

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS**  
**SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES**

**MARCH 24, 2015 TESTIMONY OF**

**ROBERT GARCIA,**

**CHAIRMAN COOS, LOWER UMPQUA, AND SIUSLAW INDIANS**

**CONCERNING THE BUREAU OF INDIAN AFFAIRS "TRIBAL PRIORITY ALLOCATION" AND TRIBAL LAW  
ENFORCEMENT**

The Bureau of Indian Affairs intends to play "a critical role in removing obstacles to building and promoting tribal self-determination, strong and stable governing institutions, economic development, and human capital development."<sup>i</sup> In many instances, the BIA has fulfilled this role in relation to the Tribe of which I am privileged to be Chairman.

Today I will focus my remarks on an aspect of the administration of appropriated federal funds that does not measure up to the standard the BIA has set for itself. My Tribe is assuming greater and greater responsibility for protecting our members and property from crime. In doing so, we are also deepening the relationship with the non-tribal communities in which our members live and work. These developments directly enhance our self-determination and help cement the Tribe's role as a strong and stable institution within our community.

The Tribal Priority Allocation (TPA) system, as it has been administered to date with respect to my Tribe in the specific area of law enforcement funding, is operating as a drag on our self-determination instead of serving as an aid in removing obstacles. Restructuring the administration of that system is necessary to remove a barrier to greater self-determination. Modifying the TPA system could also help the federal government encourage innovative efforts dissolve jurisdictional barriers to effective law enforcement that that Congress found in 2010 were "increasingly exploited by criminals."<sup>ii</sup>

The Coos, Lower Umpqua, and Siuslaw Indians operate the Three Rivers Casino on the Pacific Coast in Florence, Oregon due west of Eugene. Our tribal government offices are in Coos Bay/North Bend, approximately 50 miles to the south of Florence along a heavily traveled two-lane highway. The stretch of highway between the north and south of the region, in which my people have lived for more than 10,000 years, parallels the coast, is the primary access to the Oregon Dunes National Recreation Area, and cuts across three Oregon counties. Tourists, non-tribal travelers, and tribal members constantly travel these corridors. A public safety threat arising anywhere in the region is as likely to victimize a non-tribal traveler as it is to endanger a tribal member.

State and local governments in our largely rural part of Oregon gradually have disinvested in public safety services. County sheriffs, city police departments, and the Oregon

State Police never have had all the resources needed to meet all the public safety challenges of this vast area. Today, alarming new gaps have opened in their capacity to protect and serve these communities, including the Tribe and its members. Even though the Tribe is subject to PL-280, the jurisdiction granted by that statute to state and local law enforcement officials as to our property and as to our members is scarcely more effective than a paper shield.

In part to help protect the Tribe's property and members, and in part as a necessary expression of our desire for self-determination, my Tribe has invested heavily in law enforcement services. Since 2008, we have spent over \$3,000,000 on law enforcement services. Our current annual budget for law enforcement totals \$490,000, of which \$400,000 is Tribal General Funds and the remainder derives from competitive grants administered by the BIA. Our police department today consists of the Police Chief, three uniformed officers, and an evidence clerk/records technician. My tribe's five-county service area totals 14,845 square miles.

In 2011, my tribe joined with other Oregon tribes to petition the state Legislature for legislation authorizing our officers to exercise the same law enforcement authority as state law grants city, county, and state law enforcement officers. In short, we asked the Legislature to erase some of the jurisdictional boundaries that Congress had determined were being exploited by criminals.

It was a difficult fight, but we were successful in the end. The Congressionally-chartered Indian Law and Order Commission subsequently held Oregon's new law<sup>iii</sup> up as one of its recommended models for improving public safety in -- and out -- of Indian Country.<sup>iv</sup> Recommendation 4.1 of the Commission's final report states:

**4.1: Federal policy should provide incentives for States and Tribes to increase participation in** deputization agreements **and other recognition agreements** between State and Tribal law enforcement agencies. (Emphasis added.)

Given the foregoing backdrop, we were very disappointed to learn in early 2013 that the Tribe was ineligible for law enforcement funding through the BIA's Tribal Priority Allocation system. We received from the BIA confusing accounts of the reason for our ineligibility. On one occasion, we understood the reason to be that our Tribe is subject to PL-280. After pointing out that other Oregon tribes that are also subject to PL-280 had received such funding, we were told that only tribes that had received TPA funds in 1999 are eligible today for such funding. We did not receive TPA funds for law enforcement purposes in 1999.

Either explanation might seem superficially appealing. In fact, in the context of my Tribe's experience, neither serves to remove obstacles to tribal self-determination, and both run counter to the course recommended by the Indian Law and Order Commission.

Starving PL-280 tribes or regions of TPA funds does not encourage tribal self-determination. Nor does it somehow encourage state and local jurisdictions to provide adequate public safety for tribes. Instead, it requires tribes like mine to rob resources from

other tribal priorities in order to pay for essential public safety services from scarce Tribal General Funds.

Limiting eligibility for these funds by reference to historic allocations is even more illogical and even more damaging to the federal government's stated goals. As described above, Oregon is four years into an experiment in law enforcement cooperation that has been identified by the Indian Law and Order Commission as a model potentially replicable everywhere in the country. That model didn't come into being until years after the BIA established the "base" expenditure system. The practice of limiting future TPA funding for law enforcement to Tribes that had received such funding in the past means that innovative tribes like mine are inhibited in their efforts to break down jurisdictional boundaries that impede the delivery of public safety services in and out of Indian Country.

Two responses could ameliorate the damaging effects of the current TPA policy as it is being applied to my Tribe. One is, at best, a stop-gap. The other is calculated to create incentives for enhanced self-determination and to improve public safety by implementing Recommendation 4.1 of the Indian Law and Order Commission.

First, Congress could increase the total amount of money appropriated to the BIA for redistribution to the Tribes. This, in turn, could free the BIA to allow funds to be distributed to Tribes like mine that had not historically received TPA funds for law enforcement, without causing an undue reduction in the allocation of funds to tribes that have historically received TPA funds for law enforcement activities.

Second, Congress or the BIA could dedicate a portion of newly appropriated or reallocated funds to law enforcement grants in jurisdictions where tribes and states have successfully demonstrated new or improved means of inter-jurisdiction law enforcement cooperation. Such a system would drive states and tribes in those states to seek their own means of improving cross-jurisdiction public safety efforts, regardless of whether the jurisdiction or tribe is subject to PL-280 and regardless of whether the tribe or tribes had, in 1999, been the recipient of TPA grant funds for law enforcement purposes. It would operate as an incentive to tribal self-determination, and it would directly implement recommendation 4.1 of the Tribal Law and Order Commission.

Thank you for the opportunity to have presented the views of my Tribe today. Oregon is surging ahead of the Nation in the field of inter-jurisdictional public safety. Federal funds should encourage this bright new future, not tie it to the jurisdictional rigidities of the ineffective past.

## ENDNOTES

<sup>i</sup> *Budget Justifications and Performance Information Fiscal Year 2013*, The United States Department of the Interior, Prepared for the Interior, Environment, and Related Agencies Appropriations Subcommittee, <http://www.bia.gov/cs/groups/xocfo/documents/text/idc016444.pdf> (last viewed March 19, 2015).

<sup>ii</sup> Tribal Law and Order Act of 2010, Section 202 (A)(4)(b).

<sup>iii</sup> SB 412C, 2011 Oregon Laws Chapter 644.

<sup>iv</sup> Indian Law and Order Commission, *A Roadmap For Making Native America Safer Report To The President And Congress Of The United States*, pages 104 - 105, [http://www.aisc.ucla.edu/iloc/report/files/Chapter\\_4\\_Intergovernmental.pdf](http://www.aisc.ucla.edu/iloc/report/files/Chapter_4_Intergovernmental.pdf) (last viewed March 19, 2015).