

Testimony of Frank Star Comes, President of the Oglala Sioux Tribe, in response to the June 4, 2024, House Committee on Natural Resources, Subcommittee on Oversight and Investigations, Oversight Hearing Titled "*Biden's Border Crisis: Examining Efforts to Combat International Criminal Cartels & Stop Illegal Drug Trafficking Targeting Indian Country.*"

June 14, 2024

My name is Frank Star Comes Out, and I am the President of the Oglala Sioux Tribe (OST). The OST home, the Pine Ridge Reservation, is the third-largest reservation in the United States, stretching over 3.1 million acres, similar to the State of Connecticut. As of February 14, 2023, the Tribe has an enrolled membership of 51,460, an on-reservation law enforcement service population of more than 40,000, and 52 separate residential communities.

I am a former Marine, so forgive me, but my comments tend to be rather blunt. The time for politically correct statements has long since passed. I have human beings who are being killed and seriously hurt, and as the duly elected leader of the Tribe and a former military officer, I take that very seriously. So, for me, this is not just about a federal program; it's about American citizens. For this reason, I would like to focus my testimony on the impact that twenty-five years of federal neglect, coupled with the influx of illegal drugs and the violence that comes with them, have had on my community.

In FY 2021, we had around 138,000 calls for police service and only 33 officers to respond to those calls over an area spanning 3.1 million acres, which is larger than the states of Delaware and Rhode Island combined. That was around 5-7 officers per shift, covering 24 hours a day, 7 days a week, 365 days a year, because we have exclusive federal/tribal criminal jurisdiction over our Pine Ridge Indian Reservation.

Things have only gotten worse since then. For example, in FY2023, we had over 165,799 calls for police service, and we had only 30 patrol officers. Along with other crimes, these calls reported 1133 assaults, 449 cases of child abuse, 1,245 cases of domestic violence, 589 gun-involved crimes, and 343 cases of the most serious drugs. Just between October 1, 2022, and February 2023, we have had 8 homicides, 8 violent rapes, and another 299 serious cases of child abuse. Now I ask you, how would you deploy those 3-5 officers per shift to cover the area I just described, especially under those circumstances?

Due to our extreme shortage of officers, our average response time is and has been, between 30 minutes and an hour. Not to mention, our officers continue to work alone, with backup being around 30 minutes away, even when the alleged perpetrator has a loaded weapon. To quote my Chief of Police, "*30 minutes is a long time when you are alone and facing a group of well-armed criminals who are trying to kill you.*" Our tribal officers' experiences are consistent with Director LaCounte's testimony; they are often alone, outmanned, and outgunned.

Mr. Chairman, to answer one of your questions, we already have a good working relationship with the FBI, but the reality is that they are over 90 miles away, and they openly admit that they are not organized to be first responders.

Further, to answer your question about more US Attorneys, additional US Attorneys will help with federal criminal prosecutions. But please remember that in order to bring a successful criminal prosecution in federal court, you also need federally acceptable evidence and the ability

to fully investigate a crime. Experience has taught us that this generally does not happen when the police response is 30 minutes or longer like ours is: witnesses have left the scene, the victims have been transported, and the perpetrators are long gone.

Many well-intended people regularly suggest more protective orders and banishments, and I fully support the theory behind both. Unfortunately, without the practical police power to enforce those orders, it is like asking a group of armed bank robbers to please leave the bank. It is not likely to happen.

I am also aware of this Subcommittee's discussions about jurisdictional issues, and I, and the other Great Plains Tribes, strongly support legislation to return full criminal jurisdiction to our local tribal police by fixing the Oliphant Decision. I also supported the recently enacted VAWA, child protection, and domestic violence legislation, which increased tribal jurisdiction. However, without the federally backed funding to implement them, for us, these additional authorizations are merely unfunded mandates.

Finally, when you think about law enforcement jurisdiction challenges, I would like to make three important points: First, I defy anyone in this room to tell by a person's voice, or many times even by their appearance, if they are or are not Indian. Second, the FBI, DEA, or Homeland Security cannot travel the 90 miles from their headquarters in Rapid City, South Dakota, to Pine Ridge in less than an hour, no matter what they are driving. Third, as Mr. LaCounte pointed out, Congress thinks that jurisdictional complexities are implemented before an investigation, but that is not true; they come after an assault or weapon-related attack, not before. Tribal law enforcement does not ask a victim if they are a tribal member before responding to a crime; they act. It is that simple.

Finally, Congress and the Bureau of Indian Affairs (BIA) have already attempted a strike force approach to resolving this problem, but while it sounds good, I ask you to please look at the actual data collected at the Standing Rock Reservation a few years ago. Congress sent in a large group of well-trained officers, and crime went down. Then the money ran out, and they left, and crime went right back up again. Drug dealers are not stupid; they know how to wait out a strike force. It is like putting a band-aid on a cancer lesion; it may feel better temporarily, but it is not a solution.

Many members of this Committee, specifically Congressman Bentz, have discouraged tribal leaders from requesting more resources because you may think boots on the ground will not solve the problem or a problem with turnover. At Oglala, several officers have served in our tribal law enforcement services for over 20 years. It is important to emphasize that the cheapest part of a tribal law enforcement program is officer salaries. It is federally mandated equipment, gas, insurance, vehicles, and vehicle maintenance, which costs around \$175,000 per officer/year at government procurement rates that must be acknowledged and covered. Believe me, our officers are not overpaid. Most make between \$60,000-\$70,000 a year, working 60 hours a week in extremely dangerous conditions with virtually useless benefits.

Last year, we presented the House Appropriations Subcommittee with our federally mandated law enforcement equipment list and the prices we faced. Nothing on that list is not a critical law

enforcement item (car, gas, vest, gun, handcuffs, etc.). The OMB and Congress set these prices, competitive bid processes, and mandates, so we cannot do anything about them. Under your rules, we must buy from the public market, just like the other federal agencies do. Believe me, we stretch every penny. So, we either pay or go without gasoline, police car repairs and upkeep, and federally required insurance. I certainly cannot send an officer 40 miles on a bicycle. So, when you talk about not increasing resources, please consider that we do not drive our associated costs; OMB and congressional mandates do.

In the mid-1980s, the federal government provided enough resources to the Oglala Sioux Tribe to employ 130 officers before cartels, opioids, and fentanyl; we are now down to 30. So, how many resources do you want to underfund? So, when you ask how much the Tribe received from that \$700M law enforcement increase you referenced last year, my answer is simple. After the BIA and the private sector took their cut and inflation kicked in, it was just barely enough to keep going at the current level and a little more.

Our officers can easily drive around 30,000 miles a month. That is over double what an average driver adds to their odometer in a year. To understand our situation, please consider what you paid for a new car twenty years ago and what you would have to pay for that same car today. That is our very practical problem.

If you look at the BIA's annual reports to your Subcommittee, you will see its admission that we are funded at 15% of actual need. That is fifteen (15%), not 50%. That is why we ask for a budget correction to bring us up to par with what we had 25 years ago. When Director Lacounte said that BIA is at the bottom of the pecking order of federal law enforcement services, I 100% agree. It is time for Congress to put its wallet where its mouth is and commit to funding public safety and law enforcement services in Indian Country.

How did tribal law enforcement become so underfunded?

In the late 1990s, this Congress, in fact, this Committee, passed the first Indian Law Enforcement statute. That statute mandated the creation of the BIA Office of Justice Service (OJS) and afforded it certain mandatory responsibilities. Other federal laws have been added to this mandate. Those responsibilities were not, and are not discretionary; they are established by existing federal law.

Unfortunately, when these mandates were established, neither Congress nor any Administration calculated what these additional mandates would cost to fulfill. One mandate in particular, the federal mandate of 2.8 officers per 1,000 service population necessary to fulfill the essential governmental function, was never calculated. Instead, the BIA created the OJS with just the money it was spending in 1999, ignoring the fact that most larger tribes, like ours, were receiving 70% of law enforcement funding from grants provided by the Department of Justice (DOJ).

When those DOJ grants expired after OJS was created, Congress never replaced that funding to BIA to fulfill the now underfunded law enforcement programs for tribes. The result is that we lost 70% of our funding in the three years that it took to sunset those grants. After that, inflation took over, and OST law enforcement went from the 130 federally funded officers it had at the

end of the 1990s to the 30 patrol officers it has today. Nothing will change unless and until Congress fixes that base funding and supplements the funding formerly provided to tribes by the DOJ to BIA. We know a budget correction can probably not be done in the next year, but without it, you will continue to see a rise in crime because of the lack of officers on the ground.

As to federal strike forces, the Standing Rock Tribe strike force and the US military have both demonstrated that more enforcement leads to less crime. Passing more unfunded mandates will not have that same impact at Pine Ridge. I, for one, am tired of hearing federal witnesses testifying at your hearings about how seriously they take their treaty and trust responsibility to keep us safe. I ask you if what I described about my reservation -- the amount of police calls; the amount of crime -- is this a safe community for any American.

I will close by saying this. This House will make up the FY 2025 budget in less than 60 days, so the ball is in your court. I respectfully ask you to please raise that base budget from 15% currently funded to at least 50% of the \$3.2 billion needed. While more hearings and better planning are important, my people are being injured and killed today, and quite honestly, we need to address what is already on the ground. As was evidenced by our brother tribes in Montana, both Democratic and Republican Administrations have studied this issue to death; now, we need Congress to fully fund tribal law enforcement programs.

Thank you, Wopila.