



Kevin D. Yellow Bird/Steele
Administrative Assistant

Darcy L. Good Crow
Executive Secretary

Oglala Sioux Tribe

Office of the President

Pine Ridge Indian Reservation

Post Office Box 2070

Pine Ridge, South Dakota 57770

Phone: 605.867.5821

Fax 605.867.6076

theresatb@ogla.org - twobullst@yahoo.com



Wiyaka Tokaheya Yuha Najin

Theresa B. Two Bulls
President

TESTIMONY OF THERESA TWO BULLS PRESIDENT, OGLALA SIOUX TRIBE ON S. 797 THE INDIAN LAW ENFORCEMENT REFORM ACT July 1, 2009

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 is 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 of E-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