

**STATEMENT OF W. PATRICK RAGSDALE
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DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
OVERSIGHT FIELD HEARING
IN LOWER BRULE, SOUTH DAKOTA
ON
THE NEEDS AND CHALLENGES OF TRIBAL LAW ENFORCEMENT
ON INDIAN RESERVATIONS**

JUNE 1, 2007

Mr. Chairman and Members of the Committee, I am pleased to provide a statement on behalf of the Department of the Interior regarding the needs and challenges of tribal law enforcement on Indian Reservations. With me today are Christopher Chaney, Deputy Director, Office of Justice Services (OJS) for the Bureau of Indian Affairs (BIA), and Elmer Four Dance, Special Agent in Charge for our District 1 Office located in Aberdeen, South Dakota. We thank you for inviting us to provide testimony on an issue that significantly impacts the welfare of our American Indian and Alaska Native communities.

The BIA has a service population of about 1.6 million American Indians and Alaska Natives who belong to 562 federally recognized tribes. The BIA supports 191 law enforcement programs with 42 BIA-operated programs and 149 tribally-operated programs. Approximately 78 percent of the total BIA OJS programs are outsourced to Tribes.

OJS provides a wide range of law enforcement services to Indian country, including police services, criminal investigation, detention facilities, tribal courts, and officer training by the Indian Police Academy.

Indian Country law enforcement provides services to a population that is predominantly under the age of 25, experiences high unemployment rates, and lacks municipal infrastructure. Indian lands range from remote wilderness to urban settings. The close proximity of a number of reservations to the international borders of Mexico and Canada make these locations the perfect targets for drug trafficking and other smuggling operations. Recent reports and news articles outline the extreme shortcomings of the criminal justice systems in Indian Country. Crime rates on most reservations are unacceptably high.

Earlier this year, Secretary Kempthorne echoed the concern he heard from tribal leaders about the serious increase in violent crimes on their homelands, when he announced his Safe Indian Communities Initiative, which will increase law enforcement services where they are most needed in Indian country. The Initiative is part of the President's FY 2008 budget request. It includes a \$16 million increase in funding to strengthen law enforcement capabilities on tribal lands by providing \$5 million to hire additional law enforcement officers; \$5 million to increase staff at Indian detention facilities; and \$6 million to provide specialized drug enforcement

training for officers and public awareness campaigns about the dangers of methamphetamine use. The Initiative will bring the total funding for BIA law enforcement to \$233.8 million.

The BIA coordinates with the Department of Justice (DOJ) in many areas: coordination regarding funding for Law Enforcement police staffing, consultation regarding construction of detention facilities, and day-to-day coordination with the FBI and United States Attorneys offices. The BIA is working in collaboration with DOJ on implementing the Amber Alert program in Indian Country and on developing effective means of sharing criminal justice information. In addition, the BIA is working with private industry to explore ways to bring new technology to Indian Country law enforcement.

For many of our Indian citizens who live on or near Indian reservations, life has become much more violent. In the past year, we conducted an analysis that included the service populations of each tribe that had a law enforcement program (including BIA direct service programs and tribal programs that were at least partially funded by the BIA through either a Public Law 93-638 contract or a “self-governance” compact) to determine appropriate High Crime and High Priority fund distributions. The distribution is based upon the comparison of individual tribal violent crime rates with the national crime rate. In addition, we looked at the number of officers that serve each reservation as compared to the national average and compared that figure for each tribe. This analysis helped us to pinpoint the law enforcement programs with the greatest need.

Further, we contracted to have a Gap Analysis conducted, which was completed in 2006. The Gap Analysis measured current organizational functions and practices against a standard or benchmark, such as industry best practices, and examined organizational strategic goals. This analysis relied on quantitative and qualitative factors to help focus management’s attention on the “gap” between “what is” and “what should be”. This, in turn, required management to ask “How do we get there?”

Part of what the Gap Analysis found was the need to hire additional law enforcement officers in Indian Country. The Safe Indian Communities Initiative would provide for the hiring of 51 new law enforcement officers and 91 new corrections officers for Indian country. This is a positive step in our efforts to get needed public safety resources to our tribal communities.

As of the second quarter of FY 2007, 48 percent of BIA funded law enforcement agencies were staffed to the national average of 2.6 officers per 100,000 inhabitants in non-metropolitan communities. Of the agencies that are at the national average of staffing, 5 percent are BIA operated law enforcement agencies and 43 percent are tribally operated agencies under Public Law 93-638 contracts or Self-Governance compacts. On many reservations there is no 24-hour police coverage. Police officers often patrol alone and respond alone to both misdemeanor and felony calls. Our police officers are placed in great danger because back up is sometimes miles and hours away, if available at all.

Today, there are 191 tribal/BIA law enforcement programs supported through Congressional appropriations to the BIA. One hundred eight tribes have Public Law 93-638 contracts (57%), 41 have self-governance compacts (21%), and 42 tribes have BIA police (22%). Additionally, many tribes supplement BIA funding with funding from the tribal treasury, grants from DOJ or

other sources. Under Public Law 83-280 and similar legislation, the remaining tribes rely on state and local law enforcement for major crimes. In addition, there are three legal avenues for prosecuting felonies involving Indians on Indian lands: the Federal criminal justice system; Public Law 83-280; and other authorized state and local criminal justice systems.

Various statutes and provisions of case law make jurisdictional determinations extremely difficult. The BIA encourages cross-commissioning so that federal, tribal, and state authorities can make arrests for each jurisdiction. For instance, BIA offers qualified tribal and state officers federal Special Law Enforcement Commissions so they can enforce federal law. This closes loopholes and allows police to focus on investigating the crime instead of sorting out jurisdictional details, which can be done later with the assistance of legal counsel.

Another part of the problem is the state of equipment such as vehicles, weapons, and radio communications equipment. Higher quality and better maintained equipment would help police officers in their response to crime in Indian country.

Since FY 2001, we have requested and Congress has appropriated funds to implement the conversion from existing telecommunications equipment to the narrowband radio system to address the National Telecommunications and Information spectrum efficiency mandate. The mandate required that all Federal agencies convert to narrowband land mobile radio operations. Outdated radios and insufficient radio coverage place officers at risk and have led to a loss of lives in Indian country due to the inability of officers to radio for assistance. Reliable land mobile radio communication systems are vital in supporting program functions and improving public safety within Indian country. Land mobile radio is one of the most critical infrastructure components for tribal community safety and is the basis for wireless communication affecting public safety, education, public works, wildfire, and tribal communities.

Tribes also face a mounting drug problem. Tribal leaders describe a methamphetamine crisis that has the potential to destroy an entire generation if action isn't taken. Some tribal leaders refer to the prevalence of the use and access to the drug as the second smallpox epidemic and rank it as the number one public safety problem on their reservations. On many reservations organized crime and drug cartels are producing and distributing the drug and are contributing to increased criminal activity in those communities.

During a hearing on methamphetamine (meth) in Indian Country last April, before the Senate Committee on Indian Affairs, one tribal chairwoman stated that an estimated 25 percent of the babies born on her reservation were addicted to methamphetamine. We are committed to helping Indian Country remove this scourge from its midst.

In April 2006, the OJS published the results of the National Methamphetamine Initiative Survey. The survey consisted of 20 questions and was responded to by 96 agencies. Seventy-four percent of all respondents indicated that methamphetamine poses the greatest drug threat to the communities they serve. This is followed by marijuana at 11 percent; Crack cocaine and powder cocaine followed at 6 percent. Five percent of responding agencies indicated powder cocaine as their primary drug problem. Heroin and pharmaceutical drugs rounded out the responses with 3 percent and 1 percent respectively.

In response to the meth crisis, the BIA currently has eight certified drug enforcement officers to cover all of Indian country. The Safe Indian Communities Initiative will help combat the highly visible drug problem by enabling the development and provision of specialized drug enforcement training for BIA and tribal officers. As a result of the Initiative, more officers on patrol will have the essential knowledge and tools to break up drug trafficking, disrupt the activities and organization of crime groups, and seize controlled substances. This will lead to positive outcomes such as increased drug seizures and a substantial reduction in drug trafficking. Additionally, Initiative funding will allow the program to develop a meth public awareness campaign to educate Indian country on the dangers of the drug and how to combat those dangers. By certifying officers and educating the public about the dangers of meth, the BIA is taking proactive measures against meth and other drugs in Indian country to provide for safe and healthy Indian communities.

As for detention centers, there are 82 detention facilities in Indian Country, some holding (one to two cells) facilities located on 57 reservations. Of the 82 detention facilities, 27 are used to detain juveniles. Twenty jails are operated by the BIA and 62 by individual tribes. Most of these facilities were built in the 1960s and 1970s. Many of these facilities were designed to hold only 10-30 adult inmates.

In September 2004, the Department's Office of the Inspector General (OIG) published a report, titled "Neither Safe Nor Secure: an Assessment of Indian Detention Facilities," that highlighted the problems with Indian Country Detention facilities. The OIG found that serious safety, security, and maintenance deficiencies exist at the majority of BIA and tribal detention centers, and pose a hazard to inmates, staff, and the public. Out of this report came 25 recommendations. As a result, a corrective action plan was developed to satisfy those recommendations and, to date, we have addressed 16 of the 25 recommendations; the remaining 9 require additional resources to be fully resolved.

One of the primary recommendations the OIG made was with regard to staffing shortages. Determining appropriate staffing levels for the detention facilities requires careful analysis of facility needs. To correct this safety deficiency, Corrections Division staff has calculated the "Standard Space Staffing Requirement" for each facility throughout Indian country. This study was careful to differentiate the size and layout of the facility according to a standard consistent with the standards of the National Institute of Corrections and the Bureau of Prisons.

As I mentioned above, the Safe Indian Communities Initiative includes \$5 million in additional funding to staff, operate, and maintain BIA and tribal detention facilities for FY 2008. This will aid BIA in continuing to implement the recommendations of the 2004 report by the Department's OIG. These funds will provide for the hiring of 91 additional corrections officers in Indian country.

The detention center funding will be distributed to detention centers based on the results of the application of the staffing model. The additional funding will enable BIA to increase the percent of detention centers staffed to minimal safety standards, thereby helping to reduce the types of serious incidents identified in the IG report. The 2008 budget continues to aggressively confront construction and repair issues at detention centers by requesting \$8.1 million for four major

Facilities Improvement and Repair projects and several smaller projects designed to help bring Indian detention centers up to national standards.

Some tribal leaders have approached us about regional and multi-tribal use facilities. We recognize that "regionalization" will likely not work everywhere due to the size and remoteness of many reservations. However, we support the idea and are working with some tribes in regions where these facilities will benefit a number of communities located on or near Indian lands.

BIA also operates the Indian Police Academy, which provides basic police training (16 weeks) and a variety of other police, jail and radio dispatch courses for tribal and BIA law enforcement and corrections officers. The Academy is co-located with the Department of Homeland Security's Federal Law Enforcement Training Center (FLETC) at Artesia, New Mexico. Academy staff provide basic police, criminal investigation, and detention coursework. In addition, the Academy offers numerous advanced training courses such as child abuse investigation procedures, community policing, drug investigation, use of force, firearms instruction, archeological resource protection, police management and supervision, crime scene processing, detention, and dispatcher training.

Our training partnership has proven to be very cost effective because we share trainers and facilities. BIA and tribal criminal investigators receive specialized advanced training at the main FLETC facility in Glynco, Georgia. Select BIA and tribal law enforcement managers also participate in the FBI's National Academy in Quantico, Virginia. Many tribal communities choose to use respective state Peace Officers Standards and Training courses to supplement training of their police.

Mr. Chairman, we want to thank you for holding this hearing on such an important subject for Indian Country. We will continue to work closely with you and your staff, tribal leaders, and our Federal partners to improve the safety of our people who reside on Indian lands.

We will be happy to answer any questions you may have.