



LUMMI INDIAN BUSINESS COUNCIL

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**Testimony of the Honorable Henry Cagey, Councilman
Lummi Nation
FY 2014 Appropriations for the
United State Department of Commerce and Justice
Before the
House Appropriations Subcommittee on
Commerce, Justice, Science and Related Agencies**

Good morning distinguished Committee Members and thank you for this opportunity. As, a elected official of the Lummi Indian Business Council, it is an honor to speak on behalf of the Lummi Nation and present our appropriation requests for fiscal year 2014 to the Department of Commerce, Justice, Science and Related Agencies.

The Lummi Nation is one of the signatories to the Point Elliot Treaty of 1855. We are located in the northwest coast of Washington State. We have over 5,000 enrolled tribal members with a land base of 25,000 acres with 12 miles of tidelands. We are a fishing community with over 560 registered fishers. Since 1988, we have been at the forefront of the tribal self-governance initiative which includes: BIA and IHS. .

Lummi Nation Justice System: The Lummi Nation has a sophisticated justice system. Our Law Enforcement officers make nearly 4,000 arrests and our courts hold in excess of nearly 5,000 civil and criminal hearing annually. One of the biggest challenges we face is the high cost of incarceration. The Lummi Nation, like most Tribal governments, does not have its own jail facilities. We have developed and implemented an extensive web-based in-home detention system. We are developing a traditional restorative justice model to enable the incorporation of traditional values into our correctional services. This initiative is coordinated with multiple Tribal wide efforts to restore our traditional values into our contemporary services.

Violence Against Women Act (VAWA) Implementation: Lummi Nation is requesting that Congress assure all tribes that all available funds are on the table to implement VAWA and Tribal Law and Order Act (TOLA). We urge the committee to adopt criteria for implementation that provides the maximum flexibility for Tribes. During the implementation phase Tribes need access to all services that are available to state and county governments. This includes but is not limited to the Office of Victims of Crimes and the financial assistance that is available through the crime victim's fund, federal and state forensic labs, rape kits and sexual assault nurse examiners (SANE). The Department of Justice should recognize its trust responsibility assumed by the United States of America delegated to the Department of Justice.

VAWA Funding Strategy: We realize that the reauthorization of VAWA with tribal provisions is an historic land mark for recognizing tribal sovereignty. Therefore, we are prepared to engage

in a planning, implementation and enforcement strategy, which identify and transfer existing non-discretionary funding to the tribes and also identifying shortfall funding gaps.

Department of Justice Recommendations

We have prepared some recommendations for significant changes in the structure and operations of the Department of Justice to improve its ability to work effectively with Tribal Governments. We believe these recommendations should be one of the Committee's highest priorities.

1) Indian Justice Bureau (New)

Unlike the Bureau of Indian Affairs or Indian Health Service, the Department of Justice does not have a dedicated Indian bureau office and/or agency, to oversee its trust responsibilities and legal obligations to Indian tribes. Which, include providing adequate public safety to protect Indian citizens and oversee resources administered to Indian tribes. Currently, DOJ offers services for 567 tribal governments, which are provided by only three (3) permanent dedicated employees and literally hundreds who have some detailed or recurring partial responsibility. Therefore, we urge the Department of Justice to develop a true government-to-government relationship with all tribes.

Recommended Directives:

- Direct the Department to begin planning to create an Indian Justice Bureau within the Justice Department which will carry out programs services and budgetary policies of the Department services and staff from Indian Country working directly with Tribal governments.
- The Committee needs to schedule and hold hearings on this request, based on the current Bureau of Indian Affairs Law Enforcement organization structure and policies. We want to urge the committee to make this a high priority.
- Direct the Department of Justice and Interior to develop and implement a plan to move BIA law enforcement services to DOJ and employ Indian Preference in all staffing actions. This was presented as Option B in the, Report of The Executive Committee for Indian Country Law Enforcement Improvements *FINAL REPORT*, to the Attorney General and the Secretary of the Interior October 1997.
- At that time Option A was selected. This option proposed to re-organize the three (3) Bureau of Indian Affairs Law Enforcement Programs into a single command structure. This option has not addressed the staffing of uniformed officers, training of officers, correctional services and jurisdictional issues that still plague the Department of Interior and Department of Justice Law Enforcement Programs.
- Example: Lummi Nation is served by regional BIA law enforcement official, who has done little or no coordination to the Lummi Nation for the past five years.

2) Recruitment of Qualified Tribal Members

There are very few qualified tribal members among the hundreds of DOJ employees responsible to carry out civil and criminal jurisdiction authority in Indian country over members of Indian tribes. These competencies are essential and must be reflected in DOJ's leadership and line positions. No member of an Indian tribe is: a federal judge, US Attorney, holds a leadership position, or oversees federal policy or resources for Indian tribes.

Restore Tribal Youth Coordinator – position needs be recruited and hired. This position provides subject matter expertise to multiple DOJ staff. This position needs to be filled with a person who is experienced and grounded in Indian Communities.

Recommended Directives:

- Direct the DOJ to create an Indian law training module that enables senior, line and station personnel to work effectively with Tribes. Hundreds of non-Indian senior leaders, FBI agents, US Attorneys and their staff, victim specialists, US Marshalls, grants managers, and dedicated Indian staff are not tribal members need to be educated and trained on how to work with tribes to understand the political relationship and responsibilities.
- Create hiring standards that require knowledge of working with Indian tribes and Indian law.
- Create a plan for the recruitment and hiring members of Indian tribes for political and career senior and staff line positions.

3) **Funding Recommendations**

Competitive funding awarded to Indian tribes is insufficient to meet their complex jurisdictional issues and social needs.

Recommended Directives and Hearing Requests:

- Direct the Department to create recurring funding like DOJ provides to state and local governments, create a dedicated Indian program to develop a non-competitive flexible grant program similar to Tribal Self-Governance.
- Further we want to request that the committee consider holding hearings for funding strategies that have worked for Indian Country for the past three decades. Self governance has worked for the Lummi Nation for the past 24 years. We offer our experience and knowledge to work with the Committee to develop these funding solutions.

4) **Consultation**

Seek and incorporate input from Tribal governments on federal operations and policy. Since 1998-after 15 years of being directed by the President to implement a Tribal Consultation Policy, the Department of Justice still does not have one.

Recommended Directives:

- Direct the Department to implement a DOJ Tribal Consultation Policy reflecting the recommendations provided by the Tribal Nations Leadership Council and the former Tribal Justice Advisory Group.
- Make the Tribal Nations Leadership Council a permanent FACA exempt advisory group. National organization whose governing boards are composed of elected tribal leaders should also receive this exemption.
- Apply the intergovernmental exception to all Justice Tribal advisory groups and task forces, representing tribal governments, elected and appointed officials.
- Develop recruitment, promotion and hiring policies which highlights the direct experience working in tribal governments and communities and who are knowledgeable of tribal governance, culture, language, and laws.

- These requests are consistent with Tribal Law and Order Act, Section 235 Sub-part “(m) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.”

Department of Commerce Recommendations

Lummi Nation has also developed the following recommendations for the US Commerce Department:

Climate Change

We believe that climate change is a big factor in the decline of our fisheries and our way of life. Some of the factors that contribute to the water crisis are due to climate change. The Lummi Nation has seen increased flooding, increased temperatures, increased erosion, loss of habitat, loss of wild salmon, loss in other species; sturgeon, river smelt, eels, spring Chinook, chum, further we believe this also impacts marine wildlife, eagles, beavers, seals, etc.

The Nooksack River has been a life source for the Lummi Nation and other tribes for their way of living that we are losing. We are witnessing the destruction of the eco-system in the Nooksack River. We need assistance to identify the impact of climate change on our fisheries, housing, land base which is made up of 12 miles of tidelands which produce substantial amounts of shellfish and are particularly susceptible to the negative impact of climate change. Therefore, we are asking the Committee for support in protecting this resource for the Lummi Nation and the next seven generations to come.

State of Art Salmon Hatchery

We believe there is a need for a plan describing the next generation of state of the art salmon hatcheries. We envision energy savings, operational savings, increase productions, sustainability for the community. We want to remind the Committee that this hatchery will not only service our community but the 15 user groups that would benefit 500,000 people. We have evidence that our fish have been identified as far south as California and as far north as Alaska. We are requesting financial support for this planning project.

Hy'shqe,

Henry Cagey, Councilmember