



Sisseton-Wahpeton Oyate

LAKE TRAVERSE RESERVATION
Office of the Tribal Chairwoman



TESTIMONY OF HON. ELLA ROBERTSON, CHAIRWOMAN SISSETON WAHPETON SIOUX OYATE

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U.S. House of Representatives

Committee on Appropriations
Subcommittee on
Interior, Environment and Related Agencies

Good morning, Chairman McCollum, Ranking Member David Joyce, and Members of the Committee and Honored Guests. My name is Ella Robertson. I serve as the Chairwoman of the Sisseton-Wahpeton Oyate (“SWO”) of the Lake Traverse Indian Reservation in North and South Dakota. I am wearing red today to honor Savanna Greywind, MMIW (missing and murdered indigenous women) and bring to light the importance of safety in our Indian communities. I am pleased to testify at this important hearing on FY 2019 Appropriations.

The construction of our Sisseton Wahpeton Justice Center is our highest and most important priority. At the Sisseton Wahpeton Oyate, we have experienced serious violent crime, drug crime, and juvenile delinquency. The Governors of North and South Dakota have recognized the importance of funding our SWO Justice Center, and it is strongly supported by our congressional delegations. They understand that with the construction of our SWO Justice Center, the public safety of the Lake Traverse Reservation and the surrounding areas of Northeast South Dakota and Southeast North Dakota will be enhanced for all of our people, Indian and non-Indian alike. I quote Governor Burgum when I say that, the SWO Justice Center “will enhance regional law enforcement, criminal justice and the safety of our citizens.”

The Sisseton Wahpeton Sioux Tribe worked very hard with Congress and our congressional delegation to seek restoration of FY 2018 Funds for BIA Public Safety and Justice Construction. Detention Facility and Justice Center. Specifically, the FY 2018 Appropriations Act provides:

Public Safety and Justice Construction.-The agreement provides \$35,309,000 for public safety and justice construction and includes the following: \$18,000,000 to restart the facilities replacement and new construction program; \$4,494,000 for employee housing; \$9,372,000 for facilities improvement and repair; \$169,000 for fire safety coordination; and \$3,274,000 for fire protection. The Committees include funding for the replacement construction program, which has not received funding from the Bureau since fiscal year 2010, as other agencies have sought to build these facilities. The Committees also understand the Bureau currently has compiled a list of replacement facilities based upon the facilities condition index, inmate populations, and available space. It is the expectation the funding made available for this activity will utilize this list.

From among the FY 2018 Funds for BIA and Public Safety and Justice Construction, the Sisseton Wahpeton Oyate received a grant of \$4.875 Million for construction of our Adult Detention Center. That was an important first step and we thank Congress, our North and South Dakota congressional committees, and this Committee for helping us make progress towards the completion of our multi-faceted Justice Center.

For FY 2019, we urgently need to move forward with funding for detention of the most serious tribal offenders that the FBI and the U.S. Attorneys have not acted against with TLOA's enhanced sentencing authority, appropriate BIA Detention Staff for our New Facility to be constructed, and our drug and alcohol rehabilitation to treat adult and juvenile alcohol and drug offenders. Drug and alcohol offenders are typically recidivists, so addressing the underlying causes of serious crimes is an important avenue to provide justice and restore community wellness.

Rising Crime Statistics

The FBI UCR Crime Report (Sept. 25, 2017) finds that: Violent Crime in the United States increased for the second straight year in 2016—overall violent crime increased by 4.1%. The report shows increases over 2015 in all four offenses in the violent crime category: murder, rape, robbery, and aggravated assault. Murder has the largest growth at 8.6 percent. The 2016 Nationwide Crime Rate 386.3 per 100,000, the South Dakota Crime Rate was 418.4 per 100,000 and the North Dakota Crime Rate was 251.2 per 100,000.

South Dakota State 2016 Crime Reports include a 12.5% increase in drug crime, although overall some of the most violent crime was down. South Dakota AG Marty Jackley said, "Right now there's a meth epidemic across the Nation.... It affects the Reservations as well as the State when the methamphetamine come into the State from across the Southern borders.... We need to ... spread the message to the youth and do everything we can for prevention and treatment." KSFY TV, Reservation Crime Would Nearly Double SD Crime Stats (March 20, 2017).

The FBI, U.S. Attorneys and tribal law enforcement have jurisdiction over Indian reservation crime. “The number of cases and number of users of methamphetamines has been rising on Indian reservations across the state. The increase in drug activity is correlating to an increase in the violent crime. Specifically, we’ve seen an increase in violent crime incidents in all of the Indian reservations throughout the state,” said Matt Moore, FBI Supervisory Senior Resident Agent for Sioux Falls.

South Dakota law enforcement made 7,200 drug arrests in 2015, nearly double the number made in 2005. Aggravated assault and robbery cases also doubled over the same ten year period. “The public’s appetite for high-grade marijuana and methamphetamine has fostered a more violent drug culture in which buyers and sellers are more likely to arm themselves.” *Is South Dakota more violent than it’s ever been?* Sioux Falls Argus Leader, January 13, 2017.

Sisseton-Wahpeton Sioux Crime Statistics. At Sisseton-Wahpeton, we have seen continuing serious increase in drug related crime and violence. That is consistent with the overall pattern of North and South Dakota, except we have not had a reduction in drunk driving. Due to the drug and alcohol abuse problems affecting our Reservation, our tribal police made about 1400 arrests in the Lake Traverse Reservation in North and South Dakota last year. In recent years, SWO youth and adults on our Reservation have been suffering with chemical dependency, drug and alcohol abuse, and violent crime resulting in the key incarceration figures:

- ✓ Substance abuse offenses & criminal offenses account for approx. 75% of all adult arrests, of which 15% exhibit highly repetitive substance abuse and criminal behavior. This group uses a disproportionate amount of justice (and potentially other) system resources.
- ✓ About 80% of all juveniles charged with a substance abuse offense, often accompanied by a curfew violation. This pattern shows a lack of parental supervision and clearly underscores a need to address these offenses in the context of families and family networks.

Adult Detention Center: FY 2019

In FY 2018, SWO was awarded \$4.875 to plan and construct a 20 bed Adult Detention Facility. That is the first component of our Sisseton Wahpeton Justice Center, and we appreciate your help with funding this important first step of our Justice Center. We need more help to build our comprehensive Justice Center.

FY 2019 Request:

- **\$4 Million for Secure Detention Cells;**

- **\$2 Million for BIA Detention Staffing; and**
- **\$4.84 Million for Drug and Alcohol Rehabilitation Center**

For FY 2019, the Sisseton Wahpeton Oyate urgently needs \$4 Million in additional funding for: a) secure cells for the most serious offenders incarcerated under Tribal Law and Order Act (TLOA) enhanced tribal sentencing authority; b) \$2 Million for BIA Detention Staff; and c) \$4.84 Million for our Alcohol and Drug Rehabilitation Center.

a) Secure Adult Detention Cells: \$4 Million.

At the outset of FY 2019, we requested and the North and South Dakota congressional delegations supported our request for an additional **\$2 Million for the Adult Detention Center, yet despite initial support from Secretary Zinke, the BIA denied that we request. For FY 2019, we actually need \$4 Million and will use those funds for 20 beds for more serious adult offenders, such as rapists, violent recidivists, and drug dealers.**

The Tribal Law and Order Act enhanced tribal sentencing authority:

The Tribal Law and Order Act of 2010 (TLOA) was signed into law on July 29, 2010. (*Pub. L. No. 111-211, 124 Stat. 2258*). TLOA was enacted in an effort to clarify governmental responsibilities regarding crimes in Indian Country; increase and improve collaboration among jurisdictions; support tribal self-governance and jurisdiction; reduce the prevalence of violent crime in Indian Country; combat crimes such as domestic violence, sexual assault, and drug trafficking; reduce the rates of substance abuse in Indian Country; and support the collection and sharing of crime data among jurisdictions....

[W]ith the amendments to ICRA made by TLOA, tribes now have an option to enhance sentences in criminal cases by imposing sentences not to exceed 3 years imprisonment, fines of up to \$15,000 or both for qualifying crimes so long as the tribe has met the specific requirements set forth in TLOA. Sentences may include a combination of incarceration and community corrections such as probation and halfway houses. Under no circumstance can the term of the sentence exceed 9 years. Tribes are not required to implement enhanced sentencing authority but rather can choose whether it is necessary for their community.

The requirements that must be satisfied by tribes opting to impose enhanced sentences are set forth in Section 234 (a) (b) & (c) of TLOA. Tribes can impose higher sentences if: