S. HRG. 111–229

EXAMINING LESSONS LEARNED FROM OPERATION DAKOTA PEACEKEEPER

FIELD HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JULY 1, 2009

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EXAMINING LESSONS LEARNED FROM OPERATION DAKOTA PEACEKEEPER

THURSDAY, JULY 1, 2009

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Fort Yates, ND.

The Committee met, pursuant to notice, at 9:00 a.m. at Sitting Bull College, Fort Yates Campus, Standing Rock Sioux Reservation, Fort Yates, North Dakota, Hon. Byron L. Dorgan, Chairman of the Committee, presiding.

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

The CHAIRMAN. Which of you is the best singer?

[Three responded "that would be me."]

[Laughter.]

The CHAIRMAN. But they are a great group of people and we are really pleased that they are here. Why don't you proceed? The Riverside Drum Group.

[Musical presentation.]

The CHAIRMAN. Let me thank the Riverside Drum Group. And let me also thank the Standing Rock Vietnam Vets for posting the colors today.

As I indicated to you, I am joined today by Senator Thune. He is from South Dakota. This reservation, of course, straddles the border of North and South Dakota, and Senator Thune and I have worked together, along with many of our colleagues, on a wide range of issues relating to law enforcement, water issues, education, health care and more, on Indian reservations.

I want to just mention as we start that Mr. Dan English is here on Senator Thune's staff. I have Mr. John Harte, who is the Policy Director of the Indian Affairs Committee, with me. John has been all across the Country consulting with Indian tribes on the Indian law enforcement bill that we have now put together. I think we have 17 co-sponsors, somewhere in that range. Bi-partisan co-sponsorship in an attempt to try to address nationally this issue of Indian law enforcement issues.

Let me also mention that Standing Rock tribal judge, Judge Zuger is with us. Thank you, Judge, for being here.

We were here last August to talk about what was happening with respect to Operation Peacekeeper, the Dakota Peacekeeper operation, here in this area. We had violent crime rates of six and eight times the national average on this reservation, violent crime

rates of double and triple on the other reservations in North and South Dakota. We have worked with the Bureau of Indian Affairs where they had somewhere around 25 to 30 officers coming and leaving, back and forth, so that we had a larger force of law enforcement officers here on this reservation during that period.

Our understanding from that is that we had a substantial amount of progress in reducing violent crime on this reservation. It was significant. That is not surprising, because if you have nine or ten or twelve law enforcement officers to parol 24 hours a day, 7 days a week, on an Indian reservation the size of the State of Connecticut, it is impsosible to do. We have, Senator Thune, myself and our coleagues, have heard stories of people calling for emergency help because a crime is being committed, but law enforcement would show up six hours later or the next day, because they simply can't deal with that amount of space spread out over an area the size of the State of Connecticut, on this reservation. And it is true of many reservations.

So the question is, what are we going to do about that? Well, we know what was done temporarily. And we know that worked. We know that it worked because a larger presence of law enforcement officials, properly trained, doing the work, working through a court system and so on, that law enforcement system works if you have the right people, trained the right way, to provide law enforcement on these reservations.

So we are here again to get an update of what has happened since that time. I know that most of those temporary law enforcement officials have been withdrawn. We now are back to a much, much lower level of law enforcement on this reservation. We are going to talk today about that and what the experience has been. I also know that in the first couple of months this year, there has been some increase in violent crime. So it is clear to me that the Federal Government has responsibilities. It is clear to me the Federal Government is not meeting those responsibilities.

That is why a group of us have put together a law enforcement bill that will begin to address the issue of declination by U.S. attorneys. Declining to prosecute is a very serious issue. Just the sheer number of law enforcement people that are available in the BIA, an agency that has promised to provide law enforcement protection, that is a significant issue.

So we are going to work through all of those. But today we want to listen to you.

Senator Thune and I have to leave at about 10:30. So what we would like to do is hear from a group of witnesses, in this case the tribal chairs from four reservations. Then we would like to have an open mic period. I know that the mayor of McLaughlin is here, and we may have others who wish to stand up and speak. We will be happy to entertain that. I would also keep open for two weeks following today the hearing record, so that anyone who wishes to submit written material, that will become a part of the permanent hearing record as well.

Senator Thune, thank you for joining us. Let me give you the microphone for an opening comment.

STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Mr. Chairman, and I want to express my appreciation to you for your leadership on this important issue as the Chairman of the Indian Affairs Committee in the Senate, as well as serving on the Appropriations Committee, following through and making sure that there is a funding commitment to some of these priorities as well.

As you said, we were here a year ago. Since that time, there has been some significant progress made with respect to getting an infusion of additional law enforcement personnel, manpower, resources out here on Standing Rock. I think it had the desired effect, if you talk to most of the folks here.

But my fear is that like so many policy initiatives that we start in Indian Country, it has a stop-start type practice to it. In other words, we start something but we don't finish it. I think it is important that the commitments that have been made be carried out.

I am very interested in some of the charts here that you talked about the violent crime rate and the crime rate as a percent of the national average in some of our reservations. So many of those are here in the upper plains. And so many of the deficits with regard to the number of officers needed are here in the upper plains. I think those are some questions that we need to visit with the BIA about as well, in terms of how they allocate these resources that are coming in and how they prioritize about where they put the additional manpower and resources.

But I am very pleased to be able to be back, and of course, anxious to hear from our panels today, the leaders. I have read Chairman His Horse Is Thunder's testimony and am interested in asking some questions of him and others on the panel when I get the opportunity. But I just want to again acknowledge that some of the steps that have been taken I think have yielded great results. But I also think that if we don't continue on that path and continue that commitment, we are going to see some of the gains that have been made reversed. I think that would a big mistake. So I am looking forward to the testimony and asking some questions.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thune, thank you very much.

We are joined by three tribal chairs and a senior member of the tribal council of another tribe. We are going to begin today with Chairwoman Pearson from the Spirit Lake Nation. Chairman His Horse Is Thunder is of course the host here today, but he has requested that he follow the others. So we will honor that request.

Chairwoman Pearson, thank you for being here. The full statements of all the witnesses will be made a part of the permanent record and we will ask that all of you summarize. I believe that each of you would have something you can pass along here in terms of some projection. So why don't you proceed.

STATEMENT OF HON. MYRA PEARSON, CHAIRWOMAN, SPIRIT LAKE DAKOTAH NATION

Ms. PEARSON. Good morning, Mr. Chairman and members of the Committee. I am pleased to be here this morning to be given this opportunity to continue our dialogue on tribal justice issues.

I have been asked to provide testimony on the public safety issues on Spirit Lake Reservation. In 2007, the Spirit Lake Tribe completed a community-wide assessment and strategic plan to identify and prioritize issues facing our communities and to strategize about the best practices to enable us to address those issues. During that effort, the tribal courts, law enforcement services and emergency management were all identified as priority areas for development and enhancement.

The Tribe has continued a dialogue with the Bureau of Indian Affairs for decades. The blatant deficiencies with respect to law enforcement and tribal justice as a whole remain unresolved. And in many respects, the issues have compounded over the years. Tribal justice issues, like so many other issues in communities across this Country, requires a comprehensive approach to resolution and not a temporary fix. To truly have a comprehensive approach, tribes need adequate funding, services and support in relation to tribal courts, law enforcement, detention, addiction counseling, mental health services and other related support services.

The tribal justice issues that face our communities, our community lacks an adult detention facility. The detention facility at Spirit Lake has for many years operated in a manner that is comparable to a third world country. Outdated technology, inadequate facilities and overcrowding have resulted in public outcry. The conditions in many tribal jails would not be tolerated elsewhere, but it is all that the tribes have to assist in maintaining some sense of law and order.

The BIA is responsible for the maintenance of the existing facility, but has opted to allow the building to fall into such a state of disrepair that currently, the BIA has plans for the facility to be closed and to enter into a contract with an existing State facility. From the tribe's position, housing our prisoners off the reservation creates a huge problem with respect to our sovereignty. When prisoners are housed in off-reservation facilities, it interferes with our court process and it creates a transportation problem with subjecting the people to laws outside the jurisdiction of our reservation for any problems that might arise during incarceration.

It is unclear how prisoners will be transported in a timely fashion to and from the court and eh detention facility in the state when the transport would require a minimum of 30 miles round trip, and the local law enforcement transport van is an eight-passenger vehicle. Equally troubling is the fact that this is a situation that has essentially been created by the BIA and it has come to fruition that the Tribe has secured funding to provide necessary improvements, but the BIA has planned to close the facility.

We need a juvenile detention facility. In recent years, one of the biggest problems for our juvenile court has been the lack of juvenile detention. The Tribe has been forced to either go without detention or utilize State facilities that are generally ineffective in meeting the needs of troubled youth. Additionally, there is a significant lack of service-based programs that can serve as an alternative to detention as well. The tribe has essentially had our sovereignty eroded by an agency that is to be carrying out a trust responsibility which flies in the face of basic principles of law.

Officer shortages have plagued the tribal justice system at Spirit Lake for many years, resulting in slow response time, inadequate investigations, and reports of a number of related problems. It has gotten to the point that many people are not even reporting criminal activity, as they have no faith in anything that will be done to help them. The tribe has engaged the BIA in a dialogue about these issues for decades, but the response has been slow and inadequate at best. Generally, the response from the BIA has been to detail officers from other reservations to reduce the outcry. However, this not only creates shortfalls on other reservations, but it is a very short-term response to a long-term problem.

Lack of training. It is imperative that the officers who are providing law enforcement services on the Spirit Lake Reservation be adequately trained for both their safety and for the safety of the community. It is alarming that BIA officers are expected to respond to often volatile crimes such as domestic violence with little or no backup. This creates a dangerous situation, not only for the officers, but also for the victims on the scene.

Our tribal courts. I cannot discuss safety issues in our community without highlighting the lack of support and financial resources for our tribal court. To say that our court functions on a skeleton crew is an understatement. I am not aware of any Federal, state or municipal court that could function with the personnel, training and technological deficiencies that exist within our tribal court. For instance, we have a prosecutor, but no funding for a public defender.

While the Indian Civil Rights Act does not mandate a public defender, our sovereignty is constantly under threat in the Federal court system because we do not provide publicly-funded defense counsel. Not to mention that Federal law, such as the Adam Walsh Act only provide for recognition of tribal court convictions where a public defender was available. These are the types of corners that we as tribes are backed into within the current legal scheme and with current funding and service deficiencies.

In closing, I have reviewed the Field Hearing Report from August 4, 2008, regarding the Dakota Peacemaker Operation that was implemented on the Standing Rock Reservation. I am encouraged by the fact that it provides a model and an example of how peace can come to the tribal communities with the proper support. My only concern rests with the means used by the BIA to carry out the project, in that the officers detailed to Standing Rock were from surrounding tribal communities. The result is that communities such as Spirit Lake are left with the same sense of despair and fear that the people of Standing Rock have also reported. Constituents have even reported to me that they are considering purchasing firearms to provide some peace of mind.

In my opinion, the approach that the BIA has taken in addressing justice issues in tribal communities has demonstrated that the agency is completely out of touch with Indian Country and that there are far too many people climbing the ranks, collecting large salaries and leaving field offices ill-equipped to meet the needs of the communities they are supposed to be serving. I appreciate the Committee's efforts to tackle the justice issues that are plaguing many tribal communities. I would strongly encourage the Com-

mittee and the United States Congress to also take a hard look at the upper level administration within the Bureau of Indian Affairs. History demonstrates that a community will be as strong as its leader, and I believe the same is true for the agencies such as the BIA.

With that, I want to thank you gentlemen for listening to me. I will be happy to answer any questions, or I will try to answer any questions that you may have.

Thank you.

[The prepared statement of Ms. Pearson follows:]

PREPARED STATEMENT OF HON. MYRA PEARSON, CHAIRWOMAN, SPIRIT LAKE DAKOTAH NATION

Good afternoon Mr. Chairman and members of the Committee. I am please to be here and to be given the opportunity to continue our dialogue on tribal justice issues. I have been asked to provide testimony on the public safety issues on the Spirit Lake Reservation.

In 2007 the Spirit Lake Tribe completed a community wide assessment and strategic plan to identify and prioritize issues facing our communities and to strategize about the best practices to enable us to address those issues. During that effort the tribal courts, law enforcement services and emergency management were all identified as priority areas for development and enhancement.

The Tribe has continued a dialogue with the Bureau of Indian Affairs for decades, the blatant deficiencies with respect to law enforcement and tribal justice as a whole remain unresolved, and in many respects the issues have compounded over the years. Tribal Justice issues, like so many other issues in communities across this country require a comprehensive approach to resolution and not a temporary fix. To truly have a comprehensive approach Tribes need adequate funding, services and support in relation to Tribal Courts, law enforcement, detention, addiction counseling, mental health services and other related support services.

The tribal justice issue that face our community:

(1) Adult detention facility: the detention facility at Spirit Lake has, for many years, operated in a manner that is comparable to a third world country. Outdated technology, inadequate facilities and overcrowding have resulted in public outcry. The conditions in many tribal jails would not be tolerated elsewhere but it is all that tribes have to assist in maintaining some sense of law and order. The BIA is responsible for the maintenance of the existing facility but has opted to allow the building to fall into such a state of disrepair that currently the BIA has plans for the facility to be closed and to enter into a contract with an existing state facility. From the Tribe's position housing our prisoners off the reservation creates a huge problem with respect to our sovereignty. When prisoners are housed in off reservation facilities it interferes with our court process and creates a

problem with subjecting people to the laws of outside jurisdictions for any problems that might arise while incarcerated. It is unclear how prisoners will be transported in a timely fashion to and from the court and the detention facility in the state when the transport would require a minimum of 30 miles roundtrip and the local law enforcement transport van is an 8-passenger vehicle. Equally troubling is the fact that this is a situation that has essentially been created by the BIA and it has come to fruition just as the Tribe has secured funding to provide necessary improvements, the BIA has planned to close the facility.

(2) Juvenile detention facility: In recent years one of the biggest problems for our Juvenile Court has been the lack of juvenile detention. The Tribe has been forced to either go ~~without detention or utilize state facilities that are generally ineffective in meeting the~~ needs of troubled youth. Additionally there is a significant lack of service-based programs that can serve as an alternative to detention as well. The Tribe has essentially had our sovereignty eroded by an agency that is to be carrying out a trust responsibility, which flies in the face of basic principles of law.

(3) Officer shortages: Office shortages have plagued the tribal justice system at Spirit Lake for many years, resulting in slow response times, inadequate investigations and reports, and a number of related problems. It has gotten to the point that many people are not even reporting criminal activity as they have no faith that anything will be done to help them. The Tribe has engaged the BIA in a dialogue about these issues for decades but the response has been slow and inadequate at best. Generally the response from the BIA has been to detail officers from other reservations to reduce the outcry, however this not only creates shortfalls on other reservations, but it is a very short-term response to a long-term problem.

(4) Lack of Training: it is imperative that the officers who are providing law enforcement services on the Spirit Lake Reservation be adequately trained both for their safety and for the safety of the community. It is alarming that BIA officers are expected to respond to often-volatile crimes such as domestic violence, with little to no back up. This creates a dangerous situation not only for the officers but also for the victims on the scene.

(5) Tribal Courts: I cannot discuss safety issues in our community without highlighting the lack of support and financial resources for our tribal court. To say that out Court

functions on a skeleton crew is an understatement. I am not aware of any federal, state or municipal court that could function with the personnel, training and technological deficiencies that exist within our tribal court. For instance we have a prosecutor but no funding for a public defender. While the Indian Civil Rights Act does not mandate a public defender, our sovereignty is constantly under threat in the federal court system because we do not provide publicly funded defense counsel, not to mention that federal laws such as the Adam Walsh Act only provide for recognition of tribal court convictions where a public defender was available. These are the types of corners that we as Tribes are backed into within the current legal scheme and with current funding and service deficiencies.

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In my opinion the approach that the BIA has taken in addressing justice issues in tribal communities has demonstrated that the agency is completely out of touch with Indian country and that there are far too many people climbing the ranks, collecting large salaries and leaving field offices ill equipped to meet the needs of the communities they are supposed to be serving. I appreciate the Committee's efforts to tackle the justice issues that are plaguing many tribal communities, and I would strongly encourage the Committee and the United States Congress to also take a hard look at the upper level administration within the Bureau of Indian Affairs. History demonstrates that a community will be as strong as its leaders and I believe the same is true for an agency such as the BIA.

The CHAIRMAN. Chairwoman Pearson, thank you very much for your testimony.

Next we will hear from Chairman Richard Marcellais, who is the Chairman of the Turtle Mountain Reservation.

STATEMENT OF HON. RICHARD MARCELLAIS, CHAIRMAN, TURTLE MOUNTAIN CHIPPEWA TRIBE

Mr. MARCELLAIS. Thank you, Senator Dorgan, Senator Thune, for being here today. And I want to thank the Chairman for allowing me this opportunity to present the law enforcement issues at the Turtle Mountain Indian Reservation.

Some of the issues that Chairwoman Pearson mentioned are similar and identical to what's going on in Turtle Mountain. A couple of weeks ago, I received a call from our jail director saying that our jail was going to close up. So that was a big issue to start with.

I notified Senator Dorgan's staff and they got on it right away. So we did get some answers and our jail is going to stay open.

They were talking about transferring our prisoners to, actually, Standing Rock. I tried to get hold of the Director, Mr. Ragsdale, and couldn't get a response. So I followed up with a call to Senator Dorgan's aides, and they got me some answers right away and put a hold on that issue.

The jailer told me that what happened was, they were looking at utilizing some of the other State facilities and also the BIA facilities in the State for prisoners. Actually, I thought about it, it would cost more and it wasn't beneficial to the Bureau of Indian Affairs.

I guess one of the other issues I want to talk about is recruitment and personnel. Currently, we have five officers at Turtle Mountain, and we should have 20 officers. When I talked to the chief of police up there, he said that he's got positions available and he's been advertising. But it takes so long to go through the personnel process to get these positions filled. And if you don't have the human resources, naturally you are going to have problems with crime on a reservation. Just seeing officers out there in the communities is beneficial to the overall reservation.

The other thing we are looking at is, we are working with our housing authority and we have security officers out there, we are looking at a community protection awareness program. And we are going to start identifying individuals in the housing communities to be on this committee and report things that are going on in these housing projects. Because Native Americans for years have lived out in the rural communities, and they are not used to being in housing projects. I think that is some of the problems that we have, is when you put Native Americans all in a housing project, then your crime goes up.

I want to thank you again for being out here. Thank you very much.

The CHAIRMAN. Chairman Marcellais, thank you very much as well.

Let us call on Mervin Packineau, who is a tribal council member of the Three Affiliated Tribes.

STATEMENT OF MERVIN PACKINEAU, NORTHEAST SEGMENT REPRESENTATIVE AND TREASURER, THREE AFFILIATED TRIBES—TRIBAL BUSINESS COUNCIL

Mr. PACKINEAU. First of all, I want to say thank you to Senator Dorgan and Senator Thune for coming to the heart of Indian Country to hear our concerns on law enforcement. I also want to commend you on your dedication to help us overcome the obstacles here on our reservations.

My name is Mervin Packineau. I serve as elected northeast segment representative and treasurer of the Three Affiliated Tribes Tribal Business Council. I also serve as the Judicial Committee Chairman under whose responsibility law enforcement falls. I would like to thank Senator Dorgan and his staff for allowing me the opportunity and honor to be with you here today and present some brief comments on law enforcement in Indian Country, and the issues that we face on the Fort Berthold Reservation.

The Three Affiliated Tribes has recently undertaken a momentous task, one that many tribes around the Country have also undertaken in our collective pursuit of self-sufficiency and self-reliance. The contracting of law enforcement on the Fort Berthold Reservation has not been without difficult or reward. We have faced our share of growing pains and continue to face a very steep learning curve in ensuring the people and lands of the Mandan Hidatsa and Arikara and protected to the fullest extent possible.

One of the major obstacles we in Indian Country face is a severe lack of funding for law enforcement. Prior to undertaking the 638 law enforcement contract, we supplemented the BIA law enforcement in equipment, staff and actual funds in order to provide 24-hour policing to our sig segments and almost 1,500 square miles that make up the Fort Berthold Reservation. Yet in undertaking this contract, we face severe funding shortfalls to not only adequately staff our police force, but to train, equip and house our officers and their families.

Technical assistance is another obstacle that severely hinders tribes that choose to 638 contract law enforcement from the Bureau of Indian Affairs. In order to undertake the duties and responsibilities of law enforcement, we have to create, operate and maintain a program that is almost a mirror image of a BIA law enforcement department. What appears to be lost upon our Federal trustee is while the tribes themselves have the primary responsibility to ensure their programs are in compliance, there is an equal duty on the BIA and our Federal contracting officers to assist the tribes in operating our programs to be in compliance with our individual 638 contracts.

The BIA's role is not restricted to mere oversight, but the BIA's duty to provide compliance and technical assistance should supersede its oversight responsibilities as the BIA has just as much responsibility in ensuring tribes succeed in establishing its own tribal law enforcement as the BIA would providing those same services on our reservations.

A lack of housing on Fort Berthold continues to be an issue in attracting qualified individuals to serve as law enforcement officers in our police force. The 638 law enforcement contract lacks basic resources or funds for sufficient housing. This makes it extremely difficult for our tribes to not only recruit law enforcement officers, but to keep those officers and their families in our communities.

One specific issue that we have faced on Fort Berthold concerns background checks on candidates for law enforcement positions in our police force. While we recognize the regulatory requirements for adequate background checks, it is our position that the BIA's "insistence" that we use the same vendors that complete the background checks for their officers creates a huge and unnecessary delay for our tribal police departments. Not only does that severely limit the effectiveness of our officers who cannot adequately enforce all laws, Federal and tribal, on our reservations, but puts those tribes under tremendous potential liability. Tribal officers who have not had their background checks completed and therefore have not received their Federal commissions are not covered under the Federal Torts Claim Act, but under our own tribal liability insurance. This affects not only the tribe and its officers, but also the

public at large, should an unfortunate accident occur, and sufficient insurance protection is not available.

The issues I have raised represent only a small fraction of what we and other tribes face when we contract the Federal responsibility to provide law enforcement on our reservations. Whether is it providing more Federal fund and resources to the tribes, to providing technical assistance for joint/cross-deputization agreements with local and State governments to ensure that everyone is protected on our lands, whether Indian or non-Indian, law enforcement within Indian Country simply needs more.

Above all, it is imperative that whatever assistance is provided to our law enforcement programs, it must be undertaken to promote our self-sufficiency and self-reliance and not hinder it. Everyone in this room, our distinguished Senator and his staff, the tribal leaders and tribal staff members, and the Federal officials present, everyone here has the responsibility that Indian Country not be isolated from the most basic of rights: the right to live in a safe and protected community.

I thank you for your time and attention.

The CHAIRMAN. Councilman Packineau, thank you very much.

Finally, we will hear from the Tribal Chairman of the Standing Rock Reservation, Ron His Horse Is Thunder. Ron is also accompanied by the Standing Rock Chief of Police, Michael Hayes. Mr. Hayes, welcome.

Mr. Chairman, why don't you proceed?

STATEMENT OF HON. RON HIS HORSE IS THUNDER, CHAIRMAN, STANDING ROCK SIOUX TRIBE; ACCOMPANIED BY MICHAEL HAYES, ACTING CHIEF OF POLICE, STANDING ROCK AGENCY, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. HIS HORSE IS THUNDER. Thank you, Mr. Chairman.

First, I want to say thank you for having this hearing, again, on Standing Rock. You were here last year, Senator Thune, you were here as well. I welcome you both back and thank you for having great concern on this issue, because it is an issue that does impact our reservation greatly, as well as the other reservations, as you heard from the prior witnesses from the respective reservations.

Last year, we had a police surge here. And the police surge went up to 37 officers. And I reported last year in my testimony the impacts of that surge and how it made a profound difference in the safety and the well-being of our reservation. As you know, and as everyone else is quite aware of as well, too, that in order to address the poverty level, the remoteness of our area, that in order for us to start growing as a nation that public safety is part of that growth. It is absolutely necessary. You can't have growth unless you have good public safety.

So last year, with the surge, the number of arrests that were made, the police presence that was here, the officers who actually walked the streets and talked to our children made a huge difference. Unfortunately this year, that surge number is actually, those officers are gone. And during the surge all the data that they collected showed that there was in fact need for 25 officers or actually 32 officers on the reservation.

The Bureau of Indian Affairs did increase the number of slots for our Reservation up to 25. However, they have not been able to fill those 25 slots. Today I believe we have 13 officers, and in fact, the number of officers, 13 is less than we had prior to the surge. So that is an unfortunate thing, that we have a surge that brings the number of officers up, then we go back down to less numbers than we had prior to the surge. I am thankful to the Bureau for actually bringing the number up to 13, because when I first took office three and a half years ago, the number of police officers actually in the field here were five. So we have more than doubled the amount of officers in four years, but even according to Bureau statistics we aren't even close to where we should be in terms of number of officers.

It has had a profound effect in terms of reduction from the surge numbers now down to having 13 police officers in the field. We see that today unfortunately in the number of suicides that this community has seen since January. We have had 9 suicides on this reservation with approximately 51 attempts. And we ask ourselves why are our children killing themselves. We know there are a multitude of reasons.

But one of the reasons we believe is part of these attempts and the suicides is that our children do not feel safe, and in fact, in many instances, aren't safe; that having adequate law enforcement on the reservation does affect our children and how they feel about themselves. I honestly believe that had we maintained the number of officers at 37 or at least 25 that we wouldn't have had as many attempts as we have had thus far this year.

Having a large police presence is not the only answer, but it is definitely part of the answer. I won't go into more in terms of the impacts of the operation as far as Peacekeepers, because we know that it had a profound positive effect. But we do believe that the goals of the temporary surge should be the goals of policing by BIA on our reservations every day, and not just simply a surge, but they should be our every day goal.

I have been asked whether I support the return of the six-month surge on Standing Rock. I do, absolutely. But it must not only be for our reservation, it must be for all reservations in those areas where crime is at a high rate, and the statistics bear out that the highest crime rates in this Country are in the Great Plains and the Rocky Mountain Region. We definitely need to have our numbers go up.

Part of what we believe is the problem, and I want to focus not just on the problem but also a solution. What do we believe is the solution? I gave a list of solutions last year, and I don't think we have had a report on whether or not the Bureau of Indian Affairs has paid heed to those solutions. We know that Congress in 2008 and 2009 had increased the appropriations for the Bureau of Indian Affairs to the tune of an additional $15 million. What's unclear to us, though, is how the Bureau of Indian Affairs actually allocated those additional resources. It appears to us the Bureau of Indian Affairs does not have a systematic methodology for distributing these public safety funds, including money for detention facilities and investigators.

We don't understand why the BIA does not rely on its own data in terms of where high crime rates are at to use that data to fairly distribute those dollars. They haven't shown us how they have distributed. Obviously we in the Great Plains and Rocky Mountains don't get enough of that additional appropriations.

On top of that, the Bureau of Indian Affairs does not appear to have a successful plan to recruit and retain officers. We offered some suggestions last year on how they could change that.

If the BIA increased the full-time law enforcement, and I talked about that, up to 25 additional officers, but today they only have 13. They continue to fail to fill the 12 additional slots that are open. As a result, we have fewer public safety officers now than we did last year. Part of the problem, we believe, is that there is a waiting list in Artesia. Not only is there a waiting list, but if we can get our candidates down there, they have to leave their families for four months. We have offered suggestions for how they can change that, and that is to create another training facility and bring some of their trainers from Artesia up to United Tribes Technical College. And they haven't done that yet.

Specifically, as Congress takes up S. 797, the Tribal Law and Order Act, we believe it is a priority, absolute priority, that the Bureau of Indian Affairs has flexibility in its officer training, instead of saying all officers may go through Artesia, we suggest that the BIA send trainers from Artesia to the Great Plans region and provide classroom and field training to State-certified officers. We have State-certified officers who are willing to work on reservations. But even though they are State-certified, they still have to go down to Artesia for 16 weeks.

We also have veterans returning home from the military who were military police who are willing to work with the Bureau of Indian Affairs. They require them to go down to Artesia. We think that is a fundamental failure of BIA.

I am going to cut this short. The Bureau of Indian Affairs received more than $50 million additional dollars in the last two years. BIA should be able to provide Indian tribes and Congress answers to the following questions: how many officers, telecommunications officers and criminal investigators did the BIA hire with this money? How many completed training at the BIA Academy in Artesia? How many are waiting for training now? Where were law enforcement personnel initial assigned by the BIA? How many of these individuals are currently at their initial posts? How many requested reassignment or left the BIA? And most importantly, how did the BIA determine their placement? Because obviously we have a great need here in the Rocky Mountains, the Great Plains region.

And we have not seen a large increase in the additional numbers of officers here. Obviously, even at Standing Rock, we are back to less than pre-surge numbers. So where did these initially trained officers go to?

The same is true concerning information about corrections officers and BIA funding for construction, operations and maintenance, and O&M for adult and juvenile detention facilities. To date, I am not aware of any such report by the BIA to Congress or to tribal leaders concerning these matters. I would urge that Congress make

the above-noted reports a mandatory annual requirement of the BIA.

Thank you, Senator.

[The prepared statement of Mr. His Horse Is Thunder follows:]

PREPARED STATEMENT OF HON. RON HIS HORSE IS THUNDER, CHAIRMAN, STANDING ROCK SIOUX TRIBE

Good morning Senator Dorgan and Senator Thune. My name is Ron His Horse Is Thunder. I am the Chairman of the Standing Rock Sioux Tribe. I want to welcome you both to Standing Rock. I also want to welcome my fellow Tribal Chairmen from the Great Plains and Rocky Mountain Regions who have joined me here today to speak to you concerning the issue of public safety in Indian country.

I want to thank you both for convening today's hearing and for being strong advocates in Congress for the needs of Indian country. You understand that Indian tribes cannot reverse the negative impacts of poverty and isolation until we provide public safety and other essential governmental services to our members on a consistent and routine basis.

Almost one year ago I appeared before the Committee to discuss the Tribe's experience with Operation Dakota Peacekeepers, the emergency response surge that brought 37 Bureau of Indian Affairs (BIA) public safety officers from other reservations to Standing Rock to patrol our eight districts and communities. Last year, I reported the positive impact of the operation and offered concrete recommendations to secure some of the successes of that operation. I attach a copy of last year's testimony for the record of today's hearing. Unfortunately, most of the recommendations that I offered were not taken by the BIA, and today I must report that many of the successes that I touted last year have eroded.

A. Need for Comprehensive Holistic Public Safety Program

I will relate the statistics of the Dakota Peacekeepers Operation and where we are faltering today, but at the heart of this matter is the failure of all of us, the Congress, the Federal Agencies and yes, even the Tribe, to create a comprehensive holistic program to address the public safety needs of our community. Nothing demonstrates this more drastically than the recent suicides at Standing Rock. Since January of this year, we have had 9 suicides and 50 attempted suicides. Some may think it inappropriate to discuss suicide in the context of public safety. But for me suicide is not only a tragedy robbing us of our future, it is the miner's canary—foretelling what lies ahead for us as a community and a Nation if we do not act to address our public safety needs in Indian country.

The number of suicides at Standing Rock is 1,000 times the National Average among Native Americans. The Center for Disease Control (CDC) has said this is an official suicide cluster. Many of those who have taken their lives are children–some as young as ten years old. Our Executive Director returned from a 14 year old boy's funeral and she said it was surreal because there were so many children and balloons there. To an outsider, who did not know that our Tribe had lost a young life, it might have looked like a child's birthday party, instead of a funeral.

We are trying to understand why our children are killing themselves. We believe it is related to a sense of hopelessness that people have. They are hopeless about their own futures and that of our community. Some of this hopelessness comes from not feeling safe and in some cases, not being safe. We as a community have a sacred obligation to protect our youngest members. These suicides prompted our elders to ask us about the 37 BIA police officers here last year who patrolled and interacted with our children, young adults and other residents. When we had the larger law enforcement presence people felt safer and that gave them hope. Thus, many people feel our return to the pre-surge law enforcement staffing levels has had a tragic and devastating impact on our community.

We know that a larger law enforcement presence is not the only answer to our problems, but it is part of the answer. So we urge Congress to continue its emphasis on funding public safety needs in Indian country in a holistic matter. There must be more resources for police, criminal investigators, telecommunication operators, correctional officers, food service personnel, Tribal prosecutors and defenders, resources for the construction of police departments, courts and recurring funding for the operation and maintenance of these facilities.

At the same time, however, there must also be Federal funding for counselors, child protection caseworkers and supervisors, and resources for programs to keep children out of trouble such as funding for the Boys and Girls Club of America. These programs provide positive avenues to channel the boundless energy of our

youth. In this regard, we are grateful to the North and South Dakota delegation for your support of funding for Standing Rock in the FY 2010 Department of Justice Appropriations bill for these types of services.

B. Impact of Operation Dakota Peacekeepers

The 2008 surge had five goals: (1) reduce crime, (2) target illegal drug activities, (3) provide investigative resources to prosecute domestic violence, (4) provide investigate resources to prosecute crimes against children, and (5) develop a strategy to promote a safe community on the Reservation. In the first two months of the surge, BIA Police made 900 arrests on the reservation. The arrests overwhelmed our Tribal court and adult detention facility. The Tribal Court held arraignments seven days a week to catch up with the workload. The surge continued in diminishing numbers through the end of 2008.

During the six months of the surge, our Tribal Court averaged 339 arraignments per month and the number of complaints received by the BIA Police averaged 350 per month. By comparison, for the first six months of this year, we averaged 233 arraignments and 266 complaints per month. The goals of the temporary surge should be the goals of policing on our reservation every day. These goals are not being met. In fact, we are experiencing a rise in crimes including: domestic abuse; child neglect; minors possessing and consuming alcohol, and aggravated assault. This tells us that the larger police presence was a deterrent.

Thus, if I am asked whether I support a return of the six-month surge on Standing Rock, I do, but I must request that if the BIA renews the surge, it must maintain existing staffing levels from the most underserved Reservations and BIA Police Districts, most of which are located in the Great Plains and Rocky Mountain Regions.

C. Failure of the BIA to Address Public Safety Staffing Needs

It is troubling that the BIA cannot fill the 12 additional public safety officer positions added by the BIA to Standing Rock in 2008. In 2009, Congress provided $255,077,000 for law enforcement services and in FY 2008 Congress provided $228,137,000 for the BIA's law enforcement program. This represents a $50,623,000 increase in the area of law enforcement in the last two fiscal years alone.

It is unclear how the BIA allocated these increased resources among the BIA's six Office of Law Enforcement Services Districts. It appears to us that the BIA does not have a systematic methodology for distributing its public safety funds, including funds for detention officers and investigators. We do not understand why the BIA cannot rely on its own data to fairly distribute among the BIA OLES Districts the resources appropriated by Congress. The failure to have a distribution methodology, or to consistently implement it if a methodology is in place, is compounded by the fact that the BIA does not have a successful plan to recruit and retain public safety officers and related personnel required to address Indian Country's public safety needs. While we appreciate and are thankful for Operation Dakota Peacekeepers, we are not confident that temporary law enforcement staffing allocations—driven by crisis response—is the most effective solution to address long term law enforcement needs in Indian country.

As a result of the data gathered from the last year's surge, the BIA increased the full-time BIA law enforcement positions at Standing Rock to twenty-five. The problem has been the BIA's failure to fill the 12 additional positions it created. We still only have 13 public safety staff and we are losing one criminal investigator. As a result, we will have fewer public safety officers than we did last year *prior to the surge.* The BIA cites recruitment and retention challenges for failing to fill the available full-time positions. However, we remain frustrated that the BIA will only put officers on the street who have completed the Bureau's sixteen week training academy in Artesia, New Mexico. Even if we do find people willing to leave their families for four months, we understand there is a waiting list to get into the Academy at Artesia. Meanwhile, we are aware of number of fully-accredited current or former State police officers who want to serve our community. Moreover, I am confident there are many war veterans coming home from Iraq and Afghanistan who are certified as Military Police, who want to again serve our community and who are well qualified to do so. Nevertheless, the BIA believes it can afford to ignore this pool of well qualified individuals when we and other reservations continue to experience a public safety crisis. This defies all logic.

As Congress takes up S. 797 the Tribal Law and Order Act, we believe it is a priority that the flexibility for BIA officer training be maintained and enacted. However, we would also urge you to try and find an interim solution to this bureaucratic problem now. We suggest that the BIA send trainers from its Artesia academy to the Great Plains Region and provide classroom and field training to State-certified

and former Military Police-trained officers now working for the BIA or interested in doing so, so that these individuals can patrol the Standing Rock Sioux Reservation and other reservations rather than be limited, as is now the case, to desk duty. We have encouraged the BIA to coordinate such training with the United Tribes Technical College (UTTC).

While we believe addressing the BIA's excuse for the failure to fill the 12 public safety vacancies at Standing Rock is vital, we again believe that it is a fundamental failure for the BIA not to have or to successfully implement a methodology for the distribution of public safety funds. This problem is equally evident on the detention service side of public safety. It is our understanding that the BIA cannot report to the Interior Inspector General or to Congress how it allocated the millions of dollars it receives from Congress for the staffing, operation and maintenance of detention facilities in Indian country. Like law enforcement, the BIA again blames recruitment challenges for its staffing shortages in this area. In today's economy, this is simply unacceptable and a dereliction of duty by the BIA to the public safety needs of Indian communities.

In short, the BIA has received more than $50 million more dollars in the last two fiscal years for its law enforcement program. The BIA should be able to provide Indian tribes and the Congress the answers to the following questions: (1) How many officers, telecommunication operators and criminal investigators did the BIA hire with this money? (2) How many completed training at the BIA Police Academy at Artesia? (3) How many are waiting for training? (4) Where were law enforcement personnel initially assigned by the BIA? (5) How many of those individuals are currently at their initial posts? (6) How many requested reassignment or left the BIA? and most important, (7) How did the BIA determine their placement? The same is true concerning information about correction officers and BIA funding for construction, operations and maintenance (O&M) of adult and juvenile detention services. To date, I am not aware of any such reports by the BIA to Congress or to Tribal leaders concerning these matters. I would urge that the Congress make the above-noted reports a mandatory annual requirement of the BIA.

D. Conclusion

In conclusion, I reiterate the following recommendations to the BIA, many of which I included in my July 2008 testimony before the Committee. None of the following recommendations were acted on by the BIA last year. I ask for your help and the help of this Committee to direct the BIA to make them happen this year:

1. The BIA should fill all public safety personnel vacancies at Standing Rock immediately using detailed personnel so that the BIA Police Department at Standing Rock operates at the full staffing level of 25 public safety officers. Detailed personnel can then rotate out from Standing Rock when the BIA has hired, trained and housed full time replacement public safety personnel at Standing Rock or as close to the reservation as possible;

2. Grant Special Law Enforcement Commissions to Tribal Game and Fish Rangers so that they may lawfully respond to emergencies;

3. Bring BIA Artersia Academy trainers to the Great Plains Region to provide instruction to former State-accredited police officers and Military Police personnel hired by the BIA, but who have not gone through the BIA's 16-week training academy, so that they may receive interim Indian country training and be authorized by the BIA to patrol on Standing Rock;

4. Install a centralized 911 call center on the Reservation, and ensure that public safety personnel and Tribal Game and Fish Rangers use identical communications equipment to coordinate public safety activities;

5. Provide construction funds to build on-reservation housing for BIA public safety officers and renovate existing BIA police facilities;

6. establish a pilot program at Standing Rock this summer to educate youth about staying out of trouble; encourage Tribal members to pursue careers in law enforcement; and offer recruitment incentives to Native Americans to join the BIA Police academy.

I am happy to answer any questions you may have. Thank you again for holding this hearing today.

ATTACHMENT

Testimony of Ron His Horse Is Thunder
Chairman, Standing Rock Sioux Tribe
Regarding Operation Dakota Peacekeeper
Senate Committee on Indian Affairs
Fort Yates, North Dakota
August 4, 2008

My name is Ron His Horse Is Thunder. I am the Chairman of the Standing Rock Sioux Tribe. In June, in the wake of the murder of a young tribal member, the Bureau of Indian Affairs detailed a "surge" of 20 additional police officers to the Standing Rock Reservation in what is known as "Operation Dakota Peacekeeper." I am pleased to provide the Committee with testimony today on the effect of Operation Dakota Peacekeeper, the future of this law enforcement surge, and the greater law enforcement and justice needs at Standing Rock.

I want to express my thanks to Senator Dorgan, Senator Thune, Senator Johnson, Senator Conrad, Congresswoman Herseth and Congressman Pomeroy for making this surge possible. Were it not for your intervention – and the May joint letter of the entire North Dakota and South Dakota Congressional delegation to the BIA – there would not have been a surge and I would not be speaking to you today. Your advocacy on our behalf has made our Reservation safer and has given us hope.

I will relate statistics shortly, but numbers aside the increased police presence on our Reservation has made an enormous difference in our community's sense of safety. In particular, the most vulnerable members of our community, including elders and single parents with young children, no longer feel as if they have been abandoned by the BIA. People feel safer walking outside at night. The surge has contributed to a feeling of community safety that has been unknown to our members for many years now.

I must also thank the many Tribes who have contributed BIA police officers to the surge. I also want to thank former Assistant Secretary Carl Artman and BIA Justice Service Deputy Director Pat Ragsdale, who joins me here today, for their excellent response to our law enforcement crisis. I also want to thank the BIA Officials, who has overseen the implementation of the surge. Finally, I want to thank South Dakota U.S. Attorney Marty Jackley, who also joins me here today, for the support and cooperation he has shown to the Tribe.

Operation Dakota Peacekeeper

The surge has significantly increased law enforcement on our reservation. In the month of June, police made a total of 541 arrests. Of these, 341 arrests, about 2/3 of all arrests, were made by surge officers. The statistics available so far for the month of July show similar results – 395 arrests, the majority of which were made by surge officers. In these two months, the presence of additional officers has more than doubled our capacity to respond to crimes and make arrests.

As a consequence of the surge, our court dockets are full, and our jail is so full that we now have arraignments seven days a week. We have also seen an increase in referrals to child

protective services. While these statistics may not seem positive, they mean that some of the problems occurring are being addressed for the first time in years.

Through your efforts, Congress provided $26 million in additional funding for BIA law enforcement in FY 2008, including $10 million "to reach the areas of greatest need, particularly remote reservations." We are certainly a remote reservation and in FY 2007, our violent crime rate was 1,138 per 100,000, placing us in the top nine "high crime" reservations.[1] The May letter to the BIA inquiring about the allocation of this funding was undoubtedly the catalyst for the surge, and our Congressional delegation has continued to advocate for improved law enforcement in Indian country, most recently by introducing the Tribal Law and Order Act of 2008 and the $2 billion authorization in H.R. 5501 for an Emergency Fund to address law enforcement, health and water needs in Indian country.

My concern and frustration is knowing that this surge is limited in duration. Mr. Ragsdale told this Committee in June that the surge would only last three months, but this mission is far from accomplished. Pulling out the additional officers now would mean our officers would again be able to respond to less than half the crimes committed. A temporary increase in police presence does little to deter crime in the long run – people will learn quickly that the BIA no longer has enough officers to patrol and make arrests effectively, and crimes will once again go undetected and unpunished. The worst part will be that our community members will be left with a false sense of safety, and they may learn the hard way that the police are no longer there to protect them.

Senators, I am asking on behalf of my Tribe that the surge staffing levels be made permanent and that adequate resources be appropriated to meet our needs. We have gone too long without adequate police officers, dispatchers, cruisers, communications equipment, judges, Tribal prosecutors, public defenders, detention center personnel, counselors, and alternative programs such as Wellness and Drug Courts. We must work together to stop the bloodletting at Standing Rock and take affirmative measures to heal our community's wounds in culturally appropriate ways.

Long-Term Police Needs

We know that the recent increase in arrests is not due to an increase in underlying incidents. These problems have been occurring on the Reservation for years, but the Tribe has simply not had the capacity to respond. For example, hospital data from 2005-2006 shows 170 admissions for motor vehicle accidents, 499 admissions for assault, and 72 admissions for attempted suicide. Data from 2006-2007 shows 208 admissions for motor vehicle accidents, 611 admissions for assault, and 71 admissions for attempted suicide. In 2006, there were a total of 44,000 requests for service to the police department. In July 2007 alone, there were 1,400 requests. The surge statistics confirm the existence of a problem that our justice system is only now beginning to be able to address.

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[1] In February 2008, the Tribe was informed by Mr. Ragsdale that Standing Rock had the second highest violent crime rate of any reservation. Sadly, any change in the Tribe's ranking is due to increased crime on other reservations, not a decrease at Standing Rock.

Without the surge officers, our justice system is pitifully understaffed and underfunded. The Reservation comprises 2.3 million acres, of which 1.4 million acres is Tribally owned and allotted trust lands. About 10,000 Tribal members and non-members reside on the Reservation in eight communities and in smaller towns. Before the surge, we had only ten BIA police officers. This is enough for only two officers per 24-hour shift to patrol a 2.3 million acre reservation encompassing four towns, eight separate communities, 2,500 miles of roads, and a population of 10,000 residents. This is 25% below the average for Indian country and about 66% below the average number of officers per 1,000 inhabitants in non-Indian jurisdictions.[2]

BIA police officers who have been detailed from other reservations cannot believe a large land-based Tribe such as Standing Rock is so poorly staffed and equipped. They have told us that they want their officers to come to Standing Rock to see how well off they are at their reservations. Our Reservation is one of the largest, yet our police funding and staffing levels are among the lowest. They ask us, "What did you do to make the BIA so angry?"

As a result of inadequate law enforcement, we have one of the highest reservation crime rates. A 2006 "Gap Analysis" commissioned by the BIA to identify and review current policing and detention capacity in Indian country found that BIA District 1, which encompasses an eight-state region including North and South Dakota, had 108 law enforcement officers (LEOs), but needs over four times that amount (483 LEOs). In 2007, the BIA estimated that we would need at least 28 officers at Standing Rock to meet minimally safe staffing requirements, yet by spring of this year we still had only ten officers, despite our repeated requests to the BIA for more officers and despite Congress' increased funding to the BIA in FY 2008 to provide more officers on high crime reservations. In fact, the BIA has never satisfactorily explained to Great Plains Tribes how they allocate law enforcement resources; all we know is that Standing Rock always seems to lose. Operation Dakota Peacekeeper has temporarily provided us with minimally adequate staffing, but the BIA has told us we can expect to go back to our old levels in a month.

We need this increase to be made permanent, and we ask the Committee for your assistance with ensuring that we are not once again left with only ten officers next month. When the United States took the Black Hills on February 28, 1877, it promised to secure to us an orderly government. *Ex Parte Crow Dog*, 109 U.S. 556, 566, cites Article 8 of that Act as follows:

> The provisions of the said treaty of 1868, except as herein modified, shall continue in full force, and . . . Congress shall, by appropriate legislation, secure to them an orderly government; they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person, and life.

This provision remains good law and demonstrates the responsibility of the United States to make the increased number of law enforcement officers assigned to the Standing Rock Reservation permanent positions.

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[2] A 1997 Justice Department study found that Indian country had 1.3 officers for every 1,000 inhabitants, versus 2.9 officers in non-Indian jurisdictions.

Comprehensive Justice Needs

It is also important for the Committee to know that the officer surge addresses only the tip of the iceberg. The Tribe is struggling to provide a comprehensive criminal justice system for our members. This includes police, courts, detention and alternative services, such as Drug/Wellness Courts and alcohol and drug treatment services to reduce our need for detention space. In many ways, Operation Dakota Peacekeeper has only served to highlight deficiencies in our system.

Our courts are understaffed. With police responding to more crimes and making more arrests, our court dockets are bursting at the seams. We currently have three full-time trial judges, one assigned to the Children's Court. Our judges have been working around the clock and on weekends to process arraignments. We need at least one more full-time judge to handle all cases.

Our law enforcement facilities are overcrowded. Surge officers are working out of a trailer in McLaughlin/Bear Soldier, and at Fort Yates they are squeezed into our existing police station. They are being housed in the casino hotel. Our jail is overcrowded as we try to accommodate the new influx of pre-trial detainees and provide space for offenders who receive longer sentences.

We have no 9-1-1 service on the Reservation. In emergencies, Tribal members residing on the South Dakota portion of the Reservation who dial 9-1-1 reach the McLaughlin or Mobridge police departments. Calls must then be referred to the BIA police at Fort Yates, but the response takes too long and precious moments are lost repeating the emergency request. Lives hang in the balance. There is no "golden hour" in Indian country and other rural areas.

We also have insufficient staff to provide proper police dispatch services. Before the surge brought additional dispatchers, we had times when a dispatcher would call in sick, leaving a single officer on duty. That officer could not patrol at all because he had to stay behind to answer calls and serve as a dispatcher. Our equipment and technology is outdated, including our cars, radios and communications infrastructure. We do not even have access to computerized law enforcement statistics. To prepare for this hearing, we had to rely on BIA printouts.

We have nowhere to place juvenile offenders. As you know, we have been working for years to complete construction on an 18-bed juvenile detention center on the Reservation. Right now, we have no juvenile facility. Youth are sometimes temporarily held at the adult facility, which we believe raises serious questions about whether these youth are properly separated from adult offenders and whether they are being housed in youth-appropriate facilities. For longer terms, the BIA contracts with surrounding facilities at Cheyenne River, Pine Ridge and Bismarck, provided there are beds available. In 2008, Tribal youth needed 528 juvenile male contract bed days and 210 juvenile female contract bed days – a monthly average of 75.4 bed days for males and 30 bed days for females. At a bed cost of $102 per day, this means over $75,000 was spent on bed space alone, not counting the costs of transportation or staff time associated with bringing juveniles to facilities located several hours away. When there are no beds available, youth are simply released back into the community.

Finally, we need additional resources for youth. We need school resource officers with adequate equipment to respond to emergency situations at school. We need additional officers assigned to the Standing Rock youth court system. We need drug treatment programs and transitional living facilities. Even with the increased arrest statistics, it is clear that the majority of our youth are arrested for offenses such as Minor in Consumption, Motor Vehicle Accident, Disorderly Conduct and Open Container. Recognizing the enormous mental health, suicide and drug and alcohol abuse problems among our youth, the Tribe had originally hoped to open a youth services center that could accommodate transitional housing and therapeutic services as well as detention, but the project has been gradually reduced in size and scope, and the BIA has shown little support for youth treatment services.

Recommendations

In conclusion, the Tribe makes the following recommendations, which we think will make a meaningful difference in our community:

- Make the surge staffing levels permanent. To fund this, BIA could use a portion of extra law enforcement funding provided in FY 2008 or could use funding appropriated under the newly-enacted H.R. 5501.

- Provide funds for the Tribe to build new facility space to house a Police Department (including a McLaughlin substation), Tribal Courts, and adult and juvenile detainees to keep up with the work generated from a fully staffed law enforcement program.

- Provide funding for the Tribe to build on-reservation housing for additional law enforcement personnel.

- Fund alternative programs at Standing Rock, such as a Drug Court or Wellness Court, and promote culturally appropriate drug and alcohol treatment through demonstration programs.

- Facilitate greater coordination and consultation among State, Federal, and Tribal governments to establish long-term criminal justice goals and practices that are responsive to Tribal needs.

- Direct the BIA to grant Special Law Enforcement Commissions to Tribal Game and Fish Rangers so that they may lawfully respond to Tribal emergencies. The Tribe has drafted a deputization agreement and adopted a supporting resolution to accomplish this. U.S. Attorney Jackley has offered to provide training for Tribal Rangers and to assist the Tribe in seeking federal credentials for these officers, but the BIA has so far refused to cooperate.

- Direct the BIA to approve State-certified law enforcement officers for patrol duties at Standing Rock. The requirement that officers travel to New Mexico for 16 weeks to receive training has severely inhibited our ability to recruit officers. It is difficult for our members to spend such a long time away from their families, and we have lost potential officers because of difficulties with the training requirements. The Tribe has a standing

offer from South Dakota state officers to allow Standing Rock officers to train for free at the Pierre training facility, but the BIA has so far refused to consider this option.

- Establish a pilot program at Standing Rock to educate youth about staying out of trouble, encourage them to pursue careers in law enforcement, and provide recruitment incentives to join the BIA Police academy.

- Improve communication among all First Responders at Standing Rock, including a centralized 9-1-1 call center and state-of-the-art radio and GPS equipment.

I would like thank the Committee for traveling to Standing Rock to hold this hearing and for your continued attention to the law enforcement needs at Standing Rock. It is through your efforts that we have been able to attain a small measure of peace and public safety, and we ask you to work with us to make permanent and build on this improvement.

The CHAIRMAN. Mr. Chairman, thank you very much. We appreciate your testimony and appreciate your hosting this hearing.

Let me just say that the Indian Affairs Committee has similarly requested information from the BIA about accounting for how the money was used. We have not yet received that, and that is not acceptable to us. We will continue to press Mr. Ragsdale and others. They owe us that, and we intend to get it.

So let me make a couple of comments and ask questions. The surge clearly was successful on this reservation. So we know what can work. The officers that were brought in from the surge are now gone. And my understanding is that we have had a dip in violent crime, although last month there were two homicides on this reservation, and there were four forcible rapes. When I look at the numbers, they are beginning to climb back up.

I know that was not the case in February, March, April. But we are beginning to see again an escalation of violent crime. Mr. Chairman, is that your assessment? And I would ask the chief as well. But two homicides and four forcible rapes on a reservation this size in one month seems quite extraordinary.

Mr. HIS HORSE IS THUNDER. Mr. Chairman, thank you for citing those statistics. We do believe, yes, that violent crime is on an increase again on this reservation. I question the Bureau's response to that, and especially since we are coming up on the 4th of July and there are going to be a number of celebrations on this reservation. And we know what happens during celebrations, there is going to be an increase.

And I question the Bureau of Indian Affairs' delegation of their, or assignment of their police officers. Because I had been told that at least we had two canine units on this reservation, drugs are a problem, absolutely a problem, and they contribute to our—we have two canine units on this reservation and they have both been detailed to Mount Rushmore and the Black Hills. We need them here, especially during a time of celebration, a time when there is going to be more drugs on this reservation, I guarantee you. And to have those units off this reservation doesn't make any sense.

The CHAIRMAN. Chief, my understanding was that drugs were targeting this organization, drug peddlers and organizations, and

that the surge really drove most of that out. Are you beginning to be concerned about it coming back in? And answer if you would my inquiry about violent crime, two murders, or two homicides and four rapes in the month of May on a reservation this size does seem to me to be startling.

Mr. HAYES. In regard to the homicides, that entailed a vehicle accident, and that is something that I think can be attributed to Operation Dakota Peacekeeper. Because we had a period of time where we were averaging a fatality every month, every month and a half, that type of a percentage. But then when Operation Dakota Peacekeeper came about, for approximately almost a year and a half we went without one fatality, no vehicle fatalities, throughout that whole period. And unfortunately, we did have one, we had this one and in another one we had two people who unfortunately died in a vehicle accident.

The CHAIRMAN. But it is classified as homicide or manslaughter?

Mr. HAYES. Yes.

The CHAIRMAN. So is that vehicular homicide or manslaughter?

Mr. HAYES. Correct.

The CHAIRMAN. But is it the case of the BIA records showing, I would ask the other Chairs who are here, in this fiscal year, 92 crimes, 89 of them alcohol-related. In the last fiscal year, 195 crimes, 188 alcohol-related. Obviously there is a very close correlation between alcohol and criminal activity. Do you see that in your law enforcement work, I assume? That is what the BIA is reporting. Other Chairs, do you have observation about that? Most of the criminal activity is accompanied by either alcohol or drugs?

Ms. PEARSON. Yes. Drugs and alcohol play a big part in this. Someone mentioned earlier, our reservations are targeted by these drug pushers. I do know that there has been, we are watching for them, anyway, let's put it that way. I can't really give you specifics on it or anything on it. But it is something that we need to get off our reservations, and we don't have the people to keep these folks from coming in. Right now, the way our laws are, they can come there and they can do something, but we can't charge them in our courts, either. So we are prime ground for this.

The CHAIRMAN. Let me ask, several of you have raised the issue of Artesia, the training program in New Mexico. It seems to me that we have a school or training program in Artesia that will take about 150 people a year and they graduate about half of that, 75 a year, for the tribal police force, which makes no sense at all. The BIA police force has a training facility that puts out 75 people a year, it has a 50 percent wash-out rate. One of the things we are trying to do, I just put the first funding in recently for United Tribes, we are trying to establish a BIA training center in the Northern Great Plains here at the United Tribes, because that serves North and South Dakota and about, I think 20 to 30 other tribes.

So we are working on that. But it seems to me that Artesia just isn't working. You can't have 150 slots a year, graduate only 75 and believe that takes care of the training for the BIA law enforcement contingent. That is just not acceptable.

Chairman His Horse Is Thunder, you indicated 9 suicides since January and 15 attempts. As you know, I sent some staff from the

Indian Affairs Committee down to the reservation. We have been interviewing and talking to people, because we do have to begin to work with you and others to address that in a very aggressive way. Suicides come in clusters, and that is of great concern.

I want to ask all of you, if I might, Senator Thune will remember that the U.S. Attorney from South Dakota was here the last time we held this hearing, I believe in August. I think he indicated he had assigned someone to this reservation, or assigned Assistant U.S. Attorneys to go to the reservations in South Dakota, which I think included this reservation, because it is on both sides of the border. The question is, does that relationship still exist with the U.S. Attorney's office? The reason that is important is, that is who is required to prosecute violent crimes, and we have this very high rate of declinations, declining to prosecute.

Do you still have that relationship with the U.S. Attorney's office in South Dakota? And is there a similar relationship, do you have a presence on your reservations with the U.S. Attorney's office in North Dakota?

Mr. HIS HORSE IS THUNDER. The U.S. Attorney from South Dakota who initiated that was Marty Jackley. I think he was the first one who actually had good relationships with tribes in South Dakota. The unfortunate thing with the change of administration is that Mr. Jackley is no longer there. So we will have to wait and see who is assigned to the U.S. Attorney's office for South Dakota and whether or not they will maintain that good relationship that we had.

The North Dakota U.S. Attorney, on the other hand, has never set foot on this reservation that I am aware of, nor has he had a working relationship the same as Mr. Jackley tried to have with the tribes.

Ms. PEARSON. Well, our State's attorney, we have had visits from their office. I must say that even the judges came up and met with us in our headquarters.

The CHAIRMAN. You are talking about the local State's attorney?

Ms. PEARSON. Yes. They want to work with us, and I am glad for that. But the only thing that disturbs me is that it depends on how you profile your cases before they would do anything. And that is sad. Because there are a lot of these that should be taken care of, and go on with that, you continue and people get the impression that, well, I can do it and I will get away with it.

The CHAIRMAN. The U.S. Attorney's office, have they been present on your reservation?

Ms. PEARSON. They in fact brought Judge Erickson and Judge Palvey out to visit. I was very thankful.

The CHAIRMAN. Chairman Marcellais?

Mr. MARCELLAIS. To the best of my knowledge, I don't believe the U.S. Attorney's office has been out to Turtle Mountain. But I would have to follow up on that.

The CHAIRMAN. Mr. Packineau?

Mr. PACKINEAU. They have been, but not nearly enough. It would be nice to have a more visible presence, if he comes up, and le them know that we have support. It just takes a long time for anybody to get prosecuted and that is, like somebody else had said earlier,

they take so long that a lot of times some of those don't even get prosecuted. Therefore, some people just give up.

I want to touch on a question you asked earlier. You said that a lot of our, the alcohol-related, I think we need more money for addiction services. And especially in Fort Berthold, we need something for our juveniles. We have an increase in juvenile activity there, but a lot of times we cannot hold them or keep them. And if we do, we need somewhere where they can go to maybe get some services. A lot of it is mental services they probably need. Or maybe some addiction services also. But we don't have that right now. What we would like to do is get some money to maybe create some sort of regional juvenile center. It really needs to be done here in North Dakota. I am sure if it is happening in Fort Berthold, it is happening in the rest of the reservations.

The CHAIRMAN. And your tribe is engaged in the self-determination execution of law enforcement, is that correct? You are contracting for law enforcement?

Mr. PACKINEAU. Yes.

The CHAIRMAN. And you also are having problems with that, I think you described the problems in your testimony.

Mr. PACKINEAU. Exactly, Senator. And it all goes back to the lack of money. We took it over because we were putting so much money into the program anyway. And it is not really getting any better. We would like to see more technical support. Especially, we are at a learning stage here, we need more technical support from the BIA and just a little bit more help to make that transition more complete.

The CHAIRMAN. We are trying to do a couple of things. Number one, with the legislation that we want to get passed on law enforcement, we want to connect the local law enforcement folks, the States' attorneys and the county sheriffs, with the reservations and the tribal police and the reservation, the law enforcement apparatus. We want the U.S. Attorneys to have a better connection, because they are the ones that are going to have to prosecute the violent crimes. And there is a high rate of declining on those prosecutions.

Again, I remember and was impressed by what the South Dakota U.S. Attorney had done, to actually assign Assistant attorneys to come to the reservations routinely, sit down, talk about things. That is exactly what should happen. My hope would be that would continue in South Dakota, and my hope is that it would begin in North Dakota, because that is very important.

Let me call on Senator Thune for questions.

Senator THUNE. Thank you, Mr. Chairman.

As Senator Dorgan mentioned, there are several things his bill, of which I am a co-sponsor and I think we have 17 bipartisan cosponsors for, the Tribal Law and Order Act of 2009. It was put together, I think, with a lot of consultation from tribes and law enforcement, and trying to determine what some of these issues are that we need to be addressed to improve upon the public safety and law enforcement issues on the reservations. I hope we can get that through the Congress.

There is also this Emergency Fund for Indian Safety and Health on which we worked a year ago as an authorization, Senator Dor-

gan in his position on the Appropriations Committee has some funding for that consistent with that authority to help beef up law enforcement on the reservations. So I would describe those as both sort of major initiatives that are designed to deal with the long-term problem. In the near-term, I last week contacted the BIA and then also the Interior Department just to suggest that they need to make sure that they got manpower and resources out here to keep up with what got started last year and what I think was very successful. You have all alluded to the progress that we made with the surge, with Operation Dakota Peacekeeper. And my fear is that if we don't sustain that commitment that we are going to reverse field and lose a lot of ground that has been made.

So there are a number of things that we are working on that will address what I think many of you have alluded to as a manpower and resource issue and what BIA continues to tell us is something they need. So we are trying to address those issues.

But I am particularly concerned about this public safety issue. Because to me, this is fundamental to everything else. You cannot have kids who learn in classrooms if they are worried about their safety. You cannot attract economic development or jobs to your communities if people are worried about public safety. So it is the predicate upon which everything else is based. We have to get this right. And I am interested in, Chairman His Horse Is Thunder, the correlation to suicides. Nine suicides since January, and 50 attempts? That is tragic, it is breathtaking when you think about that. I think that hearkens back to some degree, as you mentioned, to the absence of public safety. If people are worried about their security and fearful about their future, they are more inclined to take steps like that. But it is a statistic that really is, it is stunning, and it is something we just have to change.

I think what I saw with the surge and with Operation Dakota Peacekeeper was a sort of a commitment to community policing and beef up law enforcement presence, people get more involved in addressing some of the smaller crime issues and those help prevent larger crime issues. So I just hope that we can get the BIA to continue to step up. I am struck by the statistics, as I look at these charges, of where the biggest needs are. And they are up here in the upper plains. So we have shortages in terms of law enforcement and the highest crime rates are in reservations here in the upper plains. And I think it directly correlates to the fact that we don't have enough manpower out here.

A couple of quick questions. One, I want to come back to this training issue. I don't know, Mr. Chairman, if this is something that we can address. Is that a liability issue? Why is it that you can't take returning veterans who have experience as military police or other law enforcement experience and put those people to work on the reservations, rather than waiting for them to get into this line to get through the training facility down there, which sounds like it is backed up? There is a waiting line, we have this desperate need for more law enforcement officers and personnel on our reservations. Yet we can't get them through the training.

I understand there are other issues with regard to retention and people out here, housing, all of which have to be addressed. But I can't imagine why we wouldn't be able to figure out a way to get

people trained more quickly, so they can get out on the job. Many of you mentioned that in your testimony. I guess I am curious as to, is that an issue that BIA says that if they don't go through this particular training facility that there are liability issues that the BIA has to deal with? And how does that work with 638 contract law enforcement? Why can't we get around that?

I think part of it is creating a second training facility up here where we can get more people in. But that shouldn't be a deterrent to us being able to get people out here and in positions. Anybody want to speak to that?

Ms. PEARSON. I would like to add something. I understand the qualifications that they require, but I guess I can't understand that either, because the people that come out of the military are trained. You have some of them that went through Quantico. What better training than that can you get?

But at the same time, Artesia, we had an officer back home that was one week, I believe, away from completing his training. And because his mother died, he went home. And you have to start the course all over again. Didn't make sense. To me, I always say this, if that was my money, boy, I would spend it where it was supposed to be and I would have someone over to do something else. It is really crucial. I just don't think we need to go that far. And I hope you folks can go back and supported the United Tribes training center that they want to develop and open. Because I think we need it here.

I did go to a graduation down in Artesia one time and I noticed that most of the graduates were from the upper plains, upper Midwest. They had 30 some of them come out of Pine Ridge alone. That is a lot. So you have most people that actually come from this part of the Country, but they have to go down there, and they are sitting down there for four months away from their families. These things like this cause family issues as well. Not only do they try to provide for their families, but it always takes away from their families, the sacrifices.

Thank you.

Mr. HIS HORSE IS THUNDER. Senator, on that point, I can't speak about the Bureau in terms of whether or not they believe it is a liability issue and that is why they have to go to Artesia. I do know this, I have been told a number of times that the only real difference between Artesia and State training, State-certified officers, is about a two-week course on Federal jurisdiction in Indian Country. That is about the only real difference, is that. So if you had State-certified officers that could go through a two-week training on jurisdiction in Indian Country, I think that should suffice.

But you also asked another interesting question in terms of 638 contracting, those tribes which 638 their police force. I know that The Three Affiliated Tribes, and I really don't want to speak out of turn, but Chairman Levings was here yesterday, and we were talking about 797. We were taking about it yesterday and he made an interesting comment. Chairman Levings said this. He said that when they 638'd their police force up there that there were a number of BIA officers who came over with the contract, who decided they would leave the BIA and they would stay with the tribe under the 638 contract.

The Bureau said that those police officers weren't good enough. As soon as the tribes took it over, those police officers, a couple of them, I don't know how many of them, who were adequately trained for the BIA law enforcement office, when they transferred over to 638, somehow they weren't qualified. And the Bureau wouldn't allow them to maintain those officers under the 638 contract. That is crazy. So it doesn't, I think in a way that they were attempting to send a message to the rest of the tribes saying, don't 638, because we are going to make it hard for you.

Senator THUNE. That just seems like a terrible barrier, and one we ought to be able to get around. Mr. Chairman, I think some of these questions that Chairman His Horse Is Thunder raised about where BIA is allocating resources are really good questions. Because we have increased funding in the last few years, and where are they directing it? Because it is pretty clear to me that the biggest deficiencies in the number of law enforcement personnel are in these areas that are in the greatest need.

Let me just ask one question of everyone here, if I can. We know the direct impacts of crime, theft, injury, those are pretty apparent. But I am wondering if you could speak to some of the indirect impacts that high rates of crime and poor public safety have on communities. I was visiting with the mayor of McLaughlin earlier today. I think when the surge was implemented, there was a lot of illegal drug activity going on in some of the communities. They were able to knock that out, which I understand now, and I think the Chief referenced this too, is starting to come back. But what are some of those indirect impacts of not having adequate public safety, notwithstanding, obviously, the direct impacts which we are all fairly aware of?

Ms. PEARSON. In my testimony, I explained there that we had a strategic plan done. In surveying the whole community at Spirit Lake, in all four districts, the number one concern was substance abuse. And we had like our law enforcement and stuff deliver issues to us. But from all the people that were surveyed, of the four districts, the number one concern was substance abuse.

And I didn't get to read any of the surveys, I don't belong there, that is supposed to be confidential. But there are people that are willing to come forward and admit it. But again, they are afraid, because we don't have enough protection services for them. But it is a great concern, because it is involving their children and grandchildren. But they are scared to come forward. It has been a concern for many years. They have finally been able to put it on paper and get somebody's attention. And they have gotten our attention. Because I want to do something with that strategic plan.

I do believe, Senator Dorgan, there might be a copy of that in your office. I believe I sent that. But it has a big impact on our community. And it is not only just the community, it is all ages of the community.

Mr. MARCELLAIS. First of all, the military, I keep saying, you have resources within the Federal Government that can be utilized. I think sharing resources between the military and the tribes, say, detailing MPs or whatever out to the reservations, they are in the military, they are government employees. Why can't they come out

to the reservations and provide their services? I don't know if there is a shortage in the military for MPs, but that is a suggestion.

The other thing, the impact, talking about the drugs, at one time we had three canine units up in Turtle Mountain, and I think we are down to one now. When we had three canine units, it didn't eliminate the drugs, but it cut them back. I think the other thing is, the drug traffickers know that reservations are limited or don't have enough law enforcement. So naturally, they are going to migrate to the reservations. Because there are a lot of police officers in other communities that are going to stop that. So that is my comment.

Mr. PACKINEAU. I just want to say that there is probably a rise in all areas of crime. But that is a direct result of the lack of funds to adequately supply enough officers in different areas. I know in Fort Berthold, we have six different districts. And in some of the districts, we only have one officer on duty for the whole segment. And that covers the rural areas, too, because we are rural up there. And everybody knows that police officer's schedule. So they know when he is sleeping, they know when he goes 20 miles out or wherever, and that is when the crime occurs. So we need just more money to do law enforcement, of course, you guys know that also.

One other thing I was going to say, up in Fort Berthold, if we get a push on the county sheriffs to cross-deputize their law enforcement and our law enforcement, and of course, we are going to have to distinguish where their jurisdiction is and what it is, but it can be done. We have sat down, we have had State Highway Patrol come down, we have had many meetings. It seems like after one meeting, everybody says we are going to have another meeting, and it just never formulates.

It would really help if we had cross-deputization. That would help our lack of officers. That would really help.

And you were asking the question earlier about Artesia and what-not. It is BIA regulations, there we are. And again, BIA regulations, it is just more and more steps you have to follow and do, and that is why, BIA regulations. They have to follow the regulations.

Senator THUNE. This maybe, Mr. Chairman, the indirect impacts of lack of public safety, the question was the direct impacts, but just some of the indirect impacts.

Mr. HIS HORSE IS THUNDER. One of the indirect impacts, you see the mayor of McLaughlin and a number of his council as well, that last year, for the first time, I met the mayor, and for the first time, I met his council. I think they were very pleased, both the Indian community felt safe and the non-Indian community felt safe. And I think as the numbers started to decrease with the surge, both communities, both Indian and non-Indian communities, feel a little bit less safe. Feeling a little less safe escalates or brings back the tension, the racial tension that has always existed on the reservations.

I think when you have good public safety, those racial tensions start to ease and we start to communicate with each other more readily. So if I could point to one indirect, that would be that the tensions are starting to increase again. Well, you see the mayor here, and he is amenable to having conversations on what we can

do better. But that is one of the indirect effects of having less public safety.

Senator THUNE. Thank you, Mr. Chairman.

The CHAIRMAN. What I would like to do is ask the mayor of McLaughlin, who is with us, to perhaps say a word, if you would give us your perspective. And I will ask the tribal judge, Judge Zuger, to give us his perspective. Then we will entertain a few minutes. If you will be brief, we would be glad to hear if you have a perspective on this. As I indicated, both Senator Thune and I have another schedule today, so we have to leave in a bit.

So, the mayor of McLaughlin.

STATEMENT OF HON. ARNOLD SCHOTT, MAYOR, MCLAUGHLIN, SD

Mr. SCHOTT. Chairman Ron, Lieutenant Hayes, Special Agent Dave Barnes, all the BIA officers, I appreciate what you have done. Our community looks better, Senator Thune, Senator Dorgan.

What Ron just said is the truth. We have come together a long way since last summer. I have a good council, very good council. We are working together. In fact, we had a cleanup, we combined, Fort Yates sent a few prisoners down to help clean up. We had a wonderful time. Both cities saved money by just cooperating and cleaning up.

But I appreciate what you have done for our community plus Standing Rock. We have come a long way, we have a long way to go. Drugs is a very big issue. When the surge came, the drugs left. When the surge pulled out, they were back. And we need to work on that. These little kids, I see them, from my shop, that I am concerned about that have a whole life ahead of them, they are getting drugged. I am also the coroner of Corson County. Five suicides in the month of June. Dave Barnes and I have been at these suicides. And something has to be done. We have to get rid of alcohol and drugs. That is our main thing.

As far as the city council and Lieutenant Hayes and Ron, we have come a long way and we are working together. We signed a form, they cooperate with us and we cooperate with them as far as the Indian and the white are concerned. And it has helped. But like everyone says, we need a lot more funding, we need police. Too big a reservation for these fellows. They have to be all over them. And like Ron said, they know, the people know where the BIA police are.

So I appreciate what has been done. We need help. Thank you very much.

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

If you will give that to Judge Zuger, we would like to hear from Judge Zuger.

STATEMENT OF HON. WILLIAM ZUGER, CHIEF JUDGE, STANDING ROCK SIOUX TRIBAL COURT

Mr. ZUGER. First of all, I want to amplify what has been said about the training in Artesia. In my conversations with the BIA here at the local level, they are superb to work with. There seems to be an arrogance at higher levels. The State training facilities are fine. The Federal training facilities are fine. Mr. His Horse Is

Thunder's comment about the difference being two weeks in jurisdictional training is absolutely correct. My understanding is that Artesia is where it is because it was picked up as military surplus. It is physically very isolated. People I have talked to say that one of the primary problems is sending young people down there, they become homesick, they are completely out in the middle of nowhere. The State facility at BSC and United Tribes have put together a superb training programs.

Secondly, what has not been addressed here, and I would like to address that point, is the jurisdiction over criminal offenses is inadequate. I will give you one example that has not been mentioned yet, is white on Indian crimes. The State does not have jurisdiction. The U.S. Attorney's office is isolated up in Bismarck. There needs to be State jurisdiction over non-Indians who commit crimes against Indians.

The CHAIRMAN. As a tribal judge, again, I am asking this question because I was so impressed with what South Dakota did, have you had contact with the U.S. Attorney's office? Are they coming down here? Are they connected at all? Because they have responsibility.

Mr. ZUGER. The only contact I have had was with Marty Jackley, who was superb. Drew Wrigley has a terminal attitude problem. We have not had any significant cooperation. We have had to dismiss numerous rapes, because we can't get the rape kits back. The Federal Government takes them and we can't get them back and we end up having to dismiss.

The CHAIRMAN. Dismissing rape charges because you can't get the rape kit back?

Mr. ZUGER. Yes. The FBI takes the rape kit and we can't get it back. So we end up, we have our prosecutor here too, if you want to talk to him. I think he can verify this. We can't even do a tribal prosecution, because they have the evidence, we can't get it back.

The CHAIRMAN. On that point, they have the evidence, they decline to prosecute, but they won't give you the evidence?

Mr. ZUGER. Either they decline or they just don't get around to it. It is one or the other, Senator Dorgan.

Then we have another problem, in the event they decide to do another surge, and that is, I got a call last night from Titus White Body, our shift supervisor. We had people who were scheduled for delayed check-in. We have a capacity of 48 in the jail. We had 80 people in there as of 8:30 last night. We have a number of people up at the regional facility up at Rugby. We simply don't have a place to put them if we arrest them.

Then finally, I know the two of you have to leave, I want to address support facilities. They say in real estate, location, location, location. In tribal crime, it is alcohol, alcohol, alcohol. And I understand there is a meth problem as well. Ninety-nine percent of our problems are alcohol. We have no place to have any meaningful treatment.

I had a gentleman who we sentenced to a very long term. And he began to cry, and he said, thank you, this is going to give me a chance to try to get this monkey off my back. We do not have facilities to treat these people. We have to try to work with the States. North Dakota has a more comprehensive human services

budget. We have an easier time in North Dakota. But we need a place for people to get some alcohol treatment. Those are the things I wanted to address, Senator Dorgan and Senator Thune.

The CHAIRMAN. Would you be willing to put together some anecdotal evidence of that for Senator Thune and myself and for our Committee, so that we can follow through on that?

Mr. ZUGER. Yes, and I would fax it to Mr. Harte. I made the mistake of sending something first class last year, and apparently the anthrax check greatly delayed its receipt.

[Laughter.]

The CHAIRMAN. I appreciate that.

On the issue of law enforcement training, I put in just a half a million dollars now that is going to be on its way to the United States to start this process. Because what we want to do is create a second Artesia to be on the northern great plains. United Tribes is a perfect place for it. It is the right location, the right facility. It is a combination of some, how many tribes, David?

Mr. GIPP. Sometimes up to 70.

The CHAIRMAN. And 20 to 30 States. So we are going to work, all of us in the northern plains are going to work to make this happen, because the current system is not functional. It is not solving the needs.

I think what I would like to do is ask if we can have David Gipp say a word about that as we try to wrap up. David Gipp, as you know, is President of the United Tribes Technical College and I think does a great job for all of us.

STATEMENT OF DAVID M. GIPP, PRESIDENT, UNITED TRIBES TECHNICAL COLLEGE

Mr. GIPP. Thank you, Senator. Senator Thune, Senator Dorgan and all the tribal officials that are here.

It is a paramount issue, as you well know. And we look forward to doing what we can to provide any kind of training. We have done law enforcement training, in fact, for nearly 40 years. We do a certified program already that is post-board, recognized by the State of North Dakota.

We now have in place, after seven years of negotiation, or awaiting, I should say, an MOU with the Bureau of Indian Affairs on cooperation between ourselves and Artesia. It isn't quite what we want at this point in time, but it is a beginning, in which we allow for some specialized training to begin to occur on our campus in association with Artesia. So it is a step in the right direction. But it is hardly yet at home base. We think that much, much more can be done at this point.

So we appreciate the efforts of the U.S. Congress to provide some additional assistance to augment the very training that you talked about. Because we think that basic law enforcement training could and should be done on the northern plains. And we can serve anywhere from a minimum of 20 to up to 70 different tribes. That is the part of our history in the past 40 years that we have been in service.

I just want to add one additional point to the legislation that you are looking at on reform in Indian Country for law enforcement. That is, the question was asked by Senator Thune about training

and what additional things and steps that could be done. I would hope that the Congress would look very clearly at why Artesia is in fact the lock-gate for those who enter into law enforcement on our reservations. It is the last vestige of what I call colonial rule over tribes. Because they control who can and can't provide law enforcement on our tribal nations' reservations. They have that locked up by authority through their CFRs. I believe it is even ensconced perhaps in law or through appropriations itself. So Congress needs to examine that.

The second thing that I would hope Congress looks at is the issue of allowing and assuring that tribes have the right to determine the standards and the accreditation that they need for their own people. That is the real fundamental issue that they need to have, is a clarification of that authority. Because they do have it. The unfortunate thing is that they get lockstep with Bureau of Indian Affairs rules and regulations, and even Quantico, as far as that goes. Much of those kinds of things are not tailored to the needs of Indian tribes and tribal nations.

So I hope you will look at that authority more closely and assure that tribes can and will be able to carry out those functions in a way that the research and those kinds of things that need to be done can be done by us and others within Indian Country.

The CHAIRMAN. That is a very important point. I also want to say that there needs to be minimum standards. Because in order for a tribal police force to access the criminal data base and do the things that are necessary to integrate in with other law enforcement, there needs to be minimum standards. We could not have 500 separate tribal government standards that don't respect minimum standards in order to be integrated into the system.

Mr. GIPP. I agree with you, Senator. What I think Congress should do is enable tribes to be able to develop those standards, though. That is what I am getting at.

[The prepared statement of Mr. Gipp follows:]

PREPARED STATEMENT OF DAVID M. GIPP, PRESIDENT, UNITED TRIBES TECHNICAL COLLEGE

This testimony is submitted for the record in the above entitled hearing. I want to thank Senator Byron Dorgan for holding the hearing within the boundaries of the Standing Rock Nation, of which I am a citizen. As stated at the hearing, I want to reiterate my support for a Northern Plains Law Enforcement Academy located at Bismarck at United Tribes Technical College, and I thank you again for your support for this issue.

But also, I want to emphasize that one essential component to law enforcement in Indian country, and I believe a lesson that continues to be learned from efforts like Operation Dakota Peacekeeper, is that Tribal governments should be empowered and be provided the resources by the legislation to develop their own principles and values for law enforcement and law enforcement training that meet all appropriate federal law and standards.

Several studies have shown that tribal sovereignty works to assist in tribal economic development and to benefit tribal citizens. The same is true for any aspect of self-government. Ensuring that Tribal governments have the flexibility to progressively evolve based upon local community ideals is the cornerstone of community policing philosophy. This, of course, is not inconsistent with federal standards and serves to advance tribal sovereignty and the ability of Tribes to govern themselves.

The reasons to promote community based law enforcement programs in Indian country are several—among others:

1) Tribes often have different legal systems than the U.S. and states;

2) there are different jurisdictional aspects to law enforcement in Indian country;

3) there are often different tribal cultural norms for law enforcement efforts; and

4) there are often different tribal standards for application of criminal laws and resolving disputes.

In my view, the unique nature of Indian communities requires an approach to policing that promotes "Contemporary Policing with Traditional Values". Thus, it is preferable for tribes to maintain their distinct identity and promote their culture and values while complying with general accepted principles of law enforcement. This philosophy can be attained and will be promoted by the United Tribes Technical College as we seek to develop educational and training programs that help tribes realize safer communities through the implementation of modern policing and effective policing techniques. For example, the Navajo Nation has its own law enforcement academy for Tribal law enforcement officers. Their officers police with an understanding of the tribe's unique customs and expectations.

This is the goal of the Northern Plains Law Enforcement Training Center that we envision for the campus of United Tribes Technical College. This effort can, in the end, provide the kind of law enforcement officer well-versed in tribal policing that is so much needed on the Standing Rock Reservation and on many other reservations throughout the upper Great Plains, and throughout Indian country.

Tribes now have the capacity and leadership to take on this essential task. The legislation you have proposed in S. 797 goes a long way to help Tribes meet these goals. My preference is that the legislation should empower Tribal Nations to continue to improve the self-government effort began under the Indian Reorganization Act of 1934. Specifically, in Title III, Section 301(a), which amends Title 25 United States Code, Section 2802(e)(1), I would rewrite the new subsection (A) of Section 2802(e)(1) as follows (new language is italicized):

(A) The Secretary shall, *in consultation with federally recognized Indian tribes,* establish appropriate standards of education, experience, training, and other relevant qualifications for law enforcement personnel of the Division of Law Enforcement Services who are charged with law enforcement responsibilities pursuant to section 2803 of this title, *and shall recognize as fulfilling the requirements of this subsection the standards of education, experience, training and other relevant qualifications for law enforcement personnel as developed by any federally recognized Indian tribe that meet the relevant Peace Officer Standards and Training.*

These changes basically incorporate the recognition of tribal standards of law enforcement training that are so essential to effective law enforcement in Indian country. The standards Tribes might develop are not intended to reduce the standard of training required, but are instead meant to enhance that training to make it relevant to law enforcement efforts in Indian country.

As always, Senator, on behalf of the United Tribes Technical College community, I want to thank you for your work in Indian country and on the Senate Committee on Indian Affairs. Please feel free to contact me if you have any questions about this testimony.

Attachment

Dear Senator Dorgan:

This letter is a follow-up to my comments at the Field Hearing on Law Enforcement in Indian Country held on July 1, 2009. I want to reiterate my support for a Northern Plains Law Enforcement Academy located at Bismarck at United Tribes Technical College, and I thank you again for your support for this issue.

But also, I want to emphasize that one essential component to law enforcement in Indian country is that Tribal governments should be empowered and be provided the resources by the legislation to develop their own principles and values for law enforcement and law enforcement training that meet all appropriate federal law and standards. Several studies have shown that tribal sovereignty works to assist in tribal economic development and to benefit tribal citizens. The same is true for any aspect of self-government. Ensuring that Tribal governments have the flexibility to progressively evolve based upon local community ideals is the cornerstone of community policing philosophy. This, of course, is not inconsistent with federal standards and serves to advance tribal sovereignty and the ability of Tribes to govern themselves.

The reasons to promote community based law enforcement programs in Indian country are several – among others: 1) Tribes often have different legal systems than the U.S. and states; 2) There are different jurisdictional aspects to law enforcement in Indian country; 3) there are often different tribal cultural norms for law enforcement efforts; and 4) there are often different tribal standards for application of criminal laws and resolving disputes. The unique nature of Indian communities requires an approach to policing that promotes "Contemporary Policing with Traditional Values" in my view. Thus, it is preferable for tribes to maintain their distinct identity and promote their culture and values while complying with general accepted principles of law enforcement. This philosophy can be attained and will be promoted by the United Tribes Technical College as we seek to develop educational and training programs that help tribes realize safer communities through the implementation of modern policing and effective policing techniques. For example, the Navajo Nation has its own law enforcement academy for Tribal law enforcement officers. Their officers police with an understanding of the tribe's unique customs and expectations.

Tribes now have the capacity and leadership to take on this essential task. Your legislation should empower them to continue to improve the self-government effort began under the Indian Reorganization Act of 1934. I encourage you to recognize this goal in the legislation your Committee is now considering. I will also be submitting my written testimony for the record of the Field Hearing you held on July 1, 2009, in this regard.

As always, Senator, on behalf of the United Tribes Technical College community, I want to thank you for your work on our behalf.

Sincerely,

David M. Gipp
President
United Tribes Technical College

The CHAIRMAN. A couple of additional folks, then we are going to have to wrap up.

STATEMENT OF DANIELLE YONON, DIRECTOR OF RESOURCE DEVELOPMENT, GRAND RIVER AREA BOYS AND GIRLS CLUB

Ms. YONON. Thank you. My name is Danielle Yonon. I am the Director of Resource Development for the Boys and Girls Club of the Grand River area. We operate in three sites on Standing Rock.

We are not a tribal program, but a community-based program. Last year, we had 514 enrolled children and youth.

I think to this discussion and consultation, policing and law enforcement is key for a safe community. But creating a safe community is also prevention. And an ounce of prevention equals a pound of cure. Our agency is focused totally on youth development. With the recent tragedies, the epicenter was at McLaughlin. Seven of the nine suicides directly affected and impacted our club, our staff, our children.

And I think in this discussion, there also has to be a human face and a human reality put on that tragedy and the cost and the toll that it has taken in our community. One of our staff members was also one of the seven. The youngest was 13. We were able to bring in someone to do the emergency and grief counseling with our staff. If we weren't able to do that, that kind of tragedy would cripple our organization.

There is an immediate need and there is a gap in services with that. On the second suicide, there was a community healing ceremony. We are taking the children over. Some of the children walked and 17 of the children discovered the third suicide.

Those children, after a week we realized there was a coordinated response to it. They went to the school, the school wouldn't let them in, because prayer isn't allowed in school. After a week, it was our staff who realized that 14 of the 17 children were at the club and nobody had talked to them. They had not received any kind of professional counseling or help. We were able to meet that need.

Our response to it, that there has to be a strategic, systematic plan and approach to deal with the youth development, not only to those immediate tragedies, but for the long-term prevention.

The CHAIRMAN. Let me thank you for your work, and to say that the Boys and Girls Club is extraordinary.

Ms. YONON. I do have a recommendation.

The CHAIRMAN. All right, please.

Ms. YONON. My recommendation is that, without the investment in the children and youth, you are going to be coming back next year and in 10 years talking about the same issue. If the investment had been made 20, 30 years ago, the magnitude of the problem might not be as big as it is now. The investment wasn't made. Youth development, tribal youth development requires a single source funding protected by Federal legislation, much like Head Start. That kind of investment and protection is going to provide prevention and the development that the communities need. That would be my recommendation.

We have some work done on that. We can provide that. We have worked with the tribal chairmen. There are things we can provide to support that kind of thing. But that is my recommendation. And these kids, the kids that we work for and the families that we work for, this is their voice. Without a champion, without someone to stand up and say that this needs to be done, it is not going to change.

The CHAIRMAN. The legislation that we have talked about this morning, that Senator Thune and I have worked on is S. 797. It has two programs for youth in it. One is a SAHMSA program, the

other is Department of Justice, in order to provide a funding stream for youth programs. I totally agree with you and understand the urgency of it. As you know, I have held three hearings on teen suicide on Indian reservations. We are continuing to work on this.

I sent a staff person down three weeks ago to this reservation. We are now going through what the mayor of McLaughlin and others of you have described to try to see what we can do here to begin to address this. It seems to me a cluster has developed that we have to address. Your recommendations are certainly important.

John Harte, from my staff, who is the policy director of the Indian Affairs Committee, will remain here after this hearing is completed to meet with any of you and all of you. He has some time. So I regret that Senator Thune and I have other schedules. I am going to have to leave in a bit.

We do have Michael Jandreau, Chairman of the Lower Brule Sioux Tribe, who wishes to say a word.

I would like to ask your cooperation, however, because both of us have to leave. If you will just be very brief. We appreciate very much, Mr. Chairman, your being here as well.

STATEMENT OF MICHAEL JANDREAU, CHAIRMAN, LOWER BRULE SIOUX TRIBE

Mr. JANDREAU. Thank you very much for giving me the opportunity to speak with you.

I agree pretty much with all the testimony that you have heard here. I would like to address the fact that we haven't had a facility at Lower Brule for three or four years now. We have not been able to staff that facility because of restrictions that seem to be there. We have passed action to allow and to request that anyone qualified would be considered to be hired by the BIA, regardless of what their ethnicity is.

We have had to tribally hire people who meet the standards who are not Indian people. And we have been tempted to get them hired by the Bureau of Indian Affairs, and we have found them to be rejected by the Bureau, even though they qualify, they wish to be employed there and we just need the service to deal with a complex such as we have. Without full staffing, full qualified staffing to meet the standards, regardless of their ethnicity, they must be allowed that opportunity if we are going to succeed. The process of culturally sensitizing these people, however, is our responsibility.

Thank you.

The CHAIRMAN. Would you be willing, with your tribal council, to put together a statement about the specifics of what you have just described and send to my Committee, myself and Senator Thune?

Mr. JANDREAU. Sure.

The CHAIRMAN. Thank you very much.

And finally, the last word.

STATEMENT OF VALERIE HILL, ENROLLED MEMBER, STANDING ROCK SIOUX TRIBE

Ms. HILL. [Greeting in native tongue.] My name is Valerie Hill. I am an enrolled member of the Standing Rock Sioux Tribe.

I am here, I have been to several of the times you have been coming to our reservation, Standing Rock, to hear what is going on. During the last three or four times, I have heard someone from Congress coming down to the tribal building to hear the common people, me. The common people that don't have jobs, that don't get paid by the Federal Government. We are never heard, our issues are never heard.

I would like for some time for you or someone from Congress, Senate, to come down and listen to the people, the common people. Because we don't get paid to say all these nice things that you heard. We want to tell you the truth about what is going on here on our reservation. My hat is off to all these police officers here. Because when you had that big surge, it destroyed the respect that our officers once had by bringing in other officers.

You talk about how successful it was. What you did was get the people that smoke, not the people that sell, not the people that manufacture. They were still in operation during that whole surge. They are still in operation today. The only people that got arrested were the ones that use. The people that make it never even got touched, because they are non-native. Just like Judge Zuger said, when it comes to our tribe, our reservation, we are not protected from the non-native. I had to go to court, and I had to stop going to ceremonies, I couldn't go to the tribal building, I couldn't go to the courthouse, I couldn't go nowhere, because a non-native took me to court in my court, tribal court. That is wrong.

When I asked, well, where do I take her, where can I take her, our own judge told us, bring it back here. Little do they know, they don't have jurisdiction over non-natives.

There is a lot of things that are going on, our landowners, you have the landowner program, Congress approved the landowner payment to landowners, 40 acres or more. I got a list of that, as passed all around through Standing Rock. Lot of people on that list that didn't even own 40 acres. Lot of people that didn't even live down there. A lot of people that weren't even 60. Some of them lost over 1,000 acres and only got $20,000. Others got 31 acres and got $40,000.

This landowner stuff, and they are going to be sending another one. The Dorgan bill, I just got a piece of paper a couple days ago about the Dorgan bill. You read that Dorgan bill, again, the landowners are left out.

And you know, most of these landowners are full blood. Treaties were signed with full blood.

The CHAIRMAN. What is the Dorgan bill?

Ms. HILL. It is from Mike Watson, whoever, engineering, through Everett Iron Eyes, Senior, to Chase Iron Eyes, and it is a draft Dorgan bill. And it deals with landowners, our landowner issues here on Standing Rock, supposedly the landowner issues. But if you read this, there is nothing in there for the landowner.

These are issues that we, the people, would like for you to hear, because our council don't hear us. Thank you, Senator Dorgan, and I will respect the people here. Thank you.

The CHAIRMAN. I am not aware of the Dorgan bill, but I will be very interested in learning what I am doing.

[Laughter.]

The CHAIRMAN. Let me say one thing to you, if I might. First of all, you spoke your piece and I appreciate that. That is part of the reason Senator Thune and I come here. And we have on other occasions, you talked about hearing the people, I have been on this reservation and I have met with high school students at my request, and I was the only adult in the room, just to talk to them about their lives.

You don't know about that, because I didn't tell you and the press doesn't know about it, because I didn't tell them. I just came down here and sat down with a bunch of teenagers, just myself, to say, tell me about your lives, tell me what is going on. One of the reasons I did that is because this suicide situation is unbelievably staggering. We have to fix it. We have to find a way to deal with it.

So I appreciate the work that all of you are doing. I appreciate you speaking your piece today. That is part of what this is for. I really appreciate your work with kids, I mean, that is the Lord's work. I appreciate the leadership of these tribes trying to do the best job they can. And we are going to work as hard as we can to try to address these issues.

Senator Thune said it very well: much of what is important in our lives starts with public safety. If you don't feel safe, if you feel threatened, the rest of your life is very difficult. We need to make sure there is a level of public safety on Indian reservations that most Americans take for granted. They wake up every day and take for granted there is a police officer out there protecting them. That has not been the case on Indian reservations.

Let me finally say to those who are standing here with their uniforms on, thanks for your work. You work in the dark and the midnight hours and all day long, and we thank you.

[Applause.]

The CHAIRMAN. We too often take you for granted, but all of us care a great deal about what you do. You risk yourselves and your lives to provide for the public safety.

Senator Thune, thank you for joining me today, and to the tribal chairs who have testified and tribal council member Packineau, thank you very much.

Let me again say to all of you that John Harte, who is the Policy Director of the Indian Affairs Committee, is going to stay for a bit. If you have issues you want to visit with John about.

Let me finally say, as the Chairman of the Indian Affairs Committee, we will continue to work on this issue, continue to work with Senator Thune and others to try to make progress. This hearing is adjourned.

[Whereupon, the hearing was concluded.]

A P P E N D I X

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Office of Justice Services
Turtle Mountain Agency
P.O. Box 1436
Belcourt, North Dakota 58316

June 30, 2009

Mr. Richard Marcellais
Tribal Chairman
Turtle Mountain Band of Chippewa Indians
P.O. Box 900
Belcourt, North Dakota 58316

Chairman Marcellais:

Per your request, I am writing you this letter with information regarding the Dakota Peacekeeper Operation that the BIA law enforcement conducted last year starting in June 2, 2008 at the Standing Rock Agency, Fort Yates, N.D. This was a surge of approximately 20 BIA or Commissioned Tribal Police Officers that were sworn in and to up hold the laws at the Standing Rock Sioux Reservation, both South Dakota and North Dakota sides of the reservation.

I was the Assistant Special Agent in Charge at the time for BIA Law Enforcement working out of the District I Office, Aberdeen, S.D. My immediate supervisor was Elmer Four Dance, who is still the Special Agent in Charge, District I Office. I was working on behalf of Mr. Four Dance.

I set up the Command Post for the surge into Standing Rock. I supervised an additional 20 police officers and we rotated shifts, working with the existing law enforcement there. In the first 9 weeks, which I was part of, I attended 16 community meetings and listened to the concerns of all citizens that attended. During this time, I kept stats of arrest made and which officer and what violation was charged to the subjects. **We had 1164 arrest in the first 9 weeks**.

The people started to relax and stated that they felt safe. Elders came to meeting in the second month and stated that for the first time in many years, they could sleep with the residence windows open and feel safe.

You wanted some Pros and Cons of this operation. I would say that nothing but good came from this.

My opinion of negative issues first:

- Law enforcement personnel had to come from other stressed agencies.

- Perspective of the people, when the surge leaves, everything back to normal on reservation.
- The large funding issue to run this operation.
- Other tribes upset, why they couldn't bet the same treatment.
- With large amount of arrest, tribal judge and court staff had a hard time to keep up.
- Funding for the courts also needed to be increased.
- Courts were held even on Saturday and Sundays.

These issues are minor to the positive outlook that came to ALL INDIAN COUNTRY LAW ENFORCEMENT:

My opinion of Positive issues:

- The Standing Rock Sioux Tribe lobbied hard for over three years of shortage in law enforcement personnel and budget. They received an increase in both after the surge.
- With more personnel available, it showed that stepping up law enforcement can change a positive outlook for the community.
- I saw community policing at its finest when officers had time to attend meetings, pow-wows, school functions, GREAT/DARE training at the boys and girls clubs, community events in the park and much more.
- Complaints were answered on a more timely response with more coverage in a large land mass, which is well over 1.4 million acres with 12 city communities.
- Funding was increased and monies found after many meetings with the South Dakota and North Dakota Senators.
- This also increased small amounts of funding for all Indian Country law enforcement throughout the United States.
- Law and Order was at its finest with many arrest made and the community felt safe.
- With meetings, city police departments and the two county sheriff's departments came aboard and agreed to visit a Memorandum of Agreement and Deputation Agreement with the Tribe, BIA and local Sheriff and City Police Departments.

This surge into Standing Rock was one of the most important and smartest moves I have ever seen in law enforcement and I totally agree that it brought positive moral to Indian Country. I know it would not be cost effective to conduct such surges at all reservations, but if anything, I hope it showed people, congress and other entities that law enforcement in Indian Country, in some areas, is under staffed and under budgeted, but with more influence, law enforcement can be a professional and have a positive impact in our communities.

Mr. Chairman, if you need anything else or need to contact me.

_____
Gerald A. Medrud
BIA/Chief of Police

PREPARED STATEMENT OF THERESA TWO BULLS, PRESIDENT, OGLALA SIOUX TRIBE

Good Morning Senator Dorgan:

My name is Theresa Two Bulls and I am the President of the Oglala Sioux Tribe. Thank you for holding this hearing, and for introducing S. 797, because nothing is more important to me than the safety of our Oglala people, and I can say with no reservations, that because of inadequate law enforcement on our reservation, many of our people are not safe today!

Because I know that you are familiar with Pine Ridge, I will simply state for the record that, our Pine Ridge Reservation is one of the largest in the United States. Think about an area from Richmond to Baltimore and D.C. to Gettysburg, PA with 50,000 residents. Our community suffers from a lack of jobs, a non-existent economy and a lack of services. We have an unemployment rate of well over 50%, and many of those who are working having only seasonal or part time jobs. We have a dropout rate of over 60%, and our average per capita income is below $7,000 a year. As a result, we are faced with all of the criminal and civil problems that poverty brings with it.

Let me begin by saying that S. 797 is the first bill that I have seen that recognizes that law enforcement, detention, tribal courts, facilities, 911 and alcohol and drug treatment and other diversion programs have to be looked at as a package. Take away or weaken anyone of these and the others fail to work properly. Today, every one of these is funded at an abysmal level.

Over the course of the last year the BIA has given you a lot of statistics, and before turning to our recommendations, I would like to take just a few minutes to put those statistics in human terms.

The BIA has testified that Indian law enforcement is only funded at around 40% of basic need, but you need to know that this that figure is far lower for large land based tribes like Pine Ridge and Rosebud. This is because our large size adds substantially to the costs of operating our programs. Our vehicle maintenance and replacement costs, gasoline needs and basic manpower are all much higher than they are for smaller reservations, yet our budgets are not proportionally higher.

As a result, our response time is a fraction of what it is on other smaller reservations and their response time in generally life threatening. Let me give you some actual statistics from our reservation.

At Pine Ridge, we receive approximately 73,000 calls for police service each year. That is about 6,083 calls per month. We are forced to answer those calls with 48 police officers. We use to have 110 officers in 1990, but budget cuts, inflation and changes in *DOJ* programs have decreased our force by over 50% in the last 15 years. Now, (48) police officers divided by 4 shifts equates to 12 officers per shift, info one is sick or on workmen's comp. That means that each officer has to try to respond to 506 calls per month. That number of calls is not manageable for a police officer in an urban area, where the calls are only 10 or 15 minutes away, but it is impossible for us given that many of our calls are 50 or 60 miles apart. As a result, we have a sizable number of calls that simply go unanswered altogether and a number of investigations that simply cannot be properly undertaken. And, when our officers do respond, our response time generally runs around 1 hour, for even the most serious acts of violence.

To make matters worse, all of our police officers have to work alone. We have single officers walking alone into parties with 20 or more intoxicated or stoned individuals, or with a subject banishing a deadly weapon, and they do so knowing that their closest backup is at least 45 minutes away.

Our officers see some of the most terrible sites one could imagine, and they take that scene home with them, yet we have no mental health or even debriefing services available to help them deal with these problems. As a result, we have a high turnover rate, a high rate of on the job injuries, and a high rate of officers in need of stress relief counseling. Officer stress management and mental health programs are not currently addressed in S. 797, and we would ask that you correct that by adding a provision to the bill. We have too high a turnover rate and too many officers turning to alcohol to relieve stress.

Let me explain what I mean by stress, by telling you about one case. A young woman, one of many, gets a restraining order against her ex-boyfriend who has been beating her up. She is at home alone and wakes up to hear him trying to break into her home with a crow bar. She calls the police, but her phone cuts off three times, because we don't have lined telephones in her area, our cell service is terrible, and our 911 equipment is out dated. Dispatch makes the call, but because of our manpower shortage, the nearest officer is 40 miles away. The young officer who get that call starts driving to the scene at 80 miles an hour on very bad roads, and while doing so he hears from dispatch that the man has entered the home, the woman is no longer on the call and screaming can be heard in the background. By the time he finally reaches the home, that young woman is on the floor covered with blood, with no perpetrator in sight. He starts to look for the man, but by then he has three or four more calls backed up on the cad and two of them involve violence or a person with a weapon. This is an everyday occurrence at Pine Ridge.

Because mere statistics don't tell you the whole story, my second recommended change in S. 797 is to ask for a provision allowing the Tribes to respond to the annual spending and shortage report that the BIA will be required to submit to the Congress. Statistics are helpful, but if you don't look at what those statistics mean in human terms you lose the impact of what the Tribes and the BIA are saying. I would also ask you to require the BIA to add a section to its report discussing the amount of money it is spending, or better put, not spending to educate children in our youth offender facilities. At the present time, the Oglala Sioux Tribe receives only $31,000 a year to educate the children that our housed in our DJC facility and we are being sued on behalf of one of those children for denying them an adequate education. We should not be forced to ignore the special needs of these children.

As a former tribal prosecutor, I was pleased to see that S. 797 is finally asking the BIA to detail the shortages in tribal court funding. Despite the huge number of cases we are confronted with each year at Pine Ridge, our Court is so broke that it is forced to operate on old outdated and often broken computers, which were purchased at Wal-Mart. To make matters worse, our software is so outdated that it does not even allow us to open many of the files we receive from attorneys, other jurisdictions and defendants and their representatives. Our computers also have no virus protection software, no spam blockers, no security firewalls and we have no off-site backup for our files. Thus, if a tornado were to hit, as it has done in some of our more outlining communities this year, we could lose all of our records.

Because we have no commercial scanners, inadequate file cabinets and inadequate filing space, most of our court files over three years old are stored in cardboard boxes that are stacked in our basement. Our Court is located in a condemned building, which leaks and has exposed asbestos, our Court records, especially those stored in these boxes are regularly subjected to mold, mildew, water leaks, dust and decay. I cannot imagine any state judge or prosecutor having to use a hair blow-dryer to make an official court record usable in a case, if they can even find the file in time, but that it the world in which we work at Pine Ridge.

Mr. Chairman, I would also respectfully ask you to consider two additions to the findings sections of the bill. We see this findings section as a tool that we can use to help us lobby for increase funds. For this reason, it would be helpful if the bill could note that we currently have no real federal funding sources for our 911 programs, and we lack the alcohol, drug, family violence, sexual abuse and other treatment programs which non-Indian courts use to try to decrease the number of repeat offenders. As a former tribal prosecutor, it is very difficult to look at a case and know that you have only two choices, send the person to jail without treatment, or put them back on the street. I would also like to ask for a specific tribal set aside when the E-911 Act of 2004 comes up for re-authorization this year. Simply put, we need E-911 funding, because our people have got to be able to call the police, and right now tribal E-911 is either non-existent or operating on a shoe string with outdated and wholly inadequate equipment. Along these same lines, please do everything that you can to support the Tribes who will be seeking broadband money under the stimulus bill.

Virtually all of the large land based tribes are desperate for adequate internet and telephone communication and the lack of these things really hampers our ability to operate adequate law enforcement and court programs.

Also, while I was very pleased to see that S. 797 now requires the BIA to report on its detention, 911, court and other facility needs on an annual basis, but I was disappointed to see that the bill did not required the BIA to develop a long term plan for the replacement of anything other than detention centers. They need to be required to develop a comparable plan for the replacement of police stations, tribal courts, and the construction ofE-911 centers. These buildings are in terrible shape, and today, many of our people, who have never committed a crime in their life, are working every day in facilities full of mold, asbestos, and rat and bird excrement with no heat and no air conditioning. So please don't forget them.

I will close with three more important recommendations. While we are thrilled at the possibility of expanding our tribal sentencing authority, tribes like Pine Ridge we need a funding source to pay for the right to counsel, jury trial and speedy trial requirements imposed by the bill. We agree that these things are important, but we at Pine Ridge have not been able to fund more than one jury trial a year for the last 10 years, and we can even imagine how we could come up with the funds to pay for a public defender. Please help us find a solution to this problem and don't let this expanded tribal court authority become something which is only available to those tribes with highly successful casinos.

Second, please put a provision in the bill which states clearly and unequivocally that BIA has the primary responsibility for funding tribal law enforcement, detention, courts and E-911 and for providing the buildings that those programs need to operate. Over the last 15 years, the BIA has used the fact that we have some access to *DOJ* programs as an excuse for not requesting the funding that we require. Those *DOJ* programs, while helpful, should not and cannot be seen as base funding for these programs. First, they come in the form of unreliable grants which we have to compete for and which we can never count on- if we have a continuing resolution- we can go months without that funding or even the ability to apply for funding. Second, the fact that they come with matches and no indirect cost means that they cost us money to operate on. Third, they are often so limiting that they don't let us pay for what we really need. I have attached to this testimony an example of how the *DOJ's* unwillingness to pay indirect cost means that we cannot afford to operate their programs.

Finally, I would ask you to expand the section requiring federal employees to testify in federal court. We need these people as witnesses in all criminal trials, not just those involving rapid and domestic violence.

Thank you again for allowing me this opportunity to testify. I will be happy to any questions that you might have.

HOW DOJ'S LACK ON INDIRECT COST HURTS US AND
MAKES THEIR PROGRAMS UNAFFORDABLE

Assume we get $ 1 million in law enforcement dollars from BIA It pays for:

12 officers' salaries and fringe Cars
Gas
Insurance
Training
Uniforms and equipment

The Inspector general negotiates with us as we agree that we need the following indirect cost items to operate this program-

Payroll clerk Records
clerk
Human resources person Utilities
and build

Total cost $200,000
This equates to an indirect cost rate of 20%
We have no problem with this

Then, we then get another $ 1 million from DOJ to fund 20 more officers But- DOJ only pays salaries and fringe

So- the first thing we have to do is decrease the number of BIA officers from 12 to 7 in order to pay for the cars, gas, training and uniforms that these 20 officers need

Then the Inspector General says- you know, the DOJ should be paying half the indirect cost (or $100,000) but, because they didn't we are going to conclude that you collected $100,000 too much from BIA Indirect cost and you now owe us $100,000. Since all we have is federal money- we can not pay $100,000. So the next year BIA pays us only $100,000 of the $200,000 indirect cost dollars that we need to operate.

Then- At the end of that year, it concludes that DOJ should have paid ~ of that $100,000, thus we must have collected $50,000 more than we were entitled to and we either have to pay $50,000 back or cut our next year BIA indirect cost income down to $50,000- even though our same out of pocket cost is $200,000

This continues until we end up with a 0% indirect cost rate with BIA

PREPARED STATEMENT OF CROW CREEK SIOUX TRIBAL COUNCIL MEMBERS: RANDY SHIELDS, SR., THOMAS THOMPSON, SR. AND NORMAN THOMPSON, SR.

WELCOME AND INTRODUCTION

On behalf of the members of the Crow Creek Sioux Tribe allow us to welcome the Honorable Senator Byron Dorgan, to the Standing Rock Reservation. We greatly appreciate you visiting Indian Country and for this hearing in an attempt to improve the quality of life for our Members and all Indian people.

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

TRIBAL LAW ENFORCEMENT

Law Enforcement on our reservation has been and still is 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 and insecure than those living in the rest of America. It has been recorded by the Department of Justice in 2004, that American Indians experienced violent crime at a rate twice the national average, by far the highest experienced by any racial group. Most disturbing is the experience of Indian youth who experience violent crimes at significantly greater rates than their peers in the rest of the nation. It is not our desire to raise another generation who knows violence as a fact of life or only brutality as a means of resolving conflict. It is time to prevent and curtail this with improved law enforcement.

In May of 2004, the Director of the Bureau of Indian Affairs, Patrick Ragsdale acknowledged in his testimony that on many reservations there is no 24-hour police coverage and many times an officer must patrol alone. This is a great danger to the police officer and an inadequate service to the people on those reservations in which they are to serve and protect.

The jail on the Crow Creek Reservation has been closed for the past 8 years. Currently our prisoners are being transported to other reservations to be detained. Some are transported as far as Spirit Lake, (7 hours away) and Standing Rock, (4 hours away).

These are great distances to be lodged in tribal jails and this has a great impact of law enforcement. These are hours that the Police Officers could be providing much needed safety patrols to provide protection of our communities.

The lack of law enforcement officers is a great hardship and deeply affects all of our members on our reservation. Not only do we lack officers, but we lack quality officers. It is imperative that the Councils be involved throughout the entire selection and removal process of any Police Officer that may be serving on our reservations. All to often, it seems as though certain tribes are stuck with details who are awaiting reprimand.

It is also imperative that the Police Department, and the Court House work in coherence with the Tribal Council, to insure that the Tribal Law and Order Codes are being adhered to and civil rights are not being violated. We too, like the Bureau of Indian Affairs have the responsibility to protect the safety and welfare of our enrolled members.

It is time to stop talking about how to solve the current problems of Law Enforcement that plague Indian Country and start taking positive actions towards resolving theses problems. Provide the reservations with adequate funds to 638 law enforcement services or replace the BIA Police Department back under the control of the Agency Superintendent for local control.

CROW CREEK SIOUX TRIBE

FORT THOMPSON, SOUTH DAKOTA 57339

June 29, 2009

TRIBAL COUNCIL

Brandon Sazue, Sr.
Chairman

Randy Shields, Sr.
Vice-Chairman

Thomas Thompson
Secretary

Norman Thompson, Sr.
Treasurer

Kitty Wells
Councilmember

Duane St. John
Councilmember

Donald McGhee
Councilmember

Jodi Archambeau-Gillette, Deputy Associate Director
White House Office of Intergovernmental Affairs
White House Office
Washington, DC 20500

Dear Ms. Gillette:

We, the Crow Creek Sioux Tribal Council, are requesting on behalf of the Crow Creek Sioux Tribe and it's members, to receive stimulus dollars to assist our Tribe.

Currently, the Crow Creek Sioux Reservation is located in Buffalo County, South Dakota and is listed as the poorest county in the Nation. Our Tribe is in dire needs of financial assistance.

On June 16, 2008, the Crow Creek Sioux Tribe entered into a settlement agreement with the Department of Justice and was banned from applying for or receiving any new FAST COPS grants for two years.

However, congressionally approved stimulus dollars should not be looked upon as FAST COPS program dollars, therefore the Crow Creek Sioux Tribe's settlement agreement with the Department of Justice should be waived in regards to any government stimulus dollars we are requesting.

Sincerely,

Randy Shields, Sr.
Crow Creek Sioux Tribe Vice-Chairman

CC: Sen. John Thune
Sen. Tim Johnson
Rep. Stephanie Herseth-Sandlin