

**TESTIMONY TO THE U.S. HOUSE APPROPRIATIONS COMMITTEE -
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES**

**WRITTEN TESTIMONY OF THE ROSEBUD SIOUX TRIBE
PRESIDENT RODNEY BORDEAUX**

**FISCAL YEAR 2020 DOI PUBLIC SAFETY & JUSTICE APPROPRIATIONS
MARCH 7, 2019**

SUMMARY OF ROSEBUD SIOUX TRIBE FUNDING PRIORITIES

- 1. BIA Law Enforcement and Detention:** Increase funding to at least \$573 million.
 - 2. Tribal Courts:** Provide an increase of at least \$83 million for Tribal Courts with annual step increases until tribal courts are fully funded.
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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 2020 (FY 20) appropriations priorities concerning public safety & justice. My name is Rodney Bordeaux, 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, past promises remain broken while new promises are 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

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 through enhanced public safety and justice services.

One of the primary responsibilities of the Rosebud Sioux Tribal government and the United States government is to provide public safety and justice services to members of the public. However, this responsibility has been neglected; documentation exists that illustrates the fact that tribal courts and law enforcement agencies have been historically underfunded by the federal government to the extent that severely limits their ability to ensure safety and justice.² This is

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

² US Commission on Civil Rights. (2018). Broken Promises: Continual Federal funding shortfall for Native Americans. Retrieved from <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

disheartening, especially because Native Americans are the victims of violence at a rate of two times the national average.³

In a report issued to Congress by the BIA in 2016 indicated that the total annual estimated need for public safety & justice programs in Indian Country is \$1 billion for law enforcement programs, \$222.8 million for existing detention centers, and \$1 billion for tribal courts.⁴ \$1 billion for tribal courts seems like a substantial amount considering that FY 18 funding was \$30.6 million. The National Congress of American Indians (NCAI) calls for an additional \$83 million in funding for the BIA to increase base funding for tribal courts, and a yearly step increase after that to progress towards fully funding the actual need of tribal courts.⁵ This request aligns with the additional \$50 million per year (adjusted for inflation) for each of seven years of base funding for tribal courts authorized in the Indian Tribal Justice Act but never funded.

The Rosebud Sioux Tribe supports and is in dire need of an increase in BIA base funding for tribal courts nationally of at least \$83 million (which is far less than the need estimated by the BIA). Additionally, we are requesting an increase of funding for BIA law enforcement and detention by at least \$200 million over the FY 2018 funding level of \$373 million. 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.

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 the court handled 5,096 new criminal cases in 2018. Due to the on-going meth epidemic plaguing the 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 staff 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 critical 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.

³ 106 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Criminal Victimization, 2012 (Oct. 2013), 7, <http://www.bjs.gov/content/pub/pdf/cv12.pdf>.

⁴ Bureau of Indian Affairs, Office of Justice Services. "Report to Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country," Aug.16, 2016

⁵ NCAI, Fiscal Year 2020 Budget Request, at 33.

- 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.

In addition to the funding needed to ensure adequate court personnel, the Rosebud Sioux Tribe needs a new courthouse or justice center. Repairs needed to the existing courthouse to ensure continuity of services at the current facility include a new metal roof which will cost \$111,683.50 and three 7.5 ton rooftop air conditioning/heating units which will cost \$18,808.

Rosebud Sioux Tribe Law Enforcement Services (RST LES)

The Rosebud Sioux Tribe Law Enforcement Services (RST LES) is charged with ensuring law & order within the boundaries of Rosebud Reservation and to trust lands in Mellette, Trip, Lyman, and Gregory counties. RST LES responds to over 18,500 calls for service every year. RST LES serves an area of approximately one million acres or roughly 1560 square miles with only twenty-five patrol officers and five criminal investigators. The national average of officer to person ratio is 3.5 officers per every 1000 persons;⁶ whereas, the RST LES officer to person ratio is one officer per every 1000 person.

The Rosebud Sioux Tribe declared a state of emergency due to the Methamphetamine epidemic plaguing the Rosebud Reservation. The RST LES responds to a high volume of violent crimes in which illegal narcotics, alcohol or both are a contributing factor around 95% of the time. RST LES administration has repeatedly called for a request in base funding. An increase in funding would be utilized to hire twenty more sworn and certified officers and acquire twenty additional patrol units. The additional officers and patrol units will significantly reduce response time and provide RST LES personnel with more time to investigate open cases.

Rosebud Ambulance Service (RAS)

The Rosebud Sioux Tribe Ambulance Service (RAS), founded in 1968 as the first tribal ambulance program in the United States, provides vital 911 emergency medical services to the Sicangu Lakota Oyate. RAS is funded through a P.L. 93-638 contract and serves more than 10,000 tribal members 24 hours a day. RAS's service area is larger than the state of Rhode Island and currently operates with only enough staff for three ambulances, sometimes less.

Ambulance crews, who are tasked with responding to everything from motor vehicle collisions and drug overdoses, to cardiac arrests and alcohol-related emergencies, must balance an obligation to provide long-distance patient transfers for the local IHS hospital. At any given the time of day, an ambulance is on a patient transfer, leaving the Rosebud Sioux Tribe with only two ambulances for the coverage of local 911 calls. Considering that the RAS responds to 6,000 requests on average per year, this creates a precarious situation.

⁶ See U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES, Law Enforcement Issues in Indian Country (Apr. 22, 2009), <http://www.gpo.gov/fdsys/pkg/CHRG-111hrg52296/html/CHRG-111hrg52296.htm>.

The RAS remains chronically underfunded by the IHS. Without adequate funding, the RAS is consistently unable to hire enough employees to staff a sufficient number of ambulances, which seriously undermines efforts to ensure public safety. Furthermore, inadequate funding has also led to below average wages for RAS staff. An emergency medical technician working for the program is paid just ten dollars per hour, while the national average is sixteen dollars per hour. Low wages result in lowered job satisfaction and a high turnover rate. The ongoing funding shortage has prevented the program from constructing a new facility. The current facility was built around thirty years ago, is outdated, lacks adequate space for personnel and equipment, and lacks essential amenities such as sleeping quarters and a kitchen to support staff who must be on duty day and night.

Rosebud Sioux Tribe Adult Corrections and Juvenile Detention Center

The Rosebud Sioux Tribe adult corrections facility (RST ACF) is a 220-bed facility that houses 130 inmates on average. Facility administration reports that 60% of the inmates they house are being held for meth-related charges. The RST ACF averages about 220 book-ins per month. Most inmates need mental health treatment, substance abuse treatment, and physical health education. There is also a dire need for substance abuse detox services.

The RST ACF is short-staffed and needs ten more correctional officers. The facility currently operates with four to five officers per shift when the actual need is ten to twelve officers per shift. It is not uncommon to have four to five officers overseeing approximately 120 inmates. If all positions were filled at the facility, they would have fifty-three employees that would consist of seven administrative level positions, four sergeants, thirty-six correctional officers (COs), three cooks, and three maintenance workers. The facility presently operates with twenty-six Cos and has ten vacancies due to lack of funding. The ratio of COs to inmates is a security concern. An increase in BIA funding is needed for additional personnel, food, and transportation. The shortage of funding exacerbates the already high levels of stress within the facility and increases in stress result in an elevation in staff turnover. The effects of increases in stress can be within the inmate population as well. There have been recent suicide attempts by inmates. Witnessing the suicide attempts by the inmates only amplifies the stress levels already experienced by corrections staff and inmates. There is a need of around \$600,000 in additional funding.

The Rosebud Sioux Tribe juvenile detention center (RST JDC) currently has twenty-one employees but has an actual need for thirty-six employees. Juveniles are required to be housed in different classes; however, staff often feels that there is not enough staff to effectively oversee all minors. The RST JDC needs mental health and addiction clinician to treat the underlying cause of criminal behavior to decrease recidivism. In addition to a need for increased funding for personnel, the RST JDC needs a new roof due to extensive water damage.

Conclusion

The Rosebud Sioux Tribe looks forward to working with members of Congress to further efforts to foster unity while respecting sovereignty as we aspire to fulfill our nation's promises. Thank you for your consideration of this testimony.