

## **TESTIMONY OF THE OGLALA SIOUX TRIBE, APRIL 25, 2013**

My name is Bryan Brewer and I am the President of the Oglala Sioux Tribe. Thank you for holding this hearing and inviting my testimony. With 3.1 million acres, our Pine Ridge Reservation is one of the largest reservations in the United States- larger than the State of Connecticut. Think about an area from Richmond to Baltimore and D.C. to Gettysburg, PA with 50,000 residents. The Oglala Sioux are a proud and determined people with a strong tribal heritage and strong cultural and religious values, yet as a result of our geographic location and years for federal neglect our people are struggling. Today, 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%, a dropout rate is 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.

As a large land based treaty Tribe, we have full tribal civil and criminal jurisdiction, and our Tribal Government is responsible for providing the full range of governmental services commonly provided by States. We receive a very minimum amount of State assistance, most of which comes from federal pass thru dollars, which have just be cut. Sequestration has hit us hard; especially because virtually all of our programs have always been funded at around 50% of actual need. We have lost in excess of \$3.2 million in direct service dollars from BIA alone and the IHS has yet to even tell us how much is being cut, so we really need your help!

**First -Staffing for Pine Ridge Justice Center and Funding to Design and Construct the Justice Center at Kyle.** In 2007 we had two Tier One Detention Facilities- one at Kyle and one 70 miles away at Pine Ridge. Both were built over 30 years ago by the BIA and both were in terrible condition. They were losing power, heat, cooling and water on a regular basis and forcing us to relocate prisoners out of those buildings every time this happened.

By 2008 the number of complaints of code and safety violations had risen so high that then OJS Director Pat Ragsdale visited the two facilities personally. During that visit he determined that that the US could not accept the federal liability of allowing those buildings to remain open. This created a crisis, because without these facilities, we would have no place to put our pre-sentence offenders and there were, and are, no other detention facilities nearby.

After much debate the Mr. Ragsdale was finally convinced to order the closure of only Pine Ridge in late 2008. When he did so, he made it clear to his superiors and the Tribe Kyle needed to be closed as soon as possible. A few months later in FY 2009, BIA agreed to allocate all of its detention construction dollars to reconstruction the Pine Ridge facility. That building will be completed in FY 2014, and we desperately need the funding to open that new facility. We understand that these funds have been requested in the President's FY 2014 request, but as of this date that document has yet to be released to the public. If those funds can be provided we are now left with the situation over at Kyle. Here is that story.

Seeing the Kyle detention facility as an on-going emergency, BIA requested, and the Congress provided in FY 2010, emergency funding to try to repair the Kyle facility. Unfortunately, BIA studies show that to be impossible. The cost of making those repairs was almost as high as the cost of replacing the building. And, the studies showed that even if we spent that money the

building would not meet minimum federal code requirements. To address this problem, the BIA sent this Committee a reprogramming request in early calendar year 2011, which took some of the money appropriated to make those repairs and reprogrammed it into the planning and designing a new Kyle Justice Center. Under that agreement, the BIA kept just enough money in the repair budget to Band-Aid the existing building so that it could continue to be used for three or four years. You approved that reprogramming right after it was received.

The Tribe has undertaken that planning and design work with the full involvement of the BIA's detention, law enforcement and courts staff, following all federal codes and guidelines. In so doing, the federal/tribal design team has learned that our actual arrest reports clearly show that we need a much larger building than originally thought and approved a program of requirements for that larger space. This development has now left us \$1.2 million short of the funding necessary to complete that design. Unless that \$1.2 million money can be appropriated in FY 2014, we will have to stop that design work at the 60% completed level and put it on the shelf. This will result in a total waste of tax payer dollars. Unfortunately, this problem was not uncovered until well after the President's FY 2014 budget was already near final, so it is not in the President's request and we had no choice but to come here to ask you to help us fix this problem.

If the remaining design funds can be appropriated, we will also desperately need construction dollars in FY 2014. As our planning documents now sit, the anticipated construction cost for this 105,000 square foot, 137 bed facility is \$51 million, which is well over the amount available in the DOJ Detention facility construction budget. DOJ also lacks the ability to multi-year fund or manage a project of this magnitude. This is the reason we are asking this Committee to fund this project thru the BIA and to put the BIA back into the Justice Center Construction business, at least for large land based projects of this magnitude. While I know that the federal budget is tight, I cannot stress strongly enough how badly we need this new building. An examination of our arrest records clearly shows that these are not the kinds of offenders we can just leave on the street after their arrest. So, I implore you; help us solve this problem before things get any worse.

**Regular Law Enforcement and Court Staffing-** While we appreciate this Committee's effort and those of the Administration to raise law enforcement and court funding a little bit every year; for Pine Ridge these increases have meant very little. Our police department is so short staffed that our response time remains up to an hour even for violent crimes, our officers continue to suffer from fatigue working 12 hour shifts for as long as 4 week, and the situation grows worse every day. Additionally, our court is still operating with a totally inadequate budget. It is underfunded, under staffed, under trained and under equipped. While we appreciate your recent passage of VAWA, I have to respectfully advise you that this law means very little to a woman under physical attack, who has to wait an hour for the police to arrive and knowing that our court cannot hand down a long term sentence because it cannot afford to provide a jury trial or a defense attorney. Simply put, because of budget limitations, TLOA and VAWA are merely unfunded mandates, and they will remain so until these funding problems are solved.

**Education-** As a former educator, I know from personal experience that education is the long term answer to many of my Tribe's problems, but here again we are struggling. If you compare

the funding for schools operated by DOD with those of BIA you will see a huge disparity. Two of our single biggest education problems are transportation and O & M costs. We currently operate 1 BIA and 6 grants schools and 3 parochial schools on our Reservation. Paying to transport students across the large distances between our tribal communities has always been difficult, but it has become all but impossible as the price of gasoline has risen. Our school budgets have never kept pace with inflation and the costs of heating our schools has gone through the roof. Things have gotten so bad that some of our schools are actually reproducing out dated text books on Xerox machines because we do not have the funds to buy new ones.

Keeping our school buildings safe is also a big problem. While the BIA system calls for funding education related operating and maintenance dollars at 100%, the reality is that our schools all operate with O&M budgets which represent closer to 47 % of need. Lights do not get replaced, furnaces break down, walls and floors go unrepaired, and items like weather stripping windows are merely talked about. Today, following the sequester, I have serious concerns about our ability to fund our most basic educational needs for the fall term. Summer is usually when we make our repairs, purchase our needed items, repair our busses and get ready for school to start. Now with the sequester, I have no idea what we will have to leave off of that list.

Things are not any better for our private and public schools which rely on JOM and federal pass thru dollars to pay for these costs. They are being cut at both the federal and the state level and the combined impact lands squarely on the very programs that we are counting on to advance the lives of our children!

**Do Not Eliminate HIP** - At Pine Ridge, HIP addresses two of our most pressing problems: substandard housing and homelessness. On our reservation, we have people living in cars and all too many people are living in homes with boards covering the windows to keep out the winter winds, leaking roofs, cracked floors and antiquated bathrooms that only work part of the time. All of this in an area where the winters are extreme and we have severe winter storms as late as two weeks ago. Our cost of winter heating is one of the highest in the United States. Many of these individuals are part time workers, or people who work for just above minimum wage. They support not only themselves and their children, but often times their parents, and other relatives because jobs are not available. In fact, the basic test for HIP dollars is that the person income does not exceed 125% of the Human Services Guidelines. Pine Ridge is notorious for having one of the longest waiting lists for HUD assistance and that HUD waiting list is only getting longer because of sequestration, so to suggest to people who live under these conditions that HIP is no longer necessary because it is duplicative is simply wrong. Poor housing is not cost effective. Students who live like this perform worse in school, illness and health costs rise and there is a direct relationship between poor housing and alcohol and drug abuse.

**Contract Health Care** - While we greatly appreciate this Subcommittee's efforts to increase CHC dollars over the past few years, our Tribe continues to run out of CHC monies well before the end of the fiscal year. Now with sequestration, we fully expect to run out of those monies at least two months earlier. I cannot tell you how many calls I receive every day from a tribal member seeking medical assistance that the IHS has advised him or her that it lacks the funding to provide. Priority one is a fiscal threshold it is not a threshold for physical pain and discomfort. Delayed treatment leads to additional medical complications and no American should go without

proper medical treatment in 2013. The CHC situation is also devastating for those tribal members who are working. You do everything right. You go to school, get a job, pay your bills on time and then you get sick and go to the hospital. When the I H S fails to pay your bill you are, all of a sudden, through no fault of your own, bankrupt, your credit is gone and you have bill collectors chasing your pay check. This is not the type of health care we bargained for in our Treaties. So, simply put, please try to help protect the IHS budget wherever possible.

**Road Maintenance Needs Help-** The safety of the traveling public is a top concern for the Tribe. Our roads provide access for our tribal members to drive to and from work, for our emergency response system and for our school buses. Accidents caused by unsafe roads result in large Contract Health Care costs and federal road construction monies are totally wasted if our roads not properly maintained, especially given our extreme weather conditions. The Tribe currently maintains approximately 500 miles of BIA roads and 20 bridges under P.L. 638.

Over the last 10 years, funding for road maintenance has steadily diminished from \$587,428.00 for FY08 to the current level for FY12 of \$548,923.00- which given inflation is a huge cut. This translates to approximately \$867 per lane mile of road compared to South Dakota's state expenditure of \$4,500 to \$5,000 per lane mile. This level of funding does not allow the Tribe to adequately maintain the equipment the program requires, nor does it allow for adequate staffing.

Things are so tight that the program is currently utilizing equipment that was purchased by the BIA and turned over to the tribe when our "638 contract" was first signed in 2004. The newest pieces of equipment in inventory are a 1987 Caterpillar motor grader and a 2000 International dump/plow truck. We have 1940's bull dozers and a 1978 auto car end dump and semi tractors most of which came from federal surplus. It is not cost-effective to keep repairing these older pieces of equipment but we have no choice.

Weather is also a problem for this program- because it is also responsible for new removal. Our winters are severe. We average 51 days of snowfall in excess of an inch and many storms dump in excess of 6 inches in a day. At the beginning of this month, we had a severe snow storm with on-reservation accumulation from 20-26 inches. We struggled to clear the snow from our main highways, but due to the age of our equipment, many pieces broke down and some had to be taken totally off the road. For people requiring medical treatment like dialysis and chemotherapy road conditions are of major concern. So, the ability for our program to maintain a safe road system directly affects the health of individuals.

**Contract Support-** Because others are covering this topic, I will be brief. Contract Support pays for our light bills, payroll clerks, accounting and audit costs, insurances and required overhead. If the federal government does not pay for these costs, we have to, just to operate our programs, and for a Tribe with our economic struggles, this is impossible for us to do. Thus the BIA and IHS proposal are a flagrant violation of existing law.

Mr. Chairman, thank you for allowing me this time. I will be happy to answer any questions you may have.

