

**TESTIMONY OF THE ROSEBUD SIOUX TRIBE
COUNCILWOMAN LISA WHITE PIPE
BEFORE THE U.S. HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR,
ENVIRONMENT, AND RELATED AGENCIES**

FISCAL YEAR 2018 APPROPRIATIONS

March 17, 2017

SUMMARY OF ROSEBUD SIOUX TRIBE FUNDING PRIORITIES

1. DOI/Bureau of Indian Affairs – Base Funded Tribal Priority Allocation Programs:

Increase of 3% to all base funded Tribal Priority Allocation (TPA) programs and an additional 5% increase for certain TPA programs listed below.

2. Indian Health Service: Increase of total funding to at least \$7.1 billion.

On behalf of the Rosebud Sioux Tribe, I would like to thank the Committee for the opportunity to share our Fiscal Year 2018 (FY 2018) appropriations priorities. My name is Councilwoman Lisa White Pipe, and on behalf of the Rosebud Sioux Tribe, I respectfully submit this written testimony. Despite making gradual progress in its economic development efforts, the Rosebud Sioux Tribe experiences an overwhelming level of “unmet need.” However, this is not unmet need; it is unmet treaty obligations. The federal government has a fiduciary trust responsibility under the Fort Laramie Treaty of 1868 to provide adequate resources to the Rosebud Sioux Tribe.

The Tribe has ceded millions of acres of land, fulfilling its treaty obligations. The time has now come for the United States Government to fulfill its treaty obligations. This hearing offers an opportunity to express and receive suggestions as to how funding can be appropriated to better serve some of the poorest citizens in America. To this day, it perplexes me as to how people who once had millions of acres of land holdings including the resource-rich Black Hills can be amongst the poorest citizens in the greatest nation in the world. Let us work together to address these disparities in a manner that leaves us with a sense of pride.

The Rosebud Sioux Tribe is amongst the top ten large land-based tribes in the United States consisting of nearly a million acres of federal/tribal trust acreage in South Central South Dakota. The enrollment count of the Rosebud Sioux Tribe as of May 5, 2017, is:

Living enrolled members: 34,586
(on 04/19/2017, RST Council approved 178 new enrollees)

Live on reservation: 29,628

Live off-reservation: 5,228

*From: *Rosebud Sioux Tribe Enrollment Office*

Rosebud Sioux Tribal Court

The Rosebud Sioux Tribal Court was established in 1975 and is a court of general jurisdiction. The Rosebud Sioux Tribal Court system consists of a Tribal Court, a Supreme

Court, and a Juvenile Court. Statistics provided by the court indicate that approximately 1,801 criminal cases and 595 cases were filed from October 2014 - September 2015. Due to the meth epidemic currently plaguing the Rosebud Reservation, these numbers have increased from 2015 to 2016 and will continue to do so. As you can see, the court stays active.

An assessment of the Rosebud Sioux Tribe Court was conducted by the BIA Office of Special Justice on September 17-19, 2015 and the findings were reported on May 12, 2015. Two of the key recommendations reported in the assessment are listed below

- There remains a real need for sustainable funding for all staff, however, and at least one to two additional clerks to assist with the transition to electronic case-management, another process server, and additional probation staff.
- Strategic planning for a new courthouse is imperative. This is the key to sustaining the Court's development and improvement, and to addressing the Court's security, accessibility, and overall administrative needs.

Documentation exists that illustrates the fact that tribal courts have been historically underfunded by the federal government to the extent that severely limits the effects of their law enforcement operations.¹ The Rosebud Sioux Tribe supports and recognizes the need for an increase in BIA base funding for tribal courts nationally of at least \$83 million (which is less than 10 percent of the overall need estimated by the BIA). Now is the time to remedy a history of unfunded mandates. Provide us with the necessary resources to adequately enforce the law and provide justice for our citizens.

Bureau of Indian Affairs Burial Assistance

As you may know, the death rate experienced by the American Indian and Alaska Native population is far greater than other groups of American (50% greater according to the Centers for Disease Control and Prevention). Unfortunately, the Rosebud Sioux Tribe is not immune to these statistics. When a loved one is lost, families not only face emotional hardship associated with the absence of that person, they also face the cost associated with providing their loved one with a respectful burial.

25 CFR § 20.100 states that a burial assistance payment is made on behalf of an indigent Indian who meets eligibility criteria to provide minimum burial expenses according to the BIA payment standards established by the Assistant Secretary of Indian Affairs. The Bureau maximum burial payment standard is currently \$2,500. The National Funeral Directors Association calculated the median cost of a funeral in 2014 as \$7,181. This has likely increased since. As you can see, there is quite a disparity between the maximum burial standard payment and the median cost of a funeral.

The Rosebud Sioux Tribe has recently experienced an increase in deaths, which has taken a toll on the Tribe emotionally and financially. The inadequate maximum burial standard payment and funding for the indigent burial assistance service has left the Tribe scrambling to

¹ US Commission on Civil Rights. (2003). A quiet crisis: Federal funding and unmet needs in Indian Country. Retrieved from www.usccr.gov/pubs/na0703/na0204.pdf

find resources to help ensure that our tribal members are provided with a respectful burial. One of very few local funeral homes almost had to close its doors due to delays in payments from the BIA of an outstanding balance of more than \$70,000.

In an effort to address this issue, the Rosebud Sioux Tribe enacted a resolution requesting an increase in the BIA burial assistance payment standard. The Superintendent of the Rosebud Agency mentioned that there might be funds available elsewhere in the BIA budget, however, a statutory cap that has been exercised since 2009 would prohibit a transference from funds from elsewhere in the BIA budget into the burial assistance program. The resolution also seeks to address this issue by requesting that the United States Congress take the necessary action to lift the statutory cap prohibiting transference of additional funding into the BIA burial assistance program and increase funding for BIA welfare assistance to at least \$80 million.

Tribal Priority Allocations (TPA)

Department of Interior funding for TPA programs is a major priority for the Rosebud Sioux Tribe. We are located in a rural area, so our revenue generating opportunities are limited. The tribe depends on TPA funding for many governmental functions. Tribes in the Great Plains Region has requested a general 3% increase to all base funded TPA programs and have identified the following preferred programs for an additional 5% increase:

- Road Maintenance (TPA)
- Tribal Courts (TPA)
- Scholarships and Adult Education (TPA)
- Social Services (TPA)
- Consolidated Tribal Government Program (TPA)
- Other Aid to Tribal Government (TPA)
- Job Placement and Training (TPA)
- Criminal Investigations and Police Services
- Housing Improvement Program (TPA)

The Rosebud Sioux Tribe supports the overall request for an increase of 5% in base funding for TPA programs. Of importance to the Rosebud Sioux Tribe regarding the additional 3% ask is the Tribal Courts, Social Services, and Aid to Tribal Governments TPA programs. The Tribe supports increases above to the TPA portion of the Bureau of Indian Affairs Budget and wants to reiterate the importance of this funding to the day-to-day functions of its tribal government and the numerous services provided to its membership.

Indian Health Service

The Indian Health Service (IHS) has been and continues to be a critical institution in securing the health and wellness of tribal communities. In 2014, the IHS per capita expenditures for patient health services were just \$3,136, compared to \$8,760 per person for health care spending nationally². Medicaid expansion opportunities offered by the Affordable Care Act have covered some of the IHS funding shortfalls. However, Medicaid expansion should not be an

² Indian Health Service, *Briefing 6* (Apr. 5, 2016).

alternative for acknowledgment and perfection of the federal trust responsibility. And, for the record, South Dakota is not a Medicaid expansion state, so the Rosebud Sioux Tribe has not experienced the benefits. Also, the revised version of the American Health Care Act (AHCA) that recently passed the House of Representatives eliminates Medicaid as we know it. This is alarming considering that Medicaid currently represents 13% of the Indian Health Service budget (\$808 M). More than half of all Native children receive Medicaid coverage.

The United States Supreme Court has recognized the special duty assumed by the federal government as part of the over 400 treaties entered into from 1787 to 1871. *See Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); *United States v. Mitchell*, 463 U.S. 206, 225 (1983). The failure to perform this special duty has been felt heavily by the Rosebud Sioux Tribe – especially in regard to functions performed by the IHS. In particular, these failures and the perpetuation of the unmet funding needs of the IHS manifested in a Notice of Intent to Terminate Medicare Provider Agreement delivered to the Rosebud Hospital by the Centers for Medicare and Medicaid Services (CMS) in November 2015. The CMS findings and tribal outrage resulted in a Senate Committee on Indian Affairs hearing on February 3, 2016. At the hearing, Chairman Barrasso stated that the situation was “simply horrifying and unacceptable” and can be “summed up in one word-malpractice.” To this day, the IHS Rosebud Service Unit is struggling to regain a status of good standing with the CMS.

An increase in funding for the Indian Health Service combined with agency reform can remedy the type of deficiencies discovered by the CMS within the Rosebud Service Unit. An increase in funding can help ensure that quality health care professionals are hired and retained by the IHS and that quality medical equipment and technology is available for use at IHS service units. The Rosebud Sioux Tribe requests funding for the Indian Health Service of at least \$7.1 billion for FY 2018.

Conclusion

On March 13, 2017, President Trump signed a Presidential Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch. The Rosebud Sioux Tribe would like to state for the record that it implores the United States Government to consult with the federally recognized tribes before any reorganization or elimination efforts regarding the Bureau of Indian Affairs or Indian Health Service commence. The Rosebud Sioux Tribe would like to reiterate our appreciation for taking the time to consider the needs of our tribal membership and is grateful to share in an opportunity to remember and honor the promises of our ancestors.