

**THE PRESIDENT'S FISCAL YEAR 2020 BUDGET
REQUEST FOR INDIAN PROGRAMS AND
LEGISLATIVE HEARING ON S. 1211, THE AUTOS
ACT**

HEARING

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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MAY 15, 2019
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**THE PRESIDENT'S FISCAL YEAR 2020 BUDGET
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AUTOS ACT**

WEDNESDAY, MAY 15, 2019

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:56 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN HOEVEN,
U.S. SENATOR FROM NORTH DAKOTA**

The CHAIRMAN. Good afternoon. We will call this budget and legislative hearing to order.

In our first panel, the Committee will receive the remaining testimony on the President's fiscal year 2020 budget request for Indian programs from the Department of Justice. Last week we heard from two witnesses from the Administration and the two tribal leaders representing national tribal organizations on the President's fiscal year 2020 budget request for Indian programs.

The DOJ budget includes funding to address the priorities of reducing and preventing violent crimes and promoting public safety, increasing officer safety and wellness and reducing school violence, and improving the improving the juvenile justice system, as well as combatting the opioid abuse epidemic and supporting victims of crime. Through its offices and programs, the DOJ provides public safety and law enforcement resources to Indian tribes across the Country. No matter how small or large a tribe is, the DOJ provides support and resources to nearly 200 Indian reservations.

For fiscal year 2020, the President has continued the support for sustained or increased funding for the Indian programs. We see this in the request for the tribal set-aside in the annual allocation from the Crime Victims Fund. This will be the third year that the tribal set-aside has been included in the budget request. One hundred ninety-six applications were received for phase one solicitation by Indian tribes applying for fiscal year 2018 CVF grant funding. The DOJ is currently working on the fiscal year 2019 funding, and I look forward to hearing how this grant funding is getting out the door to assist victims in Indian Country.

For the DOJ witness today, I hope we can hear how the program and its funding are working efficiently. If the program is not functioning, now is the time to discuss how the Committee can be helpful.

On April 11th, I introduced the Addressing Underdeveloped and Tribally Operated Streets Act, or AUTOS Act, with Senators Cramer and McSally. Approximately 147 miles of roads and 930 bridges are located throughout Indian Country. These roads and highways are the lifeline of their communities.

However, many of these roads and bridges are in dire need of repair and improvement. According to the Bureau of Indian Affairs, there is at least a \$280 million backlog of deferred maintenance and BIA roads and only 17 percent of the BIA roads are considered to be in acceptable condition. The conditions of these roads may be a reason why motor vehicle crashes are a leading cause of unintentional injury and death for American Indians and Alaska Natives.

S. 1211 would provide additional resources and tools at the Department of Transportation and the Bureau of Indian Affairs so that tribes can maintain, repair or replace damaged roads or bridges. Specifically, this bill would permit traffic safety projects that are identified by the Secretary of the Interior to be eligible for categorical exclusion—similar categorical exclusions are permitted by the Department of Transportation, authorize \$46 million for the Bureau of Indian Affairs Road Maintenance Program with increases of \$2 million per year, reinstate the Tribal Transportation Bridge program as a standalone program instead of a 2 percent carveout in the Tribal Transportation program, direct the Secretaries of the Interior and Transportation to work with Indian tribes in developing a standard and uniform crash report form, direct BIA law enforcement to use one standard crash report form, and increase funding available for the Tribal Safety Transportation Program Safety Fund from 2 percent to 4 percent.

Before we hear from the witnesses, I want to turn to Vice Chairman Udall for his opening statement.

**STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Chairman Hoeven, for calling this hearing to continue consideration of the fiscal year 2020 Presidential budget request. In light of this Committee's work to address tribal public safety, it is fitting that we have the opportunity to take a closer look at the Department of Justice's budget proposal.

Since the 115th Congress, Chairman Hoeven and I have worked on a bipartisan basis to advance a number of tribal public safety bills, including the SURVIVE Act, Savanna's Act, and the Ashton Mike Amber Alert in Indian Country Act, which became law in April of last year. These bills are an important part of tackling public safety issues in Indian Country.

But resources to implement and build on the laws we are working to enact are as critical as well. The Department of Justice plays a central role in providing those resources, resources for law enforcement, victim services, tribal justice system capacity building and Federal prosecutors. I was glad to see the Department propose to continue funding for the tribe's set-asides in the Office of Justice

Program grants and the Crime Victims Fund. However, these set-asides don't absolve the Department from including tribes in its broader initiatives.

The department says that addressing violent crime and the opioid crisis are two of its primary goals for fiscal year 2020. But I saw little to no explanation of how DOJ's proposals for these issues include tribes. This Committee has focused on the problems of violent crimes and the opioids due to their devastating impact on tribal communities. In fact, just last week, I spoke on the Senate Floor about the extraordinarily high levels of violent crime facing Native women, families and communities. Addressing violent crime and getting to the root causes of the missing and murdered Indian women crisis will take a strong partnership between Congress, the Administration and the tribes, particularly to ensure that tribes have the jurisdictional and public safety resources they need to combat the crisis head-on. I hope the Department is prepared to explain how its budget proposal would support that partnership.

In light of some concerning reports from tribes about how tribal grants at DOJ are being administered, I hope the Department is prepared to explain how it is living up to both its trust responsibilities and the Congressional intent behind directives included in the fiscal year 2018 and 2019 appropriations laws.

Thank you again, Mr. Chairman, for calling this hearing.
[The prepared statement of Senator Udall follows:]

PREPARED STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM NEW MEXICO

Thank you, Chairman Hoeven, for calling today's legislative hearing.

S. 1211 is a positive step toward improving road safety for Indian Country. It ensures that crash data is collected uniformly and accurately, and provides much needed resources for safety improvements and road maintenance.

It is no secret that the number of motor vehicle accidents on Indian Country's roads is extremely high.

Over the years, numerous studies have shown that motor vehicle accidents are a leading cause of death for both Native children and adults.

For example, a Centers for Disease Control and Prevention study showed that Native American infants under the age of one year are eight times more likely to die in a vehicle-related crash than other populations.

And a National Highway Traffic Safety Administration study showed that between 1975 and 2002, the number of fatal motor vehicle crashes on Indian reservations increased more than 50 percent—while fatal motor vehicles crashes for the rest of the country declined by 2 percent.

As terrible as these statistics sound, it is much worse that these reports reflect. That is because many motor vehicle accidents go unreported.

The 2015 FAST Act required a Department of Transportation report to summarize the quality of safety data for Indian Country, and made recommendations to improve the quality and availability of the data.

The report confirmed that many of the accidents go unreported, and suggests that uniform data collection should be required.

So I applaud the Chairman on working toward these goals in his bill.

Although accurate, reliable data is critically important for targeted needs, we on this Committee shouldn't need to be convinced that the federal government's overall investment for reliable and safe surface transportation infrastructure needs to increase substantially.

In the Committee's recent transportation oversight hearing, the Bureau of Indian Affairs testified that approximately 17,130 miles of B-I-A system roads are unimproved earth surface roads, and 4,720 roads are gravel.

Based on years of testimony, and what I've seen personally in Indian Country, some of these roads are treacherous in inclement weather. This is without question a contributing factor to motor vehicle accidents in Indian Country.

The need for infrastructure investment in Indian Country is great, and it is urgent. So I'm pleased to see that the President has once again started talking about infrastructure and has agreed in principle to a \$2 trillion dollar infrastructure package.

I'm hopeful that if talk turns to action, we'll see a large investment towards Indian Country's infrastructure needs.

And as long as I'm here, I am committed to working with the President and Congress to make sure that Indian Country is not left out.

Thank you again, Mr. Chairman for calling this hearing. I look forward to the feedback on this important bill and to learning more about the issues.

The CHAIRMAN. All right. Are there any other opening statements? Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Mr. Chairman, thank you. Just very briefly and following on Senator Udall.

I think so many of us on this Committee are focused very keenly on the devastating statistics as they relate to our Alaska Native and American Indian women in particular, whether it is murdered and missing, whether it is the domestic violence statistics that we see. The levels that we see reported are not only staggering, they are wrong. We talk about that a lot in this Committee. Unfortunately, we are not seeing that curve moving in the right direction.

So know that I certainly intend to work with all of my colleagues on the Committee on this issue of murdered and missing indigenous women, Savanna's Act, our Not Invisible Act. But we do need the Administration to be weighing in with us on this. We do need the support translating into budget support because the reality is that this situation has been allowed to continue to a point that it was intolerable to begin with and it is simply not acceptable.

So as we resource it, as we make sure that law enforcement is there for all Americans, regardless of where you live, we have a commitment to make this happen. I am going to have some pretty pointed questions to Mr. Dummermuth on the VOCA programs and how we are making sure that we are putting resources on the ground. I thank him for being here today, and thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murkowski.

With that, we will proceed to Mr. Dummermuth, the Principal Deputy Assistant General, Office of Justice Programs, U.S. Department of Justice. Mr. Dummermuth, you may proceed.

**STATEMENT OF MATT M. DUMMERMUTH, PRINCIPAL DEPUTY
ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE
PROGRAMS, U.S. DEPARTMENT OF JUSTICE**

Mr. DUMMERMUTH. Thank you, Chairman Hoeven, and thank you, Vice Chairman Udall and members of the Committee.

I am very pleased to be here to discuss the President's budget request for fiscal year 2020, in particular the substantial investments he proposes to support public safety in Indian Country and tribal communities.

I have the privilege of leading the Office of Justice Programs, the research, statistical and principal funding arm of the Department of Justice. Along with OJP, the other grant-making offices, the Of-

fice of Community-Oriented Policing Services, the Office on Violence Against Women, our role is to support tribal, State and local efforts to fight crime, serve victims and administer justice. As you will hear, our work in tribal communities is extensive.

Having served as a U.S. Attorney in the Northern District of Iowa, I am very familiar with the public safety challenges faced by citizens in rural America. As the members of this Committee are aware, nowhere in the United States are those challenges felt more acutely than in Indian Country.

A 2016 report by the National Institute of Justice found that more than four in five American Indian and Alaska Native adults have experienced some form of intimate partner violence in their lifetime. Tribal youth, too, have been exposed to violence at staggering rates and suffer from high rates of post-traumatic stress.

As this Committee knows all too well, the tribe's resources to fight this epidemic of violence are often inadequate to the task. I have seen what tribal officials are up against. I just returned from a two-week site visit to Alaska where I had the privilege of traveling to several Native villages and met with tribal leaders, court officials and public safety and victim service professionals. These villages are isolated, close-knit communities, many with limited infrastructure and public safety resources where acts of violence affect every one of their members.

One of my stops was the city of Kotzebue in the Northwest Arctic Borough, which is still coping with the murder of ten-year old Ashley Johnson-Barr. As I met with tribal officials there and in other villages, I heard them explain that tragedies like Ashley's are far from uncommon. The Alaska Native people, especially women and children, live every day with the prospect of violence. It is very clear to me, as I know it is to all of you, that curbing violence in Native communities is a matter of the greatest urgency.

The President's budget request recognizes the gravity of the problem and proposes to direct considerable resources to supporting tribes as they develop solutions. The Department of Justice, under this Administration, has invested substantially, in fact historically, in Indian Country. During fiscal year 2018, the Department's grant-making offices awarded 225 grants totaling more than \$113 million under a coordinated tribal assistance solicitation, or CTAS, as we call it. CTAS covers a range of tribal public safety issues and it enables tribes to apply for grants based on their own public safety needs under a single application.

In addition, we awarded 154 grants totaling \$88 million under the first-ever tribal victim service set-aside. These grants support a variety of tribally-based victim assistance programs. Additionally, approximately \$168 million is available to tribes under the victim set-aside in the current fiscal year, plus what is available to them under CTAS.

The President's budget will build on both sets of investments. He requests a total of \$523 million in tribal public safety and corrections resources, including \$298 million in grant funding. This set-aside program, which constitutes 7 percent of OJP's discretionary funding, will support a range of tribal public safety and crime victims programs from healing and wellness courts and reentry programs to civil legal assistance and justice system planning activi-

ties. These resources will also bolster our Tribal Access Program, referred to as TAP, which helps tribes access national civil and criminal data bases that house protection orders and information about sex offenders and missing persons.

The President's budget provides money to hire tribal law enforcement officers, address violence against Native women and youth, and expand our commitment to the safety of American Indian and Alaska Native communities. With these investments, we will be able to deliver many of the resources tribes need to protect their citizens, safeguard their communities and serve crime victims. We will continue to work with this Committee to make sure these resources are used effectively and to see that greater justice is carried out in Indian Country.

Thank you for your time, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Dummermuth follows:]

PREPARED STATEMENT OF MATT M. DUMMERMUTH, PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, thank you for this opportunity to discuss President Trump's budget request for fiscal year (FY) 2020, particularly the substantial investments he proposes to support public safety in American Indian and Alaska Native communities. My name is Matt Dummermuth, and I am the Principal Deputy Assistant Attorney General in charge of the Office of Justice Programs (OJP), the research, statistical, and primary funding arm of the Department of Justice (DOJ).

I appear before you today on behalf of the entire Department. As you know, the Department plays a central role in carrying out federal Indian policy, alongside other agencies such as the Department of the Interior and the Department of Health and Human Services. Under the leadership of Attorney General Barr, DOJ is committed to honoring tribal sovereignty and working with tribal leaders on a government-to-government basis to help ensure public safety in native communities.

This committee hardly needs to be reminded of the serious challenges tribes face in combating violence and administering justice. As the President noted in his recent Missing and Murdered American Indians and Alaska Natives Awareness Day Proclamation, "Too many American Indians and Alaska Natives are the victims of abuse, sexual exploitation, or murder—or are missing from their communities." Indeed, the issues facing tribal communities are both prevalent and pervasive. According to a landmark study of intimate partner violence funded by our National Institute of Justice (NIJ) and released in 2016, more than four in five American Indian and Alaska Native adults have experienced some form of violence in their lifetime, and more than half of all American Indian and Alaskan Native women experienced sexual violence in their lifetime. That is almost three million people who have experienced stalking, physical or sexual violence, or psychological aggression by intimate partners. It is also worth noting that almost all American Indian and Alaska Native victims reported experiencing violence at the hands of a non-native perpetrator at least once in their lifetime. In addition, reports funded by DOJ have exposed the staggering rates at which American Indian and Alaska Native children and youth experience violence and post-traumatic stress.

As if the sheer scale of violence were not enough, the resources that tribal professionals have at their disposal are often limited. It is an understatement to say that these men and women are often overstretched. Another NIJ report on policing in Indian country found that the typical tribal police department serves an area the size of the state of Delaware with a patrol of no more than three officers. I just had the privilege of visiting several native villages in Alaska, a truly eye-opening experience. I met with tribal leaders and justice system officials, who also showed me around their communities. I learned much about Alaska Native villages and the numerous challenges they face. On May 1, I participated in OJP's Office for Victims of Crime (OVC) consultation with tribal leaders and representatives, and I can speak firsthand about the lack of resources available to tribal authorities to ensure law and order and respond to victims. Native villagers live in some of the most beautiful locations on earth, but the word "remote" does not begin to describe them.

The President's Budget recognizes the gravity of the problem, and proposes to direct considerable resources to supporting tribes as they develop solutions.

The Department of Justice has an extensive history of supporting tribal public safety and victim assistance. During FY 2018, DOJ's grant-making offices—OJP, Office of Community Oriented Policing Services (COPS Office), and the Office on Violence Against Women (OVW)—awarded 225 grants totaling more than \$113 million to 125 separate tribes under our Coordinated Tribal Assistance Solicitation (CTAS), which is our primary mechanism through which tribes apply for DOJ funding. CTAS enables tribes to apply for grants based on their own public safety needs, not according to some generic criteria that may or may not make sense for tribal applicants. Under CTAS, tribes can search grant opportunities by ten purpose areas—ranging from policing to services for sexual assault victims. They can then submit an application that outlines their public safety goals. We have seen success come from these awards. For example, the Pueblo of Jemez received a grant to start a community outreach and victim assistance program to combat elder abuse, a problem that is affecting a growing number of seniors throughout America. The Jemez program developed an elder code, created a system of elder advocacy services, and launched a public education campaign. This year, we established an additional purpose area to address violent crime in Native lands. The new purpose area (#10) is designed to provide key funding to Tribal justice systems to focus on combating, addressing, and responding to precipitous increases in crime within tribal communities. The goal is to assist tribes to increase their capacity to work with federal, state and local partners to investigate and prosecute serious and violent crimes, including any investigations of missing or murdered tribal members.

In addition to CTAS resources, a total of 154 grants totaling \$88 million were awarded as part of OVC's first Tribal Victim Service Set-Aside program supported by the Crime Victims Fund, a repository of federal criminal fines, fees, and special assessments. The fund includes zero tax dollars. These awards support child and elder victims, domestic violence and sexual assault survivors, victims of human trafficking, families of homicide victims, and people who have been victimized as a result of the opioid crisis. Even more funding—\$168 million—will be available under the set-aside this year.

DOJ has also created and invested in innovative training and assistance programs, which will be instrumental to the tribes in developing victim service programs. For instance, programmatic technical assistance is available to help develop the programs proposed by the tribes, and likewise a Financial Management Training Center now offers the tools and training to establish strong accounting systems and other important principles to increase the chance of success for the grantees. This training is designed for individuals responsible for the financial administration of grants awarded from federal programs administered by various bureaus and offices at the Department, and DOJ is offering an online version of the seminars to give tribes the ability to complete federal grants management training, regardless of their location. All of these new programs will help improve the response of tribes to the victims of crime. This year, OJP will continue to support a range of critical training and technical assistance to tribes including regional trainings available for all tribes on ways to prepare for and apply for funding to support their work. In FY 2020, OJP's Bureau of Justice Assistance is planning to launch new training and technical assistance specifically to support native Alaskan Villages and native corporations.

Much has been said about the levels of crime and violence in Indian country and the Alaska Native villages and the "missing and murdered crisis" within the American Indian and Alaska Native tribal communities. We know the loss, trauma, and need for answers span generations. To that end, NIJ's National Missing and Unidentified Persons Program, also referred to as NamUs, is addressing the issue of missing and murdered indigenous women and children. In December 2018, NamUs added five tribal data fields to its system to assist all law enforcement and the families of the missing to add tribal detail to the cases that are entered. NamUs also started a Victim Services Unit in March of this year with funding from OVC. This unit will address the needs of all victims and the families of the missing persons that are entered into NamUs, including those in tribal communities. Recognizing that AI/AN cases were underrepresented in NamUs, NIJ and NamUs staff have made significant and targeted efforts to increase awareness over the past two years. We have launched an outreach campaign to tribal law enforcement, leadership, and community members to ensure the communities are aware of the technology and technical assistance, which is available free to all tribal nations.

Additionally, the Department is committed to improving the collection of tribal crime data. We are partnering with the Bureau of Indian Affairs (BIA), Office of Justice Services to conduct the 2019 Census of Tribal Law Enforcement Agencies,

which we expect later this year. This is the first tribal law enforcement collection since the passage of the Tribal Law and Order Act (TLOA) in 2010, and will feature information on staffing and workload activities, including how both tribal and BIA police departments respond to domestic violence, opioids matters and human trafficking on tribal lands. We are also pleased to report that we are actively working with over 150 tribes on sex offender registration and notification, and 134 tribes have already substantially implemented the Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection and Safety Act. These tribes are now added to the comprehensive nationwide network of jurisdictions sharing sex offender registration data and are connected to the National Sex Offender Public Website. We continue to provide extensive training and technical assistance to tribes to implement and maintain their sex offender registration and notification duties and, in FY 2018, OJP's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking provided \$5.1 million under the Support for Adam Walsh Act Implementation Grant Program to 21 tribes.

These are historic investments in tribal public safety and victim assistance programs, and the President's Budget for FY 2020 proposes to build on this commitment. The budget requests a total of \$523.1 million in tribal public safety resources, including \$298 million in grant funding and \$152 million for the Federal Bureau of Prisons to support the Native American inmate prison population. This would be an increase over FY 2019 funding.

In a demonstration of the Administration's commitment to its tribal partners, the President's FY 2020 Budget requests a set-aside of up to seven percent of OJP's discretionary funds to support public safety and victim assistance in Indian country. This set-aside, which we estimate will amount to approximately \$127.1 million, will provide a flexible and consistent source of grant funding for tribes by providing the resources for tribal efforts to prevent, treat, and address crime and substance abuse. This will be done through efforts such as tribal courts, prosecution, and healing to wellness courts, victim service programs, tribal criminal and civil legal assistance, and tribal probation, jails and reentry programs. The set-aside will also support tribal justice system planning, including activities outlined in TLOA, and critical investments in tribal justice infrastructure through renovation and repurposing of tribal justice facilities. In addition, it would fund tribal youth programs and a tribal youth resource center that provides free training and technical assistance to all federally recognized tribes.

The set-aside could also be used to support the Tribal Access Program (TAP), which allows tribal criminal and non-criminal justice agencies to access national crime databases, enabling them to enter and access protection orders and information about missing or wanted persons, obtain criminal histories, input sex offenders into the Federal Bureau of Investigation's National Sex Offender Registry, and exchange critical data across the Criminal Justice Information Services systems.

In addition, the FY 2020 President's Budget also requests an allocation of \$115 million from the Crime Victims Fund for the Tribal Victim Service Set-Aside program and other efforts designed to serve American Indian and Alaska Native crime victims.

Turning to DOJ's other grant-making components, the COPS Office includes two programs designed specifically for tribes—the Tribal Resources Grant Program and the COPS contribution to TAP. The Tribal Resources Grant Program will be supported by funding derived from OJP's discretionary tribal assistance set-aside in FY 2020. This program, which is available to tribes through the CTAS, provides 100 percent of funding for an officer's salary and benefits for three years. It also covers costs for equipment and training, as well as efforts to fight methamphetamine and heroin addiction.

In addition, tribes are eligible for funding under the COPS Hiring Program, which provides 75 percent funding for officer salary and benefits for three years. The FY 2020 President's Budget requests \$99 million in funding for this program under OJP's State and Local Law Enforcement Assistance account. In addition to supporting the hiring of law enforcement officers, the COPS Hiring Program also supports the Collaborative Reform Initiative Technical Assistance Center, or CRI-TAC. This resource provides critical technical assistance to government law enforcement agencies, including tribal agencies. This assistance is tailored to the tribe's specific needs and is available on a "by-the-field, for-the-field" approach that uses leading experts in a range of topics related to public safety, crime reduction, and community policing. Because different needs require different methods, CRI-TAC uses a variety of approaches, such as training, peer-to-peer consulting, analysis, coaching, and strategic planning.

The FY 2020 President's Budget for OVW consists of \$56 million to support programs and initiatives in Indian country. Of this amount, \$40.2 million is for OVW's

Tribal Governments Program, which is designed to enhance the ability of tribes to respond to domestic violence, dating violence, sexual assault, and stalking; enhance victim safety; and develop education and prevention strategies. This amount also includes \$6.8 million for the Tribal Coalitions Program, \$3.5 million for the Tribal Sexual Assault Services Program, \$500,000 for the Indian County Sexual Assault Clearinghouse, \$1 million for Research on Violence Against Indian Women, and \$4 million for the Tribal Special Domestic Violence Criminal Jurisdiction Program.

Within OVW, tribes are also eligible to apply for a number of other OVW discretionary grant programs, including programs focused on abuse in later life, the needs of victims with disabilities, and challenges faced by rural communities in addressing domestic violence, dating violence, sexual assault, and stalking.

The Department also seeks authority to use prior year OVW appropriations for tribal-specific sex offender and protection order registries to provide funds to tribes through TAP. The Department has concluded that, rather than investing funds in developing new and incomplete tribal-specific registries, the purpose for which these funds were appropriated—protecting tribal communities from perpetrators of domestic and sexual violence—would be better served by facilitating tribes' ability to enter and obtain information from existing federal databases.

I hope you will agree that these are substantial investments that reflect a strong commitment on the part of this Administration to support our tribal partners. Of course, these budget items are only one element—albeit a significant element—of the Department's efforts to enhance public safety in American Indian and Alaska Native communities.

We are moving forward with activities to address the crisis of missing persons in Indian country. In my dual role as National AMBER Alert Coordinator, I am devoting resources to fortifying the network of AMBER Alert systems in Indian country, including an AMBER Alert in Indian Country training conference that will be held at the end of July 2019. We continue to hold a regular series of government-to-government consultations and listening sessions with tribes, along with a biennial Indian Nations Conference that brings together hundreds of tribal officials from across the country to be trained on a range of public safety issues. We are helping to combat sex trafficking which can bring victims from American Indian and Alaska Native communities into urban areas where they are often lost and forgotten.

And beyond the Department's grant-making components, DOJ works through the Office of Tribal Justice and the network of tribal liaisons in the Offices of the United States Attorneys to improve law enforcement functions and reduce crime. The Executive Office for U.S. Attorneys also trains federal, state, local, and tribal attorneys and law enforcement staff on law enforcement issues in Indian country. In addition, the Environment and Natural Resources Division represents the Department of the Interior and other federal agencies on litigation matters related to water rights, reservation boundaries, land-into-trust decisions, and other matters affecting federally recognized tribes and their members.

As I mentioned earlier, I visited a handful of tribes in Alaska of varying sizes, with varying needs, in different parts of the state with different geographic and climate challenges, in addition to having participated in a tribal consultation. The feedback I heard at our consultation, and the conversations I had through my additional meetings, both served to reinvigorate my commitment to finding solutions to address these issues tribes confront and deepened my understanding of the real, on-the-ground, practical challenges facing tribal communities.

The Department of Justice remains committed to working with our tribal partners. With the investments requested in the FY 2020 President's Budget, I am confident that we will help deliver the resources they need to protect citizens, safeguard their communities, and serve crime victims. We will continue to work hard, along with this committee, on their behalf. Thank you, and I look forward to addressing your questions.

The CHAIRMAN. Thank you, Mr. Dummermuth. We will begin with five-minute rounds of questions.

In your testimony you wrote that \$88 million has been awarded as part of the Office for Victims of Crime for its Tribal Victims Services set-aside program. As you may know, in 2018, we set aside about \$133 million in funding for Indian tribes. Where is the remaining 2018 tribal set-aside funding? What does the DOJ plan on in terms of redistributing these resources to Indian tribes?

Mr. DUMMERMUTH. Since receiving that money in fiscal year 2018, OVC, our Office for Victims of Crime has been working diligently to quickly turn around those funds, and did so in an expedited timeline. Actually, they were very successful. We received 195 applications, which was quadruple the amount of tribes that had previously applied under CTAS for victim service funding. We were able to fund 154 of those. So the level of increase that we did get out to the field was substantial. For the successful applicants, we were able to give out more money in each particular award than they would have normally gotten as well.

One of the bigger challenges we have in getting that money to the field is many tribes did not have the infrastructure in place to apply for and manage those grants effectively. So we are committed to working with the tribes to ensure that they successfully manage that. We established a financial management center to help both successful and unsuccessful tribes to build up their capacity to both be able to apply and manage these types of grants. The money that we didn't get out to the field is going back to the Crime Victims Fund. So that is available in future years to allocate back to the tribes if the Committee wants to do that, if the appropriations committee wants to do that.

The CHAIRMAN. Recently, the National Missing and Unidentified Persons Systems added five tribal data fields to its system to better assist law enforcement and Native victims' families in locating missing or unidentified persons. Can you describe for us the five data fields and how these new fields will help locate missing and unidentified persons who may be Natives?

Mr. DUMMERMUTH. Thank you for that question. The five new fields, which were implemented in end of 2018, so they were operational in January 2019, include the individual's primary residence, if it is located on or near tribal lands. The second field is for their tribal enrollment or affiliation status. The third one is their last-known location, located on or near tribal lands. The fourth one is the location of any remains on or near tribal lands. The fifth is whether the tribe participates in the Tribal Access Program.

The purpose of those five new fields is to enable the reporting of more specific data related to missing and unidentified Native persons. When those fields were released, we sent an alert to all the registered users already involved in that system. Some tribe began right away adding that information, like the Navajo Nation did, I think, very quickly. Part of the way we are trying to increase the use of NamUS and those new data fields is we continue to do outreach to ensure everybody is aware of the new fields. We are also going to monitor that to see if additional fields might be useful to enhance case investigation or case resolution as we monitor how it is being used this first year.

The CHAIRMAN. How does the implementation of the Sex Offender Registration and Notification system by tribes, how is that working to protect children in the foster care system?

Mr. DUMMERMUTH. For tribes that implement SORNA, they are required to submit sex offender biometric and biographical data to the FBI data bases. Our SMART office works with them whether through the Tribal Access Program or via memoranda of under-

standing with local counties, or sheriffs' offices or State registries. That ensures when that information is added that sex offenders registering with tribal jurisdictions are flagged as sex offenders nationwide.

So what that means is when someone does a criminal background check, perhaps for foster care placement, or maybe for employment-related, to dealing with children, then that person is going to show up in the background check. So the more tribes that are involved in implementing SORNA, the better, because it will help with both foster care and employment checks.

The good news is, we have quite a few tribes that are substantially implemented. In fact, they are doing a better job than the States, probably, in getting their programs implemented.

The CHAIRMAN. That is encouraging. Vice Chairman Udall.

Senator UDALL. Thank you, Chairman Hoeven.

Mr. Dummermuth, in reviewing the Department's budget proposal, there are five public safety areas the President would focus his proposal on: national security, violent crime, immigration, opioids and recidivism. But it is unclear how the proposals in the budget related to these priorities would improve public safety in Indian Country. As one example, the Department asks for \$138 million to reduce violent crime by hiring 135 positions within the FBI, the U.S. Marshal's Service and the U.S. Attorney's offices.

So my question to you and to the Department of Justice, Mr. Dummermuth, is, can you provide more detail about the background of these 135 new employees, where they will be placed? And will any of them focus on lowering violent crime in Indian Country specifically?

Mr. DUMMERMUTH. I can't provide you that specific information today, but I am happy to get back to you about that. What I can say, certainly the FBI is involved in investigating violent crime against Native American and Native Alaskan tribes and tribal members. Certainly, the U.S. Attorney, they are actively involved in looking at violent crime in Indian Country and Native communities. So those funds certainly could be used for that. But I will get back to you on the specifics.

Senator UDALL. Please get back to us on the specific commitments to Indian Country.

Mr. DUMMERMUTH. I will be happy to look into that.

Senator UDALL. Very specifically. Go ahead, you were going to say something else.

Mr. DUMMERMUTH. And we do have a lot of programs through Office of Justice Programs and COPS Office that focus on violent crime. Those funds, most of them are available as well. So if we put out a solicitation for reducing violent crime, Native American communities can apply for that just like any other communities e. We did add a new purpose area just for tribes in CTAS this year for violent crime initiatives. So only tribes are eligible for that funding.

Senator UDALL. Now, according to the Department, the FBI had 138 special agents working on cases in Indian Country in 2017. Last December at this Committee's Murdered and Missing Indigenous Women Oversight Hearing, I ended by asking, do we have adequate law enforcement officers in Indian Country to do the job.

I urged the BIA and the FBI to make sure their budget request reflects the level of need. I said "Put in the request and ask for the adequate number of law enforcement officers that are needed for this situation."

Do you believe, Mr. Dummermuth, do you believe we have an adequate number of FBI agents working in Indian Country and do you believe the FBI 2020 request reflects the level of need in Indian Country?

Mr. DUMMERMUTH. I would have to defer to the FBI on that.

Senator UDALL. Will you ask them to answer that question? And they should answer it in light of this: I was a Federal prosecutor, assistant United States Attorney. I worked on Native American cases. Here are the numbers that I understand. Right now, with 138 Federal FBI agents covering 200 Indian reservations with a million people, I am going to quote you how many law enforcement per thousand individuals. That number is .1, .1 per thousand.

The national recommended average for law enforcement is three, three per thousand. That means that in Indian Country, there are 30 times less law enforcement. And we know the serious violent problems they have, they are way above the national average.

So I asked you about the 135 officers. You can take all of those officers and put them over onto Indian Country and that would only double it. This is 30 times bigger. So I think the Department of Justice needs to take a really serious look about committing to asking for the budget, because they have to go through the OMB, but they should ask for the budget that is needed. Let us then deal with the issue of where we get it.

I have one more thing, I just want to put some things in the record.

Mr. Dummermuth, Congress directed DOJ to create the fiscal year 2018 and 2019 tribal focus set-asides, because we recognized the great need for funding for victim resources in Indian Country. However, I have got two letters this week from tribes concerned that some administrative decisions made by the Department, including dramatic changes to the application process, have resulted in delays and failures to get these resources out the door. Mr. Chairman, I would like to add both of these letters to the record.

The CHAIRMAN. Without objection, so ordered.

Senator UDALL. And to you, Mr. Dummermuth, I would encourage the DOJ to encourage that the fiscal year 2019 funds are fully obligated and supporting victim services in Indian Country. If that means opening a second round of grants for this fiscal year, I hope you will take that message back to your colleagues and work on making it happen.

Thank you. Thank you, Mr. Chairman.

Mr. DUMMERMUTH. May I address that very briefly? I have already made the decision to open up another round of standalone set-aside grant programs for fiscal year 2019.

Senator UDALL. Thank you very much for doing that. I think that will make a big difference.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Dummermuth, thank you for going to Alaska. I appreciate it a great deal. I further appreciate the fact that instead of just

going to Anchorage and Fairbanks, you went to the village of Kake. They are a small island community, they have a VPSO. But they didn't have one for a while. It is pretty small law enforcement, as you know, recruitment and retention is difficult. You went to Tanana, a river community not connected by road. You had an opportunity to be in Sitka, another island community. And as you pointed out, you have been in Kotzebue, where you felt the pain of the community still, following the death of 10-year old Ashley Johnson-Barr.

I think that is a good preview of some of the challenges that we face with law enforcement and why this is so important. I understand further that you were at the consultation there in Fairbanks, which was very key. I am sure you heard a lot of the pent-up frustration. I would like to think that that is now going to translate itself into additional action.

I thank my colleague, Senator Udall, for bringing up the set-aside monies and again, the push to ensure that all those funds get out the door, and if they have not gotten out the door, that there is an opportunity for a second round. So I think that that is important.

I have a letter here from Central Council Tlingit and Haida that I will ask to be submitted for the record, Mr. Chairman.

It outlines many of the same concerns that you have probably heard from those up in the interior. One of the issues that I heard raised was that DOJ has a pretty strict policy of not allowing applicants to cure technical defects in their applications and of not providing technical assistance when preparing an application.

You just indicated in the previous answer that some of the problems with getting the money out the door, you said that the tribes don't have the infrastructure in place to manage, and they don't have that capacity. We have to help them build that capacity. This is the problem and why I think it concerns so many of us that these were going to go out by way of competitive grants, because so many of these tribes are so small, they do not have professional staff, they don't have any staff. It is them who are trying to wade through this morass.

So you have to help us with this capacity issue. I would hope that you are now taking a different view in how you feel you can assist the tribes in being successful with their applications, rather than just rejecting them if they have not been fully resourced. Is that something that you are doing, in terms of trying to be helpful and build that capacity?

Mr. DUMMERMUTH. Absolutely. We set aside a significant amount for the financial management centers to help with financial capacity. It is one thing to get the application in, but to have to be able to use those otherwise—

Senator MURKOWSKI. Can I stop you there, though? I would so much rather us not put money into financial capacity centers. I would rather get that money out the door to the tribe, to the community, to provide for the resources there. I hear what you are saying, but I want you to be cautious when you say, we are spent, we are putting a lot of money over here. We need to get that money down on the ground. Agreed?

Mr. DUMMERMUTH. Absolutely, but if we get the money down on the ground, and they mis-spend it, either because they don't understand what to do or by mismanaging it, then they end up on a high-risk list and their funds get frozen and they end up in a worse position long term. So we want to set them up for success long term, because they definitely need these resources. I certainly saw that. If you have ideas on how we can best set them up for success—

Senator MURKOWSKI. I do think that we have some ideas that we would like to share with you. We do have, we have grown a lot of capacity in recent years and how we can share that, I think, is important. I am going to have a couple more questions for the record that I will submit, they are very important.

One of the things that concerns me is that DOJ maintains that these tribal set-aside funds can only be used for activities that directly support victims of crime, not for prevention or for law enforcement, for prosecution or other criminal justice programs or purposes. I think our challenge, our problem, our struggle is that if we don't have a responsive criminal justice system in the first place, it is tough then to be there to help a victim. Again, I think you saw that in the communities that you went to. When you don't have a State trooper, when you don't have any law enforcement presence to speak of, when the only time the law comes is when there has been a tragedy, when you are a community like Hoonah, and there has been a murder and the body of that young woman needs to be literally taped off in the door of the church there and village members taking turns to do a watch over her body until hours and days until the troopers can come, so that they can preserve evidence.

We have a base infrastructure problem. So I need to know that there is some way, that there is flexibility for us in ensuring that there are resources that can be made available to help the victims, but to help the victims in the first place by making sure that we have a responsive criminal justice system. You saw for yourself that we don't, in far too many places.

So whether it is through the VOCA funding, and the set-aside, there has to be something that we can do on the prevention side, on the law enforcement side. I know that this is not just Alaska-specific. I know that in far too many other reservations, you don't have those that are providing for that level of safety.

So the victim is saying, okay, I will get victim compensation funds, but wouldn't it be best to keep her from being a victim in the first place?

Mr. DUMMERMUTH. Absolutely. As a former prosecutor, you need the public to be confident that if they report a crime, it will be investigated, it will be prosecuted, et cetera. I think there are challenges from reporting all the way to victim services at the end. So that is one of the questions I asked about the VOCA funding, why can't we do more prevention, more law enforcement. That simply is a statutory restriction.

Senator MURKOWSKI. So that is something that we need to address here.

Mr. DUMMERMUTH. It is a longstanding, when the Crime Victims Fund was set up, they wanted it to only go to victim services. That

is why statutorily, it can't be used for law enforcement or prosecution. That is not the Department's restrictions, that is statutory. There are pros and cons with dipping into that, which we won't go into now. But what we can do is, we have other funding sources, there is the JAG program, those resources can be used to help tribal law enforcement. We have the other CTAS purpose areas, so we are investing a lot in tribal courts, to give the tribes some greater local authority to handle some of the public safety challenges.

So I agree, it is the whole system, there are challenges. I went to Selawik for an afternoon and spent time with a trooper there. He said when he got there, usually when the trooper shows up to a community, the crime goes up because the people are confident in reporting it. Then it goes down, because they know there is somebody there who will respond.

So absolutely, having a law enforcement presence in communities is vital. I did not know before going to Alaska that there are no roads.

Senator MURKOWSKI. Eighty-two percent of the communities in the State of Alaska are not connected by road.

Mr. DUMMERMUTH. Right. So the nearest officer is two hours away by flight, if there is a pilot, if there is a plane.

Senator MURKOWSKI. If there is good weather.

Mr. DUMMERMUTH. If the weather cooperates. So it is hard for victims to trust that system sometimes to report. If they don't report, they probably aren't going to ask for services or compensation. So yes, it is a system-wide issue that we are going to have to address as best we can.

Senator MURKOWSKI. Mr. Dummermuth, it sounds like you have a sense, a flavor for the situation and the challenges that we deal with. I would like to visit with you to perhaps learn more about your impressions and perhaps some of your takeaways and your ideas so we can help you on the Administration side, working legislatively. But we have this VOCA set-aside, we need to make sure that it works. I hope that you take these suggestions from these letters that I have introduced and Senator Udall has introduced, and we can address some of that. I will look forward to our conversation.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Smith.

**STATEMENT OF HON. TINA SMITH,
U.S. SENATOR FROM MINNESOTA**

Senator SMITH. Thank you, Mr. Chair, and welcome, Mr. Dummermuth.

I want to start out by saying I really appreciate the line of questioning that senator Murkowski was offering. I completely agree with you, that we ought to be thinking about this from the prevention side. When we have a crisis on our hands, we tend to rush to the problem rather than thinking about what we can do to prevent the problem. So if there is anything that I can do to work with you on this, I would welcome that, because I think it is a very important issue. So thank you for that.

I also want to follow on the line of questioning that Chairman Hoeven and Vice Chairman Udall brought up having to do with the set-asides. I am so glad to hear that DOJ is committing to opening a second solicitation. This was a matter of great frustration to Minnesota tribes who just were not able to participate as they wished they could have, because this was caught up in this bigger grant solicitation. So that will make a big difference to Minnesota tribes, that that will get fixed.

I have another question related to that. It is my understanding that the Department set the maximum award cap for tribal VOCA grants in fiscal year 2018 at \$720,000. Then the Department decided to lower that cap to \$500,000 for fiscal year 2019 grants.

Can you explain how the Department settled on these caps, settling particularly on lowering it by \$120,000?

Mr. DUMMERMUTH. Yes. Thank you for that question. We put out that solicitation last November, end of November, the CTAS programs. At that time, we did not know what the funding level would be from Congress. We just in fiscal year 2018, we had just under 200 applications submitted. So it was based on our best estimate at the time of the level of interest from fiscal year 2018 and an estimate of what kinds of funds might be available. So we were surprised to get more than that. That is partly why it is less than it was in the \$720,000 number.

But with the second solicitation, we will be able to hopefully fill that gap.

Senator SMITH. Are you aware of any requests by tribes to raise or to lift these caps?

Mr. DUMMERMUTH. I should clarify that in fact it was not a 100 percent cap. If they provided justification, tribes could ask for more than that in the solicitation, and some did. We did fund some over that amount, the \$720,000. So there is some flexibility in there, and we are discussing how much flexibility to put in going forward.

Senator SMITH. So my interest and concern here is to make sure that the Department is working with the tribes and doing the right level of consultation on this, obviously, that you are working with tribes as you reconfigure this part of the grant program as well as the others that you are working on. I think that is so important.

The department has discretion with grant design, but I hope that the Department will respect the government-to-government relationship that exists and make these decisions with tribes and not for them.

Mr. DUMMERMUTH. Yes, and it was very helpful to be at the consultation in Fairbanks on May 1st. We had, I think 36 tribes there from the 40-plus and the Tanana Chiefs.

Senator SMITH. What did they have to say about this?

Mr. DUMMERMUTH. I think the paper is in the record, if you want to see. We are still collecting comments, they are still open until July 1st. There was a range of things from how the process is done to questions about what expenses are allowable and what are not. So there was a wide-ranging talk late into the night. We had feedback on a lot of things.

Senator SMITH. All right. Thank you. I look forward to working with you on this issue that Senator Murkowski raised and I appreciate your attention to the kind of consultation that we need to do.

Mr. DUMMERMUTH. Thank you.
Senator SMITH. [Presiding.] Thank you. I recognize Senator Daines.

**STATEMENT OF HON. STEVE DAINES,
U.S. SENATOR FROM MONTANA**

Senator DAINES. Thank you, Madam Chairman.

Mr. Dummermuth, I want to talk a little bit about what is going on with the missing and murdered indigenous women, particularly in Montana. This is a crisis that I think is still underreported and that needs more attention. In fact, it is unknown by the general public, even as much as we are starting to talk about it. As I engage Montanans and we start to talk about this, those who are not involved with the issue, they are still finding out oftentimes for the first time.

The facts are undeniable. Indigenous women are facing murder rates ten times the national average. It is an unacceptable reality. In fact, as I travel around Montana, I hear from families affected by this tragic crisis. One of the most frustrating experiences for families is the lack of information that is shared from Federal law enforcement agencies.

Last week, I asked Assistant Secretary Sweeney, who was right here in front of this Committee if the Office of Justice Services at BIA had access to evidence under the FBI. And the answer was no. My question is, what type of access do departments with law enforcement agencies have to FBI data, reports or files, if they need them?

Mr. DUMMERMUTH. Are you asking me specific types of cases?

Senator DAINES. What do they have access to?

Mr. DUMMERMUTH. I think it depends. I would have to defer to the FBI for the specific, what cases, who can get what evidence. But I would be happy to get back to you.

Senator DAINES. There is an existing data base, there is a grant program to facilitate shared access to this information for law enforcement agencies. We can solve this problem. We are going to need some help on it.

Mr. DUMMERMUTH. If I could, I don't know if you are referring to the NamUS data base?

Senator DAINES. Yes.

Mr. DUMMERMUTH. So yes, that is a great resource that we are trying to expand the use of. It provides information in two different ways. One, it gives criminal justice users with law enforcement access to a secure online system to store, share, compare sensitive case information about missing or murdered indigenous women and girls. But there is also a public site to that that allows public stakeholders, including family members, to report case information and participate in the search for potential matches. That system is up and running and we are doing all we can to train people on that and increase the access of that.

Senator DAINES. Right. Well, the point is if there are existing programs in place, I should not be hearing about challenges gaining access to those reports and the evidence. I believe more needs to be done to ensure we have better access to these FBI reports on file with the BIA, better transparency for everybody. These families

need answers. That is one of the most frustrating issues I hear, it is just radio silence, not getting information back.

I want to shift gears and talk about the issue of methamphetamines in Montana. One of the reasons we are seeing spikes in violent crime, in fact, when we engage law enforcement, when I speak with them, it is crime across every level, petty crime as well as violent crime. It is tied directly to a dramatic increase in the use of methamphetamines. This is directly a result of the flood of Mexican meth coming from the southern border.

Once upon a time, the home-grown meth, years ago, was the Sudafed and the Drano, home-grown labs, and they produced meth with purities of 25 to 35 percent. The Mexican cartel meth has purities of 95 percent and even greater. So it is far more potent, far more dangerous, and far more addictive. It is cheaper, because distribution is everywhere.

It is coming right across the southern border. I spent a night on the southern border literally watching our border patrol chasing the flood of illegal immigrants coming across, opening up the ability to have more drugs coming across the border. In fact, they tell us they are stopping about 7 percent of illegal drugs, if you look at all of them, including opioids.

Here is the problem. Indian Country is being disproportionately affected by the lack of border enforcement. Currently, meth use among American Indians or Alaska Natives age 12 and older is twice that of the overall population of the United States. As I spend time on the reservations, their law enforcement tells me it is oftentimes the first place that meth goes is into Indian Country.

Last Congress, I worked to pass the Mitigating Meth Act, which expands the State's targeted response to the opioid crisis grants to include Indian tribes as eligible recipients. Has DOJ been able to roll out these changes to ensure that tribes now have access to those grants?

Mr. DUMMERMUTH. I would have to get back to you on the specific programs. But we are trying to make more clear this year in our solicitations when tribes are eligible. I think last year they were eligible, but we didn't make it express. So we are trying to clear up that confusion. If there are particular grants you are interested in, I would be happy to look into that and let you know if they are eligible.

Senator DAINES. Well, we passed that, Congress acted on the Mitigating Meth Act, so that Indian tribes are eligible recipients. Given the crisis we see in Indian Country, and as I spend time with law enforcement and families with missing and murdered indigenous women, oftentimes it is tied back to drugs as well, and meth. So this all ties together. I want to make sure we have acted in Congress to ensure that tribes are eligible recipients. We need to continue to expedite that, if you would, please.

The other thing I hear from our Federal agencies is the lack of resources they need right now to effectively combat meth. We also want to make sure the Justice Department has a detailed plan to combat meth in Indian Country alongside other communities. Could you discuss and give us thoughts around what DOJ is doing to fight the meth epidemic in Indian Country?

Mr. DUMMERMUTH. There are two things I can think of off-hand that we are doing that would help in tribal areas. One, in the opioid money that goes out through the COPE (phonetic) program, we are requesting that it be, that the focus still be on opioids, but if the States have meth issues as well, that those funds be expanded to be used for that.

Senator DAINES. And to be clear, this is one of the debates we had in the last Congress, is that we know we have an opioid crisis in parts of our Country, in the northeast and throughout the middle part of our Country. As we look further west, it is meth. Opioids are coming, opioids are there. The fentanyl distribution is coming, it is just a matter of time before we start seeing that coming up from Mexico.

Mr. DUMMERMUTH. Yes.

Senator DAINES. But at the moment, meth is our number one issue.

Mr. DUMMERMUTH. Right, and there is a lot of money out there, \$330 million that the Department gave out to combat the opioid epidemic. So what we are doing is asking for greater flexibility for the grantees who get that to adapt it to their local situation. So where I come from, Iowa, it is the same problem you said about Montana, it is more meth than it is opioids, and it is from Mexico, it is not home-grown. So I understand that completely.

Senator DAINES. Right.

Mr. DUMMERMUTH. So we are requesting greater flexibility from Congress to let the States adapt those programs to what they are really seeing on the ground.

Senator DAINES. Yes.

Mr. DUMMERMUTH. The other thing we are doing is, on the victim side, we are using some of the set-aside money to expand programs for kids who are affected by the opioid epidemic. And also to expand that to allow any drug epidemic, because they, their parents, if they have issues, they are more likely to be abused or neglected, see violence, have trauma. So we are trying to help the kids specifically through some problems.

Senator DAINES. Yes, that is the other, it is heartbreaking to see, engaging in treatment centers and talk about 11-year olds, 11-year olds coming in with meth issues.

Mr. DUMMERMUTH. Yes.

Senator DAINES. [Presiding.] Not to mention infants and so forth, too, from the neonatal side as well.

Well, thank you. I know Senator Murkowski mentioned you had come up to Alaska and visited there. I would like to invite you to come out to Montana and see it. Just think of it as Iowa with mountains and maybe a little better fly-fishing. But we would like to have you out there so you could see first-hand these very serious issues plaguing our tribes. Thanks.

If there are no more questions on the budget, we are now going to take a very brief recess and move to our second panel and begin the legislative hearing for Senate bill 1211, the AUTOS Act. That will allow us time here to reset the name plates and take a brief recess.

[Recess.]

The CHAIRMAN. [Presiding.] All right, we will now hear from our witnesses on panel two. First, Mr. John Tahsuda, Principal Deputy Assistant Secretary, Indian Affairs, U.S. Department of the Interior. Then the Honorable Jamie Azure, Chairman, Turtle Mountain Band of Chippewa Indians in Belcourt, North Dakota.

Thanks for being here. We appreciate it very much.

With that, Secretary Tahsuda, go ahead with your testimony.

STATEMENT OF JOHN TAHSUDA III, PRINCIPAL DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. TAHSUDA. Good afternoon, Chairman Hoeven, Vice Chairman Udall and members of the Committee. Thank you for inviting the Department of the Interior to provide testimony on S. 1211, the Addressing Underdeveloped and Tribally Operated Streets Act. My name is John Tahsuda, I am the Principal Deputy Assistant Secretary for Indian Affairs.

And on behalf of the Department, I would like to thank the Committee for its efforts to draw attention to the transportation programs and resource needs of tribal transportation in Indian Country. It is encouraging to see proposed legislation that specifically addresses many of the concerns we have been hearing from tribal leaders and tribal transportation professionals. I will offer a few comments and suggestions on the bill as part of my testimony today.

Section 3(a) of the bill defines tribal transportation safety projects by referencing a list of eligible projects similar to current 23 U.S.C. Section 148(a)(4). Under previous legislation, P.L. 112-141, the MAP-21 Act, there was a broad definition for highway safety improvement projects. The Fixing America's Surface Transportation Act, the FAST Act, P.L. 114-94, changed that definition to include only projects on a specified list. A number of tribes have expressed concerns that the change in the definition restricted the number of eligible projects to only those listed, which meant the exclusion from funding for some safety projects that they believed were valuable and effective.

The AUTOS Act appears to clearly redefine the list, similar to U.S.C. Section 202(e). We would suggest that the Committee consider modifying the definition to allow greater flexibility for tribes to propose, and the Secretary of Transportation to be authorized to approve, if appropriate, additional safety projects beyond those listed.

Next, Section 3(b) of the bill directs the Secretary of the Interior to examine 23 C.F.R. Section 771.117 and determine which categorical exclusions listed there could be applied to projects funded by the Tribal Transportation Program. We suggest that this may not be needed. As part of the 2016 update to regulations by the department governing the Tribal Transportation Program at 25 C.F.R. Part 170, the Department adopted the categorical exclusions at that 23 C.F.R. Section 771.117 for any projects funded by the Tribal Transportation Program.

We are, at the Secretary's direction, updating the Department manual to reflect that once complete, this should further speed implementation of 25 C.F.R. Section 170.453 at our regional and

agency office level. However, should the Committee prefer to make those categorical exclusions statutory, we would support that and suggest amending 23 U.S.C. Section 202 to include language similar to what we now have at 25 C.F.R. Section 170.453.

We support Section 3(c) related to the review of tribal safety projects as drafted, but we suggest that the Committee consider expanding the application of this provision beyond the Tribal Transportation Safety Program to include the review process for all projects that may be carried out under the Tribal Transportation Program. As currently drafted, the 45-day mandate would apply to eligible projects under the Tribal Transportation Safety Program set-aside authorized by 23 U.S.C. Section 202(e). That amounts to just 2 percent of the funds made available under the Tribal Transportation Program.

There are many more projects with greater diversity and complexity in the remaining 90 percent plus of the Tribal Transportation Funds that are not included in the current bill language. Yet many of those projects are considered safety-related. Coupled with the Department's adoption of the categorical exclusions for tribal transportation funded projects, we believe that mandating a 45-day timeline for making that determination is reasonable and would be considered beneficial by the tribes.

Section 7 requires the Secretary to carry out a study to evaluate road maintenance on Indian lands as defined by Section 7(a)(1). We support this provision, because the study will provide us new information and data currently lacking in our tribal transportation program, as well as insight into the backlog of needs across Indian Country. This is important, because the study could also shed light on the short and long term actions of all public authorities that have investment in transportation infrastructure on Indian lands.

One note also, Section 9. The BIA Office of Justice Services is presently using State crash report forms and uploading them into our Incident Management Analysis and Reporting system. These crash forms are uploaded as a .pdf external document to the system. As such, the Office of Justice Services is unable to perform specific data searches and statistical information is difficult to obtain, consuming time and resources.

The IMAR's electronic crash reporting capability is now functional in the IMAR system. We would therefore recommend striking the provision requiring the use of crash reports from the applicable State in IMAR in place of using the specific electronic system. We would also suggest further, however, working, and we would be happy to work with the Committee on not referencing a specific system or program so that in the future, as needs change, we would have the authority to use something else, if a better program or system became available. We are happy to work with the Committee on developing some language and a process that would be beneficial to Indian Country.

In conclusion, from the Department, I would like to thank the Committee, and you, Chairman, for the opportunity to provide testimony on the AUTOS Act. We look forward to continuing to work with you and our tribal partners and our partners in the Federal Government, including the Federal Highway Administration, in supporting and sustaining safe and effective transportation pro-

grams for tribal communities throughout Indian Country. The issues addressed in the AUTOS Act will positively impact and be an important part of employment, economic infrastructure and road safety for tribes.

I am happy to answer any questions you may have.
[The prepared statement of Mr. Tahsuda follows:]

PREPARED STATEMENT OF JOHN TAHSUDA III, PRINCIPAL DEPUTY ASSISTANT
SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon Chairman Hoeven, Vice Chairman Udall and members of the Committee. Thank you for inviting the Department of the Interior (“Department”) to provide testimony on S. 1211, the “Addressing Underdeveloped and Tribally Operated Streets Act” (“AUTOS Act”).

My name is John Tahsuda and I am the Principal Deputy Assistant Secretary—Indian Affairs. On behalf of the Department, I would like to thank the Committee for its efforts to draw attention to the transportation programs and resource needs of Tribal Transportation in Indian Country. It is encouraging to see proposed legislation that specifically addresses many of the concerns we have been hearing from tribal leaders and tribal transportation professionals.

The Department offers the following comments and suggestions on the AUTOS Act as part of my testimony today.

Section 3. Categorical Exclusions to Certain Tribal Facilities

Section 3 (a) of the bill defines “Tribal Transportation Safety Project” (TTSP) by referencing a list of eligible projects similar to 23 U.S.C. § 148 (a)(4) and this may be a concern for tribes. Under the “Moving Ahead for Progress in the 21st Century Act” (MAP-21), P.L. 112–141, section 148 (a)(4) defined a “highway safety improvement project” as including, “but not limited to, a project for 1 or more of the following” eligible projects. The “Fixing America’s Surface Transportation Act” (“FAST Act”), P.L. 114–94) changed the definition to read: “(B) INCLUSIONS.—The term “highway safety improvement project” *only* includes a project for 1 or more of the following” list of eligible projects. (Emphasis added.)

The change from “not limited” to “only” in the definition restricted the number of eligible projects to those listed. The tribes are concerned about the new limitation because some safety projects that they believed were valuable and effective are now ineligible for funding. The AUTOS Act appears to clearly re-define the list of eligible projects to those currently eligible under 23 U.S.C. § 202 (e). We ask that the Committee consider modifying the definition to allow greater flexibility for tribes, possibly by removing the word “only” in 23 U.S.C. § 148 (a)(4)(B), or by inserting a clause at the end of Section 3 (a) stating that, notwithstanding the limitation in § 148 (a)(4)(B), tribes may propose, and the Secretary of Transportation may approve, additional safety projects beyond those listed.

Next, Section 3 (b) of the bill directs the Secretary of the Interior to examine 23 C.F.R. § 771.117 and determine which Categorical Exclusions (CXs) listed there could be applied to projects funded by the Tribal Transportation Program (TTP). We suggest that this subsection may not be needed because as part of the 2016 update to the regulations governing the TTP at 25 CFR Part 170, the Department adopted the CXs at 23 CFR § 771.117 for any projects funded by the TTP at 25 CFR § 170.453:

§ 170.453 Do the Categorical Exclusions under the National Environmental Policy Act (NEPA) and the regulations at 23 CFR 771 apply to TTP activities?

Yes. Regardless of whether BIA or FHWA is responsible for the oversight of a Tribe’s TTP activities, the Categorical Exclusions under NEPA at 23 CFR 771.117 governing the use of funds made available through title 23 shall apply to all qualifying TTP projects involving the construction or maintenance of roads.

Additionally, at the Secretary’s direction, the Department is updating its Departmental Manual to include Part 170’s adoption of the CXs at 23 C.F.R. § 771.117. Once complete, this should further speed implementation of 25 C.F.R. § 170.453 at the BIA Regional and Agency level. In light of the regulation’s adoption of 23 C.F.R. § 771.117, if the Committee prefers to address CXs in the bill then we suggest amending 23 U.S.C. § 202 to include language similar to 170.453.

We support Section 3 (c), related to the review of tribal safety projects, as drafted but we suggest that the Committee consider expanding the application of this provi-

sion beyond the Tribal Transportation Safety Program (“TTSP”) to include the review process for all projects that may be carried out under the TTP. As currently drafted, the 45-day mandate would apply to eligible projects under the TTSP set-aside authorized by 23 U.S.C. § 202 (e) that amounts to just 2 percent of the funds made available under the TTP. There are many more projects with greater diversity and complexity in the remaining 90%-plus of TTP funds that are not included in the current bill language, yet many of those projects are considered safety related. Additionally, activities accounting for approximately 80 percent of the proposed TTSP-eligible projects such as development of safety plans, road safety audits and studies, do not involve construction and may not be covered by Section 3 (c).

Coupled with the Department’s adoption of the CXs at 23 C.F.R. § 771.117 for TTP-funded projects, we believe that mandating a 45-day timeline for making a determination is reasonable and would likely be very beneficial to tribes.

Section 5. Use of Certain Funds

This section would establish a separate funding amount for the replacement and rehabilitation of deficient tribal transportation facility bridges. Of the approximately 1,000 BIA bridges across the country, 169 are considered structurally deficient or functionally obsolete. We estimate that it will cost over \$105 million to repair, rehabilitate or replace these deficient or obsolete bridges. Additionally, there are approximately 2,400 bridges within Indian Country that are the responsibility of other public authorities such as states, counties or towns. Of these bridges, 393 are considered structurally deficient or functionally obsolete, with an estimated cost for repair, rehabilitation or replacement of over \$440 million.

Section 6. BIA Road Maintenance Program

Section 6 authorizes additional funding for the BIA Road Maintenance Program (RMP), which would increase available funding specifically for BIA roads, bridges and other eligible transportation facilities. Its enactment could result in a total maintenance budget for BIA roads of at least \$46,000,000 in FY 2021. In short, eligible public roads are those identified as the responsibility of the Secretary of the Interior. It appears that the funds authorized under this Section will be in addition to the annual Department appropriations for the RMP that are allocated among the ten (10) BIA regions consistent with the historic funding allocation methodology to carry out maintenance activities on eligible facilities consisting of approximately 29,100 miles of BIA roads and 1,000 BIA bridges.

Section 7. Study of Road Maintenance on Indian Land

Section 7 requires the Secretary to carry out a study to evaluate road maintenance on Indian Lands, as defined by Section 7 (a)(1). We support this provision because the study should provide new information and data currently lacking in the TTP as well as insight into the backlog of needs across Indian Country. The study could also shed some light on short and long term actions of all public authorities that have an investment in transportation infrastructure on Indian Lands.

Carrying out the study will pose new but not insurmountable challenges because the public transportation facilities (roads, bridges, trails, etc.) on Indian Lands are located in 37 States, 482 counties, 34 boroughs and 13 parishes, as well as 573 tribal nations each with their own asset management protocols and road maintenance methods. This provision is interpreted to mean a study of road maintenance on all public roads on Indian Lands, or the entire 155,000 miles of the National Tribal Transportation Facility Inventory. To be clear, the Secretary is limited in the role of evaluating the roads owned by others (tribal, counties, municipalities and states) because much of the data is exclusive to those other public authorities.

Section 9. Tribal Transportation Safety Needs

The BIA Office of Justice Service’s (OJS) is presently using state crash report forms and uploading them to the Incident Management Analysis and Reporting System (IMARS) These crash forms are uploaded as a PDF external document to the system. As such, OJS is unable to perform data specific searches and statistical information is difficult, consuming time and resources. The IMARS electronic crash reporting capability is now functional in the IMARS system. We therefore recommend striking the provision requiring the use of crash reports from the applicable state and IMARS as being the specific electronic system. The OJS will begin using an electronic crash report starting in the fall of 2019. We are happy to work with the committee to develop a process that is beneficial to Indian Country.

Conclusion

The Department of the Interior would like to thank the Committee for this opportunity to provide testimony on the AUTOS Act. We look forward to continuing to

work with this Committee, our tribal partners and the Federal Highway Administration in supporting and sustaining safe and effective transportation programs for tribal communities throughout Indian Country. The issues addressed in the AUTOS Act will positively impact and be an important part of employment, economic infrastructure and road safety for tribes. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Secretary Tahsuda.

And again, Chairman Azure, thanks for being here, and we appreciate your testimony.

STATEMENT OF HON. JAMIE AZURE, CHAIRMAN, TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS; ACCOMPANIED BY RON TROTTIER, TRANSPORTATION DIRECTOR

Mr. AZURE. Boozhoo. Indizhnicaus Ogima Kitagasi Kinew. Neen Mikinak Wajoooh Anishinabe Oshikoonigauun. Mino Giizhigan Noongom. That means hello, my name is Chief Spotted Eagle. I am from the Turtle Mountain Band of Chippewa Tribe and it is a good day.

Thank you, distinguished members of the Committee, for the invitation and allowing me to speak on behalf of our tribe and tribe throughout our great Nation for the proposed Addressing Underdeveloped and Tribally Operated Streets Act, also known as AUTOS. The AUTOS Act is a step in the right direction to address some of the many needs of our Bureau of Indian Affairs, or the BIA, and tribal road systems. I would like to thank Senator Hoeven and all that have been involved for their work on this legislation.

The AUTOS Act will provide much-needed additional funding for the BIA Road Maintenance Program as well as addressing the deferred maintenance backlog of existing tribal roads. It will make road projects more efficient by improving the categorical exclusion process. By funding the Bridge Program separate from the Tribal Transportation Program, a higher portion of the TTP funds will be available to be redistributed to the tribes. This legislation also addresses the tribal transportation safety needs by providing tribes the opportunity to improve and access crash data available for analysis, study, and implementation.

The purpose of the BIA Road Maintenance Program is to preserve, repair, and restore the BIA system of bridges and roadways, and to ensure that the Tribal Transportation Program-eligible highway structures are maintained. The Road Maintenance Program is designed to address the road maintenance needs of roads owned by the BIA. Road Maintenance Program activities include both routine and emergency road maintenance, bridge maintenance, and snow and ice removal, among other things. Routine road maintenance activities may include, but are not limited to, surface pavement crack sealing and patching, surface grading, ditch slope and bottom maintenance, vegetation control, culvert cleanouts and replacements, sign maintenance and replacement, preparing winter materials and other routine works. Road maintenance does not include new construction, improvement or reconstruction.

BIA roads are open to the public and are often major access corridors for tribal communities. The national BIA road system consists of more than 930 BIA-owned bridges and approximately

29,000 miles of proposed and existing roads. Approximately 75 percent of the existing roads are not paved.

Our own roadway system also currently has 34.5 miles of concrete road that was constructed in 1976. Most of our road surfaces, whether they are concrete, asphalt or gravel, are deteriorating and are extremely dangerous. Because we live in a climate that experiences extreme weather conditions and our tribal lands have a high water table, our roads are exposed to damaging freeze-thaw cycles which happens every year. These conditions make traveling our local BIA roads even more dangerous in the spring.

There are about 550,000 Native American students that are enrolled in public elementary and secondary schools in the United States, not counting Bureau of Indian Education schools. In addition, the Bureau of Indian Education operates 185 schools serving about 41,000 students living on or near tribal lands.

Our own local school system is the greatest opportunity tribal members have to receive training and prepare themselves to make a meaningful contribution to society. It is of the utmost importance that the facilities that serve our education system are up to health and safety standards. Improving and maintaining our tribal roadways aids in the path to education and prosperity by removing physical obstacles that make it difficult for tribal members to succeed.

Our road system is heavily traveled by local school buses. Currently students from the Turtle Mountain Community College, the Turtle Mountain School System, the Ojibwa Indian School, the Dunseith Day School, the Dunseith Public School, the St. John Public School, the local Head Start Programs, and also the Tiny Turtles preschool are transported to and from daily on our BIA and tribal roadways.

Limited funding for tribal roads has been one of the challenges faced in improving and maintaining roads on tribal lands and has contributed to the deterioration of these roads. Current funding levels have led to less frequent maintenance and improvement activities. These conditions have forced most tribal maintenance activities to become more reactive to emergency situations than proactive, and tribes are unable to carry out needed routine road maintenance.

Dangerous roadway conditions also impede the ability of our local first responders to perform their duties adequately. In many emergencies, response time is crucial to saving lives. Current roadway conditions slow response times, and further jeopardize the safety and well-being of our community members.

Over the years, Road Maintenance Program funding has remained relatively flat, while the number of BIA roads eligible for these funds has increased. Road maintenance funding levels have not kept pace with the growing road maintenance requirements, due to the addition of new roads, the need to address existing roads maintenance backlogs, and emergency operational requirements. The remoteness, tough environments, and unavailability of materials on tribal lands leads to comparatively higher costs for maintaining roads on tribal lands, which further exacerbates funding constraints. As roads fall deeper into disrepair through the delay

of or inability to fund road maintenance activities, the more expensive the roads become to repair.

With a growing population and average daily traffic counts increasing throughout our own reservation, we have been required to do more work with the limited resources available to us. Our road maintenance equipment fleet is aging and most of the machinery require just as much time in the shop being repaired as they spend serving our community out on our roadways.

Our current road maintenance department consists of five full-time employees that serve approximately 180 miles of roads. Although they are extremely dedicated and very skilled, there is only so much that we can do. We, like most reservations, need and would welcome the increased funding through the AUTOS Act would provide, so that we, in turn, would be able to provide safer transportation on our reservation.

In closing, I just want to say we came in a good way. We will leave in a good way and miigwech for the time that you have allowed us. I know everybody's time is important here, and I know I went over a little bit, but I did forget to press the button right at the beginning.

[Laughter.]

Mr. AZURE. So thank you, and I am open to answer any questions.

[The prepared statement of Mr. Azure follows:]

PREPARED STATEMENT OF HON. JAMIE AZURE, CHAIRMAN, TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

Boozhoo—Hello

Indizhnicaus Ogima Kitagasi Kinew—My name is Chief Spotted Eagle Neen Mikinak Wajoooh Anishinabe Oshikoonigauun—I am from the Turtle Mountain Band of Chippewa Tribe

Mino Giizhigan Noongom—It is a good day

Thank you distinguished members of the committee for the invitation and allowing me to speak on behalf of our Tribe and Tribes throughout our great nation for the proposed Addressing Underdeveloped and Tribally Operated Streets Act (AUTOS). The AUTOS Act is a step in the right direction to address some of the many needs of our Bureau of Indian Affairs (BIA) and Tribal road systems. I would like to thank Senator Hoeven and all that have been involved for their work on this legislation.

The AUTOS act will provide much needed additional funding the BIA Road Maintenance Program as well as addressing the deferred maintenance backlog of existing tribal roads. It will make road projects more efficient by improving the categorical exclusion process. By funding the Bridge Program separate from the Tribal Transportation Program, a higher portion of the TTP funds will be available to be redistributed to tribes. This legislation also addresses the Tribal Transportation Safety Needs by providing Tribes the opportunity to improve and access crash data available for analysis, study, and implementation.

The Purpose of the BIA Road Maintenance Program is to preserve, repair, and restore the BIA system of bridges and roadways and to ensure that Tribal Transportation Program—eligible highway structures are maintained. The Road Maintenance program is designed to address the road maintenance needs of roads owned by the BIA. Road Maintenance Program Activities include both, routine and emergency road maintenance, bridge maintenance, and snow and ice removal, among other things. Routine road maintenance activities may include but are not limited to surface pavement crack sealing and patching, surface grading, ditch slope and bottom maintenance, vegetation control, culvert cleanouts and replacements, sign maintenance and replacement, preparing winter materials, and other routine works. Road maintenance does not include new construction, improvement, or reconstruction.

BIA Roads are open to the public and are often major access corridors for tribal communities. The national BIA Road system consists of more than 930 BIA-owned

bridges and approximately 29,000 miles of proposed and existing roads. Approximately 75 percent of the existing roads are not paved.

Our own roadway system also currently has 34.5 miles of concrete road that was constructed in 1976. Most of our road surfaces whether they are concrete, asphalt, or gravel are deteriorating and are extremely dangerous. Because we live in a climate that experiences extreme weather conditions and our tribal lands have a high-water table our roads are exposed to damaging freeze thaw cycles every year. These conditions make traveling our local BIA Roads even more dangerous in the spring season.

There are about 550,000 Native American students that are enrolled in public elementary and secondary schools in the United States, not counting Bureau of Indian Education schools. In addition, Bureau of Indian Education operates 185 schools serving about 41,000 students living on or near tribal lands.

Our own local school system is the greatest opportunity tribal members have to receive training and prepare themselves to make a meaningful contribution to society. It is of the utmost importance that the facilities that service our education system are up to health and safety standards. Improving and maintaining our Tribal our tribal roadways aid in the path to education and prosperity by removing physical obstacles that make it difficult for tribal members to succeed. Our road system is heavily traveled by local school busses. Currently students from the Turtle Mountain Community College, the Turtle Mountain School System, the Ojibwa Indian School, the Dunseith Day School, The Dunseith Public School, the St. John Public School, the local Head Start Programs, and the Tiny Turtles Preschool are transported to and from school daily on our BIA and Tribal roadways.

Limited funding for tribal roads has been one of the challenges faced in improving and maintaining roads on tribal lands and has contributed to the deterioration of these roads. Current funding levels have led to less frequent maintenance and improvement activities. These conditions have forced most tribal maintenance activities to become more reactive to emergency situations than proactive and tribes are unable to carry out needed routine road maintenance.

Dangerous roadway conditions also impede the ability of our local first responders to perform their duties adequately. In many emergencies response time is crucial to saving lives. Current roadway conditions slow response times and further jeopardize the safety and well being of our community members.

Over the years Road Maintenance Program funding has remained relatively flat while the number of BIA roads eligible for these funds increased. Road Maintenance funding levels have not kept pace with the growing road maintenance requirements due to the addition of new roads, the need to address existing roads maintenance backlogs, and emergency operational requirements. The remoteness, tough environments, and unavailability of materials on tribal lands leads to comparatively higher costs for maintaining roads on tribal lands, which further exacerbate funding constraints. As roads fall deeper into disrepair through the delay of or inability to fund road maintenance activities, the more expensive the roads become to repair.

With a growing population and average daily traffic counts increasing throughout our own reservation, we have been required to do more work with the limited resources available to us. Our road maintenance equipment fleet is aging and most of the machinery require just as much time in the shop being repaired as they spend servicing our community out on our roadways. Our current Road Maintenance Department consists of 5 full time employees that service approximately 180 miles of roads. Although they are extremely dedicated and very skilled there is only so much that they can do. We, like most reservations, need and would welcome the increased funding and opportunities the AUTOS Act would provide so that we, in turn, would be able to provide safer transportation on our reservation.

The CHAIRMAN. Thank you, Chairman. We appreciate it.

Secretary Tahsuda, statistics show that it costs an average of \$8,000 to maintain one mile of road per year. Using that number, it would cost about \$236 million to fund BIA roads. Why has funding for BIA road maintenance remained relatively flat for a long time?

Mr. TAHSUDA. Thank you, Chairman, for the question. The bulk of the funding for road maintenance comes from a formula from the Highway Transportation Trust Fund. So that has not substantially increased over time, over the last few years. So the bulk of the funding for tribal transportation maintenance has remained fairly

static. That is one of the things I think I would say we would appreciate, in this legislation, is allowing us to focus on some specific items, such as the bridges, separating that out so that we can have funding focused on that and address some of the critical needs there.

It is a problem, as Chairman Azure noted, that three-quarters of the roads in Indian Country are dirt, or what we call unimproved roads. They take substantially more maintenance than other hard-surface roads. We spend a lot of money keeping them up to a passable condition, I wouldn't even say to a good condition, but to a passable condition.

The CHAIRMAN. Do you have a plan to address that? Is there some plan that you are working on to address that situation?

Mr. TAHSUDA. At the current time, under the funding that we have, no. So maybe I can try to explain a little bit further. The maintenance funds that we get can only be used to maintain a road. So if we have a dirt road, unimproved road, we can't use those funds to turn it into a paved road, even though that would ultimately save the Federal Government a lot of money down the road. We can't use those maintenance funds for that. We can only use construction funds for that.

So as far as upgrading the entire system, it would take a major infusion into the construction part of the program to accomplish that.

The CHAIRMAN. Are there things you would recommend adding to this legislation that could be helpful?

Mr. TAHSUDA. I would say, off the top of my head, three things. One, the expanded of categorical exclusions and the 45-day time period is very helpful. We would be happy to talk about other ideas, process-wise, that would enable us to get projects done faster or improved faster. I think that the other sort of big help would be, and again, we would love to talk to your staff and the Committee about some ideas that we, I think the tribes probably have better ideas than we do, I would call it under the label of cooperation with other agencies. That would not just be Federal agencies, but that would also be State and other local government agencies.

Some of the funds, I think that as we read—I am missing the section right now of the bill—but it would leave flexibility for tribes to use some of the funding they get to partner with other State and local agencies. I would say that we have seen a substantial improvement in the ability of the tribes to cooperate with other governments around them. A substantial number of roads that are on the reservation are actually roads that are the responsibility of other agencies, not the Federal Government and not the tribe, so county, State, et cetera.

Increasing that level of cooperation, and if we can find ways, some funding, some other incentives to further encourage that, I think would overall help the system immensely, and would improve the road conditions in general on the reservation.

We have some other Federal partners, agencies, as well. On the southern border, we have CBP, the border patrol that uses a lot of the tribe's roads. So we just sort of put, we are able to get in place the ability for Customs and Border Patrol to give some of their

funding to assist with one of the tribes on the border whose roads are substantially used by CBP.

I think there are other instances in which, if we could partner with other Federal agencies as well that use a lot of the tribal roads a lot, that would be another level of cooperation that would be helpful to the overall system. I would be happy to talk about some ideas on those with your staff.

The CHAIRMAN. Okay, good. Chairman Azure, how much money does your tribe spend on maintaining roads, do you know?

Mr. AZURE. We currently receive \$367,542 for maintenance activities. Of that, 75 percent of it had to be used on the employee's salaries and fringe. That comes as almost a double-edged sword. We have to build our capacity, like was said earlier, to have the right people doing the right jobs. So that has to drive up that salary a little bit. And the next thing you know, we are having to take from the Tribal Transportation Program funds to supplement the Road Maintenance Program, which hinders the tribe's ability to perform much-needed construction and reconstruction of our roads. So we are having to supplement from one program through our transportation dollars. It is suffering through, it is almost taking from one to pay the other.

So we are never able to reset the system, we are never able to start from a phase one to actually address the problems. We are always in a reactionary mode, to fix and to make sure that our children are safe that are out on all of these roadways and the bus systems. We have literally 10 schools that drive on our roads, and all of these students are forced to go onto these roads, because they need their education to get to the next level.

So you can see how it hits very close to home. I have two daughters that go to two separate schools. They take two different ways to get to their schools, and they both run into these situations on our roadways.

We literally had my six-year old daughter's bus last year hit a frost boil that popped up, they pop up hourly because of our high water tables and the negative 50 below wind chills that we get in the Turtle Mountains. That frost comes up and it comes up fast. It destroys pieces of our road, and you can't forecast where it is coming from.

Her school bus had to stop on the side of the road and wait for another bus to come and pick up all of these little students off the school bus. It makes you think, you are glad that everybody's okay, you are glad that our bus drivers have that capability to react as they do. But what if they didn't see something? What if? And we are forcing our students to go onto these roads, because we have no choice. That is how they know that they are going to get through education. That is how we change the world, is through education.

But we are hindering it with having to supplement for five employees that are all over our 200 miles of roads on our little reservation, from left to right. And we can't put a plan together because everything is reactionary and we have such a short season.

So I know that is a long version of the question you just asked, and I apologize for that.

The CHAIRMAN. No, that is fine. Do you have partners or, are there other partners or funding sources that you can utilize for roads?

Mr. AZURE. I would probably defer that to my transportation director, with additional partners. This is Ron Trottier, he is the Turtle Mountain Tribal Transportation Director.

The CHAIRMAN. Come on up.

Mr. TROTTIER. Thank you for inviting me. Yes, we currently partner with our county officials. We have an MOU where we have some tradeoff roads. But even that is a constant struggle. They are also working with limited resources. So yes, there is a partnership, to answer your question, but it still isn't adequate. We still can't react properly, we still can't plan properly. Again, they are kind of dealing with the same issues that we are.

The CHAIRMAN. Okay. I think it highlights the need for this type of legislation, and others, not just in Turtle Mountain, but across the Country.

Mr. TAHSUDA. Absolutely.

The CHAIRMAN. Again, I want to thank both of you for being here, very much. Also, Secretary Tahsuda, thank you for being here, and for your testimony and support for the legislation as well.

With that, we will conclude the hearing. The hearing record will be open for two weeks. There may be questions submitted for the record, and we would ask that you respond.

I want to thank all of you for being here today, for your time and for your testimony, and for your leadership on the reservation, Chairman.

With that, our hearing is adjourned. Thank you so much.

[Whereupon, at 4:20 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF THE MANDAN HIDATSA AND ARIKARA NATION

Introduction

Chairman Hoeven, Vice Chairman Udall and Members of the Senate Committee on Indian Affairs, the Mandan, Hidatsa and Arikara Nation (MHA Nation) appreciates the opportunity to provide this testimony for the Committee's Legislative Hearing on S. 1211, the Addressing Underdeveloped and Tribally Operated Streets (AUTOS) Act. The MHA Nation strongly supports the AUTOS Act. New and increased funding is needed immediately to address roads construction, maintenance and safety on our Fort Berthold Indian Reservation in North Dakota. Safe and secure roads are critical to our members and sustaining energy and economic development on our Reservation.

As you know, our Reservation is in the middle of one of the most active oil and gas plays in the United States. Even with pipelines and rail transport, well-maintained industrial grade roads and bridges are the backbone of our energy and economic success. If we can't get trucks and equipment to well pads, we can't produce domestic energy resources to support our tribal, regional and national economies.

It is also vital that we provide safe roads for our members and communities. Our Fort Berthold Indian Reservation is not an industrial park. We live here. These are our homelands. Our members must be able to travel safely and easily to work, school, the store and more.

We need \$1.3 billion over the next 10 years to reconstruct and maintain our Reservation roads. Recent estimates for new road construction to meet industrial standards are about \$3 to \$3.5 million per mile. In addition, over the next 10 years we anticipate needing \$365 million for transportation improvements and safety.

The AUTOS Act would be a good start toward addressing this unmet need and fulfilling the United States' treaty and trust obligations to provide adequate funding to support tribal transportation and economic development. The Act would also provide separate funding for overdue repair and replacement of bridges. The Act would also streamline permitting and approvals for projects needed to increase roads safety on our Reservation. All of these measures and more are needed to address decades of underfunded Indian reservation roads.

Funding Authorization Increases

The AUTOS Act represents a long overdue recognition that Indian road and bridge maintenance programs are severely underfunded. The AUTOS Act would provide \$46 million in annual funding with \$2 million increases each year for 5 years. While this funding is sorely needed, unfortunately it represents a drop in the bucket.

The Bureau of Indian Affairs' (BIA) Roads Maintenance Program is currently funded at about \$30 million a year. This amounts to serious underfunding of a national infrastructure program and does not come anywhere close to supporting tribes like the MHA Nation who are engaged in energy development. We need about 4 times the \$30 million provided nationally just to maintain the roads on our Fort Berthold Indian Reservation.

The \$30 million in existing roads maintenance funding is distributed to all federally recognized tribes according to a formula to cover maintenance for 29,100 miles of BIA roads and 1,000 BIA bridges. Not counting bridge maintenance, this level of funding only provides about \$103 dollars per mile. Funding at that level barely cover the cost of gas to get crews on-site. As a result, most Indian roads maintenance simply does not get completed.

It is important to note that the United States' obligations to adequately fund reservation roads is based on vast cessions of land and resources by Indian nations to the United States through treaties and agreements. As a result of these treaties and agreements, the United States has treaty and trust responsibility to provide basic infrastructure needs on our reservations. The AUTOS Act is a good start, but much more funding is needed to meet these obligations. At a minimum, the AUTOS Act

should make clear that the funding authorized is in addition to the existing annual funding for the BIA Road Maintenance Program.

Funding for BIA Bridges

The MHA Nation supports establishing a separate funding account from the Highway Trust Fund for the replacement and rehabilitation of BIA bridges. The AUTOS Act would provide between \$16 million and \$24 million over 5 years in annual funding to fix BIA bridges. This amounts to \$100 million over 5 years. While this funding is badly needed, unfortunately, this is funding level does not even cover current needs.

More funding is needed to keep our bridges and tribal members safe. During the hearing, the Principal Deputy Assistant Secretary for Indian Affairs testified that:

Of the approximately 1,000 BIA bridges across the country, 169 are considered structurally deficient or functionally obsolete. We estimate that it will cost over \$105 million to repair, rehabilitate or replace these deficient or obsolete bridges.

BIA needs \$105 million now, the AUTOS Act provides \$100 million over 5 years. The safety of BIA bridges should be a priority. Our infrastructure is crumbling and ready for repair. Our families should not be forced to travel on bridges that BIA considers "structurally deficient or functionally obsolete."

In addition to repairing existing bridges, we need funding for new bridges. In the 1960's, our Fort Berthold Indian Reservation was flooded and cut in half by the construction of the Garrison Dam which is part of the Pick-Sloan Missouri Basin Program authorized by the Flood Control Act of 1944. The Garrison Dam created Lake Sakakawea in the middle of our Reservation. The Garrison Dam created a 2 to 14-mile gulf within our land base and social networks.

We have two bridge on our Reservation for travel across Lake Sakakawea. These bridges are near the northern and southwestern borders of our Reservation. Our members living to the south and east must travel long distances, sometimes during extreme weather, to use these bridges. Not to mention the strain and delay it places on our law enforcement and emergency services, and the limits it places on our economic development. We have long needed a bridge to the south and we already identified the most effective site to construct this bridge. This new bridge has long been authorized by Congress, but never funded. The AUTOS Act should provide funding for new bridges, particularly when needed to address the impacts of flooding from Federal water projects.

NEPA Categorical Exclusions for Tribal Transportation Safety Projects

The MHA Nation supports the AUTOS Act's provisions for National Environmental Policy Act (NEPA) Categorical Exclusions for tribal transportation safety projects. We need to address roads safety issues immediately and as they arise. The safety of our members is our number one priority.

The Act's provisions for categorical exclusions should be enacted into law even with recent actions by Interior to update its regulations to provide similar categorical exclusions. The ability of tribes to implement transportation safety projects without delay cannot be dependent upon agency regulations. We need the AUTOS Act and these provisions passed into law to give Indian tribes the ability to effectively manage and complete transportation safety projects.

The AUTOS Act should also specify that Interior's work to develop additional categorical exclusions shall be determined in consultation with Indian Tribes. The Act provides just 180 days for Interior to develop a new rule with additional categorical exclusions needed by tribes. The MHA Nation is concerned that this may not be enough time for meaningful and effective tribal consultation. Given that many tribal transportation safety projects already have a categorical exclusion under Interior's recent update to its regulations, we recommend taking the time needed for tribal consultation in the identification of additional categorical exclusions.

In addition, for transportation projects that are not included in a categorical exclusion, the AUTOS Act should include provisions for Indian tribes to determine which transportation projects will be subject to NEPA. Our tribal governments know better than anyone when a transportation project is being constructed or repaired in a sensitive environment. We can decide when additional review or analysis is needed to protect our natural, cultural and social resources. Finally, for these projects that are subject to NEPA, the AUTOS Act should include provisions for tribally led NEPA analysis with review limited to the reservation or adjacent lands.

Conclusion

The MHA Nation supports the AUTOS Act. The Act is a good start and we ask that the Committee amend the bill to increase the funding authorizations to meet actual need and take additional actions to support economic and energy develop-

ment on Indian reservations. Roads and bridges are the backbone of a successful economy and the United States has a treaty and trust responsibility to provide adequate funding for these projects.

On our Fort Berthold Indian Reservation, we need hundreds of millions more to maintain our roads and infrastructure while developing significant oil and gas resources. These resources add to the United States' domestic energy supply and support our tribal, regional and national economy. The MHA Nation stands ready to assist Chairman Hoenes and the Committee in support of the AUTOS Act and additional roads and bridges funding.

PREPARED STATEMENT OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY
RESERVATION

The Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Tribe) (U & O Reservation) wishes to express its support for the passage S. 1211, the "Addressing Underdeveloped and Tribally Operated Streets ("AUTO")" legislation. That said, we do wish to make the following recommendations:

On The Bill's NEPA Provisions

While the Ute Tribe supports the Streamlined CatEx/NEPA process, it encourages the Committee to go a step further and finally afford tribes the right to truly manage their own environmental compliance on on-reservation roads projects. This requires, among other things, allowing the tribes who wish to do so, the right to make their own governmental decisions on the timing and the scope of the NEPA inquiry on an on-reservation roads project on their own reservation.

While environmental concerns are always important, to properly address those concerns, NEPA should be a locally driven undertaking that takes into account local environmental conditions, as well as practical factors, like the lack of an alternative route. It should also allow those who live in the immediate area, and who view the proposed site on a regular basis, to assess whether a greater harm would be caused by failing to move forward with the proposed new construction. Additionally a proper NEPA inquiry should always be based upon the most timely and most accurate information available.

Today, tribal projects across the country are often held up by well-intended people that have never been to the state involved, who talk about the reservation on which a given tribal roads project is proposed to be located. Thus, many of those individuals are basing their conclusions, and in turn their NEPA comments, on what they have read and not on what they know or have seen for themselves. To make matters worse, many of the federally developed environmental studies that they are relying upon, like some endangered species reports, are out of date and were performed by biologists who have never made a site visit to our reservation. As a result, they often fail to incorporate actual or changed conditions in our local area.

Our Ute Tribal Members live or work on our U & O Reservation, or have family who do. Thus, they will never allow their own tribal homeland and its environment to be ruined by poorly thought out development. Is it not time that we trusted them to make informed decisions about the NEPA compliance on their own reservation?

On The Legislation's Bridges Provisions

The Ute Tribe strongly supports the proposal to return the BIA bridge program to a stand-alone status. Tribes should not be forced to decide between the safety of a bridge and the safety of the road leading up to that bridge. This is one system, and safe bridges without safe roads still get people injured or killed.

Additionally, while returning Indian bridges to a separate funding category is a good start, the amount proposed to fund the effort is obviously inadequate. If we really want to make progress, the \$16 million proposed needs to be a minimum of \$160 million until the federal government starts to make a real dent in the tribal bridge safety backlog.

On The Road Construction and Major Improvement Provisions

While the Ute Tribe appreciates the sponsor's efforts to increase the funding for tribal road construction and improvement, the amounts proposed are clearly inadequate. Our U & O Reservation is the second largest reservation in the United States. We have more than 5,000 miles of road in our tribal transportation system, and 827.9 of those miles are BIA and tribal roads. We also live in an area where the snow and ice, that comes every year, causes on-going deterioration to our roads and bridges. These are old structures that were never built to sustain the combination of snow and ice, delayed maintenance, and heavy use by the oil and gas trucks that drive our local and Utah State economy.

Our tribal transportation experts have calculated that the “cost to improve,” yes to merely “improve” those roads, is in excess of \$1,323,693,000 (\$1.3 billion plus) or \$267,683 per mile. This per mile estimate is considered conservative by most roads experts, when compared with the estimates compiled for comparable improvements, on comparable roads, on comparable terrain. And, given that the Tribe only receives \$5.8 million per year for this work, these improvements will, at this rate of funding, take 228 years to complete at FY 2019 dollars, if no further deterioration during that period, which is of course laughable.

On The Roads Maintenance Language

The funding proposed for roads maintenance is even more deficient, because it is targeted for roads that, as stated above, already require major improvement right now. In 2018, our total federal roads maintenance budget, for our entire U & O Reservation, again- the second largest reservation in the United States, was around \$500,000. That was, and if FY 2019 estimates are correct, and still is, approximately \$603 per mile. This is in Utah, where snow is so prevalent that people travel here to engage in winter sports. Thus, where road preparation and snow removal are needed, sometimes multiple times a day, during the winter. So put yourself in the position of our roads director, who has \$603 per miles for treating roads, snow removal, pot hole repair, drainage and culvert repair, and regular taring, line painting and other standard roads’ maintenance, on the very roads that our school busses, ambulances and law enforcement all operate. And on the very same roads that his own elders take to church, medical appointments and grocery shopping. This should be a national embarrassment.

Conclusion

In conclusion, while the Ute Tribe wishes to thank the sponsors of S. 1211 for their efforts to date, and recognizes that the federal budget is not unlimited. It asks the Committee to realize, however, that it has been the Congress’ past decisions to ignore these very real tribal roads and bridges problems that has led to the backlogs that now exist. A backlog that will continue to grow exponentially over the next few years if something is not done now. Fixing these roads and bridges is an investment. It will create jobs and other forms of economic development, and it will allow the BIA to live up to its basic treaty and trust responsibility.

While the Ute Tribe is happy to continue to support its local transportation system to the extent practical, its income, like all private sector dollars, is not unlimited. So, is it not time for the federal government to step up and pay its fair share of these costs for the roads and bridges that the BIA itself owns?

JAMESTOWN S’KLALLAM TRIBE
May 16, 2019

Chairman John Hoeven,
 Vice Chairman Tom Udall,
 Senate Committee on Indian Affairs,
 Hart Senate Office Building,
 Washington, DC.

RE: DEPARTMENT OF JUSTICE ADMINISTRATIVE BARRIERS CREATING HARDSHIP
 FOR TRIBES ABILITY TO ACCESS VICTIMS OF CRIME ACT FUNDING

Dear Chairman Hoeven and Vice Chairman Udall:

On behalf of the Jamestown S’Klallam Tribe, I write to urge you to exercise your Oversight Authority to address a serious issue that is preventing Tribes from being able to access Victims of Crime Act Funding. The Office for Victims of Crime (OVC) within the Department of Justice (DOJ) Office of Justice Programs (OJP) administers the Crime Victims program and funding.

The current process of administering the program through grants is proving to be ineffective, inefficient, and a barrier to Tribes ability to access this critical funding. Congress created a Tribal set-aside because we so desperately need this funding to create programs and services that will assist victims of crime with healing and provide them access to justice services that have been lacking for far too long within our communities. The utter failure of the current process is clear with the DOJ having returned \$24 million of the FY 2018 Tribal set-aside and the significant drop in the number of Tribal applicants receiving funds in FY 2019 despite the overwhelming need. Congress did not authorize a Tribal set-aside and increase the amount of funding available for Tribes for this injustice to continue to occur.

The FY 2018 Victims of Crime Act Tribal Set-Aside Grant Announcement indicated that Tribes could request up to \$720,000. DOJ then informed Tribes that if

there were funds left over after the initial grant awards were made, Tribes could request additional dollars if they could demonstrate additional need and DOJ, at their discretion, could award a Tribe additional funds. DOJ received 195 Phase I grant applications from Tribes and awarded 178 applicants funding. Each Tribe that was selected could have received close to \$618,000 dollars because the total amount available to Tribes was \$110 million Jamestown S'Klallam Tribe Letter—The Honorable John Hoeven and Tom Udall Re: DOJ Administrative Barriers to VOCA Funding after DOJ took \$23 million off the top. It would be helpful to know what funding methodology DOJ adhered to in making the grant awards.

In 2018, Jamestown applied for the FY 2018 Tribal Crime Victims Services Set Aside Grant and requested the maximum allowable amount of \$720,000. Although we received notification that we had been awarded a grant, the amount of funding awarded to us was nearly half of what we originally requested, or, \$382,511. In addition, the most significant part of our proposal, the purchase of a Mobile Child Advocacy Center and its associated personnel, fringe, and other costs were removed. Child Advocacy Centers were specifically listed as an allowable cost, as were child services. Vehicle purchase and/or lease was also an allowable cost.

However, we were informed by DOJ that if a Tribe did not already have a crime victims' program in place the Tribe did not qualify for the full amount requested due to lack of experience. It is absurd that an agency would use lack of experience as a basis for denying full funding when this is the first opportunity Tribes had to access these funds to create a crime victims' program. The agency determined we did not have the capacity to operate the program before we even had an opportunity to establish a program. It is not only insulting and offensive, but these standards are arbitrary and capricious.

Congress created the Crime Victims Fund in 1984 with the idea that money collected from those that commit crimes should be used to assist those that have been victimized. Each year, the fund is financed by the collection of funds, penalties and bond forfeitures from defendants who have been convicted of Federal criminal offenses. It is important to note that the fund receives no tax payer's dollars. The Department of Justice disperses the amounts collected to states and other entities and, in recent years, Congress raised the cap on distributions effectively quadrupling the amount available for program recipients. Despite these substantial increases, Tribes had been left out of the recipient pool for well over thirty (30) years.

In FY 2018, this ongoing inequity of funding changed when the Omnibus Bill provided a 3 percent or \$133 million Tribal set-aside and in FY 2019 the funding was increased to 5 percent or \$167.5 million. Tribes were elated and deeply appreciative to Congressional Appropriators for providing a direct funding stream to Tribes given the overwhelming statistics regarding crime victimization within our communities. According to the DOJ National Institute of Justice, more than four out of five American Indian/Alaska Native (AI/AN) women have experienced some form of violence in their lifetime with more than half having experienced some form of sexual violence. It has been documented that the rates of violence on reservations can be up to ten times higher than the national average.

Native children are at higher risk of being victims of crime with 50 percent more likely to experience child abuse and sexual abuse than their non-Native counterparts. In 2016, the National Crime Information Center in the Federal Bureau of Investigation reported there were 5,712 missing AI/AN women and girls and the Center for Disease Control has ranked murder as the third leading cause of death for AI/AN women and girls. Despite these alarming national statistics, the clear majority of Tribes are still unable to access crime victim funds and the few that can access these dollars are only able to do so through a restrictive and highly burdensome competitive grant process.

DOJ had informed us that they were going to make the grant application process as simple as possible. The grant application for Phase I was 90 pages long and if Tribes were selected as awardees under Phase I, they moved on to Phase II which required additional documentation. If this is a simple, streamlined approach I would hate to see what a more convoluted process would entail.

Grant funding is, at best, a short-term investment that is used to support the ongoing and critical Tribal justice needs. Competitive grants do not work well as the main funding source. The time limitation leads to instability, the administrative burden on Tribes remains excessive, the lack of flexibility creates challenges to addressing justice needs, funding is insufficient, and the CTAS application process is highly competitive, tedious, and complex and there are many restrictions imposed on how Tribes may use the funds. Base funding coupled with more flexibility would allow for more effective and efficient use of the federal dollar, stronger Tribal justice systems and better programs and services for crime victims.

The FY 2019 grant application process was even more problematic than the FY 2018 rollout despite Congressional Appropriators increasing the amount of available funding for Tribes. DOJ decreased the amount of funding available per Tribe to \$500,000 spread over the course of three (3) years. In addition, Tribes were required to apply for funds for new activities that were separate and distinct from any activities that were covered by their FY 2018 grant award even if they did not receive the full amount requested in FY 2018. Additionally, the deadline for the FY 2019 CTAS application was just seven weeks after the FY 2018 grant deadline.

All these application hurdles resulted in only 59 Tribes applying for the FY 2019 Victims of Crime Act Funding. DOJ was only able to award approximately \$29 million of the \$167.5 million appropriated because of their self-imposed funding caps of \$500,000. Is DOJ now going to send \$138.5 million dollars back at the expense of Tribes? This is not what Congress intended and it is not what the Tribes deserve.

AI/AN victims of crime deserve better and we can do better. For this funding to achieve its intended purpose, permanent, direct funding provided through block grants or a distribution formula developed in consultation with Tribal governments is imperative. This will ensure program stability and that the funding is being allocated to Tribes as originally intended by Congress.

Our Federal trustees should be held accountable and required to assist Tribes in securing this funding as opposed to creating barriers through senseless grant requirements and arbitrary rules. A streamlined funding approach with greater flexibility would allow Tribes to address the unique public safety and justice needs within their communities more effectively and efficiently while allowing victims to receive quality trauma-informed care.

We urge your immediate attention in addressing this matter so that Tribes can access the Crime Victims Fund Tribal Set-Aside as Congress intended and address the needs of Tribal citizens and their community. Thank you.

Sincerely,

W. RON ALLEN, CHAIRMAN/CEO

LA JOLLA BAND OF LUISENO INDIANS
May 15, 2019

Chairman John Hoeven,
Vice Chairman Tom Udall,
Senate Committee on Indian Affairs,
Hart Senate Office Building,
Washington, DC.

RE: URGENT: ACTION REQUIRED TO SAVE THE OVC TRIBAL SET-ASIDE
PROGRAM

Dear Chairman Hoeven and Vice Chairman Udall:

I write to ask for your help to save the OVC Tribal Set-Aside Program, which is on the verge of collapse. I understand you will be holding an Oversight Hearing on May 15, 2019 that includes the President's FY 2020 budget request for Indian programs. I respectfully ask that this letter and comments be considered and made a part of the record for the hearing. My comments below address the FY 2018 and FY 2019 failures of the OVC Tribal Set-Aside program, but a key action item is the need for explicit language in the FY 2020 Commerce, Justice, Science, and Related Agencies appropriations bill which requires OVC to distribute all Tribal Set-Aside funds in the form of block grants or a formula developed in consultation with tribes. Tribal communities experience the highest rates of crime victimization in America. Tribes have been trying for years to obtain a tribal set-aside through the Crime Victims Fund to address the needs of crime victims in Indian Country. Tribes truly appreciate that Congress, with support of the Administration, enacted a 3 percent set aside in FY 2018 (\$133 million) and increased it to 5 percent in FY 2019 (\$167.5 million). The tribal set-aside program has the potential to transform the way crime victim services are provided, and to reach and assist crime victims never served or underserved, including large numbers of women and youth victims of crime.

The process of distributing these funds in the form of grants, each with distinctly different objectives and three-year time periods, is not working and will not work going forward. It is difficult to even imagine as time goes on, tribes having to apply for and manage an unending number of unique grant awards, just for this one program. It is not an exaggeration to say that all time and effort would have to go toward applying for and managing grants, and not for assisting victims of crime.

We were shocked to learn that DOJ returned about \$24 million of tribes' FY 2018 crime victim funds back to the general crime victim fund account. Congress did not enact this funding for this to happen. La Jolla Band of Luiseno Indians, and tribes

across the country, need those funds right now, and can put them to use right now, to assist crime victims, including women and children. This did not have to happen, and the action should be reversed, now.

We are also extremely concerned, and we have been voicing this concern loudly to DOJ officials on multiple occasions that the FY 2019 tribal set-aside program is at great risk of being lost, because of the grant process itself and excessive grant requirements, unwarranted restrictions, extremely small funding cap, and overlapping and super-short application deadline. We have been sounding the alarm, and we reiterate, that actions must be taken now, to ensure that all of the FY 2019 set-aside funds are distributed to tribes this year in the form of block grants or other formula, without overly burdensome restrictions.

For example: We were given contract monies for drug rehab services and counseling, but were not funded for staffing to help administrate this grant, which cut our asking amount in half: which makes no sense because OVC gave back 24 Million!?

The Crime Victims Fund tribal set-aside program can be a real game changer for tribes and tribal victims of crime, which is what Tribes, Congress, and the Administration intended and want to see. And we believe DOJ wants to work with tribes to effect a better outcome. We have to fix this now, and we have to get all of the set-aside funds out to tribes now. Tribes know best how to help their citizens. We can get the job done be we must remove excessive burdens.

Questions that need to be asked of DOJ and OVC

1. In FY 2018 Congress enacted for the benefit of tribes, 3 percent or \$133 million, from the Crime Victims Fund, of which DOJ made \$110 million available to tribes in the form of grants. We understand only \$88 million was awarded, and that DOJ returned about \$24 million of the tribes' funds to the general crime victims fund account. How could DOJ allow this to happen? In the FY 2018 announcement, DOJ set a limit of \$720,000 per tribe, but also indicated tribes could ask for more, and that DOJ might at its option, provide additional remaining funds after initial awards were made. Tribes desperately need these funds. Can DOJ get those FY 2018 funds back to distribute to tribes?

2. We understand DOJ made a decision to award FY 2019 tribal set-aside funds through grants under the FY 2019 CTAS program. This was clearly problematical for several reasons. First, DOJ imposed a very small cap of \$500,000 per tribe, to be spread over a three-year period. The DOJ also said tribes could not apply for funds for activities related to any activities in their FY 2018 applications, and that new activities must be separate and distinct. The announced deadline for the FY 2019 CTAS application was February 26th, just 7 weeks after the deadline for the FY 2018 tribal set-aside application. Because of all this, we understand only 59 tribes were able to apply for FY 2019 tribal set-aside funds under CTAS, which would mean DOJ would only be able to award about \$29 million of the \$167.5 million in FY 2019, because of the \$500,000 cap, and because of the low number of tribes applying because of all the roadblocks presented. We want to know where DOJ is at right now, in terms of how it will ensure that the entire \$167.5 million in FY 2019 funds gets out to the tribes, who so desperately need these funds.

3. We have been hearing over and over from tribes, that although they appreciate grant opportunities to address problems in their communities, grants have become increasingly burdensome to apply for and manage. They are of limited duration, increasingly complicated to apply for and manage, there are overlapping deadlines, and tribes must design a project based on agency grant requirements rather than the needs of the community. Tribes have repeatedly asked DOJ to consider distributing tribal funds through block grant or formula driven means. Now, with the OVC tribal set-aside program, the amount of tribal funding administered by DOJ has essentially doubled, which is good, but we must find a way to eliminate the grants process, initially at least for the OVC tribal set-aside program. Otherwise, more and more tribes will fall through the cracks and not receive this critical funding.

Some of La Jolla's experiences with OVC Tribal Set-Aside Process

FY 2018 had a two phase application process, with the first round of applications due last August 6, and the second phase applications due January 4, 2019. The application process was complex, and there was some confusion in certain areas, including how much tribes could apply for. We had verbally been told by DOJ staff in some meetings, that tribes could apply for a larger amount than the OVC estimated cap of \$720,000, and if there were remaining FY 2018 funds, OVC may increase the award amount. Below is some language from the FY 2018 solicitation:

"OVC expects that award amounts may vary, depending on the project(s) proposed, but typically will not exceed \$720,000 per applicant. Applicants may propose, and OVC may award, amounts exceeding \$720,000 where justified."

"OVC may, in certain cases, provide additional funding in future years to awards made under this solicitation, through continuation awards. In making decisions regarding continuation awards, OJP will consider, among other factors, the availability of appropriations, if and when the program or project was last competed, OJP's strategic priorities, and OJP's assessment of both the management of the award (for example, timeliness and quality of progress reports) and the progress of the work funded under the award."

During the FY 2018 phase one application process, tribes were informed the FY 2019 tribal set-aside funds would be administered through CTAS Purpose Area 7. OVC had language in its fact sheet that was very concerning. First, they announced a cap of \$500,000 to be spread over three years, even though the FY 2019 set-aside was expected to be much larger than FY 2018.

Second, OVC indicated tribes "must request funding to support activities that are different and distinct".

La Jolla Band of Luiseno Indians recently received its FY 2018 OVC Tribal Set-Aside award document. The document is 13 pages in length. 12 of the 13 pages consist of 54 different award special terms and conditions! The Administration says it supports reducing regulatory burdens, but that's not evidenced here. We recommend that OVC and DOJ leadership read through La Jolla's award agreement, and sit through one or both of the two required OVC grant webinars. We think doing so will provide a better perspective on just how challenging it is for tribes just to apply for and manage an award, let alone provide needed services to crime victims.

Thank you for your assistance in saving the OVC Tribal Set-Aside program and making it work as intended.

Sincerely,

FRED NELSON JR., CHAIRMAN



CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska
Edward K. Thomas Building
9097 Glacier Highway • Juneau, Alaska 99801

May 14, 2019

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
HONORABLE JOHN HOEVEN, CHAIR
HONORABLE TOM UDALL, VICE CHAIR
838 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510

EMAILED TO: Mike_andrews@indian.senate.gov, Kim_moxley@indian.sensta.gov

RE: VOCA SET-ASIDE PROGRAM

Dear Chairman Hoeven and Vice-Chairman Udall:

We are concerned with how the Office of Victims of Crime is administering the Tribal Set-Aside for 2018 and 2019, and fear the entire program could be in jeopardy if immediate action is not taken. We have heard reports that nearly \$25 million of desperately needed victim funding was returned in 2018 to the Crime Victim's Fund (CVF) and that based on DOJ decisions for 2019, less than \$30 million has been allocated for 2019, leaving nearly \$130 million left to be distributed in a short amount of time.

Our Tribe banded together with 6 small Tribes in Southeast Alaska for the 2018 funds; we developed a well thought out plan with two programs including a much-needed shelter on an island that could serve 4 communities. Unfortunately, our proposal was significantly underfunded without a reasonable explanation. We have demonstrated fiscal management in numerous federal and state programs with regular successfully audits and demonstrated the needs of our communities.

The Central Council of Tlingit & Haida Indian Tribes of Alaska (Tlingit & Haida) is a federally-recognized tribal government with over 30,000 citizens worldwide, and has an active, government to government relationship with the United States. The Tribe serves 18 villages and communities spread over 43,000 square miles within Southeast Alaska. More than 7,000 tribal citizens reside in Juneau, with several thousand more located in Anchorage. Beyond that, the vast majority of tribal citizens reside in Washington State, and smaller numbers stretch into Oregon and the rest of the world. Tlingit & Haida tribal citizens are among the largest, most isolated, and most geographically dispersed tribal populations nationwide. In Southeast Alaska, where the Tribe provides the majority of its services, most communities have no roads in or out, and must rely on planes and boats for both day-to-day needs and emergencies.

Alaska Natives Victimization Rates and the Need for Meaningful Victim Services

While violence against Native American women occurs at higher rates than in any other ethnic group in the United States, it is even worse in Alaska. According to the Alaska Native Tribal Health Consortium, 50% of Alaska Native women experience physical or sexual violence in their lifetime. The Violence Policy Center reports that the homicide rate against Alaska Native women and children is three times the national average, identifying that in twelve murders, eight will be American Indian or Alaska Native. Even more troubling, the Violence Policy Center reports that Alaska is ranked first among states with the highest homicide rates of women by men and is the most violent state, with Anchorage as the most violent city within the Union. The Seattle-based Urban Indian Health Institute reports that Alaska is among the top ten states with the highest number of missing and murdered Native Americans and Alaska Natives with 52 active cases.

Tlingit & Haida is all too familiar with the corrosive effect that this violence against our women and children has had on our communities. It has been more than a year since the unsolved death of 19-year-old Jade Williams of Kake and nearly a year since the unsolved death of 37-year-old Francile Turpin of Klawock. The murder of Judylce Guthrie, 28 of Klawock, Alaska, was finally prosecuted two and a half years later with a guilty verdict. These families are left reeling from the effects of the violence and have had to try to navigate services for the family members left behind. While Judylce's family was able to attend the trial, the services and assistance offered were not indigenous based, and the family had to navigate the complicated legal system with many unanswered questions and needs.

Because we believe the future of Indian Country rests in the secure status of women living in environments that are free of violence, Tlingit & Haida has committed its resources and staff to working towards bringing an end to these threats to our women and children. At our 2018 annual Tribal Assembly, Tlingit & Haida passed resolution TA18-27 calling for the increased investigation of Missing and Murdered Indigenous Women and asking the Department of Justice to report on their steps to reduce the disproportionate numbers of victims who are Native women.¹

In addition, Tlingit & Haida adopted Resolution TA 18-37 establishing a Violence Against Women Task Force ("Task Force") to fight against violence destroying the lives of our women. The work of the Task Force, in fact, is what brought me in front of you all today.

The Task Force is a community-driven response to end domestic violence and to address cases of missing Alaska Native women. It is charged with studying, analyzing, reporting, and providing recommendations on how to:

- Improve criminal justice system to better serve and protect Alaska Native women;
- Increase criminal justice protective and investigative resources for reporting and identifying murdered and missing Alaska Native women;

¹ "BE IT FINALLY RESOLVED, that the Tlingit & Haida petition the US Department of Justice to evaluation and report on progress by federal and state law enforcement agencies in investigating and reducing the incidence of missing and murdered Indigenous women no later than December 31, 2019 from the states of Alaska and Washington, and US Department of Justice."

- Identify rates of violence against women and reduce incidences through continuing efforts to connect state, tribal and federal resources;
- Address issues relating to public safety and law enforcement that create barriers for responding timely to violent crimes against Indigenous women in rural Alaska communities;
- Identify effective tribal justice methods used to reduce violence against Alaska Native women; and
- Create partnerships with local, state and national organizations for resource development (i.e. Alaska Native Women's Resource Center, National Indigenous Women's Resource Center and NCAI's VAW Task Force).

The Task Force is a continuation of Tribe's increasing attention to violence against women. In 2012, Tlingit & Haida advocated for fully including Alaska Native Tribes within the purview of the Violence Against Women Act.² Since then, we have repeatedly met with the U.S. Department of Justice ("DOJ") to advocate for resources that meets the needs of Alaska Native women and children. We have also supported National Congress of American Indians ("NCAI") resolutions which advocate for the safety of Alaska Native women residing in tribal and village communities. We were ecstatic to see the 2018 Tribal VOCA set-aside and quickly tried to get the news out to our communities. Several small communities decided to join with us to present a unified capacity building grant proposal that envisioned a developing program to help tribes build capacity and provide the desperately needed victim services in a very victim resource desert and costly.

Our Phase I of the Victims of Crime Act ("VOCA") 2018 Tribal Set-aside program was successful but was cut down to ¼ the funding by OVC. When we inquired as to the appeal process, we were told there was none. We firmly believe that hardworking DOJ officials who may not fully understand the logistical challenges we face in Alaska including the lack of available housing and actual costs of resources and services in our remote village communities. We have been encouraged by DOJ's Consultation in Fairbanks this month on VOCA, and to DOJ Principal Deputy Assistant Attorney General Matthew Dummermuth's two-week trip to Alaska, we still believe there is so much education needed to administer these vitally important programs in Indian Country and Alaska specifically. It was incredibly discouraging and insulting to hear that money was returned to the CVF after our proposal was so severely cut.

We are committed to addressing these important issues and continue to demonstrate how our government is prioritizing VOCA, VAWA and related issues. This past year, more than 200 tribal, state, regional, and national organizations, including Tlingit & Haida, joined the National Indigenous Women's Resource Center in support of the Senate resolution recognizing a 3rd

² Tlingit Haida Resolution TA/12-58, Opposition to Any Language Excluding Alaska Native Tribes from the Violence Against Women Act (April 18-21, 2012), <http://www.cchitsa.org/info/press/releases/2012releases/Resolution%20TA%2012-58%20Opposition%20to%20Any%20Language%20Excluding%20AK%20Native%20Tribes%20from%20the%20VAWA.pdf>; Tlingit Haida Press Release, Tribe Strongly Opposes Exclusion from Violence Against Women Act (April 23, 2012), <http://www.cchitsa.org/info/press/releases/2012releases/NR%2004232012%20Tribe%20Strongly%20Opposes%20Exclusion%20From%20VAWA.pdf>

National Day of Awareness for Missing and Murdered Native Women and Girls.³ The first national day of awareness in 2017 reached millions of people across the United States and the world through social media platforms. The social media networking and mobilization this year surpassed the 2017 efforts. Tlingit & Haida held its 2nd annual rally, March and Awareness event in Juneau that had over 100 citizens in attendance. The response to the public call for increased awareness is indicative of the extent of the reality that Native women go missing daily often without any response by law enforcement. And finally, we had noted national speaker Abigail Echo-Hawk, from the Seattle Indian Health Board, Urban Research Program Key-note about the VOCA, VAWA and MMIW crisis in Alaska at our General Assembly to continue to demonstrate how this issue is of great importance and priority for our community to actively combat and further educate to stop the violence. Our male leaders in attendance took a vow to actively participate in raising awareness of these issues and to make crystal clear that these issues are not women's issues, but tribal issues that everyone needs to participate in.

Challenges Facing Alaska Native Communities

There are many barriers that make it difficult for Tlingit & Haida to adequately protect our Alaska Native women residing in what are often remote communities. These include extreme weather, limited police and public safety protection, lack of access to necessary resources and limited counseling and support services. This situation is compounded by insufficient federal funding opportunities that do not even begin to meet the needs of Alaska Natives. We suffer from inadequate data reporting that makes it difficult to tailor programs to the needs of our women. We face a challenging lack of coordination between state and tribal officials, and a lack of training and resources in villages where neighbors are often the first, and only, responders who lack training beyond their compassionate hearts.

Remote Location, Extreme Weather, Lack of Transportation

The geographical remoteness, extreme weather, and the lack of adequate transportation present serious challenges in responding to crime in Alaska Native villages and in accessing state judicial systems in a timely matter. Tlingit & Haida serves 20 villages and communities spread over 43,000 square miles within Southeast Alaska. Our service population is among the largest, most isolated, and most geographically dispersed tribal population in Indian Country. While we are proud to maintain our lives in our original homeland, our struggle to protect our women and children is made more challenging by our geophysical realities. Most of our Southeast Alaska communities are connected only by ferry boats or small planes. There are very few road connections. With only three secure women's shelters in Juneau, Ketchikan, and Sitka in our region, if female victims in other communities seek to leave for safety purposes, doing so requires very public and often delayed travel by plane or ferry. Additionally, if a crime occurs in any of the other outlying communities or villages, the victim's safety is at great risk because our limited police and Village Public Safety Officers ("VPSO") cover huge territories and often are not present for days and weeks in some communities. Consequently, victims often have trouble getting help in time to collect evidence and in some instances, to save their lives. As for issues associated to these crimes, they often go completely unaddressed.

Funding Barriers

³ See TA18-34 attached

While U.S. DOJ has attempted to direct funding towards domestic violence and sexual assault, many federal grant programs do not allow us to spend money on prevention, enforcement, or policing and few programs are available to help us provide counseling services to victims of domestic violence and child witnesses. While Tlingit & Haida is encouraged by the 2018 VOCA Tribal Set-Aside, it is clear from our reduced application award in the Phase I process, that OYC does not understand the true costs of crimes in Alaska and the Resources needed. We need a permanent set aside for VOCA, and grant awards that truly build capacity and program sustainability.

In 2015 DOJ announced the Tribal Access Program (“TAP”) for the National Crime Information Center (“NCIC”), which provides eligible tribes with access to the Criminal Justice Information Services systems. There are now 30 tribes participating in TAP, which will greatly facilitate their ability to enter protection orders and criminal history into the federal databases. Because DOJ is using existing funding for the TAP program, eligibility is currently limited to tribes with a sex offender registry or with a full-time tribal law enforcement agency. Tlingit & Haida is one of many tribes, particularly in Public Law 83-280 jurisdictions like California and Alaska, who cannot meet this DOJ criteria but who do have tribal courts that issue protection orders. For our protection orders to be effective and protect victims, an issuing tribe like Tlingit & Haida needs to be able to enter them into the protection order file of NCIC. A dedicated funding stream should be created for expanding the TAP program and making it available to all interested tribes who meet the requirement. All tribes should have the ability to access federal databases not only for obtaining criminal history information for criminal or civil law purposes, but also for entering protection orders, missing person’s reports, and other relevant information, including National Instant Criminal Background Check System disqualifying events, into the databases. The House Bill 1585 addresses some of these issues, but the Senate has yet to introduce a version of YAWA.

Recommendations for Protecting Alaska Native Women and Children

The funding made available to improve victim services in tribal communities through the FY 18 and FY 19 appropriations bills has the potential to transform the crime victim services infrastructure in tribal communities and bring healing and support to victims who have long been forgotten. For this vision to be realized, however, DOJ must administer the funding in a way that works for the tribal communities the funds are intended to serve.

We have grave concerns that DOJ has not developed a plan to successfully administer the \$167 million appropriated for FY 2019. DOJ has reported that they received only 59 applications for funding through the CTAS process, and DOJ made the decision to cap awards at \$500,000. This would at most allow DOJ to allocate about \$29 million of the \$167 million available.

We request that DOJ provide an update on its plans to allocate the remainder FY 19 funds. We also request assurances that DOJ will distribute these funds to tribal communities as Congress intended. With the high rates of victimization in tribal communities and the lack of services available for funding, funds appropriated for tribal crime victim services should never be returned to the Crime Victims Fund.

In addition, we recommend that DOJ should:

1. Ensure that OVC is appropriately staffed to develop and implement a new program of this scope.
2. Establish a standing tribal advisory committee to guide its decision-making about the implementation of the tribal set-aside.
3. Convene meaningful consultations immediately to develop a formula for distribution of tribal VOCA set-aside funds. We suggest that you start at \$740,000 per year as the base for the Tribal group and look at the self-governance compacting (not contract) models as a starting point.
4. Fund a cadre of technical assistance providers who can work with tribal governments to develop multi-year tribal strategic plans for developing crime victims' services appropriate for their communities. These technical assistance providers could be organized regionally and should be funded to travel and engage in the communities they serve.
5. Provide increased support for dramatically increased funding resources for tribal courts and tribal law enforcement in Alaska. VOCA could be restructured for Tribes to utilize the funds

Questions that should be asked of DOJ:

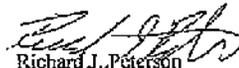
1. You recently released a consultation framing paper that states that you have received applications from 59 tribes requesting only \$30 million of the \$167 million that was made available for victim services for FY 19. We have heard from tribes that the decision to include this funding as part of the CTAS process this year made it very difficult for tribes to apply. They tell us that they were given very little time to apply for the funds and there was considerable confusion about who was eligible to apply and the availability of funding. We also understand you capped individual tribes at \$500,000, down from \$720,000 last year, despite an increase in overall funding.
 - Why did you lower the cap on tribal applicants?
 - Why did you include the program in CTAS instead of replicating the significantly more successful FY 18 process?
 - Will you be releasing a stand-alone solicitation like you did last year to provide an opportunity for more tribes to request funding?
2. Given the extremely high rates of trauma and victimization in many Native communities and the obvious unmet need, we are very concerned that a portion of the funding Congress made available in FY 18 for victim services in tribal communities went unspent.
 - Why nearly 20% of the funding made available was not disbursed?
 - Can you explain why 41 of the tribal applicants (21%) were not funded when there was money available?
 - We understand that DOJ has a very strict policy of not allowing applicants to cure technical defects in their applications and of not providing technical assistance to assist applicants with preparing an application. While this may make sense in a truly competitive environment where you do not want to provide an unfair advantage, how does it make sense in a program like this where there is enough funding to go around and where you owe a trust responsibility to the applicants? What is the tribe's appeal process for this program, when the funding is truly not

competitive? Why was our demonstrated needs not met, when we met the technical requirements and money was available?

- While DOJ may not understand how effective tribal consortia are for helping smaller tribes build capacity, why are we the ones penalized for DOJ's lack of informed understanding and education?
3. It is our understanding that the tribal VOCA funding is intended to meet the needs of crime victims in tribal communities. Can tribes use these funds to address the well-documented need for increased law enforcement, prosecution, and court funding? We need this support for much needed infrastructure in our systems.

Gunalchéesh – Háw'aa- Thank you for taking the time to listen to our concerns. We believe in the continuation of building alliances to enhance and promote the voice of Alaska Native survivors, advocates, and tribal leaders at the village, state, federal, and international levels. By working together we stand stronger in our advocacy efforts for equal access to justice, local village-based solutions to local village problems, and access to services and advocacy designed by and for Native women. We look forward to the results of this committee.

Gunalchéesh / Háw'aa



Richard J. Peterson
President

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO JOHN TAHSUDA III

Question. In 2015, MAP-21 zeroed out the Tribal Roads High Priority Roads program. The program was designed to assist Tribes with funding to repair critically important roads vital not only for access to reservations, but also to attract economic development. By ceasing all funding to the program, Tribes were forced to compete with local governments and municipalities for critical transportation dollars. Many tribes in remote regions of the country depended on the High Priority Roads Program and have been penalized for the last four years. Can you please explain what is being done to address the much needed repairs for high priority roads that serve as lifelines for many Tribes?

Answer. The High Priority Projects (HPP) Program was established in 2004 with the publication of 25 C.F.R. Part 170, a negotiated rule governing what was then known as the Indian Reservation Roads (IRR) Program.¹ Congress changed the name of the IRR to the "Tribal Transportation Program" (TTP) in 2012. The HPP program began in FY 2005 and concluded at the end of FY 2012 with the enactment of MAP-21.²

The HPP program was designated for tribes whose annual allocation was insufficient to complete its highest priority project, or by any tribe for an emergency/disaster project on any tribal transportation facility. It did not provide funding to all tribes, only to those tribes whose funding was generally less than \$1 million annually.

Funds for HPP were derived from 5 percent of the authorized IRR program amount, less mandated set-asides on the amount up to \$275 million, plus up to 12.5 percent of the IRR program amount over \$275 million. In FY 2012, the last year of the HPP program, approximately \$33 million was available.

¹ 69 Fed. Reg. 43090 (July 19, 2004); the provisions governing HPP program appeared at 25 C.F.R. §§ 170.205-214.

² See Section 1119 of MAP-21, creating 23 U.S.C. § 202 (b)(3)(A)(ii)—"Tribal high priority projects.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21), shall not continue in effect."

When the HPP program was operating, approximately \$205 million was awarded to 280 Tribes. The table below shows the number of projects and distribution of funds awarded by Region:

Region	No. of Projects	Amount Awarded	No. of Emergency/ Disaster Projects
A-Great Plains	8	\$3,686,913	2
B-Southern Plains	23	\$21,460,361	2
C-Rocky Mountain	1	\$918,239	1
E-Alaska	126	\$94,712,725	1
F-Midwest	7	\$3,962,000	0
G-Eastern Oklahoma	1	\$1,000,000	0
H-Western	9	\$4,583,648	1
J-Pacific	56	\$38,832,367	2
M-Southwest	7	\$6,464,000	0
N-Navajo	0	\$0	0
P-Northwest	28	\$17,606,175	0
S-Eastern	14	\$12,020,423	0

Not all tribes received HPP program funding. Over the eight years the HPP program existed, 84 percent of the available funds and 88 percent of the awarded projects went to four (4) of the 12 BIA Regions.

Under the current authorization, the Fixing America's Surface Transportation Act ("FAST Act"), P.L. 114-94 (December 4, 2015), the statutory TIP funding formula enacted under MAP-21 continued, including set-asides for projects that are critical to tribes that allows them to receive funding beyond their tribal shares. Examples of these set asides include: 2 percent of all TIP funds are made available to tribes for transportation planning (\$8.9 million in FY 2019); 3 percent of all TTP funds are made available to tribes for replacement and/or rehabilitation of deficient or unsafe bridges (\$13.4 million in FY 2019); and 2 percent of all funds are made available to tribes for priority safety projects (\$8.9 million in FY 2019). Additionally, \$110 million is included in the formula and specifically directed to increase share amounts to tribes who are projected to receive less of a tribal share than the amount they received in FY 2011.

The Emergency Relief for Federally Owned (ERFO) roads program is funded separately through the Federal Highway Administration, Office of Federal Lands Highway, and it provides relief funds for emergency/disaster projects that qualify when applied for by tribes. In FY 2018, Tribes received \$15.4 million from the ERFO account.

RESPONSES TO THE FOLLOWING QUESTIONS FAILED TO BE SUBMITTED AT THE TIME THIS HEARING WENT TO PRINT

WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO HON. JAMIE AZURE

Question 1. Chairman Azure, in your testimony, you mention that your road system is heavily traveled by local school buses. You also mention that your area's annual freeze-thaw cycle damages roads. Have schools been forced to shut down due to washed out roads or poorly maintained infrastructure? If so, how often?

Question 2. You also mention the aging road maintenance equipment you are forced to deal with. Are poor road conditions contributing to higher maintenance costs?

WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO MATT M. DUMMERMUTH

Question 1. In your opening testimony you discussed the serious challenges tribes face in combating violence. Your testimony highlighted that the resources "tribal professionals have at their disposal are often limited" and that "it is an understatement" to say that tribal leaders combatting violence "are often overstretched." In describing efforts to combat this issue, you stated that "the President's Budget recognizes the gravity of the problem, and proposes to direct considerable resources to supporting tribes as they develop solutions." However, the Office on Violence against Women (OVW) reports only a .1 percent funding increase from 2019, and over the last three years funding levels have remained stagnant.¹ Do you believe that law

¹<https://www.justice.gov/jmd/page/file/1142451/download>

enforcement priorities, specifically the crisis of missing and murdered American Indians and Alaska Natives, can be properly addressed by maintaining current funding levels at OVW?

Question 2. The President’s budget requests that Tribal funding through the Community Oriented Policing Services (COPS) Office be funded at \$8 million—a decrease compared to the FY 2019 level of \$27 million. Additionally, funding for the Tribal Youth Program at the Office of Juvenile Justice and Delinquency Prevention is zeroed out. Instead, DOJ intends to fund these programs through a Flexible Tribal Grant or “tribal assistance” set-aside.² Please detail how the DOJ will allocate funds through the set-aside program to ensure all of the Flexible Tribal Grant funds are appropriately disbursed to tribes.

Question 2a. Please detail the tribal consultations that have occurred regarding best practices for administering funds and the feedback DOJ received from tribal leaders.

Question 3. In discussing your department’s efforts to address the issue of crime experienced by tribal communities, you drew attention to the White House proclamation, “Missing and Murdered American Indians and Alaska Natives Awareness Day.”³ In the proclamation, President Trump states that his administration is “improving public safety. . . and expanding funding and training opportunities for law enforcement in Indian country” through “historic investments” in tribal public safety and victim assistance programs. Please explain what “expanded funding” in the White House proclamation refers to.

Question 3a. Please explain what “expanded training opportunities” in the White House proclamation refers to.

Question 3b. Please detail any plans or requests the White House has made to expand funding and training opportunities for law enforcement in Indian country.

Question 4. The White House proclamation states that the Attorney General has “developed a working group dedicated to addressing violent crime in Indian country.”⁴ Please provide a list of members of the working group.

Question 4a. Please detail the mission, duties, and responsibilities of the working group.

Question 4b. Please provide an accounting of all prior meetings of the working group.

Question 4c. Please detail the “law enforcement strategies for Missing and Murdered Indigenous People (MMIP)” that have been developed or that are being developed as a result of this working group.

Question 4d. Please detail the human trafficking training that has been improved or is being improved as a result of this working group.

Question 4e. Please detail the law enforcement initiatives that have been created or are being created as a result of this working group.

Question 5. The Department of Interior (DOI) Budget in Brief for FY 2020 details a new initiative to focus on violence in Indian Country.⁵ Do any components of DOJ participate in this initiative? If so, please list the components.



² <https://www.justice.gov/file/1144566/download>

³ <https://www.whitehouse.gov/presidential-actions/missing-murdered-american-indians-alaska-natives-awareness-day-2019/>

⁴ <https://www.whitehouse.gov/presidential-actions/missing-murdered-american-indians-alaska-natives-awareness-day-2019/>

⁵ https://www.doi.gov/sites/doi.gov/files/uploads/2020_highlights_book.pdf page 18