbing is the experience of Indian youth who experience violence at rates “significantly greater” than their counterparts in the rest of the nation. We hope not to raise a generation that knows violence as a fact of life and brutality as a means of resolving conflict. To prevent this, the Indian community needs improved law enforcement.

So we do not lose sight of what the broad and often used term “law enforcement” means, let us look at the array of services it covers: policing, detention, criminal investigation, tribal adjudication and officer training. These are the institutions of justice that a community takes for granted once they are in place—the bricks of the foundation upon which a trusting society is built—and without them in place, the transactions of everyday living break down.

The Director of the Bureau of Indian Affairs, Patrick Ragsdale, acknowledged the deficiency in Indian law enforcement before the Senate Indian Affairs Committee last month. He noted in his testimony that “[o]n many reservations there is no 24 hour police coverage,” and “often officers patrol alone”—which is a danger to the officer and inadequate to serving the law enforcement purpose. In addition, less than half of Indian Affairs funded law enforcement agencies in non-metropolitan communities were funded to the national average. Not only do the safety needs at Lower Brule require greater law enforcement efforts, but also fairness requires that they be funded in equal measure to the rest of the country.

At the moment, there is a major gap in law enforcement in Central South Dakota. We are not talking about an abstract policy; we have a lack of facilities. Our jail has been closed for approximately five years. The BIA has closed the Crow Creek jail. So, neither of us have a jail at this time. Prisoners must be transported a great

<sup>1</sup> Bureau of Justice Statistics, 2004 <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic02.pdf>

distance to be lodged in a Tribal jail. This has a significant impact on law enforcement. If police must travel a great distance to a jail, it takes many hours and they are not here on the Reservation providing protection to the community.

The BIA was to have the jail opened and certified by October of 2006. The date was then moved to April 1, 2007. Today, however, the jail is still not opened even though we are paying utilities and other expenses. It costs Lower Brule approximately \$1,600 per day, every day that the jail remains open, and neither Crow Creek nor Lower Brule has a facility that is convenient and available. As I said, there is a major gap in Central South Dakota and the BIA needs to do everything possible to close that gap.

#### **LOWER BURLE AND CROW CREEK COMPENSATION ACT**

Representative Herseth Sandlin, as you know, Law Enforcement is just one of the many infrastructure needs we are trying to improve at Lower Brule to strengthen our economy and the quality of life for all enrolled members of the Tribe.

Therefore, I would be remiss not to mention the great importance of your bill, H.R. 155, the Lower Brule and Crow Creek Compensation Act. This legislation is, of course, pending before the Committee on Natural Resources. I would like to include my Senate testimony in this hearing record, with your permission, and add a few points.

This legislation passed the Senate on three occasions in the 108th Congress and was again reported by the Senate Indian Affairs Committee in the 109th Congress. After the bill was reported in the 109th Congress there was a GAO report that resulted in two changes in the legislation and then the Senate Indian Affairs Committee again reported the bill:

- First, the amount of compensation was reduced. The GAO discovered an error in the compensation calculation and we therefore adjusted the legislation.
- Secondly, a new Section 5 was added to the bill to make it clear this legislation would be final compensation for damages caused by construction of the Big Bend Dam and Fort Randall Dam. Under the terms of the bill, if enacted, our Tribe is giving up any further claim growing out of the construction of the dams.

With these changes, we believe that the legislation is ready to move forward in both the House and the Senate.

We do appreciate that while the transfer of funds from the Treasury to the Lower Brule Trust Fund is an intra-federal government transfer there is a cost associated with the additional interest we would receive on the larger trust fund. In considering the this legislation and the “pay-go” rules, I would hope the Congress looks at this legislation in a larger context that is fair to Indian people. Allow me to explain.

1. The dams were built using our land. Our Reservation was flooded twice as a result of the Pick Sloan project and the construction of the Big Bend and Fort Randall dams. As a result of these dams, we lost our best bottomlands, and over 70% of our population had to be relocated, not once but twice.
2. The water that flows in the Missouri River is ours in that we have the legal right to use as much as we need for the Tribe under the Winters doctrine, *Winters v. United States*, 207 U.S. 564 (1908)
3. The dams are producing electricity to benefit America and the American economy.
4. The revenue from the sale of electricity produced by the dams on the Missouri River exceeds \$200 million per year.
5. The Tribes are receiving none of this revenue even though it is our land and our water that is being used to produce the electricity.
6. Adding insult to injury, the Tribes must pay for the electricity we use at Lower Brule. The Tribes of South Dakota paid over \$2 million for electricity in 2005, and rates continue to increase.

In short, while the American economy is benefiting from the dams built with our land and our water, the Tribal economy is suffering as a result. In my opinion, the Congress should consider these facts as they consider how to fairly apply “pay go” rules to H.R. 155. There is something very, very wrong with our bill being held up when the United States is profiting from our land and water. I urge you to bring these facts to the attention of the Committee and ask for consideration of the legislation.

Thank you very much for coming to Lower Brule. I would be pleased to answer any questions that you may have.

Ms. HERSETH SANDLIN. Thank you very much, Chairman Jandreau.

I now would ask Chairman Lester Thompson, The Honorable Chairman Thompson, representing the Crow Creek Sioux Tribe, for his testimony.

**STATEMENT OF THE HON. LESTER THOMPSON, JR.,  
CHAIRMAN, CROW CREEK SIOUX TRIBE, FORT THOMPSON,  
SOUTH DAKOTA**

Mr. THOMPSON. I, too, have submitted documentation, written testimony, and would like that to go on record.

I thank you for this opportunity to testify on behalf of my people pertaining to the problems we face in law enforcement services on the Crow Creek Reservation.

As you can see in my written testimony, I questioned the integrity of the Bureau of Indian Affairs Office of Justice Services. Crow Creek Sioux Reservation is plagued by minute to extreme crimes which vary from disorderly conduct to illegal drug trafficking to domestic assaults, some rapes and unsolved murders. This all stems from inadequate services provided by Office of Justice Services.

Justice Services has done a tremendous job revictimizing victims on a continual basis and this is either due from lack of officers and lack of detention centers on our reservation. This is further—is really emphasized by the closure of our detention center and a lack of officers. I'll make that a point.

Do you realize that the entire Crow Creek Reservation consisting of three district communities which is populated by over 2500 is being patrolled by two Bureau of Indian Affairs officers? We encompass a radius, from boundary to boundary, north and south of 70 miles, east and west of 30 miles.

I served as an officer for Crow Creek for three years and I know what it's like to be a lone officer covering three districts, the tremendous task. The people don't receive the services that they require.

Justice Services has unjustifiably and untimely closure of our detention center located in Fort Thompson further hampers proper law enforcement by our court systems. By not having a detention center, it renders our courts helpless to carry out their duties.

I have read the Department of Interior's 2004 report, Neither Safe Nor Secure, an assessment of Indian detention facilities. In this report the Office of Justice Services is continuously ridiculed for their improper misuse and mismanagement of Federal funds.

I ask: Has the Federal Government turned a blind eye to this problem? Obvious you haven't because you're sitting here. My next question is: Are there going to be any repercussions for this?

This report also emphasizes consultation with tribes which the distinguished Chairman Jandreau had pointed out. When the detention center in Fort Thompson was closed, there was no consultation with the Crow Creek Sioux Tribe or the Lower Brule Sioux Tribe which was utilizing the facilities at the time. Justice Services continuously ignores consultation with Native tribes.

This is in direct violation of our treaty rights and violates article one, section eight, clause three of the United States Constitution which solidifies our government-to-government relationship. By



closing the detention center and by not providing enough officers, the Office of Justice Services has failed the responsibilities as defined in U.S.C. Title 25, Subsection 2802.

I ask you, as a member of the Committee of Natural Resources, as Native Americans living in Indian communities, are we not entitled to live in safe and secure environments as are the rest of the United States?

[The prepared statement of Mr. Thompson follows:]

**Statement of Lester Thompson, Chairman, Crow Creek Sioux Tribe**

My name is Lester Thompson Jr., Chairman of the Great Nation of the Crow Creek Sioux Tribe. I and the current tribal council have been voted into office to make decisions for the best interest of the Hunkpati Dakota Oyate (Crow Creek Sioux Tribe).

I would like clarification from the Bureau of Indian Affairs, Office of Justice Services, pertaining to their federal trust responsibility to the tribes of this nation. Is it not their legal duty as a fiduciary means that the federal government must act in the best interest of the Indian nations? Does it also impose a legal duty to provide public safety for these domestic dependant nations, as defined in B.I.A. O.J.S. training manual "Criminal Jurisdiction in Indian Country".

These words that I have just written are nothing more than letters on a piece of paper and mean nothing to Bureau of Indian Affairs Office of Justice Services. These words are hallow to me based on the fact that actions speak louder than words. I have written numerous letters to Bureau of Indian Affairs, Director Pat Ragsdale, Deputy Director Christopher Chaney, District I Special Agent in Charge, Elmer Four Dance, District I Supervisory Correctional Specialist Greta Baker and Crow Creek Chief of Police, Scott Shields, voicing our concerns of the lack of law enforcement services provided to the Great Nation of the Crow Creek Sioux Tribe. The Bureau of Indian Affairs, Office of Justice Services, has continually provided the Great Nation of the Crow Creek Sioux Tribe with beat around the bush tactics.

The problems created by the lack of and/or none existence of law enforcement on the Crow Creek Reservation are numerous. The rate of criminal activity is on the rise. Drug trafficking, domestic assaults, driving under the influence, harboring fugitives, aggravated assaults, etc., go unchecked and contribute to social breakdown of basic society.

In short Bureau of Indian Affairs, Office of Justice Services has failed the enrolled members of the Great Nation of the Crow Creek Sioux Tribe.

Office of Justice Services has failed for years by not providing enough officers to adequately canvass the three districts with the necessary aggressive patrol to curtail unlawful activities on the Crow Creek Reservation. Office of Justice Services has continued to jeopardize the safety and welfare of the public by closing the detention center located in Fort Thompson on January 18, 2006.

Many reasons have been given to the closure of this facility with no real justification.

The Indian Law Reform Act stated B.I.A. O.J.S. is to provide law enforcement services, which includes the prevention, detection, and investigation of an offense, and the detention or confinement of an offender. Additional responsibilities include the protection of life and property. How is any of this possible when O.J.S. cannot sustain its focus on problems long enough to resolve them?

Also the detention and confinement of offenders has rendered the tribal courts ineffective. When crimes against society are prosecuted and the offences require jail time, offenders are turned back onto the streets on probationary terms. With no detention it makes court rulings hallow threats thus creating a revolving door at the court house. Repeated offences have become the norm, further adding to the detriment of society.

Every excuse in the book has been given to why law enforcement services are so poor on Indian reservations. One excuse has always been the lack of funding allocated by the United States Government. Funds that are allocated for services are insufficient.

The dollar amount provided has not kept pace with inflation, creating a collapsing house of cards. Why hasn't more funding been made available?

According to Department of the Interior Office of Inspector General's report dated September 2004 "An Assessment of Indian Detention Facilities" from an accounting standpoint B.I.A. O.J.S. does not use sound business practices for planning, accounting for and monitoring of funds nor is anyone held accountable for the proper man-

agement of funds. Fraud can be perpetrated with impunity and waste can continue undiscovered because nobody at B.I.A. is paying attention. Is this why funding has been withheld due to the lack of proper management and inability to track funding?

Can the lack of funding to provide services be attributed to the fact that there are more high paying administration positions created under the new lines of authority? Has this venture really been cost effective? There is an old saying on the reservation about too many chiefs and not enough Indians! Need I say more?

It is my observation that this is contrary to the designated appropriation specified by Congress.

Has the federal government turned a blind eye to the problems that plague the indigenous people of this nation?

Efforts have been made by the Crow Creek Sioux Tribe to remedy our bleak situation by proposing 638 contracting law enforcement services here on our reservation.

These efforts have been met with resistance by District One's lack of communication and also lack of assistance in good faith. The B.I.A. O.J.S. has the mentality of do as I say and not as I do and constantly reminding us of what we can't do and not telling us what we can do. This mentality has caused confusion and hampered the positive progression of our tribe.

Indian people living in Indian Country, are they no less than other citizens of the United States? Don't we deserve to live in safe communities too?

Either provide us with the contracting of law enforcement services or provide us with adequate law enforcement!!!!!!!

[NOTE: Additional information submitted for the record has been retained in the Committee's official files.]

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Ms. HERSETH SANDLIN. Thank you very much, Chairman Thompson, for your testimony.

As I indicated at the beginning of the hearing in my opening remarks, I was here about a year ago specifically to address some of these issues.

I was driving from the western part of the state. I stopped first, had a wonderful one-on-one meeting with Chairman Jandreau, had a tour of the new detention facility across the highway, in which we came across some officials within the BIA who were doing a site visit for purposes of trying to move the process forward of getting a certificate of occupation issued and, again, some of the issues that Chairman Jandreau raised with me at that time caused me great concern about what both the Lower Brule Sioux Tribe as well as the Crow Creek Sioux Tribe were facing as it related to detention facilities and adequate number of law enforcement officers.

After meeting with Chairman Jandreau, I drove across the river, had lunch and had a meeting with Chairman Thompson and other members of the tribal council. They were not aware that Ms. Baker, who I believe is here today, was over doing a visit of the Lower Brule Sioux Tribe detention facility and were not aware, I don't think, that she was going to be over at the jail facility that had been closed in Crow Creek.

So we decided to change the agenda of our meeting slightly and take the meeting over there where we had a chance to—I had a chance to witness the tension and the frustration of leaders for the Crow Creek Sioux Tribe as it related to the number of law enforcement officers, the situation with that jail facility, with Mr. Fourdance, who is here, and with Ms. Baker, and it illuminated for me even further the frustration as it related to responsiveness and consultation.

And I think Chairman Jandreau very eloquently, as usual, described our interest here today is getting to the heart of the problem with the process. I want to believe that every individual who

is involved and has a stake in the security of every community in Indian Country, every community in South Dakota, every community across the country, will help us today to get to the heart of some of the problems with the process.

We know the resources are always going to be a challenge and we've made some progress, not only from the Administration's proposed budget, but from the House and Interior Appropriations Subcommittee dealing with the Senate action, hopefully viewing favorably the need for increases to address these needs as well, particularly when you've put into the context historically for us the number of officers that were employed, albeit at 1883 wages, and what's happening in rural America today and where reservation communities are among the most rural in the country.

So I do want to thank you for your testimony, Mr. Ragsdale, and for traveling out to Lower Brule for two days of hearings, for the work that you've undertaken in different capacities with the Bureau of Indian Affairs and working with our chairmen and presidents here in South Dakota. I think we can all agree that the absence of a jail facility for either Lower Brule or Crow Creek is an unacceptable situation.

Just in this time of high gas prices, what we are spending to transport detainees either to Chamberlain or to Cheyenne River or to Standing Rock alone is a waste of resources.

And I know that the BIA indicated last year that the Lower Brule facility would be operational by April 1st. I understand and maybe could have a point of clarification from either of you, Mr. Ragsdale or Chairman Jandreau: Was a certificate of occupation issued in February for the detention facility?

Mr. JANDREAU. No. I believe it was in March.

Ms. HERSETH SANDLIN. In March?

Mr. JANDREAU. Yes.

Ms. HERSETH SANDLIN. OK. So if the plan was to have the facility operational by April 1st, I was hoping, Mr. Ragsdale, you could elaborate as to why the Bureau failed to meet that target.

Mr. RAGSDALE. Well, I would probably need to do that in detail, because I do not know all the details, Madam Chair, but my understanding is that we should be able to open and be operating within the next couple of months at least as a transitional facility. We have had problems, as you know, in resources in terms of hiring people on a timely basis and meeting all the security and background checks that we have to do for staffing our law enforcement services.

Ms. HERSETH SANDLIN. With all due respect, that was the response I got a year ago. The 1.2—you said the problem with some of the resources, the \$1.2 million that was reprogrammed last June that was assigned to other reservations, has that been the problem, the reprogramming of those funds to deal with the resources necessary for the Lower Brule facility?

Mr. RAGSDALE. Do you want to address it, please?

Ms. HERSETH SANDLIN. Mr. Chris Chaney, I'd invite you to provide a response.

Mr. CHANEY. Thank you. I'm not familiar with the 1.2 million issue.

As Chairman Jandreau indicated, there was funding that was appropriated for the purpose of opening up the Lower Brule detention facility. Part of the problem is even though we've been given appropriations to get this facility open, part of the problem has been filling positions.

There are 40 positions that we need to fill at that facility and because of various problems, we've only been able to get 17 of those positions filled. All 40 positions have been advertised. We have had applicants for all 40 positions and we have had selections made for all 40 positions but a whopping 23 of those people either turned the jobs down later or declined for some purpose or had to be removed because they were inappropriate because they had a problem with their background check or something like that. So we've only been able to fill 17 of the 40 positions.

One of the issues that Chairman Thompson talked about was the closure of the Crow Creek facility. If you read the Inspector General's report, Neither Safe Nor Secure, which I know you have, one of the things it talks about is safely staffing facilities and one of the complaints of the Inspector General specifically was inadequate staffing.

The Crow Creek Sioux facility, when we closed it, was being run by two employees. It was an unsafe facility. The facility condition was not up to par and neither was the staffing. It was not safe for the inmates, it was not safe for the employees, it was not safe for the public, and we're having similar problems now at Lower Brule getting positions filled.

Now, we have a plan in place——

Ms. HERSETH SANDLIN. If I might——

Mr. CHANEY. Yes.

Ms. HERSETH SANDLIN.—just because I want to get to some other questions I have specific to the facility for Crow Creek and I want to give Chairman Jandreau an opportunity to respond, because if you start presenting information that deals with both of them together, then it's a little bit more difficult, I think, for our chairmen to respond precisely and it also gives me the concern that by always trying to address them together that way, that consolidation is being forced upon these two tribes without adequate consultation and citing staffing issues as the reason for that.

So given that it was an emergency situation when Crow Creek was closed in January of last year, were there any emergency steps taken by the Bureau in anticipation of opening a new facility in Lower Brule but also in dealing with the safety considerations of Crow Creek, to deal with that situation? Are there emergency steps that were taken, that should have been taken in anticipation of the fact that just because Lower Brule had agreed, based on the condition of its older facility, to have their detainees housed in Crow Creek, it shouldn't have ever been assumed that once Crow Creek closed, that there would be a similar agreement to house detainees in the new facility in Lower Brule for the Crow Creek Tribe. And I feel that there was an assumption being made there, again, part of this process of tribes to consolidate.

I just want to lay that out and let you respond, either Mr. Ragsdale or Mr. Chaney, about the emergency steps that were

taken or could have been taken and then I want to give Chairman Jandreau an opportunity to respond.

Mr. CHANEY. Yes. As you know by reading the report and as you know by listening to what the Chairman told you both on and off the record, we are dealing with a situation where we don't have resources to do everything we like to do.

When the Crow Creek Sioux jail was closed, what we had was an understaffed, unsafe facility at Crow Creek and no facility at Lower Brule because the Lower Brule facility was still in the process of being completed with the construction getting opened.

Ms. HERSETH SANDLIN. There's a chair.

Mr. CHANEY. Thank you.

So we have one facility that is not properly staffed and is inadequate for public safety and another facility that is not open. The emergency response, if you will, was to close the unsafe facility to protect the public, protect our inmates, protect our employees, and then to, frankly, transport prisoners to other locations. And that was expensive and it was burdensome but when you have no detention facility available, you make do and that's what we had to do.

Ms. HERSETH SANDLIN. Thank you.

Mr. Chairman, if you don't mind, just a follow-up question before I turn it over to you.

Did you meet with Chairman Jandreau to visit with him about this issue of resources and not having enough resources to do everything that you wanted to do? Did you visit with Chairman Thompson or his predecessor? What was the consultation? I just don't think we can use insufficient resources as justification for avoiding the consultation requirement, so perhaps you could clarify what types of meetings took place as the staffing shortages became so acute that the decision was made to close the facility.

Mr. CHANEY. I can't tell you—

Mr. RAGSDALE. Well, I can address it.

First I'd like to say I have the greatest respect for Chairman Mike Jandreau as I do for all tribal leaders and we have had numerous meetings with Chairman Jandreau and other tribal leaders concerning the detention facilities throughout the country. So, I don't think it's a matter of lack of discussion with them. I think it's a matter of not liking the message that we have to deliver with regards to resources and our ability to get things done.

I will assure the Committee that I'm a former police officer, former tribal police chief for seven years, and I was often unhappy with my Federal counterparts, but the fact of the matter is that we've had to close over four or five facilities and we'll probably close a number of others in the next few years because most of our facilities were built in the 1970's and they're crumbling under our feet. So, this is part of the overall picture.

Let me also just say one thing about the 1.2. I'm not sure that it's 1.2, but Chairman Jandreau and I have talked about this before. It is true that we used the money that was initially allocated for services here because of—it was not obligated, because we needed it somewhere else. That's just the condition that we're in. I'm not aware of any constraint on the Federal Administration to do that to me presently so that's what we have all over this country.

Ms. HERSETH SANDLIN. Chairman Jandreau.

Mr. JANDREAU. I guess I would—I guess I would like to clarify. I was—in June of last year, we were told by Mr. Chaney and Mr. Rivera that there was \$1.75 million allocated for Lower Brule detention facility. Those dollars—those dollars were not made available.

In November of last year, after a meeting was held in Washington, D.C.—well, it was actually in Arlington, Virginia, on the Bureau of Budget, on which I'm a member on the committee, I was provided a governmental budgetary allocation document.

The document told us that by June of '06, there was approximately \$465,000 available to Lower Brule for our detention facility. The same document presented that the dollars were allocated—\$700,000 was allocated to Standing Rock, \$300,000 was allocated to Turtle Mountain, and \$200,000 was allocated to Spirit Lake.

Now, the document speaks for itself. I did not provide that in my testimony, but if it's a requirement, I will. And this comes from the Bureau of Indian Affairs, its own budgetary process.

I asked at that time of Gill Rivera when that money was going to be returned. He said it was not going to be returned. He said that year is already over. I said, "Well, wait a minute, these are two year budgeting cycles." So that year's appropriation plus '07's appropriation were both to be available for this detention facility.

In order for those dollars to be reprogrammed, it takes the signature, according to my understanding of the process, of an appropriations chairman or vice chairman to do so. I asked: Who signed off on that? I asked the same question of Senator Dorgan in Minneapolis and I still have not received from anyone that—where we're at there, nor have I received from anyone a budgetary document telling us what's available for our facilities funding program seven.

Ms. HERSETH SANDLIN. Well, Chairman Jandreau, if you could provide us that document that you received—

Mr. JANDREAU. Yes.

Ms. HERSETH SANDLIN.—in early 2006 so that we have that for our—

Mr. JANDREAU. It was actually in November of 2006. I received that from Gill Rivera and I questioned him in regard to the content. Maybe he thought I couldn't read it. I don't know.

Ms. HERSETH SANDLIN. I would appreciate it if you could provide the Committee with a copy of that budgetary document and then, Mr. Ragsdale, when I posed the first question, if you could provide, as a written submission, some of the detail that addresses precisely this issue of the reprogramming of the funds.

And the budgetary process here is what we're trying to get at and I know that there have been sufficient resources at the Federal level for a long time, but you know that's—it's incumbent, in my opinion, on the Administration and the executive agencies to come forward with responsible requests that address the needs and certainly a priority of those needs, so it leads me to, I guess, the question I want to pursue here a little bit further, and that's the issue of an intention with regard to these two facilities.

Mr. Ragsdale, does the BIA intend to consolidate detention facilities available to both Lower Brule and Crow Creek Tribes into a single facility?

Mr. RAGSDALE. To my knowledge, we do not.

I have talked about that with—we have talked to tribal leaders about that. I know that both tribes are adamantly opposed to doing that. We have not proposed to consolidate those against their wishes. If we do so, we will do that forthright and bring them into our bargaining.

Ms. HERSETH SANDLIN. OK. So if that's not the intention, let's—let's talk about the Crow Creek facility, then, for just a moment.

Setting aside for a minute the staffing issues that you've described, how much is it going to cost? Has there been an analysis done of how much it's going to cost to repair and reopen the Crow Creek Sioux Tribal facility?

Mr. CHANEY. No, not at this time.

Ms. HERSETH SANDLIN. Does that reflect an indication to never reopen this facility?

Mr. CHANEY. No. We just have a lot of competing demands. There's about 81 detection facilities across the United States and this particular one, there was an analysis done and it was found to be unsafe. We can still do an analysis to decide whether it's cost effective to reopen it.

What we're finding, though, is a number of our facilities, it costs more to fix than to build a new one. And I don't know if that's the case on Crow Creek or not but that would be something that we can look into.

Ms. HERSETH SANDLIN. So what is the process in your office, Mr. Chaney, once a detention facility is closed because of structural issues? Is there, in the process, a requirement to do a subsequent analysis for the costs of repair and reopening that facility and if—whether or not there is, have you submitted a budget request from your agency to the Secretary that's forwarded to OMB, the Office of Management Budget with the President, for an increase in FTE's to conduct these analyses given the competing demands that we have on facilities across the country?

Mr. CHANEY. Those types of analyses are not done by the BIA Office of Justice Services. It's done by a part of the Indian Affairs called the Office of Facilities Management Construction and I don't employ those people or have control over them.

Mr. RAGSDALE. The short answer would be that we do not—we have not, to the best of my knowledge, proposed any increases to construction of either educational facilities or detention facilities in the next coming fiscal year.

Ms. HERSETH SANDLIN. Because of resource issues?

Mr. RAGSDALE. Yes, because of budget constraints.

I would say that there will be a report available in the near future, a very detailed report on the state of our detention facilities nationwide.

Ms. HERSETH SANDLIN. As a follow-up to the Inspector General's report from 2004?

Mr. RAGSDALE. Well, I don't know if we did it specifically as a follow-up, but it was a report that was much needed so some of the analysis that you referred to would be in that particular report.

Ms. HERSETH SANDLIN. I know that there are a number of statutory requirements that require the BIA—well, that protect BIA schools from closure or consolidation without consultation with the

affected tribes and similarly there are provisions that require the IHS to analyze and report the consequences of service reduction in any one of its facilities. Are there any similar consultation or reporting requirements affecting the Bureau's detention facilities?

Mr. RAGSDALE. I'm not aware of any special requirements such as those for educational facilities. But, the fact of the matter is that the facilities that we've shut down were unsafe to put human people in those facilities and that's why they're closed down. So I don't know that even if we had a statutory constraint, other than just reporting and justifying it, that it would make any difference. I feel confident that the facilities that we have closed needed to be closed and probably should have been closed sooner.

Ms. HERSETH SANDLIN. Chairman Thompson, would you like to comment on your perspective in what we're pursuing here as it relates to the Crow Creek facility in particular?

Mr. THOMPSON. Yes, I would.

I've got a question here. As you're sitting here talking about appropriations of funds, what has become of the funding that has been appropriated for Crow Creek all these past years to operate our facility and if it's still there and appropriated for Crow Creek, how is it being applied to our facilities? Couldn't this be applied to the maintenance and construction of this place that's being closed for what you're saying?

Also, you bring up staffing issues and a letter that you had written to me and your response to me was it was a major staffing issue. The staffing issue at the time that you are saying that you made this decision back in November of the previous year, we were fully staffed as a detention office and if we did lose them officers at that time Lower Brule had detention—correction officers sitting idle. Why weren't they utilized to keep our facility operating?

Ms. HERSETH SANDLIN. Chairman Thompson, I'm going to take your questions for the record and I'm going to allow Mr. Ragsdale, if he would like to, now, to respond to any of those questions or if Mr. Chaney would like to. I think that in addition to the questions you just raised as well as some of what we're going to try to get to the bottom of as far as the reprogramming of funds that Chairman Jandreau mentioned, do deserve responses and answers and I think that the Natural Resources Committee needs to also work closely with our counterparts in the Interior Appropriations Subcommittee to compile this information and to demand the answers that you're looking for in terms of the complexity of either reprogramming dollars for the operations of the new facility or how the dollars have been used, ones for operation of Crow Creek's facility once it was closed.

Mr. Ragsdale or Mr. Chaney, would you care to respond? Again, these get into very specific issues but—and Chairman Thompson, if you want to clarify, a point of clarification for any of the questions you just posed?

Mr. THOMPSON. I would like to ask one more question here.

Now, to me, it's apparent that—and while your OIG reports here that there is not adequate management throughout the Bureau of Indian Affairs office and Justice Services, underneath your guys' new lines of authority, we'll call them, because you separated the detention, you're going to separate, it sounds like, the dispatch



now. Are you staffing this with qualified individuals and properly training them? And if so, these dollar amounts that you're earmarking for their salaries are at an outrageously higher rate.

You pay most of your administration staff more than the FBI agents that patrol our area receive, higher than what officers in the biggest municipalities in the State of South Dakota receive. Now, if funding is such a big issue, why are these salaries so outrageous? Why don't you cut some of them salaries and reapply it back where it's truly needed in the services that's supposed to be provided to the people?

Ms. HERSETH SANDLIN. Again, we're going to take all these questions through the record and would ask for, you know, written submissions in response and we'll ask for, in more specific detail, other particular documents, other questions that I'll have to put in the record.

But, Mr. Ragsdale, I'll give you an opportunity to respond.

Mr. RAGSDALE. Well, I would say, first of all, that with regards to the 2004 OIG report that Mr. Chaney and I have been on duty for approximately the last two years and we had a significant progress of which we would welcome the review and inspection by the Committee staff with regard to follow-up to the OIG report. I'm very comfortable with that.

There are resource issues that inhibit our ability to respond to all of the 25 or 26 some-odd recommendations that the OIG made but we would welcome the Committee's review of that.

With regards to our staffing, we pay pursuant to OPM classification rates and I would disagree respectfully with the Chairman's view that our administrative personnel get paid more than FBI agents or anybody else in the Federal justice system.

Ms. HERSETH SANDLIN. Does the report that you mentioned to me, Mr. Ragsdale, that will be coming out shortly, will that include a description of the progress that you feel in your tenure has been made in the last couple of years? Not, again, as a follow-up or directly in response to the 2004 OIG report, but will that report include for the Committee and the Committee staff's review a summary or more lengthy description of the progress and steps that you've undertaken.

Mr. CHANEY. The report that Mr. Ragsdale is referring to is a national analysis of our corrections programs nationwide and the specific emphasis of looking at where we are today and where we need to be in the future.

The short answer to your question is the responses to the Inspector General's recommendations, we can get that to you separately and it will be less confusing. It's not part of the analysis of the facility conditions.

What we can show you is out of the 25 OIG recommendations, BIA has complied with 16 of them. In fact, all 16 of them, including the management issues that Chairman Thompson referred to, have been addressed. The problem is the remaining nine are recommendations that would require additional appropriations from Congress to be able to do, things like make sure you have adequate staffing levels, make sure your facility conditions are up to par, and so forth.

And the other question you had was?

Ms. HERSETH SANDLIN. Well—

Mr. CHANEY. Oh, the other report.

The other report is looking at facility conditions.

Of the 81 or so detention facilities across the United States, we've hired an independent contractor. They've gone out—I think they've been to 38 or more of the 81 facilities. They're making analyses as to what the strengths and weaknesses of each facility are and have looked at reservations in various parts of the United States.

And the idea is is that we're at a crossroads, if you will. Up until the time of the Inspector General's report and about the same time, there was a DOJ grant program that helped fund about 20 jails in Indian Country, including the one across the street at Lower Brule, and BIA has not been appropriated any money to build jails for ten or 15 years and all the new jails that have come on line in the last ten or 15 years have been either totally financed by tribal dollars or they have been financed through DOJ and tribal dollars such as the Lower Brule facility.

Now, that program is winding down and our understanding is is that the remaining funds that they have are being used to finish some of the projects that have not been completed yet. So we're at a crossroads where DOJ is not building any new jails so the question is: Where do we go now?

And Mr. Ragsdale testified earlier a lot of the facilities, the vast majority of the facilities that we have today were built in the '60's, the '70's, even the '50's, and a lot of these facilities, frankly, are beyond their life span. A lot of them.

And so these facilities, when we build them and they're being used for 20, 30, 40 years or more, what we want to do is try to create a national strategy that looks at our detention program for Indian Country for the next five, ten, 20, 40 years, where do we want to be and how is that going to be accomplished.

And the report has not been issued yet. We've already had consultation with tribes from across the United States. The first meeting was held, I believe, in February in Albuquerque and we invited tribes to come in and see a preliminary version of the report, which was revealed to us also, and we talked about that to get some preliminary ideas of where we want to go in the future.

When that report comes out, then we'll be in a position to start making some very big policy decisions about the future of this program.

Ms. HERSETH SANDLIN. Did the draft report lay out a strategy already and such that it was going to be a consultation with the tribes after the draft, the national strategy, or is it more just the goals and objectives in light of budgetary constraints and an issue of consultation to get ideas from tribes as to, you know, what they think the national strategy should be.

Mr. CHANEY. What the report does is it lays out options so that tribes and BIA can discuss what makes sense.

No, there's not any prejudgment about what the results should be but there are options that are laid out for the BIA and the tribes to consider. And there may be different options that make sense in one part of the country and different options that make sense in another part of the country as we have different demographic situ-

ations that apply to different reservations. One size doesn't always fit all for Indian Country and we're aware of that.

Mr. RAGSDALE. Let me add to that: We're hopeful that this will be similar to the Gap Analysis that we talked about in the testimony. The report which we had done provided us with some options on how we get to where we need to be in terms of resources and how much it will cost.

Let's say the cost to provide adequate—I'm just saying let's say the cost is a billion dollars. The Bureau's total budget is about \$2.2 billion. So what kind of strategies do we need to have in order to provide facilities. Are there any other alternatives that we can use to lessen or minimize the amount of appropriations we would need. What kind of priority settings are the tribal leaders going to have to make in terms of providing detention facilities over education and the line.

Ms. HERSETH SANDLIN. Chairman Jandreau, did you participate or have you had discussions with any other tribal leaders who participated in the Albuquerque meeting earlier this year on this draft report?

Mr. JANDREAU. No, I haven't. I haven't had an opportunity to discuss that with them, but there are a couple of things that I guess I would like to go back on, if I may.

Ms. HERSETH SANDLIN. Please.

Mr. JANDREAU. Number one, this process of lack of personnel that was mentioned here, that there's only 17 personnel that have been cleared so far, has been affected by the length of time that it takes now in Albuquerque and I think everyone can admit that. They do backgrounds and all of those activities.

But one of the things that is so crucial, and it must be done with all of the tribes, is there's got to be the ability to sit down and adequately consult on these processes. We are not being able to be afforded that. That yes, we do have officers from the regional office that drop in periodically to visit with us, but as far as them containing any real budgetary information, those conversations do not contain that.

As far as detention personnel, we have been fortunate to have Mike Yellow come down pretty consistently but again, he does not have always up-to-date budgetary information nor the ideas that we can really consult about.

It seems that all of the budgetary process is very bottlenecked at the central office level and that process has really got to stop in order for us as tribes to effectively move forward.

One other problem that we really have is we are being given bits and pieces of information that lead us on to believe that activity is really going to occur and they do not possess the ability at the office in Albuquerque—or in Standing Rock to give us that information.

They hired an individual down here in charge of activities. He worked for nearly six months, was unable to process any of the work necessary to move the occupation of the facility forward. He consequently has, since then, left his position. There is a new individual in that position who is a tribal member who has moved this process forward markedly.

We do not want to be the entire oversight of the Bureau function, we want that function to work, but there's got to be a process where consultation is real so that we can indicate our frustrations and hopefully garner some kind of reactionary movement on the part of the Federal system. This can't continue. We are spinning our wheels. We are—and those are just real frustrations.

When I spoke to Senator Dorgan about this, he indicated to me that I was being impatient. Well, I think I've been pretty patient, you know. I've waited for lots of things to happen a long, long time. And if it appears that I am impatient today, it's because we need to be communicating. We need to have the truth told to us. We're big guys. I mean, we can hear a no now and then and there ain't no dollars. I mean, those are things that we can understand.

Thank you.

Ms. HERSETH SANDLIN. Well, thank you, Chairman Jandreau. Thank you for bringing up the issue of the staffing issues because I wanted to come back and specifically ask you and Chairman Thompson to address that issue and the fact that we have this very slow process coming out of New Mexico.

Mr. Ragsdale, I have to tell you that this is probably the most far-reaching and consistent concern and complaint and source of legitimate impatience that I take, my office takes, day to day in all of the different offices located in Albuquerque, and it shouldn't be necessary for tribal leaders to have to ultimately call their Member of Congress' office just to try to get a call back or an answer to something out of folks in Albuquerque. That's not fair. It's not transparent. It reflects, I think, the breakdown in the process that Chairman Jandreau has described.

I would respectfully request that you work with us to address some of perhaps the most recurring incidents to increase that level of responsiveness that then can help shed some light on what we can do for the transparency of the budget process to ensure that consultation is far more meaningful than I think it has been in the last number of years in light of the problems that we are continuing to have.

So in light of—and I think I saw both of you nod when Chairman Jandreau said that I think we can agree that part of the staffing issue has been slowed down by the checks of what has to go on down in Albuquerque, New Mexico.

So you had also indicated at the outset, Mr. Ragsdale, that your hope was that the facility of the Lower Brule Sioux Tribe could be operational within the next couple of months. Are you in a position today to provide sort of a time specific so that we can work with you, as we work with Chairman Jandreau and we work with this new individual in this position that he described that's been able to move this process along, to ensure that at some point this summer that facility is operational?

Mr. RAGSDALE. I wanted to say two things. I will concede that our consultation process with Chairman Mike Jandreau could be better and we will pledge to see if we can effect a better process with the leadership of the Great Plains so that they are fully informed as to where we are, what problems we face, and where we are with regard to the funding. Mr. Chaney and I will do that.

I'll let Chris talk to you about the schedule.

Mr. CHANEY. The plan that we have with the Lower Brule detention facility opening is that we anticipate that within a month we should be able to have it open as a 72-hour holding facility, basically able to take prisoners that are arrested and awaiting their court date, their arraignment and so forth, and be able to have enough staff to be able to do that.

Three months after that, the plan is to have one of the wings open for sentenced inmates. That would be the adult male wing. Three to six months after that we believe that we'll have enough staff on board to open up the adult female wing, and then once we have the final hiring for the juvenile detention staff, we should be able to get the juvenile center opened up.

One of the things you'll be interested to know is that many of the correctional officers that have been hired to work at the Lower Brule facility are actually completing their training today at a special training event that we're having in Pierre, South Dakota, today. It started earlier in the week and it's finishing today.

Ms. HERSETH SANDLIN. Well, I appreciate that timetable and I appreciate the constraints that we're faced with here but that takes us into next year.

And let me ask about this special training in Pierre just so I have a point of clarification here. Did these officers, however, first go through their weeks of training down in New Mexico and then there has been a specific follow-up of additional training in Pierre?

Hi, Ms. Baker. Welcome.

Ms. BAKER. Thank you.

The training that is being conducted this week is specific to direct supervision, which is the type of facility that the Lower Brule facility is. It's not a linear style jail where you're locked individually in cells. It's an open environment such as this where the inmates are classified as—although they have assigned sleeping areas, they are allowed in a pretty much open day area and the officer is pretty much right in there with them during the entire shift, so it's called direct supervision. So that's very specific training.

Ms. HERSETH SANDLIN. And is that in conjunction with or in addition to training that was received in New Mexico for these officers?

Ms. BAKER. No. This is specialized training for that type of facility. It's in addition to the IPA certification that they're required to have.

Ms. HERSETH SANDLIN. And are there age limitations in place for those who can apply for and receive these positions?

Ms. BAKER. They must be 21 and they must not exceed 37 years of age.

Ms. HERSETH SANDLIN. Before I follow up, Ms. Baker, I need you to identify yourself just for purposes of the record. Many of us know who you are.

Ms. BAKER. My name is Greta Baker. I'm the supervisor for the district one division, which is the Great Plains and Midwest region.

Ms. HERSETH SANDLIN. Of all of the positions open for the new detention facility, does that 37—did you say 37 years of age limitation—does that apply to all of those positions?

Ms. BAKER. Yes.

Ms. HERSETH SANDLIN. And in light of the acute staffing shortages that we're facing, has there been any discussion, within your office or within the agency more broadly, about waiving those restrictions?

Ms. BAKER. Yes, there has.

Ms. HERSETH SANDLIN. And what has been the result of those discussions?

Ms. BAKER. That it cannot be done because of the law enforcement retirement.

Ms. HERSETH SANDLIN. Could you elaborate on what you mean, the law enforcement retirement?

Mr. RAGSDALE. Well, I have not been involved in these discussions directly, but the law enforcement retirement program, that's the reason for the age limitations, but let me just modify a little bit of what Greta said.

If they are new hires, they cannot be over the age of 37, but if they are reassigned or are currently working in the Federal system, they could be reassigned, but there are limitations from the retirement requirements for law enforcement so that you cannot hire somebody over the age of 37 as a new hire.

Ms. HERSETH SANDLIN. I'm still trying to understand the law enforcement retirement issue. This isn't another budget issue, is it?

Mr. RAGSDALE. No, it's not.

Ms. HERSETH SANDLIN. Well, in our second panel, we have law enforcement and I know you have served as well, Mr. Ragsdale, but whether I pursue that in the next panel or we pursue it within the Committee independently at this hearing, I just think we've got to have a measure of flexibility and common sense when we're dealing with acute staffing shortages, and if that's the justification primarily for closing of the Crow Creek Sioux Tribe facility, lack of getting operational on the Lower Brule Sioux Tribe facility, and we are sitting here hindered by the fact that there can be no new hires if someone who lives in Lower Brule or Fort Thompson is 38 or 42 and is well qualified and is—their application is deemed ineligible because of the lack of flexibility, then we need to address this need.

Chairman Thompson, I see that you might want to give comment on this point.

Mr. THOMPSON. Yes, I'd like to ask a question of Ms. Baker here.

Ms. HERSETH SANDLIN. Chairman Thompson, just so I can clarify: I appreciate you raising those questions. Again, they're going to have to be taken for the record.

Mr. THOMPSON. That's fine.

For the record, I would like the question addressed.

Ms. HERSETH SANDLIN. OK.

Mr. THOMPSON. You were talking about training for your correctional officers. There's an area that needs to be addressed now, whether Crow Creek or Lower Brule ever gets their detention centers open.

Right now on our reservation and on Lower Brule's reservation, the law enforcement officers transport detainees to these outside correctional facilities taking them away from their coverage area. Now, a year ago, you—at a meeting with you in Fort Thompson, you had made statements to myself and my council with the representative present at that time that correctional officers were

going to be trained how to handle in transport detainees so that it would alleviate the stress and the pressure put onto our officers to cover both these duties, and that's been a year ago with no progress. Now, can you bring us around and up-to-date where that stands at this point?

Ms. HERSETH SANDLIN. Again, that question will be taken for the record. I will give you the opportunity—some of the questions presented, because of the unique circumstances facing the Crow Creek Sioux Tribe, its facility, its law enforcement needs, you know, are very specific. I know that you have been posed with similar questions before and we want to give you an opportunity to be able to provide, through written testimony, the specificity in the response relative to the specificity of the question, but I do want to give you an opportunity here at the hearing if you'd like to take the opportunity now to address, either in more general terms or in more detail, a response to Chairman Thompson's concern and question.

Ms. BAKER. I'll just respond in general that we do—we have developed the training for—with the—in conjunction with the Indian Police Academy for armed escort training.

We have had three academies. The first one was kind of a test academy we ran all of BIA through. I think there was 12 to each class. We've had two since then. I believe the last graduating class was 80 percent tribal employees. And it is an ongoing process.

Ms. HERSETH SANDLIN. Let me pursue a few other questions and I know that we're going to get to the second panel here momentarily.

On the issue of training that Chairman Thompson has brought up, his experience is unique. Although there are broader trends here that we need to address, because each facility, each tribe is going to have experiences that are unique, but at the same time, it's the broader trends that the Committee is pursuing here and each of us who has the honor of representing a sovereign tribe obviously is going to work with each tribal leader to address and get responses to the specific questions based on unique experiences, but the training issues, you know—and this gets to the flexibility for addressing the shortage of staff issues that have been cited and wanting to get to the heart of that. Because I think there are ways to alleviate that problem to the degree it seems to be the primary problem that the BIA has identified specifically to the Lower Brule Sioux Tribe.

And I don't want to miss an opportunity, now that we have increased resources, again, although not sufficient to meet all of the needs, these increased resources for Indian Country coming from the Administration's proposed budget and what the House Subcommittee has already done.

But the Bureau of Prisons has opportunities through distance learning, computer based training. We have this new facility in Pierre where you've already identified some officers have received some more specified training. We have young men and women in different reservation communities who may very well be interested in pursuing a career in law enforcement and yet if they do that, to become qualified as a BIA officer, I believe they have to go down to New Mexico to receive that training.

Is that correct, Mr. Ragsdale?

Mr. RAGSDALE. Yes, ma'am, that's correct.

Ms. HERSETH SANDLIN. And have you pursued either working with tribes in South Dakota as well as state officials in charge of the overall operation of the center and any other tribes in any other states a degree of flexibility where the training could be provided more locally, where young people could travel back on the weekends to be with their families rather than being in New Mexico for eight weeks?

Mr. RAGSDALE. We have had discussions about that but I must tell you that I may be a little bit biased because I am a graduate of the Indian Police Academy and I have also been through the criminal investigation school at Glynco, Georgia, who provide some of the best training for law enforcement that there is in the world. And so it is a requirement for their Federal certification that the majority of our officers go through the police academy and the criminal investigation course at Glynco, Georgia.

Now, having said that, we use state agencies all the time to supplement our ongoing training and if we do hire someone from the outside that's been a deputy sheriff or a city police officer, there is a process that we can waive the long-term training for short-term training so that they can get their Federal certification.

Ms. HERSETH SANDLIN. I appreciate your response and I might be a little bit biased myself because of the quality of the training that I know goes on at the center in Pierre and while I appreciate that the quality of the training that's provided in New Mexico or in Georgia and that in working with the states, there's supplemental training where there's agreements or memorandums of understanding with the tribes, again, we're dealing with an issue of crisis proportion in getting people trained to staff these facilities.

I would hope that we could agree upon the need for the flexibility to perhaps provide the core training closer to home and the supplemental training, then, when these young people become officers, more comfortable, you know, and looking for other opportunities within that career to receive supplemental training further away from home. And so I would like to continue to pursue that with you.

I have to assume that there are tribes in other parts of the country that would feel similarly that are located further away from Georgia or New Mexico. And again, that's the Great Plains tribes in particular that I've heard this concern expressed repeatedly, and again, the issue of acute shortages and crisis that is occurring in Indian Country and the need for some flexibility as it relates to the training required to get the credentials to fill these positions.

I am going to submit other questions for the record that deal with the budget process issues, some of the issues that Chairman Thompson and Chairman Jandreau have brought up regarding the shifting around of resources, when unfilled positions go unfilled, and what the backlog is, and again, some questions I have so that we don't undercut these opportunities that we may have with the increased resources that will be becoming available.

And then if you could get back with me in writing on the Bureau of Prisons computer based training as well as the distance learning offered in terms of supplemental training that officers could receive.



And finally, I am going to state for the record again, Mr. Chaney, appreciating your candor about the time lines for the Lower Brule Sioux Tribe facility as well as, Mr. Ragsdale, your comment that there has been no proposal to consolidate the detention facilities for Crow Creek Sioux Tribe and Lower Brule Sioux Tribe, that it would take us another year to have the Lower Brule Sioux Tribe detention facility for which, as Chairman Jandreau mentioned, five and a half million dollars of tribal funds went into that project in part based on assurances that Chairman Jandreau and others were getting that this process would move forward in a more timely way, a year's unacceptable to me.

So I am, I guess, putting you on notice in the spirit of cooperation here that we work together to try to move that date up substantially and wanting to be in a position of working with the Chairman and Ranking Member and others on different committees of jurisdiction to identify the process and the financial means of doing so.

Thank you very much, each of you, for your testimony and for your insights. As those who have joined us today, many of you being in the field of law enforcement, tribal leaders, recognizing the complexity and breadth of these problems, today's hearing is dramatically important, but again, the continued conversations, gathering of information that we'll be pursuing in the weeks ahead will—it is my hope will lead to the kind of progress that I think we all want to see for the safety of the communities, especially for the children in our communities and the parents and elders that want only the safest and most secure for the future of every community and the Federal Government's obligation to explore the different options as it relates to the funding and resources, but a better process, more transparent, timely, responsive process that meets the needs and priorities articulated and identified by tribal leaders across the country.

So thank you very much for your testimony and I would invite our second panel to the witness table. We're going to be taking a short break after the second panel, before the third, and when we do break—and I'll repeat this after we finish the second panel—when we break, we're going to have press availability and we're going to be using Chairman Jandreau's office so the witnesses from the first panel and the second, as well as the third, may want to join us at that time.

So as our witnesses for the second panel are taking their place at the witness table, let me thank, again, the first panel for their expertise.

We're going to focus on a narrower aspect of law enforcement for our second panel. I'm sorry, I'm going to the third panel. Let me get to the second one.

There are a number of other tribal leaders joining us on the second panel. We have President John Yellowbird Steele, who is here with the Oglala Sioux Tribe, The Honorable Rodney Bordeaux, President of the Rosebud Sioux Tribe. Welcome. We're going to switch your nameplates around, actually, President Bordeaux. And then Gary Gaikowski. Yes, very good. Thank you. Sisseton Wahpeton Oyate Chief of Police. And is Chairman Joe Brings Plenty here?

Mr. BORDEAUX. Yes, he is.

Ms. HERSETH SANDLIN. OK. He'll be joining us here momentarily. We'll give him a moment.

But again, as I mentioned, we have mostly on our second panel tribal chairmen and presidents. We've also been able to include Chief of Police Gary Gaikowski, all with extensive experience dealing with the challenges of providing law enforcement in their respective communities and I appreciate their leadership as I've consulted with them to address some of the concerns that I expect them to raise.

That was a long first panel so I know people are taking a quick break, but in the spirit of moving things along, we'll have—I know that Chairman Brings Plenty will be joining us momentarily, but why don't we go ahead and get started with President John Yellowbird Steele's testimony today.

Welcome. Thank you for being here, and we look forward to hearing from you and the experiences of the Oglala Sioux Tribe. Again, as the witnesses from the first panel pointed out, I know you and everyone else on this panel has submitted a written statement for the record which will be made part of the record in its entirety and so we recognize you to summarize and address some of the highlights of your testimony for the Subcommittee and for the full Committee today. Thank you, John.

**STATEMENT OF THE HON. JOHN YELLOWBIRD STEELE,  
PRESIDENT, OGLALA SIOUX TRIBE, PINE RIDGE, SOUTH  
DAKOTA**

Mr. STEELE. Thank you.

Congresswoman, we thank you very much for holding this hearing here in Lower Brule, and for the record, I'd also like to say that down in Pine Ridge, we're more than two times the State of Rhode Island in size and our law enforcement, we need to do 24/7 in this very large area and we have about 50,000 residents at Pine Ridge.

Congresswoman, before I begin my testimony, I'd like to recognize the Chairman of the Winnebago Sioux Tribe—Winnebago Sioux Chairman—Winnebago Tribe down in Nebraska, Chairman Pilcher, and Chairman Cournoyer from the Yankton Sioux Tribe. And if possible, Congresswoman, if we have some time, could they give some oral testimony also? That would be my request for those two reservations. They are a part of us also.

Ms. HERSETH SANDLIN. Yes, certainly. And I do appreciate you introducing our chairmen here today and we made every opportunity, we were—had some limitations both in terms of time and the size of each panel, working with the Committee in organizing this and wanting to make it as comprehensive and inclusive as possible. And I would certainly agree they are part of the broader issue we're trying to get at here today and I would invite both of the Chairmen, perhaps at the conclusion of our third panel, as a separate part of the hearing today to provide oral statements for the record so that we can stay on track with the written testimony that's been submitted, get to our third panel after a short break, and I'd invite both of them up to share their insights with the Committee.

Would that—is everyone amenable to that? Very good. Thank you for introducing them.

Mr. STEELE. Thank you.

I'd also like to recognize our former president of the Oglala Sioux Tribe Cecelia Fire Thunder and former president of the Oglala Sioux Tribe Mr. Paul Iron Cloud. He's, to me, a traditional chief back in, I think, 1980 some by Porcupine and he's got about 5,000 people in his jurisdiction.

Ms. HERSETH SANDLIN. Thank you. Thank you for introducing them both. I've appreciated my working relationship with both of them in the different leadership capacities that they—different hats that they wear at different times and certainly appreciate your leadership over the years and look forward to your testimony.

Mr. STEELE. Yes.

My testimony, Congresswoman, I would like to keep brief and more of an overview and then reserve a little of my time for my chief of police, Mr. James Twiss here, to give some numbers and conditions of facilities and different services that we do have.

First, Congresswoman, I would like to address the fact that in South Dakota, the South Dakota State Supreme Court says that the facts are different in South Dakota. So there is a United States Supreme Court case called Hicks versus Nevada that says that state police can go onto reservations to serve due process and to do their work.

We had a Fall River County sheriff chase one of our tribal members onto the reservation by the casino there putting some charges against him. This went up through the state court and ended up at the South Dakota State Supreme Court and they said the facts are different in South Dakota. Hicks versus Nevada does not apply in South Dakota. State police cannot go onto trust lands in South Dakota. So this gives tribes complete jurisdiction without any kind of help or assistance from the outside.

And we have just passed, also, a law on Pine Ridge on the registration of sex offenders as required by Federal law. If this was not done by July, the state would come in and do the registration of the sex offenders, but on Pine Ridge, we do not want the state to come in or to do anything, if possible. We need the Federal Government to craft their legislation so that we remain sovereign and in control completely of our jurisdiction.

So this task of registering the sex offenders falls upon Public Safety again, but on Pine Ridge we're getting cut by 40 percent come October 1st. We are prohibited from going to the Department of Justice of the U.S. Government now and we're going to lose all of the funds for officers, for our vehicles, for other services come October 1st.

The BIA has cut us more than anyone else. Although you, Congresswoman, put an increase to the Bureau, we are losing our historic monies, not getting any part of the increases the way the Bureau of Indian Affairs is coming up with their formula.

We are very proud of you, Congresswoman, for questioning them and for making it public to other legislators and the Administration. What I heard were excuses and you, Congresswoman, asked them about it several times, budget constraints, budget constraints, these excuses. They never advocate for us, Congresswoman.

But the facts are different here and we have more jurisdictional control, more duties, jurisdictional duties that are not recognized.

I would like to bring up one more thing before I have my Chief of Police come up and give us some numbers here, Congresswoman, and very respectfully I would like to say: We have a relationship with the U.S. Government and this is in the treaty. This treaty, in a proclamation I put in my written testimony and I also give to you, the last paragraph there that Senator Johnson did in the proclamation tells of the different kinds of treaties and this established relationship with the U.S. Government and we are the one treaty that was done as with a foreign nation.

There was recognized by the U.S. Congress back then a legal obligation for these treaty rights, and public safety and the police protection of the people is one of those treaty rights.

Congress used to appropriate monies based upon a head count by the Bureau of Indian Affairs superintendent every year to meet these legal treaty obligations. In 1921 the Snyder Act was passed authorizing appropriations for Indian Health Service and BIA. Now the BIA puts the budget in. The BIA does not recognize or act according to a legal treaty obligation.

Congresswoman, we are of an area that is quite impoverished. This means people who see on TV the rest of—the way the rest of America lives. How long are we to live this way? The BIA is cutting what they call the Tribal Priority Allocation systems, the monies, historic monies we get. Where do they cut? They cut HIPAA. They cut THREP out. They cut Federal assistance out. They are hurting the poorest among the poor.

Again, we thank you for questioning them. How long are we to live with this and put up with these budget constraints?

We were very thankful that Senator Johnson recognized our treaty and put that proclamation out and we're living—we're trying to live according to it and educate people according to it. We have kept our end of that treaty. The U.S. Government took the whole half of South Dakota, one-fourth of North Dakota, Montana, Wyoming, down to the Platte in Nebraska, as long as the grass grows and the rivers flow.

We have not formed our own Army or militia. We have not made a relationship with any other country in the world. But impoverishment, Congresswoman, pushes people to do strange things. And we are, across the State of South Dakota, quite impoverished.

We would request, Congresswoman, that you make possibly—what do they call that? Earmark for law enforcement. Our people need to feel safe in their homes, in their communities, and make it recurring to the BIA so that they can't mess with it and give it to some self-governance tribe.

And I cited the Bureau a few years back, Congresswoman, because they tell their own people, "You'd better be good or we're going to send you to Pine Ridge." I don't need that kind of thinking in the Bureau, that attitude.

So Congresswoman, respectfully, the more impoverished, the more you're pushed to other ways of getting things done. I thank you for this hearing.

[The prepared statement of Mr. Steele follows:]

**Statement of John Steele, President, Oglala Sioux Tribe,  
Pine Ridge, South Dakota**

Good Morning Mr. Chairman:

My name is John Steele and I am the President of the Oglala Sioux Tribe. Thank you for this opportunity to appear and thank you for scheduling this field hearing.

Mr. Chairman, law enforcement and public safety are some of the most basic and yet some of the most critical components of tribal life and tribal sovereignty. All Americans have the right to feel safe. I and a number of our tribal men were in the military and we fought for that right! This basic human need is so strong that our ancestors actually negotiated specific treaty provisions to insure it. Now, unfortunately, those same treaty provisions, which were and are supposed to insure us federal public safety assistance, have become nothing more than another broken promise.

Today, the Oglala Sioux Tribe is facing the loss of almost 50% of our tribal police officers in FY 2008. This is coming at a time when we are also facing a frightening and devastating increase in the number of methamphetamine sales, violent crimes, gang incidents and domestic violence cases. And, at a time when the BIA is actually proposing an increase, although a totally inadequate one, in law enforcement dollars for other Tribes across the nation.

The problems that I am about to describe are a direct result of the Interior Department's failures, and I would be less than truthful if I did not tell you that I am very angry about what has happened, and more than a bit desperate for your help. Here is our story.

A few years ago, when tribal law enforcement programs were still a part of the BIA's Tribal Program Allocation (TPA) budget, our TPA allocation for Oglala faced a serious cut. This was due in large part to cuts that the Administration had initiated in programs that were primarily being used by a handful of tribes like ours, which had large land bases and large populations. Unfortunately, because our reservation is almost twice the size of the State of Rhode Island, and has no state police presence at all, since we are by treaty and by law under tribal and federal jurisdiction, our law enforcement needs are very high. In fact, even the BIA agreed that the 119 plus officers that it was funding at that time were grossly insufficient.

When discussion began on how to address that budget crisis, the BIA's law enforcement staff advised us that while they were powerless to help us because of their funding limitations, they did have a solution to our dilemma. That solution went as follows: Instead of providing us with the funding that we really needed, the BIA recommended that we apply for police officer funding from the newly created Circle and COPS programs at the Department of Justice, and they agreed to help us acquire those DOJ dollars. Their reasoning was that by funding some of our BIA funded officers with DOJ dollars, we would temporarily take some of the burden off of our very limited TPA budget. This would allow the Tribe to use more of its limited TPA dollars to fund some of the critically needed social services that we were losing, and allow the BIA time to figure out how to get the money that we needed to address our new funding crisis. At their urging, we did as they suggested and applied for COPS and Circle grants. While this helped for awhile, it has now left us in a new and even more desperate situation.

Under the approach I am describing, the BIA agreed that the COPS dollars would fund many of our officers' salaries and fringe, and the BIA dollars would fund their equipment, gas and other costs. Everyone was in agreement, and when the DOJ asked us to provide them with a statement of how these officers were going to be funded when our 5 year COPS program eligibility ran out (this is a statutory limitation), we told the DOJ what the BIA had told us, which was that the BIA would be picking up these salaries at the end of the DOJ grants.

Then, right in the middle of our 5 year COPS grants, the BIA funding was short again, and this time these same BIA's law enforcement people encouraged us to apply to DOJ for funding to replace our police vehicles on a one time basis. Because we had a desperate need for these new cars, since our average police car books in excess of 80,000 miles per year, and because we had no other options, we did as they recommended.

Then three things happened. First, as you can imagine, the BIA did nothing to help to add BIA money to our law enforcement budget. Second, the BIA and the Congress eliminated weatherization and one or two more programs that our Tribe was directing a sizable percentage of its TPA dollars into. When these programs went away, the TPA dollars attached to them disappeared as well. This resulted in another severe cut in the Tribe's overall TPA budget, leaving us with no money to move back into law enforcement as the COPS money decreased. Third, the BIA decided to take all tribal law enforcement and detention monies out of TPA, and create

a new law enforcement/detention line item using as a base budget just the actual amount of law enforcement dollars that the BIA was providing to each tribe at the time and ignoring our COPS contribution.

The end result of all of this is that we ended up today with a BIA law enforcement budget which funds less than half of the officers than it did when we first started talking with the BIA about our funding shortage, and the Tribe has ended up with a TPA budget which is, on a per capita basis, one of the lowest in the nation. Our law enforcement program is now so broke that most of our officers lack the basic equipment they need to do their jobs. For example, most of our police cars aren't even equipped with flares, fire extinguishers, emergency kits or even cones to block traffic when an accident occurs, and many of our officers have not received all of the training federal policy requires because we do not have the funding to send them. We also have no BIA budgeted funding whatsoever for vehicle rentals or replacements in 2008. Thus, we went from having an inadequate 119 officers before this started, to the 67 that we have now, and if nothing is done, we will be down to well below 40 in 2008.

Today, we have 40 BIA funded officers and 27 DOJ funded people to cover an area twice the size of Rhode Island, 24 hours per day, 7 days per week. Our DOJ officers will go away in 2008 because we are legally prohibited from applying for or receiving further COPS funding, and if we need to use some of the funding that the BIA currently provides to replace our police cars, each car will cost us one of those 40 BIA funded positions. At best, this will leave us in 2008, with approximately 25% of the police force that we had in the late 1990's and 50% of the already depleted force that we have today.

While we understand that the federal budget is tight, we cannot believe that this problem should prohibit this Committee from addressing bureaucratic negligence of this magnitude. The BIA has already said that on-reservation law enforcement, public safety and methamphetamine eradication are some of the President's primary concerns. We agree with these priorities and all we are asking them to do is to live up to the very principals that they themselves are expounding.

Mr. Chairman, our response time is already over an hour for emergency calls like assaults and robberies in progress and our officers are already working without backup. This creates very serious situations for both the victim and the officer, especially when you factor in unpaved and virtually impassable roads. Thus, the bottom line is that we need help now.

This unfortunately, is not the only problem that the BIA has left to us. We currently have two tribal jails which have been condemned for a number of years. If you look at the photos that we have provided, you will see a coffee can and a rubber wrap being used to keep two piece of pipe held together, exposed wiring next to flooded floors, walls so dilapidated that we actually had a prisoner punch his way out of jail, leaky roofs, cracked walls and other major problems. What you will not see is the fact that both of these jails lost heat altogether during some cold periods this winter, and that a number of our officers had to be pulled off of patrol altogether just to move prisoners out of this dangerous situation. One set of prisoners had to be moved from the Pine Ridge Detention facility to the Kyle Facility, which is the distance of 56 miles one way. That trip took roughly one hour to complete. This also placed an additional burden on the vehicle cost line item in our budget which is strained to begin with. The bottom line, however, is that the list of life threatening problems for both officers and detainees at these facilities, and the list of constitutional violations that they present is too long to cover in this short testimony.

We also have a 911 center, the only one that serves most of our reservation, which is so deteriorated that it has snakes and mice coming through the roof, doors and walls and damaging thousands of dollars of government funded equipment. It also has a foundation which is literally falling off a cliff. Our law enforcement staff works in an administration building which is full of airborne asbestos, has a leaky roof, cracked walls and a wiring system that is not capable of handling our computers electronic equipment and our Tribal Court building is as bad if not worse. How can we possibly serve our people adequately under these conditions?

Our detention program also has a major staffing problem. In fact, we are so severely under-funded that we are often forced to leave one officer to oversee 30 or 40 male and female prisoners, many of whom are under the influence of alcohol or drugs. Our Director of Detention tells of one instance where a female corrections officer was forced to go into the drunk tank to break up a fight and she was attacked by a prisoner. This prisoner had her held down by the neck and the only thing that saved her was that fact that one of her extended family members happened to be being detained in that same cell at that same time. That female guard was the only person on duty at the time, and her only method of communicating

with the single staff person at the juvenile facility next door was a whistle which she could not blow, because she could not breathe.

Our tribal court building is also condemned and in similar un-repairable condition. Vital tribal court records are being destroyed by mold and water damage, computers are often damaged by faulty wiring, asbestos is coming through cracked walls and ceilings and space is a very serious problem. Records from 1934 remain in jeopardy and much needed electronic records retention equipment is simply not available. How can you monitor someone through the court system under these conditions? It violates even the most basic constitutional standards.

Mr. Chairman, all of these buildings are well beyond repair and the costs of even the most basic repairs far exceed the cost of new construction. I have attached a more detailed physical description of these building along with pictures for your review.

We realize that in order to be effective our tribal law enforcement, courts, incarceration services, domestic abuse and other social programs, and Indian Health detox programs all have to work together. For this reason, we have been developing a new concept for an Oglala Sioux Tribe Department of Justice. If our Courts are not adequately staffed and equipped, then they are not going to be able to deal effectively with the people our police department arrests. If our jails are not safe, and if our diversion programs, like alcohol and drug detox and domestic violence counseling are not available, then our Judges cannot do their jobs effectively. And, if our people do not receive the detox and counseling services that they require, then they are going to be re-arrested. It's just that simple. Public Safety has to be a package deal.

Unfortunately, one of our draw backs has been that we have no place to house this new Department. As I noted above, our law enforcement and courts programs are currently being housed in overcrowded, dilapidated buildings, where we cannot even store the basic legal records that we need to keep, or run the types of computers that we require in order to properly manage criminal and civil information. We have taken this space need to the BIA and all they tell us is that they have no money. We also have no detox services on our reservation, and our social service programs are so stressed that they cannot properly manage all of the cases that they receive. All of this combines to leave our community wide open to the negative influences of drug pushers and gangs and that is a very scary thought.

Today, our reservation is at a cross roads. We can either address these problems now, or deal with far larger problems in the future. It's just that simple. Our people deserve better and I would like to thank you for holding this hearing to begin to highlight what is really going on.

[NOTE: Attachments have been retained in the Committee's official files.]

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Oglala Sioux Parks and Recreation Authority  
The Needs and Challenges of Tribal Natural Resources Law Enforcement  
Fiscal Year 2007

**Introduction:**

It has been said that what defines a people is their land base and their cultural ties to that land base. For the Oglala Sioux Tribe, the on-going protection of its homeland, its sacred sites, its natural resources and its historic properties is of the utmost importance. This is exactly what the Oglala Sioux Parks and Recreation Authority does. It protects the Tribe's cultural and natural resources on the Pine Ridge Indian Reservation and in so doing, it insures compliance with tribal and federal laws including those designed to insure Homeland Security. This is an aspect of law enforcement that is generally forgotten in the Committee's oversight hearings, but that does not make it any less important.

The Oglala Sioux Parks and Recreation Authority is a tribally chartered entity that is nearing its 33rd anniversary. The organization provides law enforcement on the Tribe's cultural and recreational lands, and insures the protection of its cultural, interpretational, anthropological, and pale-ontological sites, as well as the protection of the Tribe's environment and natural resources. It also provides general tribal and federal law enforcement services on those sites. The OSPRA has a P.L. 93-638 contract with the Bureau of Indian Affairs to provide fish and wildlife enforcement services on our Reservation. As is the case with all 638 contracts, there is not now, and from the beginning never was, adequate funding to provide these important services.

Over the past 32 years, the Rangers have seen an increase in the number of violations of tribal and federal natural resource law. They have also seen a new rash

of cloudy jurisdiction problems. Property violations are on the rise, and the number of hunting requests on tribal land is increasing every year. This has put a real strain on the program, because the Rangers are not only responsible for the dissemination of all hunting licenses, they are also responsible for the enforcement of all hunting laws. Hunting is a year round activity on our Reservation and the Rangers are seeing an increase in the number of people participating every year. With all of these increased duties and enforcement responsibilities, the program's expenses continue to increase, yet the Rangers have not seen an increase in their 638 budget that reflects the increased costs associated with providing these most important public services.

The OSPRA has a total of five Enforcement Rangers in their 638 budget. All Rangers are certified through the Indian Police Academy and the program has a 92.5% successful completion rate. These five officers are to provide Home Land Security and enforcement services for the entire residential and visitor population. This can be defined as a service population of 50,000+ individuals. The Rangers patrol the entire Reservation, including many miles off road, always without backup. When it is said that they provide patrol services for the entire 3.1 million acres this is a fact. Most of the Rangers' work is off road in the most remote locations on our Reservation, and this requires extensive investigation and community policing strategies.

The Rangers are not afforded the luxury of simply charging a person with a violation and taking the violator to jail, the Ranger has to deal first hand with the issue on the spot. This requires extensive investigation work on site and extensive interaction with the general public. In providing Home Land Security to the members and visitors to the Reservation, the Rangers often find themselves dealing with non-Indians. This means that the Rangers have to know more than tribal Law, they also need to know Federal law, especially when dealing with jurisdictional issues. The Rangers also have to have a working knowledge of land ownership and land management to ensure proper enforcement on properties which are owned by a variety of different entities and individuals. To enforce natural resource ordinances, the Rangers also have to know who possesses what permits and for what specific locations.

The Rangers are also the only entity on the reservation that provide complete search and rescue services. The goal of its search and rescue unit is to provide search and rescue as opposed to recovery. Their importance and success is evidenced when you consider the number of lives that have been saved versus the number of bodies recovered.

Our Rangers are also responsible for providing interpretation services for the many visitors to the South Unit and the Wounded Knee Memorial—two of our most important properties. This makes them responsible for the enforcement of our business license and public intoxication codes on these properties and on the other lands that they patrol.

Anthropological violations occur on a daily basis, especially in the South Unit of our Reservation. The Rangers have many items of evidence that need to be kept on their person in order to insure a successful prosecution. To insure the protection of our most sacred items, the Rangers are also burdened with the duty to locate and inventory tribal natural resources and cultural items, especially fossils.

With a total of five Rangers this is an impossible task. The Oglala Sioux Tribe has entered a project agreement with the National Park Service. Part of the agreement consists of developing a general management plan for the South Unit. All indications are that this will become a tribal park. If this happens the OSPRA will be the sole law enforcement on these 133,000 acres, which house an abundance of our natural resources and receive a variety of visitors.

As with all law enforcement across Indian Country, the Rangers are severely under funded. Our lack of adequate resources leaves few dollars for proper equipment, no money for cost of living allowances, a significantly under funded line item for vehicle operation costs and the bottom line is that the dollar amounts awarded through the Ranger's 638 contract do not properly reflect the ever changing budget needs of this important program. The current amount of funding only leads to law enforcement failure in this area.

The Oglala Sioux Parks and Recreation Authority is proposing a three-year plan that will meet the ever growing challenges:

- Adequate dollars to not only hire, but retain the best personnel.
- Adequate dollars for proper equipment, maintenance and repair and a reasonable operating budget for the program.

Towards this end, the Oglala Sioux Parks and Recreation has developed a three funding request. The overall increase dollar amount being asked for in the first year is \$1,028,760. This is an increase of \$784,436 over its current funding level. This



number reflects the dramatic difference between meeting the basic needs of the program and failing to do so, which is what the current budget is designed to do.

To meet its most basic needs, the Oglala Sioux Parks and Recreation Authority needs a total of 20 full-time Rangers and an overall contract which reflects the ever growing demands that are placed on its program. The people of the Pine Ridge Reservation need these Rangers in order to support the Tribe's Homeland Security Programs and to insure the enforcement of their laws on these most important properties. The people of the Pine Ridge Reservation respectfully ask the Congress to understand that their Tribe, and its lands and historic resources need the same support that the Congress provides to the Officers employed by the U.S. Parks Service, the Bureau of Land Management, the Forest Service and the other federal programs which police its federal lands. Our people, our visitors and our property are no less important.

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Mr. STEELE. I would like the Chief of Police to come up and give you some numbers, please.

Ms. HERSETH SANDLIN. Yes, please. And, Chief, if you could identify yourself for the record prior to giving us the statistics.

**STATEMENT OF MR. JAMES TWISS, CHIEF OF POLICE, OGLALA SIOUX TRIBE, PINE RIDGE, SOUTH DAKOTA**

Mr. TWISS. Thank you, Madam.

Good afternoon. My name is James Twiss, Chief of Police of the Oglala Sioux Tribe of Pine Ridge, South Dakota.

Madam Chair, to help you better understand my testimony today, let me give you some background information on our tribe. Pine Ridge is one of the largest and poorest reservations in the United States. Our average income is about \$7,000 and unemployment is about 50 percent. We have on the reservation a population of 50,000 people and our reservation is double the size of Rhode Island.

We are a treaty tribe whose reservation is in a non-280 state. This means we have no state police patrolling our reservation and jurisdiction is strictly tribal and Federal. We operate the only 911 center on our reservation and that center receives about 180,000 calls for service per year. We also operate three adult detention centers and one juvenile detention facility. We're averaging about 27,000 arrests a year.

I'm here today because we are the only tribe in Indian Country who is scheduled to lose in excess of one-third of our already understaffed police department because of bureaucratic screw-ups. Here is what happened.

When money got tight, the Oglala's Tribal Priority Allocation in the 1990's, the BIA encouraged us to start funding a sizable number of our law enforcement officers using DOJ funds.

According to what we were told, this was supposed to have been a temporary fix to an extremely underfunded tribal budget. Eventually under this scenario we ended up with 50 percent of our law enforcement officers being funded with short-term DOJ grants.

Every year we would ask the BIA to start picking up on those DOJ positions and every year we were told that they were working on it for the next fiscal year. Now we find ourselves at the end of the eligibility for those DOJ funds and neither we nor the BIA know what to do about it.

The people I am talking about are not new hires, Madam Chair. These are officers we have had with us for ten years. As I've said,

no other tribe in the U.S. is facing this large of a cut in their police force. But BIA openly admits that we need more officers and probably a minimum of 30 more but they don't have a mechanism to pick up the cost of these 28 officers.

We are therefore coming here to ask you to add or earmark \$1.3 million to our base budget just to maintain our existing police force. Our police are already stretched to the limit. We have 69 officers on the reservation to answer 180,000 calls for service each year. We have many of those officers traveling over 350 miles per eight-hour shift. We don't know what we're going to do if we lose these 28 officers but I can almost guarantee you that we will not be able to respond to all the domestic violence and child abuse calls that we receive every day.

Imagine, Madam Chair, if you were car jacked in Pine Ridge. Right now it would take us about an hour to get to you and another hour to transport you to the hospital if you were lucky. This is what our people face every time they need police assistance. And don't have accidents in Pine Ridge, because we don't have any emergency equipment in our vehicles such as fire extinguishers, shovels, chains, cones, cameras. Also, there's no triple A within a hundred miles.

The simple bottom line is to just stay in the already underfunded position that we are in, we need \$1.3 million added to our base budget. And I cannot say it any more simpler than that.

Unfortunately, this is not our only problem. Two of our tribal jails, one at Pine Ridge and the other at Kyle, and also our office building are so dilapidated that they're beyond repair. I brought you some photographs on a DVD to help you understand what I mean.

But let me give you some examples. This past winter, Pine Ridge and Kyle jail both lost heat at the same time. And this was not an unusual occurrence because unfortunately the furnaces at both jails go out on an all too regular basis.

We also have holding rooms and cells with standing water and leaking water on the floor and exposed electrical wiring on the walls. This is a very dangerous situation given that we house intoxicated persons in these rooms. We have bad roofs, bad walls, and electrical and plumbing systems that are beyond repair.

As you will see from our photographs, you also have raw sewage backups, windows and cut glass, and intercoms and emergency lighting that doesn't work at all. To make matters worse, we are exceeding occupancy, maximum occupancy by one hundred percent.

Madam Chair, the BIA has spent sizable amounts of money just to keep these buildings open and as they have said earlier, it's going to cost more to repair than to rebuild. If any other government was housing prisoners under these unconstitutional conditions, it would be front page news in the New York Times.

We need both Pine Ridge and Kyle jails replaced now and the BIA's own figures suggest the cost is 11 to \$12 million each. Because we are sensitive to your budget constraints and limitations and because our tribal courts and tribal law enforcement headquarters are in such deplorable shape with airborne asbestos in every room, we came up with the idea of asking for funding for a single justice building that would house our tribal courts, our

criminal and civil records storage and evidence lockers, our law enforcement functions, and one of our tribal jails.

While this building would be more costly upfront, savings on water, sewer, and other utility hookups and parking make it far cheaper than asking for three new buildings. We estimate the cost of this facility to be somewhere around \$20 million.

Adding to these problems is the fact that we lack the manpower to staff our detention facilities. Today it is not unusual to have just one correctional officer working alone in the jail when the jail occupancy is 50 to 60 people. In fact, during powwow season we have had over 200 people or more in one tribal jail facility. This is a very dangerous situation for the residents and the officers who perform these tasks.

We have had a female detention officer in the not too recent past who went into the drunk tank to break up a fight. One of the males involved in the altercation attacked the female detention officer and was close to killing her. The only thing that saved her was one of the inmates in the drunk tank was a family member who came to her rescue.

Madam Chair, to get the appropriate number of correctional officers we need, we'll need another \$703,000 to add 22 correction officers for our department.

Madam Chair, we need your help and we don't know who else to turn to. Our situation, which has been bad for some time now, is rapidly becoming desperate.

If you have questions, I'll be happy to answer them, but I ask last that you come to Pine Ridge and see for yourself what we're up against.

And also I'd like to add that, in regards to the earlier panel when they talked about the meeting in Albuquerque, we were never invited to this meeting and Mr. William Mehojah of BIA facilities has never answered any of our correspondence that we have sent him.

Thank you.

Ms. HERSETH SANDLIN. Thank you. I appreciate you being here and your additional testimony in addition to President Steele's. I'll have some comments and then questions but we'll move to President Bordeaux for now, but if you'd remain for the rest of this panel. OK.

Mr. TWISS. Yes.

Ms. HERSETH SANDLIN. President Bordeaux, welcome. Thank you for being here.

**STATEMENT OF THE HON. RODNEY BORDEAUX, PRESIDENT,  
ROSEBUD SIOUX TRIBE, ROSEBUD, SOUTH DAKOTA**

Mr. BORDEAUX. Thank you, Madam Chair.

My name is Rodney Bordeaux. I'm the President of the Rosebud Sioux Tribe. On behalf of the members of the Rosebud Sioux Tribe I want to thank you for the invitation to testify before you and I also want to congratulate you on your recent wedding.

Ms. HERSETH SANDLIN. Thank you.

Mr. BORDEAUX. As you know, the Rosebud Indian Reservation is located in south central South Dakota and has 20 communities that encompasses a four county area. Our former reservation included trust acreage of 3.2 million acres and it is home to approximately

19,000 of approximately 26,000 members of the tribe. Our 3.2 million land base has dwindled down to about 882,000—890,000 acres of trust land.

As you know, many of our tribe suffer from high rates of unemployment, low life expectancies, high rates of diabetes, heart disease. Recently we had a rash of suicides and that's an ongoing problem. Low secondary and post-secondary graduation rates. As you already know, the Rosebud Sioux Tribe has an alarming increase in illegal activities.

For example, methamphetamine use is on the rise. Through our participation in Safe Trails—Northern Plains Safe Trails Task Force, we have had 51 indictments between September of '05 and May 7th of this—April 7th of this year, and we do have an officer, if you want to learn more about the problems that we have with the methamphetamine problems, he is here and available for some comments.

Gang violence is on the rise. Since last August of last year, our GRTF task force, our gang reduction task force has identified 863 gang members so far ages 12 to 41, and that's just in Todd County itself. So that's ongoing. They're out into the communities. It's really scary.

Crime has increased steadily between 18 and 23 percent over the last four years. We are underfunded to adequately provide law enforcement functions for public safety. We are short by 60 police officers.

The officer-to-resident ratio at Rosebud is 0.9 per 1,000 residents, whereas the minimum officer-to-resident ratio in the United States is in the range of 3.9 to 6.6 officers per 1,000 residents. When comparing the Rosebud ratio of 0.9 for every 1,000 to the 6.6 ratio in the United States, we are short of police officers by over 700 percent.

The Rosebud Sioux Tribe currently has 19 police officers to cover a land base of 890,870 acres spread out over a full county area. With an average of three eight-hour shifts, we only have an average of six hours on duty—six officers on duty per shift to cover over 22,000 people, tribal members as well as non-tribal members who call the 911 dispatch center.

The adult jail—basically we need a new jail on the Rosebud. We don't have adequate space for the service population. The jail itself, it has consistent water leaks. The HVAC system fails every summer. There is no space for rehabilitation for the inmates such as a library for GED or other higher education services to try to reduce the recidivism rate.

In addition to the 1.7 million which the Rosebud Sioux Tribe's Police Department receives in Federal funding, BIA funding, we would need an additional 60 uniformed police officers at a cost of \$5.1 million. This would require a 400 percent increase in the funding just to provide for adequate law enforcement.

Our juvenile detention center recently opened. We need a licensed clinical psychologist because of a higher rate of suicides, the recent rash of them. We included to—we modified our budget to include this position but the Indian—the Bureau of Indian Affairs believes that the Indian Health Service has that responsibility but they are underfunded also. They only have a \$400,000 budget that

covers most of the reservation and we're losing two licensed psychologists on the Rosebud Reservation, mainly because one is retiring and we have another lady leaving the area.

So with that, we put a mod in for one and we have identified a tribal member who is studying to be a licensed psychologist. Not only will she provide services to the children in the JDC, she could also assist in the outlying areas with the—our suicide problem so I would recommend your support in having the BIA approve that position. Right now we're waiting on word on that from the Bureau and so far we haven't heard anything about it. I met with Mr. Ragsdale and Mr. Chaney on this also but we still haven't heard anything.

In addition to the problems I've just mentioned, there is other concerns. First, the Federal Bureau of Investigation has continued to receive increased funding over the years for investigating crimes in Indian Country. While the work that the FBI does in Indian Country is certainly needed, we need just as many funding increases at the tribal level. The Rosebud law enforcement services program has far too many crimes to investigate than the FBI can and is unable to investigate.

I ask that the Committee look into the possibility of providing at least the same percentage in the increase of funding that the FBI gets to our law enforcement.

Second, the Rosebud Sioux Tribe, due to the new jail facility that we need, has expressed the possibility of providing more jail services from the South Dakota—the U.S. Marshal Services in South Dakota. Because what we're having right now is the off reservation, the border towns like Winner, for example, they have a county jail system there, and they have a brand new one and basically they're just housing our prisoners there, Rosebud prisoners, and we'd like to get that back.

However, we did put out feelers to the U.S. Marshal Services. We were told that there was no funding available and we feel that we can provide a better service for our tribal members. A lot of our tribal members have to—their families have to travel to Winner or up to Selby, North Dakota. Again, these border towns are getting the—reaping the benefits of our Federal prisoners so we believe we can provide that service.

We just want you to try to help out the U.S. Marshal Service and the Office of Federal Detention Trustee to lift that moratorium on funding new jails. Because we know the Bureau doesn't have the money so we're looking for other sources of funding to meet our needs, in addition to the inadequate money from the BIA, the law enforcement personnel, vehicles, and equipment, incarceration, so at a minimum we're going to need 400,000, 400 percent increase in our funding.

We get three-year grants from the Department of Justice COPS program but they're not enough to provide for the continuity of public safety for all our residents, Indian and non-Indian alike. These grants usually run out in three years and create yet another public safety crisis.

I'd ask this Committee to please increase funding for the BIA at least 400 percent. I think that will address all of Indian Country. Not only can we not raise taxes on our land base because it's all

Federally funded, our casino funding is pretty well tapped out. We have other services, suicide rates, elderly needs, and we do not have the resources.

I guess the main thing I want to point out to you in terms of decreasing our rates is to—for increased economic development on the reservations. The more jobs we provide, the better opportunity we have to address some of those needs.

We've met with students and tribal council. We've met with Todd County High School, St. Francis Indian School, the two major schools on our reservation. And they're pretty bright. They're basically asking for more after school activities, boys and girls clubs, things like that, increases in funding for the schools and more jobs for their parents.

We've had students say directly to us that we need—our parents need jobs. So we see the need and we can meet our need on Rosebud if we had the funding. We could create more opportunities, create jobs for our people. We just need some more private sector funding, which we're also getting.

We appreciate the Sicangu Wni Wahpeton Tribe for their assistance in trying to get a new grocery store. We're that close to getting it done. We have a new electronics facility going up in Mission. We just need a hand, you know, just a little assistance, and we can solve our problems.

But the main thing is the BIA needs to increase the base funding so that we can get to a level so down the road, 20 years, that type of activity has proved to be fruitful, we can see less need for—we can see a decrease in crime.

And we really need to attack these gangs. We're having a—I can give you a lot of names of different gangs that come into our country, but we're attacking them directly by going directly to the communities and that's a major problem, there is outside infiltration. So if we could get more money for law enforcement and increase our gang resistance education program, we can meet these challenges.

I want to thank you, Madam Chair. I appreciate this opportunity. I'll stand by for questions.

[The prepared statement of Mr. Bordeaux follows:]

**Statement of Rodney M. Bordeaux, President, Rosebud Sioux Tribe,  
Rosebud Indian Reservation, Rosebud, South Dakota**

Good afternoon Madam Chair Herseth-Sandlin and members of the Committee. My name is Rodney Bordeaux and I am the President of the Rosebud Sioux Tribe. On behalf of the members of the Rosebud Sioux Tribe, I would like to thank all of you for the invitation to testify before you here today on the needs and challenges of tribal law enforcement on Indian Reservations.

The Rosebud Indian Reservation is located in south-central South Dakota and has twenty communities that encompass a four-county area. It is home to approximately 19,000 of the approximately 26,000 members of the Rosebud Sioux Tribe. I am glad to see the focus of this hearing today is going to be on Law Enforcement issues that are of critical concern to not only the Rosebud Sioux Tribe, but also to many other tribes throughout the State of South Dakota, and the rest of the United States. Many of our tribes are located in very rural and isolated parts of this region. Many of our tribes suffer from high rates of unemployment, low life-expectancies, high rates of diabetes, heart disease, suicides, low secondary and post-secondary graduation rates, along many other categories.

As many may already know, at Rosebud there is an alarming increase in illegal activity. For example—

- Methamphetamine use in on the rise.

- Gang violence is on the rise.
- Crime has increased steadily between 18-23% over the last four years.
- The Rosebud Police Department receives approximately 22,000 calls for emergency services each year.
- We are under-funded to adequately provide law enforcement functions for public safety. We are short by 60 police officers.
- The officer-to-resident ratio at Rosebud is 0.9 per 1,000 residents, whereas, the minimum officer-to-resident ratio in the United States is in the range of 3.9 to 6.6 officers per 1,000 residents. When comparing the Rosebud ratio of 0.9 per 1,000 residents to 6.6 officers per 1,000 residents in the United States, we are short of police officers by over 700%
- The Rosebud Sioux Tribe currently has 19 police officers to cover a land base of 890,870 acres, where each officer has to cover over 48,566 acres of land. With an average of three 8-hour shifts, we only have an average of 6 officers on duty per each shift to cover over 22,000 people, tribal members, as well as non-tribal members, who call our 911 dispatch center.
- The Adult Jail at Rosebud does not have adequate space for the service population. The Jail itself has consistent water leaks. The Air Conditioning system fails every summer. There is no space for rehabilitation services for inmates such as a library for GED, or, higher education services to help keep inmates from coming back to jail.
- In addition to the \$1.7 million the Rosebud Sioux Tribe's Police Department receives in federal funding, we would need an additional 60 uniformed police officers at a cost of \$5.1 million, for an annual base funding amount of \$6.8 million. This would require a 400% increase in funding just to provide adequate law enforcement services to all citizens within Todd County, and all tribal communities within Mellette, Tripp, & Gregory Counties.

Madam Chair and members of the Committee, in addition to the problems I've just mentioned, there are also other concerns that we have at Rosebud. They are as follows.

First, the Federal Bureau of Investigation (FBI) has continued to receive increased funding over the years for investigating crimes in Indian Country. While the work that the FBI does in Indian Country is certainly needed, we need just as many funding increases at the tribal level. The Rosebud Law Enforcement Services (LES) program has far more many crimes to investigate than the FBI can, or, is unable to investigate at Rosebud. I ask that this Committee look into the possibility of providing at least the same percentage increase of funding to tribal LES programs when the FBI receives increases from Congress.

Second, the Rosebud Sioux Tribe has expressed the possibility of providing more jail space for tribal members from South Dakota incarcerated within the U.S. Marshals Service (USMS). We were told by USMS that in 2004 the Office of the Federal Detention Trustee (OFDT) imposed a moratorium on the acquisition of new jail space for the USMS. We were told by USMS that this was due to spiraling costs and a shortfall in funding provided by Congress in 2004. We explored this possibility of housing our own federal prisoners closer to Rosebud so that we could provide for more effective rehabilitation services to reduce the recidivism rate of federal prisoners who are members of the Rosebud Sioux Tribe, or, from other tribes for that matter. Various county-controlled jails have contracts with USMS to hold tribal prisoners. Why can't we do this? I ask that this Committee sincerely look at the possibility of providing more funding to OFDT and explore with Rosebud the ways in which we can look to reduce recidivism of federally-held tribal prisoners and helping them to become productive members of society. I believe that this approach will provide a huge cost savings to the federal government in the long run by keeping tribal members from going back to federal prison for multiple offenses.

Madam Chair and members of the Committee, the direct answer to these problems is more adequate funding within the Bureau of Indian Affairs from Congress for law enforcement personnel, vehicles and equipment, and incarceration facilities, so that we can cover the vast amounts of area that require us to provide adequate public safety. At a minimum, the funding from Congress has to at least be increased by 400% Three-year grants from the Department of Justice are not enough to provide a continuity of public safety for all residents, Indian and non-Indian, within the Rosebud Indian Reservation. These grants eventually run out and create yet another public safety crisis. I ask that this Committee increase the base funding for the BIA LES tribal recipients by 400% to ensure continuity in services for effective public safety.

We cannot raise taxes on our land-base because it's all federally-held land that cannot be taxed. Therefore, we cannot raise the funding necessary to adequately fund our law enforcement program and our court system like other cities and coun-

ties can. We do not have the necessary economic activity sufficient enough to raise tax-revenue to fund our government services such as law enforcement. Yet, we are expected to provide law enforcement in one the fastest growing population areas within South Dakota. We are in a real crisis here—we need your help from Congress in order to alleviate these ongoing problems.

I thank you Madam Chair Herseth-Sandlin and members of the Committee for your time today to address this important issue on behalf of the residents of the Rosebud Indian Reservation. I'll stand by for any questions that you may have.



U.S. Department of Justice  
United States Marshals Service  
*District of South Dakota*

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*Sioux Falls, SD 57104*

January 22, 2007


Mr. Rodney M. Bordeaux, President  
Rosebud Sioux Tribe  
P.O. Box 430  
Rosebud, SD 57570

Dear Mr. Bordeaux:

Thank you for your letter of January 16, 2007 regarding the feasibility of housing federal prisoners in the Rosebud area.

Due to spiraling costs and a shortfall in funding provided by Congress, in 2004 the Office of the Federal Detention Trustee (OFDT) imposed a moratorium on the acquisition of new jail space for U.S. Marshals Service (USMS) prisoners and the modification of pricing agreements for existing jail contracts. USMS is limited to acquiring new jail space, or granting per diem increases to existing contract jails, only if it can demonstrate a critical need for the new space or the need to increase the per diem to retain bed space. At the present time, USMS in South Dakota has adequate jail space for its prisoners and thus we would not meet the criteria imposed by OFDT for justifying new bed space.

Because of the moratorium, I regret that we cannot explore your proposal. However, if in the future I can be of further assistance, please do not hesitate to contact me.

Sincerely,  
  
WARREN D. ANDERSON  
United States Marshal





**ROSEBUD POLICE DEPARTMENT  
LAW ENFORCEMENT SERVICES**

P.O. Box 840  
Rosebud, SD 57570  
Telephone NO.: (605) 747-5928  
Fax NO.: (605) 747-5010

May 30, 2007

Mr. Rodney Bordeaux, President  
Rosebud Sioux Tribe  
PO Box 430  
Rosebud, SD 57570

President Bordeaux:

Per your request, the following will document the current condition of the Adult Jail, funding needs and overtaxing of current resources for the Rosebud Sioux Tribal Police Department:

Adult Jail

- The existing jail does not have adequate space for the service population.
  - The design is to house 68 inmates; however with 17 cells of which 2 are being used for storage and 2 are used as drunk tanks this poses an immediate safety concern.
- The Adult Jail averages 5 inmates per charge cell per day
- There is an average of 35 to 40 inmates on a daily basis
- The design has not allowed for any day rooms for the inmates, nor is there adequate room for a recreation area
  - This causes inmates to be locked down more frequently, and
  - It adds to the low morale already experienced by the inmates
- The structure of the building was not designed for the area
  - Flat roof that has been a constant safety issue with water leaks
  - Improper drainage
  - HVAC System fails every summer
  - Heating system is not regulated by a computer console
- No space for rehabilitation
  - Library for GED or higher education classes
  - Work stations to support the above
- Statistics over the past 4 years shows a steady increase of 18%-23% in reported crime for the Sicangu Nation

Funding

- The Rosebud Police Department Patrol Division is under funded to adequately provide law enforcement functions for public safety.
  - Under funded by 60 officers
  - The officer-to-resident ratio is 0.9 per 1,000 residents whereby the minimum officer-to-resident ratio is in the range of 3.9 to 6.6 officers per 1,000 residents
  - The Division currently has 19 officers to cover a land base of 922, 759 – the officer-to-land ratio equals 1 officer per 48,500 acres of land
  - In addition to the 1.7 million the Rosebud Sioux Tribal Police Department receives from the annual base funding, it will need an additional 60 officers at 5.1 million for an annual base funding of 6.8 million

Current Resources

- There has been an ongoing demand from the Telecommunications Division to increase their resources in an effort to meet the ever changing climate of the target population
  - Responsibility of providing telecommunication services falls within the Rosebud Sioux Tribal Police Department for which there is no additional funding by the other agencies who demand dispatch services to increase the already depleted staffing.
  - Consideration needs to be given to a centralized communications center that will service all the public service agencies i.e. law enforcement, fire and rescue, EMS, Conservation

Submitted by:  #677A  
 Charles L. Red Crow, Chief of Police

**ROSEBUD SIOUX TRIBE  
RESOLUTION NO. 2006-290**

- WHEREAS,** the Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof; and
- WHEREAS,** the Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-Laws; and
- WHEREAS,** Article IV, Section I of the Tribal Constitution empowers the Tribal Council to promulgate and enforce ordinances providing for the maintenance of law and order and the administration of justice; and
- WHEREAS,** the Rosebud Sioux Tribe is limited in the enforcement of crimes on the reservation, in that the Federal Government has exclusive jurisdiction under the Major Crimes Act; and
- WHEREAS,** the Rosebud Sioux Tribe's Police Department spends man hours and funding investigating crimes under the Major Crimes Act which is the responsibility of the Federal Bureau of Investigation; and
- WHEREAS,** the investigations takes the Rosebud Sioux Tribe's Police Officers and Investigators away from performing their duties of enforcing and investigating minor crimes that would deter the committing crime under the Major Crimes Act; and
- WHEREAS,** the Rosebud Sioux Tribe's Police Department is required to submit to the United States Attorney's Office, the Bureau of Indian Affairs Aberdeen District Office and the Federal Bureau of Investigation a Notice of Allegation on suspected violation of Federal Crimes; and
- WHEREAS,** the Federal Bureau of Investigation has the responsibility in enforcing violations of Federal Crimes on the reservation; and
- WHEREAS,** the Rosebud Sioux Tribe has a Public Law 93-638 contract #CTA07T345-49 for providing local law enforcement for the members of the Rosebud Sioux Tribe to ensure the safety and well being of it's people on a day-to-day basis; and
- WHEREAS,** this be effective immediately and be included into their FY-07 Scope of Work, now
- THEREFORE BE IT RESOLVED,** that the Rosebud Sioux Tribe must ensure the safety and well being of its people by enforcing and concentrating on crimes the Tribe has jurisdiction on,

**ROSEBUD SIOUX TRIBE  
RESOLUTION NO. 2006-290**

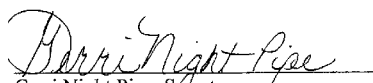
and that by neglecting these duties and responsibilities an increase of Federal Crimes are occurring; and

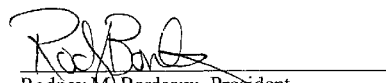
**THEREFORE BE IT FURTHER RESOLVED**, that the Rosebud Sioux Tribes will change its Master Contract for 93-638, Law Enforcement Contract, by requiring Law Enforcement Personnel to submit a Notice of Allegation as required, at which time our involvement in the investigation will stop, and the Federal Bureau of investigation, who has the ultimate jurisdiction, will investigate the Federal Violations.

**CERTIFICATION**

This is to certify that the above Resolution Number 2006-290 was duly passed by the Rosebud Sioux Tribal Council in session on November 1, 2006 by a vote of eleven (11) in favor, none (0) opposed and none (0) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

**ATTEST:**

  
Gerri Night Pipe, Secretary  
Rosebud Sioux Tribe

  
Rodney M. Bordeaux, President  
Rosebud Sioux Tribe

Ms. HERSETH SANDLIN. Well, thank you very much, President Bordeaux. I appreciate your suggestions and your insights based on the experience of those who live in the communities on the Rosebud Sioux Tribe Reservation.

I now would like to recognize Chairman Joe Brings Plenty from the Cheyenne River Sioux Tribe. Welcome. Thank you for being here on this panel and we look forward to your testimony.

**STATEMENT OF THE HON. JOSEPH BRINGS PLENTY, SR.,  
CHAIRMAN, CHEYENNE RIVER SIOUX TRIBE, EAGLE BUTTE,  
SOUTH DAKOTA.**

Mr. BRINGS PLENTY. Thank you.

Ms. HERSETH SANDLIN. Chairman Brings Plenty, I'm going to recognize you for five minutes but you might want to pull that microphone a little bit closer to you.

I have your written statement and so if you want to summarize that for us at this time, I would appreciate it.

Mr. BRINGS PLENTY. Thank you, Madam Chair.

I apologize for my late arrival.

Ms. HERSETH SANDLIN. No.

Mr. BRINGS PLENTY. I was under the understanding I was on the third panel.

Ms. HERSETH SANDLIN. That is true. For those that are here, we did a slight adjustment to the panels and so we appreciate you accommodating that and we meant no disrespectful by starting but we knew you were on your way and close so we appreciate you being here. Thank you.

Mr. BRINGS PLENTY. Thank you.  
 First of all, I'd like to address in my Native tongue.  
 [speaking in Native tongue.]

Mr. BRINGS PLENTY. Madam Chair and staff members, Mr. Asmus, Ms. Freeman, Ms. Erickson, I'm pleased to appear before you to testify.

As a former police officer of nine years and social worker of four and a half years I have firsthand experience with the problems that our law enforcement and criminal justice systems face.

My name is Joseph Brings Plenty. I am the Chairman of the Cheyenne River Sioux Tribe. I wanted to introduce you to our Chief of Police, Festus Fischer, who has worked in BIA and tribal law enforcement in Indian Country for 17 years, Supervisory Detective Larry LeBeau also, who has worked in law enforcement for 20 years, and also Steven Brings Plenty, a criminal investigator who has been with our department for 18 years. That is some of the longevity that we provide for our law enforcement that actually these individuals have provided for us in all their years of service. They and their fellow officers represent the best of what we have to offer for our future.

In my written statement I have provided the Committee with background on the Cheyenne River, what an extensive state we have. We have an average of three officers per shift covering 19 communities. 15,000 people in an area the size of the State of Connecticut. That amounts to 5,000 people per officer and 450 miles of road to cover in eight hours.

We only have one location, Eagle Butte. There are no substations. The one way distance from headquarters to the 18 outlying communities ranges anywhere from seven miles to 70 miles.

In 2006 the department responded to 11,488 calls for service and made 11,791 arrests. Most of these arrests were made by single police officers in a remote area. These arrests were made in these remote areas with no backup for several miles and, of course, with the miles, the minutes add up.

Although we have been fortunate to have not had any of our officers killed in the line of duty in recent years, we have had officers attacked. For instance, Officer Arpan, who had served with the force, he had responded to a call over in—a community over in Dupree, a simple removal of an intoxicated individual, and when he arrived on the scene, he had been assaulted. This request for removal was requested by a kungsi, a grandma, an elder woman.

And when he went to remove the individual, he was assaulted and stabbed seven times. But of course the individual that Mr. Arpan, he had detained, the incarcerated individual, as Mr. Arpan had a lot of loss of blood, I had time to sit down with him and go over some of the circumstances. We had no debriefing provided for him. He in three prior meetings had requested full body armor. Of course, you know, with the budget, we didn't have that to offer to him. And in time, the person that was—Mr. Arpan, and with the dedication that he had to law enforcement, he walked away from law enforcement with that on his mind. Of course, like I said again, no debriefing of the whole process as far as what should have been provided.

I want to talk with you today about two areas of concern. The first is problems with the current administration of law enforcement by the BIA and second, the continued underfunding of the program and the impact it has on our criminal justice service.

Problems with administration of law enforcement services by the BIA will be—we will be funded. We also need oversight and make sure funds appropriated are used wisely. The BIA law enforcement received an increase in funding from Congress two years ago. Our tribe has never received one cent of that funding. They cite underfunding of BIA to operate law enforcement. If Congress does not specify that funds will be distributed based on need and will not include funding to 638 contracts, our department will never see any of these funds.

The BIA's decision to split out law enforcement services from under the central direction of the Great Plains Regional Director into their own divisions has created many new problems for our already underfunded law enforcement department. In my written testimony I provided the Committee with details on how the management was split up. Suffice it to say the scattering of lines of authority across the United States has created a huge financial expense and even worse, a confused chain of command. This doesn't work.

Out of the new BIA Office of Justice Services we have had too many unfavorable experiences. When we have search and rescue missions or the need for the use of a canine and canine officers to assist drug investigators, which the BIA has, we cannot get access. The BIA has continually stated the liability for allowing this cooperation with a 638 contract tribe is too high. This was never an issue before.

Under the old system, we—when we have a large event like an annual rodeo or powwow, we had officers come from other reservations. Both BIA and 638 contract operated organizations come and assist and we did the same for them. Under the new administration BIA officers are not permitted to assist. Again the BIA cites liability. This hurts all law enforcement in the Dakotas.

Another serious problem is that the BIA Office of Justice Services has demanded that the tribe split law enforcement into a separate 638 contract from our master 638 contract. The tribe has refused BIA help. They withheld our funds for three months because we refused to sign. Our master contract includes all justice services and other programs.

The tribe has cost savings in one area of the master contract. It can use those savings in another area of the master contract. If we split law enforcement into a separate contract, we can no longer use those savings in law enforcement. Law enforcement basically survives because of this.

The split out and creation of a new administration hampers coordination of the criminal justice system. The courts are managed by the Great Plains Regional Director. Law enforcement is now managed by an entirely different administration not answerable to one central person except the Assistant Secretary of Indian Affairs. So with management scattered from cities to four or five different chains of command, our chief of police now has four bosses instead of one, that being the superintendent. This was done without any

consultation with tribes at a huge cost to law enforcement funding. Now we hear that the BIA is trying to move courts into this new administration but again, no tribe has ever been consulted.

The Cheyenne River Sioux Tribe has been administering law enforcement before the BIA ever provided funding for law enforcement. We have never in our history had BIA run law enforcement services. We know what we need, but the BIA is now making decisions without consultation with this or any other tribe. And these decisions are eroding our funding and our ability to run an effective law enforcement program and the funds Congress does appropriate are spent on top heavy administration.

Instead of paying a superintendent at the agency, a regional director in Aberdeen, and a Washington, D.C., director with support staff, they are paying five bosses in four locations with support staff.

Although our Fiscal Year 2007 budget was to have been funded the same as in Fiscal Year 2006, the BIA held back ten percent of our funding with no explanation, hurting our department even more.

Problems created by underfunding. If I may, I want to explain to you some of the problems created by underfunding.

Our current base funding received from the BIA does not allow the tribe to compensate any of the law enforcement employees with a salary comparable to those at an entry level position of the same type in the Federal BIA services. This results in a high employee turnover rate as well as employee burnout, reduced productivity, and increased liability.

Our former Chief of Police passed away last month at 49 years old. He had served in law enforcement at Cheyenne River, Standing Rock, and Yankton for over 27 years. There was no pension, no retirement. He left behind a wife and child. There's nothing for them. Yet we can fund a top heavy administration with two GS-13 and one GS-14 positions at the District I Aberdeen Operations Division alone at a cost of salary and 25 percent on top for availability pay and full retirement and benefits, a total estimated cost of 425,000.

In the history of the Cheyenne River Sioux Tribe's law enforcement program, no employee has ever been able to retire from service. They resign and depend upon their Social Security check as retirement. This tribe has had to make a horrible decision, either cut salaries to increase the number of police officers or fund at the same level as BIA officers with full benefits, and have only five officers and one criminal investigator. Our dedicated law enforcement staff have lived with this decision for our entire history.

We have on staff right now officers who have served for 17 years with no retirement, no salary increases other than inflation, and still working at salary levels before an entry level BIA law enforcement position, yet they are dedicated to protecting their families and people and so they stay here. This must change and will only be possible if you increase the base program funds to tribes.

The detention facility on Cheyenne River Sioux Tribe is serving as a regional facility housing adult and juvenile offenders for the BIA from reservations in South Dakota, North Dakota, Minnesota, and Nebraska. This introduces new violent offenders to our commu-

nity and presents a serious risk to our population and our detention staff. It also ensures we don't have the space for our own offenders, but we have to find funding somewhere.

The BIA just authorized about \$1 million to upgrade our facility. This one in Crow Creek is told over here there is no money. If this doesn't prove OGS intends to regionalize detention, I don't know what will.

The criminal court hears over 3,000 cases a year with one judge and one prosecutor. The juvenile court hears over 1,000 delinquent petitions a year with one judge and one prosecutor. Justice delayed is justice not served. The average time between arrest and trial is six months. The lack of funding ensures there is no justice and no safety for communities.

Our law enforcement program simply does not fund uniforms, body armor, in the case of Mr. Arpan, and basic police equipment. We can't afford it.

GSA leases our vehicles and our cars that we don't have the funds to purchase and then retires fleets of vehicles. One time grants don't work. Especially with our roads that we work on.

An increase in the base funding for our CRST LED from \$2,664,688 to \$5,659,572 was proposed in the 2007 Congressional testimony that was submitted by the Cheyenne River Sioux Tribe. We need a doubling of our budget to meet our law enforcement needs.

In closing, I am proud of the dedication shown by our law enforcement officers who continue to provide the best services possible to our people and the Lakota people on other reservations in the Dakotas with limited or no resources. They deserve our gratitude as do our people who continue to suffer without adequate protection. They both deserve so much more.

As the Chairman of the Cheyenne River Sioux Tribe I urge you to help us address these concerns with the entire criminal justice system through funding and oversight of use of funding.

Madam Chair, this concludes my prepared statement but I also have something else to add on behalf of law enforcement, our law enforcement personnel, is that the fact is is that we—seven of the 11 poorest counties are in the Dakotas and these are our homes. Poverty thrives on our lands and with poverty comes so many other issues with addicts, violence, criminal activities rise in our population.

I leave you with this thought: When I was working in patrol I come across a poem and something that really stuck with me in that poem was that it had—it talked about—it was talking in regards to a soldier's life and it was in comparison to a soldier's feet and heart, the many miles marched and paths crossed and in time that soldier's feet hardened and in the same sense a soldier's heart also adjusted to the same effects of exposure of the many lives lost where the soldier's heart also hardened.

An officer, in the same sense that refers to a person's feet hardened from the many trails walked, the paths crossed, and the officer's heart doesn't harden because we are home. We are fighting with unseen forces of addiction and violence. I wish we could incarcerate addiction and violence, but we can't do that.

[speaking Native tongue.]



These officers come from our homes and they are protectors and providers to protect and serve and with that, our officers are unsung heroes and they're—at times they're nurses and counselors, they're all these things in the world that isn't provided, but they're that first line of defense against what we're fighting against and, you know, I just would like to end with if we can recognize those individuals for what they do and thank you. I appreciate you allowing me to come here and speak to you.

[The prepared statement of Mr. Brings Plenty follows:]

**Statement of Joseph Brings Plenty, Chairman,  
Cheyenne River Sioux Tribe**

Chairman Rahall and Members of the Committee:

I am pleased to appear before you today to talk about many issues of concern regarding our criminal justice system and public safety. As a former Police Officer for 9 years and Social worker for 4 1/2 years, I have first hand experience with the problems our law enforcement and criminal justice systems face. I wanted to introduce to you our Chief of Police, Festus Fischer, who has worked in BIA and Tribal law enforcement in Indian Country for 17 years, Supervisory Detective Larry LeBeau who has been with the BIA Law Enforcement and the Tribal Department for a total of 20 years, and Stephen Brings Plenty, a Criminal Investigator who has been with our Department for 18 years. They and their fellow officers represent the best of what we have to offer for our future.

**I. Introduction**

The Cheyenne River Sioux Indian Reservation includes about 2.8 million acres and a population of around 15,000 people. Over forty percent of our population is under 21 years old, so we are growing very fast. There are approximately 4,500 miles of roadways throughout our reservation, and nineteen communities served by our Law Enforcement Department in an area the size of Connecticut. The unemployment rate is 78 per cent and 96 per cent of working families live below the poverty level.

The Cheyenne River Sioux Tribe Law Enforcement Department is headquartered in Eagle Butte, South Dakota. There are no substations in any of the outlying communities. The one-way distance from headquarters to each of the outlying communities ranges anywhere from seven miles to 70 miles. Dewey and Ziebach Counties are wholly located within the reservation's exterior boundaries. On a busy night, it is not uncommon for an officer to log 600 miles on the vehicle in one shift.

The Department is a full-service law enforcement program providing police, criminal investigations, dispatch and adult and juvenile detention services. The CRST LED also manages a social detoxification unit and provides supervision to court service officers, hospital security officers and foot patrol officers.

The Tribe employs 22 full-time sworn enforcement officers, including 3 supervisors, 3 criminal investigators, and 10 police officers funded under a Public Law 93-638 contract with the BIA. The Tribe also employs 1 school resource officer and 2 highway safety officers funded with grant funds. To compare, in 2000, under the COPS program, we had 36 officers, which was not enough to cover. That allows one police officer for every 1,500 people and 1 officer covering 450 miles of road. That is an average of 3 officers covering the entire Reservation at any given time—3 officers for 15,000 people—5,000 people a piece at all times.

**II. Statement of Need**

In 2006, the Department responded to 11,488 calls for service resulting in 11,791 arrests. Most of these arrests were made by a single police officer in a remote area of the reservation with back-up several miles and minutes away. Although we've been fortunate to have not had any of our police officers killed in the line of duty in recent years, poor program funding requires us to continue a path of high liability. We have had officers attacked, with no backup, which has resulted in injuries. We also have a need for three school resource officers in Eagle Butte schools and two officers in Takini and LaPlante schools. Our schools were listed in the BIE report as having some of the highest levels of assaults in schools—the resource officers stop this. Compounding our problems is the overwhelming increase in drug activity with Methamphetamines increasing the number of violent offenses at Cheyenne River.

I want to talk with you today about two areas of concern: First, problems with the current administration of law enforcement by the BIA. And second, the impact of continued under funding on our criminal justice system.

### **III. Problems with Administration of Law Enforcement Services by the BIA.**

While funding must increase to address many of the problems, there are administrative and oversight issues as well, which I want to discuss with you. The BIA Law Enforcement received an increase in funding from Congress two years ago. This Tribe, despite promises that funds would be shared, never received one cent of that funding. One problem is that when BIA Law Enforcement receives one time appropriations from Congress, they rarely provide any of those funds to 638 contract Tribes including Cheyenne River due to the under funding of BIA operated Law Enforcement. If Congress does not specify that funds will be distributed based on need and will not include funding to 638 contract Tribes, our Department will never see any of the funds Congress appropriates.

You should be aware that the BIA's decision to split out Law Enforcement Services from under the central direction of the Great Plains Regional Director into their own division has created many new problems for our already underfunded law enforcement department. Under the old system the Agency Superintendent was over the Department and reported to the Great Plains Regional Director who reported to the Washington DC Office. Now, there are four divisions of law enforcement each reporting to different bosses and the Agency Superintendent has no authority over law enforcement. The Regional Director only has authority over tribal courts, prosecutors and public defenders.

The most recent "line of authority" split leaves us with the Operations side of law enforcement covering criminal investigations, police and dispatch and Corrections covering detention/corrections programs. Operations management reports to the District I Office in Aberdeen and then on to Albuquerque and Washington D.C. Corrections management reports to an office on the Standing Rock Reservation and then Albuquerque and Washington D.C. The splitting of Operations and corrections into two lines of authority in two locations does not allow the Tribe to do business at one location under one chain of command.

The same thing has been done with training. The Indian Police Academy which is located in Artesia, New Mexico, is the only location for our detention staff to receive the required basic detention officer certification training. Our 638 contract Police Officers can receive Basic Police certification training at the South Dakota Police Academy, but BIA officers must go to the Indian Police Academy for their basic Police Officer certification training. Although the South Dakota State Police training program is approved by the BIA for meeting the basic training needs for "638 contracted Police Officers, it is not recognized as a basic Police Officer certification course for BIA police officers. This basic training requirement discourages our "State" certified Police Officers from applying to join the BIA service because they have to repeat the police training in Artesia.

The Professional Standards Division (PSD) is another arm of the BIA Office of Justice Services, responsible for providing program reviews and internal investigations. There was previously a "field" office of the PSD located in Rapid City, South Dakota which staffed 3 agents to conduct internal investigations and reviews for all Tribes of the Northern United States in Rapid City. This office has been eliminated with all resources being moved to Albuquerque, New Mexico, and the scope of their internal investigations being limited, for the most part, to officer involved shootings. With the many necessary resources scattered throughout various locations a huge financial expense has been created for us to simply do business. This doesn't work.

Under the newly organized BIA Office of Justice Services we have had all too many unfavorable experiences. For example, when we have search and rescue missions or the need for the use of a canine and canine officers to assist drug investigators, which the BIA has, we cannot get access. The BIA has continually stated the liability for allowing this cooperation with a 638 contract Tribe is too high. This was never an issue before. Second, under the old system, when we have a large event like our annual rodeo and pow-wow, we had officers from other Reservations—both BIA and 638 contract operated come and assist. And we did the same for them. Under the new administration BIA Officers are not permitted to assist—again the BIA cites liability. This hampers our ability to have safety during large events, and hurts all other tribal law enforcement in the Dakotas.

Another serious problem is that the BIA Office of Justice Services has demanded that the Tribe split law enforcement into a separate 638 contract from our other Master 638 contract. The Tribe has refused. For very good reason. The BIA withheld our funding for three months because we refused. Our Master contract includes all justice services and other programs. It includes courts, Prosecutor, public defender

and probation. All these are so drastically underfunded that funding doesn't even cover their salaries and fringe benefits let alone supplies. Under federal law, if the Tribe has cost savings in one area of its Master Contract, it can use those savings in another area of the Master contract. So, when there are savings, the Tribe dedicates funds to Law Enforcement and criminal justice system programs. If we split law enforcement into a separate contract, we cannot use savings for law enforcement, further eroding our budget.

This split out and creation of a new administration hampers coordination of a criminal justice system—courts are managed by Great Plains Regional Director. Law Enforcement is managed by an entirely different administration not answerable to one central person except the Assistant Secretary of Indian Affairs. This was done without any consultation with Tribes at a huge cost to law enforcement funding. Now, we hear the BIA is trying to move courts into this new administration. But again, no Tribe has ever been consulted.

The Cheyenne River Sioux Tribe has been administering law enforcement since before the BIA ever provided funding for law enforcement. We have never in our history had BIA run law enforcement services. We know what we need. But the BIA is now making decisions without any consultation with this or any other Tribe. And these decisions are eroding our funding and our ability to run an effective law enforcement program. And the funds Congress does appropriate are spent on top heavy administration.

Instead of paying a Superintendent at the Agency, a Regional Director in Aberdeen and a Washington DC Director with support staff, you are paying for six bosses in four locations, with support staff. For example, in Aberdeen Operations Division alone there is one GS-14 position and two GS-13 positions making their salary plus 25% on call pay—and they are management—not on the street enforcement. That costs the BIA approximately \$300,000.00 a year plus full fringe benefits and pension.

Although our current law enforcement budget for Fiscal Year 2007 was to have been funded the same as in Fiscal Year 2006, a holdback in excess of 10% imposed by the Bureau of Indian Affairs has further hindered our ability to provide the necessary services to our people. This holdback has been done without any justification provided to the Department or the Tribe.

While the new Administration continues to fund more management positions, they have issued an unfunded mandate to our Department to separate the duties of dispatch and detention. The CRST had to establish an entire dispatch division, and create 5 additional positions with no additional base funding. The original creation of the dual duty detention and dispatch post was done at the request of the BIA Office of Law Enforcement Services when the CRST opened the Walter Miner Law Enforcement Center in 1993. These once separate positions were combined to staff a required post in the new detention center. Now, they are once again separate divisions, but no funding is provided. As with dispatch, this detention post must be staffed around the clock making it a mandatory post.

#### **IV. Problems created by underfunding.**

If I may, I want to explain to you some of the problems created by underfunding. Our current base funding received from the BIA does not allow the Tribe to compensate any of the law enforcement employees with a salary comparable to those at an entry level position of the same type in the federal BIA service. This results in a high employee turnover rate, as well as employee burn-out, reduced productivity and increased liability. The Tribe does not provide any pension benefits to its officers or retirement due to lack of funding, further eroding our retention of good, experienced officers. Our former Chief of Police passed away last month at 49 years old. He had served in law enforcement at Cheyenne River, Standing Rock and Yankton for over twenty-seven years. There was no pension and no retirement. He left behind a wife and children. There is nothing for them. While this goes on, BIA can fund a top heavy administration with two GS-13 and one GS-14 positions at the District I Aberdeen Operations Division alone at a cost of salary and 25 percent on top for availability pay and full retirement at a total estimated cost of \$425,000.00. When they retire or pass away, their families will receive that pension. In the history of the Cheyenne River Sioux Tribe's law enforcement program no employee has ever been able to retire from service. They resign and depend upon their social security check as "retirement". This Tribe has had to make a horrible decision—either cut salaries to increase the number of police officers or fund at the same level as BIA Officers with full benefits, and only have 5 police officers and one criminal investigator.

Our dedicated law enforcement staff have lived with this decision for our entire history. We have on staff right now officers who have served for over 17 years with

no retirement, no salary increases other than inflation, and still working at salary levels below an entry level BIA law enforcement position. Yet they are dedicated to protecting their families and people and so they stay here. This must change and will only be possible with increased base program funds.

The Tribe and the Department are doing everything they can to fund law enforcement. The Tribe has absorbed \$1.5 million in costs unfunded for Law Enforcement and hundreds of thousands of dollars in costs to run the rest of the justice system. The Criminal Court hears over 3,000 cases a year with one judge and one prosecutor. The juvenile court hears over 1000 delinquency petitions a year with one judge and one prosecutor. Justice delayed is justice not served. The average time between arrest and trial is six months. And in the meantime law enforcement re-arrests re-offenders awaiting trial many times. This lack of funding ensures there is no justice and no safety for our communities.

The Department detention division is trying to generate funds other ways. We contracted bed-space with other BIA and federal agencies. We house pre-sentenced Federal offenders, and house BIA adult and juvenile offenders from locations where facilities are either inadequate or non-existent. The detention facility on the Cheyenne River Sioux Reservation is serving as a regional facility housing adult and juvenile offenders for the BIA from reservations in South Dakota, North Dakota, Minnesota and Nebraska. This introduces new violent offenders to our community and presents serious risks to our population and our Detention Staff. It also ensures we don't have the space for our own offenders, but we have to find funding somewhere.

The Tribal General fund and contracts has not, and cannot, be relied upon for recurring expenses. An increase in base funding for the CRST LED from \$2,664,688.00 to \$5,659,572.00 was proposed in the 2007 Congressional Testimony that was submitted by the Cheyenne River Sioux Tribe. This increase in base funding will allow us to operate our law enforcement program with a realistic budget and a more effective approach.

Our law enforcement program simply does not have the level of funding necessary to provide for uniforms, body armor, and basic police equipment. With the exception of a mix of badges and outdated/unsafe handguns, staff routinely purchases their uniforms and essential equipment. Additional funding to secure modern equipment, would enhance the safety of our officers and citizens.

Approximately 90 percent of our fleet of vehicles is leased from GSA, which results in extremely high monthly billings. This is due to the high number of miles traveled—over 40,000 miles a year, billing us for damage for adding patrol car equipment, the high GSA cost of new tires and other maintenance required more often from our rugged roads, the need for SUVs for our rugged roads and climate, and other associated with the lease. Funding to secure and equip a fleet of Tribal police vehicles would allow our law enforcement program to reduce yearly vehicle expenses and direct a smaller portion of operational funding toward yearly vehicle related expenses. But this is of no use if there is no recurring funding for replacement of worn vehicles. One time grants don't work.

In an attempt to combat the use, sales, possession, manufacturing and trafficking of illegal drugs on our reservation, the CRST Law Enforcement Department has been an active participant in the Northern Plains Drug Task. Our involvement with the task force is limited due to funding. Funds from our budget must be re-directed to staff one drug task force agent who works endless hours locally and on other area reservations as a member of the drug task force. All illegal drug activity on our reservation is handled by this agent who must prioritize each case and work only the most serious cases. The salary and overtime required of the drug agent consumes of the salary for two police officers, which negatively impacts our limited number of police officers. The rise in illegal drug activity on our reservation has us backed in a corner.

The two county sheriffs and one city Police Departments rely upon us for investigation of serious cases, for detention, and for assistance. They do not have the capability to handle public safety the way our Department does. The answer is to support Tribal Law Enforcement to carry the ball and to allow this system of cooperation with local law enforcement to continue as it has over our entire history—not to change the roles of our departments. As you are probably aware, the United States Civil Rights Commission issued its report several years ago finding discrimination in law enforcement and voting rights in South Dakota. This makes it even more important for you to support tribal law enforcement community based policing. We have done community based policing from the beginning—before this term became popular in the COPS program. But underfunding threatens our ability to focus on prevention and education and threatens the safety of our communities and officers.

To make matters worse, the Congress passed a provision in the Adam Walsh legislation mandating that Tribes fully implement the sex offender registry, which includes taking and storing DNA samples and many other requirements or the Tribes jurisdiction will be turned over to the State, along with jurisdiction to enforce the requirements criminally. While the coordination of national sex offender registry is very important, these mandates were placed upon the Tribe with no funding to implement the new requirements. The State has no criminal jurisdiction on the Reservation over Indian people. At Cheyenne River, we have had a sex offender registry for ten years. Yet no one tried to consult with the Tribes. Not Congress, and not the Department of Justice. Department of Justice just issued over 60 pages of guidelines implementing this new law. No Tribe was consulted about these guidelines. And some of the guidelines are simply culturally offensive, like requiring the registration of a person's traditional name. This is just one of many of the examples of where by failing to consult with Tribes, federal agencies make assumptions about tribal systems including law enforcement that are unfounded and thereby make our jobs more difficult in providing safety and security to our people. To require that we take DNA samples and fund their collection and storage and fingerprints when we don't even have an electronic fingerprint database is an unfunded mandate. We don't have the revenue to support these continual unfunded mandates.

In closing, I am proud of the dedication shown by our law enforcement officers who continue to provide the best services possible to our people and the Lakota people on other Reservations in the Dakotas with limited or no resources. They deserve our gratitude. As do our people who continue to suffer without adequate protection. They both deserve so much more. As Chairman of the Cheyenne River Sioux Tribe, I urge your support to help us address these concerns with the entire criminal justice system through funding and oversight funding use to ensure the funds appropriated are used most effectively.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you or other Members of the Committee may have.

**CHEYENNE RIVER SIOUX TRIBE SUMMARY OF CRIMINAL JUSTICE SYSTEM**

<b>Criminal Justice System Funding under Master 638 Contract with Cheyenne River</b>	<b>FY 2007 Funding</b>	<b>Funding needed to operate programs</b>
1. Tribal Courts	\$ 422,345.21	\$ 822,131.00
2. Tribal Prosecutor's Office	\$ 111,730.06	\$ 400,000.00
3. Public Defender's Office	\$ 111,145.57	\$ 413,207.00
<b>12. Law Enforcement Services</b>	<b>\$ 2,664,688.00</b>	<b>\$ 5,659,572.00</b>
<b>Total</b>	<b>\$ 3,309,908.84</b>	<b>\$ 7,294,910.00</b>

**I. Law Enforcement Summary**

Staffing: 10 police officers, 3 supervisors, 3 criminal investigators, 2 NAHATSA Traffic Safety Grant Officers, 1 School Resource Grant Officer in Eagle Butte School, 25 Detention Officers (includes 22 officers and 3 supervisors)

Coverage Area: 2.8 million acres, 4,500 road miles, nineteen communities. Area is the size of Connecticut and includes all of Dewey and Ziebach Counties, and a population of 15,000 people

Facilities: Adult Detention Center and separate Juvenile Detention Center in Eagle Butte, South Dakota

Officers on Duty Schedule: Weekdays: 2 Officers total Weekends: 3 Officers total  
Total Arrests in 2006: 11, 791

Total Calls for Service in 2006: 11,488

**II. Tribal Criminal and Juvenile Courts**

Staffing: 1 Criminal Court Judge and 2 clerks, 1 Adult Probation Officer, 1 Juvenile Court Judge and 2 clerks, 1 Juvenile Probation Officer

Coverage Area: 2.8 million acres, 4,500 road miles, nineteen communities. Area is the size of Connecticut and includes all of Dewey and Ziebach Counties, and a population of 15,000 people

Facilities: 1 shared court room

Criminal Court Caseload: FY 2006

# of Cases Filed: 3,350

# of Judgments: 1,757

# Hearings Scheduled: 6,434

Juvenile Court Caseload: FY 2006  
 # of Cases Filed: 1,856  
 # of Judgments: 723  
 # hearings Scheduled: 2,210  
 Probation Caseload 2006: Adult: 122 clients  
 Juvenile: 348 clients

### III. Prosecutor's Office

Staffing: 1 Prosecutor, 2 non-lawyer Asst. Prosecutors, 1 Office Manager  
 Coverage Area: 2.8 million acres, 4,500 road miles, nineteen communities. Area is the size of Connecticut and includes all of Dewey and Ziebach Counties, and a population of 15,000 people  
 Caseload: 11,488 Police Reports resulting in 3,000 criminal complaints, 1, 247 juvenile delinquency petitions and 200 involuntary commitment petitions  
 Average Time between Arrest and Trial: 6 months

Ms. HERSETH SANDLIN. Well, thank you, Chairman Brings Plenty, for the testimony, like President Bordeaux and President Steele, raising so many issues that we will be exploring further and, as they did, recognizing the law enforcement officers from the community that you represent, some of whom I've had a chance to meet in the past and work with. But again, I appreciate the eloquence and importance of your words. And again, we'll explore a number of issues that you have raised in a moment as I have some questions to explore and some further testimony, but before we do that, this panel also includes Chief of Police for the Sisseton Wahpeton Oyate.

I'm glad that some of your counterparts from other tribes have been able to join us. And thank you for being here and speaking on behalf of the Sisseton Wahpeton Oyate, but I thank other leaders in law enforcement that are here with us today and some who weren't able to join us, but thank you very much, Mr. Gaikowski, for being here. We welcome your testimony.

### STATEMENT OF GARY GAIKOWSKI, CHIEF OF POLICE, SISSETON WAHPETON OYATE, AGENCY VILLAGE, SOUTH DAKOTA

Chief GAIKOWSKI. Good afternoon, Congresswoman. Chairman Michael Selvage can't be here today. I have two statements, his and my testimony to read.

Ms. HERSETH SANDLIN. Both will be made available in their entirety for the record, and I appreciate the Chairman's leadership and thoughts on the issue.

If you might start with your testimony and then if you could summarize the Chairman's testimony for us so we can move on to some of the questions, but again, please assure him and please be assured yourself that both of the statements that you have there will be made part of the record in their entirety.

Chief GAIKOWSKI. Yes.

Ms. HERSETH SANDLIN. Thank you.

Chief GAIKOWSKI. Honorable Chairman Nick Rahall, II, and members of the Committee, I would like to give insight to the Committee in regards to the current conditions that law enforcement faces on the Lake Traverse Reservation.

The Sisseton Wahpeton Law Enforcement is a PL 93-638 program operating on a budget of \$608,000. With that we employ eight officers, five dispatchers, three detention officers, and one adminis-

trative assistant. This leaves a very small fraction for operating costs. The Sisseton Wahpeton Oyate supplements our budget with three police officers, one detention officer, and operating costs. We have two more police officers funded by grants.

The FBI and one BIA investigator handle all major crimes committed on the reservation. Tribal law enforcement handles all misdemeanors but are the first to respond to all crimes, Federal, state, and tribal.

We protect and serve an area of over 1,096 square miles and over 108,921 acres. Our on reservation population is estimated at 10,436 non-Indians and over 6,000 tribal members.

Our detention facility was built in 1974 and has long lived its use. It is a 22-bed adult facility. The current condition of our facility suffers from deterioration and overcrowding by inmates and staff. Repeated attempts to address these situations is hindered due to the lack of funding. These attempts can only be considered as Band-Aids to the problem.

We can only hold juveniles for up to six hours; longer if we have a court order. Our juveniles are usually transported to Fargo, North Dakota, which is 90 miles away, if they are to be held longer. The cost for this is \$120 per day per inmate, which we are incurring. The BIA shut us down for holding juveniles and yet we do not receive any funds from them to send them out.

Our mentally ill inmates must be transported approximately 250 miles to Yankton, South Dakota. I can only give my employees comp time for transporting prisoners and for going above and beyond their duty. This is leave they're not able to utilize due to being short staffed.

Our officers patrol an average of 250 miles per shift on tar and gravel roads. This leaves our maintenance budget for our vehicles for wear and tear usually in the red. Our department leases seven GSA vehicles, five patrol cars and two SUV's. We also have two SUV's owned by the tribe with over 150,000 miles on them. These vehicles nickel and dime us. My concern with these vehicles is that one of these days one of them might break down on a serious call when someone's life is at stake.

Our dispatch usually receives 2,700 calls per month along with arrest and radio traffic from the officers. We average over 65,000 incidences per year.

All of our officers are on call status 24/7. Backup is a half hour to an hour depending on where and the severity of the situation. We try to have two officers on per shift.

In a most recent incident, Patrol Officer Johnson responded to a call to remove an intoxicated adult from their grandmother's home. The subject began to resist. Officer Johnson attempted to restrain the individual. The individual became violent and injured Officer Johnson. Officer Johnson received several injuries. Backup was not available due to the distance of responding to another call 25 miles away. The only way Officer Johnson was able to prevent the individual from further harming him was to bite him. When backup was finally able to respond, the individual had gotten away.

Due to his injuries, Officer Johnson was out of work for two months and has recently returned to work only to perform light duties. If the FBI needs to respond, they have to come out of Sioux

Falls. My officer has to arrest, take statements, pictures, gather evidence, and secure the crime area until relieved. Other officers are called on duty to assist.

We have a high recidivism rate. We are addressing this issue with our Community Justice and Rehabilitation Detention Project. If this project does not go through, our inmates will continue to fall through the cracks in the justice system without being given the opportunity to rehabilitate.

One of our goals is to continue to be tough on our DUI and traffic laws. This is our only defense to keep alcohol from coming onto the reservation. We feel if we can keep the alcohol out, we can prevent the assaults, the rapes, the domestic abuse, child neglect, underage drinking that occur in our community.

There are three areas of concern that I would like to express as the Chief of Police.

Funding. Without funding, we would not be able to perform the functions required of law enforcement. As it is, the lack of funding does not meet the rising crime rate on our reservation. The most underfunded needs are the high meth rate and the juvenile crime.

Detention. Due to our deteriorating conditions at our current detention center, we are unable to provide the adequate rehabilitation for our inmates to become productive citizens.

Youth. I consider this issue the top priority of our unmet needs. Most of our violent crimes are committed by our youth. Our most recent example of this is when four of our tribal member youth assaulted a 13-year-old boy so badly he was unrecognizable due to the trauma of being kicked and beaten in the head. Today this 13-year-old is still hospitalized in a coma with no brain activity. This incident didn't only affect the families involved. It affected the community overall. Due to the possibility of it being gang oriented, police officers were posted at the local schools to prevent any further violent outbreaks.

This has become a theme that is occurring on the Lake Traverse Reservation. Some of our elders live in fear of their grandchildren. This was expressed to me during one of their elderly board meetings. More and more in our court we see cases of parents who are requesting relinquishment of their children because they do not have the capabilities to handle them. These are children who are in and out of court, the child protection program, treatment, and continue to drain the resources of the Lake Traverse Reservation. These children have proven they are examples of learned behavior by their parents. It is apparent that this is a dysfunctional generational cycle. Our new Community Justice Rehabilitation Center master plan is set up to address these issues with the youth and adults in our system.

It is imperative that we get the proper funding that is direly needed to address these issues. Continuation of the situations without proper funding can only result in a social and cultural breakdown of our society.

[The prepared statement of Chief Gaikowski follows:]



**Statement of Gary Gaikowski, Chief of Police,  
Law Enforcement Department, Sisseton-Wahpeton Oyate**

Honorable Chairman Nick J. Rahall II and members of the committee, I would like to give insight to the committee in regards to the current conditions of the Law Enforcement faces on the Lake Traverse Reservation.

The Sisseton-Wahpeton Law Enforcement is a PL 93-638 Program operating on a budget of \$608,839. Employed are eight officers, five dispatchers, three detention officers and one administrative assistant. This leaves a very small fraction for operating cost. The Sisseton Wahpeton Oyate supplements our budget with three police officers, one detention officer and operating cost. We have two more police officers funded by grants.

The FBI and one BIA investigator handle all major crimes committed on the reservation. Tribal Law Enforcement handle all misdemeanors but are the first to respond to all crimes, federal, state and tribal.

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We can only hold juveniles for up to six hours, longer if we have a court order. Our juveniles are usually transported to Fargo, North Dakota which is 90 miles away if they are to be held longer. The cost for this is \$120.00 per day per inmate, which we are incurring. The BIA shuts us down for holding juveniles and yet do not want to fund us to pay to send them out. Our mentally ill inmates must be transported approximately 250 miles to Yankton, SD. I can only give my employees comp time for transporting prisoners and for going above and beyond their duty, leave they are not able to utilize due to being short staffed.

Our officers patrol an average of 250 miles per shift on tar and gravel roads. This leaves our maintenance budget for our vehicles for wear and tear and is usually in the red. Our department leases seven GSA vehicles, five patrol cars and two SUV's. We also have two SUV's owned by the tribe with over 150,000 miles on them. These two vehicles nickel and dime us, my concern with these vehicles is that one day one of them might break down on a serious call when someone's life is at stake.

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Due to his injuries Officer Johnson was out of work for two months and has just recently returned to work only to perform light duties.

If the FBI needs to respond they have to come out of Sioux Falls, 150 miles away. My officer has to arrest, take statements, pictures, gather evidence and secure the crime area until relieved. Officers are called on duty to assist.

We have a high recidivism rate. We are addressing this issue with our Community Justice and Rehabilitation Detention Center Project. If this project does not go through, our inmates will continue to fall through the cracks of the justice system without being given the opportunity to rehabilitate.

One of our goals is to continue to be tough on DUI and traffic laws. This is our only defense to keep alcohol from coming onto the reservation. We feel if we can keep the alcohol out we can prevent the assaults, rapes, domestic abuse, child neglect, underage drinking that occur in our communities.

There are three areas of concern that I would like to express as the Chief of Police

1. Funding, without funding we would not be able to perform the functions required of Law Enforcement. As it is, the lack of funding does not meet the rising crime rate on our reservation. The most under funded needs are the high meth rate and juvenile crime.

2. Detention, due to our deteriorating conditions at our current detention center we are unable to provide the adequate rehabilitation needed to become productive citizens.
3. Youth, I consider this issue the top priority of unmet needs. Most of our violent crimes are committed by our youth. Our most recent example of this is when four of our tribal youth assaulted a 13 year old boy so badly he was unrecognizable due to the trauma of being kicked and beaten in the head. Today this 13-year-old is still hospitalized in a coma with no brain activity. This incident did not only affect the families involved, it affected the community overall. Due to the possibility of it being gang oriented. Police officers were posted at the local schools to prevent any further violent outbreaks.

This has become a common theme that is occurring on the Lake Traverse Reservation. Some of our elders live in fear of their grandchildren. This was expressed to me during one of their elderly board meetings. More and more in court we see cases of parents who are requesting relinquishment of their children because they do not have the capabilities to handle them. These are children who are in and out of court, the child protection program, treatment and continue to drain the resources of the Lake Traverse Reservation. These children have proven they are examples of learned behavior by their parents. It is apparent that this is a dysfunctional generational cycle. Our new Community Justice Rehabilitation Center Master plan is set up to address these issues with the youth and adults in our system.

It is imperative that we get the proper funding that is direly needed to address these issues. Continuation of the situations without proper funding can only result in a social and cultural breakdown of our society.

Ms. HERSETH SANDLIN. Thank you very much, and yes, I know that you have a statement from the Chairman as well.

Chief GAIKOWSKI. Yes.

“Honorable Chairman Nick Rahall the Second and members of the Committee:

“On behalf of the Tribal Council of the Sisseton Wahpeton Oyate, we thank the Committee on Natural Resources for taking the time to hold this oversight field hearing concerning the needs and challenges of tribal law enforcement on Indian reservations today. Your decision and action of holding this field hearing demonstrates your genuine concern regarding our pressing needs as it regards the protection of tribal members and property in Indian Country and we are highly appreciative of this consideration which has been extended to the Federally recognized tribal governments herein assembled.

“The tribal government of the Sisseton Wahpeton Oyate, including its law enforcement agency, has been in continuous existence and operation since the time of Congressional approval of our Sisseton Wahpeton Treaty of February 19, 1867. Article 10 of this treaty provides the basis for establishment and Federal recognition of our tribal law enforcement agency wherein it was mutually agreed that the Sisseton Wahpeton chiefs and head men are authorized to organize a force sufficient to carry out laws and all rules and regulations for the government of said Indians as may be prescribed by the United States Interior Department.

“For 140 years the Treaty Council and tribal councils of the Sisseton Wahpeton Oyate have maintained and supported its tribal law enforcement agency on the Lake Traverse Reservation throughout its seven district communities and have faithfully enforced the laws of the Sisseton Wahpeton Oyate as well as all applicable Federal laws for Indian Country. Generations of tribal families from our communities have committed themselves to tribal law enforcement throughout this period of 140 years of continuous service whether Federal funding support was available or not.

“It is from this historical context that our testimony today derives and is submitted for your consideration. The tribal government of the Sisseton Wahpeton Oyate assures the Committee that its obligations to law enforcement are taken very seriously as such responsibilities pertain to our constitutional mandate to promote the health and well-being of our tribal membership which now consist of over 12,000 tribal members of whom 6,000 members reside in our seven district communities on the Lake Traverse Reservation. Our tribal and Federal jurisdiction extends to those designated areas of Indian Country in five counties in northeast South Dakota as well as two counties in southeast North Dakota.

“Our Sisseton Wahpeton needs and challenges in law enforcement consist of two principal areas of concern:

“First, the diminishing level of Federal funding support for our law enforcement agency; second, our current need to construct a new Community Justice and Rehabilitation Center for both adult and juvenile offenders on the Lake Traverse Reservation consistent with the tribal council approved master plan for this rehabilitation campus.

“Regarding the diminishment of Federal funding and support for our tribal law enforcement agency, the tribal government of the Sisseton Wahpeton Oyate contracts under authorities of PL 93-638 for law enforcement services from the Bureau of Indian Affairs. This has been in effect since passage of the Act. Previously the tribal government contracted for law enforcement services utilizing the authorities of the Buy Indian Act.

“The struggles of the tribal government in obtaining a sufficient level of funding for its law enforcement agency are extensive and for the past five years the tribal government has matched Federal funding from its own limited non-Federal funds so that law enforcement can be accomplished more effectively. Currently the tribal council of the Sisseton Wahpeton Oyate provides approximately 35 percent of needed funding from its non-Federal revenues, consisting of 350,000 to \$400,000 from tribal funds annually for the basic operation of our law enforcement agency. Without this contribution of tribal funds, our law enforcement agency would not be able to sustain itself nor meet the requirements of effective law enforcement in the local seven tribal communities on the reservation.

“In particular, our law enforcement agency finds itself highly challenged with regard to intervening upon the growing incidence of methamphetamine abuse and addiction which are increasing within our tribal communities on the reservation. In particular, the introduction of these illegal substances from the outside has served to increase the number of offenses and violent behavior of offenders with particular reference to juvenile offenders within the jurisdiction. Our resources in manpower and investigative technology are limited regarding an effective interdiction. Our financial resources are limited to combat this invasive intrusion of one of the most serious disorders which is afflicting our communities at the present time. While our tribal government has emphasized preventative measures in our schools and local college, such efforts, however admirable in itself, yet require Federal assistance to intervene upon those who violate our tribal and Federal laws by engaging in the traffic of illegal drugs on our reservation. On behalf of our children

and youth, we urge you to consider Federal appropriations to assist us in this time of crisis and need.

“In 1974 our tribal council applied for and obtained Federal funding from the U.S. Department of Justice to construct a minimum security adult detention center. At the time the problems and offenses of our people were minimal and the existent facility provided a minimum required need as regards judicial services and intervention services for adult offenders. Since that time, however, the numbers of adult and juvenile offenders have increased significantly and our current detention facility fails to meet not only facility code requirements, but also fails to provide sufficient space for adult offenders and has no space available for the growing number of juvenile offenders.

“Beginning in the year 2004 and continuing at the present time, our tribal government embarked on the arduous task of developing and establishing what has become known as the Sisseton Wahpeton Oyate Community Justice and Rehabilitation Master Plan. This initiative was funded and sponsored by our tribal council utilizing primarily non-Federal tribal funds and such funding enabled our tribal government to retain professional criminal justice personnel who assessed our criminal justice needs and requirements so as to develop and establish our own tribal specific master plan for addressing our own community justice and rehabilitation needs.

“Essentially this master plan plainly asserts our own tribal responsibility to intervene upon both adult and juvenile offenders in the local community so as to treat and rehabilitate the greatest number of these offenders in a therapeutic and culturally significant manner. While the amount of funds required to construct the proposed adult and juvenile detention and rehabilitation center clearly is beyond our financial resources, as a tribal government we are asking for Federal funding consideration to assist us in the construction of these rehabilitation facilities so as to implement an aggressive program of treatment and rehabilitation of our offenders in the local community. The consideration of the Committee with regard to this proposal would be greatly appreciated.

“Respectfully submitted by Michael I. Selvage, Senior, Tribal Chairman of Sisseton Wahpeton Oyate Tribal Council.”

[The prepared statement of Mr. Selvage follows:]

**Statement submitted for the record by Michael I. Selvage, Sr., Tribal Chairman, Sisseton Wahpeton Oyate Tribal Council, Agency Village, South Dakota**

Honorable Chairman Nick J. Rahall II and members of the Committee:

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agreed that, "The (Sisseton Wahpeton) Chiefs and Head men—are authorized—to organize a force sufficient to carry out—laws, and all rules and regulations for the government of said Indians, as may be prescribed by the (United States) Interior Department".

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The struggles of the tribal government in obtaining a sufficient level of funding for its law enforcement agency are extensive, and for the past five years, the tribal government has matched federal funding from its own limited non-federal funds so that law enforcement can be accomplished more effectively. Currently, the tribal council of the Sisseton Wahpeton Oyate provides approximately 35% of needed funding from its non-federal revenues, consisting of \$350,000 to \$400,000 from tribal funds annually for the basic operation of our law enforcement agency. Without this contribution of tribal funds, our law enforcement agency would not be able to sustain itself nor meet the requirements of effective law enforcement in the local seven tribal communities on the reservation.

In particular, our law enforcement agency finds itself highly challenged with regard to intervening upon the growing incidence of methamphetamine abuse and addiction, which are increasing within our tribal communities on the reservation. In particular, the introduction of these illegal substances from the outside has served to increase the number of offenses and violent behavior of offenders, with particular reference to juvenile offenders within the jurisdiction. Our resources in manpower and investigative technology are limited regarding an effective interdiction. Our financial resources are limited to combat this invasive intrusion of one of the most serious disorders, which is afflicting our communities at the present time. While our tribal government has emphasized preventative measures in our schools and local college, such efforts however admirable in itself yet require federal assistance to intervene upon those who violate our tribal and federal laws by engaging in the traffic of illegal drugs on our reservation. On behalf of our children and youth, we urge you to consider federal appropriations to assist us in this time of crisis and need.

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Beginning in the year 2004 and continuing at the present time, our tribal government embarked on the arduous task of developing and establishing what has become known as the "Sisseton-Wahpeton Oyate Community Justice and Rehabilitation Master Plan." This initiative was funded and sponsored by our tribal council, utilizing primarily non-federal tribal funds, and such funding enabled our tribal government to retain professional criminal justice personnel who assessed our criminal justice needs and requirements, so as to develop and establish our own tribal specific master plan for addressing our own community justice and rehabilitation needs.

Essentially this master plan plainly asserts our own tribal responsibility to intervene upon both adult and juvenile offenders in the local community, so as to treat and rehabilitate the greatest number of these offenders in a therapeutic and culturally significant manner. While the amount of funds required to construct the proposed adult and juvenile detention and rehabilitation center clearly is beyond our financial resources, as a tribal government, we are asking for federal funding consideration to assist us in the construction of these rehabilitation facilities, so as to implement an aggressive program of treatment and rehabilitation of our offenders in the local community. The consideration of the Committee with regard to this proposal would be greatly appreciated.

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Ms. HERSETH SANDLIN. We thank you and Chairman Selvage.

I would like to start some questions with where President Steele started out on the COPS program and the situation that the Oglala Sioux Tribe and I believe the Cheyenne River Sioux Tribe find themselves in today, and perhaps other tribes, having utilized this program to supplement law enforcement services, but I would like—President Steele mentioned, Chairman Brings Plenty, that this was encouraged by the BIA a number of years ago to access Department of Justice programs like the COPS program, encouraged perhaps with the idea that this would be short term, kind of a short-term transition phase until the BIA was able to secure additional resources or make some changes to provide increased resources for the longer term law enforcement needs for different tribes.

Do you know: Was the Cheyenne River Sioux Tribe, at the time that that happened, you know, in terms of conversations you've had with your predecessors or members of the tribal council, was this encouraged in a similar way by the BIA, do you know, to utilize the COPS program? I know you've got some folks here with law enforcement that are—there's the longevity that they bring to the table. Perhaps you might want them to respond as well. Do you recall the context in which the Cheyenne River Sioux Tribe started meeting law enforcement needs increasingly through COPS grants?

Mr. BRINGS PLENTY. If I can request our tribal lawyer.

Ms. HERSETH SANDLIN. Yes. And, Ms. Kidder, if you could identify yourself for the record.

Ms. KIDDER. Yes. Rebecca Kidder, tribal counsel for the Cheyenne River.

With respect to the chief of police and two detectives, I wrote over \$4 million of COPS grants for Cheyenne River in my tenure there and it was encouraged. At one time we had 36 officers. We're down to ten. The problem was even if you could get the cash match waived that they required, you had to have a retention plan and you could not use BIA based program funding for that.

We also purchased a fleet of vehicles with COPS. That fleet of vehicles that was purchased with an \$800,000 COPS resource grant, there was never any money to maintain it available. That

fleet is sitting in our lot right now unused because there's no money to maintain them.

Ms. HERSETH SANDLIN. There might be another mike on. If you could just turn that one off. If you can just turn that one off, it will reduce that feedback. There you go.

Ms. KIDDER. I would just add that there was no money to maintain the fleet and then now that we need a replacement fleet, there's no COPS money available to do that, so it was not a workable program.

I would say the other problem is when they gave us COPS grants there was no money for tribal courts, so we had 36 officers, our arrests went way up, and the tribal court still had one judge and one prosecutor and so the time between arrest and trial got even longer. Now we have tribal court grants that are small but we have no cops. So it's a system. You have to fund the system or it doesn't work.

Ms. HERSETH SANDLIN. Well, let me make an observation here based on this experience. It reminds me of what we know has happened between the BIA and IHS, two resource strapped agencies that at times seem to try to manage their limited resources by shifting costs and not providing services to an eligible individual because they know there's another place where they can access funds.

I'm interested in pursuing this further with the BIA in terms of the initial encouragement, perhaps, with anticipation because of the success of the COPS program, that that would continue to be funded at reasonable levels, which it was not because of cuts and changes in priorities over the last few years.

So, you know, we've had a confluence of factors that have now resulted in this crisis and you should know, President Steele, that Chairman Norm Dicks of Washington did talk with me specifically about the testimony that was provided to his subcommittee as it relates to the crisis that you face in law enforcement for the Oglala Sioux Tribe and I will be working with him as the subcommittee process, now that we've had the initial mark-up, goes to full committee and then gets conferenced to identify specific needs of specific tribes, but certainly the situation being as dire with the 40 percent cut as well as the various substantial percentage cuts that other tribes in South Dakota, throughout the Great Plains are facing.

If I maybe can—let's talk about the Great Plains region, if we could. I understand that there are a number of tribal law enforcement agencies, again, I think all of those represented here, that have banded together to form a law enforcement working group. If any of you could comment or if you have folks that are with us here today that could comment on what the group has been able to accomplish and what kind of participation you've seen. If any of you would care to comment. President Steele?

Mr. STEELE. If I may, Congresswoman. I knew it and I spaced it out at the time, but Mr. Archie Fool Bear from the Standing Rock Sioux tribal council is here also and if possible, maybe five minutes later on he would like to also give some testimony from the Standing Rock Sioux Tribe. It wasn't on the agenda. At your will, Congresswoman. I know you're busy.

But I would like to say, Congresswoman, that my Chief of Police here, Mr. Twiss, passed me a little note that the BIA did give us \$475,000 in reprogrammed monies for law enforcement last year. I'd like to thank them for that, but that is, to us, a Band-Aid.

And your question on the working group, yes, we are working on legislation for you, Congresswoman, to possibly present and we will get to the other tribes with this legislation, but this is a possible solution overall in law enforcement with not only our cops, but the courts and the prosecutors also, and so this is something we'll be coming at you into the future. If you want a copy of this very rough draft of it now, we'll get you a copy, but we're working on legislation for yourself and the senators to consider and we'll get this working group with the other tribes to get them copies also and get their input.

We want this to be a whole joint effort in South Dakota and possibly even North Dakota.

Ms. HERSETH SANDLIN. So the tribes that are currently participating in the working group doesn't include all of the Great Plains tribal chairmen yet?

Mr. STEELE. We'll be getting around to the tribes, yes.

Ms. HERSETH SANDLIN. OK. I know it's in its very early stages.

Mr. STEELE. It's in its early stages, but we want them to participate with us in the completion of it, the drafting of it. It's in very rough draft form right now.

Ms. HERSETH SANDLIN. Did either President Bordeaux or Chairman Brings Plenty want to comment on it?

Mr. BORDEAUX. Well, yeah. I guess we need to have the unity amongst our agencies but I think we need to really concentrate on the funding issue at hand right now.

But I would like to, if I could, address an issue about that methamphetamine and the drug problems. I don't know if you want to do it now.

Ms. HERSETH SANDLIN. Please do. That was my next question and I know that you have an officer here.

Mr. BORDEAUX. Yes. I have Officer Estes here. Mr. Estes has been involved in the Safe Trails Task Force and he can give you the magnitude of the problem here facing the reservations if you could give him some time.

Ms. HERSETH SANDLIN. Welcome, Mr. Estes. If you could identify yourself for the record before presenting your statement.

**STATEMENT OF BEN ESTES, SPECIAL AGENT WITH THE ROSEBUD SIOUX TRIBE ATTACHED TO THE NORTHERN PLAINS DRUG TASK FORCE**

Mr. ESTES. My name is Ben Estes. I'm a special agent with the Northern Plains Drug—well, I'm a special agent with the Rosebud Sioux Tribe attached to the Northern Plains Drug Task Force.

I've been working with the task force for six years. Prior to working with Rosebud, back in September of 2005 I was—my area was Lower Brule, Fort Thompson.

Since working with Rosebud down there with the chief of police, the captain of police, the highway safety program, the criminal investigation division, along with various other entities, what we found out—what we found out there in the investigations in Rose-



bud is it not only affects Rosebud, but it affects all of the other tribes.

When we do our investigation, it usually leads to other reservations and it also leads to Rapid City, Sioux Falls, California, Washington. Almost every state in the union. Texas, Mexico. We could trace these drugs back to these areas. We can even trace them back to Hawaii.

Through our investigation we have found that there are various crime cartels that bring this stuff in. They infiltrate the reservations by marrying into families or going out with individuals on the reservation that are enrolled members and it's becoming a national epidemic, not only nationally, but on each reservation.

When I first started doing this, I didn't think—I was on patrol here in Lower Brule. I didn't think it was that big of a problem until I started working with the drug task force.

Prior to coming up here today, I was in Rosebud. They had asked me to do—to tell you real quick how many arrests we have made, Federal arrests. And I didn't realize it was that many. There was 51 for meth and then there was ten for marijuana.

Now, from talking to the captain, the chief of police, Chief Red Crow and some of the other officers that are on patrol, our meth arrests are going down, but that doesn't mean that there's not meth on the reservation. They went underground. I'm finding out that a lot of the meth is also coming up this way. They're no longer selling it down there but they're selling it on other reservations, Lower Brule, Fort Thompson, Winnebago, Wagner or Lake Andes, the Yankton Sioux Tribe, Eagle Butte, Standing Rock, Sisseton, you name it. Montana tribes. Wyoming tribes.

The problem we have now is we don't—I am full-time down there and we're understaffed investigating drug crimes. Many times we're on call all day and night and I go, you know, but each reservation does have a meth problem and we need more funding to combat this meth problem.

Ms. HERSETH SANDLIN. Mr. Estes, if I might ask, the gang activity that President Bordeaux described, have you found in your investigations both on the Rosebud as well as the cross—where the investigations lead you, not only Federal reservations but in different parts of the country and further south in New Mexico, are the youth gang activities directly related to the methamphetamine issue or even indirectly? Can you elaborate a little bit on whether or not there is that connection?

Mr. ESTES. I don't—I work with the gang unit, but I don't work directly with them. There is two people down there, Special Agent Walters and Special Agent Martel that work the gang unit. They also work part-time with me when I need help.

I know that they just did—they just went to Grand Jury and indicted two people for their involvement in the MS13 gang, so they are coming up this way and they are actively recruiting. A lot of the other gangs, they do get involved. I know—well, there's some investigation that's going on right now involving youth gangs that are involved in selling methamphetamine, cocaine. It seems like cocaine is back on the rise again.

But we are working on current investigations right now involving youth gangs bringing that stuff in and selling it for these individ-

uals that come off—that are from off the reservation are bringing that stuff on the reservation. So yeah, there is an increase with gang activity getting involved in the drug market. Because it is a lucrative market.

And also I'd like to say that there is a lot of weapons, firearms that are involved in these transactions, people exchanging firearms for meth, cocaine, marijuana, so...

Ms. HERSETH SANDLIN. Well, thank you for being here and for talking about your experiences and the importance of the task force and the coordination and the seriousness. It has taken us far longer than it ever should have to get the Administration and the Department of Justice to recognize the seriousness of the methamphetamine problem, especially in rural parts of the country, and the additional burden that that is putting on law enforcement in more remote communities and certainly the fact that we know that Indian Country has been used as a transport site—I mean in terms of exploiting the lack of law enforcement presence as it's been articulated throughout here today because of the Federal funding problems associated with what we've encountered over the last few years.

Chief Gaikowski, would you like to comment on the methamphetamine or illegal drug trafficking issue more broadly?

Chief GAIKOWSKI. Yes. I'd just like to comment: We're applying for one of the meth grants right now, it's a \$450,000 grant for our meth coalition we have set up in Sisseton, and I guess my comment is: Who are putting out these grants? Because you see the need for more officers, more drug officers, but we can't apply for an officer under this grant. And for a prosecutor they could or for a civilian. But I guess that's just one of the questions, the people that are putting out these grants, is there any other input they can get from what's really going on out in Indian Country?

Ms. HERSETH SANDLIN. Thank you for the comment and bringing that to my attention.

The grants that have been made available, I believe have been mostly through the Department of Justice as they've—the Office of Drug Control Policy is charged to respond to this epidemic and meth in particular. And so I'm sure that in trying to maintain various boundaries as they have established grant programs and the new grant program, whenever, again, we're dealing with limited resources, I always attempt to kind of define eligibility in a way that narrows the use of funds.

So we'll pursue that because, you know, certainly the importance of the coordination to combat meth can't be overstated as it relates to not only the law enforcement side but obviously the treatment side and the tribe grants that we're trying to make available to develop the most effective treatment programs and raise the level of awareness of all those in the community, in the schools, to assist law enforcement in these efforts.

So thank you for the comment. That's something that we will look at as we, perhaps, are looking to authorize new programs, but certainly in funding these grants and how they're allocated by the agency that we might look at, you know, again, the flexibility of the use of the funds, especially if those are made available to tribes that are applying for those grants.

Yes?

Chief GAIKOWSKI. I guess also, that one of the things we're finding out and it is becoming a problem up there, a big problem, especially being so close to Minneapolis, Sioux Falls, the interstate coming right through there, but our true numbers aren't really being, I guess, told. We still have all the other programs we need to work with and it does hinder with IHS, you know, trying to get stats from them, trying to get, you know, who's on—if they can just keep track of, you know, the drugs or what, but it seems like there's a blockade there also to finding—so we can find the true number of, you know, what's going on in our community right now.

It's tough for law enforcement because we are a tight knit community. We all know each other and no one wants to be a rat out there and—but, you know, it's in our community's heart and I just hope that, you know, future funding for better understanding of what we need will come out of this.

Ms. HERSETH SANDLIN. Thank you.

Chairman, did you have additional comments on this issue?

Mr. BRINGS PLENTY. Yes. Actually, I wanted to respond to just about every one of them, of the subjects that we were talking about here.

First off, the meth issue, I have some information to add on there. In '02, 2002, the—that's when, from my—from where I'm standing, working as an officer out in the field, I saw, you know, the addiction of meth go into overdrive. The rate of violent offenses was on the rise and officers being assaulted and attacked.

I myself went into a home to make a simple arrest and I was jumped by the whole family and having to fight your way out of there. A person that is on that sort of drug is very strong. A scary situation.

And with situations like that, our lives could be lost, whether it be an officer or persons in the community. And what the drug agent that was here before speaking, there was a study—not really a study, actually. There was an issue over in Moon River regarding some meth usage. Some of the Mexican gangs had come in and, you know, infiltrated the tribes the same way, married into family members, family members that were actually, you know, tied in politically with tribal leaders and, you know, making it very hard for the investigation to be carried out. It took some years. I want to say probably six years before they really, you know, broke down that ring.

But actually that idea of history, too, was given—it was a business plan that was laid out by these individuals and thought out and they went and carried it out because they saw what was going on over in White Clay. And, you know, they saw that the Native Americans there had, you know, addictions of alcohol and if they can just go ahead and switch that over to this drug called meth, then they might make a lot of money. And they were right, because within a year, you know, their rates, percentages of violent crime—because when you're on that sort of drug, and believe me, through going out in the community and dealing with people firsthand that were on it and also being on the social service side of it, too, you know, people that were trying to get off it, and they would—there

was nothing to hide. They would tell you everything and what they would do for that, their drug.

Because the thing is is that it's broader than just law enforcement now. When we talk about this struggle, we open the door for everything. Because we have housing. We have health, human services. I mean, because when they make these labs, they totally destroy these homes. Nobody can live there. People get sick. I mean, it's just—it's so broad that it just kicks the door open for everything and everyone's affected through families, through schools, through everything. It's a very large issue and, you know, up on the Hill they, you know, of course appropriate monies out to law enforcement but the sense is when you take a step back and take a look at law enforcement's money that are coming down are being funded to or appropriated for these departments to battle that there drug on the front line, I think the amount was maybe, I want to say, six million, maybe five million. I'm not too sure. Don't quote me on that.

The thing is how many treatment facilities do we have that address this here addiction in South Dakota? And it's just—it's broader than just, you know, on the front lines because these officers put their lives on the line daily, go out and arrest these individuals and take them to jail. The next day, the next couple days, they're out again because we don't have nothing to—you know, as far as, you know, we've heard before, as far as the backlog of the court system that we have there at Cheyenne River. We can't honestly say that we're going to be able to battle these issues and carry them out because of the lack of funding and the lack of bodies and the lack of personnel.

When I worked law enforcement, we had 22 people on patrol. Now there's, you know, probably about ten. Scary. And we were way behind back then.

But moving away from that, I guess I kind of jotted down a couple of notes here talking about the COPS grant program, and they're great—first of all, the COPS program is a great concept, community oriented, police and people living out in the communities, being a part of the community, police presence, you know, lower crimes, the whole idea is great, but funding is at issue.

When we were over in the Great Plains, there was also quite a few of the other chairmen there that were asking questions. Mr. Jandreau was also present but there was a justification that was given on why there's not an increase on—from the Bureau side of it regarding law enforcement, because we can go ahead and put in for COPS grants, which isn't true. We can't.

And also with—you know, talking about the work group, one thing is that the BIA chief of police, they should also be allowed to be part of the work group. They're not. We need information from all—from all areas. And I know that some of the tribal policies and procedures vary differently from, you know, some of the Bureau procedures, but not really.

And also with—I'm sorry, but there's—also during the Great Plains meeting, and Mr. Chaney was up here speaking and, you know, I get along with—well, they're not here. They're over there. I get along with the individuals very well and stuff, but, you know, the thing is is that they had talked about consultation in Albu-

querque, New Mexico, in February. When we was in the meeting in the Great Plains and that was in January, we never was ever informed of a meeting in Albuquerque, so consultation didn't occur with us.

Ms. HERSETH SANDLIN. I appreciate your additional comments on each of those issues that we've explored and particularly as it relates to the working group and consultation, and I want to assure you we're going to be exploring each of these issues further. The follow-up from the hearing, as we gather more information, will be very important and we'll be relying on our ongoing dialogue to assure progress.

I think that you had comments on behalf of President Steele. Correct?

Mr. TWISS. Yes, ma'am. Thank you.

It was just in regards to some of the issues that are coming up now in regards to meth.

Ms. HERSETH SANDLIN. Can you make sure your microphone is on.

Mr. TWISS. In regards to some of the issues we have on the reservation that are currently being talked about in regards to meth, right now we have officers doing investigations on eight reported labs on Pine Ridge Reservation but due to a shortage of manpower, that we're having a hard time investigating these. Some of these are the mobile labs, trailers or in the vehicle.

So from the time—the officers don't have time to go out actively and spend hours looking for these things because they're also responsible for an area of a couple thousand people trying to answer calls at the same time, so it's real hard to try and address the meth issue.

But we do have—some of the stuff that's reported—and I haven't seen it yet, but we know it's coming because it's getting closer, is the pop rocks and the strawberry quick and it's designed to make it more appealing for the kids and so that's on its way.

In regards to gangs, we are in the process of looking at the gangs on Pine Ridge and some of the information we've put together was out of a population of roughly 50,000 people on the Pine Ridge Reservation, we have an estimated 13,000 gang members. These are ages anywhere from seven to 40 years old.

We also have—I heard talk of some of the different gangs coming from different parts of the area. We have some of the Latin Kings trying to get a foothold on Pine Ridge right now and right now we also—when we talk about the gangs coming into the reservation, we have one tribal member who was born and raised on the reservation who come into the gangs here. He's currently in California awaiting trial on a double homicide.

Then on the COPS, some of the things that we have issues with is the COPS grant was supposed to be a supplement for the tribal—for the tribal programs. It never worked out that way. You know, as I said in my testimony, it was—it was meant—it was meant for us to get more officers on the street but it was a—it was a crutch for the Bureau and we never received any help back on that.

They talked about the waivers. A lot of times they didn't—we didn't get waivers. A lot of times the waivers weren't granted and

if they were granted, they were granted with great reluctance. The COPS program was developed to put more cops on the street. The COPS grants themselves provided bodies. The departments, even if it created more officers for departments, that department had to get more uniforms, equipment, vehicles, everything else for that officer.

So in actuality it kind of strangled us even more because instead of going forward with the COPS grant, we ended up spending more of our contract dollars buying equipment and trying to get these people situated. We're looking, you know, an average cost—we just put this together. The average cost for equipping one officer was \$6500. So if you get—I heard something like 30 officers, 15 officers. That's a lot of money for a small department.

We have—we have a—on Pine Ridge we have a task force that's put together of some officers and they're not specifically going after one issue, they have different issues, so—and one of their main issues right now is the meth. So that's something we've done on our own.

I'll finish out and go over this. Thank you.

Ms. HERSETH SANDLIN. Yes, President Bordeaux.

Mr. BORDEAUX. Yes. Another comment with regard to funding.

Earlier I mentioned the Federal Bureau of Investigation getting an increase in funding and we tracked that and they didn't—none of it ever hit our reservation in terms of money available to our law enforcement services. And there was no strings attached type, whatever the BIA gets.

We have to be creative in terms of getting other funding. If you could somehow put a word into the FBI Department of Justice that they allow some of that money to come down, because they're using our statistics to get increases and we don't get any of that.

And in addition, on the Rosebud, for two years now—and I'm glad they're finally allowing some funding for meth addiction. So we have our alcohol treatment center. We just opened a youth component of that on the alcohol side, but now we want to open a component for methamphetamine addiction on both the adult and juvenile side. So we've been trying to get some funding and I think we're going to be stopping down next week at your office and see where we're at with that.

But that's something that we need, the addiction, and when you said about a 15 percent cure rate already, maybe even lower, but it's an issue that we have to address also as we proceed.

Thank you.

Ms. HERSETH SANDLIN. Thank you. And can you make sure that other microphone is turned off? They were getting a little feedback. Is it off?

Just a couple of observations and comments before we end this panel and we're going to take a small break before we get to the third panel.

Chairman, did you have another comment to make? OK.

Mr. BRINGS PLENTY. First of all, this is probably about the longest long-winded panel you've had today so...

Getting back to the meth issue, we had a drug, actually, officer, agent, in our organization that was working on the area there, but he had been—and his family were basically threatened so they left.

But we used two police officer position salaries to fund for an agent at home because the thing is is that we're not allowed, getting back to the BIA, as far as not allowing the canine officer to come onto our reservation because of it being a liability.

But the thing is, also, is that we've talked about some of the grants and Chief Twiss had talked of—and the question was about—he brought up a good question, too, was who makes these grants and who, you know, lays out that scope of work? Sometimes you take a look at the grants and, you know, of course it sounds great because it's laid out in front of you, you can do this, you can do that.

From one instance, I guess is the Indian highway safety which is funded by DOT. The scope of work was provided by the Bureau. Now, the thing is is that coming in, people aren't going to realize that that officer that's looking at their grant is only funded when he's out on the road, when he or she is out on the road. There's no funding that's included in there for the in office work, paper-work. Of course, that needs to be done. If you're going to go out and arrest somebody, you have to also justify that down on paper.

Another is the training that is also required for it and some of the traveling back and forth going down to Albuquerque, but that's not included in there also. And that's just, you know, kind of adding onto it. The chief here is a cop who does these grants.

Also, before I end, too, Archie Fool Bear from Standing Rock, he's a councilman also, former chief of police, and I would like for him—ask for him to be—request for him to have the floor. Maybe after the break. It's at your discretion, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Chairman.

And let me just make a few comments before we do have to take the break and then still have time for our third and very important panel.

We made every attempt to accommodate as many witnesses as we could today and I do want to make sure that we have time to hear from Chairman Cournoyer and Mr. Fool Bear.

We're also going to be doing additional outreach. I want everyone to be assured of that. We do face some constraints when we're setting up any field hearing with the number of panels and witnesses that we can accommodate. So there was no disrespect intended to those who we weren't able to include officially in kind of the official roster for the field hearing, but I do anticipate that we should have time, after the third panel, so that we can hear from—and I just want to verify during the break with Committee staff in terms of the protocols that we operate under, that we can accommodate other witnesses, either as part of the official record or certainly to yield them the floor to be able to hear from Chairman Cournoyer and Mr. Fool Bear and the level of expertise and insight that they are able to offer today.

But there is already ongoing planning by my staff and working with both the Washington office and our South Dakota office for additional outreach, not only on law enforcement issues, but a whole host of other issues for which the oversight of the 110th Congress is undertaking will be so relevant and important to our efforts.

So let me just offer a couple of concluding thoughts before we take our break and then invite the third panel.

The testimony that's been provided today is essential to breaking down barriers that have existed over many years but including some that have developed even recently as a result of, in my opinion, of a lack of oversight. Chairman Rahall has indicated the seriousness about oversight with the Natural Resources Committee, in my opinion, again, did not as aggressively undertake in the past.

I think that Ranking Member Young's leadership, not only in the past as former chairman of the Natural Resources Committee, but in representing Alaskan Native tribes and the work that he has done in this area will be very important in their partnership and the seriousness with which we take these issues, the full committee.

So I appreciate the testimony that's been offered by all of our tribal leaders, not only our elected chairmen and presidents, but the chiefs of police and other law enforcement officers that are here that have presented testimony.

I want to thank Mr. Ragsdale and Mr. Chaney and those that work with them for being here and for staying. Because oftentimes when we have hearings in Washington, everyone's schedule is pulled in so many different directions that we're not able to have Administration witnesses stay with us throughout the course of the entire hearing. So I want to thank them, because our work going forward together, both in terms of my representation of tribes here today, but also the working relationship that Congress maintains with the Executive Branch, we want to pursue this spirit of cooperation so that people have the tools and feel empowered to have the process in place that's more responsive in addition to the funding increases that have clearly been identified as among the most important.

But as we increase that funding as the Administration has done in its proposal for FY '08, as the House Interior Subcommittee has done already, that hopefully the full Committee will follow suit, we have to create the conditions for accountability in how that money is spent.

And the comments that were made earlier by a number of you about the top heavy issue of management and how that money and those resources get down to local communities, whether it's in law enforcement, whether it's education, and the problem that we had or continue to have with education line officers and ensuring that the accountability and the resources get to where it's needed most.

So as we create those conditions of accountability and pursue additional and aggressive oversight, it will continue to be important as all of you have to do in working with tribal councils, in preparing your budgets to present to the administration at the tribal level and justifying the spending that you're requesting, it is a matter of priorities. And while the Administration in the budget proposed this year has proposed the increase in law enforcement, as President Steele noted at the outset, we've seen cuts elsewhere, in education programs for Native American youth, in burial assistance programs for among the poorest people in the country.

It's heart breaking, some of the testimony we've heard today, but other issues that we've heard about are inexcusable, inexcusable to



Congress as it relates to our oversight responsibility, inexcusable for the Administration in terms of funding priorities that Congress has to act on as well.

And so whether it's the BIA's formula for funding law enforcement activities, certainly the statistics that have been shared today as it relates to the number of law enforcement officers we have out in our communities in Indian Country versus what we have in other communities across the country will be very important in making the case. Just as we made our case, again, in seeing increases but not nearly enough to meet the need as it relates to IHS funding, when we pointed out the amount of money spent per Federal prisoner on health care versus the amount of money spent per Native American as it relates to treaty obligations, and the same is true in the crisis situation we face today in law enforcement which has been highlighted by the very effective testimony as it relates to methamphetamine abuse in particular and at a time when we've seen that problem exacerbate and when we've seen the exploitation of families and communities in Indian Country by outsiders coming in, increasing and recruiting for gang activity, exploiting the remote nature of Indian Country and all of rural America to engage in this type of drug trafficking and the targeting of youth, again, highlights the importance of Congressional action working with the Administration to combat the proliferation of methamphetamine and other illegal drugs.

But this is going to require a holistic approach, a holistic approach not only in terms of how we work together, but the holistic approach of recognizing that it's not law enforcement, further development of resources for our court system, the treatment programs, it's the safety and health of our elders and our children and those that are wanting to make a difference in their communities.

The testimony about—sorry to get a little emotional, but the sacred relationship between grandchildren, between elders and their grandchildren, and how that's been disrupted by the increase in crime and the methamphetamine abuse, we have to get at the heart of that, just as we have to get at the heart of domestic violence, which is what we'll be hearing about in the final panel today in response, in part, but only in part, to the Amnesty International report. Because we've known even before they released this report, the travesty, what the statistics have been historically in the disproportionate rate of domestic violence in Indian Country against women and young children.

Let me now conclude by thanking you all once again and announcing that we will be moving to the third panel after a short break that I think will last maybe about 15 minutes.

And I'll have some additional people to thank but I know that some people may have to leave and so let me thank now Clarence Skye with the United Sioux Tribes and those that may be traveling with him for providing the flags for today's hearing.

Chairman Pilcher with the Winnebago Tribe unfortunately had to leave but we will follow up with him to see if there are other comments he would like to provide in response to some of the testimony that was offered here already.

And Patty Gourneau, I know she was here. She's been in and out. She's been assisting us with Chairman Jandreau for setting up the hearing here today.

I want to thank my staff. I'm going to do all of this again at the end of the third panel. Again, I know some people may have to leave after this panel. Phil Asmus with my legislative team, Laura McNaughton, and Lesley Kandaras and Maiva King—Maiva King is my state director and Lesley and Laura work with her out of both the Rapid City and Sioux Falls Office and the Aberdeen Office—for their work in preparation for today's hearing.

Our student Ambassadors who were at lunch earlier and who had joined us at the outset of the hearing. They may be out and around and assisting people in a different part of tribal headquarters here, but I also want to thank—as you know, I serve on the Veterans Affairs Committee as well and I've worked with so many of you to address the needs of Native American veterans. As a number of you did already, I want to thank the (Lakota), those law enforcements officers who are here who protect us closer to home in addition to the (Lakota) that protect us in serving further away, but thank you for being here and for what you do. And we're going to do all that we can to ease the burden that you have faced over the last couple of years. So thank you.

We'll take a short break and return in about 15 minutes.

[Break taken.]

Ms. HERSETH SANDLIN. I appreciate everyone's patience here for accommodating their schedules for the length of the important testimony we're taking here today but I am very pleased that we have a panel of witnesses before us now that is going to focus our attention to a narrower aspect of law enforcement, and that is violence against Native American women.

As I mentioned before the break, this panel is in part a response to a report from Amnesty International entitled "Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA."

I'm pleased to inform you that Carol Pollack is able to join us from Amnesty International to testify about the contents of the report and I greatly appreciate the added focus that the report has brought to this issue, but again, as I mentioned before the break, I think it's very important to note that the report is supported by a wealth of statistics that have been around far longer than the report itself. It's also been shaped by decades of work by dedicated advocates on behalf of victims of domestic violence, victims of abuse, some of whom we're fortunate to hear from today.

So I want to thank Cecelia Fire Thunder for being here testifying on behalf of the work that she is undertaking, along with Karen Artichoker, with the Oglala Sioux Tribe, and I want to thank Georgia Little Shield for being here today as well.

In addition to our distinguished panel, I want to acknowledge individuals who deserve to be commended for their work in addressing violence against women. In particular, I'd like to single out Lisa Thompson. Where is Lisa? There she is. Lisa works with Wiconi Wawokiya.

Last summer I had the opportunity to visit her at the shelter just a few miles away in Fort Thompson, the Crow Creek Sioux

Tribe, and I was impressed to learn more about the services that she and others provide there and want to thank Lisa and Wiconi Wawokiya for their work.

My experience and understanding of this issue expanded dramatically about a decade ago when I was working for the Federal District Court here in South Dakota, the sexual division, and the importance of the partnership of our advocates on behalf of victims of domestic violence with our victims assistance individuals within the Federal Court, within the Federal Attorney's Office, working closely with them.

So again, thank you, and with that, we'll go ahead and start the testimony.

Ms. Pollack, if you could begin, please.

**STATEMENT OF MS. CAROL POLLACK, RESEARCHER,  
AMNESTY INTERNATIONAL, NEW YORK, NEW YORK**

Ms. POLLACK. Thank you very much, Madam Chairwoman, for inviting Amnesty International to testify on an issue that significantly impacts the human rights of American Indian and Alaska Native women. I would like to submit my full testimony for the record.

Amnesty is a worldwide human rights movement with more than 2.2 million members. Our mission is to conduct research and to take action to prevent grave abuse of human rights.

I will focus my remarks on the findings of Amnesty's recent report. Amnesty launched an investigation after learning that the DOJ's own statistics, not new statistics, as you mentioned, indicate that Native American and Alaskan Native women are more than two and a half times more likely than other women in the U.S. to be raped; that more than one in three Native women will be raped during their lifetime; and that 86 percent of these crimes are committed by non-Native men.

On April 24, 2007, Amnesty released the findings after a two-year investigation. We interviewed survivors of rape, service providers, and Federal, state, and tribal law enforcement across the United States. We conducted detailed research in three locations with distinct jurisdictional challenges: The states of Oklahoma and Alaska and the Standing Rock Reservation in North and South Dakota.

Many survivors courageously came forward to share their stories. For example, one Native American woman living on the Standing Rock Reservation told Amnesty that in 2005, her partner raped her and beat her so severely she had to be hospitalized. A warrant was issued after he failed to appear in court but he was not arrested. One morning she woke to find him standing by her couch looking at her.

The perspectives of survivors as well as the Native women at the forefront of efforts to protect Indigenous women must inform all actions taken to end sexual violence. The safety of Native women as to this group of sovereign tribes rests on the capacities there to address sexual violence and implement VAWA and in particular the Tribal Title, Title IX.

Thank you for the opportunity to testify on this important human rights topic.

[The prepared statement of Ms. Pollack follows:]

**Statement of Carol Pollack, Researcher for  
Amnesty International U.S.A.**

**Introduction**

Madame Chairwoman and members of the Committee, thank you for inviting Amnesty International to testify on an issue that significantly impacts the human rights of American Indian and Alaska Native women. I would like to submit my full statement for the record. I will focus my remarks on the findings of Amnesty International's recent report "Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA".

Amnesty International is a worldwide human rights movement with more than 2.2 million members and supporters in more than 150 countries and territories. Amnesty International's vision is for every person to enjoy all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Amnesty International's mission is to conduct research and take action to prevent and end grave abuses of all human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. The organization is funded by individual members; no funds are sought or accepted from governments for investigating and campaigning against human rights abuses.

**"Maze of Injustice" Report**

On April 24, 2007, Amnesty International released the findings of over 2 years of investigation into the problem of sexual violence against Native American and Alaska Native Women. The report is part of a worldwide campaign to Stop Violence against Women launched by Amnesty International in March 2004. Since then AI has published reports on aspects of violence against women in 40 countries.

Amnesty International launched an investigation after learning that U.S. Department of Justice's own statistics indicate that Native American and Alaska Native women are more than 2.5 times more likely than other women in the U.S. to be raped. According to Department of Justice statistics, more than 1 in 3 Native American and Alaska Native women will be raped at some point during their lives and 86% of perpetrators of these crimes are non-Native men.

Amnesty International's report examines some of the reasons why Indigenous women in the U.S. are at such risk of sexual violence and why survivors are so frequently denied justice. The report is based on research carried out during 2005 and 2006 in consultation with Native American and Alaska Native individuals. In the course of this research, Amnesty International's interviewed survivors of sexual violence and their families, activists, support workers, service providers, and health workers. Amnesty International also interviewed officials across the US, including tribal, state and federal law enforcement officials and prosecutors, as well as tribal judges. Amnesty International also met representatives from the federal agencies which share responsibility with tribal authorities for addressing or responding to crimes in Indian Country.

Amnesty International conducted detailed research in three locations with different policing and judicial arrangements: the State of Oklahoma, the State of Alaska, and the Standing Rock Reservation in North and South Dakota. While this report presents a national overview of sexual violence against Indigenous women, it primarily presents our specific findings in these key areas of research.

Each location was selected for its specific jurisdictional characteristics. Oklahoma is composed for the most part of parcels of tribal lands intersected by state land where tribal, state or federal authorities may have jurisdiction. In Alaska, federal authorities have transferred their jurisdiction to state authorities so that only tribal and state authorities have jurisdiction. The Standing Rock Reservation illustrates the challenges involved in policing a vast, rural reservation where tribal and federal authorities have jurisdiction.

The Standing Rock Reservation (also known as the Standing Rock Lakota/Dakota Reservation) straddles the border of North and South Dakota and covers an area of 2.3 million acres (approximately 9,312km<sup>2</sup>). Some 9,000 people live on the Reservation, about 60 per cent of whom are Native American. The Standing Rock Tribal Council is the tribal government and the Standing Rock Police Department (SRPD) is operated by the BIA. The Standing Rock Tribe has a tribal court, which hears civil and criminal complaints.

Amnesty International is indebted to all the survivors of sexual violence who courageously came forward to share their stories and to those who provided support to survivors before and after they spoke with Amnesty International and to the Na-

tive American and Alaska Native organizations, experts and individuals who provided advice and guidance on research methodology and on the report itself. Amnesty International hopes that “Maze of Injustice” can contribute to and support the work of the many Native American and Alaska Native women’s organizations and activists who have been at the forefront of efforts to protect and serve women.

This report attempts to represent the stories of survivors of sexual violence; their perspectives must inform all actions taken to end violence against Indigenous women. The report presents and references their statements. For example:

*One Native American woman living on the Standing Rock Reservation told Amnesty International that in September 2005 her partner raped her and beat her so severely that she had to be hospitalized. He was released on bond and an arrest warrant was issued after he failed to appear in court. However, SRPD officers did not arrest him. One morning she woke up to find him standing by her couch looking at her. Interview (name withheld), February 2006*

### **High Levels of Sexual Violence**

Amnesty International’s research confirmed what Native American and Alaska Native advocates have long known: that sexual violence against women from Indian nations is at epidemic proportions and that Indian women face considerable barriers to accessing justice. Native American and Alaska Native women may never get a police response, may never have access to a sexual assault forensic examination and, even if they do, they may never see their case prosecuted. As a result of barriers including a complex jurisdictional maze and a chronic lack of resources for law enforcement and health services, perpetrators are not being brought to justice.

Amnesty International’s interviews suggest that available statistics on sexual violence greatly underestimate the severity of the problem and fail to paint a comprehensive picture of the abuses. No statistics exist specifically on sexual violence in Indian Country; more data is urgently needed to establish the prevalence against Indigenous women.

One support worker in Oklahoma told AI that only three of her 77 active cases of sexual and domestic violence involving Native American women were reported to the police. A medical professional responsible for post-mortem examinations of victims of rape and murder in Alaska told AI that Alaska Native women comprised almost 80 percent of confirmed cases in the state since 1991.

According to FBI figures, in 2005 South Dakota had the fourth highest rate of “forcible rapes” of women of any U.S. state. Interviews with survivors of sexual violence, activists and support workers on the Standing Rock Reservation indicate that rates of sexual violence are extremely high. Many women interviewed by Amnesty International on the Standing Rock Reservation could not think of a single Native American woman within their community who had not been subjected to sexual violence, and many survivors reportedly experienced sexual violence several times in their lives by different perpetrators. There were also several reports of gang rapes and Amnesty International was told of five rapes which took place over one week in September 2005.

High levels of sexual violence on the Standing Rock Reservation take place in a context of high rates of poverty and crime. South Dakota has the highest poverty rate for Native American women in the USA with 45.3 per cent living in poverty. Crime rates on the Reservation often exceed those of its surrounding areas.

Amnesty International documented many incidents of sexual violence against American Indian and Alaska Native women however the great majority of stories remain untold. Violence against women is characteristically underreported due to fear of retaliation and a lack of confidence that reports will be taken seriously. Historical relations between Indigenous women and government agencies also affect the level of reporting of sexual violence.

There are more than 550 federally recognized American Indian and Alaska Native tribes in the United States. Federally recognized Indian tribes are sovereign under U.S. law, with jurisdiction over their citizens and land and maintaining government-to-government relationships with each other and with the U.S. government. The unique legal relationship of the United States to Indian tribes creates a federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.

The welfare and safety of American Indian and Alaska Native women, as citizens of sovereign tribal nations, are directly linked to the authority and capacity of their nations to address sexual violence. However, the federal government has steadily eroded tribal government authority and chronically underfunded those law enforcement agencies and service providers that should protect Indigenous women from sexual violence.

### Issues of Jurisdiction

Amnesty International received numerous reports that complicated jurisdictional issues can significantly delay the process of investigating and prosecuting crimes of sexual violence. The federal government has created a complex maze of tribal, state and federal law that has the effect of denying justice to victims of sexual violence and allowing perpetrators to evade prosecution.

Three main factors determine where jurisdictional authority lies: whether the victim is a member of a federally recognized Indian tribe or not; whether the accused is a member of a federally recognized Indian tribe or not; and whether the alleged offence took place on tribal land or not. The answers to these questions are often not self-evident. However, this information determines whether tribal, state or federal authorities have jurisdiction to investigate and prosecute the crime. Jurisdiction of these different authorities often overlaps, resulting in confusion and uncertainty.

Tribal and federal authorities have concurrent jurisdiction on all Standing Rock Reservation lands over crimes where the suspected perpetrator is American Indian. In instances in which the suspected perpetrator is non-Indian, federal officials have exclusive jurisdiction. Neither North nor South Dakota state police have jurisdiction over sexual violence against Native American women on the Standing Rock Reservation. State police do however have jurisdiction over crimes of sexual violence committed on tribal land in instances where the victim and the perpetrator are both non-Indian. The jurisdictional challenges differ in Alaska and in Oklahoma.

As recorded by Andrea Smith, University of Michigan, Assistant Professor of Native Studies Jodi Rave, "South Dakota Tribal-City Police Department a National Model for Handling Domestic Abuse," *The Missoulian*, September 24, 2006: "[N]on-Native perpetrators often seek out a reservation place because they know they can inflict violence without much happening to them."

Amnesty International is concerned that jurisdictional issues not only cause confusion and uncertainty for survivors of sexual violence, but also result in uneven and inconsistent access to justice and accountability. This leaves victims without legal protection or redress and allows impunity for the perpetrators, especially non-Indian offenders who commit crimes on tribal land.

According to a state prosecutor in South Dakota, the confusing and complicated jurisdiction over crime on and around reservations in South Dakota, means that some crimes just "fall through the cracks." Amnesty International also received reports that perpetrators seek to evade law enforcement by fleeing to another jurisdiction.

Flights by criminal occur in both directions—away from and to tribal land. Walworth County Sheriff Duane Mohr stated the problem with this as follows in the *Rapid City Journal*, 21 December 2005: "*It's only about a mile from town to the bridge. Once they cross the bridge [to the Standing Rock Reservation], there's not much we can do...We've had people actually stop after they've crossed and laugh at us. We couldn't do anything.*"

Some tribal, state and federal law enforcement agencies address the jurisdictional complexities by entering into cooperation agreements. These may take the form of cross-deputization agreements, which allow law enforcement officials to respond to crimes that would otherwise be outside their jurisdiction. A second form of agreement addresses extradition in situations in which a perpetrator seeks to escape prosecution by fleeing to another jurisdiction. Across the US, experiences of such inter-agency cooperation agreements vary greatly. Where they are entered into on the basis of mutual respect, cooperation agreements can have the potential to smooth jurisdictional uncertainties and allow improved access to justice for victims of sexual violence.

In Standing Rock, the SRPD and some state agencies have explored cooperation through cross-deputization agreements that empower SRPD officers to arrest and detain individuals for crimes committed on state land and enable state police officers to arrest individuals for crimes committed by Native Americans on tribal land.

### Problems of Policing

Amnesty International found that police response to sexual violence against American Indian and Alaska Native women at all levels is inadequate. Although jurisdictional issues present some of the biggest problems in law enforcement response, other factors also have a significant impact including lack of resources and lack of communication with survivors.

#### *Lack of Resources: Delays and failure to respond*

Law enforcement in Indian Country and Alaska Native villages is chronically underfunded. The U.S. Departments of Justice and Interior have both confirmed that

there is inadequate law enforcement in Indian Country and identified underfunding as a central cause. According to the U.S. Department of Justice, tribes only have between 55 and 75 percent of the law enforcement resources available to comparable non-Native rural communities. AI also found that a very small number of officers usually cover large territories and face difficult decisions about how to prioritize their initial responses.

The Standing Rock Police Department in February 2006 consisted of six or seven patrol officers to patrol 2.3 million acres of land, with only two officers usually on duty during the day. Amnesty International documented lengthy delays in responding to reports of sexual violence against Indigenous women. Women on the reservation who report sexual violence often have to wait for hours or even days before receiving a response from the police department, if they receive a response at all.

*It feels as though the reservation has become lawless' Roundtable interview, Standing Rock Reservation (name withheld) February 22, 2006*

Sometimes suspects are not arrested for weeks or months after an arrest warrant has been issued. Amnesty International was told that on the Standing Rock Reservation there are on average 600-700 outstanding tribal court warrants for arrest of individuals charged with criminal offences. Failure to apprehend suspects in cases of sexual violence can put survivors at risk, especially where the alleged perpetrator is an acquaintance or intimate partner and there is a threat of retaliation.

The Standing Rock Police Department was selected, together with the law enforcement departments of 24 additional tribal nations, to receive an annual base increase in federal funding of law enforcement services. The SRPD began receiving an additional US\$250,000 per year starting in 2006. However, according to the Chief of Police the funds will be needed primarily to fill vacancies in the existing police force, rather than increasing the number of law enforcement officers on the reservation.

Amnesty International found that FBI involvement in investigations of reports of sexual violence against Indigenous women is rare and even in those cases that are pursued by the FBI, there can be lengthy delays before investigations start.

Amnesty International's research also revealed a worrying lack of communication by all levels of law enforcement with survivors. In a number of cases, survivors were not informed about the status of investigations, the results of sexual assault forensic examinations, the arrest or failure to arrest the suspect, or the status of the case before tribal, federal or state courts.

*The mother of a survivor of sexual violence from the Standing Rock Reservation told Amnesty International how she returned home in September 2005 to find her 16-year-old daughter lying half-naked and unconscious on the floor. She took her daughter to the hospital in Mobridge, South Dakota, where a sexual assault forensic examination was performed. She described how the suspected perpetrator, fled to Rapid City, South Dakota, which is outside the jurisdiction of the SRPD. He returned to the Reservation in early 2006 and was held by police for 10 days, although both mother and daughter only discovered this when they rang the SRPD to ask about the status of the case. They found out that the suspect was to go before a tribal court, but the mother told Amnesty International that to get this information, she had to go to Fort Yates and ask them in person. She told Amnesty International that she hoped that the case would be referred to the federal authorities because this would mean a lengthier sentence for the perpetrator. She said that, months after the attack, a Federal Bureau of Investigation (FBI) officer and a BIA Special Investigator arrived unannounced. As the daughter was not home at the time, the mother told them where to find her. However, she never heard from them again. Federal prosecutors did eventually pick up the case and in December 2006 the perpetrator entered into a plea bargain and was awaiting sentencing at the time this report was written. Interview with mother of survivor (name withheld)*

### Training

Amnesty International is concerned that federal, state and tribal training programs for law enforcement officials may not include adequate or sufficiently in-depth components on responding to rape and other forms of sexual violence, on issues surrounding jurisdiction and on knowledge of cultural norms and practices. As a result officers often do not respond effectively and are not equipped with the necessary skills to deal with crimes of sexual violence.

Amnesty International received reports that small law enforcement agencies with few resources have considerable difficulty freeing up officers to attend training courses. An officer in the SRPD reported that training on interviewing survivors of sexual violence is not available unless it is hosted or paid for by another organiza-

tion. He noted that, given the limited number of officers on the force, the SRPD cannot provide them all with training opportunities.

#### **Inadequate Forensic Examinations and Related Health Services**

An important part of any police investigation of sexual violence involves the collection of forensic evidence. Such evidence can be crucial for a successful prosecution. The evidence is gathered through a sexual violence forensic examination, sometimes using tools known as a “rape kit”. The examination is performed by a health professional and involves the collection of physical evidence from a victim of sexual violence and an examination of any injuries that may have been sustained. Samples collected in the evidence kit include vaginal, anal and oral swabs, finger-nail clippings, clothing and hair. All victims of sexual violence should be offered a forensic examination, regardless of whether or not they have decided to report the case to the police. In its National Protocol for Sexual Assault Medical Forensic Examinations, the U.S. Department of Justice recommends that victims should be allowed to undergo the examination whether or not they formally report the crime.

#### *Law enforcement officials*

As the first to respond to reports of a crime, law enforcement officials should ensure that women can get to a hospital or clinic where their injuries can be assessed and the forensic examination can be done. This is particularly important where women have to travel long distances to access a medical facility and may not have any way of getting there themselves, including in Standing Rock. Once a sexual assault forensic examination has been completed, law enforcement authorities are responsible for storing the evidence gathered and having it processed and analyzed by laboratories.

In some cases, law enforcement have mishandled evidence from forensic examinations from health care providers, including through improper storage and loss or destruction of evidence before forensic analysis had been carried out.

Amnesty International found that the provision of sexual assault forensic examinations and related health services to American Indian and Alaska Native women varies considerably from place to place. Survivors of sexual violence are not guaranteed access to adequate and timely sexual assault forensic examinations—critical evidence in a prosecution. Often this is the result of the U.S. government’s severe under-funding of the Indian Health Service (IHS), the principal provider of health services for American Indian and Alaska Native peoples.

#### *Health Service Providers*

It is essential that health service facilities have the staff, resources and expertise to ensure the accurate, sensitive and confidential collection of evidence in cases of sexual violence and for the secure storage of this evidence until it is handed over to law enforcement officials.

The IHS facilities suffer from under-staffing, a high turnover, and a lack of personnel trained to provide emergency services to survivors of sexual violence. Amnesty International found that the IHS has not prioritized the implementation of programs involving sexual assault nurse examiners (SANEs)—registered nurses with advanced education and clinical preparation in forensic examination of victims of sexual violence “throughout its facilities. Although there are no figures on how many IHS hospitals have SANE programs, officials indicated to AI that fewer than 10 had implemented such programs. Moreover, according to a study performed by the Native American Women’s Health Education Resource Center, 44 per cent of IHS facilities lack personnel trained to provide emergency services in the event of sexual violence.

Reports to Amnesty International indicate that many IHS facilities lack clear protocols for treating victims of sexual violence and do not consistently provide survivors with a forensic sexual assault examination. IHS officials told Amnesty International that the agency had posted detailed protocols online. However, these protocols are not mandatory and a 2005 survey of facilities by the Native American Women’s Health Education Resource Center found that 30 per cent of responding facilities did not have a protocol in place for emergency services in cases of sexual violence. Of the facilities nationwide that reported having a protocol, 56 per cent indicated that the protocol was posted and accessible to staff members.

Amnesty International is also concerned that survivors have sometimes been required to bear the cost of an examination or of travelling long distances to health facilities. Women who have been raped on the Standing Rock Reservation may need to travel for over an hour to get to the IHS hospital in Fort Yates. Once there, they may discover that there is no one on staff who is able to conduct a sexual assault forensic examination. In 2006 the hospital employed one woman doctor who undertook most of the examinations. According to a Fort Yates IHS health professional,



“most male doctors don’t feel trained and don’t want to go to court. So they will send rape cases to Bismarck for examination there.” According to the practitioner, only one third of the women referred from Fort Yates on Standing Rock to the medical facility 80 miles away in Bismarck actually receive an examination. Some women do not make the journey to Bismarck and those that do may face lengthy delays and leave without an examination.

Although IHS services are free, if an American Indian woman has to go to a non-IHS hospital for an examination, she may be charged by that facility. The IHS has a reimbursement policy, but it is complex and survivors may not be aware of it. In some cases the IHS has reportedly failed or refused to pay for forensic examinations at outside facilities. This can be a significant obstacle. Survivors of sexual violence in the southern portion of the Standing Rock Reservation are much closer to Mobridge Regional Hospital than Fort Yates, but because the former is not part of the IHS it may require payment. For women dealing with the trauma of very recent sexual violence, concerns about being required to travel further or to pay can be a serious disincentive to undergoing a forensic examination.

#### **Barriers to Prosecution**

*A Native American woman in 2003 accepted a ride home from two white men who raped and beat her, then threw her off of a bridge. She sustained serious injuries, but survived. The case went to trial in a state court but the jurors were unable to agree on whether the suspects were guilty. A juror who was asked why replied: “She was just another drunk Indian.” The case was retried and resulted in a 60-year sentence for the primary perpetrator, who had reportedly previously raped at least four other women, and a 10-year sentence for the second perpetrator.*

Despite the high levels of sexual violence, Amnesty International found that prosecutions for crimes of sexual violence against Indigenous women are rare in federal, state and tribal courts, resulting in impunity for perpetrators. The lack of comprehensive and centralized data collection by tribal, state and federal agencies renders it impossible to obtain accurate information about prosecution rates. However, survivors of sexual abuse, activists, support workers and officials reported that prosecutions for sexual assault are rare in federal, state and tribal courts.

Tribal courts are the most appropriate for adjudicating cases that arise on tribal land. However, the U.S. federal government has interfered with the ability of tribal justice systems to respond to crimes of sexual violence by underfunding tribal justice systems, prohibiting tribal courts from prosecuting non-Indian or non-Alaska Native suspects and limiting tribal court custodial sentencing to only one year per offense.

Given the inadequate rate of federal and state prosecutions of sexual assault cases, some tribal courts prosecute sexual assault cases despite this sentencing limitation to hold offenders accountable. Some tribal prosecuting authorities charge suspected perpetrators with multiple offenses, which provides the possibility of imposing consecutive sentences; others work with criminal sanctions other than imprisonment, including restitution, community service and probation.

At the federal level, crimes on the Standing Rock Reservation may be prosecuted by U.S. Attorneys located in Aberdeen or Bismarck. However, Amnesty International’s research suggests that there is a failure at the federal level to pursue cases of sexual violence against Indigenous women. Prosecutors have broad discretion in deciding which cases to prosecute, and decisions not to prosecute are rarely reviewed.

From 1 October 2002 to 30 September 2003, federal prosecutors declined to prosecute 60.3 per cent of the sexual violence cases filed in the United States. Only 27 of the 475 cases they declined were prosecuted in other courts. Because data on sexual violence specifically from Indian Country is not compiled, this statistic includes all cases involving Indigenous and non-Native victims. However, these numbers provide some indication of the extent to which these crimes go unpunished. Significantly, between 2000 and 2003, the BIA was consistently among the investigating agencies with the highest percentage of cases declined by federal prosecutors. It is not possible to establish how many of these cases submitted by the BIA involved sexual violence. The U.S. Justice Department does not publish statistics on the extent to which it prosecutes crimes of rape against Indian women so it is impossible to know the true extent to which it is failing to prosecute these serious crimes.

One of the research challenges faced by Amnesty International was in relation to gathering data related to federal prosecution rates of crimes of sexual violence that take place in Indian Country. Amnesty International sent questionnaires to the 93 individual U.S. Attorneys, who prosecute crimes within Indian Country at the federal level, seeking information on prosecution rates for crimes of sexual violence committed against Indigenous women. Amnesty International was informed by the

Executive Office of U.S. Attorneys that individual U.S. attorneys would not be permitted to participate in the survey. The Executive Office of U.S. Attorneys told Amnesty International that data collected is not broken down into specific offense categories, such as sexual assault crimes. The Executive Office for U.S. Attorneys did provide Amnesty International with a list of some of the cases of sexual violence arising in Indian Country that had been prosecuted in recent years. Of the 84 cases provided, only 20 involved adult women. The remaining cases mostly involved children. In the cases listed, prosecutions for sexual violence against adult Native American women took place in only eight of the 93 districts. Given the lack of comprehensive data, Amnesty International was unable to establish the extent to which crimes of sexual violence against Indigenous women are prosecuted by federal authorities.

At the state level, sexual violence crimes carried out in areas bordering the Standing Rock Reservation may be prosecuted by state's attorneys in neighboring counties in North or South Dakota. Many Native Americans from Standing Rock indicated that cases in general involving Native American victims and non-Native perpetrators are not prosecuted vigorously by state courts in North and South Dakota. A District Attorney in a bordering county told Amnesty International that, in South Dakota, insufficient funds can affect the number of cases prosecuted. It would also appear that state attorneys receive little or no training on prosecuting sexual violence and on cultural competency.

Indigenous survivors of sexual violence also face prejudice and discrimination at all stages and levels of federal and state investigation and prosecution. Amnesty International is concerned that this can influence decisions about whether to prosecute cases, how prosecutors present survivors during trials, how juries are selected and how they formulate their decisions.

Amnesty International received a number of reports that prosecutors at all levels fail to provide information consistently to victims of sexual violence about the progress of their cases. Survivors are frequently not informed of whether their cases will proceed to trial.

#### **Inadequate Resources for Indigenous Support Initiatives**

Programs run by Native American and Alaska Native women are vital in ensuring the protection and long-term support of Indigenous women who have experienced sexual violence. However, lack of funding is a widespread problem. Programs run by Indigenous women often operate with a mix of federal, state, and tribal funds, as well as private donations. However such funding is often limited.

In 2005, the non-governmental organization South Dakota Coalition against Domestic Violence and Sexual Assault contributed to the founding of Pretty Bird Woman House, a domestic violence program on the Standing Rock Reservation. The program, which is named after Ivy Archambault (Pretty Bird Woman), a Standing Rock woman who was raped and murdered in 2001, operates a shelter in a temporary location and does not yet have funding for direct services for its clients, but helps women to access services off the Reservation. Given the rates of violence against women on the Standing Rock Reservation, it is imperative that the Reservation have its own permanent shelter.

For women in or near the southern part of the Reservation, there are two shelters available: the Sacred Heart Shelter on the Cheyenne River Reservation, or Bridges Against Domestic Violence (BADV), which is located in Mobridge, South Dakota and where up to 85 per cent of women using the shelters are Native American, mainly coming from the Standing Rock Reservation. In March 2005, BADV held a conference entitled "Decide to End Sexual Violence." There were reports that following the conference women on the Reservation showed increased confidence in reporting. Amnesty International believes that public outreach and education such as that undertaken by BADV is an important element in creating an environment in which survivors feel able to report sexual violence.

The federal government should provide funds immediately for the Standing Rock Tribe to support its shelter for survivors of sexual violence on the reservation. The government should ensure that there is additional funding to support the increased capacity of shelters throughout North and South Dakota that provide services to Indian women.

An important achievement in the provision of culturally appropriate support services to Native American and Alaska Native women has been the formation of 16 tribal coalitions working against domestic and sexual violence across the US. The specific activities of the coalitions vary, but often include the provision of training to tribal governments, law enforcement officials, prosecutors, health professionals, support workers and activists. At national level, organizations such as Sacred Circle

and Clan Star provide national leadership and policy guidance for Native women's organizations and shelters.

### **International Law**

Sexual violence against women is not only a criminal or social issue; it is a human rights abuse. While the perpetrator is ultimately responsible for his crime, authorities also bear a legal responsibility to ensure protection of the rights and well-being of American Indian and Alaska Native peoples. They are responsible as well if they fail to prevent, investigate and address the crime appropriately.

The United States has ratified many of the key international human rights treaties that guarantee Indigenous women's protection against such abuses, including the right not to be tortured or ill-treated; the right to liberty and security of the person; and the right to the highest attainable standard of physical and mental health. All women have the right to be safe and free from violence.

International law is clear: governments are obliged not only to ensure that their own officials comply with human rights standards, but also to adopt effective measures to guard against acts by private individuals that result in human rights abuses. This duty—often termed “due diligence”—means that states must take reasonable steps to prevent human rights violations and, when they occur, use the means at their disposal to carry out effective investigations, identify and bring to justice those responsible, and ensure that the victim receives adequate reparation. Amnesty International's research shows that the United States is currently failing to act with due diligence to prevent, investigate and punish sexual violence against Native American and Alaska Native women. The erosion of tribal governmental authority and resources to protect Indigenous women from crimes of sexual violence is inconsistent with international standards on the rights of Indigenous peoples.

The UN Declaration on the Rights of Indigenous Peoples, adopted by the UN Human Rights Council in June 2006, elaborates minimum standards for the recognition and protection of the rights of Indigenous peoples in diverse contexts around the world. Provisions of the Declaration include that Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development (Article 3); that States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women...enjoy the full protection and guarantees against all forms of violence and discrimination. (Article 22(2)); and the right of Indigenous peoples “to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, where they exist, juridical systems or customs, in accordance with international human rights standards” (Article 34).

### **Key Recommendations**

#### **Provide Additional Resources for Standing Rock Initiatives**

- The federal government should provide funds immediately for the Standing Rock Tribe to support its shelter for survivors of sexual violence on the Reservation.
- The federal government should ensure that there is additional funding to support the increased capacity of shelters throughout North and South Dakota that provide services to Indian women.
- The federal government should allocate long term and sustained funds to the Standing Rock Police Department, including funds to increase staffing.
- Law enforcement response to women who are survivors of sexual violence must be improved urgently (see below).

Develop comprehensive plans of action to stop violence against Indigenous women

- Federal and state governments should consult and co-operate with Indigenous nations and Indigenous women to institute plans of action to stop violence against Indigenous women.
- Federal, state and tribal authorities should, in consultation with Indigenous peoples, collect and publish detailed and comprehensive data on rape and other sexual violence that shows the Indigenous or other status of victims and perpetrators and the localities where such offences take place, the number of cases referred for prosecution, the number declined by prosecutors and the reasons why.

#### **Ensure Appropriate, Effective Policing**

- Federal authorities must take urgent steps to make available adequate resources to police forces in Indian and Alaska Native villages. Particular attention should be paid to improving coverage in rural areas with poor transport and communications infrastructure.

- Law enforcement agencies should recognize in policy and practice that all police officers have the authority to take action in response to reports of sexual violence, including rape, within their jurisdiction and to apprehend the alleged perpetrators in order to transfer them to the appropriate authorities for investigation and prosecution. In particular, where sexual violence is committed in Indian Country and in Alaska Native villages, tribal law enforcement officials must be recognized as having authority to apprehend both Native and non-Native suspects.
- In order to fulfill their responsibilities effectively, all police forces should work closely with Indigenous women's organizations to develop and implement appropriate investigation protocols for dealing with cases of sexual violence.

#### **Ensure Access to Sexual Assault Forensic Examinations**

- Law enforcement agencies and health service providers should ensure that all Indigenous women survivors of sexual violence have access to adequate and timely sexual assault forensic examinations without charge to the survivor and at a facility within a reasonable distance.
- The federal government should permanently increase funding for the Indian Health Service to improve and further develop facilities and services, and increase permanent staffing in both urban and rural areas in order ensure adequate levels of medical attention.
- The Indian Health Service and other health service providers should develop standardized policies and protocols, which are made publicly available and posted within health facilities in view of the public, on responding to reports of sexual violence.
- The Indian Health Service and other health service providers should prioritize the creation of sexual assault nurse examiner programs and explore other ways of addressing the shortage and retention of qualified Sexual Assault Nurse Examiners.

#### **Ensure that prosecution and judicial practices deliver justice**

- Prosecutors should vigorously prosecute cases of sexual violence against Indigenous women and should be sufficiently resourced to ensure that the cases are treated with the appropriate priority and processes without undue delay. Any decision not to proceed with a case, together with the rationale for the decision, should be promptly communicated to the survivor of sexual violence and any other prosecutor with jurisdiction.
- U.S. Congress should recognize that tribal authorities have jurisdiction over all offenders who commit crimes on tribal land, regardless of their Indigenous or other identity and the authority to impose sentences commensurate with the crime that are consistent with international human rights standards.
- Federal authorities should make available the necessary funding and resources to tribal governments to develop and maintain tribal courts and legal systems which comply with international human rights standards.

#### **Ensure Availability of Support Services for Survivors**

- All governments should support and ensure adequate funding for support services, including shelters, for American Indian and Alaska Native survivors of sexual violence.

• Urge the U.S. Congress to Provide Adequate Funding  
 Amnesty International is currently asking Congress to undertake the following important steps:

- Fully fund and implement the Violence Against Women Act—and in particular Tribal Title (Title IX), the first-ever effort within VAWA to fight violence against Native American and Alaska Native women. This includes a national baseline study on sexual violence against Native women, a study on the incidence of injury from sexual violence against Native women and a Tribal Registry to track sex offenders and orders of protection.
- Increase funding for the Indian Health Service (IHS) and IHS contract facilities. Such monies should be used to increase the number of Sexual Assault Nurse Examiners so that survivors may receive timely forensic medical examinations, at no charge, following sexual assault. Furthermore, the IHS should ensure that appropriate protocols are in place for the treatment of survivors of sexual violence.

We respectfully refer you to “Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA” for more detailed information and recommendations. Thank you for the opportunity to testify on this important human rights topic.

Ms. HERSETH SANDLIN. Thank you very much, again, for being here and for your report and your testimony. We'll look forward to posing some questions.

Ms. Little Shield, you're now recognized. We'll hear your testimony.

**STATEMENT OF MS. GEORGIA LITTLE SHIELD, DIRECTOR,  
PRETTY BIRD WOMAN HOUSE, McLAUGHLIN, SOUTH DAKOTA**

Ms. LITTLE SHIELD. Thank you, Madam Chair. First of all, I want to go on record that I wish you would listen to Standing Rock officials that are standing here today because they have a major part of the lack that they deal with every day at tribal council so—

Ms. HERSETH SANDLIN. If I might just interrupt at this point. I need to make clear for the record that this is a different hearing than like some of the meetings that I've had that were open, we're able to hear from anyone who would like to participate.

Again, we're going to make time available at the end of this panel and I would appreciate everyone's understanding that we did our very best to accommodate everyone and that we will be listening, not just at today's hearing, but in the outreach that we do and the meetings that we have both here and at home and out in Washington and appreciate your desire for us to accommodate other elected officials that are here.

Ms. LITTLE SHIELD. OK. I'll start, and thank you.

My name is Georgia Little Shield. I am the director for the Pretty Bird Woman House Shelter which is located on the Standing Rock Reservation. I would like to say thank you for letting me be here.

(Reading from statement.)

If you read my report, you will see some of the situations. These stories are true and there are more of them that could be mentioned. If I mentioned all the stories we had, we'd be here for hours.

And you can—when Amnesty came, we talked to 61 women in one week that were sexually assaulted. When a Lakota woman runs 18 miles to town for help and feels safe in a jail that is—that is a city jail, you know there's something wrong. The city police have no jurisdiction over Native women or men so their hands are tied. When you hear a city police officer say, "Georgia, I just could not do anything," it's hard.

We have to think of the children that is also affected. Them as they see what happens in the home and no one comes to help them, where do they turn? Please, if we get anything from this at all today, please think of the children that this is affecting.

I want to share: We have become a lawless nation and now the people are taking the laws into their own hands. When this occurs, we have more rapes, more domestic violence, more inviting violence or gang violence.

Thank you.

There's one more thing. Sorry.

Ms. HERSETH SANDLIN. Yes.

Ms. LITTLE SHIELD. I'd like to leave you with this: Glynnis Okla, Leslie Iron Road, Candy Bullhead, Gloria Reeds, Lakota Madison,

Candy Rough Surface, Diane Dog Skin, Leona Big Shield, Ivy Arshambeau, Debbie Dog Eagle, Camilla Brown, Cheryl Tail Feather. Then there's Vicki Eagle Man and Lanelle Falles from Lower Brule. These women lost their lives to violence.

[The prepared statement of Ms. Little Shield follows:]

**Statement of Georgia Little Shield, Director,  
Pretty Bird Woman House, Standing Rock Reservation**

My name is Georgia Little Shield. I am the Director for the Pretty Bird Woman House Shelter, which is located on the Standing Rock Reservation. I have been employed at the shelter since November of 2004, opening the office of the shelter in January of 2005.

We have had many challenges with police officers since that time. I would like to share a few stories of what has occurred on our reservation. The second month that I worked, I received a call from a woman living 18 miles out of McLaughlin SD. She was severely beaten and did not want to go to the hospital, but did want to make a complaint. We called the Police Department that morning and were told that when an officer becomes available he would be headed to our residence. We waited two (2) hours, when the officer didn't show, I called again and was told there was another traffic accident and when he was free he would be on his way. I stayed with the woman, talking to her and assuring her that the officers would be there at any time. We waited another two (2) hours, called again and the dispatch stated that there was only one officer on and that he would get to us when he is free. At 6:00 PM the woman said it was useless to wait because they would not come. This woman ended up not wanting to make a complaint, was very scared, but told me to go home and leave her since there would be nothing done any way. I called that woman the next morning and asked her if the police ever came to see her and she stated "No".

Now do you think that she will call again if this happened to her again? This is what happens when you supply only one officer to a shift that has to cover 2.3 million acres.

I have since set up trainings for the police officers through South Dakota Coalition Against Domestic Violence And Sexual Assault. I talked to the Chief of Police, Lieutenant White, and he stated he would have officers at these training but no BIA officers attended. When I called back to see why officers were not there, I was told that due to a shortage of officers, they were not able to send any. Thus, because there is a dire shortage of officers on Standing Rock Reservation they are not receiving the proper training regarding domestic violence and sexual assault.

Another domestic violence call I received one night came from the City Police located in McLaughlin, SD. The officer stated there was a woman in his Police Department that he thought I could help. After talking to the young woman, I assured her that I could get her to a shelter where she could feel safe.

When I reached the Police Department, the Officer on duty said he just was not able to pick the guy up as he did not have jurisdiction because he was Native American (does this mean the officer quoted the law wrong or he meant that it occurred on tribal land?) and so was the woman. The officer had called the police in FT. Yates, so they were aware of the situation. She had signed a complaint and the officer did take pictures.

I asked the officer what this man was driving and was told he was driving a gray and black Suburban. When I came down Main Street, I saw a gray and black suburban driving around. This man chased this woman 18 miles to town, her car into the ditch several times. But no BIA Police Officer ever showed up. This man could have killed her and no one would have ever known she was out there in the ditch. I took her to a shelter off the reservation so she could feel safe. She left her car at the police station and got in with me and the officer escorted us out of town and that poor woman lay on the floor because she was so scared until we were 60 miles out of town. I picked her up the next day to get her car and we talked to the City Police who told us the BIA still had not stopped to get the complaint she filed.

It is important to note that when I first got the call from the City Police Officer, he stated he had a woman who wanted to be put in jail for the night, but he thought I could help her more. When any woman thinks the safest place for her is in jail, something has to be wrong!! For a Native woman to feel the need to seek safety outside her homeland is equally unacceptable.

One year ago I attended a meeting at the Bridges Against Domestic Violence Shelter in Mobridge and asked how we could help them with a situation involving 5 rapes occurring in one weekend. One woman had been brought in by a passer-

by from the Standing Rock Reservation and she was taken to the Mobridge City Police Station. The Chief of Police called Standing Rock and they came, however, the officer conducting the interview took 5 hours to get there and had an attitude with the Chief of Police in Mobridge. Chief Niles stated to us that he knew nothing was going to be done about it, because of statements the BIA officer made to him. Jurisdiction was on the Standing Rock Reservation so that is who had to pursue it. (Shouldn't this have been turned over to the FBI?)

This is a classic example of why women don't report rapes—insensitive and ineffective responses.

Another similar incident to the one above involves Advocate from Bridges Against Domestic Violence contacting the Ft. Yates Police Department for two days and repeatedly being told someone would be there to take statements. No one ever did show up. Do you think this woman got justice? Another time a woman was severely beaten and taken to IHS who notified the Police Department in Ft. Yates. The advocate at BADV made many calls in regard to this case and did not receive any follow up for 4 weeks. The person who assaulted her was not arrested. What about her? Did she get justice? The issue is not just about numbers of officers. It must be about prioritizing safety and accountability throughout the entire response.

Another situation that exemplifies the issues women face occurred a month ago. We had helped a young woman whose batterer's level of violence was well-known throughout the community. The next day early in the morning I received a call from an advocate who stated that the phone was not working at the shelter—the phone company said the phone line outside had been cut. This is especially dangerous in a rural area. We called the police as soon as we had service and waited. Then two hours later we called again and stated we needed to make a complaint for the record. We waited no officer came to this date!! When the Women's Shelter is not a priority then there is something wrong.

As of May 25, 2007, I was informed that we are down to 4 police officers on the Standing Rock Reservation. Because of the lack of officers and under-sourcing throughout the criminal justice system and community-based advocacy programs, every day is a dangerous day for women living on the Standing Rock Reservation.

We need to look at the lack of Advocates to provide safety and support to the women who call for help, in addition to basic resources such as transportation and housing. Until a few months ago, there were only two of advocates for the entire Standing Reservation and surrounding area. Now there are three. More are needed as is general operating and emergency funds.

There is a need for Advocates to work on the northern half of Standing Rock Reservation. It is our hope that we can have an Outreach Office in or near Fort Yates in the future. We need Advocates available to transport and accompany women to Court Hearings, to assist women through the process of obtaining Protection Orders and other legal advocacy. We need Advocates to accompany women to medical facilities for examinations and ongoing treatment after an attack, to work through social service/TANF, mental health needs etc. We need Advocates to respond to the crisis line 24/7. We need Advocates to work with the children who have witnessed violence, provide ongoing support to women who have been battered and raped, to provide emergency monies, clothing, food, and housing. We need Advocates to provide community and agency education, leadership in a coordinated community response and to create the social change necessary to end violence against women.

The South Dakota Coalition Against Domestic Violence and Sexual Assault, and Sacred Circle, National Resource Center to End Violence Against Native Women provide training and technical assistance. The problem is finding the funding to be able to provide the kind of services and resources needed.

Currently, as advocates for Pretty Bird Woman's House we do our best to cover all of Standing Rock and offer the services needed or help to search out resources for the women. We work 24/7 because of our commitment to saving the lives of the women and their children in our community. We do the best we can to do whatever, wherever when we are needed. We need the resources and support as great as our commitment.

One other recommendation that I would like to state is a great need is to make sure to match the Police force to the Land Base as there is an extreme amount of land 2.3 acres throughout Standing Rock Nation.

But also keep in mind to match the population to the people to the police officers. When advocates are in the field I fear for their safety as there are no police services to help serve protection orders or to make complaints or just to feel safe.

Finally I would like to say these stories are just the tip of the iceberg. I have so many stories it would fill so many pages. The women of Native Lands are depending on you for changes.

In the past 13 years that I have worked in the field of domestic violence I have witnessed many, many situations that you could not imagine seeing in your life time. I have worked here on the Standing Rock Reservation for three (3) years but have worked on the Cheyenne River Reservation for 10 years; the same situations were faced on that reservation as are being faced here on the Standing Rock Reservation. When I did work on Cheyenne River we had many advocates. Three (3) from the Family Violence grant four (4) from the Rural Domestic and Sexual Violence and Child victimization grant. Since President Bush has been president we have had one budget cut after another and have since lost all seven advocates in Cheyenne River. What I am trying to state is that the shortage of police is just not on Standing Rock. The difference is that BIA police Standing Rock and Tribal Officers police Cheyenne River. We are all suffering from the lack of police on both reservations.

We have become a Lawless Nation and people have starting to make there own laws. With this attitude we will have more deaths and people taking the situations in to there own hands. The people have started using violence to fight violence.

With a heavy heart I bring these things to the hearing with hopes that there is something down to fix the situation. Please think of the Women and Children when you talk of these issues.

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[A statement submitted for the record by Georgia Little Shield on behalf of Brenda Hill follows:]

**Statement of Brenda Hill, Native Co-Chair, South Dakota Coalition Against Domestic Violence And Sexual Assault, Pierre, South Dakota**

As the Native Co-Chair, I would like to take this opportunity to thank the Committee on behalf of the South Dakota Coalition Against Domestic Violence and Sexual Assault (SDCADVSA) for considering the voice of our membership in the matters at hand.

For your information, the SDCADVSA was incorporated in September of 1978 to eliminate violence against women in the State of South Dakota and tribal nations within the borders of the State. The SDCADVSA is an alliance of like-minded organizations that share this common purpose and mission. Our membership of 21 organizations includes programs from all tribal nations within South Dakota.

In brief, our global agenda includes provision of support, comprehensive resources, training and technical assistance to member programs who are responsible for providing direct advocacy and resources to individual women who are battered/raped within their own communities. SDCADVSA works pro-actively as a collective for social change to end violence against women by promoting a societal understanding of the root causes of and solutions to domestic and sexual violence in a cultural and historical context, promoting public acknowledgment of and responsibility for ending violence against women and their children. This work includes confronting all forms of violence/ oppression, i.e., sexism, racism, classism, heterosexism etc. and promoting respectful, non-violent relationships, families and communities.

The horrendous reality of violence against native women has been documented by the U.S. Department of Justice, OJP, Bureau of Justice Statistics in American Indians and Crime, 1992-96 Report and Violent Victimization and Race, 1993-98 Report. The highlights, if you will, include:

- Native women are raped at a rate more than double that of rapes reported by all races on an annual average.
- The rate of Native American women is nearly 50% higher than that reported by black males aged 12 and over.
- American Indian women were victimized by an intimate at rates higher than those for all other females (whites at 8.1 per 1,000; Indians at 23.2 per 1,000)
- At least 70% of violence experienced by Native Americans are committed by persons not of the same race

Further, "A Quiet Crisis," produced by the U.S. Commission on Civil Rights states that within Indian Country there is the equivalent of three law enforcement officers on duty 24/7 covering a geographic area the size of the State of Delaware. This report documents the abject poverty and severe under-funding of all resources within Indian Country. Poverty alone is a public safety issue that greatly intensifies the ability of native women to find and maintain safety from their batterers and rapists.

For example, in South Dakota, at any one time, over 50% of women in any shelter are Native. Considering Indians represent less than 10% of the state population, this statistic alone is startling. It is directly tied to poverty and lack of housing. On the Pine Ridge Reservation alone 4,000 housing units are needed. Every shelter



within the state will attest that insufficient numbers of shelter beds means routinely women who are battered and their children are sleeping on couches, floors, put in motels and at times, stay in advocate's homes.

This brief snap shot indicates the need for a comprehensive strategy that not only reactively respond to violence against Native women, but pro-actively ends the violence. While the Violence Against Women Act brought much needed legislation, funding and attention to the battering and rape of women, levels of violence against Native women have not significantly dropped and there is an estimated 30-40 shelters within all of the 550 plus tribal nations. Many tribes have one advocate for their entire nation. It is not unusual for an advocate to have a "slashed" title such as child protection worker/advocate. A clear and dangerous conflict of interest.

How can we develop fully funded and trained tribal police forces and criminal justice systems without losing the leadership and expertise of advocates? After all, it is the decades of hard work and sacrifice by advocates who were primarily women who had been battered that brought about advocacy programs, shelters, the Violence Against Women Act and the like. It is the advocate who's sole role is to provide biased support for minutes or lifetimes to women who are victimized, resources and to ensure that issues of safety and accountability remain priorities amongst the many systems that impact the lives of women who are battered, but that are also responsible for many other things.

While developing coordinated community responses in Indian Country, can we ensure culturally-based, woman-centered responses that support tribal sovereignty and women's sovereignty thereby creating the social change that will end violence against women and their children?

It is the experience of the SDCADVSA that any effective strategy must include a multi-level, coordinated, community and culturally-based approach. There is an obvious need for funding of shelters, basic operating costs, emergency food, clothing, rent and utility deposits, medical facilities able to respond to victims of rape, more and better equipped and trained law enforcement, jails and tribal court systems. Streamlining and simplification of grant reporting requirements, technical assistance in grant management based on an intimate understanding of both the dynamics of battering, the challenges posed by poverty and geography, and tribal governmental processes would go a long way to support a consistent, effective response.

The SDCADVSA has historically advocated for grassroots, community-based programs governed by those they serve, i.e., women who are battered/raped. The ideal in Indian Country is to model advocacy/shelter programs in philosophy and operation, after traditional women's societies. This type of women's society would do more than open the door to women who are battered and their children, and providing emergency resources and momentary safety. Native women's societies' are autonomous, their expertise respected and actively supported. Their "agenda" includes reclaiming the societal status of women as sacred. This agenda is about social change and ending many forms of violence.

The need is for the federal government to actively support the development of community-based programs within Indian Country as opposed to programs run by tribal governments. There are a number of effective non-profit, native shelters in South Dakota that are chartered by, and/or are the tribally designated advocacy program. This model supports the reclamation of traditional non-violent life ways and help undo belief systems that cause Native women to be targeted more than any other group of women in the United States. The Federal government does not run shelter and advocacy programs any where within the nation.

The development of culturally- and community-based programs will take time in addition to funding and technical support. Expectations must stay in line with the reality of the overwhelming challenges and barriers faced by Indian Country, and the capacity of Native women to gather the safety and support necessary for them to step into leadership positions in the face of poverty and such high levels of violence.

This letter is written based on the assumption that specific issues involving law enforcement, tribal jurisdiction over non-natives on tribal land and full faith and credit will be illuminated by other testimony. The SDCADVSA fully supports the full funding of tribal law enforcement and criminal justice systems, mandatory training on violence against native women and cultural competency training provided by native advocacy organizations and/or allies, i.e., SDCADVSA and membership and Sacred Circle, National Resource Center to End Violence Against Native Women (Rapid City, SD). The SDCADVSA also advocates for the enforcement of full faith and credit provisions application to tribal orders, the return of jurisdiction over non-natives on tribal lands and the inclusion of native advocates in all decision-making that impacts the lives of Native women.

SDCADVSA recognizes that to end violence against Native women requires reclaiming the status of women as sacred. Honoring the sovereignty of Native women is implicit in this transformation. Tribal sovereignty and Native women's sovereignty go hand in hand, and so the SDCADVSA supports initiatives that not only respect sovereignty, but confronts societal racism and sexism that results in the unnatural levels of violence targeting Native women.

The SDCADVSA remains available to provide whatever technical assistance, consultation, training and support needed in our shared efforts to end violence against Native women and their children. Please contact us should you have questions or would like to access our resources.

Ms. HERSETH SANDLIN. Ms. Little Shield, thank you for your very compelling statement. Thank you for being here.

I'd now like to recognize Ms. Cecelia Fire Thunder and her testimony.

**STATEMENT OF MS. CECELIA FIRE THUNDER,  
CANGLESKA, INC., KYLE, SOUTH DAKOTA**

Ms. FIRE THUNDER. Thank you very much.  
[Speaking Lakota.]

I greet you with a warm handshake with good feelings from my heart for the recorder.

I'd like to thank the Committee for holding the meeting, to Madam Chair. I want to thank Chairman Jandreau for helping out with this meeting as well today, and I wanted to recognize and have all the women in this room stand up for being on the front line of domestic violence. Please stand.

In this room there are women who have spent over 30 years collectively and individually on nine tribes in the State of South Dakota with or without resources to address violence against women.

Today we are providing you written testimony in an attempt—and I will attempt to encapsulate some of the highlights that we've included in our testimony. I've also included for you, Congresswoman Herseht, a little book that we put out that just came off the printer, so I printed it off my printer, and in this I would be remiss if I didn't address the VAWA issue, and tribe governments and tribes are asking for a change in that VAWA language as you probably already know.

There are many, many things that we want to talk about today but I'm going to talk to you a little bit about some recommendations because you're going to read the reports.

I want to thank the tribal leaders for addressing some of the issues. As I sat here and listened, I started to write notes. Some of us who have been working in the front line for many, many years—and I also want to acknowledge the Great Plains Tribal Chairman Association and the Aberdeen Tribal Chairman Association as well who in 2002 passed resolutions to hold field hearings on sexual assault in Indian Country. The National Council of American Indians added their resolution to hold hearings on sexual assault in Indian Country and nothing happened. So we're glad we're here today.

Number one, we are requesting your Committee to organize a task force to review the existing law enforcement training curriculum used at Artesia. When you have only 35 percent completion of law enforcement officers, then there's something wrong with the curriculum.

In talking to law enforcement officers across Indian Country, especially in the Northern Plains, we feel that that curriculum is flawed. It's based on western thinking. We feel a curriculum that's based on the top ten crimes committed in Indian Country with rape at the very top would be appropriate, so we're asking you to review the curriculum and make it more meaningful to tribal communities.

We also want to—and the tribal chairman asked me to reiterate the establishment of a law enforcement training center in Bismarck at United Tribes that allows closer travel for our law enforcement officers in training.

And the third thing is that we have to professionalize the ground officers; in other words, you know, we need to—our police officers have the toughest job on the Indian reservation so we need to pay them more money. We need to pay them well. We need to provide adequate equipment. We need to provide them fringe benefits. We need to provide them adequate leave time so they can take work off to recuperate from working in the tribal community and so on and so forth.

The training is very crucial. And we feel, in Indian Country, as front line workers, that the training is not adequate to meet the needs of the people because the kinds of crimes that are committed sometimes are overlooked.

The other thing is policies need to be changed. For example, rape is part of the Seven Major Crimes Act. We would like some discussion on changing that. You know, one of the things that really hurts us is that our police officers are first responders to a rape and then the FBI has to come in and take it over and many times the FBI doesn't come in until the perpetrator walks away.

Therein lies another request. We're asking the Natural Resources Committee to convene a consultation with the FBI. In talking to the tribal leaders in the last hour, I asked them: Has there ever been a consultation with the FBI? Never. Consultation with the FBI is crucial when rape is part of the Major Crimes Act and the FBI has some responsibility, so we're asking for that.

The other thing we're asking for is—and I'm respectfully asking and I appreciate the time here, but if we're going to truly address the attendant effects of rape in Indian Country, we need a separate hearing. We would like a separate hearing for all the witnesses to talk about sexual assault in Indian Country and then we can look at the bigger picture and through that hearing you're going to get more information on what the next steps are going to be.

Finally, Madam Chair, as we move—you know, we've been Band-Aiding law enforcement in Indian Country as far as I can remember. And what law enforcement needs is major surgery. It needs an infusion of new dollars. The BIA gets bashed all the time, but their hands are tied. Tribal leaders have a responsibility to take a different direction to find new dollars for law enforcement and therein lies my request. We are willing to work on a new bill, a brand-new bill to put the kind of money that we need in Indian Country for law enforcement; however, in order to submit such a bill, we need data.

Madam Chair, can your Committee direct the BIA to work with our team to get into their archives so we can get the data that we need so we can introduce the bill that we want to introduce?

In conclusion, I'd like to say that another gentleman, he had to leave, and he asked that there be more discussion in the State of South Dakota amongst all tribal law enforcement to start talking to each other. Because one tribe is not talking to the other tribe. You have protection orders. You've got a number of things. And if tribal law enforcement are not talking to each other or there's not a central repository for protection orders and perpetrators, sexual perpetrators and whatever, you're not going to know what's going on, and with the inclusion of gangs. So tribal officers need to be talking to each other to know what's going on.

Finally, there are a number of unsolved homicides in Indian Country. On Pine Ridge, there are unsolved homicides. We need to bring closure to some of those homicides. It's because of the high turnover, because of lack of training, there are families out there who will never know what happened to their young ones so we want to encourage collectively to find more resources to professionalize law enforcement, to provide more adequate training, and finally, to bring respect to law enforcement officers.

Thank you.

[The prepared statement of Ms. Karen Artichoker follows:]

**Statement of Karen Artichoker, Sacred Circle Director,  
Cangleska, Inc. Management Team Director**

**I. Sacred Circle, National Resource Center to End Violence Against Native Women, provides training, consultation and technical assistance to Indian Nations, tribal organizations, law enforcement agencies, prosecutors and courts to address the safety needs of Native women who are battered, raped and stalked.**

For over a decade Sacred Circle has advocated for the safety of American Indian and Alaska Native Women, providing training, consultation and technical assistance on responding to crimes of violence against Native women, particularly domestic violence, sexual assault and stalking. Sacred Circle submits this testimony to provide written documentation to the U.S. House of Representatives, Committee on Natural Resources of "The Needs and Challenges of Tribal Law Enforcement on Indian Reservations."

Over the past ten years we have learned many things about the state of peril confronting Native women. From the oldest to the youngest, Native women are disrespected and treated in the most humiliating fashion, living and dying without justice or the knowledge that their grand daughters will live free of the violence they experienced. This violence destroys the quality of life of Native women and threatens the safety and stability of their families, community and Indian tribes.

Our national work gives us an overview of some of the successes and problem areas in addressing violence against American Indian and Alaska Native women throughout the United States. Sacred Circle is a member of numerous Federal Inter-governmental Committees and various National Task Forces established to address violence against women.<sup>1</sup> On a tribal level, Cangleska, Inc., the mother agency of Sacred Circle, provides advocacy to approximately 3,000 women and children each year and approximately 2,400 men who are on domestic violence probation as ordered by the Oglala Sioux Tribe's Courts.

<sup>1</sup>National Task Force to End Sexual and Domestic Violence Against Women; National Congress of American Indians Task Force to End Violence Against Native Women; U.S. Department Of Justice Global Advisory Committee; U.S. Department Of Justice Working Group on Federal Tribal Sexual Assault Response; Full Faith and Credit Project; Federal Law Enforcement Training Center Curriculum Working Group; American Probation and Parole Association Model Protocol Working Group; International Forensic Nurse Examiner's DNA Curriculum Development Working Group.

The comments provided focus on “The Needs and Challenges of Tribal Law Enforcement on Indian Reservations” in the context of addressing violence against Indian women and implementation of the Violence Against Women Act of 2005.

In particular, Section 903 of VAWA 2005, recognizes the importance of government-to-government consultation. Section 903 directs the Attorney General and the Secretary of the U.S. Department of Health and Human Services to use the consultation as an opportunity to solicit recommendations from tribal governments on three topics:

- Administering grant funds appropriated for tribal governments and programs created to benefit tribal governments by the original VAWA and subsequent legislation;
- Enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and
- Strengthening the Federal response to crimes of domestic violence, dating violence, sexual assault, and stalking.

**II. Enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking. The safety of Indian women is dependent upon the response of Indian Nations and the Federal government to crimes of domestic violence, sexual assault, dating violence and stalking. Consultation between the Department of Justice and Indian Nations is essential to the development of respectful effective coordination and management of violent crimes against Native women.**

The unique legal relationship between the United States and Indian Tribes creates a federal responsibility in safeguarding the lives of Native women. Native women are battered, raped and stalked at far greater rates than any other group of women in the United States. The Department of Justice estimates that:

- more than 1 of 3, 34.1%, American Indian and Alaska Native women will be raped in her lifetime and 3 of 4 will be physically assaulted<sup>2</sup>;
- about 9 in 10 American Indian victims of rape or sexual assault were estimated to have assailants who were white or black<sup>3</sup>; and
- 17 % of American Indian women, at least twice that of other populations, are stalked each year.<sup>4</sup>

These statistics reflect the horrific levels of violence committed on a daily basis against Native women. While compounded by many social factors research links this level of violence to the vulnerabilities of Native women as a population. The lack of jurisdiction of Indian nations over non-Indian perpetrators and the sentencing limitation placed upon Indian tribes by Congress enhances the vulnerability of Native women and the ability of predators to target Native women as a population. This jurisdictional void furthers the public perception that Native women do not have the same protections that non-Indian women are entitled to receive. The Department of Justice estimation that 75% of sexual assaults committed against Native women are by perpetrators of a different race<sup>5</sup> is indicative that perpetrators of such violence are aware of this jurisdictional void.

Section 903, provides the opportunity for consistent consultation on a government-to-government basis between the Department of Justice and Indian Nations. The staggering statistics of violence against Native women requires that the highest levels of government act in coordination to address the escalating crisis in the lives of Native women. The prevalence and severity of violence would be treated as an emergency if committed against any other population of women. Given the crisis in the lives of Native women and the lack of adequate resources<sup>6</sup> more must be done at every level from funding through the Office on Violence Against Women, handling of cases by the FBI and United States Attorneys, and release of perpetrators by the Bureau of Prisons to improve efforts to create a more responsive criminal justice system. Federal agencies must work on a government-to-government basis with Indian Nations to prosecute such crimes. This cannot be achieved without formal consultation with Indian tribal governments.

The following recommendations are offered to maximize the opportunity provided by Section 903:

<sup>2</sup>Patricia Tjaden & Nancy Thoennes, U.S. Dep’t. of Justice, Full Report on the Prevalence, Incidence, and Consequences of Violence Against Women (2000).

<sup>3</sup>Lawrence A. Greenfeld & Steven K. Smith, U.S. Dep’t. of Justice, American Indians and Crime (1999).

<sup>4</sup>Stalking and Domestic Violence, May 2001 Report to Congress, U.S. Dep’t of Justice, Office of Justice Programs, NCJ 186157.

<sup>5</sup>Id. at 3.

<sup>6</sup>See A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country, U.S. Comm. On Civ. Rights, available at <http://www.usccr.gov/pubs/na0703/na0204.pdf>.

- set the date for the annual consultation no later than nine months prior
- provide the opportunity for all tribal governments to participate in the preparatory call
- issue the agenda no less than two months prior to the consultation to allow for advance preparation of participants and if at all possible to provide questions to the Department on issues of concern to be addressed during the Consultation.

**III. Research is necessary to understand the prevalence, unique particularities and estimated cost of crimes of domestic violence, sexual assault, dating violence and stalking occurring against Indian women.**

The Department of Justice has issued several reports on violence against women mandated by the Acts of 1994 and 2000. Within these reports, crimes of violence against American Indian and Alaska Native women are given limited attention. Previous research mandated under VAWA did not require in depth research on violence against Indian women. Section 904 will create for the first time in United States history the mandate to research crimes of domestic violence, sexual assault, dating violence, stalking and murder of American Indian women. The unique circumstances created by the jurisdictional void, rural isolation, conflict between Indian tribes and states, and other social factors require such research. It is important to note that violence against Indian women occurs on a continuum of violence from simple assault to murder. Department of Justice research indicates that the vast majority of Indian women victimized by such crimes knew their assailant. Unfortunately this continuum in many cases has resulted in the deaths of women. Murder is the third cause of death for American Indian women.<sup>7</sup> In addition, an increased number of American Indian women reported missing raises the concern that these reports should be investigated as homicide cases until the woman is located.

A national baseline study reviewing the crimes of domestic violence, dating violence, sexual assault, stalking, and murder committed against Indian women is essential to analyzing and creating safety in the lives of Native women. Of critical importance is the establishment of a task force, as provided by Sec. 903(A), of representatives from national domestic violence and sexual assault tribal organizations that have decades of experience in assisting Native women. In addition, Indian Nations are essential as the governments providing the emergency response to such crimes, the daily assistance to Native women, and monitoring of offenders. Indian tribes after tens of thousands of years remain sovereign nations having the authority and responsibility to protect the safety of women and stability of their citizenry. The presence of these representatives will provide the expertise necessary to implementing such a study.

The following recommendations are offered to maximize the opportunity provided by Section 904:

- immediately establish, as provided by Section 904(a)(3), the tribal task force to develop and guide implementation of the study
- recognize that American Indian and Alaska Native experience multiple incidents of violence over a lifetime and addressing such violence requires an array of services beyond crisis intervention
- recognize that the federal, and within PL 53—280 jurisdiction state, justice agencies failure to adequately respond is demonstrated in the distinction between hospital emergency trauma centers and cases reported, charged and ultimately number of conviction within respective jurisdictions
- recognize that to increase the response of tribal law enforcement to crimes of domestic violence and sexual assault of Indian women on Indian reservations requires understanding the past and current failure to respond to such crimes.

**IV. The Deputy Director for Tribal Affairs within the Office on Violence Against Women will increase the ability of the Department of Justice to effectively coordinate on a governmental basis with Indian Nations and improve the response of tribal law enforcement agencies to crimes of domestic violence and sexual assault.**

The unique governmental relationship between Indian tribes as the United States is long established by the Constitution, Supreme Court cases, Acts of Congress and Executive Orders of the President. Congress recognized this unique governmental relationship within the Violence Against Women Act by statutorily including Indian tribes within various provisions and defining Indian Tribes as eligible applicants for

<sup>7</sup> I.j.d. Wallace, A.D. Calhoun, K.E. Powell, J. O'Neill, & S.P. James, Homicide and Suicide Among Native Americans, 1979-1992, Violence Surveillance Summary Series, No. 2, Atlanta, GA; Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 1996.

certain programs under the Act from the Violence Against Women Office within the Department of Justice. The administration of Federal programs to tribal governments must comply with this legal context. The development of policies and grant program guidelines according to state-based models is not only inappropriate, but also, ineffective in the creation of an enhanced response to domestic violence, sexual assault and stalking. Recognizing this complex legal relationship is a necessary component in the proper administration of tribal set-aside funds. It is also essential in the development of model codes, protocols, public education awareness materials, research, and training.

One example of this unique governmental relationship is concurrent jurisdiction over violent crimes committed against Native women such as sexual assault. The U.S. Department of Justice has general jurisdiction over felony crimes<sup>8</sup> by or against Indians, including homicide, rape and aggravated assault. These crimes require a coordinated Tribal-Federal response because of the sentencing limitation placed upon tribal courts of “imposing no more than one year per offense or \$5,000. fine.”<sup>9</sup> This sentencing limitation is inappropriate and unless prosecuted by a U.S. Attorney the defendant is not held accountable for the violent crime. In addressing sexual assault of Native women this legal context must be understood and all requirements placed upon Indian tribes should also be placed upon the counterparts handling such cases within the Department. Similarly, the primary healthcare agency handling rape trauma emergency is the Indian Health Services of the Department of Health and Human Services. This agency does not have a formal protocol for sexual assault.

Increasing the response of tribal law enforcement to domestic violence and sexual assault requires understanding the complexity of the jurisdictional maze created by Federal Indian Law, the appropriate protocol for implementing government-to-government programmatic and administrative matters, and the management of funds set aside for Indian Nations. The newly statutorily created Deputy Director for Tribal Affairs must be involved with any initiatives to address and enhance the response of tribal law enforcement to domestic violence and sexual assault. The authority, responsibilities and expertise of the Deputy Director will be essential to the success of tribal law enforcement initiatives to increase their response to such crimes.

#### **V. Conclusion.**

In 1994, Congress enacted the Violence Against Women Act recognizing the extent and severity of violence against women. Over the last eleven years the Act has significantly increased the ability of Indian Nations, tribal law enforcement agencies, and advocacy organization to assist Native women and hold perpetrators of domestic violence, sexual assault, and stalking accountable for their crimes. VAWA 2005, specifically Title IX, represents a historic turning point in United States history in the recognition by the United States of its unique legal responsibility to assist Indian tribes in safeguarding the lives of Indian women. Addressing the needs and challenges of tribal law enforcement on Indian reservations in adequately respond to crimes of violence against Indian women under VAWA 2005 requires the full involvement of such agencies in the coordinated governmental implementation of the Act. The advances made under VAWA 2005 will further the progress made toward a time when the honored status of Native women is restored and all women will live free of violence.

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Ms. HERSETH SANDLIN. Well, thank you, Ms. Fire Thunder, for your testimony, the insight you bring, and to the suggestions, the recommendations you’ve made for the Committee to pursue.

Let me start with where you started, Cecelia, and that’s the training issue, because that was going to be one of my first questions. A little bit different angle in terms of how you’ve presented it, and I think you’ve presented it in a very important context as it relates to a task force to review the existing training curriculum, because my first question was going to be: In your experience, set aside the shortage of officers for a moment, because we know that we have to get at that problem with increased resources, but with the officers that you have worked with—because I’ve seen this in

<sup>8</sup> 18 U.S.C. § 1152 and 1153 (2004).

<sup>9</sup> 25 U.S.C. §§ 1301-1303 (2000).

non-reservation communities when I was working for a law firm in Aberdeen. There were—this was back in the early '90s. The issue of the sensitivity of law enforcement—of officers to a domestic violence situation and to a victim of sexual assault and the importance of the training that's provided.

So with the current curriculum specific to domestic violence and sexual assault that's offered down in the program in Artesia, is there, within that eight-week course, specific training for law enforcement officers in responding to domestic violence?

Ms. FIRE THUNDER. Very little. We had this discussion at breakfast this morning and they just touch on it.

Ms. HERSETH SANDLIN. Turn your mike on.

Ms. FIRE THUNDER. We had discussion at breakfast this morning and it's very minimum and it's not comprehensive. And so as this discussion goes further, it seems logical to provide training for the kinds of crimes that are committed in Indian Country versus teaching them a western model of policing and that's why we'd like to have some dialogue or they have dialogue about changing how they provide training for law enforcement to respond to crimes that are committed in Indian Country. It is very minimal training.

Ms. HERSETH SANDLIN. Ms. Little Shield, did you have anything else you wanted to add there? In terms of the officers that you've worked with, maybe even beyond what your familiarity with the actual component of that training, you know, what you've seen in terms of ultimately maybe the officers' desire to have more of that specific area of training.

Ms. LITTLE SHIELD. Thank you, Madam Chair.

Yes. In regards to that, we noticed very little in Artesia training about domestic violence so we try to provide that.

The South Dakota Coalition Against Domestic Violence has done many trainings, and we set them up in Cheyenne River this last couple of years. I've tried—I've set them up at Prairie Nights in North Dakota. Had assurances from the chief of police he would send the officers and no one showed up. Contacting him the next day, asking why this was happening, he stated there was a shortage of police officers and he couldn't send anybody.

Now, we've had also set up through the South Dakota Coalition Against Domestic Violence police training in Mobridge and also sent them fliers and called them several times offering them to go there. It was just, you know, across the river for a couple of hours and they didn't show up there either.

So the Standing Rock Police Department has not attended any of those domestic violence trainings where I've helped Sacred Heart Center and South Dakota Coalition put on trainings in Cheyenne River and we had 50 officers attend. But we had to go to council to get them mandated to go. OK?

But we can't do that with these officers in Standing Rock because they're BIA. They don't have to listen to the tribe.

Ms. HERSETH SANDLIN. That's a very important distinction that you've made in terms of how you've been able to work as an advocate to make the training available and how the different participation rates are dictated by what factors are there.

And, Cecelia, did you have something else to add?



Ms. FIRE THUNDER. Yes. On the second part of your question, Artesia does not do the training, however, Sacred Circle, which is a national resource training, because part of our training is to train law enforcement officers on responding to domestic violence.

And sometimes we have to bring them to the training and so we've been able to train a lot of tribal police officers on responding to domestic violence but it's not in the large numbers, they're in the small numbers, and we have to work really hard to get them to come.

First of all, you have limited police officers out there and if one's gone, it makes a difference. So I know in Pine Ridge, we've done a pretty good job of training most of our police officers on domestic violence. Again, that's a commitment from our community. So...

Ms. HERSETH SANDLIN. The importance of the local involvement in terms of responding to the particular needs of a community.

Ms. POLLACK, the report and the investigation that you undertook, in the previous two panels, the second one in particular, we heard some very important testimony with regard to methamphetamine manufacture and trafficking, other illegal drug trafficking, increase in gang activity. Did you find a correlation in terms of the substantial percentage of the violence that's committed against Native American women by non-Native American men to be associated to a large degree with the infiltration of outsiders involved in drug trafficking?

Ms. POLLACK. We did not hear that, very many cases that were directly—that directly involved methamphetamines, but one thing that we did hear rather consistently was that methamphetamines are a very good example of how non-Native individuals see Indian Country as an opportunity to commit a crime and get away with it and that frequently they will—they will specifically locate methamphetamine plants in Indian Country because they think there's less of a chance that they're going to get caught.

Ms. HERSETH SANDLIN. I took note of that in your verbal testimony when you made reference to, again, exploiting of the factor of inadequate resources and not giving all of the tools available to our law enforcement officers and the re-enforcements that they clearly need to ensure the safety of individuals, the safety of women especially who are victims at the hands of this violence, so I appreciate you elaborating a bit there.

I want to turn my attention—well, before I do, one other question, Ms. Pollack. At the end of the report there are several recommendations for future action and I'm wondering what steps, if any, either have been or plan to be taken by Amnesty International or Violence Against Native Women advocates to implement some of those recommendations.

Ms. POLLOCK. Amnesty International is currently working with Native American and Alaska Native partners to call for the full funding for violence in order to bring into a system all of the provisions for increased safety of women that are contained in that and the increased tribal set-asides that are contained in that.

We are also in the process of putting together an advisory committee of Native American and Alaska Native experts at the national level as well as the three geographic areas focused on in the report and working together with that committee, Amnesty will be

developing further campaigns regarding law enforcement, health, prosecutions.

Ms. HERSETH SANDLIN. And along the lines of health, several of the recommendations in the report reference the Indian Health Service. As you know, the Natural Resource Committee has moved on the Indian Health Care Improvement Act so it's in the midst of being reauthorized by Congress. There are other actions that still need to take place and opportunities for amendment.

Have there been any attempts, that you're aware of, to include provisions related to violence against women in the Indian Health Care Improvement Act?

Ms. POLLACK. I'm sorry, efforts on the part of?

Ms. HERSETH SANDLIN. Advocates for Native American women and the health care needs associated with being victims of domestic violence.

Ms. POLLACK. I know that there is a lot of work being done by one organization that is here in South Dakota called the Native Americans Health Education and Resource Center, which has done a lot of research and has a lot of expertise on the issue of how the IHS addresses sexual violence against women. The organization is specifically calling for the creation of protocols, standardized protocols throughout IHS facilities that will address how women are treated from the moment they walk in the door.

Ms. HERSETH SANDLIN. Thank you for mentioning that because that was a wonderful segue for the questions that I have for both Georgia and Cecelia, and that is your experience, now, if we can focus on the women who have been victims and the importance of the treatment that they are getting, their medical needs at IHS facilities, and the importance of these protocols.

And, you know, I know that for most Native American women, IHS is the primary health care provider, and so in practice, what is the range of services available for women who have been victims of sexual assault, domestic violence? What has been your experience as advocates for them as it relates to the procedures for treating them, as it relates to the type of medical attention they receive, and do you have any recommendations, perhaps through your work with the research center that Ms. Pollack referred to or any recommendations you would make to this Committee as it relates to our focus on IHS perhaps in the Indian Health Care Improvement Act?

Ms. Little Shield?

Ms. LITTLE SHIELD. Thank you, Madam Chair.

Addressing that is—IHS in McLaughlin, South Dakota, will not do the rape kits. They are then taken to Fort Yates, South Dakota, to the IHS, and they will not do the rape kits. They are then shipped to Bismarck, North Dakota, through ambulance and then done the rape kits up there.

My recommendation is to get IHS funding and protocols as they're now working on, for all that to happen at our IHS so we have that ability to keep them there where there's advocacy. Because we don't know, until they come back and come into our office maybe a month or two later and say, "Oh, a few months back, this happened to me," and I'm going, "Oh, we didn't even know." Because Bismarck advocates don't communicate with us. And they're

the ones that go to court, see, and sometimes they're not seen by advocates in Bismarck so then they're left up there alone.

So one of the recommendations is IHS participate in a same nurse situation where they can do those rape kits right there or have somebody—the reason they don't do them is because there is such a fall through of employees, doctors, and when it comes, then, time to testify, they're gone, so they don't want to subject themselves to the testimony when it comes to the case.

Ms. HERSETH SANDLIN. Because of the turnover?

Ms. LITTLE SHIELD. Yes.

Ms. HERSETH SANDLIN. So the rationale that you've heard from IHS officials, I suppose indirectly it's a resource one, because that contributes to the high rate of turnover among physicians, primary health care physicians in the IHS system, but it's not that they don't want to do—it's not that they don't have the funding to do the rape kit, they don't have the physicians to do it, either at McLaughlin or Fort Yates, but because of the turnover, there's a concern that if a case is prosecuted, that the doctor won't be in the area to testify about the procedure and about the results.

Ms. LITTLE SHIELD. Yes, that's part of it.

Ms. HERSETH SANDLIN. Ms. Fire Thunder.

Ms. FIRE THUNDER. Thank you. Let's not forget that not all Indian women are raped by non-Indians. In many tribal communities, Indian men do rape Indian women in large numbers. The problem is we don't have the data. It's one of the most under-reported crimes on the Indian reservation.

Many Indian women are at high risk. When you have a large number of alcohol use and abuse and drug use and abuse, you are vulnerable and you are going to be victimized.

One of the important things that we also want to let you know is that a hundred percent—and I say a hundred percent—of Indian women who are battered or beaten by their partner will be raped because it comes with the territory. And so it's another issue that very few women and women who are battered talk about.

We have many cases—this is where we have been there to pick up the pieces. They will tell us they've been raped; however, because that's their partner, that's her husband, that's her boyfriend, the perception is that that's part of the relationship. So we have a lot of education that we have to do in our communities.

In terms of the testimony of the providers is that we need to take a look at the existing laws in South Dakota. It was a couple of years ago when the court would not accept testimony from anybody but an M.D. Today, it's my understanding we have nurse practitioners who do administer the rape kit.

Ms. HERSETH SANDLIN. Just for a point of clarification: Is this the Federal District Court or Tribal Court?

Ms. FIRE THUNDER. Or even state court.

Ms. HERSETH SANDLIN. OK.

Ms. FIRE THUNDER. Federal Court, there was a time—now, it might have changed, because Terry French, who is our nurse practitioner, does provide testimony.

So about ten years ago we were talking about changing the policy and the laws of the State of South Dakota so that a nurse practitioner or a P.A.—and one of the things is that with your support

and help, we could change the rules again where an R.N. can administer the rape kit in an emergency room and that it could be admissible in a court of law.

So these are some policy changes that we have to look at and who's most available in the tribal community to administer the rape kit. It doesn't have to be an M.D. Whoever's there in that emergency room. Nine times out of ten our emergency room doctors are on call. They're not always there. But an R.N. will be there. So maybe one of the recommendations is take a look at the law and see how we can change it and who's there in the emergency room and legally if they would accept it in court.

Ms. HERSETH SANDLIN. I have a few other questions that deal with some of the other recommendations and the reauthorization of VAWA, Title IX requirements for the Attorney General reports. I may submit those for the record in the essence of time as we do have a couple of other individuals that we want to hear from.

But Ms. Fire Thunder, your recommendation that this issue deserves a separate hearing is well heard and I know that the other advocates here in the room for victims of domestic violence, all three of you have raised important experiences on the ground that can help us further explore the issues and policy changes, the importance of funding, the relationship of this issue to the broader issue that we explored in the first two panels of the law enforcement needs more generally, but more specifically here the training, how you've addressed that issue locally working with your officers, working with tribal council, so I appreciate your insight and your willingness to share compelling and I know difficult testimony based on the lives that you've seen affected by this very serious issue.

So again, thank you for your testimony. I hope you'll be open in the event that we have additional questions that we'd like to submit to you in writing and look forward to the follow-up, again, on the recommendations that you all have made here.

Ms. FIRE THUNDER. Can I just say something?

Ms. HERSETH SANDLIN. Yes, please.

Ms. FIRE THUNDER. You asked about treatment. I didn't respond to that, Madam Chair.

We've been talking about the legal response to sexual assault. We've been talking about the medical response to sexual assault. We have yet to talk about—and this is what the next hearing should address—treatment models.

In my work across Indian Country I asked the question: What is—what kind of a treatment model exists within the psychological community for women who have been raped? And most psychologists and therapists, they look at me and say there's none. So my challenge to Ph.D.'s was why don't we sit down and create a model, a treatment model for women who have been raped or sexually assaulted? That's still there.

Now, Madam Chair, we can talk all day long about the legal and medical, but we have hundreds of Indian women out there who could be 80 years old, who could be 60 years old, who could be ten years old, who have been raped. And I know grandmas who have been raped and never talked about it. But we have a lot of healing to do.

So with that, I thank you for letting us share these things with you.

Ms. HERSETH SANDLIN. Thank you. And I'm glad you mentioned the treatment issue, because I have had a chance to look at some of our IHS facilities and it was in McLaughlin and talked with them about a whole host of issues, and this relates not only to the adequacy of law enforcement officers, but the adequacy of the treatment, the psychological treatment that you've just described.

I know that the one counselor at McLaughlin at the time that I visited was getting ready to transition back to the area office and when you have the high incidence of domestic violence, the high incidence of teenage suicide, we have to address this issue.

And then in—I will be pursuing with Mr. Ragsdale the issue that came up in the second panel on approving a position for the juvenile detention center in terms of a psychiatrist on site. And again, we have this holistic approach to see if we can find the flexibility needed, in addition to the resources for those types of positions.

But I want to maybe just conclude with: I had mentioned at the outset my experience with the Federal District Court in 1998 and 1999 out of Pierre. And working with all of the folks within the system, whether they were the victims' advocates, whether it was the U.S. Attorneys, the defense attorneys, the FBI, tribal law enforcement, those that I saw on a regular basis in our trial proceedings, and at the time that I was sort of getting that perspective on the rates of violence and seeing the victims testify, seeing the perpetrators tried, my brother was working at Abbott House in Mitchell and as you both well know in terms of the younger women who have been victims of sexual assault and the needs that they have, and I think that is a wonderful program, but sharing from our experiences, you know, working on the judicial side and Todd, you know, my older brother working with these young women whose lives were so dramatically affected and needed to find the right treatment model for all victims and women of different ages and the type of healing that is so necessary.

And so I share that with you to let you know of the personal and family experience in terms of the importance of this issue and the individuals whose lives that we've been affected by and our desire to work with you based on your expertise and the advocacy that you've undertaken along with your counterparts and colleagues that are here today.

And so thank you again and we'll look forward to continuing our work on the Committee and, of course, through our office that's here directly in South Dakota through my office.

Thank you.

Ms. FIRE THUNDER. One explanation.

Ms. HERSETH SANDLIN. Yes.

Ms. FIRE THUNDER. I just whispered to her, Congresswoman, in the State of South Dakota, all nine tribes have advocates. You don't have to remake the wheel. Just find us the resources and we'll take on the work of sexual assault.

Ms. HERSETH SANDLIN. Well said.

And I know that the group of individuals I had the honor of meeting who have been most recently recognized, but in terms of

what they offer victims from the Oglala Sioux Tribe, well deserved recognition, but thank you for pointing that out as well.

I'd now like to invite Chairman Robert Cournoyer from the Yankton Sioux Tribe, Council Member Fool Bear, yes, and were there any other individuals? I don't think there were any other individuals brought to my attention who were seeking to offer statements and testimony.

I appreciate your patience and your being here, again, operating within a structure a little bit more rigid than we might be used to at some of the other meetings that we've had. But through the Committee structure meeting, needing to formalize the agenda, but certainly wanting to be open to hearing in this setting, in addition to the other settings that will be presented on a more informal basis with our direct outreach with the Yankton Sioux Tribe, the Standing Rock Sioux Tribe, of course, the Flandreau Santee, who we have worked with on a number of other issues.

So Chairman Cournoyer, thank you. You're recognized to provide testimony to the Committee.

**STATEMENT OF ROBERT W. COURNOYER, CHAIRMAN,  
YANKTON SIOUX TRIBE, MARTY, SOUTH DAKOTA**

Mr. COURNOYER. Good afternoon. I know that it's been a long afternoon and a lot of the chairmen have stated the needs in Indian Country, so I thank you for allowing me the time, Ms. Herseth. And, you know, I'm going to just be brief.

You know, we all know the problems in Indian Country. We didn't come here today to bash the BIA for what they can or cannot do, but, you know, basically it boils down to funding, a funding issue.

You know, a lot of them talked about treaty issues. You know, it's supposed to be a treaty obligation. All of these things aren't being met in Indian Country and, you know, we never get enough money to succeed. It's just enough money to fail. They say, "Well, we tried it out on the Indians." And they said it didn't work because we never get enough money to succeed.

And with law enforcement, I'm a former law—I was involved in law enforcement many, many years ago and I wouldn't want to be a law enforcement officer today because of the conditions and all the things that are happening out there. But, you know, I've seen a lot of the major crimes. I've witnessed murders, rapes. You name it, I've seen it all. Automobile accidents and, you know, 90 percent of the calls back then were related to alcoholism. This was in the late '70s and early '80s when I was a police officer, but today it's exacerbated by other drugs, meth, cocaine. You name it, it's there.

And a lot of these people are focusing on the reservations. They're coming and they're selling their goods there because they see the Indians as an easy mark and that they can easily get hooked on this. And, you know, it's an epidemic in Indian Country now, the methamphetamine use, and it isn't getting any better.

There's a lot of things for prevention but there's nothing for treatment of methamphetamines and we've got to work toward getting funding to make those things happen.

There's a lot of things that were discussed here today that we all need to work on and it all takes a little money. It takes resources and that resource is money.

Because we all know that Indian Country is severely underfunded like Indian health. They're only meeting about 15 percent of their need. You can go on with education, you name it, all those needs are severely underfunded. And basically one way that the Native Americans can benefit is through education, becoming economically self-sufficient. There is nothing in the way of entrepreneurialship. There is nothing in the way of economic development or job creation. That helps you get up out of the gutter. And because of our depressed economic socialism on the reservations—and that just didn't happen overnight. It was created by them putting us on reservations and consistently giving and giving and giving until a lot of our people, they no longer can take care of themselves because everything is a gimme. They've been—and we've got to get out of that phase.

Until we find ways of doing that through education and all these other things and economic development and creation of entrepreneurialship, the people can pull themselves up. But for us to get there, we need to be—there needs to be some investment on the reservations. When things start to become positive, then everybody else becomes positive. But, you know, we need to just focus on it.

And law enforcement is a big issue now because there's just so much happening in law enforcement and we could say, well, we could point over here at the Bureau, well, their hands are tied, too, like someone said earlier.

But we've got to all work together to solve this. And like I said, I'm not going to be very long. I just wanted to—and I handed in some testimony on our concerns but I just say that somehow we have to pull together and I think that we need to have more consultation with the tribes so that we can address these issues with the Bureau and with the Justice Department. You know, I think one of the biggest mistakes—or I don't know, maybe it may not be a mistake to them, but to us it is—is that when BIA law enforcement no longer—when they pulled themselves and they divested themselves from the BIA superintendents and those lines of authority, because now you have to go off to a district commander and the tribes' needs are never ever heard. They might listen to us, but they say, "Oh, well, we don't have to listen to them because we've divested ourselves from them. We're way over here. We don't have to listen to any of their needs and we'll just serve our own selves."

You know, and there's a lot of upset leaders in Indian Country because of the law enforcement situation and not enough law enforcement officers to go around. We need several officers on our reservation to meet our needs. I don't even know if we're meeting 50 percent of that need.

So a lot of our officers, by spending so much time out there, they get burnt out. I know I did when I served. You get burned out after putting in so much time. Sometimes, you don't know, you can put in 60, 70 hours a week. That's a long, long time.

And if you've seen something happen to a young child that got killed, I mean, that really hurts you deep down inside. I know I faced those myself personally. Suicides. You name it, I seen it all.

And you've got to have a strong constitution if you're going to be in law enforcement. You've got to be able to take all that stuff that comes at you on a daily basis and sometimes, you know, that officer gets broken down, too, and he needs someone that he can go talk to.

So there's a lot that we have to take into consideration when it comes to law enforcement. And I'm not here to bash anybody. I just want to work in the spirit of cooperation so that we can solve this all together.

Thank you.

[The prepared statement of Mr. Cournoyer follows:]

**YANKTON SIOUX TRIBE**

Box 248

Marty, SD 57361

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**TESTIMONY FOR YANKTON SIOUX TRIBE**

The Yankton Sioux Tribe and all other tribes in the Dakotas face overwhelming problems stemming from our poverty and socioeconomic conditions. It is a runaway elephant that we are being asked to kill with a

B B gun. We are severely under funded and too scattered to effectively deal with burglary, theft, drugs and alcohol-related crimes that are an epidemic on our reservations. We need more help from the Department of the Interior and BIA, not the U.S. Department of Justice. We don't need federal police, we just need the Bureau, which understands the most about the trust relationship, to step in and support the Tribes while we learn to assume and operate our own law enforcement.

The Yankton Sioux Tribe has long believed in the principles of law contained in the Indian Self-Determination and Education Assistance Act. It seems that the BIA doesn't. We have had great difficulty in obtaining funds already allocated for Self-Determination contracts. The BIA drags its feet on supporting and funding tribal law enforcement, as it is required to do by the law, perhaps in the hope that we will fail and retrocede back to the BIA. Or perhaps the federal government wants to show that we are a failure to justify the U.S. Department of Justice stepping in to take over our law enforcement and just make us the lowest rung of federal law enforcement. We oppose this. We can and will run our own law enforcement if we obtain legally required assistance and support.

Robert W.Cournoyer  
Chairman  
Yankton Sioux Tribe  
Date: June 1, 2007

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May 31,2007

Honorable Stephanie Herseth-Sandlin  
United States Congress  
District of South Dakota

Written Testimony of Yankton Sioux  
John W. Sully, Sr.  
Treasurer  
Yankton Sioux Tribe  
Box 248  
Marty, South Dakota 57361  
1-605-384-3641

Honorable Herseth-Sandlin:



In regards to our Law Enforcement Contract with the Office of Law Enforcement Services. The Yankton Sioux Tribe has a 638 Contract with (5) five positions since 2003,2004,2005,2006,and currently 2007. Theoretically, the process for 638 is: The Tribe identifies the program(s) it wishes to contract thru Tribal Resolution(s). 2. Positions, Budgets, Equipment are formalized thru data collected by the Contractor. This information is packaged and sent to either the Bureau of Indian Affairs or Indian Health Hospital, H.U.D, or other Federal or State Agency that provides a service to the Tribe. These Agencies, under the 638 Law, have to respond to the Tribal Request within a certain period of time. Whether to approve or disapprove of the Tribes Request to Contract. Once the Federal or State Agency agree's to the conditions for a Tribe to Contract. There is an Award Letter, issued to the Tribe, stating, that said Contract is hereby Awarded to Tribe. In this Award Letter the budgeted amount of the contract is also identified and supplied to the Tribe. Off of this Award Letter, the Tribal Contracting Officer develops the direct costs budget, and a Indirect Costs based on what the tribes Indirect cost rates are.

The above process for 638 contracting of a program by a tribe has never been followed. This is the first time that I, as a Treasurer and past Contract Specialist for the Yankton Sioux Tribe have ever witnessed such a blatant disregard for the contents of the 638 Law. The Yankton Sioux Tribe has Never received a (Award Letter) never from the Agency that we are contracting these five positions from. Even if we only filled three positions within this program, the program we contracted, was 5 positions. The money that was unspent therefore should revert back to tribe to be allowed to be carried over to the following fiscal year. This also has never happened, we were never allowed to apply our indirect cost rate to this contract like all of our other 638 contracts. We were not allowed a 25 percent administrative fee, or a start-up costs. For the last five years we have been shorted out on this contract. We have contacted our Attorney and have exhausted all our Administrative process and trying to come to a logical resolve to this matter. The Aberdeen area office has only given us the run around, blaming everyone else for the problem. This has been going on too long and this has impacted our finances where we will also request for damages done to our creditability, example; the L.E.S. currently owes us \$67,000.00 in Payroll. We have to go to a bank to borrow this money to cover the costs for meeting Payroll and making sure our people are properly protected.

We are currently going to be filing under the Contracts Disputes Act, and hopefully we will get what is legally entitled to our Tribe. I'm sorry this has to come to this, but we have tried many years now to come to some type of conclusion to this matter with nothing really be taken care. Only a lot of lip service. In closing the Yankton Sioux Tribe wishes to take this time and thank you Mrs. Herseth-Sandlin for coming out to Indian Country and listening to our problems.

Sincerely,

Robert Cournoyer, Chairman Yankton Sioux Tribe

Ms. HERSETH SANDLIN. Thank you, Chairman Cournoyer, for your testimony.

I have a couple of questions for you after we hear from Mr. Fool Bear, but thank you for highlighting a few other additional issues, and again, the issue of economic development and job creation that can help alleviate some of the problems associated with higher crime rates. And again, safe communities are as important as housing when it comes to attracting and sustaining economic development. You pointed that out very eloquently and I appreciate it.

Mr. Fool Bear, thank you for being here, for your patience, and for your testimony.

**STATEMENT OF ARCHIE FOOL BEAR, COUNCILMAN,  
STANDING ROCK SIOUX TRIBE, FORT YATES, NORTH DAKOTA**

Mr. FOOL BEAR. Thank you, Congresswoman Herseth. How do you say your last name? Sandlin? You get married and it just changes the whole thing.

[Laughter.]

Mr. FOOL BEAR. I want to thank you for holding this hearing, first off. I want to thank the tribal leaders that were before us.

You know, I came down today with four of our committee members from our judicial committee. Sitting in the back row here is Frank Jamison and Jerry Lee Hagard is around here somewhere, Scott Gates and Joe White, who are members of the Standing Rock Sioux Tribal Council.

We have many concerns, you know, and we've tried to address these issues and we've gone to Washington, D.C., already once and we left a package of information with you and I do have some testimony here that's written. I don't have written testimony from our Chairman.

What I'd like to do is accommodate with you, if you don't mind, with some oral testimony.

Ms. HERSETH SANDLIN. OK.

Mr. FOOL BEAR. First off, you know, Standing Rock is unique. It's located in two different jurisdictions as far as state and Federal jurisdictions are concerned, the State of North Dakota and the State of South Dakota. We are 2.3 million acres. We have 15,000 members in our tribe. We have 12 different communities. Eight of those are Indian communities.

Of those Indian communities, we had two police officers assigned to one community on the North Dakota side and one community on the South Dakota side. Now just the other day, talking with the chief of police, we had a resignation of one of our officers that used to live on the South Dakota side so now we're going to be short there.

I'm finding that for our size of reservation and for our needs, what we've got on the road in Standing Rock right now is six uniformed police officers for the entire reservation. We have one detail officer that was brought in. I don't know how long his stay is going to be.

I found out that we have two police officers that were selected but they're not going to be on the street for anywhere from three to four months and that depends on the Indian Police Academy.

I found out that Mr. Hawk, who was scheduled to go in August for the Indian Police Academy, that that class was canceled. So if the class is canceled, you're not going to get them certified. And I believe we've talked with Mr. Ragsdale and other Congressional people to see if we can try to accept the state's training for both North and South Dakota and still include in there a two-week course on dealing with jurisdictional issues of Indian Country.

I know North Dakota's academy is—or excuse me, the police academy is six weeks. The North Dakota academy, from my calls yesterday, it's 12 weeks. The South Dakota academy is ten weeks. So we can shorten that time down if we can get that done.

Standing Rock, last year we answered 44,000 calls for service. In the Bismarck Tribune, Chief Deb Martin made a news release that they had 30,000 calls for service in the city of Bismarck. So in comparison on our reservation, law enforcement is really catching the end drop of it all when it comes to funding.

We're not funded adequately, and as a former chief of police on Standing Rock, when you don't have the proper funds to run a department that size, you don't have the manpower to respond or do

prevention or intervention, the whole system starts to lose faith in the whole judicial process.

And I sympathize with Amnesty International's report and I would like to have more involvement in looking into that, into that report, because I've had people, since that report has come out, come to our committee making reports to us about how things have occurred and nothing's been done here, how law enforcement is not clearing certain cases, failing to respond.

I have a report that I will forward to your office, Congresswoman, of a 16-year-old that we were informed was stabbed 72 times and is still living through that and the perpetrators are still walking the street.

We've taken our concerns to the BIA. I met with Mr. Peter, Mr. Chaney, Mr. Ragsdale, and talked about our concerns and issues, and with the cooperative effort as stated by my fellow partner, Mr. Cournoyer here, the hopes are that we can do that, we as a tribe with the Government.

But when we come down to discrepancies when it comes to failing to follow through on crimes and major crime violations, the people again lose faith in the system. When you have a call for a police officer and you have a rape to be reported and nobody shows up, I am being told by a lady that the reason why nothing—or she reported it. Nothing got done. She waited a whole day. The police officer finally showed up and her statement was that she was too embarrassed to talk about it. You know, I don't know why she was embarrassed, but she said that she thought that nobody cared. Nobody cared to come to her issue.

Amnesty International's report also reflects of an individual that was raped, beaten, and this individual tried to commit suicide looking for attention. We have an issue with that because we're told that this victim died and we don't know if there was ever any prosecution of the individuals involved in this. So that is going to be forwarded to the proper authorities.

We feel that, as I stated, when there's a breakdown such as this, it has a domino effect on the whole system in law enforcement as far as intervention. When it loses confidence in our whole judicial system, nobody's going to come forward. Nobody's going to tell anything. Nobody's going to talk about crimes, but yet it's going to continue to happen.

And I've got to thank Amnesty International for bringing more things out in that report than we will probably hear about because they've established a confidence in people.

Madam Congresswoman, we also want to reiterate that under H.R. 4472, the Adam Walsh Child Protection and Safety Act that was passed in '06, again, it's another mandate without legislation again and we're asking in my letter format to you that we pass the resolution with the Standing Rock Sioux Tribe, that we're going to go ahead and pursue that, but we don't have the resources again.

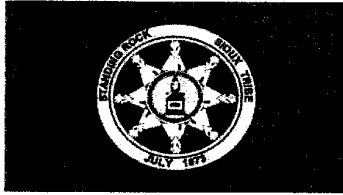
With the way we're looking at things, the way I see things, Madam Chair, is that it was brought up earlier was a draft resolution or draft legislation to go over finding a better way to fix this law enforcement issue, and I would be willing to state that Standing Rock would volunteer to be a part of that.

With that, Madam Chair, we were looking at 32 police officers for our reservation and a \$2.5 million request and we don't know where that's going to go, we don't know where the Adam Walsh legislation and requirements are going to go, but we also would like to state that we do not have a treatment facility when it comes down to the meth issue.

Just recently we had 32 people that were arrested on Standing Rock. That was a cooperative effort with Safe Trails Task Force, I believe it's called, and with the State of South Dakota and I believe the Federal authorities.

I would go further, but you had a long day and I'll stop right there. I want to thank you for the time.

[The prepared statement of Mr. Fool Bear follows:]



Standing Rock Sioux Tribe Judicial Committee Archie Fool Bear, Chairman P.O. Box D Fort Yates, ND 58538 (701) 854-8500 Fax (701) 854-3488 E-mail: <a href="mailto:sinteska@hotmail.com">sinteska@hotmail.com</a>
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May 31, 2007

The Honorable Stephanie Herseth-Sandlin  
 331 Cannon House Office Building  
 Washington, DC 20515  
 Phone: (202) 225-2801  
 Fax: (202) 225-5823

Re: Law Enforcement Issues on the Standing Rock Indian Reservation.

To The Honorable Representative Herseth-Sandlin:

This letter is written to you in my capacity as Chairman of the Standing Rock Sioux Tribe's Judicial Committee, my capacity as a Councilman at Large for the Standing Rock Sioux Tribe, as a member of the Standing Rock Sioux Tribe and a life-long resident of the Standing Rock Indian Reservation. I am greatly concerned at the dearth of resources allocated to the Bureau of Indian Affairs Law Enforcement Services at Standing Rock. Currently, we have five (5) patrol officers to take care of an area about the size of the State of Connecticut. This is intolerable.

As you are doubtless aware, we have a burgeoning drug problem afflicting people of all ages throughout the reservation. In my view, the worst of these illicit narcotics is methamphetamine (hereafter "meth"), due the organic injury it causes to the brains of its users. Meth is also increasing the amount of violent crime on the reservation. I urge you to assist the Tribe by helping us fund additional resources to use in our Tribal war on drug use.

To complicate matters for the Tribe, we have been unable to build our Juvenile Detention Center given the diminution in the constructions funds in the years that have passed since we planned the project. Currently, we have to send youth to Eagle Butte, South Dakota for incarceration. It is wonderful that we get assistance from our relatives at the Cheyenne River Sioux Tribe. I just wish we could get the requisite assistance for detention and law enforcement from our relatives and friends in Congress.


I have met with Chris Chaney, Director of the Office of Law Enforcement Services for the Bureau of Indian Affairs and requested thirty two (32) full time positions for the Standing Rock Law Enforcement Services. In addition, on behalf of the Judicial

Committee and the Tribe I requested an internal affairs investigation into complaints that the Committee and I have received from Tribal members and other reservation residents concerning the incredibly poor law enforcement services provided by the BIA. As former Chief of Police for the Standing Rock Indian Reservation, I know first hand the frustration of running a police department without adequate financial and other resources.

Currently, the Judicial Committee has recommended to the Tribal Council that the Tribe elect, under section 127, to meet the requirements of H.R.4472, the Adam Walsh Child Protection and Safety Act of 2006, as a jurisdiction subject to its provisions in order to protect and further the sovereignty of the Standing Rock Sioux Tribe. The requirements of this act are numerous and the Standing Rock Sioux and numerous other federally recognized Tribes lack the resources to register sex offenders residing on the reservation according to the Adam Walsh Act. Please assist us with legislation mandating that the Bureau of Indian Affairs meets its responsibility to us in implementing the requirements of the act.

Representative Hersheth-Sandlin, on behalf of the Tribe, I thank you for your leadership and ongoing advocacy for the Standing Rock Sioux Tribe and our numerous relatives among the other federally recognized Indian Tribes. In the event that you require additional information, please contact me at your earliest convenience.

Sincerely,



Archie Fool Bear, Chairman  
Judicial Committee  
Standing Rock Sioux Tribe

[NOTE: Additional information submitted for the record by Chairman Fool Bear has been retained in the Committee's official files.]

Ms. HERSETH SANDLIN. Of course. And I'll pose a few questions so if there are a couple of other areas you want to explore.

You had mentioned, in terms of the 32 officers, for the request, may I ask each of you, because we pursued earlier with the other tribal chairmen on the second panel the situation with the COPS grants, for Standing Rock and for the Yankton Sioux Tribe, what's your situation there? Did you apply for COPS grant funding? Did you have officers that have since left because of the lack of resources for retaining those officers? Could you elaborate a little bit on your experience with the COPS program and the situation faced today?

Mr. COURNOYER. We didn't get any COPS funding for this past year here, but in the past we've had the COPS program and it is very effective because it fills in that stop gap of being able to have enough officers. But, you know, that's only a temporary fix.

You know, I know that some of the other cities that are reservation border towns, they also got COPS grant programs, too, and, you know, it helps strengthen the number of officers that are out there, but by far they're just like everyone else stated today, there isn't enough officers out there on the beat.

And, you know, as we teach at the academy, that visibility is a deterrent, so if you have cops out there on the beat and they at least see them patrolling, that it does stop a lot of things. But, I know that there was a problem with funding of the COPS grant and they did get some funding for that, but—you know, it's sorely needed but I think that if we could work with the mandates of ful-

filling our own needs on each of our reservations from the BIA through the funding mechanism, that that probably would work.

I think we would have enough officers then, but, right now we're only meeting half of our need and we could use another—I think we've got two BIA officers and four tribal police officers. We're supposed to have five. So we need another plus we also need a criminal investigator.

There's just so many crimes that are falling through the cracks with not having an investigator and, you know, people are walking around free like all of the other speakers said, that we got people walking around that they've committed crimes and they've committed some horrible crimes, but with not having the manpower to deal with it, these people walk.

You know, and our juvenile issues aren't being addressed either. Some of us reservations, we don't have any holding facilities for our youth so a lot of times they walk or they're put in a temporary facility if they've done something bad enough to be held, but for the most part, they're released to their parents and they just go back and continue to do what they were doing. You know, they spend very minimal time incarcerated because most of our jails, you can't hold adults and juveniles together.

So on our reservation, we're building a juvenile detention facility and it's going to cost us about \$7 million but we got half of it from the Justice Department. The other half we're funding ourselves.

You know, we were looking for money to build a treatment center for alcoholism. We did it ourselves. So I think sometimes the tribes, we struggle, but we sometimes find the resources to take care of ourselves but, you know, when there's—when you're supposed to have that fiduciary trust responsibility from the Government and they're not doing it, sometimes you have to take it in your own hands and just do it yourself.

Mr. FOOL BEAR. Madam Chair.

Yeah, I mean, Standing Rock, we did have a COPS grant. The COPS grant did run out and we did end up letting some police officers go and we haven't got that grant renewed as far as I know.

As stated by Mr. Cournoyer, we as a tribe put some money toward that area but I think what the big holdup there is called a memorandum of agreement or understanding with the Bureau of Indian Affairs when it comes down to trying to get police officers hired with our tribal monies.

May I read this letter?

Ms. HERSETH SANDLIN. Yes.

Mr. FOOL BEAR. The letter is directed to you, The Honorable Stephanie Herseth Sandlin. I'll say that right yet. I'm used to just Herseth.

This references law enforcement issues on the Standing Rock Indian Reservation.

“To The Honorable Representative Herseth Sandlin:

“This letter is written to you in my capacity as Chairman of the Standing Rock Sioux Tribe's Judicial Committee, my capacity as a Councilman at Large for the Standing Rock Sioux Tribe, as a member of the Standing Rock Sioux Tribe, and a life-long resident of the Standing Rock Indian Reservation. I am greatly concerned at the dearth of resources allocated to the Bureau of Indian Affairs

law enforcement services at Standing Rock. Currently we have five patrol officers to take care of an area about the size of the State of Connecticut. This is intolerable.

“As you are doubtless aware, we have a burgeoning drug problem afflicting people of all ages throughout the reservation. In my view, the worst of these illicit narcotics is Methamphetamine due to the organic injury it causes to the brains of its users. Meth is also increasing the amount of violent crime on the reservation. I urge you to assist the tribe by helping us find additional resources to use in our tribal war on drug use.

“To complicate matters for the tribe, we have been unable to build our juvenile detention center given the diminution of the construction funds in the years that have passed since we planned the project. Currently we have to send youth to Eagle Butte, South Dakota, for incarceration. It is wonderful that we get assistance from our relatives at the Cheyenne River Sioux Tribe. I just wish we get the requisite assistance for a detention center and law enforcement for our relatives from Congress. Geez, I read that all wrong. I just wish we could get the requisite assistance for detention and law enforcement from our relatives and friends in Congress.

“I have met with Chris Chaney, Director of the Office of Law Enforcement Services for the Bureau of Indian Affairs, and requested 32 full-time positions for the Standing Rock law enforcement program. In addition, on behalf of the Judicial Committee and the tribe, I requested an internal affairs investigation into complaints that the Committee and I have received from tribal members and other reservation residents concerning the incredibly poor law enforcement services provided by the BIA. As former chief of police for the Standing Rock Indian Reservation, I know firsthand the frustration of running a police department without adequate financial and other resources.

“Currently the Judicial Committee has recommended to the tribal council that the tribe elect, under Section 127, to meet the requirements of H.R. 4472, the Adam Walsh Child Protection and Safety Act of 2006, as a jurisdiction subject to its provisions in order to protect and further the sovereignty of the Standing Rock Sioux Tribe. The requirements of this Act are numerous and the Standing Rock Sioux and numerous other Federally recognized tribes lack the resources to register sex offenders residing on the reservation according to the Adam Walsh Act. Please assist us with legislation mandating that the Bureau of Indian Affairs meet its responsibility to us in implementing the requirement of the Act.

“Representative Herseth Sandlin, on behalf of the tribe, I thank you for your leadership and ongoing advocacy for the Standing Rock Sioux Tribe and our numerous relatives among the other Federally recognized tribes. In the event that you require additional information, please contact me at your convenience.”

This is in a packet that has been submitted. If there's no other questions, I'd like to thank you for your time.

Ms. HERSETH SANDLIN. One quick question for you. We heard from the third panel in terms of Ms. Fire Thunder's recommendations that we look at and work with our counterparts at the state level as it relates to state law and evidentiary requirements with

regard to the treatment of women who have suffered sexual assault or domestic violence.

Since Standing Rock's position is unique in that you—the geographic location is in both states, do you have anything that you might want to add in terms of whether or not you found that North Dakota state law differs from South Dakota state law in any significant respect as it relates to the prosecution of sexual assault cases in state court?

I know that's a very specific question. You can take it for the record and maybe visit. And I know that—I don't know that I asked that specifically—I didn't of Ms. Little Shield and she might have been the one I should have posed the question to.

But you had mentioned in terms of the unique situation, because you are on both sides of the border between North and South Dakota there, or if there was anything in your tenure as chief of police that you noticed in terms of the coordination with state law enforcement in North Dakota or South Dakota where there was a better system and we could sort of learn from each other as it relates to those efforts in coordination with BIA law enforcement, state law enforcement, and Federal and tribal law enforcement with the joint task force, especially in the area of drug trafficking.

Mr. FOOL BEAR. Thank you, Madam Chair.

My experience in the past in dealing with violence against women and as far as state prosecutions, the State's Attorney in Sioux County didn't have any problems prosecuting as far as taking their cases, dealing with their jurisdiction. Anything that was an act of violence that was handled within the boundaries of the reservation that dealt with tribal members ended up in the Federal system, so the Federal District Court would take care of that.

The U.S. Attorney in North Dakota at the time used to take a strong stance against violence. I don't know what the policies are nowadays. I don't know who's running the show and whether or not our attorney generals can get a vote of confidence back. But if it were to happen, I don't know what their policies are on the North Dakota side anymore.

On the South Dakota side, in years past we had a lady that was viciously assaulted and we took our pictures to the Assistant U.S. Attorney and the medical statements and the Assistant U.S. Attorney at that time didn't want to prosecute. He called it a domestic situation. And it was hard to believe, but we had to present it. And it never even got a Grand Jury presentation. It was just a denial.

So North Dakota, to some extent, takes it more seriously as far as in the past. I don't know what their current policies are right now.

Ms. HERSETH SANDLIN. Well, that's actually a very helpful statement you just made, too, because I know I posed it in terms of the different states you're working with, but in terms of the Federal Government positions, you know, the different approach of the U.S. Attorneys that are in place at any one period of time and the level of priority that they're placing on working with their AUSA's to prosecute different crimes with Federal jurisdiction, so I appreciate that clarification as well.

Thank you, again, both of you, in terms of what you've both highlighted that we maybe touched on briefly or not at all in previous



testimony as it relates to alcohol and drug related crime. Especially the spike in aggressive violent crimes with those who are addicted to methamphetamine and the importance of treatment programs, whether it's for those who are addicted to drugs, women who have been victims of sexual assault, but we also know that we've got an issue of recidivism and the issue of rehabilitating perpetrators who, if they received adequate treatment, would not commit the crimes of violence that they've committed. But when those illnesses remain untreated, the recidivism rate, of course, is going to remain high if we're not addressing that treatment issue as well and community based treatment to be close to families in a support network.

And, of course, the comments that were made with regard to when individuals in a community's faith diminishes in the entire judicial system when your first responders, your law enforcement officers, don't have the resources for prevention and intervention and that's a point well taken that highlights, again, the overarching theme of today's field hearing. And so I thank you both again for your testimony, for accommodating the strictures we faced earlier today as we started out with the kind of formal agenda for the field hearing, but again, I appreciate your input and your leadership and we look forward to following up with all of our witnesses on each of the panels, all of the leaders, and certainly our Administration officials who are here today in support of your efforts, so thank you.

And with that, the field hearing for the House Natural Resources Committee will almost adjourn. But let me also point out that the record will remain open for additional questions for two weeks, so in addition to some of what we talked about in terms of taking questions for the record, additional questions we may have, we'll get those to you, but anything in addition that you would like to supplement to the record today, again, the record will remain open for two weeks.

So with that, the field hearing for the House Natural Resources Committee stands adjourned.

[Whereupon, at 5:30 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

["Treaty Tribes Located in the State of South Dakota," Congressional Record, dated September 30, 2002, submitted for the record by John Yellowbird Steele, President, Oglala Sioux Tribe, Pine Ridge, South Dakota, follows:]



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### TREATY TRIBES LOCATED IN THE STATE OF SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I am honored to represent a State that has nine treaty tribes. It has become increasingly clear that nothing is more important to the tribes of South Dakota than the recognition of the obligations this Nation has to the Indian people of South Dakota as spelled out by the treaties entered into by the United States Government and the tribes of South Dakota. Especially at the urging of President John Steele of the Oglala Sioux Tribe and Chairman Andrew Grey of the Sisseton-Wahpeton Sioux Tribe, I offer this statement pertaining to this issue of critical importance to the tribes located within my home State of South Dakota. As you know, the South Dakota tribes have a proud history of providing leadership to Indian issues. I thank President Steele and Chairman Grey for helping me understand this issue. It is with the utmost respect that I share with you some of our tribes' perspective on what treaties mean to them, as follows:

It is important to note that each of the Tribes located in the State of South Dakota have entered into treaties with the Federal Government. All federally recognized Indian tribes and villages are often categorized into the same class. However, important rights were guaranteed to the South Dakota tribes by treaty, and many of these rights continue to be enforceable today. From the first treaty with the Delaware in 1787 until the end of treaty-making in 1871, hundreds of agreements were entered between the Federal Government and various bands and tribes of Indians. Provisions of the treaties differ widely, but it was common to include a guarantee of peace, a delineation of boundaries, often

with a cession of specific lands from the tribe to the Federal Government, a guarantee of Indian hunting and fishing rights, often applying to the ceded land, a statement that the tribe recognized the authority or placed itself under the protection of the United States, and an agreement regarding the regulation of trade and travel of persons in the Indian territory. Treaties also commonly included agreements by each side to punish and compensate for acts of depredation by "bad men" among their own number, a clause that still can support a claim against the United States. See *Tosie v. United States*, 825 F.2d 393 (Fed. Cir. 1987).

Indian treaties stand on essentially the same footing as treaties with foreign nations. Because they are made pursuant to the Constitution, they take precedence over any conflicting State laws by reason of the Supremacy Clause. U.S. Const., Art. VI, Sec. 2; *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832). They are also the exclusive prerogative of the Federal Government. The First Trade and Intercourse Act, 1 Stat. 137 (1790), forbade the transfer of Indian lands to individuals or States except by treaty "under the authority of the United States." This provision, repeated in later Trade and Intercourse Acts, has become of tremendous importance in recent years, for several eastern States negotiated large land cessions from Indian tribes near the end of the eighteenth century. In *County of Oneida v. Oneida Indian Nation*, 470 U.S. 226, (1985), the Court held invalid a treaty entered in 1795 between the Oneidas and the State of New York. The treaty, which had been concluded without the participation of the Federal Government, trans-

ferred 100,000 acres of Indian lands to the state. The Court held that the tribe still had a viable claim for damages. Similar claims exist in other eastern states; in Maine, the likely invalidity of a 1795 state-tribal treaty clouded land titles covering about sixty percent of the State until legislation settled the issue. See *Joint Tribal Council of Passamaquoddy Tribe v. Morton*, 528 F.2d 370, 1st Cir.1975; *Maine Indian Claims Settlement Act*, P.L. 96-420, 94 Stat. 1785, 1980.

Not only is the treaty-making power exclusively federal, it is almost entirely presidential. While it is true that two-thirds of the Senate must concur in any treaty, the initiation of the process and the terms of negotiation are inevitably controlled by the executive branch. Indeed, there were many instances, especially in California, where executive officials negotiated treaties and acted upon them despite the failure of the Senate to ratify them. In the middle of the eighteenth century, Congress and particularly the House of Representatives grew increasingly resentful of being excluded from the direction of Indian affairs. The ultimate result was the passage in 1871 of a rider to an Indian appropriations act providing that "No Indian nation or tribe . . . shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty." 25 U.S.C.A. Sec. 71. The rider also specified that existing treaty obligations were not impaired. As an attempt to limit by statute the President's constitutional treaty-making power, the rider may well be invalid, but it accomplished its purpose nonetheless by making it clear that no further treaties would be ratified. Indian treaty-making consequently ended in 1871. Thereafter formal agreements made with the tribes were either approved by both houses of Congress or were simply embodied in statutes.

Congress, in declaring that Indian tribes should no longer be acknowledged as independent political entities with whom the United States might contract by treaty, did not end the tribal organization of Indian communities. The solution to the 1871 Act was the use of "treaty substitutes that consisted of agreements that were directed and authorized by Congress. Yet, other agreements were negotiated by the Indian Office to solve particular needs or resulted from Indian

initiative. Most concerned cessation of land or other modification of boundaries whereby the need to declare peace between two sovereign nations was no longer an essential goal. Although such agreements were similar to treaties, Tribal consent was no longer a prerequisite to establish a binding agreement.

Many reservations were established by Executive Order issued by the President of the United States. Although no general law existed authorizing set asides for Indian use, Congress and the public acquiesced and the Courts upheld the action. Executive orders differed from treaties wherefore they could be easily changed and a new one substituted as occasion demanded. They were neither uniform in terminology nor scope. In addition, a reservation could be established by administrative action prior to the issuance of an executive order and later sanctioned by the official action taken by the President. A 1952 Report by the Commissioner of Indian Affairs found that of the total of 42,785,935 acres of Tribal trust land only 9,471,081 acres had been established by Treaty and the remaining 23,043,439 acres of trust land were established by executive order.

Federally-recognized Indian tribes in South Dakota signed the Treaty of Fort Laramie with the desire to declare peace and thereby perpetuate a Nation-to-Nation relationship with the Federal Government. The common misperception that most Tribes have entered into treaties with the United States serves as a great injustice to Tribes who have entered into such formal and solemn agreements. In 1890 there were 162 established Tribes; 56 of those were established by executive order, 6 by executive order under the authority of Congress, 28 by acts of Congress, 15 by treaty and executive order, 5 by treaty or agreement and an act of Congress, 1 by unratified treaty and 51 by treaty or agreement. The treaty establishing the South Dakota Tribes is a contract negotiated between sovereign nations, relating to peace and alliance formally acknowledged by the signatories of the nations. The United States entered into such agreement because they desired peace and cessions of land from the Sioux Tribes, and in return they made promises that must be upheld. In conclusion, it is appropriate to recognize the special status of the treaty tribes located in South Dakota.