

**STATEMENT OF CHIEF OF POLICE RICHARD GREENWALD
BEFORE THE U.S. HOUSE OF REPRESENTATIVES**

Good morning Mr. Chairman. My name is Richard Greenwald and I am the Chief of Police for the Oglala Sioux Tribe’s Department of Public Safety. We welcome the chance to have our voices heard as we try to provide Public Safety services for the Oglala Lakota People.

The Pine Ridge Indian Reservation, home to the Oglala Sioux Tribe, covers an area of about 60 x 100 miles – roughly the size of the state of Connecticut. Our road system consists of thousands of miles of both formal and informal roads. The formal roads are recognized when setting funding levels, but the thousands of more miles of private, unimproved roads, carved out by residents seeking to provide access to their homes, are not. They still require our services.

Our reservation covers all of Shannon and parts of Bennett and Jackson Counties in South Dakota. BIA recognizes a base on-reservation population of 43,146 residents. Our unemployment rate is at or near 80% level on a persistent basis. Like other impoverished areas, we have a severe shortage of housing. Most homes have more than one family – many have 15-20 people in a home built for the average family. The resulting chaos has created innumerable social and public safety issues for residents.

The Tribe has an intricate Justice System. It has chartered the Department of Public Safety (DPS) to provide: law enforcement and 911 services and to operate our detention-facilities and highway safety programs; it also monitors sex offenders, provides homeland security services and IHS Security. DPS operates under a 638 contract with the BIA. We have about 200 employees, including 49 sworn officers (less than half of what is needed) and 77 corrections staff, 17 in dispatch/911, 5 in Professional Standards, and another 41 who provide administrative support; and finally a small number who provide IHS Hospital and clinic security, Highway Safety, and Substance Abuse prevention for Juvenile inmates.

With its 49 officers, including command positions, DPS handled more than 122,000 calls for service in 2011. Our calls are increasing at the rate of about 20,000+ per year. This year we can expect more than 142,000 calls to be handled with the same understaffing we have now. By contrast, Sioux Falls, SD, with a population of 165,000 – nearly four times as larger, had 84,986 such calls. The chart below shows our difference in staff levels:

Jurisdiction	Population	Service Calls	# Officers	Service Base
Pine Ridge	43,461	122,534 calls	49 officers	60 x 90 miles
Rapid City	67,956	112,938 calls	115 officers	city limits
Sioux Falls	165,000	84,986 calls	233 officers	city limits¹

Officers can easily travel 500 miles per 8-hour shift. All officers travel alone. Our manpower is so limited no one has a partner. An officer’s only source of help has to come from a backup which is sometimes from more than an hour away. Our officers are often scheduled for 12-hour shifts – a situation that creates more “burn out” and increases our overtime and comp time costs. It also lowers effectiveness and increases turnover. The BIA identified the need for 120 officers for us in their unmet needs assessment. That is what they said that they would need if *they* were to operate the program. If this would happen, it would be far more expensive as they would have to pay BIA’s salary rate. I only wished that we were funded at that level. My officers are among the lowest paid in South Dakota.

¹ 2011 Statistics from SD State Statistics; BIA data; OSTDPS Data Management

Added to my frustration is the \$80 Million in new BIA funding for Law Enforcement over 2010 and 2011. A large portion of that money went to the FBI, who could not spend it the first year and returned it to the Treasury. The other money was allocated to other tribes – with NO ADDED FUNDING FOR PINE RIDGE. Tribes with a fraction of our size got added funds while we struggle with 49 officers for one of the largest call volumes. In 2008, before the \$80 Million was added, the distribution of any new monies the Congress provided was inequitably made based on populations and land base. The following chart will show you just how out of whack the current funding system is:

Tribes	Tribal Population	# Sworn Officers	Officers per 1,000 pop.	Land Base Square Miles	# Ofcrs per 25 Sq Mi.
Seminole	3,165	144	45.5	141 sq.mi.	25.5
Salt River Pima	7,313	125	17.1	81 sq.mi	38.6
Gila River	14,966	93	6.2	584 sq.mi	4.0
Choctaw	8,133	50	6.0	25 sq.mi.	50.0
Puyallup	24,016	27	1.1	29 sq.mi.	23.3
Pine Ridge	43,461	49	1.1	3,159 sq.mi.	0.4²

Our tribe’s land base is 22 times larger than a tribe with 144 officers; we have nearly 14 times more people! They have 25.5 officers per 25 square miles and we have .4. The results of this funding are demonstrated on the charts displayed in front of you.

In this year’s budget, there is \$3.5 Million in new funding proposed for Law Enforcement and \$6.5 for staffing for new justice facilities opening in 2013. Where will it end up? We think it may end up in the same place it always has, in the operating budgets of other tribes. We gave the BIA our staffing needs as part of the planning efforts for our new tribal justice center, but none of these staffing projections were included in the BIA’s FY 2013 proposed budget.

In the spring of 2011, before Attorney General Eric Holder’s visit to Pine Ridge, senior BIA Office of Justice Services managers spent weeks with us to determine our “unmet” needs. Despite all the build up that was provided to the dignitaries who were visiting, nothing has happened to increase our force. BIA and the Tribe have agreed that based on a funding formula that includes our true population, the size of the reservation, the terrain, the number of miles of roads, and the very real dangers to public safety that we face because we live in impoverished communities; we need a minimum of 120 police officers. That’s what it would take for BIA to do the job- 120 officers at BIA pay. Yet, despite all of the hoop la that occurred before AG Holder’s and your own visit to Pine Ridge, we have not seen another dollar in funding.

Making our jobs harder yet is the proposed 17% cut that the called in the 2013 budget for in overall funding for in tribal programs operated by DOJ. Justice has never had stable, reliable funding for tribal law enforcement efforts. This is the reason that we have requested that you not look upon those dollars as an active source of on-going funding for public safety programs such as ours. For reasons that we have never agreed with, DOJ’s Indian budgets have gone up, while BIA’s has not even kept up with inflation. Now those DOJ funds are being cut by 17%. So, instead of the U.S. Government meeting its treaty obligations by funding our core law

² U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Report on Tribal Law Enforcement, 2008, issued June 2011/

enforcement programs thru the BIA, it shifted what should have been our funding to another agency and then cut funding there.

Any effective law enforcement and corrections program needs an effective court system. This has to include funding for court personnel, prosecutors, public defenders and probation and parole services. If there are no consequences to unlawful conduct there is no deterrent.

Our Court and adjudication functions are administered by the Tribe, under a separate BIA 638 contract. The Supreme and Lower Courts currently operate out of the original BIA Court building in Pine Ridge, with a satellite court located on the other side of our Reservation in Kyle. As presently funded, these Court programs cannot begin to meet the needs of our community.

Our Court not only has to handle the 11,000 arrests DPS made last year, it also has to handle the Tribe's complete civil caseload. As a result we had 58,000 current and pending cases just last year, most of which remain incomplete today. Our court lacks adequate funding for our basic court staff, as well as adequate funding for its probation and parole functions. Presently, we have only five judges to handle the volume of cases I have described. No one can provide justice to our people under these circumstances.

Worse still, as a result of these shortages in our courts, increases in arrests do not result in increased convictions. Simply put, because our court is not in a position to provide the right to a speedy trial that the law demands, many cases are dismissed outright because of that delay. In its unmet needs assessment conducted in 2011, BIA identified a need for six (6) more judges to supplement the five existing jurists and it recommended an addition of 18 more positions in the AG's Office. The standard for case management indicates that a prosecutor should handle no more than 400 cases a year; our three prosecutors handle an average of 3,700 each. The result is a total lack of consequences for criminal behavior. The Federal declination rate only adds to the problem – especially for violent crimes against women.

Our current conditions are the direct result of Federal inaction and neglect. The Oglala Sioux entered into a series of Treaties and agreements with the U.S. Government with the belief that the United States would (1) protect the sovereignty of our people; (2) protect our land base and assets; (3) guarantee that the Oglala would live in communities that were safe; and (4) that we would be provided with the resources that we needed not just to survive, but to thrive. The Act of 1877, (Articles 5, 8, 9) provided that: the U.S. would “all the aid” needed to achieve a civilized society; that Congress would appropriate funds to ensure an orderly tribal government; that our people would be safe in their persons and property; and that “suitable men” among our Bands and the federal government would cooperate to maintain order. It hasn't happened yet.

Historically our relationship with the United States was with the War Department, but that changed to the Department of the Interior years ago. Now that single point of contact has eroded. Starting with the removal of health services from Interior and it continues yet today. Now, because BIA is so underfunded, we are forced to seek funds from other federal agencies, often from a competitive program which was designed to serve non-Indian governments. To make matters worse, rules for seeking these funds are more complicated and unfair. Instead of working government-to-government, we were now forced to negotiate a maze of lower-level workers in dozens of agencies just to operate our core programs like law enforcement and courts. At DOJ, for example, tribes were thrown into a competitive application process with states, some of the world's largest cities, and huge counties. When there have been “Indian Set-asides” they were generally far too small to meet our needs, thus we were and still are forced to compete with each other for the very funds we were already entitled to under our treaties. DOJ Grants, for example, are not sustainable and many of them often cost us more to operate than we receive in

funding. Even today, DOJ grants place limits on the overtime that we have to pay our officers. This is ridiculous, how can we possibly run a public safety program under these conditions? So, while DOJ adds \$60 Million new dollars for financial and internet crime, the basic crime on our reservation, which claims lives and halts economic growth, is allowed to flourish.

The 1970's brought some hope with the Indian Self-Determination and Education Act - P.L. 93-638 ("638"). This law was passed to promote real SELF-DETERMINATION in the governing and managing of our affairs. It is the codified admission that our tribal sovereignty is independent of the United States and that BIA is a service agency supporting that sovereignty.

The promise of better things with 638 has never been fulfilled. Today, the government-to-government relationship promised in our treaties has been replaced by bureaucrats with an Agency-created instrument called the Annual Funding Agreement – that sidesteps the most basic requirements of P.L. 93-638. So, in short, instead of the government recognizing its obligations under P.L. 93- 638, it treats the requirements of that statute as optional.

As you are well aware, 638 programs have historically been underfunded; and the Draconian cuts that were made to vital tribal programs such as law enforcement, in the 1980's have never been restored. The Federal structure has grown and layers of administration have been added, but our basic needs have been allowed to increase with no end in sight.

Today's social chaos and grinding poverty are the direct result of severe underfunding for Public Safety, health, and education programs. Had sufficient funding ever been available for these services, economic and community development would have occurred and our lives would be much safer than they are today. The chaos has spread into neighboring jurisdictions. Ask Rapid City, SD police officials how our crime is impacting them. Last summer, they lost two police officers to the spreading crime. Other communities in SD and Nebraska tell us the same.

Because our economy is largely based upon federal contracts and grants, it has not grown and what has grown cannot be sustained. We live from grant to grant and problem to problem. Under these circumstances you can understand why our public safety problems are so severe. Our core funding from BIA is so low, when we are forced to try to fund things like police salaries we have no guarantees and we are forced to operate our programs from that perspective. To make matters worse, many of the non-BIA dollars that we receive come with burdensome and confusing rules. If you had ever tried to straighten out a grant that was wrong in any way, you would know that employees within the DOJ often lack the ability to give us even the most basic direction on how to fix it. How can they advise us? In short, the federal decision to substitute discretionary funding and competitive grants for Treaty-based BIA entitlements has perpetuated our poverty and denied us the opportunity to build a reliable and stable infrastructure.

Among our struggles, we have some wonderful successes. But they often aren't even recognized. Our Sacred Cargo Program is a great example. Nationally, Native traffic safety numbers were abysmal – high motor vehicle deaths, low seatbelt use. But no one found a solution in decades. We did. With BIA and SD Highway Safety funds and small IHS and CDC grants, in one year, with only about \$650,000, we cut vehicular deaths by 75%; serious injuries by 50-60% and saved millions of IHS dollars. CDC chose Sacred Cargo as a Best Practice, but, BIA and DOT do not see the success. Our funding levels from them remained the same or were cut. When we design and run our programs, they work! Please ask us how we did it.

Our list continues, but the 4-page limit isn't enough space: the declination rate; unfunded mandates (TLOA; Adam Walsh); limited or no collateral services for mental health, etc. etc.

But, again, we thank you, our friends and partners for allowing us to meet with you today and to be heard – and we hope your listening will actually translate into real help for us.