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Wiyaka Tokaheya Yuha Najin

Theresa B. Two Bulls
President

Good morning Mr. Chairman and Members of the Subcommittee:

My name is Theresa Two Bulls and I am the President of the Oglala Sioux Tribe. Words cannot express how much we appreciate your holding this hearing, because nothing is more important to me and to other tribal leaders than the safety of our people, and I can say with no reservations, that because of inadequate law enforcement on our reservation, many of our people are not safe today!

With 3.1 million acres, our Pine Ridge Reservation is one of the largest reservations in the United States. Think about an area from Richmond to Baltimore and D.C. to Gettysburg, PA with 50,000 residents. Our community suffers from a lack of jobs, a non-existent economy and a lack of services. We have an unemployment rate of well over 50%, and many of those who are working having only seasonal or part time jobs. We have a drop out rate of over 60%, and our average per capita income is below \$7,000 a year. As a result, we are faced with all of the criminal and civil problems that poverty brings with it. These figures are also typical of the other tribes in the Great Plains even though they have somewhat smaller populations.

Let me begin by saying that common sense tells us that law enforcement; detention; tribal courts; 911 and emergency communication capabilities; alcohol and drug treatment services; and other diversion programs have to be looked at as one package. Take away or weaken any one of these and the others fail to work properly. Today, not one of these areas is funded at a large fraction of the level required to make a dent in on-reservation crime.

You have no doubt heard the BIA testify about the fact that law enforcement in Indian country is only funded at around 40% of basic need, but that figure is far lower for large land based tribes like Pine Ridge, Rosebud, Blackfeet and Navajo. This is because our large size adds substantially to the costs of operating our programs. Our vehicle maintenance and replacement costs, gasoline needs and basic manpower are all much higher than they are for smaller reservations, yet our budgets are not proportionally higher. As a result, our response time is a fraction of what it is on other smaller reservations and their response time is generally abysmal. Let me give you some actual statistics from our reservation, which I believe will hold true for all of the other large land based tribes.

At Pine Ridge, we receive approximately 73,000 calls for police service each year. That is about 6,083 calls per month. We are forced to answer those calls with 48 police officers. In

1990 we employed 110 officers but through budget cuts and inflation our force has been decreased by over 50% in the last 15 years. Now, forty-eight (48) police officers divided by 4 shifts equates to 12 officers per shift, if no one is sick or on workmen's comp. That means that each officer has to try to respond to 506 calls per month. That number of calls is not manageable for a police officer in an urban area, where the calls are only 10 or 15 minutes away, but it is impossible for us given that many of our calls are 50 or 60 miles apart. As a result, we have a sizable number of calls that simply go unanswered altogether and a number of investigations that simply can not be properly undertaken. And, when our officers do respond, our response time generally runs around 1 hour, for even the most serious acts of violence.

To make matters worse, all of our police officers have to work alone. Backup is generally at least 40 minutes away. As a result, we have single officers walking alone into parties with 20 or more intoxicated or stoned individuals, or with a subject banishing a deadly weapon. This has led to many unnecessary injuries.

Our officers see some of the most terrible sights one could imagine, and they take that scene home with them, yet we have no mental health or even debriefing services available to help them deal with these problems. As a result, we have a high turn over rate, a high rate of on the job injuries, and a high rate of officers in need of stress relief counseling. Our Chief and Sergeants do what they can, but the job takes a toll on people.

Please do not think that these situations are unique to Pine Ridge, because it is happening on reservations throughout the United States today.

Let me explain what this means in human terms by telling you about one case. A young woman, one of many, gets a restraining order against her ex-boyfriend who has been beating her up. She is home alone and wakes up to hear him trying to break into her home with a crow bar. She calls the police, but her phone cuts off three times, because we don't have lined telephones in her area, and our cell service is terrible. Dispatch makes the call, but because of our manpower shortage, the nearest officer is 40 miles away. The young officer who gets that call starts driving to the scene at 80 miles an hour on very bad roads, and while doing so he hears from dispatch that the man has entered the home, the woman is no longer on the call and screaming can be heard in the background. By the time he finally reaches the home, that young woman is on the floor covered with blood, with no perpetrator in sight. He starts to look for the man, but by then he has three or four more calls backed up on the cad and two of them involve violence or a person with a weapon. This is an everyday occurrence at Pine Ridge. Because we have no strong alcoholism and drug treatment programs, and a lot of despair in our community, the number of women, children, and elders who have become the subject of alcohol induced domestic violence and assault has now risen to an unimaginable level. In addition, situations like this have increased the number of officers who have started drinking or engaging in violence themselves because of the stress.

On average, because of our manpower shortage, a police officer at Pine Ridge or on another large land based reservation drives about 345-500 miles per shift. With three shifts, that puts around 1,050- 1,500 miles a day on our police cars. As a result of that and our unpaved and unrepaired roads, our police cars only last a little over a year, before they need to be replaced.

Our weather conditions and lack of emergency equipment adds to this problem. During the November 2008 blizzard, a tribal member was fatally stabbed in one of the outlying districts and our officers could not get to the body for 2 days, because we had no equipment that could cross the snow covered roads during white out conditions.

The situation is equally critical in our detention program. Because of inadequate funding, our jailers are often forced to work alone, overseeing up to 50 male and female pre-sentenced offenders who are, more often than not, under the influence of alcohol or drugs. That makes for a very dangerous situation. We have had our jailers attacked many times and often they have had to rely on the other prisoners in the cell for their protection. The jailers must be commended for working under such harsh circumstances.

Unfortunately, even with cutting back on our staff, our current BIA law enforcement budget only funds 40 officers' salaries, fringe benefits, and some of their fuel costs. The same is true for our detention budget. Virtually all of our police units, training needs, and equipment have to come from money that we have to compete for from DOJ competitive grants. If the Congress fails to pass a budget on time, or enacts a year long continuing resolution, or if we forget a signature on a DOJ grant application, we are sunk, because those discretionary grant dollars are not available during that time period. These DOJ COPS and Byrne grants were not established to provide base funding for Indian law enforcement, detention, courts or 911, they were designed to allow local law enforcement to address one time needs for a special piece of equipment or a special type of training. Given that most of these programs require matches that we cannot afford, and our the expenditure of our own limited funds to pay the indirect costs that they fail to pay, they are often more a problem than they are worth, but we have no other choice, we need them just to keep our program operating at the level that it is today.

What we need, Mr. Chairman, is an adequate base funding for the justice entities (law enforcement, tribal courts, prosecution) that takes into consideration the special needs of the tribe involved (size, remote location, high crime rate, etc.) We also need adequate facilities to operate these programs. Across the country, the number of condemned jails, police stations, substations, and court houses is growing every day. This facility situation is even worse for large land based tribes, because being far from urban areas; we have no other space that we can rent. We have 5 such condemned facilities at Pine Ridge alone. These buildings are so bad that we recently lost a jailer and our former chief judge because their doctors advised them that the mold in our jail and court house was leading them to have what was likely to become permanent respiratory problems.

A few months ago, the BIA closed our Pine Ridge jail because, after finding it in violation of health and safety codes for 5 years, and seriously unsafe for another 10 years, they finally just had to shut it down. That is why we appreciate so much the money that you provided to the BIA for detention construction in FY 2009, because finally after 15 years of begging it is finally being replaced with those funds.

While we do not want to sound unappreciative, you need to know that this still leaves us with our condemned Kyle Jail, which is sixty miles away and just as critical to our law enforcement operation. The BIA all but admitted that the only reason that it did not close that

facility at the same time that it closed Pine Ridge was because they knew that if they did we would then have no place to house any of our pre-sentenced offenders. While the BIA looked at this facility when it received the detention facilities repair funding under the stimulus bill, it quickly determined that it is simply too far gone to merit the expenditure of any of those monies. Thus, pre-sentenced offenders in our Kyle facility sleep on the wet floor, with toilets and sinks that often do not work. The heating fails in the winter and the air conditioning fails regularly in the summer. The facility has exposed wiring, pipes that leaks on sleeping prisoners and staff, doors that do not work and lighting that fails on a regular basis.

When our prisoners are finally taken to court we face an equally serious problem. Because of the size of our reservation, we are forced to operate two separate Tribal Courts, one at Pine Ridge and the other at Kyle. These two Courts are over 60 miles apart. Because of our lack of communications equipment and the distance between our two locations, these Courts are often forced to operate independent of each other, which is something we are striving hard to avoid. Currently, our Tribal Court hears approximately 2,470 cases per year and it has a civil case load of in excess of 2,000 cases. These numbers are unrealistically low, because our inability to hear criminal cases in a timely manner has led many of our local law enforcement officers to simply paper a sizable percentage of alcohol related misdemeanors as Public Intoxication offenses rather than the real offense of assault, disturbing the peace, fighting, battery, destruction of property and child neglect. These public intoxication offenses lead to the automatic release of the prisoner 8 hours after incarceration rather than into our Tribal Court system. Even with this approach, we are still receiving in excess of 20 new domestic violence cases each month.

All of our Court staff is seriously overworked. In fact all of the cases I just mentioned are handled by our one Chief Judge, 3 Associate Judges, 1 Attorney General and 3 prosecutors. Remember these individuals are not only handling a ridiculously large case load, they are also forced to serve two separate court houses which are 60 miles apart and which have no workable electronic communication with each other. These Judges and Prosecutors have a totally inadequate number of support staff. We currently have only 2 criminal clerks, 2 civil clerks and 2 juvenile clerks in Pine Ridge and 2 clerks in Kyle.

Despite the huge number of cases we are confronted with each year, our Court is so under-funded that it is forced to operate on old outdated and often broken computers, which were purchased at Wal Mart. To make matters worse, our software is so outdated that it does not even allow us to open many of the files we receive from attorneys, other jurisdictions and defendants and their representatives. Our computers also have no virus protection software, no spam blockers, no security firewalls and we have no off-site backup for our files. Thus, if a tornado were to hit, as it has done in some of our more outlying communities this year, we could lose all of our records.

Because we have no commercial scanners, inadequate file cabinets and inadequate filing space, most of our files over 6 years old are stored in cardboard boxes that are stacked in our basement. Because our Court is located in a condemned building, which leaks and has exposed asbestos, our Court records, especially those stored in these boxes are regularly subjected to mold, mildew, water leaks, dust and decay. I cannot imagine any state judge or prosecutor

having to use a hair blow-dryer to make an official court record usable in a case, if they can even find the file in time, but that is the world in which we work at Pine Ridge. I also cannot imagine a federal or state court staff working in an environment where the papers that they handle every day are making them sick, but that too is the environment in which our staff is forced to work. Our former Chief Judge left because she was allergic to the mold in our building, others get stuffy noses, watery eyes and sneezing, and more than one person has left us because of respiratory problems. The clerk of our Supreme Court developed arthritis from the cold and damp environment she was working in because her office was in an unheated basement. She is now on social security disability from that problem.

Things are no better for our prosecutors because they work in the condemned Pine Ridge jail which loses heat in the winter and air conditioning in the winter and which is as damp and dirty as the court house.

Our tribal judges have no law clerks, inadequate funding for new law books and publications, and no funding to train the court staff. Westlaw doesn't work, because we can't afford it, and when we do get some funding to go online, our internet is so bad that we get cut off 4 and 5 times a search making legal research a nightmare. Additionally, when staff training is available, we regularly lack the travel funds to send anyone to the training site, and even if we can find those funds, we are so understaffed right now that we have to determine how far behind schedule we can go if we allow one or more of our staff to attend that training.

While we have a dedicated team of judges, prosecutors and Court staff, we simply cannot manage the workload that we are faced with and still afford our people with the legal protections they are entitled to. Our case backlog is becoming longer by the day. Right now we have more than 1000 cases from both court houses which have been awaiting trial for over 12 months and more are being added to this list every day.

We have been lucky of late that very few of our people have requested jury trials, because we simply have no money to pay for them. We don't even have enough funds to cover travel costs or lunch for jurors even if we could get them to serve for nothing. Over the last 8 years, we have lobbied, begged, threatened and tried every other method that we can to attract the BIA and the DOJ's attention to the serious crisis in Oglala Lakota country, but to no avail. The people at the staff level want to help us, but they do not control the Department's budget. That is why it is so gratifying to finally have a new President and a new Secretary of Interior who seems to care.

I could go on for hours about our problems, but I will stop here and simply ask you to do everything that you can to help us. Thank you again for your deep felt concern and for taking the time to hold this very important hearing.