

PARKER POLICE DEPARTMENT

MEMORANDUM

TO: Lori Wedemeyer, Town Manager
FROM: Rod Mendoza, Chief of Police
DATE: March 12, 2008
SUBJECT: Testimony to the Committee on Indian Affairs

On March 7, 2008 I was contacted by John Harte who is an administrative aid to North Dakota Senator Byron Dorgan. Mr. Harte inquired if I would present testimony before the United States Committee on Indian Affairs. An oversight hearing on Law and Order in Indian Country will be held in Scottsdale, Arizona on March 7, 2008. I also received the same invitation from Ryan Smith who is a legal aid to Arizona Senator John Kyle.

My testimony will include a summary the 1990 agreement between the Colorado River Indian Reservation (Law Enforcement Agreement 1990) and the Town of Parker. The agreement may have been the result of the 1989 “Strand” decision (Colorado River Indian Tribes V. Town of Parker 705 F.Supp.473).

SUMMARY OF THE “STRAND” DECISION

The U. S. District Court, Judge Strand, ruled that the Town of Parker was “Indian Country,” located within the boundaries of the Colorado River Indian Tribes reservation, (18 U.S.C.A. 1151) and therefore the Town of Parker did not have legal regulatory authority over building activities on lands within the Town that are owned by the Tribes. The Town’s regulatory authority extended only to the privately owned fee lands within the Town. The Court noted that the Tribes own approximately one-third of the lands within Parker and that the Town is prohibited from preventing the provision of electrical and water utility services that the Town of Parker exercises direct or indirect control over.

The Court's holding that the Town of Parker is "Indian Country" results in the Town having no legal jurisdiction over tribal land within the Parker town limits or over tribal members' activities that take place anywhere within the boundaries of the Town. Consequently, CRIT members accused of crimes in the Town of Parker are subject only to tribal and federal law, not State or local law, (*Seymour v. Superintendent of Washington State Penitentiary*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2nd 346 (1962)).

In April 1978, Senator DeConcini of Arizona introduced a bill (S.2854) for the purpose of granting the State of Arizona (Parker Police) criminal and civil jurisdiction over all activities and persons within the Town of Parker pursuant to Public Law 280, (CRIT Ex.24). DeConcini recognized that without this legislation Parker was subject to a complicated patchwork of state, federal and tribal jurisdiction.

The bill S. 2854 was introduced as an amendment to 18 U.S.C. sec. 1162(a) and 28 U.S.C. sec. 1360(a), which would have added Parker to the list of areas in Indian Country wherein states are conferred civil and criminal jurisdiction (as in California). The Senate failed to pass Bill S.2854.

SUMMARY OF THE 1990 LAW ENFORCEMENT AGREEMENT BETWEEN CRIT AND THE TOWN OF PARKER

Recognizing the need, the Town and CRIT entered into an agreement that was designed to coordinate law enforcement activities. This agreement is limited to the one square mile within the Town of Parker and is relevant only to law enforcement agencies. A summary of Section 5, Arrest of Indian Subjects: states the Town agrees that CRIT will make all arrests of Indians in the Town of Parker and the Parker Police will notify CRIT Police of an Indian involved in any activity. There is nothing in this language that states the Parker Police cannot detain an Indian suspected of criminal behavior nor does it state that Parker Police cannot detain or arrest anyone suspected of criminal activity until the tribal status of the person(s) is obtained.

In cases where we suspect a person(s) is a tribal member, CRIT will be immediately notified for assistance. Currently, the Parker and CRIT police officers work well together on the street and both can be depended upon to assist one another.

The Parker Police policy is in conformance with the 1990 agreement with CRIT. If Parker police becomes aware a person(s) is a Tribal member we will not arrest nor will we detain as long as no one is at risk of injury, death or loss of substantial property. The Parker Police Department will not place officers in a position where the use of force may have to be used against a Tribal member. Every effort will be made to notify CRIT and ask for assistance.

The five most common criminal activities concerning Tribal members in the Town of Parker are:

1. Disorderly conduct,
2. Thefts,
3. Assaults,
4. Public Intoxication, and
5. Possession of dangerous drugs.

According to the 2005 International Chiefs of Police Indian County Law Enforcement Section; nationally, 1 in 4 cases of violent crime investigated by the United States Attorneys are from Indian Country. 75% of federal investigations of Indian Country suspects are for violent crimes.

**TOWN OF PARKER
PRESS RELEASE**

July 31, 2006

Local Law Enforcement Agencies Meet and Confer to Enhance Police Services.

On July 7, 2006 the Police Chiefs and patrol supervisors of CRIT Police and the Town of Parker Police Departments conducted a symposium at the Parker Police Department.

CRIT and Parker Police Chiefs met and conferred concerning methods of developing and improving police services to our communities. Among our concerns were to ensure that those who commit crimes in our communities are held accountable and victims of these crimes are kept well informed of the progress of the investigation. We will not turn a blind eye to criminal activity. Injustice anywhere is a threat to justice everywhere. Our citizens must feel secure in their homes and be free from the fear of crime in their neighborhood.

Our first agenda item focused on the Town of Parker. As previously mentioned, the Parker Police department does not have civil or State criminal jurisdiction over tribal members in Indian Country. (*Colorado River Indian Tribes v. Town of Parker*; *The Judge Strand* decision). The jurisdiction responsibility belongs to the CRIT Police Department for all State criminal misdemeanor violations, (*Seymour v. Superintendent of Washington State Penitentiary*, 1962).

Federal law enforcement agencies, the Bureau of Indian Affairs (BIA) and the Federal Bureau of Investigation (FBI) have jurisdiction in all felony criminal violations and misdemeanor violations concerning non-Native Americans who commit crimes against Native Americans, (18 U.S.C. 1153).

Parker and CRIT police officers attend a police academy and are recognized as State certified police officers. CRIT police officers can enforce State laws and may book violators into the county detention facility or issue citations to appear in the town or county court.

CRIT officers who arrest a non-Native American cannot book them into the CRIT detention facility. CRIT court has no criminal jurisdiction over non-Native Americans. However, CRIT may issue Federal misdemeanor citations to non-Native Americans who commit crimes against Native Americans, citing them to appear in federal court in Flagstaff or in Phoenix, Arizona.

Equipped with the above information the police agencies will continue to improve upon and enhance their joint patrol services and investigation procedures within the Town of Parker.

1. The CRIT police department will be notified and will respond to assist Parker P.D. whenever the possibility of a Native American is involved as either a victim or a suspect.
2. The Parker P.D. will investigate all crimes involving non-Native Americans. CRIT P.D. and Parker P.D. officers will make the determination if the suspect is Native American. Whenever there is not enough evidence to believe the suspect is Native American, Parker P.D. will assume control of the investigation.

3. Parker P.D. may interview Native American witnesses and victims but will not interview Native American suspects. These interviews will be conducted by CRIT P.D.
4. All victims of a crime will be contacted by an officer and given an update of the status of their case prior to leaving the scene of the crime. If the victim is unavailable the officer's business card will be left for the victim.
5. The victim will be given the name of the investigating officer along with a contact phone number and will be kept apprised of the status of their case.
6. Parker will notify CRIT P.D. whenever they are in pursuit of criminal suspects who flee into Tribal Housing areas, i.e., Desert Sun Housing or Blue Water Park.
7. Parker P.D. will notify CRIT P.D. prior to interviewing Native or non-Native Americans who reside or are visiting in Tribal Housing.
8. If a suspect is involved in criminal activity and their tribal status is unknown, he or she will be handled as a non-Native American.
9. Parker P.D. will not arrest Native Americans who are involved in criminal activity. Parker P.D. will detain Native Americans who are committing or have committed a major felony or a violent crime, or the activity will seriously create a life threatening situation, i.e., use of weapons, serious bodily injuries, attempting to drive when seriously impaired. If the decision is made to detain, the officer will notify CRIT PD and inform them of our actions and the reason for the detention. We will not detain for misdemeanors. We will provide CRIT PD with the information and wait upon their arrival.
10. If use of force is applied to a Native American by a Parker police officer, the Parker police chief and CRIT police chief will meet and discuss the situation within two business days. A copy of the report will also be given to the CRIT PD chief.

11. Whenever Parker police officers stop a vehicle for a traffic violation and the occupants are discovered to be Native Americans, the officers will not issue a citation, nor search the vehicle or run warrant or registration information. If necessary, the officer will call for CRIT PD for assistance and they will take the necessary action.
12. Parker P.D. will immediately respond to any location that CRIT P.D. has requested help or assistance.
13. CRIT and Parker PD will maintain a united front and will publicly support each agency. If concerns arise, they will be immediately addressed by the Chiefs of each agency.
14. CRIT PD is currently in discussion for their officers to issue federal misdemeanor citations to non-Native Americans who commit crimes against Native Americans.
15. The two police agencies will conduct joint meetings or training sessions quarterly.

The Parker and CRIT police agencies are committed to work together to meet the needs and concerns of our communities. The quality of life that we enjoy in Parker needs to be unsurpassed. Our families can go out together for walks during the hours of darkness; our children can walk or ride their bikes to school without the fear of becoming a victim to random acts of violence as other families do in communities across our Nation.

The criminal problems we face in Parker are committed by a small percentage of our population. CRIT Police Chief and I are both united in our concerns and commitment to provide excellent police service and response to your concerns.

If you have questions or concerns please contact the Colorado River Indian Tribal Police Department at 520-669-9277 or me at the Parker Police Department 520-669-2264.

Sincerely,
Rod Mendoza;
Town of Parker Chief of Police

Additional Concerns

The investigation of criminal activity and the arrest of tribal suspects is only the beginning of the criminal justice process. An area of major concern among citizens, especially crime victims is the whether tribal criminal offenders are held accountable. It is not uncommon to see offenders back in the community the next day as if they were never arrested or charged for the committed offense.

During the four years I have been the Parker Police Chief, I have seen a vast improvement in the cooperation between law enforcement agencies. However, the lack of tribal resources to confine, prosecute and monitor offenders needs to be corrected. Juveniles who are arrested for crimes must be transported by bus for six hours after their hearing to be held in an approved juvenile facility. Transporting these juveniles is costing thousands of dollars to the tribal community. If the juveniles are not lodged and transported they are immediately released back into the community without being held accountable for their actions. This empowers the juveniles to continue with their criminal activity.

Funding for tribal criminal justice resources should be of the highest priority to ensure the rights and safety of all are equally protected.

References

International Chiefs of Police Indian County Law Enforcement Section

Elaine Deck, Section Liaison, Telephone 800-843-4227 ext. 262

Power point presentation “New Challenges for BIA-OLES,” 2005 annual meeting.

Seymour v. Superintendent of Washington State Penitentiary, 368 U.S. 351, 82 S. Ct. 427, 7 L.Ed.2nd 346 (1962).

United States District Court, D. Arizona.

Colorado River Indian Tribes, an Indian Tribe, Plaintiff, v. Town of Parker, a Municipal Corporation, et al., Defendants

No.CIV-83-2359-PHX-R6S. January 17, 1989. *Judge Strand*.

18 U.S.C.-1151(a). Indian country & Dawes act/general allotment act.