

**Testimony of  
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Southern Ute Indian Tribe**

**Before the  
United States Senate  
Committee on Indian Affairs**

**Washington, DC  
September 18, 2008**

Chairman Dorgan, Committee members, thank you for the opportunity to testify today. I have a written statement and ask that it be submitted in its entirety for the record of these proceedings.

My name is Janelle Doughty. I am an enrolled member of the Southern Ute Indian Tribe and serve as the Director of the Department of Justice & Regulatory for the Tribe. The Southern Ute Indian Tribe has 1,500 enrolled members and consists of approximately 681,000 total acres in Colorado. My responsibilities as Director include managing 97 total employees. The Bureau of Indian Affairs has delegated the primary justice and regulatory functions of my Department to our Tribal government through so-called "638" contracts. I supervise the Tribe's Police Department and Wildlife Rangers, as well as the Southern Ute Detention Center. I also oversee the Tribal prosecutor and public defender; the Division of Gaming; Regulation and Licensing; and Environment Affairs, including the regulation of stationary air pollution sources, water quality and environmental controls. I am also leading the Tribe's development of a new Juvenile Detention Center. I previously served as the Tribe's Crime Victims' Advocate and as its Executive Officer. I have a Master's Degree in Social Work from the University of Denver and am a graduate of the State of New Mexico Police Academy.

The topic of this hearing is "declinations." I understand this term to mean decisions by United States Attorneys not to prosecute certain criminal cases arising within Indian Country. I've read published reports that some United States Attorneys in states other than Colorado are

declining criminal prosecutions at a rate that is disproportionate to that in similarly situated areas off-reservation. These reports include the newspaper series entitled “Lawless Lands,” written by investigative reporter Michael Riley and published by *The Denver Post* last November. Mr. Riley’s work recently received the national Silver Gavel Award from the American Bar Association for excellence in legal reporting, and he interviewed me and members of my staff during his investigation. The Southern Ute Tribe also hosted a meeting of the Native American Issues Subcommittee of the U.S. Attorney General’s Advisory Committee last October in Ignacio, Colorado, and our Tribal Council met with approximately 15 U.S. Attorneys from around the United States. Colorado’s United States Attorney, Troy Eid, invited Professor Kevin Washburn of Harvard Law School to talk about declination rates during a public portion of that meeting, and it was refreshing to see the issue openly discussed by the Justice Department. So I am very familiar with the public debate over this issue – as well as what really happens in practice.

We have a model relationship with the United States Attorney’s Office in Colorado. This is a direct result of the current United States Attorney, Troy Eid. My Department has partnered with Mr. Eid and his office to strengthen criminal justice on the Southern Ute Reservation, and is achieving real results. Before Mr. Eid took office, I could not have told you who the U.S. Attorney was because I have never met him. Mr. Eid meets regularly with the Tribal Council, doesn’t decline cases without discussing them with me and my Department, and has even revisited cases that his predecessor declined. In one such case, Mr. Eid’s office obtained a conviction in a statutory rape case involving a 13-year-old victim. This was a case that the previous U. S. Attorney had declined without any explanation. The Tribal Council asked Mr. Eid to revisit the case. He met with the victim’s mother at my request, took the case, and Assistant U.S. Attorney Jim Candelaria – who does a terrific job for the Tribe – obtained a conviction.

I have established a cooperative relationship geared toward training and information sharing that allows my officers actual face time with those responsible for prosecuting our cases. On many occasions Assistant United States Attorneys have actually conducted training opportunities in areas such as: building a federal case, preparation for court room testimony, and pertinent issues of jurisdiction. It is my belief that actual personal interaction is irreplaceable in developing strong working relationships. With isolation from the prosecutorial system we drastically limit common understanding. By putting investigators and prosecutors in the same room we have been able to reach a high level of cooperation and understanding which translates into cases being developed in an appropriate format for prosecution.

This is the way things are supposed to work but often didn't until Colorado finally had a U.S. Attorney who understands that his role is that of a local District Attorney on our Reservation.

I also persuaded Mr. Eid to develop a pilot program to train and federally deputized tribal, state, and local law enforcement officers on the Southern Ute Reservation so they can obtain or renew their Special Law Enforcement Commission cards without traveling for a week to the BIA Indian Police Academy. This program has worked so well that all our Tribal officers, and many of those off-reservation from state and local government, have been trained by Mr. Eid, his Criminal Division Chief, Jim Allison, and others from the U.S. Attorney's Office. Mr. Eid has taken this training to other states, including New Mexico and South Dakota, and will again provide it free of charge at the National Congress of American Indians' national convention next month. On the Southern Ute Reservation, we can see the positive results. Last May 24<sup>th</sup>, the Tribe's Chief Criminal Investigator, Chris Naranjo, responded to a domestic violence crime scene on the Reservation. Because he was federally deputized, Chris could arrest the non-Indian suspect who had allegedly victimized one of our Tribal members in that case, which is now being prosecuted by the U.S. Attorney's Office.

Mr. Eid has written about the need for Congress to overrule the U.S. Supreme Court's decision in *Oliphant v. Suquamish Tribe* so that qualifying tribes can choose to assert criminal jurisdiction over non-Indians. This was not an easy or popular stance for him to take in the Justice Department or with some in Congress, but I'm glad there is at least one U.S. Attorney who understands his trust responsibility. As a Tribal Justice Department Director, I strongly support a repeal of *Oliphant* as a common-sense way to strengthen public safety on our reservation. This should include the ability of Tribal Courts to punish non-Indians for contempt when they refuse to comply with valid court orders in civil cases. The federal government already contracts with Southern Ute's detention center to hold Immigration and Customs Enforcement and U. S. Marshals Service detainees. Our tribal courts protect criminal defendants' rights. We should be permitted to take the next step without further delay.

Finally we have a great relationship with the Colorado U.S. Attorney's Office right now, but we all wonder what will happen when Mr. Eid leaves. I remember when some previous U.S. Attorneys ignored our Tribe, and when one former Assistant U.S. Attorney treated our people rudely and unprofessionally. It is wrong for Indian people living on reservations to be totally at the mercy of chief federal prosecutors far from our reservations. It is absolutely deplorable for Indian people to be denied equal access to the justice system. We need to have a meaningful voice in their selection and move away from the federal government's dominance in criminal law enforcement in Indian Country which traces its roots to the Bad Old Days of Indian Wars and the military occupation of tribal lands. It is also totally unacceptable that the nearest U.S. District Court Judge in Colorado is 350 miles away from the Southern Ute Indian Reservation, and even farther from our sister tribe to the west, the Ute Mountain Ute Reservation. I and other law enforcement agency managers along with local municipal, tribal, and county government representatives have been pushing for a federal court house and judgeship in our area. Trying cases that meet the elements of the Major Crimes Act 350 miles from the jurisdiction in which they occur stands as a road block to justice and must be resolved. Federal juries in Colorado

rarely include a single American Indian, yet they decide purely local crimes. And we have never had a federal grand jury in Western Colorado in my lifetime.

It's time for Congress and the Justice Department to chart a path that – over time – will end the federal government's dominant role in Indian Country criminal justice for those Tribes that are willing and able to do for themselves. Case declinations, inadequate resources for criminal investigations, the lack of federal judicial access – these are all symptoms of a justice system that was designed more than a century ago by the federal government to keep Indian people down instead of permitting us to take responsibility for our own destiny.

Thank you.