



NCAI TESTIMONY TO THE COMMERCE, JUSTICE, AND SCIENCE SUBCOMMITTEE ON FY 2010 APPROPRIATIONS

On behalf of the tribal nations of the National Congress of American Indians (NCAI), we are pleased to present our recommendations for FY 2010 funding of Indian programs in the Department of Justice and Department of Commerce. NCAI is the nations oldest and largest national organization representing Native American tribal governments.

DEPARTMENT OF JUSTICE

A primary role of tribal government is to ensure the security and safety of Indian communities. Tribal governments serve as the primary instrument of law enforcement and justice delivery for the more than 50 million acres of land that comprise Indian Country. As a result of historic underfunding and complex jurisdiction issues, American Indians experience disproportionately high rates of violent crime. American Indians experience per capita rates of violence that are much higher than those of the general population. The rate of aggravated assault among American Indians and Alaska Natives is roughly twice that of the country as a whole (600.2 per 100,000 versus 323.6 per 100,000). Indians are the victims of violent crime at twice the rate of African-Americans, two and a half times that of Caucasians, and four and half times as often as Asian Americans.ⁱ These crime rates have been rapidly increasing in Indian Country, while crime rates have been falling in similarly low-income communities throughout the United States.

Across the nation, tribal leaders have called for more resources, making public safety and justice the top priority in budget consultations over the years. The current lack of resources for public safety poses a direct threat to Native children and the future of Indian Country.

Recent media attention has highlighted the unconscionable breakdown in public safety in tribal communities. Although U.S. attorneys have the sole authority to prosecute felony crime on most reservations, the Denver Post's article, "Lawless Lands," details how U.S. attorneys declined to prosecute 65 percent of all reservation cases between 1997 and 2006, twice the rate of declination for all other federally prosecuted crime.ⁱⁱ Federal agents focus on terrorism and organized crime, while the investigation of serious crimes on reservations sits for years, leaving suspects free to commit other crimes. Tribal leaders point out that federal prosecutors respond least to the kinds of crime that most affect Indian reservations: aggravated assault, domestic assault, sex crimes and drug crimes. The Department of Justice simply is not meeting its responsibilities to Indian Country. Hundreds of these serious cases are sent through tribal misdemeanor courts instead, over-taxing the tribal courts and jails.

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The breakdown of justice in Indian Country has also contributed to high rates of methamphetamine abuse and international drug cartels' targeting reservations. Nationally, American Indians/Alaskan Natives have the highest rates of methamphetamine abuse of any ethnic group.ⁱⁱⁱ Meth abuse contributes to increases in violent crime, suicide, and child abuse.

In short, the Department of Justice and Bureau of Indian Affairs are not meeting the legal, treaty, and trust responsibilities to provide for the public safety of Indian Country. There must be a wide-spread change within all branches of the federal government with respect to tribal public safety.

In October 1997, the Executive Committee for Indian Country Law Enforcement Improvements issued its final report to the Attorney General and the Secretary of the Interior. The report concluded that "there is a public safety crisis in Indian Country," and "the single most glaring problem is a lack of adequate resources in Indian Country."^{iv} In the wake of this report, funding for tribal justice systems was increased for several years. Ten years later, however, funding levels have been cut and law enforcement and justice systems in Indian Country are once again operating without the resources they need. As a result, tribal communities continue to suffer crisis levels of crime.

TRIBAL CORRECTION FACILITIES CONSTRUCTION

- **Significant increases for detention center maintenance and construction in FY 2010 and beyond until the gap in law enforcement funding for tribal communities is closed.**
- **Maintain the tribal set-asides at the Department of Justice and allow funding to be used for staffing and maintenance of correction facilities.**

In September 2004, the US Department of Interior Inspector General's Office issued a report, *Neither Safe Nor Secure: An Assessment of Indian Detention Facilities*, which outlined the deplorable and life-threatening conditions of tribal jails. The report detailed the stark realities: 79 percent of facilities fall below minimum staffing levels on a regular basis; poorly maintained facilities that provide ample opportunity for escape are common; unusually high rates of suicide, a trend that generally correlates with reduced staff supervision and the influence of drugs and alcohol; and jails dilapidated to the point of condemnation.^v Another recent 2008 Department of Interior study confirms that tribal jails are still grossly inefficient.^{vi} The study finds that only half of the offenders are being incarcerated who should be and the remaining are released due to severe overcrowding. It identifies a need to construct or rehabilitate 263 detention facilities at a cost of about \$8.4 billion over the next 10 years.

\$225 million was appropriated for Tribal Corrections Facilities Construction in the American Recovery and Reinvestment Act of 2009. This was a very important down payment on addressing the deplorable conditions in Indian Country corrections facilities. Congress should follow-up on this initial investment with a second substantial appropriation and instruction that the funds can be used for staffing and maintenance in addition to construction.

TRIBAL COURTS

- **\$25 million for tribal courts.**
- **Maintain the set-aside for tribal courts and increase funding for this important component of the administration of justice.**

Tribal courts are overwhelmed with hundreds of serious cases declined by U.S. attorneys as well as increasing meth and drug crimes. Tribal courts have been level funded for at least the last five years.

ALCOHOL AND SUBSTANCE ABUSE

- **\$25 million for the Indian Alcohol and Substance Abuse programs at the Bureau of Justice Assistance.**

American Indians now experience the highest meth usage rates of any ethnic group in the nation.^{vii} Drug cartels have begun to target reservation communities because of the rural terrain, history of community addiction, and limited law enforcement resources.^{viii} The Bureau of Indian Affairs Office of Law Enforcement Services surveyed tribes with whom they work closely on law enforcement, and found that 64% of the BIA Study respondents indicated increases in domestic violence and assault/battery as a result of increases in methamphetamines in their community. Nationwide 48% of Tribal law enforcement respondents reported an increase in child neglect/abuse cases due to recent increases in meth use. An informal survey of the seven FBI offices located primarily in Indian Country estimated that approximately 40-50% of violent crime cases investigated in Indian Country involve meth.^{ix}

The Senate version of the American Recovery and Reinvestment Act included \$25 million for the Indian Alcohol and Substance Abuse Program, but this funding was not included in the final bill. With this money, Indian tribes would be able to develop comprehensive, multi-disciplinary, multi-jurisdictional efforts to reduce crime associated with alcohol and other drugs.

JUVENILE JUSTICE

- **Increase funding for juvenile justice programs by increasing the Tribal Youth Program to \$36 million.**
- **Provide a separate construction fund for regional tribal juvenile facilities.**

A critical piece of law enforcement is juvenile detention facilities and juvenile rehabilitation and treatment programs. Many tribes have no place to house juvenile offenders and are required to shoulder the cost of transportation and bed rentals in order to send their youth to another jurisdiction – often far from their communities. In addition, tribes have no ongoing source of funds for non-detention programs for youth. Research on juvenile justice has shown that detention is the most expensive and often the least effective way to deal with young offenders; it should be the last resort. However, without the resources to support alternatives to detention, tribes have few options for addressing juvenile crime.

VIOLENCE AGAINST WOMEN

- **Fully fund the programs under the Violence Against Women Act, including \$1M for the National Tribal Sex Offender and Order of Protection Registry and \$1M for the baseline study of violence against Indian women.**

When Congress unanimously authorized the Violence Against Women Act in 2005, new tribal provisions were included with the goals of decreasing the incidents of violence against Indian women, strengthening the capacity of Indian Nations to exercise their sovereign authority to respond to violent crimes against Indian women and ensuring that perpetrators of violent crimes against Indian women are held accountable. Congress and this Administration have the opportunity to take the next step toward ending domestic violence and sexual violence by fully funding the tribal provisions of the Violence Against Women Act.

DEPARTMENT OF COMMERCE

Indian Country is a world of economic extremes. There are a few high-profile examples of tribes around the country who have prospered economically. However, there are hundreds more who are struggling to preserve their reservations and their culture with economic conditions comparable to those in developing nations around the world. Real per-capita income of Indians living on reservations is still less than half of the national average. Unemployment is still double what it is for the rest of the country, and the poorest counties in the United States are on tribal lands. In addition, tribal governments have a severely restricted tax base. Meaningful economic development is sorely needed.

Studies show that over the last decade, small businesses owned by tribal members have become an increasingly important part of the economic base in many Native communities.^x Research has also shown, however, that while Native entrepreneurship is on the rise, the rate of growth among programs supporting those entrepreneurs is much slower than in the field as a whole.^{xi} The Department of Commerce plays an important role in supporting economic recovery and growth in Indian Country.

OFFICE OF NATIVE AMERICAN BUSINESS DEVELOPMENT

- **\$3 Million - Office of Native American Business Development**

The Office of Native American Business Development (ONABD) was authorized in 2000, yet no significant or independent funding has ever been provided. The ONABD must be elevated as required by the “Native American Business Development, Trade Promotion, and Tourism Act of 2000” (Public Law 106-464), with the Director of the Office reporting directly to the Secretary of Commerce. The Office should receive line-item funding of \$3 million initially. The current lack of funding is completely inadequate to operate the Office of Native American Business Development. Plans to implement the Office of Native American Business Development should be developed.

MINORITY BUSINESS DEVELOPMENT AGENCY

- **\$3 Million - Minority Business Development Agency**

Funding for the Minority Business Development Agency (MBDA) should be increased by \$3 million for the MBDA to provide more funding for at least eight Native American Business Centers (NABEC) at levels commensurate with the average funding levels of other MBECs. MBDA funding averaged about \$29 million during the Bush Administration, of which about \$12 million has been allotted for its Minority and Native American Business Enterprise Centers (MBECs and NABECs). NABECs’ funding has declined over the years from about \$2 million in the 1990s down to less than \$1.6 million in recent years.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

- **\$2 Million- Public Telecommunications Facilities, Planning and Construction**

The Public Telecommunications Facilities Planning and Construction program is a competitive grant program which funds the build-out of critical communications infrastructure for tribal communities. There is need for radio expansion over large swathes of tribal lands. In 2007, over 50 tribes applied for these funds and only 30 grants were awarded to tribes. This program has historically been funded at \$20 million and tribal applicants have secured an amount of funding that would be supported by a dedicated \$2 million portion of the \$20 million. This would fund additional opportunities for radio broadcast which supports the efforts of Native Nations to police and secure

their often remote homelands as part of homeland security and emergency preparedness by keeping citizens informed of news and information about emergencies and disasters, both natural and man-made as well as local programming in Native languages.

ⁱ Rennison, C. (2001). *Violent Victimization and Race, 1993-98*. U.S. Department of Justice, Bureau of Justice Statistics, March, (NCJ 176354).

ⁱⁱ Riley, M. (2007, November 11-14). *Lawless Lands*. *The Denver Post*. Retrieved February 11, 2008, from www.denverpost.com

ⁱⁱⁱ Office of Applied Studies, Substance Abuse and Mental Health Services Administration. (2005, September 16). *Methamphetamine Use, Abuse, and Dependence: 2002, 2003, and 2004*. The National Survey on Drug Use and Health Report.

^{iv} U.S. Department of Justice, Criminal Division. (1997, October). *Report of The Executive Committee for Indian Country Law Enforcement Improvements to the Attorney General and the Secretary of the Interior*. Washington, DC: Office of the Deputy Assistant Attorney General.

^v U.S. Department of the Interior. Office of Inspector General. (2004). *Neither Safe Nor Secure: An Assessment of Indian Detention Facilities*. Washington, DC: U.S. Department of the Interior.

^{vi} U.S. Department of the Interior. Bureau of Indian Affairs. *Master Plan for Justice Services in Indian Country, Year 2007 to Year 2017*. Draft Final Report. Retrieved December 15, 2008 from <http://www.indianz.com/docs/bia/shubnum1.pdf>.

^{vii} Office of Applied Studies, Substance Abuse and Mental Health Services Administration. (09/16/05). *Methamphetamine Use, Abuse, and Dependence: 2002, 2003, and 2004*. *The National Survey on Drug Use and Health Report (NSDUH)*.

^{viii} Tirado, Michelle. "Deadly Addiction: Methamphetamine in Indian Country." *American Indian Report*. June 2006.

^{ix} FBI Indian Country Unit Presentation, The Federal/Tribal Meth Summit sponsored by the Department of Justice, Attorney General's Advisory Committee, Native American Issues Subcommittee of United States Attorneys (Oct. 13, 2005).

^x Jennifer Malkin, et al., CFED, "Native Entrepreneurship," (Dec. 2004).

^{xi} First Nations Development Institute, "The Native American Entrepreneurship Report," (March 2002), *available at* <http://www.firstnations.org/Publications/NativeAmericaEntrepReport.pdf>.