

**TESTIMONY OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
TO THE
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON THE
TRIBAL LAW AND ORDER ACT: ONE YEAR LATER

SEPTEMBER 22, 2011**

Chairman Akaka, Vice-Chairman Barrasso, and members of the Committee, thank you for the opportunity to provide testimony before this Committee on the Tribal Law and Order Act (TLOA), Pub. L. No. 111-211 (2010). President Obama signed TLOA into law just over a year ago on July 29, 2010. The goal of TLOA is to improve and address law and order and justice in Indian Country. Thus, I am pleased to be here before this Committee to provide an update on what the Bureau of Indian Affairs (BIA) has done over the past year since TLOA was enacted.

In June of 2009, just over two years ago, before this Committee, I stated that this Administration acknowledged and was committed to honoring our longstanding government-to-government relationship with the Tribal Nations in this country. I also stated that, it was upon this foundation, that the Department of the Interior (Department) and American Indian tribes and Alaska Natives must come together, through meaningful consultation, to develop plans to fight crime in Indian Country. That is why this Administration strongly supported, and continues to support, TLOA, and commits to fulfilling the goals of TLOA as we move forward.

Several components comprise the United States Government's efforts to provide public safety and fight crime in Indian Country. These components range from putting law enforcement officers on the streets, arresting, detaining, and, in certain circumstances, adjudicating offenders, to the long-term incarceration of these offenders post adjudication. From my past experience as the Attorney General for the State of Idaho, I know that these components are necessary to meet those responsibilities. Indian Affairs provides a wide range of law enforcement services to Indian Country. These services include police services, criminal investigation, detention program management, tribal courts, and officer training by the Indian Police Academy.

At my confirmation hearing over two years ago, I emphasized the importance of addressing public safety matters, and I had, and continue to have, support from Secretary Ken Salazar to make and keep this a top priority. As a top priority, I focused my attention on the structure of the Office of Justice Services (OJS) in the BIA. We conducted a nation-wide search for a new Director of OJS and we selected Darren Cruzan. Darren Cruzan is an enrolled member of the Miami Tribe of Oklahoma and comes to the OJS Director position from the Department of Defense, Pentagon Force Protection Agency.

Darren Cruzan started his appointment on September 27, 2010, and under his leadership he has pulled together an OJS senior leadership team of core individuals with a combined law

enforcement field experience of 120 years to address the public safety issues in Indian Country. Darren Cruzan brings a wide range of experience to OJS. He has served as State patrolman in Missouri as well as a tribal police officer with his Tribe and an officer with the BIA in Oklahoma. Mr. Cruzan has been a supervisory police officer, a police academy instructor, a criminal investigator, and an Indian Country law enforcement liaison to the Department. Mr. Cruzan is a graduate of the Federal Bureau of Investigation National Academy, and holds a Bachelor of Science degree in Criminal Justice Administration from Mountain State University in West Virginia.

As this summary of his qualifications and his selection to the OJS Director position evidences, we believe Mr. Cruzan is the right person to lead the OJS to assist myself and the Secretary for the Department of the Interior to improve and address law and order and justice in Indian Country, and to follow through with our commitment to fulfill the goals of TLOA as we move forward.

High Priority Performance Goals (HPPG)

One of the most basic needs throughout Indian Country is the need for additional officers on the street in Indian Country. On many reservations there is no 24-hour police coverage. Police officers often patrol and respond alone to both misdemeanor and felony calls. Our police officers are placed in great danger because back up is sometimes miles or hours away, if available at all.

On May 10, 2010, BIA-OJS began implementation of a Presidential Initiative known as the High Priority Performance Goal (HPPG) at four selected Indian reservations. Based upon an analysis report of high crime, four reservations were selected as the first four locations to implement the Initiative. Those locations include reservations for the Standing Rock Sioux Tribe in North Dakota, the Shoshone and Northern Arapahoe (Wind River) Tribes in Wyoming, Chippewa Cree (Rocky Boy) Tribe in Montana, and the Mescalero Apache Tribe in New Mexico.

I am pleased to report that our statistics demonstrate that, through the 3rd quarter of Fiscal Year 2011 at the HPPG locations, the goal of a five percent (-5%) reduction in criminal offenses was met and, in certain locations, exceeded. We are in the last four months of the Initiative, and while we anticipate continued reductions in violent crime, the overall percentage of reduction can fluctuate based upon the number of violent crimes reported during that period.

The goal of the HPPG Initiative is to achieve a reduction in criminal offenses (i.e., violent crime) by five percent within a 24-month period. To achieve the intended results at the selected locations, a comprehensive approach was developed and implemented. This comprehensive approach involved intelligence led policing, traditional community policing techniques, crime reduction strategies, and interagency and intergovernmental partnerships. The lack of adequate law enforcement staffing at these locations resulted in a deficiency in addressing the violent crime rates on these reservations. Therefore, to succeed with this Initiative the number of law enforcement and corrections officers was increased to close the staffing gap with the national sworn staffing level averages and the actual staffing levels at the four selected HPPG reservations.

In order to achieve our goal of reducing criminal offenses by at least five percent within 24 months on these four Indian reservations, OJS implemented a comprehensive strategy involving community policing, tactical deployment, and critical interagency and intergovernmental partnerships. At the beginning, OJS conducted an assessment at each location designed to ascertain the service provider's perception of the type of services provided, the availability of services, current infrastructure of programs, and identify constraints that affect services and resources needed to improve services provided to the community. The assessment also gathered information regarding quality of life issues that affect the community and the programs providing services to the community.

Once the assessment was complete, each agency was tasked with identifying crime trends in their communities. At the beginning of the initiative, each agency analyzed current criminal activity data (previous 12 months) and historical crime data (previous 36 months). The purpose of the analysis process was to develop an accurate crime rate profile for each location. The analysis process began by examining the types of crime being committed, the locations where crimes are being committed, and the days of the week and times of day when the crimes were being committed most frequently.

We are now in the implementation phase, and OJS has, and continues, to educate law enforcement personnel on the effects of proactive policing by using a crime trend analysis. By using the analysis, the law enforcement programs developed a crime reduction plan with multifaceted approaches to crime reduction through proper leadership/management principles, adequate staffing and resources, accurate analysis of current and historic criminal activity/trends, community assessments, intelligence-based law enforcement assignments and proactive operations, crime prevention programs, and most importantly, accountability at all levels of the operation.

OJS also worked in collaboration with the elected Tribal leadership at each reservation so the Tribes would have significant input into the strategies being implemented that directly affect their communities and tribal members.

Office of Justice Services (OJS) activities post-TLOA

Upon TLOA's enactment, BIA-OJS was tasked with a number of responsibilities under the law. Section 211 of TLOA directed BIA-OJS to develop a list of unmet staffing needs of the law enforcement, corrections, and tribal court programs. OJS's first action was to pull together an "Unmet Needs Report" team comprised of courts, corrections, and law enforcement professionals. OJS also established a web based reporting tool (survey) developed to gather information from public safety departments in Indian Country. This web-based collection system will allow the tribes to input their own data, and we continue to work with the Tribal leadership to complete this report. The survey is currently online and the due date for data submission by Tribes is the end of September.

Section 211(b) of TLOA directed BIA-OJS to develop a long term plan for Tribal Detention. The OJS, in collaboration and cooperation with the Department and the Department of Justice (DOJ), completed Webinars and workgroup meetings to determine what Tribes view as the need

and direction of Corrections moving forward, and to provide a broad base of information from tribal corrections professionals across Indian Country. The Department and DOJ finalized the report and it was signed by the Department and DOJ, and submitted to Congress last month. Instead of traditional incarceration as the long-term goal, the report highlights rehabilitation and providing services.

Section 231(b) of TLOA directed BIA-OJS to develop policies and procedures in order to enter into Deputation Agreements for the purpose of issuing BIA Special Law Enforcement Commissions (SLECs). These policies and procedures were developed and enacted on January 25, 2011. During the development of the policies and procedures, OJS conducted numerous consultations with Tribes across the country, and thereafter provided draft policies and procedures for continued comment via an email address. The new policy has been posted in the *Federal Register* and training is now available and being provided to OJS senior managers on the requirements and procedures for implementation of the policies and procedures to enter into Deputation Agreements for the purpose of issuing BIA SLECs.

Although not a requirement under TLOA, but as a complement to the purposes of agreements between our law enforcement agencies, DOJ along with the OJS have created a Criminal Justice in Indian Country (CJIC) work group to review and update the training curriculum. The work group proposed a “train the trainer” course, which will be offered to Assistant United States Attorneys.

Section 231(a)(4)(A) required OJS, when requested by a Tribe, to conduct background checks for tribal law enforcement and correctional officials no later than 60 days after the date of receipt of the request. OJS has developed a new background policy and we are working to implement background checks when requested through contracts and through direct service support. We anticipate that this proposed policy will ensure thorough background checks as well as ensuring qualified candidates fill our enforcement positions in Indian Country. This will assist OJS in meeting its goal of getting more law enforcement personnel on the streets in Indian Country.

Section 234(d) required OJS to develop guidelines for long-term incarceration in tribal correctional centers. In consultation with tribal officials, OJS has developed a long-term plan for incarceration in tribal correctional centers. The guidelines were enacted January 25, 2011.

Conclusion

Thank you for holding this hearing on the Tribal Law and Order Act and for providing the Department the opportunity to discuss what we in the Department have done over the past year since TLOA’s enactment into law. The Department will continue to work closely with this Committee, you and your staff, Tribal leaders, and our Federal and State partners to address the law enforcement, corrections and inter-agency cooperation issues in Indian Country in order to fulfill the goals of TLOA as we move forward.

We are available to answer any question the Committee may have.