

**DRAFT** 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 [REDACTED], 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.<sup>1</sup> 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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<sup>1</sup> 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.<sup>2</sup>

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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<sup>2</sup> 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.