

**STATEMENT OF
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AND
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DEPARTMENT OF THE INTERIOR
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR
U.S. HOUSE OF REPRESENTATIVES
OVERSIGHT HEARING
ON
LAW ENFORCEMENT ISSUES IN INDIAN COUNTRY**

APRIL 22, 2009

Thank you Mr. Chairman and Members of the Committee. We are pleased to provide a statement on behalf of the Department of the Interior regarding the law enforcement issues in Indian Country.

Earlier this year, Secretary Ken Salazar testified before the Senate Committee on Indian Affairs and echoed the concern he heard from tribal leaders about the serious increase in violent crimes on their homelands and stressed the seriousness of the Department's responsibility in these issues. In his testimony, Secretary Salazar stated his intention to fight crime in Indian country by continuing to work with Tribes and other Federal and State agencies.

The Bureau of Indian Affairs (BIA) has a service population of about 1.7 million American Indians and Alaska Natives who belong to 562 federally recognized Tribes. The BIA supports 191 law enforcement programs with 40 BIA-operated programs and 151 tribally-operated programs. Approximately 79 percent of the total BIA Office of Justice Services' (OJS) programs are under contract to Tribes as authorized under Public Law 93-638, as amended, or compacted to Tribes as authorized under Title IV of the Indian Self Determination and Education Assistance Act, as amended. Additionally, many Tribes supplement BIA funding with funding from the tribe's 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 to combat major crimes.

BIA provides a wide range of law enforcement services to Indian country. These services include police services, criminal investigation, detention program management, tribal courts, and officer training by the Indian Police Academy.

In FY 2008 Congress provided a \$25.7 million increase for law enforcement programs. Within the increase a total of \$16.9 million was allocated for additional staffing at high priority sites, a total of \$6.3 million was allocated for drug enforcement, and a total of \$2.5 million was for increased internal affairs officers and program management.

In FY 2009 Congress provided an additional \$28.6 million for public safety and justice programs. The 2009 budget will bring the total funding for BIA law enforcement to \$255.1 million, an increase of \$50.6 million over 2 years. With this important funding increase, our focus continues to be enhancing law enforcement to reduce crime in Indian communities. In order to best allocate these funds, and achieve our goals, 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. We determined appropriate high-crime and high-priority fund distributions, based upon the comparison of individual tribal violent crime rates with the national crime rate. In addition, we looked at the number of officers who 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.

The additional funding will be targeted to reservations with unusually high crime rates. One specific effort to combat crime was Operation Dakota Peacekeeper, initiated last year to adequately provide safety services to the Standing Rock Reservation. The key objectives of the operation were to reduce crime, target illegal drug activities, and provide investigative support to prosecute domestic violence offenses and crimes against children.

The mission of Operation Dakota Peacekeeper was to deploy additional personnel to the Standing Rock Reservation and use community-policing tactics to carry out the operation. The additional personnel were on detail from other BIA and Tribal Police Departments across the country. We are continually grateful for the sacrifices and individual contributions made by these officers and their home organizations. The teams made up of these officers provided patrol and investigative services as needed. They provided proactive law enforcement presence, implemented contingency plans to provide continuing law enforcement, assisted local governments and law enforcement agencies, and provided additional support to criminal investigations by utilizing special agents assigned to the deployment team.

The Standing Rock community also played a vital role in the success of Operation Dakota Peacekeeper. We worked with the community and tribal leaders and sponsored community events, developed crime-fighting strategies and community watch practices, performed outreach on drug education and prevention, and increased patrol in high crime areas.

We also provided additional funding to the tribal court to deal with the case load generated by the arrests. Overall, Operation Dakota Peacekeeper assisted the BIA in developing future strategies to promote safer Indian communities within Indian Country. Preliminarily, we saw positive results and we will continue to review the progress made through the operation on the Standing Rock Reservation.

The surge at Standing Rock was successful at stabilizing a community in peril. It is an approach we will use again if necessary, but it is not a long-term solution to the crime problem in Indian country, primarily because of its heavy reliance on temporary “borrowed” law enforcement personnel.

One of the most basic needs throughout Indian country is additional officers on the street. 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 or hours away, if available at all.

In order to better quantify this need BIA 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".

When the gap analysis was completed in 2006 only 36 percent of BIA and tribal law enforcement agencies were staffed on par with the recommended national staffing ratio. With the additional funding provided by Congress in FY 2008 and FY 2009 we have made progress in closing this gap. As of the close of FY 2008, 59 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 108 agencies that are at the national average of staffing, 7 percent are BIA-operated law enforcement agencies and 93 percent are tribally-operated agencies under Public Law 93-638 contracts or Self-Governance compacts.

Further progress is expected when over 60 percent of the law enforcement agencies will be on par with national ratios at the end of FY 2009. The FY 2010 President's Budget will include additional funding to ensure that over 70 percent of law enforcement agencies are adequately staffed by the end of FY 2010.

One of the additional challenges we face is recruiting new officers to work in these remote locations. To address this issue BIA's Office of Justice Services (OJS) has worked to get a substantial recruitment contract in place that is modeled on the U.S. Customs and Border Protection Southwest Border recruitment initiative. The OJS is expected to greatly increase the number of police and detention officers recruited in Indian country. The contracting paperwork has been finalized and the recruitment effort will be underway in May 2009 as a positive step in our efforts to get needed public safety resources to our tribal communities. In addition, \$3.5 million was provided in FY 2009 for law enforcement employee housing which will help in attracting and retaining staff.

Additional officers on the street will allow BIA to further address the drug epidemic in Indian country. In a 2006 survey, 74 percent of tribal law enforcement officials reported methamphetamine to be the leading threat to their tribes.

In response to the drug crisis, the BIA has expanded its drug enforcement program to 33 certified drug enforcement officers who are placed within various task force offices across Indian country and 18 dedicated School Resource Officers. In comparison, in FY 2006 there were only eight certified officers. OJS will continue to help combat the highly visible drug problem through specialized drug enforcement training for BIA and tribal officers. As a result, 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.

In FY 2008 the Division of Drug Enforcement worked 105 drug cases, and that number is expected to rise to almost 150 in FY 2009. Through these efforts the Drug Enforcement Division was able to seize over 2,000 grams of drugs such as cocaine, heroin, methamphetamines and marijuana in FY 2008, and expects to seize over 2,600 grams in FY 2009.

OJS is also pursuing the creation of a drug intelligence program, a victim/witness program, as well as continuing efforts to increase public awareness to educate Indian country on the dangers of drugs and how to combat those dangers. By certifying additional officers, improving drug intelligence, and educating the public about the dangers of drugs and alcohol abuse, the BIA is taking proactive measures to provide greater protection in Indian country.

Another critical component of an effective justice system is a well functioning Corrections program. The BIA provides resources for the staffing and management of 91 detention programs that operate out of 82 detention facilities in Indian Country located on 57 reservations. Of the 91 programs, 19 are BIA operated programs and 67 are tribal programs. Some of these facilities are only holding facilities (one to two cells). 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. Some new tribal facilities have come on line, but the vast majority are 25 years or older.

One of the primary recommendations made by the Office of the Inspector General in a 2004 report was with regard to staffing shortages in detention facilities. Determining appropriate staffing levels for detention facilities requires careful analysis of facility needs, and we continue to work to staff all detention facilities to acceptable levels.

In FY 2008, an additional \$8.1 million was provided to the Corrections program for staffing and operating detention programs. This additional funding was provided to staff correctional officer positions up to 222 officers nationwide. At the end of FY 2006 only six percent of detention facilities were staffed at minimal National Institute of Corrections safety standards. With the additional funding provided in FY 2008, FY 2009 and in the FY 2010 President's Budget, we will increase that number to 32 percent by the end of FY 2010. With the additional funding BIA will be able to reduce the types of serious incidents identified in the OIG 2004 report.

The FY 2009 funding continues to address construction and repair issues at detention centers by providing \$21.5 million for facility replacement and new construction, and \$10.9 million for facilities improvement and repair.

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. The Academy provides 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 dispatch training. Fiscal year 2009 appropriations provided an additional \$500,000 for outreach and distance learning activities that will allow tribal and district programs to receive in-service training closer to home.

Our training partnerships have proven to be cost-effective because we share trainers and facilities. BIA and tribal criminal investigators can receive specialized advanced training at the main FLETC facility in Glynco, Georgia. Select BIA and tribal law enforcement managers may also participate in the FBI's National Academy in Quantico, Virginia. Our new outreach programs are being piloted for satellite officer training at locations in North Dakota and Oklahoma, giving tribal law enforcement agencies an option of federally sponsored local training.

One of the most pressing issues going forward will be increased coordination with our Federal, State and local partners. The BIA works with the Department of Justice 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 in implementing the Amber Alert program in Indian Country and in 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 assist law enforcement in Indian Country.

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 and provide mutual aid. 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 from the jurisdiction having prosecution authority.

Mr. Chairman, we want to thank you for holding this hearing on such an important subject for Indian Country. The Department will continue to work closely with you and your staff, tribal leaders, and our Federal partners to address the law enforcement issues in Indian Country, and we appreciate your continued commitment to funding Indian country law enforcement priorities.

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