

Statement of Carmen Smith  
Chief of Police  
Warm Springs Tribal Police Department  
before the  
Senate Committee on Indian Affairs

Hearing related to  
"Criminal Gang activity in Indian Country"  
Presented on  
July 30, 2009

Chairman Dorgan, Vice-Chair Barrasso and members of the Committee:

I appreciate this opportunity to appear before the committee on behalf of the Warm Springs, and other Tribal Police Departments in the Pacific Northwest. I hope my testimony will provide this committee with a perspective of criminal gang and drug activity in Indian Country from those who have to deal with this issue on a daily basis, the Tribal Police Officer.

It is the responsibility of the over twenty-two (22) Tribal Law Enforcement organizations currently operating in this region to provide for the Health and Safety of our Tribal membership, and others residing, working, or visiting Native American lands. However, until now we have not had a voice in matters related to enforcement problems in our jurisdictions such as authority, funding, special commissions, grants, intelligence sharing, and other issues needed in order for us to successfully accomplish our mandates.

Even though we have excellent working relationships with some of the federal entities that have responsibilities in Indian Country, such as the Federal Bureau of Investigation (FBI), and the United States Attorney's Office (USAO), it is we who are the first responders. It is our officers who must deal with the victims, families, and suspects. It is also our departments who have daily contact with the children who are most at risk of becoming gang members, like the disenfranchised and the abused.

It is also our detectives who are responsible for identifying problems as they are emerging, working drug deals, and having to gather intelligence and conduct investigations in an environment which does not provide them with the same access to the assets available to their off reservation counterparts.

There exists in Indian Country today the twin scourge of drug abuse and criminal gang activity. These two menaces left unchecked will undermine the very fabric of Native American society. The gang problem is an issue which is most distressing to our communities, as to become a gang member you must dismiss your family, and your culture in favor of the gang. This philosophy will create a generational loss that Indian society can ill afford.

In addition, the gangs on the reservation have brought with them the same violence as we are witnessing off the reservations with drive-by shootings, drug trafficking, home invasions, the assault of elders, the rape of minor females as initiation rights to the gang, and murders.

As presented on our charts (See gang organizational charts) you will note that the gangs to which we refer are no longer just copy cat, MTV gangsters, but rather criminal organizations. These organizations are growing in Indian Country at an alarming rate due to the high level of poverty and unemployment, and the increase in foreign nationals (illegal aliens) who have married tribal members, or simply moved onto the reservations. These subjects have brought with them the organizational skills and the access to guns and drugs needed for gangs to operate, and have links to the Mexican drug trafficking cartels who are currently destabilizing that country. The gang problem is compounded by the inter-relationship of tribal members between reservations, and the movement of tribal members from one reservation to another during events like the Pow-Wow circuit.

Yet, the Tribal Police Departments in this region are denied, or have restricted access to federally funded criminal intelligence networks, funding from the High Intensity Drug Trafficking Area (HIDTA) programs, and have even been denied funding from the Drug Enforcement Administration's (DEA) Domestic Cannabis Eradication Program (DCEP), which every other state and local agency can receive funding. There are not even any Tribal Police representatives who sit on the HIDTA boards, so the needs of the reservations in this area are not heard.

However, even with these constraints the tribal police agencies in this region recognized the gang problem, scratched together some funding, and banded together with their off reservation gang task forces to attack the gang and drug presence in the U.S. Housing and Urban Development (HUD) housing projects on the reservation. Operation "Counting Coup" received the support of the USAO in 3 judicial districts, and we even briefed the FBI. The only issue was that of jurisdiction as these criminal enterprises operated on, and off the reservation. This was overcome by applying for United States Marshal Service (USMS) deputations. After reviewing the tribal and local police applications, and the other supporting documentation the U.S. Marshal's Service authorized these deputations.

But, as the tribal and state officers were preparing to be sworn in, the Bureau of Indian Affairs (BIA) inexplicably called the USMS and had the deputations pulled. After this the BIA refused to explain why, or even return calls, behaving in a manner which can only be described as "childish," or at best unprofessional. The tribes were forced to seek answers from the Department of the Interior (DOI), and the President's Office of National Drug Control Policy (ONDCP), who could not understand why the BIA had done this, nor believed they even had the authority to do it. The tribes were eventually (3 weeks later) told by the DOI that the BIA did this because they were not properly briefed (which is false), and the BIA Area Director who sponsored the deputations didn't have the authority. However, we believe this action was taken out of spite because the success of this operation would have made the BIA look worse than they are already perceived.

This incident aside, it does illustrate the greater problem of the bureaucracy that smothers any attempts of Tribal Law Enforcement authorities to cope with the public safety issues in their jurisdictions, no matter how benevolent, or capricious these federal or state entities may be. Congress seems to believe that by providing increased funding to the BIA, will translate into increased services in Indian Country. This has not been the fact in the Pacific Northwest. When congress gave the BIA millions of dollars for drug enforcement there was not even a survey sent out to Tribal Departments in order to ascertain problem areas or ideas for this funding usage, instead they used these funds to create some sort of BIA type DEA which the tribes have not seen any benefits. The BIA law enforcement program is perceived by tribal police departments in this region as one of the biggest impediments to public safety issues. In their current structure they are non communicative, arrogant, and not a good fiduciary for federal funding to Indian Country law enforcement programs in this area.

On the other hand, the USAO and the FBI, no matter how well intentioned, can be an overwhelming presence which tends to stifle tribal initiatives. We truly appreciate their assistance, yet we need more parity in our relationship, more reminiscent of their relationships with off reservation police departments.

When problems arise in Indian Country, Congress assumes the tribes need, or want more federal agency assistance, when in fact the tribes just want the tools and funding to handle their own problems. At the end of the day, the tribal police are the ones who will make the difference in the fight against drugs and criminal gangs. Over the years, the Tribal Police agencies in this region have brought their officers training, and experience comparable to, or surpassing their off reservation peers. If these Tribal agencies are given the opportunity to mutually support one another (much like the county and local agencies are able to do), access the same support systems available to state and local officers, and the ability to create their own task forces like Operation "Counting Coup," they will have a good chance of turning these problems around.

The state and county agencies have the HIDTA system that has been successful in providing for the individual needs of each department, and accountability for the government agencies providing the funding. These HIDTA funds are administered by a board of county and state law enforcement managers and is a very effective program. However, because of jurisdictional issues, and the fact that there are no tribal representatives on any of the state HIDTA boards, this program is problematic for tribal departments. However, we have proposed a HIDTA type program for Indian Country in the Pacific Northwest. This program would allow for funding appropriated from Congress to go directly to the affected tribes with controls that provide for accountability and direction. As such, we have proposed the creation of a Pacific Northwest Inter-Tribal Law Enforcement Mutual Aid Program (ITLEMAP) would create the same type of system for Indian Country. This program will also create the transparency of operation that is currently missing in the current BIA drug enforcement and law enforcement programs.

Every time there is a law enforcement problem in Indian Country, everyone looks to outside agencies for a solution. I am saying that given the funding, personnel, access to programs, the ability to submit cases directly to the U.S. Attorney's Office, and the ability to receive federal deputations for our officers and our state and local partners, Tribal Police organizations would be able to handle most of the situations we currently face.