

TESTIMONY OF BRYAN BREWER, PRESIDENT, OGLALA SIOUX TRIBE  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR –APRIL 2014

Good morning Mr. Chairman and Members of the Subcommittee, my name is Bryan Brewer and I am the President of the Oglala Sioux Tribe. Thank you for inviting me to testify today.

As a tribal leader and as the head of my family, I appreciate the difficult job that this Subcommittee faces in trying to develop and implement a budget. What makes this discussion difficult for me is that today virtually every federal Indian program that serves my people is already operating at an acknowledged 60% of actual need or less. With 3.1 million acres, our Pine Ridge Reservation is one of the largest in the United States, with excess of 50,000 residents. Our community suffers from a lack of a tax base, a lack of jobs, a non-existent economy, and the lack of the infrastructure necessary to change those realities. We have an unemployment rate of well over 70%, a dropout rate of over 60%, and our average per capita income is below \$7,000 a year. I see members suffering from chronic preventable pain, because we lack the contract health care dollars to send them to the hospital. I see children coming to school hungry and tired because their parents cannot afford to feed them breakfast and because they had trouble sleeping in their poorly constructed and under-insulated two bedroom home which is now occupied by 13 people. Then just a couple of months ago I saw a tribal member who literally froze to death in her home because she could not afford to pay her propane bill. So when people talk about cutting back on federal Indian spending, I am forced to come here and ask you- Where would you recommend that we cut? That is why I am so grateful for this Subcommittee's efforts over the last two years.

Unfortunately, when you are as inadequately funded as we are, losing access to services, whether it is through actual budget cuts, sequestration, or through simple inflation is disastrous. With the prices of gasoline, heating and cooling, and insurance going up every year, make no mistake about it, a level budget is a cut in services at Pine Ridge. So, my point is simple, programs like ours that are already funded at 60% of actual need, should be exempted from future sequestration, and from the limitations imposed by the Budget Reform Act and Pay Go, because unlike many other federal programs, they are already funded at "bare minimum!"

There are some areas where you can save money. To accomplish that, my first suggestion, is that you move the money that you are currently expending on DOJ Indian law enforcement and detention programs back to the BIA. By taking this one step, you can eliminate a big portion of your law enforcement officer shortage- because you will be placing those funds in the highest priority areas- and you will be doing this at no cost to the taxpayer. You will also be eliminating the duplicate overhead that you are currently paying, and improving law enforcement services to Indian people. Today, we have two groups of officers in one tribal police force being paid by 2 separate federal programs in two separate federal agencies. As a result, the Tribes have to pay people to file two separate sets of reports, and manage two separate sets of accounts against two separate sets of standards, and the U.S. taxpayer has to pay two different sets of people to read those documents. To make matters worse, because of the way the DOJ authorizing

statutes are written, DOJ has to fund everyone equally, so higher priority areas are ignored. This makes no sense.

My second suggestion for saving money, is for the federal government to maintain what it owns. Today, the size and attributes of every tribal and federal building and every tribal road in the BIA property system are run through an OMB approved computer program which calculates the actual costs of operating and maintaining that specific item. That software calculates everything from the expected life span of the roof and the furnace, to the maintenance cycle necessary to achieve that lifespan. The problem is that BIA and OMB then proceed to ignore their own calculations and to request only a small fraction of what their actual experience has taught them is actually needed. The result is that brand new roads and buildings, constructed at tax payer expense, are allowed to start to deteriorate the day that they are opened. This lack of adequate maintenance dollars is a significant problem for us at Pine Ridge, because so many of our schools, courts houses, tribal office buildings, roads and police substations were built in the 1950-1970's, and without proper maintenance they will not last thru the ten year period covered by the Budget Reform Act.

I know that every year you hear testimony about shortages in Indian school operations dollars and those shortages are very real. But, what makes the situation worse is when those same operating dollars have to be dipped into in order to repair the furnace, fix electrical outlets, and/or stop the leaks in the roof. Ignoring maintenance costs does not save money- you know this as homeowners. Leaky roofs lead to damaged ceilings and floors. A short in an electrical system leads to a costly fire, and an unrepaired road get worse after ever storm and every car until there is no options except to close the road or completely resurface it. So I ask you Mr. Chairman, isn't it time that we require OMB and the Congress to apply that same common sense principals that they apply to their own homes, and request the money to properly maintain their own investments.

I now need to turn to one of the most pressing problems facing our community, our Kyle Justice Center. This is a building that is desperately needed, a building which the Congress and the BIA have just invested \$2.4 million in designing, and a building which the DOJ lacks the practical ability to build. This Kyle Justice Center is not a long term "detention" facility, where alternatives to incarceration can be considered. It is a short term holding facility, a court and a 911 center for the eastern side of my Connecticut sized Reservation. This will be the place that our law enforcement will take the individual who is actually hurting or threatening to hurt another person, the person who is so out of control that they cannot be unsupervised, and the person who has just committed a serious crime, but who has yet to be arraigned or taken to trial. In other words, these are the people who are violent, threatening and dangerous. So while I agree that we cannot arrest and jail our way out of our social problems, I also know that we cannot cure alcoholism, drug abuse, and domestic violence overnight, and that even after we do make a dent in those problems, we are still going to have people who require detention.

Just a bit of history- In 2007 both our Kyle and Pine Ridge Tier One detention facilities, which are eighty miles apart and which serve two separate and distinct areas of our large reservation, were number one and two

on the BIA's detention construction priority list and had been for some time. Our Pine Ridge and Kyle Courts were also near the top of the BIA's replacement list. These buildings were dilapidated and experiencing constant problems with the loss of power, heat, cooling and water. While the Tribe had been calling for their replacement for years, it was not until 2007 that the then OJS Director Pat Ragsdale visited Pine Ridge and upon doing so determined that the U.S. couldn't allow either of these jails to remain open.

After much discussion with the Tribe and local law enforcement, Mr. Ragsdale decided to order the closure of the Pine Ridge jail in late 2008. In that closure order he made it clear to his superiors and to the Tribal Council that he also needed to close Kyle as soon as possible, but that he would attempt to put that second closure off as long as possible solely to give the BIA and the Tribal law enforcement some place to put their prisoners. A few months later, thanks to the help of this Subcommittee, the Congress provided the BIA with Detention Facility Construction Dollars in 2009 all of which were directed to the replacement of the Pine Ridge Jail and Court House. The construction of that facility is underway and expected to be completed in 2015. We therefore ask you to support the BIA's FY 2015 request for monies to open that new building.

In the interim, still seeing the Kyle jail problems as an on-going emergency, the BIA requested and received in FY 2010, emergency facility repair funding to try to repair that building. Unfortunately, the study BIA commissioned to lay out the scope of those repairs, showed that, as stated in a subsequent reprogramming letter, "upgrades and improvements [to the Kyle building] are not viable because of the design, construction, and current physical condition of the structure," and that even if the BIA chose to expend all of those monies, the facility still could not meet national fire, safety and building codes or standards for incarceration.

In response to that study, in 2011, the BIA sent up, and this Subcommittee approved, a BIA request to reprogram \$2.4 million of the money previously appropriated for Kyle repairs into the BIA's Public Safety planning and design of a replacement building. Under that reprogramming, the BIA would use the remaining \$450,000 from appropriated funds to do just enough repair work to keep the Kyle facility open for three to five years to allow time for design to be completed and for a new replacement building to be funded and built. That reprogramming request also noted that this new design and construction would serve as a "basis for future construction and law enforcement facility projects in Indian Country." In other words, this building was going to be the new template for how to build tribal jails, law enforcement centers, courts and judicial administrative centers.

In response to this requirement, the Tribe submitted, and the BIA approved, a 638 application which stated that the Tribe would "plan and design a new Kyle Adult Detention and Law Enforcement Center that will house adult detention, courts and law enforcement as well as administrative offices."

Today, the Design of the New Kyle Justice Center is almost complete, but in the process of completing that planning and design work, the Tribe and the BIA officials working with the Tribe on the design, soon realized that the original BIA projected \$2.4 planning and design budget was inadequate to address the actual need in this case. That original cost was based on planning and design of a \$25,000,000 building of approximately 50,000 sq. of space, but the Tribes actual documented need was substantially higher and a 50,000 sq. ft. building would be obsolete the day that it opened. My Tribe has been collecting and submitting our actual crime and detention data to the BIA for over ten years, thus, unlike other facilities which are sized based on estimates, our data showed us our actual detention and court occupancy by sex, date and crime. I am submitting our actual sizing study so that you can see that we have made no effort to oversize this design. As a result of these actual need projections, we now find ourselves \$636,000 short in funds to finish the last 30% of the design work that the Congress and the BIA have already spent \$2.4 million on.

When that \$636,000 is finally provided, that remaining design work will take approximately 4 months to complete, leaving us ready for construction funds in FY 2015. The present projections show that construction costs will be in the approximate amount of \$53 million for all phases of the project and that the building itself is now projected to be around 103,000 square feet. This \$53,000,000 includes the costs for all infrastructure for the facility including, among others, a water tower, a sewer lagoon, a communications tower and electrical upgrades.

Mr. Chairman, this building needs to be funded through the BIA, because the DOJ lacks the funding, the authorization and the practical capability to handle a project of this magnitude. DOJ's annual construction authorization under the Tribal Law and Order Act of 2010 is capped at \$35 million annually, and it has no practical ability to multiyear fund a project of this magnitude while still keeping the construction warranties intact. DOJ construction grants may be fine for small 30,000 to 50,000 sq.ft.jails, but not for something this large or this complicated. This is another reason that I have so strongly recommended that you return the detention and court house construction funds to the BIA, at least for those projects at the top of the priority list. Many of the top ten projects on the BIA's construction priority list are for large land based tribes with sizable populations. In other words, they are big buildings. These high priority projects are all for treaty tribes like Oglala which have no rental space alternatives and where regional facility alternatives will never work, at least for post arrest facilities. BIA knows how to prioritize its projects, and it knows how to build them, so please let it do that job that it has the proven capability to do. You cannot build a \$43 million building on a grant, because it is almost impossible to project every problem that you will encounter. This Subcommittee has treated the replacement of this Kyle facility as an emergency for over four years. I just hope that you can find your way clear to continuing to do so by funding its remaining design and construction in FY 2015. Thank you, I will be happy to answer any questions you have.

