

**HOUSE INTERIOR, ENVIRONMENT, & RELATED AGENCIES**  
**APPROPRIATIONS SUBCOMMITTEE**  
**Oversight Hearing on the Law Enforcement Issues in Indian Country**  
*April 22, 2009*

**Testimony of Joe A. Garcia**  
**President of the National Congress of American Indians**

Honorable Chairman and members of the Committee, thank you for the opportunity to testify today. I commend the Committee for holding this important oversight hearing. Nearly 10 years ago, 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.”<sup>1</sup> 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.

Native Americans are victims of violent crime at rates more than double those of any other community in the United States.<sup>2</sup> One-third of our women will be raped in their lifetimes.<sup>3</sup> Crime rates have been increasing in Indian country while they have been falling in similarly low-income communities throughout the United States. Nearly two years ago, I had the opportunity to testify before the Senate Committee on Indian Affairs on this topic. At that hearing, I laid out what I see to be the four primary factors that have created the public safety crisis we are currently experiencing in many tribal communities.

1. Criminal jurisdiction in Indian country is extremely complex and responsibility is shared among federal, tribal and state authorities. This complexity requires a high degree of commitment and cooperation from federal and state officials that is difficult to establish and maintain.
2. Federal and state authorities do not prioritize their role in law enforcement on Indian reservations. The complexity of jurisdiction makes it easy to avoid responsibilities and there is no system of accountability.
3. Law enforcement in Indian country suffers greatly from lack of resources – there are very significant needs in the personnel, equipment, training and facilities that make up the

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<sup>1</sup> REPORT OF THE EXECUTIVE COMMITTEE FOR INDIAN COUNTRY LAW ENFORCEMENT IMPROVEMENTS (1997), *available at* <http://www.usdoj.gov/otj/icredact.htm>.

<sup>2</sup> Bureau of Crime Statistics, U.S. Dept. of Justice, *Violent Victimization and Race, 1993-98*, at 1 (NCJ 176354, 2001).

<sup>3</sup> Tjaden, Patricia, and Nancy Thoennes, *Full Report of the Prevalence, Incidents, and Consequences of Violence Against Women, Findings from the Violence Against Women Survey*, Washington, DC; National Institute of Justice, November 2000, NCJ 183781, p.22.

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criminal justice system in policing, investigation, prosecution, courts, and detention facilities.

4. All of these factors combine to create a perception problem that encourages criminal activity and makes victims fearful in assisting law enforcement or prosecution. Criminal activity is encouraged when “routine” crimes such as domestic violence and drug and alcohol offenses are unaddressed.

As overwhelming as these problems are, we have solutions, and that is what I would like to focus on today. The bi-partisan Tribal Law and Order Act was recently introduced in the Senate and Rep. Herseth Sandlin has introduced a companion bill, HR 1924, in the House. This bill includes many provisions aimed at increasing state and federal accountability for law enforcement in Indian Country while also strengthening tribal government capacity. We strongly support this bill. We emphasize, however, that it must be paired with an increase in resources for both tribal justice systems and the federal agencies charged with protecting tribal communities.

### **Funding of Tribal Justice Systems**

In order to address the profound needs in many tribal communities, additional law enforcement and criminal justice resources are badly needed. The problem of insufficient resources is compounded by a complicated and confusing jumble of funding sources available for tribal governments. Tribal law enforcement funds are divided up primarily between the DOI and DOJ. Within the DOJ these funds are further divided into dozens of competitive grants for specific purposes. Moreover funding for prevention, rehabilitation, and treatment programs, which are key components of any community’s approach to reducing crime, are located at IHS, SAMHSA, and elsewhere within the DHHS.

This patchwork system requires a sophisticated grant writing capability and creativity in order to access the funds. Millions could easily be spent providing the technical assistance tribes need just to navigate the application process. The result is an ad hoc system where tribal law enforcement will receive vehicles, but no maintenance, or a detention facility will be constructed, but not staffed. A tribal police department will receive radios, but no central dispatch. There is a need to streamline the funding available through the Department of Justice, Department of Interior, and Department of Health and Human Services.

Nowhere is the under-resourcing of public safety services in Indian Country felt more severely than with the chronic law enforcement staffing deficit, the deplorable conditions of tribal detention facilities, and the lack of rehabilitation and treatment services.

### **Law Enforcement Staffing**

More than 200 tribal police departments, ranging from small departments with only two officers to those with more than 200 officers, help to maintain public safety in Indian Country. Current funding for tribal law enforcement and first responders lags well behind that for non-tribal law enforcement. The Bureau of Indian Affairs conducted an analysis of law enforcement staffing in Indian Country in 2006, and found that Indian Country has a 42% unmet law enforcement

staffing need.<sup>4</sup> According to the Bureau of Justice Statistics, nationwide the police-to-citizen ratio is 3.67 full-time employees per 1,000 residents.<sup>5</sup> On the other hand, virtually no tribal police department has more than 2 officers per 1,000 residents. To put this in perspective, the 2,555 Indian country law enforcement officers make up about 0.004 percent of the total of 675,734 state, city and county law enforcement officers in the United States, yet they patrol approximately 2% of the landmass of the United States and 1% of the population.

Funding for additional law enforcement officers is badly needed, and in order to assist with recruitment of officers to remote parts of the country, salaries must be competitive with other law enforcement agencies.

### **Detention Facilities**

There are currently 82 detention facilities in Indian Country located on 57 reservations. Twenty-seven of those 82 facilities are used to detain juveniles. Sixty-two of the jails are operated by tribal governments, while 20 are operated by the BIA. Most of the facilities were constructed 30-40 years ago.<sup>6</sup> The problems and challenges with tribal and BIA detention have been well-documented. A 2008 Interior Department report, stated that: “[o]nly half of the offenders are being incarcerated who should be incarcerated, the remaining are released through a variety of informal practices due to severe overcrowding in existing detention facilities.”

The Report recommends that the United States construct or rehabilitate 263 detention facilities throughout Indian Country at an estimated cost of \$8.4 billion over the next ten years. The American Recovery and Reinvestment Act included \$225 million for corrections facilities. This was a very important first step, but it represents less than 3% of the need. Continued investment in construction is critical.

### *Understaffing*

At the same time, resources must be made available to adequately staff the existing and new facilities. 79% percent of corrections facilities fall below minimum staffing levels. In fact, there are several recently-constructed facilities, built using DOJ grant funds, that cannot open because of lack of staffing funds at the BIA. This problem is likely to be compounded by the fact that the Recovery Act provided facilities funds but no staffing funds. Prior to the increased investment in facilities construction, the BIA estimated that we have about a \$100 million staffing need. Staffing these new facilities so they do not sit vacant is one of our top Justice priorities. We are asking for at least \$50-60 million for staffing. One idea was to use a set-aside within the Byrne competitive grant program to meet this shortfall.

In addition to basic concerns raised about staffing levels, tribes have identified inadequate training of detention center officers as serious impediments to well-functioning detention centers.

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<sup>4</sup> Bureau of Indian Affairs, “Gap Analysis for Law Enforcement in Indian Country,” (2006).

<sup>5</sup> Bureau of Justice Statistics, “Census of State and Local Law Enforcement,” (2004).

<sup>6</sup> Testimony of W. Patrick Ragsdale, Director, Bureau of Indian Affairs, before the Senate Committee on Indian Affairs May 17, 2007, available at <http://indian.senate.gov/public/files/Ragsdale051707.pdf>.

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Applicants who are hired as corrections officers frequently do not receive the training from the BIA that is essential for the safe management and operation of the detention center. In addition, tribes report that detention center supervisors receive virtually no supervisory or fiscal management training resulting in chronic mismanagement of tribal detention facilities. Some tribes report that they have the funds to hire and train competent detention officers, but the BIA has been slow to approve hiring.

### **Rehabilitation and Treatment Services**

Drug and alcohol abuse are major contributors to the high rate of crime in Indian Country. On some reservations, law enforcement reports that nearly all of the crimes committed involved alcohol or drugs. American Indians now experience the highest meth usage rates of any ethnic group in the nation. The Bureau of Indian Affairs Office of Law Enforcement Services surveyed tribes with whom they work closely on law enforcement, and found that 69% of tribal respondents indicated that they have no tribal meth rehab centers. There are very limited treatment resources or facilities available in Indian Country. Even when law enforcement or intervention efforts increase, there are often insufficient treatment resources to absorb or address the increase in individuals wishing to obtain assistance. Adequate funding for screening, assessment, and treatment programs is a critical piece of any effort to address crime in Indian Country.

### **Conclusion**

This is a critical time for tribes and the federal government to work together to address the public safety crisis in Indian Country. The "jurisdictional maze," failure on the part of the federal government to prioritize public safety in Indian Country, and chronic under-funding of the tribal justice systems fundamentally undermine the safety of tribal communities. Domestic violence, alcohol and drug related concerns, gang activity and the general need for increased public safety are a matter of life and death for tribal communities and create untold law enforcement challenges in neighboring communities. Tribes are struggling to work with federal and local jurisdictions to find resources and work cooperatively to tackle a rapidly increasing need for law enforcement.

While there is no easy fix to the public safety crisis in Indian Country, adequate funding for tribal law enforcement, detention, and rehabilitation and treatment services simply must be a higher priority. In addition, we would encourage the Committee to explore mechanisms for streamlining and consolidating the existing sources of law enforcement and public safety funding that are available to Indian tribes within the Departments of Interior, Justice and Homeland Security and other federal agencies. Similar efforts at funding stream consolidation have been very successful under the Indian Self-Determination and Education Assistance Act, the Native American Housing and Self-Determination Act, as well as Public Law 102-477, the Indian Employment, Training, and Related Services Demonstration Act of 1992.