

**TESTIMONY OF THE ROSEBUD SIOUX TRIBE
COUNCILWOMAN KATHLEEN WOODEN KNIFE
BEFORE THE U.S. HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR,
ENVIRONMENT, AND RELATED AGENCIES**

**FISCAL YEAR 2019 APPROPRIATIONS
MAY 10, 2018**

SUMMARY OF ROSEBUD SIOUX TRIBE FUNDING PRIORITIES

- 1. DOI/Bureau of Indian Affairs:** Provide increases to tribal base funding instead of pass-through grants.
 - 2. BIA Law Enforcement and Detention:** Increase funding to at least \$553 million.
 - 3. Indian Health Service:** Increase of total funding to at least \$6.4 billion for FY 2019.
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On behalf of the Rosebud Sioux Tribe, I would like to thank the Committee for the opportunity to share our Fiscal Year 2019 (FY19) appropriations priorities. My name is Councilwoman Kathleen Wooden Knife, and on behalf of the Rosebud Sioux Tribe, I respectfully submit this written testimony. Despite decades of hearings and reports providing facts that indicate that reservations continue to be some of the most underserved areas in the greatest Nation in the world, former promises remain broken while new promises continue to be made. The federal government entered nearly 400 treaties with tribes between 1787 and 1871 and the special relationship formed by contract has been recognized by the United States Supreme Court on more than one occasion.¹ A treaty of specific importance is the Fort Laramie Treaty of 1868, in which the United States agreed to provide resources to the Rosebud Sioux Tribe in perpetuity.

The Lakota paid with millions of acres of ceded land and many lives to ensure continued existence. In exchange, the United States agreed to provide resources in perpetuity. This hearing offers an opportunity to express and receive suggestions as to how funding can be appropriated to fulfill promises made by the United States to the Sicangu Lakota. The Black Hills of South Dakota, the center of the Lakota culture, still proves to be spiritually bountiful for tribes and financially bountiful for the state. Tourists drawn to the Black Hills generate at least \$2 billion per year of revenue for the state economy while members of the Rosebud Sioux Tribe, as well as members of the other eight tribes of South Dakota, remain amongst the poorest citizens in the United States. I am honored to be provided with this opportunity to communicate my concerns in a positive way that will hopefully lead to an improvement in the quality of life for members of the Rosebud Sioux Tribe.

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 4,674 criminal cases and 505 civil cases were processed in 2017. Due to the on-going meth epidemic plaguing the

¹ See *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); *United States v. Mitchell*, 463 U.S. 206, 225 (1983)

Rosebud Reservation, these numbers will continue to increase, and the amount of cases requires adequate staffing to ensure everyone has an equal chance at justice. Rosebud Sioux Tribal court personnel have identified an unmet need of \$212,456.31. This funding is needed for personnel and to ensure existing court personnel continues to remain employed.

In prior testimony provided by the leadership of the Rosebud Sioux Tribe, recommendations provided by an assessment of the Rosebud Sioux Tribe Court conducted by the BIA Office of Special Justice on September 17-19, 2015 were presented. Two of the key recommendations reported in the assessment are listed below and remain priorities:

- 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.² 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

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 Bureau of Indian Affairs (BIA) payment standards established by the Assistant Secretary of Indian Affairs. The Bureau maximum burial payment standard is currently \$2,500. A waiver can be granted by the Secretary upon tribal request. However, any increase in the maximum burial payment standard will only equate to a higher burial payment received by fewer people.

² 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

The National Funeral Directors Association calculated the median cost of a funeral in 2017 as \$7,360.³ The cost 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 (RST) continues to experience an increase in deaths, which has taken a toll on the RST emotionally and financially. The inadequate maximum burial standard payment and funding for the indigent burial assistance service has left the RST desperate to find resources to help ensure that our tribal members are provided with a respectful burial.

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 funds might be 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 superintendent is referring to the statutory cap language found in the appropriations bill.

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), \$2,339,346,000, to remain available until September 30, 2018, except as otherwise provided herein; of which not to exceed \$8,500 may be for official reception and representation expenses; of which not to exceed \$74,773,000 shall be for welfare assistance payments.... Provided further, that federally recognized Indian tribes and tribal organizations of federally recognized Indian tribes may use their tribal priority allocations for unmet welfare assistance costs...⁴

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. Additionally, the Rosebud Sioux Tribe sent letters to the Senate and House Appropriations Committee requesting an amendment to the statutory cap. The Rosebud Sioux Tribe was grateful to learn that an increase of \$2 million for BIA Welfare Assistance was included in the FY 18 omnibus. However, there is no guarantee that the funding will be used for burial assistance.

Data provided by the Bureau of Indian Affairs Rosebud Agency indicates that the FY 2018 total allocation for welfare assistance was \$104,521 and the first assistance payment was released on October 2, 2017. By January 30, 2018, the welfare assistance allocation for FY 18 was \$614 in the red. As of April 23, 2018, the account is \$71,906. This has been a reoccurring theme that caused on local funeral home to close its doors,

³ <http://www.nfda.org/news/statistics> .

⁴ Consolidated Appropriations Act, 2017, at <https://www.congress.gov/bill/115th-congress/house-bill/244/text> .

and another comes close every year waiting to be reimbursed by the Bureau of Indian Affairs.

The data goes on to highlight the level of unmet need. From October 3, 2017, to April 12, 2018, there is estimated ineligible costs of \$47,540.⁵ Within that time frame, 17 members of the Rosebud Sioux Tribe were denied burial assistance due to ineligibility. Costs are determined to be “ineligible” based on the applicant’s income level, residency, and access to other resources. The service area utilized to satisfy residency requirements should consist of the original Fort Laramie Treaty of 1868 boundaries, not the modern-day Rosebud Reservation boundaries. BIA assistance recipients in Alaska enjoy the fact that the entire state of Alaska is considered a qualifying service area.

Indian Health Service

The Indian Health Service (IHS) continues to be the implement of the federal government that attempts to provide treaty obligated health care to members of federally recognized tribes as part of the government’s responsibility expressed by Congress in the Snyder Act of 1921.⁶ 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 nationally⁷.

It has been estimated that the IHS will need to be funded at \$32 billion to provide members of tribes nationwide with adequate healthcare. This could be accomplished over a twelve-year period if the federal government provided a \$2.25 billion increase per year.⁸ The Rosebud Sioux Tribe requests funding for the Indian Health Service of at least \$6.4 billion for FY 2019. The Purchase/Referred Care (PRC) funding distribution formula needs to be evaluated to ensure that the formula utilized is effectively fulfilling the federal government’s treaty obligation in an efficient manner and keeping pace with the ever-growing demand for healthcare on the Rosebud Reservation and throughout Indian country. Additionally, the Rosebud Sioux Tribe supports the proposed increase of at least \$278,594,524 to PRC as recommended by the Tribal Budget Formulation Workgroup.

Indian Health Service officials have identified miscellaneous projects within the Rosebud Service Unit Maintenance and Infrastructure (M&I) Budget that require \$5,271,907.12.⁹ For example, these funds will be utilized to repair HVAC systems, paint curbs and emergency zones, upgrade the emergency room door controls, and upgrade the information technology (IT) room firewall.

⁵ Data provided by the Bureau of Indian Affairs Rosebud Agency.

⁶ 25 U.S.C. 13.

⁷ Indian Health Service, *Briefing 6* (Apr. 5, 2016).

⁸ <http://www.ncai.org/NCAI-FY19-BudgetReport-FINAL.pdf>.

⁹ Information provided by the Indian Health Service.