



# Sisseton-Wahpeton Sioux Tribe

LAKE TRAVERSE RESERVATION

## Office of the Tribal Chairman

P.O. Box 509 | 112554 BIA HWY 711

Agency Village, South Dakota 57262

Phone: (605) 698-3911

### TESTIMONY OF DAVID FLUTE, CHAIRMAN SISSETON-WAHPETON SIOUX TRIBE

#### BEFORE THE UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS LEGISLATIVE HEARING TO RECEIVE TESTIMONY ON:

*S. 1870, the Securing Urgent Resources Vital to Indian Victim Empowerment Act of 2017,  
S. 1953, the Reauthorization of the Tribal Law and Order Act of 2010, and  
S. 1942, a Bill to Direct the Attorney General to Review, Revise and Develop  
Law Enforcement and Justice Protocols Appropriate to Address Missing and Murdered Indians.*

**OCTOBER 25, 2017**

#### **I. INTRODUCTION**

Good morning, Chairman Hoeven, Vice Chairman Udall and Members of the Committee and Honored Guests. My name is David Flute. I serve as the Chairman of the Sisseton-Wahpeton Tribe (“SWST”) of the Lake Traverse Indian Reservation in North and South Dakota.

I am pleased to testify at this important hearing in support of S. 1870, the Securing Urgent Resources Vital to Indian Victim Empowerment Act of 2017, also referred to as the SURVIVE Act, S. 1953, the Reauthorization of the Tribal Law and Order Act (TLOA) of 2010, and S. 1942, a bill to direct the Attorney General to review, revise and develop law enforcement and justice protocols appropriate to address missing and murdered Indians.

For the past decade, we had been working to replace our old detention facility with a multipurpose Community Justice and Rehabilitation Center (Tribal Justice Center), designed to provide a comprehensive, all-inclusive approach that will also address the pressing behavioral health needs of our tribal members. Over \$1.2 million has been expended on this endeavor.

The funding and construction of our Tribal Justice Center is our highest and most important priority. We thank you for all of your efforts to increase Department of Justice (DOJ) funding for Indian country through the proposed Senate FY 2018 seven percent (7%) DOJ Office of Justice Programs (OJP) tribal set-aside and five percent (5%) DOJ Crime Victims Fund tribal set-aside. We especially appreciate your inclusion of report language, which recommends that DOJ should give consideration for funding “detention facilities, including outdated detention facilities that are unfit for detention purposes and beyond rehabilitation....”.

And, we want to thank your staff for their excellent work and consistent consultation with our tribal leadership. We are working to have our Tribal Justice Center site shovel-ready, so when FY 2018

CJS and Interior Appropriations Bills are enacted into law, we are prepared to move forward immediately.

South Dakota Governor Dugaard recognized our need for Federal assistance. On August 21, 2017, he wrote to the South Dakota congressional delegation:

If Congress can provide funding assistance, from the BIA and/or DOJ, to the Sisseton-Wahpeton Sioux Tribe for its Justice Center, the public safety of the Sisseton-Wahpeton Sioux Tribe and the surrounding area of northeast South Dakota and southeast North Dakota will be enhanced.

The Governor wrote his letter after his visit to our Sisseton-Wahpeton community, which included a review of the detention facility.

On October 3, 2017, North Dakota Governor Burgum wrote to the North Dakota congressional delegation:

We support the Sisseton-Wahpeton Sioux Tribe's efforts to build the new Justice Center and commend your work to assist the Tribe in securing funding. Your success in promoting construction of the new Sisseton-Wahpeton Justice Center will enhance regional law enforcement, criminal justice and the safety of our citizens.

As our testimony will demonstrate, securing the funding for the construction of our Community Justice and Rehabilitation Center will allow us to more fully exercise our inherent sovereignty to provide public safety and wellness services for our tribal members. Moreover, having our Justice Center facility fully operational will allow us to be more fully prepared and equipped to implement S. 1870, S. 1953, and S. 1942. Our testimony will address these points as well.

## **II. THE SISSETON-WAHPETON SIOUX TRIBE**

As Native Americans, respect for our Native Nations, treaty rights, and Indian lands is important because our rights to Native self-governance on our Reservation homeland are the essence of Freedom and Liberty for us. We agree with the Framers of the Declaration of Independence that:

We hold these truths to be self-evident, that all men [and women] are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed....<sup>1</sup>

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<sup>1</sup> At the time of the formation of the Constitution, the Continental Congress pledged in the Northwest Ordinance of 1787: The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress.... President Washington and the first Congress ratified the Northwest Ordinance on August 7, 1789.

Through our treaties, we formed an alliance with the United States, and our Treaty acknowledges the original, natural rights to Life, Liberty and Self-Government that the Creator endowed our People with from time immemorial.

From the time prior to recorded history, our people's original homelands have been in Minnesota, North and South Dakota. The Sisseton-Wahpeton Sioux Tribe is signatory to the 1851 Treaty with the Sisseton-Wahpeton Bands of Dakota Sioux (Traverse des Sioux). During the Dakota Conflict of 1862, the Sisseton-Wahpeton Sioux Tribe assisted the United States by rescuing white residents of our 1851 reservation and rescuing hostages and captives.

We just celebrated the 150<sup>th</sup> Anniversary of our 1867 Lake Traverse Treaty with the United States. The 1867 Treaty continues our "friendly relations with the Government and people of the United States." Our Treaty also recognizes our people's right to self-government and to adopt "laws for the security of life and property," to promote the "advancement of civilization" and promote "prosperity" among our people. More than two decades prior to North and South Dakota statehood, the 1867 Lake Traverse Treaty set aside the Lake Traverse Reservation as our "permanent reservation" homeland:

Beginning at the head of Lake Travers[e], and thence along the treaty-line of the treaty of 1851 to Kameska Lake; thence in a direct line to Reipan or the northeast point of the Coteau des Prairie[s], and thence passing north of Skunk Lake, on the most direct line to the foot of Lake Traverse, and thence along the treaty-line of 1851 to the place of beginning.

Under the Allotment Policy, significant tribal lands were sold as surplus lands against our wishes, but under the modern Indian Self-Determination Policy, Congress affirmed our efforts to recover that portion of our homelands, and treats our recovered Indian trust lands as "on-reservation" acquisitions within the original boundaries of the Lake Traverse Reservation. Public Law 93-491 (1974).

Among the Sisseton-Wahpeton Sioux Tribe, we have maintained our treaty alliance with the United States, and we are rightfully proud of our volunteer service to the United States through the military. Woodrow Wilson Keeble, one of our most respected tribal members, served in World War II and in Korea, and President George W. Bush posthumously awarded him the Congressional Medal of Honor. My own grandfather served in the 101<sup>st</sup> Airborne Division in Bastogne during the Battle of the Bulge in World War II. I served during the War in Afghanistan.

### **III. THE LAKE TRAVERSE RESERVATION**

The Lake Traverse Reservation is located in the Northeastern part of South Dakota and the southeastern corner of North Dakota. The Reservation boundaries extend across seven counties, two in North Dakota and five in South Dakota. The Dakota Magic Casino in Hankinson, North Dakota on our tribal reservation lands has been a major success and tourism destination for the Sisseton-Wahpeton Sioux Tribe, with over 750,000 visits per year and with some customers visiting 4 or 5 times, we estimate that more than 150,000 people visit our facility annually. We operate Dakota Winds Golf Course, a hotel, restaurant, buffet and lounge at our North Dakota Resort. We employ 425 people in Hankinson, 55% of our employees are tribal members and 45% are non-members from nearby towns. We also have two tribal housing areas near our Casino and Resort in Hankinson.

Our Dakota Sioux Casino is located just north of Watertown, South Dakota and we employ 202 people, 58% of our employees are tribal members (or Indians from others tribes) and 42% are non-members from nearby towns. We also operate a convenience store and service station, buffalo herd, fuel company, extruded film factory, and we recently opened a grocery store, so we are working hard to create jobs and develop our economy.

Our Tribal Headquarters is located in Agency Village, South Dakota. We have more than 14,000 tribal members and approximately 8,000 live on or near our Lake Traverse Reservation in North and South Dakota. SWST is a Treaty Tribe that provides essential governmental services to our tribal members and others residing, working, visiting and traveling through the Lake Traverse Indian Reservation in northeast South Dakota and southeast North Dakota.

#### IV. DRUG AND ALCOHOL ABUSE, VIOLENT CRIME AND JUVENILE DEPENDENCY

The FBI UCR Crime Report (Sept. 25, 2017) finds that: Violent Crime in the United States increased for the second straight year in 2016—overall violent crime increased by 4.1%. The report shows increases over 2015 in all four offenses in the violent crime category: murder, rape, robbery, and aggravated assault. Murder has the largest growth at 8.6 percent. The 2016 Nationwide Crime Rate 386.3 per 100,000, the South Dakota Crime Rate was 418.4 per 100,000 and the North Dakota Crime Rate was 251.2 per 100,000.

*South Dakota State 2016 Crime Reports* include a 12.5% increase in drug crime, although overall some of the most violent crime was down. South Dakota Attorney General Marty Jackley said, “Right now there’s a meth epidemic across the Nation.... It affects the Reservations as well as the State when the methamphetamine come into the State from across the Southern borders.... We need to do everything that we can to spread the message to the youth and do everything we can for prevention and treatment.” Bridget Bennett, KSFY TV, Reservation Crime Would Nearly Double SD Crime Stats (March 20, 2017). *In August 2016, tribal law enforcement responded to a home birth on the Lake Traverse Reservation, and the full term baby was born dead with a high level to the drugs in its system.*

KSFY News Reports explain that if Reservation crimes were included in state totals, the number of reported murders in South Dakota **would nearly double**. The FBI, U.S. Attorneys and tribal law enforcement have jurisdiction over Indian reservation crime. “The number of cases and number of users of methamphetamines has been rising on Indian reservations across the state. The increase in drug activity is correlating to an increase in the violent crime. Specifically, we’ve seen an increase in violent crime incidents in all of the Indian reservations throughout the state,” said Matt Moore, FBI Supervisory Senior Resident Agent for Sioux Falls.

South Dakota law enforcement made 7,200 drug arrests in 2015, nearly double the number made in 2005. Aggravated assault and robbery cases also doubled over the same ten-year period. According to Sioux Falls Police Chief Matt Burns, “The public’s appetite for high-grade marijuana and methamphetamine has fostered a more violent drug culture in which buyers and sellers are more likely to arm themselves.” See *Is South Dakota more violent than it’s ever been?* Sioux Falls Argus Leader, January 13, 2017. The Sioux Falls 2013 drug “rip” murder of Jordan LeBeau, 19, who was armed, by two Watertown teenagers is one of the more high profile murders in the past few years. Watertown is located less than 10 miles from the Sisseton-Wahpeton Sioux Tribe’s Lake Traverse Reservation.

**North Dakota Crime Statistics:** North Dakota faces significant drug crime challenges as well, including on our Indian reservations. In 2015, North Dakota suffered a 9.8% increase in per capita crime, which was the largest per capita crime increase in 5 years and the most homicides in decades. Based on FBI reports:

That included a 9.5% increase in crimes against persons such as murder, rape and assaults, and a 14% percent increase in crimes against property such as burglary, robbery and motor vehicle theft. The number of crimes against society—among them drug violations and weapons violations—increased by 11.1%.

“North Dakota in all is a different community. We’re not Minneapolis, but we’re not the North Dakota of 25, 30 years ago where you can leave your doors unlocked and you know everybody,” Bismarck Police Chief Dan Donlin told the Bismarck Tribune. Thankfully in 2016, North Dakota had a 1.1% decrease in crime, with gains made in decreased drunk driving.

At Sisseton-Wahpeton, we have seen continuing serious increase in drug related crime and violence. That is consistent with the overall pattern of North and South Dakota, except we have not had a reduction in drunk driving.

We have been working together with Federal, state and local law enforcement to fight drug crime and violent crime. These law enforcement agencies along with the FBI, state DCI, the Tribal CI, and federal, state and tribal prosecutors are developing strategies to target the drug distributors who have figured out the jurisdictional complexities between the Tribe and the State, and we are working collaboratively cover any jurisdictional gaps.

Due to the drug and alcohol abuse problems affecting our Reservation, our tribal police made about 1400 arrests on the Lake Traverse Reservation in North and South Dakota last year. Much of the drug use also involves or stems from opioid abuse. In recent years, SWST youth and adults on our Reservation have been suffering with chemical dependency, drug and alcohol abuse, and violent crime resulting in the key incarceration figures:

- ✓ Substance abuse offenses & criminal offenses account for approx. 75% of all adult arrests, of which 15% exhibit highly repetitive substance abuse and criminal behavior. This group uses a disproportionate amount of justice (and potentially other) system resources.
- ✓ About 80% of all juveniles charged with a substance abuse offense, often accompanied by a curfew violation. This pattern shows a lack of parental supervision and clearly underscores a need to address these offenses in the context of families and family networks.

SWST has identified Behavioral Health, including addressing chemical dependency, mental health, adolescent treatment, detox, transitional care, inpatient/outpatient services for adult and youth, as our top community health and wellness priority. We currently lack sufficient facilities and services to adequately

address these health care needs. We had a 1974 building for law enforcement services, which the BIA closed and decommissioned in December 2016 due to operational and other deficiencies.

The BIA's closure of our jail has left us with little recourse against drunk driving, drug crimes and domestic abuse. When Governor Daugaard came to visit us, my assistant observed two drunk drivers travelling our roads together and called on the police, so our Chief of Police was not able to attend our law enforcement meeting with the Governor. Our tribal police have had to send home domestic violence abusers and recently, we had a 7 year-old bring a syringe to school, which his mother used for methamphetamines. We had to let the mother back on the streets until her trial because we have no place to detain her. Our incidents of drug related crime problems are serious. The BIA suggested contracting with nearby county detention facilities, but the counties are overwhelmed and have no room for our offenders. So, under the BIA's law enforcement plan, we are left with a "catch and release" system. The BIA's approach to our detention center is an accident waiting to happen.

## V. FY 2018 SENATE CJS APPROPRIATIONS/INTERIOR APPROPRIATIONS BILLS

The Sisseton-Wahpeton Sioux Tribe appreciates the efforts that the Senate has made to enhance Tribal Detention Facility/Justice Center funding. A reference was included in the FY 2018 CJS Senate Bill that establishes a 7% set-aside for Indian tribes in OJP funding and a 5% set aside for Indian tribes from the Crime Victim Fund. The Senate Report has language concerning tribal justice centers:

*Flexible Tribal Assistance.*—The Committee recommends funding tribal grant programs by permitting 7 percent of discretionary grant and reimbursement program funds, a total of \$110,705,000 made available to the OJP and COPS, to be used for tribal criminal justice assistance, and continues to strongly support efforts to help tribes improve the capacity of their criminal justice systems. ***The OJP is expected to consult closely with tribal stakeholders in determining how tribal assistance funds will be awarded for detention facilities, including outdated detention facilities that are unfit for detention purposes and beyond rehabilitation....***

We face some remaining hurdles. First, in our' discussions with Justice Department staff, we have been informed that the use of the term *recommends* does not guarantee action by the Department, so perhaps Congress should use the term *directs* or incorporate the directive in the bill language. Second, the Justice Department is planning a nationwide consultation with tribal stakeholders, and there is no requirement to coordinate with the BIA, which has established a list to assist Indian tribes with replacement of detention facilities that they have closed—we believe that Congress should require OJP to coordinate with BIA on funding of detention facilities. Third, there is no set amount of funding for the Tribal Detention Facilities which is important to identify given that our proposed Justice Center planned by EKM&P—A DOJ Contractor—calls for a \$32 Million facility.

The BIA found \$5 Million from year end FY 2017 funds for the Hopi Tribe Detention Facility—which has about 7,000 tribal members resident on the Reservation. So, now the BIA list of Indian tribes with closed facilities is in order of priority:

1. Blackfeet Tribe of Montana;
2. Sisseton-Wahpeton Sioux Tribe of North and South Dakota; and

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We understand that the BIA also recently closed the Tribal Detention Center of the Mescalero Apache Tribe of New Mexico. And, there are likely other tribal detention facilities facing the same fate.

The BIA promised to fund the Sisseton-Wahpeton Sioux Tribe \$2 Million to \$3 Million in year-end funds when it closed our facility in December 2016, but later withdrew its promise. The Hopi Tribe was waiting for two years before it received funding, so according to that timeline, we would be waiting for four more years BIA funding because the Blackfeet Tribe is ahead of us.

Accordingly, we are seeking support from our Senators to renew Senator Rounds' amendment to the FY 2017 CJS Appropriations Bill to the effect that \$25 Million should be directed toward detention facilities:

Of the funds that are made available in this Act for the Office of Justice Programs to be used for tribal criminal justice assistance, OJP is directed to use up to \$35 million to replace outdated detention facilities located on Indian lands, which have been determined by the United States to be unfit for detention purposes and are beyond rehabilitation. OJP shall give priority to Indian tribes (or intertribal consortia) that have had detention facilities closed by the BIA and await replacement or repair, who serve 2,500 or more tribal members and demonstrate readiness and preparedness for construction.

Because we need funding for Adult Detention and Juvenile Detention, which must be sight and sound separated under BIA regulations, we believe that there should be a complimentary fund at BIA to assist in the construction of Tribal Justice Centers. So we ask for the Committee to support an amendment to the FY 2018 Interior Appropriations Bill to the effect that:

- \$15 Million should be appropriated through Interior Facilities Construction for Tribal Detention Facilities for Indian tribes (or intertribal governmental consortia) serving 2,500 tribal members whose detention facilities have been closed by the BIA and the BIA should provide priority for construction ready projects in areas of Indian country under Title 18 USC 1152 and 1153 Federal criminal jurisdiction; provided that no funds shall be used by the BIA to close BIA or Tribal Detention Facilities unless the BIA has a plan developed in consultation with the affected Indian tribe to remediate, repair or replace the facility to be closed so that tribal communities are not left without public safety facilities.

This Justice—Interior coordination will assist us in building the Adult *and* Juvenile Detention Center wings of our Sisseton-Wahpeton Sioux Justice Center.

## **VI. SUPPORT FOR PASSAGE OF S. 1870, THE SURVIVE ACT**

For several years, the President's Budget has recommended a 5% Set-Aside for Indian Tribes from the Crime Victims Fund due to the high level of violent crime victimization among American Indians and Alaska Natives and the unique Federal law enforcement authority for areas including North and South Dakota, Montana, New Mexico and Arizona, which are under the Indian Major Crimes Act, 18 USC sec. 1152, and the Indian Country Crimes Act, 18 USC sec. 1153. President Trump's FY 2018 budget recommended a 5% Set-Aside for Indian Tribes from the Crime Victims Fund.

In prior years, only 0.5% of the Crime Victims Fund has been expended on Indian country. The lack of funding for victims' services and mental health contributes to the suffering of crime victims and their families, including astronomically high rates of suicide in Indian country. "Violence including intentional injuries, homicide and suicide, accounts for 75% of deaths of AI/AN youth ages twelve to twenty." *Center for Native American Youth at the Aspen Institute*. The CVF 5% tribal set-aside is necessary and justified. The National Task Force to End Domestic and Sexual Violence, a coalition representing thousands of local and national organizations addressing violent crime victimizations, supports the funding level for tribal governments included in the Senate CJS bill.

In the House of Representatives, the full Appropriations Committee accepted the Cole-McCollum Amendment providing for a 5% Set-Aside for Indian Tribes from the Crime Victims Fund. Yet, when the Bill was under consideration by the Full House, Chairman Goodlatte, House Judiciary Committee objected to the 5% Set-Aside for Indian Tribes from the Crime Victims Fund because it was "authorizing" on an Appropriations Bill.

The Survive Act provides the necessary authorization to overcome Chairman Goodlatte's opposition to the Senate 5% Set-Aside for Indian Tribes from the Crime Victims Fund. Moreover, the Survive Act acknowledges the high rate of violent crime victimization among American Indians and Alaska Natives, the Federal trust responsibility and the unique Federal law enforcement responsibility for areas of Indian country under Federal and tribal jurisdiction.

Our Sisseton-Wahpeton people, who are victimized by violent crime, suffer post-traumatic stress akin to what some military veterans have suffered. We suffer high rates of suicide as a result, and Crime Victim Funding for counseling and support services is essential to address Indian crime victimization issues, including Human Trafficking. Furthermore, once we have access to a reliable source of funding through the 5% CVF tribal set aside, these resources will help augment and enhance the crime victim support services that will be provided at our Community Justice and Rehabilitation Center.

## **VII. SUPPORT FOR PASSAGE OF S. 1953, REAUTHORIZATION OF TLOA**

More than two decades ago, the Justice Department undertook an Indian Law Enforcement Improvement Effort, with the establishment of tribal liaison positions, increased FBI agents for Indian country, increased Assistant U.S. Attorneys and later, Special Assistant U.S. Attorneys (cross-designated tribal attorneys) to assist with the prosecution of Indian country crime. In 1997—2,000, the Justice Department undertook the President's Indian Country Law Enforcement Improvement Initiative, which increased OJP, COPS, VAWA and other DOJ funding for Indian Country Law Enforcement. At the time the initiative was undertaken, Congress did not enact comprehensive Indian country authorizing legislation and provided simply that funding was available to "state, local and tribal governments." Accordingly, through Attorney General consultations in 2009—10, the Justice Department heard from Indian nations and tribes about the very pressing need for legislation, which resulted in the enactment of the Tribal Law and Order Act in 2010. According to the Justice Department's 2011 Report on Tribal Justice Centers:

Sections 211 and 244 of the Tribal Law and Order Act (TLOA) direct the Department of Justice (DOJ) and the Department of the Interior (DOI) to create "a long-term plan to

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address incarceration in Indian country.” Pub. L. No. 111-211 (July 29, 2010).

After consultation with Indian tribes, Justice Department issued: “The Long Term Plan to Build and Enhance Tribal Justice Systems (Tribal Justice Plan).” The Report explains that DOJ will undertake to promote detention construction and services in cooperation with Interior and tribal governments. The mid-term plan was as follows:

- The Work Group will develop and enhance collaborative strategies to increase the accessibility of federal funding and resources for Tribal Nations in the areas of alternatives, detention, and reentry.
- The Work Group will explore options and potential resources to promote comprehensive programming for detention facilities. Strong multi-disciplinary collaboration is necessary to leverage resources for good detention programming. Federal agencies can play a leadership role in supporting the collaboration at the tribal level, given the range of roles on the federal, tribal, state and local levels.
- The Work Group should identify existing funding, training and technical assistance that supports detention and reentry, and make it available in a central location online.
- DOI and DOJ will enhance their current coordination and planning efforts related to funding new construction, to maximize success of these projects.

Despite this strategy for improved Tribal Detention resources, under the sequester system, the Justice Department resources have been limited to repairing existing facilities in recent years. Congress should enhance DOJ coordination with the BIA, which continues to close existing Tribal Detention facilities for non-compliance with BIA Detention Standards with no plan for replacement.

The Tribal Law and Order Act authorized the Justice Department’s Tribal Law Enforcement Programs for five years, and the authorizations expired in 2015. For the purposes of our Detention Center, the reauthorization of the DOJ Detention Program is important:

#### TRIBAL JAILS PROGRAM.

(a) IN GENERAL.—Section 20109 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709) is amended by striking subsection (a) and inserting the following:

“(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this part, of amounts made available to the Attorney General to carry out programs relating to offender incarceration, the Attorney General shall reserve \$35,000,000 for each of fiscal years 2011 through 2015 to carry out this section.”.

(b) REGIONAL DETENTION CENTERS.—

(1) IN GENERAL.—Section 20109 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709) is amended by striking subsection (b) and inserting the following:

“(b) GRANTS TO INDIAN TRIBES .—

“(1) IN GENERAL .—From the amounts reserved under subsection (a), the Attorney General shall provide grants—

“(A) to Indian tribes for purposes of—

“(i) construction and maintenance of jails on Indian land for the incarceration of

offenders subject to tribal jurisdiction;

“(ii) entering into contracts with private entities to increase the efficiency of the construction of tribal jails; and

“(iii) developing and implementing alternatives to incarceration in tribal jails;

“(B) to Indian tribes for the construction of tribal justice centers that combine tribal police, courts, and corrections services to address violations of tribal civil and criminal laws;

“(C) to consortia of Indian tribes for purposes of constructing and operating regional detention centers on Indian land for long-term incarceration of offenders subject to tribal jurisdiction, as the applicable consortium determines to be appropriate.

“(2) PRIORITY OF FUNDING .—in providing grants under this subsection, the Attorney General shall take into consideration applicable—

“(A) reservation crime rates;

“(B) annual tribal court convictions; and

“(C) bed space needs.

“(3) FEDERAL SHARE .—Because of the Federal nature and responsibility for providing public safety on Indian land, the Federal share of the cost of any activity carried out using a grant under this subsection shall be 100 percent.”.

The effort to enhance Juvenile Justice programs in TLOA is important because it recognizes and enforces the need for both the Federal and Tribal Governments to work together to help our American Indian youth to succeed.

Furthermore, the Sisseton-Wahpeton Sioux Tribe believes that when Congress reauthorizes TLOA, Congress should establish an Indian Law Enforcement Improvement Commission composed of the Justice Department, Interior and Indian tribes to enhance the effectiveness and coordination of Indian law enforcement, as follows:

- The Department of Justice shall cooperate with the Department of the Interior in providing comprehensive law enforcement services to assist Indian tribes to ensure public safety, maintain law and order, and administer justice in Indian country, including detention facilities; and
- The Secretary of the Interior and the Attorney General shall establish a Joint Indian Country Justice Commission composed of the Department of the Interior Assistant Secretary for Indian Affairs, Assistant Secretary Policy, Management and Budget, Director BIA and Director BIA Law Enforcement, the Deputy Attorney General, Associate Attorney General and the Director of the Office of Tribal Justice, US DOJ, a Representative each from the FBI and the DEA, and Tribal Law Enforcement Representatives to Coordinate Tribal Law Enforcement Operations, Implement Strategies to Fight Crime and Promote Public Safety, to Develop Strategies Concerning Indian Country Public Safety, Law Enforcement and the Administration of Justice; the Commission should be intergovernmental in nature and shall not be subject to FACA;

Moreover, the TLOA Reauthorization should include a demonstration project modeled upon Public Law 102-477 for Indian tribes under Federal and Tribal Law Enforcement Jurisdiction, as follows:

- Indian tribes with 2,500 tribal members or more (and intertribal consortia serving 2,500 Indians or more) may submit comprehensive plans for public safety, law enforcement and the administration of justice and such comprehensive law enforcement plans shall be jointly funded by Interior and Justice and administered by Interior under Public Law 93-638 with unified reporting to both agencies and a unified program audit;
- After consultation with the Secretary of the Interior and the Indian Country Law Enforcement Improvement Commission, the Attorney General may waive administrative, statutory and regulatory provisions when such waivers are deemed necessary to promote Indian Self-Determination and public safety, effective Indian country law enforcement, and efficient administration of justice in Indian country, provided that overall public safety, law enforcement and criminal justice program goals shall be maintained and a report shall be provided annually to Congress concerning the necessary waiver of administrative, statutory and regulatory requirements.

Such a pilot project has been shown to be practical and effective under Public Law 102-477 (Labor—Interior Employment Training Programs), and Indian tribes under Federal and tribal law enforcement jurisdiction need more basic assistance for law enforcement than is currently provided by grants.

We appreciate the leadership of Chairman Hoeven, Vice Chairman Udall and the members of the Senate Committee on Indian Affairs on these important issues. We support the enactment of the TLOA reauthorization with our requested additions. For the Sisseton-Wahpeton Sioux Tribe, and other Tribes where the BIA has closed their Tribal Jails, we cannot emphasize enough how important a Tribal Justice Center/Detention Center is to maintain basic public safety.

## **VIII. SUPPORT FOR PASSAGE OF S. 1942, TO ADDRESS MISSING AND MURDERED INDIANS**

North Dakota and the North Dakota Indian community just underwent a terrible tragedy with the murder of Savanna Greywind, whose baby was torn from her womb by a deranged couple living in a neighboring apartment. Savanna was a nursing assistant at a nearby senior care facility. Moreover, recently three of our teenage tribal member girls were subject to human trafficking. As is so often the case with missing and abducted Native women, information sharing is essential. In order to protect Native women, we must find them as soon as possible. S. 1942 provides the more focus and priority for cases involving missing and exploited Native women. Specifically, the bill further requires the Departments of Justice and Interior to coordinate efforts to establish protocols to investigate missing and murdered Native Americans. Protocols shall be developed in consultation with Indian tribes, the FBI, DOJ, BIA, and IHS. DOJ must also annually report to the Senate Committee on Indian Affairs and the House and Senate Judiciary Committees on the known statistics on missing and murdered Indian women in the U.S. and related information. Accordingly, the Sisseton-Wahpeton Sioux Tribe fully supports the enactment of this legislation to safeguard Native women.

## **IX. CONCLUSION**

In closing, I want to thank the Committee for the opportunity to testify on behalf of the Sisseton-Wahpeton Sioux Tribe regarding our tribal law enforcement, public safety and related wellness priorities

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in expressing our support for S. 1870, the Securing Urgent Resources Vital to Indian Victim Empowerment Act of 2017, S. 1953, the Reauthorization of the Tribal Law and Order Act of 2010, and S. 1942, a bill to direct the Attorney General to review, revise and develop law enforcement and justice protocols appropriate to address missing and murdered Indians.

We are challenged by the rise in drug crimes and attendant violence. Our top priority of securing funding for our Tribal Justice and Detention Center, will be the key vehicle to empower our Tribe with the infrastructure, tools and capacity to implement and participate in these key legislative measures when enacted into law. Please help us restore safety to our community. Wopida.