

**THE TRIBAL LAW AND ORDER ACT FIVE YEARS
LATER: NEXT STEPS TO IMPROVING JUSTICE
SYSTEMS IN INDIAN COMMUNITIES**

ROUNDTABLE

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

FEBRUARY 25, 2016

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**THE TRIBAL LAW AND ORDER ACT FIVE
YEARS LATER: NEXT STEPS TO IMPROVING
JUSTICE SYSTEMS IN INDIAN COMMUNITIES**

THURSDAY, FEBRUARY 25, 2016

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

The Committee met, pursuant to notice, at 1:30 p.m. in room 216, Hart Senate Office Building. Hon. John Barrasso, Chairman of the Committee, presiding.

OPENING PRAYER

Mr. CLADOOSBY. I want to thank Senator Barrasso and your staff for all the work you are doing on this issue. The Senator has so graciously asked me to open this roundtable with a prayer. So if you would all stand and pray in your own way.

Creator God, Heavenly Father, we are so very grateful for this beautiful day, for this opportunity to gather here as a group to talk about a very important issue. We thank you for the leadership that has been assembled in this room that you have chosen for this day, from Senator Barrasso to the tribal leaders, to other elected officials. Thank you for choosing them for this day. May they be filled with wisdom and knowledge and understanding as they deal with these most important issues that affect our people on a daily basis.

As we try to overcome this generational trauma, Lord, may this be one of the tools, one of the avenues that we can use to make our children's generation and the next seven generations better at our homelands. Bless our time together today, bless our conversations. In Jesus' name we pray, Amen.

**OPENING STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Thank you very much, President Cladoosby. Thank you for your leadership. Thank you for the prayer.

I want to welcome everyone here today. I'm John Barrasso, Senator from Wyoming, Chairman of the Senate Committee on Indian Affairs. Today, the Committee is hosting a roundtable on the Tribal Law and Order Act Five Years Later. The question is, what are the next steps to improve justice in Indian communities?

This was passed in 2010. The Act represented a first step in addressing the unacceptable crime rates that were burdening Indian communities. It is based upon five fundamental principles. Number

one is increased response and accountability. Number two, encourage greater cooperation between law enforcement agencies. Number three, provide tribal justice officials with additional tools to combat crime. Number four, improve programs to strengthen tribal justice systems. And then number five, improve data collection and information sharing on Indian Country crime.

We held an oversight hearing in December of 2015 on how this law was being implemented. The Committee has received testimony and additional information that shows that several challenges still remain. Based on the most recent information from the Department of Justice, crime rates for most violent and property crimes remain rather high. It is clear that more work needs to be done.

In 2015, the Committee also held other hearings on drugs and alcohol abuse, on juvenile justice and on victims of crime. During a field hearing we had on the harmful effects of dangerous drugs in Indian Country, the U.S. Attorney of Wyoming, Kip Crofts, and this was a hearing in Wyoming, pointed out that “We need prosecution but we need treatment and prevention of drug and alcohol abuse.” His words echo the one continuing and pervasive theme of all these hearings: the interrelationship between drugs, alcohol and crime.

The Tribal Law and Order Act recognized the key roles the Departments of Justice, Interior and Health and Human Services play in addressing these problems. The cooperation and collaboration of these agencies among themselves and with tribes remains a key to reducing crime. To that end, we have assembled three panels of Federal and Tribal officials to provide recommendations for the next steps in improving criminal justice. Those panels will cover law enforcement, court systems and re-entry and recidivism.

So I want to thank all the witnesses for being here and sharing their thoughts with us today. I also want to thank the Tribal leaders in the audience for attending this roundtable today. After the panel discussions, there will be time for public comments.

The discussion will not end today. The Committee will continue to engage with tribes and other stakeholders on what additional improvements should be made to reduce crime in Indian communities. The goal of the roundtable is to find out what is working and what improvements need to be made, from you, the experts.

In the Tribal Law and Order Act, several provisions have been sunsetted. Perhaps now is the time to consider a reauthorization of some portions of the Act.

I look forward to the recommendations from today’s roundtable. Before we start, I want to introduce and extend a special thanks to the roundtable facilitator, the Honorable Judge William A. Thorne, Jr. Judge Thorne has had a long and distinguished career as a jurist, 34 years as both a State and Tribal judge. He has served in tribal courts in Utah, Idaho, Colorado, New Mexico, Arizona, Nevada, Montana, Wisconsin, Washington, Michigan and California.

In 1986, Judge Thorne was appointed by the Governor as a tribal judge for the State of Utah. In 2000, he was appointed to the Utah Court of Appeals, where he served until retiring in 2013. He is a

Pomo Coast Miwok Indian, enrolled with the Federated Indians of the Graton Rancheria, California.

Judge Thorne has also served on numerous task forces and boards of organizations which focus on foster care, child protection, juvenile justice and domestic violence. He is currently vice president of the National Indian Justice Center, a non-profit that trains tribal court and other personnel around the Country.

I am pleased, Judge, that you could join us today and I know that you will do an excellent job moving the discussion along.

At this time, I would like to turn the roundtable and the discussion over to Judge Thorne. Thank you very much. Welcome, please begin.

STATEMENT OF HON. WILLIAM A. THORNE, JR., ROUNDTABLE FACILITATOR

Mr. THORNE. Thank you, Mr. Chairman.

It always seems odd to turn my back to the bench. I want to thank you all for coming today.

What I hope to do today is to do things differently than most Congressional hearings, where somebody gets up, they have 10 minutes, they read a statement and then the next person reads their statement. We are going to leave the record open today, so you can submit something afterwards if you would like.

So what I would really like to do today is get you to engage in a discussion about what is working and what isn't. Somebody said something, and if that is what is happening in your community or with your experience, please say so. If it is different, please say that. It is not as if you are challenging the person, saying no, that is not right. It is just in my community or in my experience, it is different.

What we want to do is leave all the ideas on the table. We are not going to try and prioritize them. We are not going to try and say one is the first thing to do. We want to put all the ideas on the table so the staff and then the members have a chance to work through those things. So this is really an idea-generating session, rather than testimony as such.

I also want to give you a chance to really start talking about what is working and not working with the Tribal Law and Order Act. So Chief Melvin, let me start with you, since I had to pick somebody, you had the most stars on your shoulder. So we will start with you.

STATEMENT OF PATRICK MELVIN, CHIEF OF POLICE, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Mr. MELVIN. Well, thank you. Good afternoon, everyone. My name is Patrick Melvin. I am the Chief of Police of the Salt River Pima-Maricopa Indian Community in Scottsdale, Arizona, just outside of Phoenix.

We have a lot of stuff that is working. We have challenges, but I think I can start off by saying transparency and accountability lead to the success of some of the programs that we are experiencing now.

Mr. THORNE. Can you give me a couple of examples?

Mr. MELVIN. Absolutely, Judge, sir. Thank you.

One of the main programs is our special relationship with our U.S. Attorneys. We have a great relationship. Unfortunately, that relationship was strengthened about a year and a half ago, almost two years ago, when we lost one of our officers in the line of duty. It involved a tribal crime, happened on tribal land. With the relationship that we have built, as opposed, when they decided to prosecute, it has definitely built the relationships.

I think, however, one of the strengths is the relationships and collaboration prior to beginning with that unfortunate incident. Our relationships have been strengthened and they have helped us, we have actually four special U.S. Attorneys that we have in our community. Those collaborations and relationship have definitely helped us bring cases that have been able to be prosecuted successfully.

Mr. THORNE. Those relationship were in place before the crisis?

Mr. MELVIN. Before the crisis, which definitely helped when the crisis occurred.

Mr. THORNE. Okay. Mr. Little? Tell us who you are.

STATEMENT OF DAVE LITTLE, ASSOCIATE DIRECTOR, FIELD OPERATIONS, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. LITTLE. Thank you, Your Honor. I am Dave Little, I am the Associate Director of Field Operations for the Bureau of Indian Affairs. I am basically in charge of the law enforcement within Indian Country as far as the BI Direct Service programs. Then we also oversee the tribal programs and fund them and assist them with technical assistance.

Some of the things that are and are not working, first, I have to use the word resources.

Mr. THORNE. Everybody needs more resources.

Mr. LITTLE. I won't use the "F" word, but I will use the word resources. With our limited resources, we trying to basically clean up our own BIA departments and then help the tribal departments. We have developed some initiatives, which are called Corrective Action Support Team, which we go into our police departments and we will spend a week, two weeks and we will make sure that we abiding by all the policies and procedures that we have, as the Chief said, for our transparency. Then we will offer that to the tribes and assist them with it.

Mr. THORNE. So you make a local report, then, about what you found and what you are working on?

Mr. LITTLE. Correct.

Mr. THORNE. And do you do that for non-BIA departments as well?

Mr. LITTLE. Yes. We have just started that. Hoopa Tribe was our first one, and we are getting that report out to them, meeting with them this month. And trying to build up their police department also.

Mr. THORNE. Is that on request, or do you choose?

Mr. LITTLE. They came in and requested it.

Mr. THORNE. Okay. Yes, Chief.

Mr. MELVIN. Can I go back? I just wanted to compliment the BIA, specifically Director Little. They have made training very ac-

cessible to my department and to the departments in Arizona. So that accessibility at the Indian Police Academy in Artesia, New Mexico, has made it very good for chiefs like myself to be able to send my officers. They advertise and market on a regular basis. And that is very advantageous to build the professionalism of my department.

So, much appreciated.

Mr. THORNE. Okay. Mr. Thompson?

**STATEMENT OF JASON THOMPSON, ASSISTANT DIRECTOR,
OFFICE OF JUSTICE SERVICES, BUREAU OF INDIAN
AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR**

Mr. THOMPSON. Good afternoon. My name is Jason Thompson, I am the Assistant Director with the Bureau of Indian Affairs, Office of Justice Services. I have been here in D.C. in that capacity for almost six years now. So through the implementation of TLOA, to the degree that it has been implemented.

I think a couple of the success stories, at least internal to BIA-OJS is the training is certainly an area that has improved. With running the risk of kind of overlapping with VAWA a little bit here, because there are some absolute connections for us, training, with the next panel, that they will discuss, courts and those sorts of things.

But TLOA really opened the door for us to start doing more, or allowing more State training for basic police, for officers coming aboard. That has been a huge success for us, and I think for most of the tribes that are utilizing that. Our special law enforcement commissioning has changed drastically because of TLOA. We have rebuilt the process on that and opened up an office that manages that.

Mr. THORNE. And that is the cross-deputization process?

Mr. THOMPSON. It is cross-deputization, yes, at least with us. Not with counties, but for the special law enforcement commissions with us. Those are two things that I would really highlight as TLOA making vast improvements for us in those regards.

I think some things that are not working as well yet from a law enforcement perspective are, the resources are always going to be an issue that is talked about. There are a lot of things in TLOA that really are going to require that we find some resources eventually to be able to bring those things aboard. I think probably our tribal partners should speak to those more so than even I should.

Mr. THORNE. Okay. Mr. Trottier?

**STATEMENT OF KEN TROTTIER, SUPERVISOR/CRIMINAL
INVESTIGATOR, FORT PECK AGENCY**

Mr. TROTTIER. My name is Ken Trottier, I am the Supervisor and Criminal Investigator from the Fort Peck Agency out of Poplar, Montana.

We are a 638 program. But the BIA keeps a close eye on us. Some of the things that are working for us, we have had them in place for several years prior to TLOA. But I think TLOA enhanced some of these areas, such as our cross-deputization agreement. We were very fortunate to have that in place since 1999.

Mr. THORNE. Cross-deputizing with the county or with the State or with both?

Mr. TROTTIER. We are cross-deputized with five agencies: the Highway Patrol, Roosevelt County, the Fort Peck Tribes, the City of Wolf Point and Valley County, which has a small portion on the reservation.

Since TLOA has started, we now have a lawyer judge, we now have a lawyer in the public defender's office. Well, actually, let me take that back. We have two lawyer judges. Judge Crawford is in attendance today and she will be on the second panel.

We have enacted some enhanced sentencing already, I believe to the tune of about a dozen of them. And like was mentioned earlier, VAWA is closely related to TLOA. We have had some prosecutions of non-tribal members in the tribal system.

Some of the things that aren't working for us, as I kind of heard a couple people mention, is resources and of course manpower. With better resources, more manpower, we would be able to better enhance these areas.

Mr. THORNE. Okay, thank you. Mr. Teton?

STATEMENT OF PATRICK TETON, CHIEF OF POLICE, FORT HALL POLICE DEPARTMENT, SHOSHONE-BANNOCK TRIBES

Mr. TETON. Hi, I am Patrick Teton. I am the Chief of Police for the Fort Hall Police Department, for the Shoshone-Bannock Tribes in Idaho.

Initially, some of the positives are, we utilize the Central Violation Bureau of Citations, which are the misdemeanor citations. And those we utilize at our casino and sometimes our gas station. Those are for just misdemeanor thefts or misdemeanor crimes. So we are actually able to deal with non-Indians if they commit crimes on the tribal property. Before, in the past, we weren't able to do anything.

Mr. THORNE. So you issue them a citation?

Mr. TETON. We issue them a citation.

Mr. THORNE. And where does that go?

Mr. TETON. That goes to the Federal court. They can either pay the fine or else show up to the Federal court in Pocatello and fight it or take care of the fine and just pay it.

So that has been good for us, because in the past we would just have to call county or State, and sometimes they would respond and sometimes they wouldn't. That gives us the ability to do something, anyway, as far as enforcing the law on our reservation. That has been a positive since TLOA.

Communication with our U.S. Attorney's office, that has increased. It was increased a lot initially. It has kind of fell back a little now. But just because we have increased communication doesn't mean necessarily we have increased indictments. We still have a high rate of declinations coming from the U.S. Attorney's office.

Mr. THORNE. What kind of a rate?

Mr. TETON. Probably at least 50 percent, 50 to 60 percent.

Mr. THORNE. And are those on the misdemeanors or the serious?

Mr. TETON. No, the serious. On the more serious crimes.

Mr. THORNE. On the serious crimes. Okay.

Mr. TETON. Yes. The positives of that, with TLOA, we have gotten a lot of training and have been able to send some of our staff to the NAC in South Carolina and get them trained. So that has been a positive.

Also more training with the BIA and of course, the FBI. For us, the FBI sometimes are not able to assist in investigations because they have other things that they are looking at, other priorities. So with us, all our investigators go to Glencoe and they are able to present their cases in the Federal court system, so they are able to just take the case from the inception all the way to the end.

Mr. THORNE. Have they utilized the Federal resources, crime labs and so forth?

Mr. TETON. Yes, we are able to work with the FBI and utilize those resources. All our officers have gotten the special law enforcement commission. So that has been a positive.

One of the things that we ran into, we do a monthly statistical report to the Bureau of Indian Affairs. I am not sure what happens with those. We don't get like a quarterly report on what the statistics are, but I think that would probably help and assist. Because a lot of times they say, well, it is all dependent upon the statistics that you provide. And we provide them, but I am not sure where they go after we provide them. Thank you.

Mr. THORNE. Thank you. Mr. Toulou?

**STATEMENT OF TRACY TOULOU, DIRECTOR, OFFICE OF
TRIBAL JUSTICE, U.S. DEPARTMENT OF JUSTICE**

Mr. TOULOU. I am Tracy Toulou, I am the Director of the Office of Tribal Justice.

I think Ken Trottier probably said it very well just a few minutes ago, and that is this Tribal Law and Order Act really enhanced a lot of ongoing activities and gave us an opportunity to improve on those.

At the Department of Justice our relationship with tribes is based on our government-to-government relationship in recognition of tribal sovereignty. So tribal solutions to problems on reservations are the best, because you know your people and what is going on. It should be our job to help at the Department of Justice.

There are a number of parts to the Tribal Law and Order Act we think have enhanced our ability to do that. We think one of them is the tribal liaisons, where we have Assistant U.S. Attorneys who are assigned to work with tribes in the area. Often it is a one-on-one basis, sometimes a tribal liaison will have a number of different tribes. But that allows the tribe to get used to the prosecutor who is going to be working with them, and the prosecutor to better understand the tribe.

Mr. THORNE. Is there a process for feedback about whether that relationship is working?

Mr. TOULOU. There a couple of different ways. One, the U.S. Attorneys have an annual consultation with the tribes. That actually came at the same time as the Tribal Law and Order Act through a deputy Attorney General order. There is ongoing communication, and I think most tribal liaisons are down on the reservations on a regular basis. And there is my office, which was made formal in the Tribal Law and Order Act, which tribes always have the oppor-

tunity to call if they think they need something outside of the district.

Mr. THORNE. I guess I was trying to be polite and say, if somebody has a problem with the U.S. Attorney's office, where do they take it to somebody who can solve that?

Mr. TOULOU. Well, it depends upon what the problem is. A lot of problems can happen. But one of the things that can happen is a call to us. I would say, as we were getting ready for this meeting, for example, I saw Chairman Seki in the back, from Red Lake, there were some issues he was having with the communications with the FBI. That came into my office through that conversation. We contacted the U.S. Attorney's office. The tribal liaison from Minnesota went to Red Lake on Monday with the ASAC from the FBI, and I don't know if they solved the problem, but they started a dialogue. So there is a mechanism for that.

The other thing that we think the Tribal Law and Order Act has helped with as far as communication with tribes is the Special Assistant U.S. Attorneys program. What that is, tribal prosecutors and tribal attorneys become cross-designated in the Federal system. And that has improved that conversation, too. So what we don't want is we don't want to wait for a problem where somebody has to come to me or the U.S. Attorney. We want the opportunity for prosecutors to talk to prosecutors. I think that has helped in that particular area.

The other thing I think has been pretty successful under the Tribal Law and Order Act is, we have been working hard to provide better access to criminal data bases to tribes. We have now, we have just rolled out the Tribal Access Project, which allows tribes to directly hook in through their own kiosk.

Mr. THORNE. What is the average time it takes for them to make an inquiry until they get a report back?

Mr. TOULOU. Once it is up, and it has taken a while to get this up, and we are just deploying now, I want to be forthright about that, one of the things we can talk about is additional deployment, it is instantaneous. They have the kiosk, the kiosk has a direct link into NCIC, the FBI system. It has a fingerprint reader, it has a camera on it, there you have the same access as any other law enforcement in the Country.

Mr. THORNE. And how many tribes have that access now?

Mr. TOULOU. We have just started deployment. There are ten in the initial program. I got some feedback just Monday, I was down in Tucson and there was a tribal prosecutor from Umatilla there and said, it is fantastic. We are doing it in a phase, it is called the user feedback stage. But we would expect with funding, with resources, to have it out very broadly fairly quickly.

Mr. THORNE. Do you have a plan for roll-out, how many a year you are going to be adding?

Mr. TOULOU. It depends on how much money we get, sir, honestly. We have ten this year, and we have asked for an additional \$3 million for next year to continue that roll-out.

Mr. THORNE. And if you got that, how many would you be able to roll out?

Mr. TOULOU. My understanding, this is an estimate, and I am getting over my head, so I am going to have to go back on anything

else, it runs about \$20,000 per unit to get it up, installed and everybody trained. Then after that it drops off. Because that is buying the hardware, getting the initial training. I went to law school, I don't do math. But we could figure out exactly what that is.

Mr. THORNE. Okay, thank you. Mr. Brunelle?

STATEMENT OF WILLIAM BRUNELLE, DIRECTOR OF PUBLIC SAFETY/CHIEF OF POLICE, RED LAKE RESERVATION

Mr. BRUNELLE. Yes, sir. Thank you for inviting me today. I am William Brunelle, I am the Director of Public Safety, Chief of Police of Red Lake Reservation. And quite frankly, we have had some success with the Tribal Law and Order Act, but actually it hasn't been really very effective for Red Lake. I would like to emphasize that one of the things I noted about the Act was, some of the particular language was increase coordination and communication with the Federal, State, tribal and local law enforcement agencies, empower tribal governments with the authority, resources and information necessary.

Mr. THORNE. Are you getting that?

Mr. BRUNELLE. In my opinion, no. And I will state the reason why.

First of all, I think that the intention of the Act I think was on basically, I think it was meant well. But at the same time, it failed to introduce the financial resources to become effective, particularly with Red Lake.

Mr. THORNE. Where would the finances have to go? Is that what you were talking about, cooperation at the Federal level, State, county?

Mr. BRUNELLE. I am talking about the finances that should actually go to tribal law enforcement along with the BIA. I know that for the last five years, there have been increased in BIA's funding. Unfortunately, if you take a look at the last five years, you will see that the increases have actually been decreased for law enforcement services, including BIA and self-governance programs.

So effectively there has not been any increase, but overall there has been for the BIA. So you are not using or aiming the resources where they should be, for one thing.

The other thing is that we do appreciate the fact that some of the funding did address the relationships between the U.S. Attorney's office and tribes by implementing liaisons, U.S. Attorney liaisons. That has improved our relationship between Red Lake and the tribes.

The other thing that we face, which is a large and immense problem, something that we daily face, is the lack of the authority of tribal governments, particularly Red Lake, over non-Indian people who are committing crimes within the exterior boundaries of the reservation.

Mr. THORNE. What has prevented Red Lake from being able to utilize the authority of TLOA to prosecute?

Mr. BRUNELLE. For one thing, Red Lake of course is a closed reservation. It lies in the State of Minnesota. It is basically, State of Minnesota, it is also a P.L. 280 reservation. And the majority of their reservations do have contractual law enforcement agreements with the State of Minnesota. Our licensed peace officers can enforce

State law, and applicable county attorneys, whether it be a county or a city, or your local law enforcement, whether it be a sheriff's department or city police, in addition to the tribal police, can issue, make arrests and jail the person where the offense occurred and have them successfully prosecuted. Whereas, at Red Lake, we don't have that luxury.

Mr. THORNE. Is there something that would help you do that?

Mr. BRUNELLE. I think the funding and the authority of tribes to once again, address the Oliphant decision.

Mr. THORNE. Particularly in a P.L. 280 setting?

Mr. BRUNELLE. Correct. Well, I think it is applicable throughout the Nation, even to other reservations that are not P.L. 280.

I think somehow the U.S. Attorney's office does have the authority. But there is such a gray area in identifying law enforcement authority over Indians, non-Indians, versus where the offense occurred, if it was on ceded land.

Mr. THORNE. You are talking about checkerboard problems.

Mr. BRUNELLE. Yes, sir. So I think that, and the other thing is, some of these crimes, or these offenders who are not Indians, if they commit a crime, for example, at Red Lake, and it is a non-Indian against a non-Indian, we would assume and hope that your local county attorneys would prosecute and that we could forward those cases.

Mr. THORNE. Do they do that, or do they not?

Mr. BRUNELLE. Well, it depends. It goes from county to county.

Mr. THORNE. Okay. So you have better relationships with some counties than others?

Mr. BRUNELLE. Yes. There is no consistency in that, sir. And the other thing is, the U.S. Attorney at times, by no fault of their own, some cases just don't elevate to the point where they should be considered being charged. And where we may see as it being, in our eyes, basically a non-Indian has committed, it could be a victimless crime, such as bringing in a large amount of drugs into the reservation, and particularly, say, for example, marijuana, but they have not met the substantial amount of weight, but yet maybe it is something they are not interested in and the county attorneys won't charge.

So at times we find it necessary to have the resources and the authority to prosecute those people. Unfortunately, it just doesn't exist. I am hoping at some point that when this Act is looked at again that maybe we can potentially address that.

Mr. THORNE. But resources are a threshold issue for you to be able to do that?

Mr. BRUNELLE. Yes, sir. The other thing is just having a lack of law enforcement officers. We push 18,000 calls of service per year amongst a substantially less -

Mr. THORNE. How many officers do you have?

Mr. BRUNELLE. I have actually 16 patrol officers. If I were try and follow the suggested BIA amount of officers of 2.8 is what I was told, whether that is true or not, per 1,000 service population, then we are substantially short of what we need. So for patroling—

Mr. THORNE. Yes, if you are doing 24/7, that doesn't leave very many out there at a time.

Mr. BRUNELLE. Yes, sir. So the Act itself has been effective to a certain extent. We had previously mentioned in conversations that we were going to talk and bring things that we needed to address. I feel like I have done that here in some of the things.

Mr. THORNE. Okay, thank you.

Ms. Beadle, you would ordinarily be on the law enforcement panel, but I understand you have a scheduling conflict. So if you would introduce yourself and tell us what SAMHSA is doing to help.

STATEMENT OF MIRTHA BEADLE, DIRECTOR, OFFICE OF TRIBAL AFFAIRS AND POLICY, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. BEADLE. Thank you, sir. We were excited to be involved here. We specifically made time to be sure that we were part of this conversation.

I am Mirtha Beadle, I am the Director of the Office of Tribal Affairs and Policy at SAMHSA within the Office of Tribal Affairs and Policy. It is the Office of Indian Alcohol and Substance Abuse which was created by TLOA specifically to coordinate Federal efforts around the Indian alcohol and substance abuse problem that is occurring in tribal communities.

The important part about this is that we have been working very well together. What I mean by we, it is the Department of Health and Human Services, both SAMHSA and IHS, the Department of Justice, also BIA and BIE. And what is I think a model here is that we are not just collaborating, we are talking routinely. We have monthly meetings and everyone shows up.

We are really talking about the hard issues and how to press the work under TLOA related to Indian alcohol and substance abuse. That is working remarkably well.

Mr. THORNE. So you are having regular meetings. Is something coming out of that that is making a difference?

Ms. BEADLE. It is. Every single meeting we talk about the requirements under Indian alcohol and substance abuse, where are we, what needs to be done, how are we pushing this forward to make a meaningful difference for tribal communities. So that part is really working.

I think the challenge is, and actually, I will add one more point. One of the areas that we are working on is training, and training tribal representatives to develop tribal action plans. What is wonderful about that portion of TLOA is that it pulls together individuals across areas within a tribe to be able to make sense of how they want to advance that work.

Mr. THORNE. How many tribal action plans have been created?

Ms. BEADLE. I don't have a number with me.

Mr. THORNE. Ballpark?

Ms. BEADLE. Honestly, I don't know. I can get back to the Committee with that. I do know that there were a series of tribal action plans that were developed years ago. There was a guide, if you will, on those action plans.

The part that I want to share that relates back to your question is, we have been doing a great job of providing training for tribal

communities on developing tribal action plans. And like my colleagues on this panel, the challenge is, tribes have told us, we don't have the funds to develop these plans and then implement them. Because there aren't resources to do that.

So we can provide all the training that we can. It doesn't necessarily always result in a tribal action plan.

Mr. THORNE. Do tribes get to access the HHS programs that States do?

Ms. BEADLE. I am going to speak for SAMHSA specifically. You will have IHS later today. But tribes are really accessing SAMHSA's programs very well. There is a difference between some of the mandatory funding and discretionary funding. We have focused on ensuring the tribes have open access to every single program that SAMHSA supports, as long as there is not a legislative prohibition for tribes participating.

Mr. THORNE. Are there any legislative prohibitions that are in place that you are aware of that a revision of TLOA could address?

Ms. BEADLE. Not specifically. I think the issue is, how creative we can be in assuring the tribes can use available resources to develop these tribal action plans, not only in SAMHSA but in DOI and DOJ as well.

But I do want to emphasize that tribes are ready and they want to develop these plans. We have very proactive involvement of the U.S. Attorneys' offices, great relationship. The issue is, we can only go so far. And so how do we help tribes make that next step to be able to develop these plans and implement them, which is what we are working on right now.

Mr. THORNE. Thank you. From the law enforcement community, my guess would be 90 percent of the problems that you deal with are alcohol, substance abuse related or have an issue along that line. Do you get the services that you need to fix the problem once you have made the arrest and once they have been prosecuted?

Mr. THOMPSON. This is Jason Thompson. I would like to at least voice one position on that.

I think where we struggle is, I know we have three different panels, and we are kind of leaning into another one here.

Mr. THORNE. It is all related, though.

Mr. THOMPSON. Exactly. I think that once we make arrests in the field as law enforcement officers, and we have made arrests for someone who has a chronic alcohol or substance abuse problem, and we bring those folks over, far too often the problem that we see is the only place for them to go is to jail. So we have an over-taxed facility that is old, we have too few staff. Unfortunately, the population that we are watching is 80 percent substance abuse, chronic substance offenders. Whereas the 20 percent of the population who is committing violent crimes, they are a small piece of what we do.

But there is not a lot of places for us to send those other folks, for them to receive the type of treatment that they need, the type of training and education programs that exist out there. So what ends up happening is, we either contract with the facility that provides that, at expense to either Bureau of Indian Affairs or tribes or depending on however they fund that, or they go to jail. So that is where we are stuck. I don't put that on SAMHSA as your issue,

necessarily. But I think from that substance abuse perspective, this is something that we see across Indian Country at every location, minus the very few who have contracted or compacted their own substance abuse programs and are doing that very efficiently and effectively, those are not the norm. They are the rarity for us.

So that is a huge problem for us on every level. Because it taxes law enforcement, it taxes corrections, it taxes the resources that are already limited that we have already heard about.

Mr. THORNE. I suspect it is 10 percent of the people that are 80 percent of your problem?

Mr. THOMPSON. That is absolutely correct.

Mr. THORNE. Okay. Anybody else have similar problems? Mr. Teton?

Mr. TETON. Yes, we face the same issues as far as alcohol and drugs go. We do our best to combat it. A lot of times we do have folks who are incarcerated that need the different types of resources as far as alcohol counseling goes, drug counseling goes.

I think the real issue, because it is just not a law enforcement problem or a courts problem or even when they are introduced back into the community, I think it is a problem that stems a lot, we need to deal with it a lot sooner, whether that be education or some kind of programs before these kids get into the system. Because right now, we are trying to combat a problem at almost the end of the problem, which is arresting them or them going to court, when the problem happened years before with like education maybe in elementary school or junior high school or before they have a problem, let's try to deal with them there so we don't end up dealing with them in jails or the court system.

I think we are kind of going at it backwards, where we need to be more proactive, we need to involve more agencies or more departments in this issue, because it is not going away, it is just getting worse. The drugs that they are out there creating, I mean, they are a dime a dozen. You deal with one today, and all of a sudden there is another offshoot of four different types of that kind of drug.

So it is one of those issues where we need to combat it at an early stage, before it enters the court system, before they get involved with law enforcement.

Mr. THORNE. Jail doesn't solve the user problem.

Mr. TETON. It doesn't. The user problem, that is an individual issue. That is an individual choice they go through. So it is helping them make better choices in the future, and that has to start at an early age.

Mr. THORNE. Chief?

Mr. MELVIN. Thank you. I would like to compliment my chief colleague, Chief Teton. He mentioned something and I know community-based policing and community policing is a buzz word. But it goes back to what are we doing with our youth, catching them at an early age. Having a program like the Police Explorer program, that is one of our community outreach or engagement programs with our youth. What that does is that we get them at an early age, starting at age 14. Not only is it teaching them citizenship, teaching them right and wrong, but it engages them, keeps them busy.

Also, we use it as a route to getting employment in public safety, employment on the police department. A lot of times, the communities want to have community members or Natives as part of their police department. That is an excellent opportunity, getting them at a younger age, when they are young, so that we can keep them on track. Policing, as you know, the background investigation, the polygraph investigation, all the stuff that is going to be a disqualifier later, if you get them early enough and start teaching them and engaging them, and showing them that law enforcement can be a great career, it also keeps them so that they are eligible when they become of age.

Mr. THORNE. So you are guiding them, so whether they want to become a police officer, or if they want to go to law school, or if they want to become a nurse or whatever, they have those options available.

Mr. MELVIN. We try to keep them away from the fire department, but we do try to keep them going into law enforcement.

[Laughter.]

Mr. MELVIN. But we do have an excellent record. In our community, they are in different areas. But they are good citizens.

Mr. THORNE. Do you have substance abuse programs available in your community for youth?

Mr. MELVIN. Absolutely we do. And sometimes, if they are incarcerated, there is in our department of corrections, we have a youth program that helps them with education. But also as an alternative sometimes, as opposed to being incarcerated, we do have programs that will help them, not only them but their families, to help engage them and get them back into the community. Those programs work hand in hand with the police department, our department of corrections and the social services program within the Salt River community.

Mr. THORNE. Mr. Brunelle and then Ms. Beadle.

Mr. BRUNELLE. I want to congratulate you on having that Explorers program. We did have that at another law enforcement agency I was at at one point. It is an excellent program for tribal youth.

Red Lake has a couple of things going, and like others, the majority of the offenses, the arrests, the situations we deal with are either alcohol or drug related. But we are taking a couple of steps in combatting these issues. We have a couple different things going, as I had mentioned, one of those being a pilot program for alternatives to incarceration. We identified, along with partnering with the BIA, a group of cohorts, a number of kids that we arrested three years ago. We have kept track of those kids for the last three years. The purpose, obviously, is to ensure that they are not getting in as much trouble, to offer them alternatives for treatment, to work with them one on one.

Along with that, we are also in the process of opening a juvenile detention center that had sat vacant for a number of years due to funding issues, which obviously I brought that up earlier. Nevertheless, we are on the right road here. These kids we are keeping track of, we have seen some success with them.

Along with that, we are also having, we have another pilot program called Tiwahe. I don't know if some of you have seen, in De-

ember we had an officer, basically we had distributed \$20,000 cash to the community. I used the law enforcement officers just before Christmas, it was authorized by the Tribal Council as part of the Tiwahe Initiative to build and develop community relationship between law enforcement. Along with another, working with other programs, Chemical Health, Family and Children's Services, detention, with a whole heart of decreasing and mostly eliminating these types of situations, but also to affect the present generation that we have and also adopting projects for parents, along with children, and reaching them as well.

By going back to the \$20,000 cash, it went viral for our police department. It had over a million hits. It was really something to see. I will tell you, my guys were never ever so proud, and neither was I, along with the Council. You couldn't ask for a better feeling.

Mr. THORNE. It is nice to feel successful, isn't it?

Mr. BRUNELLE. And it was. The relationship, just something that, it improved immensely.

So Red Lake is taking a positive step and moving in a direction. But obviously we have to count on financial resources from the outside. We appreciate them, they are very much welcome. We hope to continue to move in that direction, along with hopefully recurring funding, base funding, to continue that movement as well.

Mr. THORNE. Thank you. Ms. Beadle, what can SAMHSA do to help?

Ms. BEADLE. Sir, thank you for the opportunity to share this point. I do have to leave in just a couple of minutes and wanted to be able to add a couple of points that hopefully will contribute to discussions around improving TLOA.

Two points. I had a meeting yesterday with the SAMHSA Tribal Technical Advisory Committee, tribal leaders who come in to talk with us about substance abuse, mental health priorities. One of the issues that came up was around prevention, the conversation around how do we keep kids out of the system. Interesting enough, this might seem like a simple comment, but it was a powerful comment. The point was, tribal leaders said to us very strongly that they want to have funding to support prevention. Now, SAMHSA has a range of prevention programs that tribes are accessing.

But the point was, how do you define prevention? After school programs, evening programs for youth, a whole range of activities, some of which are not supportable through certain programs. So how do tribal leaders have an opportunity or what is the opportunity for tribal leaders to help define what is preventing these young people from engaging in substance use or engaging in opportunities that might land them in detention or some other facility.

So I think clarifying prevention and the expectation around prevention within the language of TLOA is an important point.

Mr. THORNE. Are there limits in there now, or is it just an administrative interpretation of what prevention is?

Ms. BEADLE. I think certain programs have legislative language around what can and cannot be done in terms of activities. It is clarifying what that means.

Mr. THORNE. Could you get us a list of what those restrictions might be, so they can be addressed?

Ms. BEADLE. Sure, we can do that. One other example. We had a meeting with a tribal leader this week and his team around providing mental health to individuals in their community on a continuum. So SAMHSA's programs provide mental health services. An example, we were talking about drug courts. Beautiful relationship between SAMHSA, DOJ and Interior on drug courts. DOJ supports the establishment of those courts. SAMHSA provides funding to provide mental, actually substance abuse services for those individuals that end up in tribal courts.

The question is, how might there be continuous services for people who do end up in detention or in a facility, so that the opportunity for them to continue to receive services and not give them up are made available to them? This is a very important conversation, a lot of details, a lot of issues that play into that. But we do have to talk about the continuum of services, not just in the drug court setting, but beyond drug courts and that individual's release from prison or from some facility.

Mr. THORNE. Is there a mandate anywhere you are aware of within HHS for States and State subdivisions to share resources with tribal partners?

Ms. BEADLE. I am not aware of a mandate. But tribes, and this is an area that requires other discussion, can work with their States to assure that there is support.

Mr. THORNE. As long as both sides are willing. But there is no directive any place that says, you should at least be talking with the tribes in your jurisdiction, to try and work jointly?

Ms. BEADLE. There is language that basically says, for States who are applying for SAMHSA's block grants, that SAMHSA encourages those States to consult with tribes as they support their programs. These programs, though, are specifically behavioral health. It doesn't delve into justice systems, necessarily. But there might be language elsewhere that might be supportive. I am not aware of that language. But we do encourage States to do that.

Mr. THORNE. Okay. Thank you.

Ms. BEADLE. Thank you, sir. And thank you to the panel members.

Mr. THORNE. Law enforcement community here at the table talk about lack of training seeming to be one of the things that is working. DO you have enough access to it? Do you need specific training that is not yet available?

Mr. MELVIN. If I may, I will start off.

I think some of my panel colleagues were talking about the declinations coming from the Assistant U.S. Attorneys and Federal court. I think additional training would definitely help in that regard, so that we can decrease that number.

However, I also feel that the enhanced sentencing opportunities would also increase if we had the proper training and less declining of certain cases. In my agency, I don't have an issue with training. We have a lot of training, sometimes we have issues with having enough people to fill the training. But I think, if we received additional training, it would lessen the cases that are declined and more cases would be able to be prosecuted.

Mr. THORNE. So in the declination reports that you get back, is the reason for the declination things that you could link to training?

Mr. MELVIN. It doesn't say training, per se.

Mr. THORNE. But you can see the issues related to it?

Mr. MELVIN. Absolutely.

Mr. THORNE. Okay.

Mr. LITTLE. Your Honor, one of the things that we have started working with our Department of Justice partners, the Bureau of Indian Affairs and the FBI have started a joint academy training program. It's an Indian Country criminal investigators training program, it is a three-week program at the Indian Police Academy.

We just did our pilot program and we are planning on running several. It is open to our BIA tribal partners and our FBI. It goes through the different crimes and helps them to understand how to better process a crime scene out in Indian Country of what we see out there every day. We have really good feedback from our pilot, which just ended a few weeks ago. Hopefully we can offer that more.

Mr. THORNE. I noticed you had some U.S. Attorneys participating in the training.

Mr. LITTLE. Correct.

Mr. THORNE. So you got direct feedback.

Mr. LITTLE. Yes.

Mr. THORNE. Okay. Mr. Trotter?

Mr. TROTTER. Sir, we have seen some increased training since TLOA. That has been provided by the BIA, the U.S. Attorney's office and the FBI.

Mr. THORNE. Is it the kind you need?

Mr. TROTTER. Absolutely. For instance, we have had some drug trafficking training, human trafficking in Indian Country training, domestic violence training, and of course, we had the three-week investigator training.

What is going on now versus the past is, they are bringing it to us rather than us having to send people, at department expense, of expensive training somewhere. It is coming right to the Fort Peck Reservation. I bring that up because, keep it coming guys.

Mr. THORNE. That is one of the successes then. Mr. Thompson?

Mr. THOMPSON. Yes, thank you. I think training is an area that we have done a great job with. But it is certainly an area that I would never recommend or suggest is something that we have achieved. We have not laid hold of it completely.

The reason I say that is, when you start to think about TLOA, we think about SLECs and we think about some of these other things. Enhanced sentencing is a piece of this that maybe from the law enforcement piece of it we are not dealing with quite the same way. But we need to understand that better. I think that we do a really good job in our courts with training and coming out and training our courts people and our attorneys there in what this means and what law was going to look like and how that goes.

I had some folk who are here in the room, in fact, meet with me yesterday and bring one of these issues up. I know VAWA is not TLOA, I know it is its own thing.

Mr. THORNE. They are certainly touching each other.

Mr. THOMPSON. Absolutely. There is a great deal of overlap there. I think that some of the areas, I don't say that we have failed that, but an area certainly that we need to get behind quickly is making sure that our uniformed folks understand what that means, what VAWA means, what enhanced authorities there are there, what enhanced sentencing capability there is. So that while we are out there, we operate kind of in a vacuum as law enforcement officers sometimes. We go to the academy or we go to this training, and we get legal training and go out and we go back to work.

I have been a police officer for over 21 years, and I can't tell you the last time that I went back for a legal update. But I know they happen, I know it exists. We have the advantage of having U.S. Attorneys we deal with and those sorts of things to kind of keep us in the move there. But these are huge updates. TLOA and VAWA are huge updates that have happened. I don't know that I would suggest that we from BIA, anyway, have done as good a job as we could and we need to going forward, making sure those uniformed folks really understand what that is and what that means.

Mr. THORNE. From our tribal partners, do you get the U.S. Attorneys coming and helping you train your officers? Or is it two separate spheres?

Mr. BRUNELLE. From Red Lake, we do meet with the U.S. Attorney, basically the liaison. I sit down with her, we talk about the trainings that we need.

Mr. THORNE. Do you have her actually training your officers?

Mr. BRUNELLE. She does train the officers, along with Assistant U.S. Attorneys. But a major problem that we have, though, is that we cannot make direct referrals from Red Lake. Red Lake law enforcement can't, because of course we don't have the Cushard [phonetically] cards. We have not really entertained the idea, either, because of the sovereign nation status.

So that is an issue with us, not to mention it is difficult to really determine the amount of declinations that we are getting from the U.S. Attorney's office because we don't have direct access to that information. So we in turn have to forward a case to the FBI, the FBI forward to the U.S. Attorney's office and then they make a decision.

Mr. THORNE. You can forward directly to the U.S. Attorney's office?

Mr. BRUNELLE. No. No, sir.

Mr. THORNE. You say because of certifications?

Mr. BRUNELLE. Well, I don't think it's necessarily certifications. I don't really know the reasoning or the understanding or the position of the U.S. Attorney's office for the State of Minnesota. But I can assure you that our officers are trained and at times above and beyond that of our local colleagues.

Mr. THORNE. But you don't have a direct pipeline to the U.S. Attorney?

Mr. BRUNELLE. No, sir.

Mr. THORNE. Do you?

Mr. THOMPSON. Yes, sir, we do.

Mr. THORNE. Do you have a direct pipeline to the U.S. Attorneys? [Simultaneous conversations.]

Mr. THORNE. Is that a problem that somebody needs to take a look at with Red Lake?

Mr. BRUNELLE. Correct.

Mr. THORNE. Okay.

Mr. MELVIN. Additionally, Judge, if I may, I think the relationship that our chief prosecutor in our community, Jeff Harmon, has with the Assistant U.S. Attorney is definitely beneficial for the future of our cases. Also, you mentioned a pipeline directly to the AUSAs. We actually do, and that definitely helps as far as training. And I know my colleagues have mentioned that before. It is very important but it is also, I think, this Act has allowed us to have direct access to the attorneys, which is beneficial.

Mr. THORNE. If the prosecutors can tell you what it is they need or what was deficient in this case, then that can get fixed.

Mr. MELVIN. Absolutely.

Mr. THORNE. If it is just a wall, then neither side really helps the other. How about at Fort Hall?

Mr. TETON. For us, our U.S. Attorney, our AUSA there locally doesn't do the training. We end up sending our guys to the NAC over in South Carolina, so they do get training there.

The only issue that we have found with that is that, for example, one of our guys went to the strangulation training they had. He came back, did a case, point blank the way they taught him at the training in South Carolina, submit it and it got declined. The AUSA gave his reasoning, which wasn't the same as the training taught. So he didn't understand that part of, well, we are doing it exactly the way you guys are training this and then when we submit it, it gets declined. He didn't understand that.

I think that might be the downfall of them not doing the training locally, to tell us what exactly they are looking for.

Mr. THORNE. Is there anything that prevents your liaison or other AUSAs from training your department directly about what they want?

Mr. TETON. No, other than time. I think that is probably it.

Mr. THORNE. On cross-deputization, do any of you have problems getting cross-deputization so that you can make arrests, refer cases to either Federal court or to county and State court for offenders?

Mr. MELVIN. In the Salt River Police Department, we don't have issues with that. Matter of fact, we have some of our officers that are on Federal task forces as we speak right now. That has allowed us now, all of my officers are also State certified. So if we are on a task force in the State of Arizona, we can make arrests and prosecute in whatever court that is appropriate.

So we don't have issues with that. That has definitely helped us with our prosecution.

Mr. THORNE. Good. Mr. Thompson?

Mr. THOMPSON. Yes, Your Honor, I think one thing that is important to denote with cross-deputization, whether you are talking about Federal or not, there are a couple of issues out there that really impact this. First of all, whether the states recognize tribal and BIA law enforcement in the State peace offices is a huge issue.

Mr. THORNE. Is there anything that you know of in legislation that prevents the barrier, or is it just choosing not to work?

Mr. THOMPSON. As I understand it, it is State constitutions that denote whether they recognize those law enforcement agencies as State peace offices.

Mr. THORNE. Under State law.

Mr. THOMPSON. A secondary issue is that in some places, we have great relationships with county sheriff's departments. That works very well for us. And some places, that is just not the case. In some places there are historical issues that go back many, many years that create a difficult working relationship between counties and tribes. I think from a law enforcement perspective, you will have a hard time finding a law enforcement officer that stands up here and tells you, it is better for us to not have a cross-deputization.

Mr. THORNE. That is not a solution.

Mr. THOMPSON. That is not a solution always. And in some cases, it is not an option at all. You talk about the tribal sovereignty issue, some tribes don't think that that's the way they want to go. And that is absolutely their right to make that decision. And some counties are just not willing to do it.

So that becomes a problem for us from that perspective, whenever you start talking about non-Indian offenders within the exterior boundaries of the reservation, how do we address those things. Well, if you have a county cross-commission, you are able to pick them up, you take them to the county jail, you cite them there. It is their issue anyway, you are just doing their job for them.

So that is great, it gives you the opportunity to take care of it. But in those States that don't recognize or where those counties or tribes can't make that work out, it is really a -

Mr. THORNE. Do you have a solution to suggest?

Mr. THOMPSON. I don't have a solution. And that is why I bring it up, this group probably needs to, or somebody—

Mr. THORNE. Needs to sit down and tackle that.

Mr. THOMPSON.—needs to sit down and tackle that issue. At some point, we have to be able to say that look, we have proven that Indian Country law enforcement is well-trained, we have proven that they can do the job that everybody else can do. Why do we not recognize those peace officers across the United States?

Mr. THORNE. So maybe you need a facilitator, you need a lawyer to make sure the laws are clear. Then you need somebody who can sit down with everyone in the room and hammer out an agreement.

Mr. THOMPSON. Probably it is a legislative issue in that regard.

Mr. THORNE. Okay. Mr. Teton?

Mr. TETON. In Idaho, they don't recognize tribal law enforcement as peace officers.

Mr. THORNE. How do you solve that?

Mr. TETON. We solved it by utilizing the CVB, as far as getting cross-commissioned, that is not an option. As far as our tribal council believes, we police everything on the reservation. So that is what we try to do.

Mr. THORNE. And you refer them to Federal court if that is what you need to do?

Mr. TETON. Yes.

Mr. THORNE. But that is at least, at least that part is successful?

Mr. TETON. Yes.

Mr. THORNE. Okay.

Mr. MELVIN. Judge, if I may, I am very familiar with the Idaho situation. A lot of times, I just heard a story from a chief in Idaho just the beginning of this week, in that he had the highly-trained canine animal, but was not given the proper respect as a peace officer. So I think Director Thompson summed it up perfectly, Indian Country, sometimes our training is even more so than on the State side or on the outside, so to speak. And to acknowledge peace officers as peace officers, I think is very important.

So I think there needs to be additional discussion on acknowledging peace officers, police officers, not only in Indian Country but being able to access or engage non-Natives and Indian Country land.

Mr. THORNE. Mr. Trottier?

Mr. TROTTIER. The State of Montana recognizes when our officers go through the Indian Police Academy or what now is, it is still under the Federal Law Enforcement Training Center. However, they require that we go through a one-week bridge course that is put on by the Montana State Academy. It works out very well.

And in turn, in order for us to cross-deputize a non-member agency, they have to go through a course that we put on, which is cultural sensitivity and cultural diversity, which is about an eight-hour course.

Mr. THORNE. So a bridge course, one way or the other, might be part of a solution.

Mr. TROTTIER. Correct.

Mr. THORNE. Thank you. Before the panel wraps up, I want to give each of you at least one minute for anything that you want to make sure is absolutely on the table, that somebody is going to pay attention to that we haven't talked about yet. If we have talked about it, assume that the staff will follow up. You can follow up with the staff about it.

But if there is something that we haven't talked about that needs to be considered under TLOA, here is your chance. Mr. Brunelle, you were last before, so we will make you first.

Mr. BRUNELLE. Just a couple of quick things. I know we talked about the jurisdiction, but we at Red Lake, we are not public law. We propose that these law enforcement agreements be revisited at a national level. Because our plan was to enter into contractual law enforcement to deal with the State of Minnesota, not to local counties or to local sheriffs, who at the whims of county elections or personnel issues can pull those agreements at any point in time.

So that is one thing I would ask that the group consider.

Mr. THORNE. In other words, facilitating State-level agreements, rather than just county?

Mr. BRUNELLE. Yes, sir.

Mr. THORNE. Okay. What else?

Mr. BRUNELLE. And then the other thing of course is talking about going back to visiting the Oliphant decision. We have a situation where a couple of things, one of where is a tribal member, a 15-year old boy was murdered. It is unsolved. We have been working with the FBI. It has kind of created a strained relationship.

So as far as who has jurisdiction, whether or not the suspect was a non-member or a member, these are the types of things that we deal with on a daily basis. I think in our opinion, it has to be revisited again.

Mr. THORNE. Is there something that would help with that?

Mr. BRUNELLE. Well, I think you could train your local county attorneys or your city attorneys and let them know that they do have jurisdiction over certain types of offenses that occur in Indian Country, regardless if it's a P.L. 280, because we already know contractual law enforcement agreements exist here. But if it is a State that does not have P.L. 280, I think these people need to be educated and have it explained to them, what authority they do have as a governing agency or entity, holding people who are committing crimes within tribal lands that are non-Indians or non-Band members and holding them accountable.

Mr. THORNE. Okay, thank you. Chief?

Mr. MELVIN. Thank you, Judge. One of the things I would like to say, and I will try to keep it short, to a minute, is enhanced sentencing. Recently we had a case inside of the Salt River Pima-Maricopa Indian community involving an aggravated assault with several other charges that was engaged against one of our community members.

I think, if we, and I will tell you this, working along with the U.S. Attorney's office, we were able to get a seven-year sentence that is going to be served within the Salt River community. So I think that kind of collaboration is very important. And with that type of collaboration, we will be able to get more.

But I would like to be able to, if we are talking Tribal Law and Order Act, to be able to, if the proper, if you have the proper things in place to be able to even enhance that sentencing so that the community member can serve the sentence directly in the community. I know nine years is now, but I think if you have appropriate facility and appropriate training and appropriate everything in place, that we can enhance the sentencing that can serve there in the community.

Mr. THORNE. Besides resources, very quickly, what do you need?

Mr. MELVIN. Besides resources, I think just continued collaboration and conversations with our partners here and with DOJ. I know grants is an issue, we try to seek out all the grants we can.

Mr. THORNE. It is tough running a department on grants, from year to year.

Mr. MELVIN. You cannot. You have to have other alternative resources.

Mr. THORNE. Hard to keep employees in place if they are not sure they have a job when they can go across the street and work someplace else.

Mr. MELVIN. Absolutely. And being an urban community, an urban reservation, we have four cities that, one foot in the Salt River community, the other foot could be in Scottsdale, Tempe or Mesa, Arizona.

Mr. THORNE. Okay, thank you. Mr. Little?

Mr. LITTLE. Sir, one of the things I would like the Committee to address that would help my tribes that we serve, our direct service tribes, I know that TLOA talked about retention and recruitment.

One of the things that I am having the hardest time with is recruiting and retaining who go to similar reservations within our BIA direct service programs. Some of that has to do with our housing program. From what I have talked with our OFMC, our facilities management people, the rates are set, and it is a legislative issue, the rates are set based on a formula. My GS3 police officer in the middle of the Hopi Reservation can't afford \$1,500 rent which is attached to the Flagstaff rent, and that is what I have to use on the Hopi Reservation.

So they tell me this is a legislative issue. So that would be one thing. I have numerous houses sitting vacant because they can't pay the rent. So to get one of my police officers in there, we had to block off some of the rooms so we cut down the square footage, so he could fit into the house.

[Laughter.]

Mr. LITTLE. Is that a fix? For that immediate, I guess it was. But it is more of a legislative thing, because it is.

Mr. THORNE. That is a recruiting thing, to get in there. What do you need to keep your good officers in place?

Mr. LITTLE. Pay raise would be good. But they are doing, actually we are keeping, one of the other issues that I was talking about as far as retaining is maybe a little bit easier, or we need some kind of a waiver, a legislative waiver on our Indian preference. Chief, they have a 125 police officers for their 10,000 tribal members. Look at Hopi, I have 20 officers for the same amount of tribal members. And so one of the things is, they can go out and reach out, hire a lot of, from very different walks of life. Whereas I have to rely on my Indian preference first. Which I agree, I am a tribal member, hire the tribal members first. But if there is not, make it easier for us to go out and recruit veterans and others.

Mr. THORNE. What is the barrier to that? Indian preference just simply says they get scored a little bit more. It doesn't say you can't hire somebody else.

Mr. LITTLE. No, but—

Mr. THORNE. No?

Mr. THOMPSON. The interpretation of Indian preference by the government is that it is Indian applicants only, unless there are no Indian applicants.

Mr. THORNE. Okay, thank you. Mr. Thompson?

Mr. THOMPSON. Thank you very much. I would very much like to thank the tribal leaders who are here, and Chairman Barrasso for being here, and for the continued focus on Indian Country law enforcement. I think one of the things we have experienced over the last few years, we kind of let the increased focuses, improved communication between tribes and the Federal Government agencies. I think that is critically important to us, sitting down and having these conversations and not walking away feeling like we had a conversation and now we are all going back to do what we have always done.

I do think that as far as TLOA is concerned, I think the reauthorization of the Bureau of Prisons pilot that was initiated initially, as tribes begin to start to take advantage of enhanced sentencing, you are now going to talk about taxed detention facilities that now have people in them for three years or five years.

Mr. THORNE. Do you think the BOP pilot was a success?

Mr. THOMPSON. Absolutely. If we are going to allow tribes to take advantage of that and be able to sentence those folks, then the Bureau of Prisons is the most prepared to take care of those types of inmates for us. Certainly we would like to see something there, I don't want to step on Bureau of Prisons, a partner of ours, just saying that that reauthorization would certainly be helpful to us.

Mr. THORNE. It worked and you would like to see more.

Mr. THOMPSON. Absolutely. And one more issue, we talked about recruitment, being able to find those folks, I think some of that goes back to what Chief Melvin has talked about and Chief Teton has talked about, if we can catch folk earlier and prevent the issues that we have from substance abuse and those types of issues earlier, we have a much broader candidate pool, even from a law enforcement perspective. And that may seem like a stretch to people, but in Indian communities, it is not a stretch.

Mr. THORNE. It is a job.

Mr. THOMPSON. It is a job. If we can find folk within those local communities who have not made that mistake and have not gone down the wrong road and are prepared to enter a law enforcement job, then we have people who want to stay in those communities and they are linked to those communities and their families are there. They have grown up there, they know the people. They know how to deal with the crimes in a way that you and I can't. So absolutely, they know the culture. I don't have to train them on the culture, they are the culture.

So those are issues, I think, that we have to focus on. If they get lost in school and they get lost in parenting and they get lost in social services, law enforcement is not going to find them for you in that regard.

Mr. THORNE. Okay, thank you. Mr. Trottier?

Mr. TROTTIER. Sure, can I save up my one minute and come back in six months and take 30 minutes?

[Laughter.]

Mr. THORNE. That is beyond my power.

[Laughter.]

Mr. TROTTIER. Other than resources and some of the other stuff that everybody has mentioned, one issue that I would like to bring up, and it might not be for the Committee, but it probably is right up Mr. Toulou's alley, is every three years we change Assistant U.S. Attorneys. And what happens with us is we just get one trained up to I guess you could say how we want them, and they're gone. And we start fresh again. It generally takes a good year to a year and a half to get that AUSA up to snuff. Once we are rocking and rolling, they are gone again.

So that would be one issue that maybe Mr. Toulou can take back. Other than that, I share -

Mr. THORNE. Or for that part, maybe DOJ.

Mr. TROTTIER. DOJ, sure.

Mr. THORNE. Okay. Mr. Teton?

Mr. TETON. I appreciate the time today. One of the things we would like to see is, as I mentioned before, the training. If we could get it a little closer than having to go all the way to South Carolina. We just opened a new justice center and we have a training

room, so we would be available to host anything that was like in the northwest. Also, we would like to see more coordination as far as the statistics I mentioned, where do they go and what do the statistics look like.

Mr. THORNE. When the reports get filed, you would like to get a copy, at least, of them, the circulation, so you can see what is going on?

Mr. TETON. Absolutely.

Mr. THORNE. Compare yourself to other places, as well as see what they say about you?

Mr. TETON. Absolutely.

Mr. THORNE. Okay, thank you. Mr. Toulou?

Mr. TOULOU. Yes, there is probably a lot around resources, but that is not what we are talking about in the Tribal Law and Order Act. It is an authorization statute. But actually, Mr. Thompson stole my thunder. I think we would like to see the Bureau of Prisons pilot project reauthorized. We think it was a successful project. BOP is interested in seeing it go forward, the Department would be interested in seeing that extended. We think it provides tribes with an opportunity to place dangerous offenders in appropriate facilities. So that would be an easy fix.

So I think that is one we would like to see happen.

Mr. THORNE. Okay. I want to thank you all for your time. I know this is a long way to come and sort of an unusual format. But please follow up with the staff on anything that was raised, or as you are on the plane home, something occurs to you that was missed, please follow up with them. We want to get all those ideas on the table. Because when we can get this reauthorized, when we can get the amendments done, we want to make sure that they work, that we are moving in the right direction to make tribal communities safe for the people who live there.

Please join me in a round of applause for our panel members.

[Applause.]

Mr. THORNE. Thank you.

Mr. ANDREWS. Judge, before everyone goes, President Cladoosby would like to address the first panel and have a few words. At this time, I would like to call on President Cladoosby to address you from NCAI.

**STATEMENT OF HON. BRIAN CLADOOSBY, PRESIDENT,
NATIONAL CONGRESS OF AMERICAN INDIANS; CHAIRMAN,
SWINOMISH TRIBE**

Mr. CLADOOSBY. Thank you, Mike. I want to thank our superheroes here, who do a great job for Indian Country. I have a law enforcement agency back home and it is a thankless job, a lot of times, but it is necessary. Thank you, Judge, thank you for your 34 years of dedication to not only State courts but tribal courts. Very commendable.

Mike and Tony and the rest of the staff here, thank you for listening to us. This is a very, very important issue. Let Senator Barrasso know that we greatly appreciate this time, this opportunity.

My name is Brian Cladoosby Spee-Pots. Spee-Pots. I am the President of the National Congress of American Indians. I am also

the Chairman of the Swinomish Tribe that is located about an hour north of Seattle. I will try to keep my remarks brief, because I need to get to the USDA by 3:30.

Thank you for giving us the time to talk about this issue. I will just take one minute to explain Swinomish to you. We live on an island. We have about 7,000 acres of land. We have made law enforcement a top priority. We are the only tribe in Washington State to be certified. We are only the second tribe in the Nation to be certified, so we have put a top priority on law enforcement at Swinomish.

We have just about 20 officers to serve about 7,000 acres and about 4,000 individuals that live in our community. A report came out recently that said the safest place to live in Skagit County is on the Swinomish Indian Reservation. So it works. Law enforcement works. It is a good deterrent.

You mentioned alcohol and drug abuse. It is across the Nation. If we could eliminate drug and alcohol abuse, they would be like the Maytag repairmen waiting for a call.

So just a little bit about Swinomish. And the BIA provides about 10 percent of our funding for our law enforcement, 10 percent. We have made the commitment that this is a top priority, so we have to take that other 90 percent out of our general fund to fund this. Big issue across Indian Country.

So NCAI, we cannot say this enough, that we need to prioritize reauthorizing the Tribal Law and Order Act. We need to, number one, all of the authorizing funding under the Tribal Law and Order Act is expiring this year. So first and foremost, we need to make sure that that is reauthorized.

Juvenile justice is so important. Our kids are our most precious resource. The Tribal Law and Order Act was a vehicle to address that issue. The tribal justice systems now have nearly five years of experience with implementing this law. We will continue to collect proposals to continue to make the technical amendments to improve this law. Very important, it has to be a living, breathing document.

I concur that the Bureau of Prisons tribal prisoner pilot program must be made permanent. It expired November 24th of 2014. The pilot was for four years. And in that short time, the program is only beginning to work, but it works extremely well. So first and foremost, be repetitive on that point, please. They need to hear us loud and clear.

The Federal Bureau of Prisons, they have supported the continuance in its report to Congress, required by the Tribal Law and Order Act. So we have concurrence from the Federal Bureau of Prisons on this.

Just a little side note. My father is 82 years old. His Indian name is Kel-Kahl-Tsoot. He is the great-grandfather to my two grandchildren. And his great-grandfather was also Kel-Kahl-Tsoot. If you look at the Point Elliott Treaty of 1855, you will see my dad's great-grandfather put his "X" on that treaty in 1855. That wasn't that long ago when you think about it in those terms. My dad is a great-grandfather to my grandchildren, and his great-grandfather signed the treaty for us.

It is very interesting, that boiler-plate treaty in the Pacific Northwest, I am not sure how many of your tribes have it, but it specifically said that no white man will be allowed to reside on the Swinomish Indian Reservation without permission. It is interesting, it says that, no white man. And we have been having trespass issues ever since 1855. And we continue to have trespass issues. And we need to update 18 U.S.C. 1165 regarding trespass, because still today, tribes are dealing with trespass issues across the Nation, whether it be exclusion orders, whether it be lease issues, whatever. They are just misdemeanor offenses. We need to address it adequately to make it a deterrent for these that continue to trespass on Indian lands.

Juvenile justice, very, very important. As you know, our juveniles face disproportionate exposure to violence and poverty. They end up in the system and the majority of them become habitual offenders.

From the Tribal Law and Order Commission 2013 report on juvenile justice and the Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence 2014 report, an AG report recommended that rather than incarcerate Native juvenile offenders, tribes implement culturally appropriate rehabilitation measures. It goes on to say that incarceration of Native juvenile offenders only exasperates an already precarious situation. When placed in juvenile detention facilities, youths are placed in generally unsafe, abusive, ineffective and horribly expensive situations that tend to push them further into a life of crime.

It finishes by saying "It is therefore necessary for tribal juvenile justice system to be able to fashion appropriate alternatives aimed at rehabilitation and treatment." The Tribal Law and Order Report recommends more dollars, more resources. And the Juvenile Justice and Delinquency Prevention Act of 2002, the JJDP, when you think about funding, currently the aggregate amount of funding provided by the JJDP for all of Indian Country, all 567 federally-recognized tribes, equals the amount apportioned to one State. One State gets as much funding as 567 federally-recognized tribes. That is sad. And NCAI is recommending that at least a minimum of 10 percent of the funds available be set aside for tribes.

Both the TLOC report and the AG report recommended that Congress authorize additional and adequate funding for tribal juvenile justice programs in the form of block grants and self-governance compacts.

Finally, something that is also very sad, the Victims of Crime Act funding. For those of you that don't know what the Victims of Crime Act funding is, it is an act that was created in 1984. It is budget-neutral. It does not cost the Federal Government one penny, because the money the government collects for these funds is collected from those who commit the crimes. Let me give you an example. From 2009 through 2013, the Crimes Victim Fund collected an average of \$2 billion a year, but only disbursed an average of \$700 million of that \$2 billion a year from 2009 to 2013. In 2015, and I believe in 2016, they increased that to \$2.3 billion in 2015, and \$2.3 billion in 2016. You have to ask yourself, if you look at a report on the victim statistics across the United States, who would be leading those statistics in violence against their individ-

uals? What group would be leading that statistics in violence against their women? The Native Americans would.

If they funded this based on who had the most crime committed against them, we would get the lion's share of the funding. But because of the way it is set up, it goes to the State and the tribal leaders know what that is like, when the feds have that devolution and they give that money to the State, and we have to fight for those monies with everybody in the State, it doesn't work out too well.

So NCAI passed a resolution calling for at least 10 percent of the distribution of the Crime Victim Funds be directed to tribal governments.

In closing, P.L. 280. It doesn't work. I don't know if that is news to anybody in here. I don't know if it is a revelation for some people in here. But under the Tribal Law and Order Act, we had re-assumption, and I believe White Earth and maybe Mille Lacs might be in the room and they know what I am talking about. I know Hoopa is in the room, represented right here. And they know they would love, in California, to have this.

The Tribal Law and Order Act has some great success stories. It is a great tool for Indian Country. But it needs to be reauthorized. There need to be some tweaks to it. And we need to continue to work as a team on this, as a team. NCAI is continuing to collect data to help in this endeavor.

Thank you and I am just going to make it to the USDA. Thank you, and if you have any questions, Judge, I would be willing to try and answer them. If not, I will excuse myself.

Mr. THORNE. Thank you, we appreciate it.

Mr. CLADOOSBY. Thank you very much. Thanks, Mike.

[Applause.]

Mr. THORNE. We are going to take a very short break, then we will ask the second panel to come up.

[Recess.]

PANEL TWO—COURT SYSTEMS

Mr. THORNE. Welcome back to the second panel.

I am hoping this one will be a little more lively. Police officers, when they appear before judges, tend to be very respectful, very calm. That is what we had with the last panel.

This time we have judges and lawyers. Hopefully we can live up to the saying that if you have four lawyers in a room you have at least six opinions. So please, feel free to disagree. Feel free to say yes, but, or no way. But let's have a robust discussion about what these issues are.

So this panel deals with the court system and TLOA. I am going to ask each of you to introduce yourselves, where you are from and let's start off with one thing that you have seen as a success on what TLOA has been able to do in your community, relating to your court system. Judge Urbina, if you will start, please.

STATEMENT OF HON. ALFRED URBINA, ATTORNEY GENERAL, PASCUA YAQUI TRIBE

Mr. URBINA. Good afternoon. My name is Fred Urbina. I am from the Pascua Yaqui Tribe. I guess one success that I can talk about

today is the SAUSA program that we have implemented on the tribe.

Mr. THORNE. Which program?

Mr. URBINA. The SAUSA program, the Tribal Law and Order Act SAUSA program. So we have four SAUSAs that work in our tribal prosecutors office.

Mr. THORNE. Special AUSAs, right.

Mr. URBINA. Special Assistant U.S. Attorneys, yes, sir.

Mr. THORNE. Okay.

Mr. URBINA. So that program has really been helpful to us in prosecuting both major crime cases, sexual molestations of children, also the VAWA pilot project that we started. We have prosecuted or investigated at least 26 cases regarding non-Indian defendants on the reservation.

So the SAUSA program helps us coordinate what we are doing in a multi-jurisdictional environment. So as that program has been instrumental, Tracy Toulou and the U.S. Attorney's Office in Arizona has helped set that up. We have a tribal liaison that works out with us on the reservation. Her name is Ree Wong. They work directly with our prosecutors. The Department of Justice Indian Country Justice Fellow, I think it is Theresa Arsay, also works on the reservation.

So they work to staff these cases and bring these cases federally. I think in 2008, when we met with the U.S. Attorneys' office, they informed our tribal council that there was no crime on the reservation because of the numbers.

[Laughter.]

Mr. URBINA. So through this program, the prosecutions have increased. Declinations have increased, of course, because prosecutions are occurring. There are some problems with it, of course, there are still some challenges with that program. We have asked the U.S. Attorney to address the program and develop a protocol or a SAUSA manual that would help not only our tribe but other tribes with this process.

Right now, there are no official rules or protocols for this program.

Mr. THORNE. So it is just up to the individual AUSA?

Mr. URBINA. Correct. So this would help solve some of these questions that come up during this process when we are deciding where to bring this case.

Mr. THORNE. Okay, thank you. Ms. Jaeger, can you tell us how TLOA is doing in Alaska?

**STATEMENT OF LISA JAEGER, TRIBAL GOVERNMENT
SPECIALIST, TANANA CHIEFS CONFERENCE**

Ms. JAEGER. Yes, thank you, I appreciate the opportunity to be here.

My name is Lisa Jaeger, I am neither an attorney nor a judge. But I am a tribal government specialist. I have had the opportunity to work with Alaska tribes, villages, for 35 years, for a long time, in trying to help build tribal courts, build tribal governments there. So I have a lot of on the ground experience there with tribal courts.

Just a quick picture, we have 229 federally-recognized tribes in Alaska. Everyone says, well, how many tribal courts are up there,

which is a very difficult question to answer. Because that is a big question. But I can tell you at about any given time, about a third of them are handling active cases. Mainly these are domestic relations, they are dealing with child protection, domestic violence, juvenile cases. It has been a long struggle to gain jurisdiction authority to do this.

So one of the things with the tribal Law and Order Act, in terms of the enhanced authority, of course, that doesn't help us in Alaska, because of the lack of reservations. But one thing that has been helpful, it was actually the case, when the Commission report came out in 2013, there was a special chapter just on Alaska, about just horrific statistics on the amount of sexual abuse and things like that. I hate to report, but since 2010, we have really seen the increase in methamphetamines and heroin. It has reached the remote parts of Alaska. Violence can get even more significant with those drugs.

But right after that commission report came out, we received very shortly after that a plan, or a draft agreement from our State Attorney General to divert misdemeanor cases to tribal courts in Alaska. And we have been negotiating with the Attorney General on this since then. So it has been a couple of years we have been trying to work with them.

We have come close, but the main problem at this point in time is that the State of Alaska wants a waiver of sovereign immunity for the tribes to just do sentencing for these State misdemeanor cases.

Mr. THORNE. Is the purpose of the sovereign immunity waiver to prevent liability for the institution that is going to hold them?

Ms. JAEGER. Exactly.

Mr. THORNE. Maybe we could solve that with insurance?

Ms. JAEGER. I am not sure. It is such a complicated waiver of sovereign immunity here. It is hard enough for the lawyers at the Attorney General's office to even get how this would actually play out on the ground. No less for a tribe to understand exactly. I don't think that tribes are likely going to sign on to this agreement.

So I don't know that this is going to be the avenue. I am thinking, with the reauthorization, kind of the one thing would be to look at Alaska to see if there could be at least a pilot project or some kind of a limited extended jurisdiction over limited subjects or something like that for jurisdiction.

But there has been a lot more activity now with the State of Alaska putting out olive branches and things like that to help work with tribes. This is definitely on the increase.

Mr. THORNE. So you would like some help with negotiating with local jurisdictions on facilities, holding people and other cooperation?

Ms. JAEGER. With that, if it is already in State, if it is already State case, we have a very recent plan now where tribes can actually be intervenors in State criminal cases, so that they can participate in sentencing there, do the culturally appropriate, more restorative justice type sentencing. That is something that has just come up. The Division of Juvenile Justice is offering diversion programs for juvenile cases to our tribal courts.

So there is a lot of progress that is being made. We are doing a lot of sentencing circle on State criminal cases. But still, the hang-up is this, and that is kind of the real ability of the tribes to deal with those low level misdemeanor type cases, have the authority that helps to prevent, in the future, those things growing. And we are being very, very successful when we can deal with them, especially with circle sentencing, this very, very basic, holistic approach to dealing with a crime at a village level.

So we are still looking, probably, for a fix on our jurisdictional problem.

Mr. THORNE. Okay, thank you. Judge Crawford, Fort Peck, how has TLOA affected our community?

**STATEMENT OF HON. STACIE CRAWFORD, CHIEF JUDGE,
FORT PECK TRIBAL COURT, ASSINIBOINE AND SIOUX TRIBES**

Ms. CRAWFORD. Hi, my name is Stacie Crawford. I am from Fort Peck. Just a little about Fort Peck, for those who don't know. It is in the very northeast corner of Montana. So we are not on the mountain side. Everybody says Montana is beautiful. We have the Plains area. But we do have over 20 million acres. So it is 110 miles long, 40 miles wide. It is a large rural area. Our population is over 10,000, but it is a large area with little resources.

We have a tribal court in Poplar, Montana, court of general jurisdiction. One of the benefits of TLOA is that it pushed us to get a new corrections facility. So we have had that in operation since last year, so we were able to meet those requirements so we can use the enhanced sentencing to hold the offenders in our tribal jail.

We were also pushed to get lawyer positions. Traditionally, most of our positions were lay positions. We do have a tribal bar, so they would have to pass that. But we didn't have actual licensed attorneys practicing for a majority of the time. So now we do have the special AUSA, we have a SAUSA, we have a lawyer public defender and we have two lawyer judges.

So that has been a benefit to help with our code development. We have done a lot of that in the recent years.

We have a problem with drugs, substance abuse, those issues. We don't have the manpower in law enforcement, we don't have the resources to get the help that people need. So one of the things that we are working on right now is we are trying to bring back our wellness court and utilize other resources in the community to incorporate more cultural language, those types of things, into the people that we are trying to serve.

Mr. THORNE. Are you able to balance that with the TLOA requirements?

Ms. JAEGER. Yes. One of the problems that we have is trying to use, not just putting people in jail, but the alternative sentencing. Instead of putting them in jail for three years and them sitting there, we want them to be able to come back out and -

Mr. THORNE. Be better.

Ms. JAEGER. Yes. We want to be able to put them back into society. So trying to develop those programs within our correctional facility has been a challenge. But we are still working on that.

Mr. THORNE. Okay, thank you.

Ms. JAEGER. Thank you.

Mr. THORNE. Ms. Tingle, from BIA Tribal Justice.

**STATEMENT OF TRICIA TINGLE, ASSOCIATE DIRECTOR,
OFFICE OF TRIBAL JUSTICE, BUREAU OF INDIAN AFFAIRS,
U.S. DEPARTMENT OF THE INTERIOR**

Ms. TINGLE. Good afternoon. My name is Tricia Tingle. I am the Associate Director for the Office of Tribal Justice. We are, our task is to enforce the Tribal Justice Act, which is at 25 U.S.C. 3602. I say that specifically because there is a Congressional mandate and a statutory mandate for specific things to be done. And we have done that in conjunction with TLOA.

I would like to just say three things that I think are very successful. We have had training as mandated by TLOA. We have trained over 600 tribal court personnel since 2011. Many of the people in this room and some at this table have done the training. We believe that it should be tribally sponsored and tribally driven. We have trained over 600 people.

Always, more training is needed. Lisa and I were talking right before, it is a continuing need, constantly. In the training, along with the tribal court personnel, have been the United States Attorneys' offices. So they have actually worked in conjunction with us.

The second thing is the discussion on the importance of alternative, access to alternative options to sentencing. Misdemeanor cases are prevalent in Indian Country, well, because of the Indian Civil Rights Act. But of course, there are a lot of misdemeanor cases. Those cases have shown to be better addressed by alternatives rather than incarcerating. And I am very happy to hear the discussion and would encourage that we continue that discussion and facilitate that within the agencies and with the tribes.

So the other thing is just the discussion within Indian Country about the law and about due process. I have seen a change in tribal court personnel and the councils. They are very actively ready to engage with us on our tribal court assessments. We have done 81 since 2013. And it is through that funding that we are able to provide some positions. We have provided positions for 25 judges, 20 prosecutors, and 15 public defenders, 5 guardians ad litem. That is part of TLOA.

We have done that; that is not enough.

Mr. THORNE. What would you need to expand that?

Ms. TINGLE. Well, of course we need additional, we need recurring funding to do that. The tribes need it, we of course would give the money to the tribes. That is what they need. They need the training and the SAUSA program, an advocate for that particular program. It trains tribal prosecutors to work very hard and to meet a bar that is quite hard.

So those are the things that I find good.

Mr. THORNE. Okay. Judge?

**STATEMENT OF HON. RON WHITENER, CHIEF JUDGE, TULALIP
TRIBES**

Mr. WHITENER. Thank you so much for having me come and speak today. My name is Ron Whitener, I am the Chief Judge of the Tulalip Tribes in Washington State. I am a member of the

Squaxin Island Tribe, which is south of there about an hour and a half, two hours.

Before this, I come out of public defense, so a lot of what I do swirls around both public defense and the perspective as the judge.

Mr. THORNE. Good. We need that perspective too, because our public defender, who was supposed to be on our panel, got hung up with travel.

Mr. WHITENER. I noticed that. I had to throw that out in case there was any discussion, I wanted to make sure that was on the table.

I would say that the TLOA was absolutely a success in almost every area, if you define success as that there was nothing there before and now there is something. It doesn't mean, though, that there isn't—

Mr. THORNE. It is not perfection.

Mr. WHITENER. It is not perfection and there are steps we need to take in almost every area. But we are certainly seeing the effects of it. We are seeing the effects of it in the ability of the SAUSAs to be heard in the Federal courts, to be able to take those cases from where they start to where they end in Federal court. And also to build that relationship with the U.S. Attorney's office.

At the same time, on the other side of the coin, we see discrepancies from U.S. Attorney to U.S. Attorney about how welcoming they are to SAUSAs. Here at Tulalip, Tulalip had to put a lot of pressure to get the prosecutor at Tulalip certified as a SAUSA and accepted as a SAUSA, and frankly, had to go to main Justice to get that pressure put on before it would even happen. And so some standards of making that much more of an automatic thing for prosecutors that try, if they meet certain standards, they should be certified as SAUSAs. And the winds of political change that happen in the U.S. Attorney's office shouldn't be able to affect whether or not it happens.

Mr. THORNE. You are talking about really creating sort of a routine appointment as long as you are qualified?

Mr. WHITENER. Exactly. I think that is the way it should be, especially for those cases that started on the reservation and then move into the Federal system.

The Bureau of Prisons pilot project was a success, and I am going to say it was a success from the perspective of the judge and the perspective of the defender. And here is why. First of all, the Tribal Law and Order Act, by adding enhanced sentences, was a good thing. But because there wasn't increased funding really for paying for the jail costs, a lot of tribes aren't able to take advantage of the enhanced sentences.

So still, the sentences that defendants get too often are really, the calculus is how much is in the jail budget and what is the effect of future convictions and are we going to have enough at the end of the year. That didn't solve that problem. But the Bureau of Prisons pilot is an option that would help that problem for tribes.

The other thing is that so many of the facilities that we are using to incarcerate were not designed for long-term. That was already brought up in the last panel. Some tribes are very well-resourced, they have very nice facilities. As Salt River said, they could probably do a long-term thing. For a lot of tribes in Washington State,

though, who are smaller tribes, we are sentencing people and putting them into jails that were not designed for a four-year term.

Mr. THORNE. And they don't have much programming.

Mr. WHITENER. There is no programming. So we have people who are, I have a colleague who is a public defender who has a client who says, she is like, he is going crazy, he is in like a 20-bed facility for four years and a 20 by 20 exercise yard. And he is going to go crazy.

And the Bureau of Prisons would do that. It needs to be expanded, though, it can't be just for violent crimes. It needs to be expanded to sentences that are more than a year, and also especially in the alternative, they need to address it and expand to things like violations of domestic violence, protections orders, and DV. I also think we should consider it for special domestic violence jurisdiction cases.

Mr. THORNE. You are talking about VAWA?

Mr. WHITENER. VAWA. That one concerns me a little bit, because those facilities that we have that are tribal facilities are completely, almost all of them are tribal inmates in those facilities. We are talking about now taking a non-Indian who has been committed of committing a crime against an Indian and putting them in that. I think the Bureau of Prisons may be a way that in certain circumstances, if we think that it is an unsafe situation, that we should be able to access that, even if the sentence is less than a year. So that is an area that I think has been a success and has been, but needs more work.

In the area of indigent defense, one of the things that TLOA did for the first time is it introduced a right to counsel in tribal court.

Mr. THORNE. Right to effective counsel.

Mr. WHITENER. Right to effective counsel in tribal courts for a year or more. What that has done is, we have seen more tribes that have implemented public defense in their systems. And they are starting, a lot of the tribes are starting to see that it is not something to be afraid of. In fact, you can make the system move faster. It ends up with less hearings.

So it really, I think, started a wave of increase of indigent defense in tribes around the United States. That needs to be encouraged. There is not as much funding for indigent offense as there is for prosecution. Still, there is not training, as much training for public defenders as there is for prosecution. There is certainly some and Ms. Tingle has worked very hard to get those trainings out. She always includes the defenders in those trainings, but there needs to be more.

There is no coordination between, there is no institutionalized coordination between the tribal defenders and the Federal public defenders. There is nothing that has been institutionalized, there is no SAUSA for the defenders.

Mr. THORNE. If nothing else, if you could make those resources available for training that are used for the Federal public defenders.

Mr. WHITENER. Absolutely. You will find public defenders at tribes working with the defenders, especially on those cases that have a risk of maybe going Federal under the Major Crimes Act.

But there are a lot of resources in the Federal public defender that I think could be made available to tribal defenders.

I know I hit a lot in a short time. Those are my initial thoughts.

Mr. THORNE. Thank you. I appreciate that.

Yes, sir, Mr. Toulou, DOJ. What is working with TLOA and the court systems in the tribal communities?

Mr. TOULOU. I have already had one bite at this apple, but I will take another one. I am Tracy Toulou, I am the Director of the Office of Tribal Justice.

I think a lot of what the Tribal Law and Order Act did was it developed a framework for opportunity. There have been a number of specific programs. But there was a lot of discussion about cooperation and training working together. Some of that plays out with the SLECs and the Special Assistant U.S. Attorneys. But I think it set up dynamic where we could do new things.

And one of the things that happened actually links up with the Violence Against Women Act, and the enhanced sentencing in the Tribal Law and Order Act, and that is how we were going to actually put those provisions into place. And while the Department of Justice has some resources and BIA has some great resources on training and implementation, what we soon came to realize was that the best entities for determining how these provisions were going to be handled were the tribes themselves. Because they were all doing different things in different ways to implement both of these statutes.

And we put together an umbrella group, and basically we put it together, did a little bit of funding and worked with BIA and NCAI. But it was the tribes, and this group is called the Intertribal Technical Assistance Working Group. They met a number of times, the tribes that are sitting here, Tulalip, Pascua Yaqui and Fort Peck have all been very involved in that.

What it is, it is a training opportunity, it is a technical assistance opportunity. But it is really an opportunity for the tribes to help each other and talk through what they are doing. I know that Fred has put together a number of different training materials. We had a situation a few weeks ago where we thought we were going to get a constitutional challenge to part of VAWA. What happened is, members of that Intertribal Technical Assistance Working Group got together and helped each other with briefs.

So this is not something we have done. And it is not directly in TLOA, but TLOA laid the ground work to allow it.

Mr. THORNE. To help facilitate that.

Mr. TOULOU. Yes. Right. And that has been, I think, fantastic. So that is the one thing I would point to.

Mr. THORNE. Okay. One of the things that TLOA has done, it has mandated the creation of multidisciplinary teams dealing with domestic violence and sexual offenses. Has that worked? Are those teams meeting? Are they doing anything?

Mr. URBINA. Yes. Thank you, Your Honor. The MDT process is working for our tribe. It started out with sexual offense type cases. We have modified that to include any crime that occurs on the reservation that has a Federal nexus.

We meet monthly to review and staff these cases. Our SAUSAs help bring these cases. And they also work on the declinations with the U.S. Attorney. So it has helped.

Mr. THORNE. Tell me how they work on the declinations. Are they trying to fix what the problems are in a particular case or learn lessons from declinations?

Mr. URBINA. I think the MDT process is a group of individuals, FBI, tribal victims services, tribal law enforcement, detectives, you have the U.S. Attorney's office and the tribal prosecutor's office working to staff these cases. And then strengthen the cases, work on the investigation to either bring a tribal case or Federal case.

Generally there is a tribal case that is occurring because the tribe usually moves first on those matters. And then they try to strengthen the Federal case. So that is how our process works. It has been very helpful.

In terms of the declinations, the group recognizes at some point that the case isn't going to be viable for whatever reason. And we have actually helped write those declination letters for the U.S. Attorney's office.

Mr. THORNE. So it really is a cooperative, collaborative process?

Mr. URBINA. Absolutely.

Mr. THORNE. Okay. Judge Crawford?

Ms. CRAWFORD. The MDT started in Fort Peck in about 2008. Actually, I was a part of it, as a tribal prosecutor. And Kenny Trotter was a part of it, and he is still a part of it. It had, it really strengthened our relationship with the U.S. Attorney's office. The FBI, they have people probably about 60 miles off the reservation that come there on a daily basis. They work with the criminal investigators. They staff once a month, the U.S. Attorney's office is about five and a half hours, six hours away, and they make the trip. They drive up there.

Communication, you can email, call, they respond.

Mr. THORNE. So it is an open channel, it is not something that you have to force.

Ms. CRAWFORD. It is, and we are fortunate that the FBI is willing to work with us.

The declination process for us is pretty much the same as Pascua Yaqui. We sat down and determined, instead of, we would determine, should it stay tribal or does it warrant Federal? Where would it be better served?

Mr. THORNE. And you do that as a team?

Ms. CRAWFORD. Yes. And so that helped out a lot, because it created, it opened up the communication, but it also let the council know, because when people aren't involved in the process, they don't know the specifics of it. So then we have these declinations and they want to know, you know, why aren't we prosecuting it here or there. But now that the tribe has a say in it, it is a little easier to take, I guess, when something doesn't go Federal when you think it should.

But now that we have the enhanced sentencing, we are able to handle those cases that may not go Federal, but we can get them tribally. So the MDT process has worked for us, and it continues to work.

Mr. THORNE. Okay. Ms. Jaeger?

Ms. JAEGER. I just wanted to say something about not necessarily the teams there, but the reauthorization of VAWA, when it was reauthorized last time, there was an exception for Alaska, when 910 was accepted. So that helped to put a cloud on the issue of whether the tribes had jurisdiction to issue civil orders of protection against people that weren't tribal members.

But that was subsequently rescinded, which we appreciated very much. Because it is imperative that the tribes be able to do civil orders of protection when it is not all tribal members involved. Because small villages, lots of times, it is not. So that was good.

But our State of Alaska had also required that furthermore, in order to have a protective order recognized, that it had to be filed in our central registry system, the Alaska central registry system. Another hoop in order to get cooperation with State law enforcement to help enforce tribal protective orders.

So after quite a bit of convincing and this and that, just a few months ago they have rescinded that as well. So a tribal protective order, civil order of protection, should be observed even if it is not filed in that central registry system.

Mr. THORNE. So if it isn't filed there, they will still enforce it?

Ms. JAEGER. Right.

Mr. THORNE. How will they know it is valid?

Ms. JAEGER. They are going to take it on its face. It is what it is.

Mr. THORNE. What if somebody ends up in Juneau or Anchorage?

Ms. JAEGER. Yes, they have a piece of paper kind of a thing. We still encourage our tribes to register those in the central registry system.

Mr. THORNE. Is it the State is not willing to take them or the tribes are not willing to file them?

Ms. JAEGER. Sometimes we are having a hard time getting them filed into that central registry system. But some of the judges are like, State judges are not doing it, others are more cooperative.

Mr. THORNE. To get them filed, do you need a State judge to sign off on it?

Ms. JAEGER. It has to go through the State courts.

Mr. THORNE. They have to counter-sign the order?

Ms. JAEGER. I don't know if it is counter-sign.

Mr. THORNE. Or approve it to go into the system?

Ms. JAEGER. It has to go through their office in order to get it into the central registry system.

Mr. THORNE. Okay, so is there something that TLOA could do to help ease that process of getting those in a central registry so the validity of those orders isn't questioned somewhere else?

Ms. JAEGER. I don't know. Didn't think about that. I can come back to you on that. But it is a big issue. It is hard if you are in a really remote village and now you have to register this thing with your nearest State court, which is 400 miles away.

Mr. THORNE. It would be nice if you could get online and copy and send it someplace and have somebody there put it online for you.

Ms. JAEGER. And not have it, judge by judge, State judge, determine oh, well, we will file this one but maybe not this one.

Mr. THORNE. Maybe not that one. Okay. Anybody else on multi-disciplinary teams? Should we expand those? Currently they are supposed to be in place for sexual offenses, for domestic violence. Should we expand those to juvenile delinquency or substance abuse?

Mr. URBINA. Yes, I think it should be expanded, Judge, to include different aspects of this process, perhaps a victim center MDT process. If you have a tribal case and a Federal case, sometimes there is a lapse when the tribal case is concluded and before the Federal case starts. So it is like a gray area there that should be addressed. So perhaps a tighter connection between a tribal victim service advocate and a Federal advocate, on the cases that are currently in the MDT process or currently being prosecuted either in tribal or Federal court. In that sense, it should happen there, but it also, we have had issues with our public defenders where they are prosecuting, they are defending the person in tribal court, this could be a tribal member or non-tribal member, we are moving towards a resolution. However, there is a Federal nexus, and that person could possibly be prosecuted.

Mr. THORNE. Especially if they make an admission.

Mr. URBINA. Correct. So if you want a plea agreement, that is going to be a problem.

There are also issues where there might be a secret indictment. There are questions about what can be told to tribal court in those instances, issues that revolve around this area. Our public defender has asked to work with us to develop a proposal for the Department of Justice for an actual public defender SAUSA program. I am not sure what the acronym would be.

But it makes sense, because in the recent past, we have concluded cases in sort of a multi-jurisdictional plea agreement. So I think it is going to be necessary going forward, especially as more tribes come online. We have four conflict attorneys who practice in State court. They are raising novel issues in tribal court on evidentiary issues. They are using the Federal court process to intervene in tribal cases. So it is fairly complex.

I guess you could say that the tribal system was a misdemeanor system in the past. Now that it has become more complex, the public defenders need a little bit more expertise in some of these cases.

Mr. THORNE. A little more support.

Mr. URBINA. And they involve DNA, they involve pretty high level things going on.

Mr. THORNE. Okay. Mr. Trottier?

Mr. TOULOU. Just real briefly, we do use MDTs for other things. In fact, I think the model came from the MDTs that were involving child abuse. That has been very successful. I think Mr. Urbina, what he has described is a perfect example of how it can really enhance all kinds of prosecutions. And maybe, if used appropriately, public defender services, too. I think people have said, maybe the Department of Justice can be involved, and we do have an access to Justice office. I know we would be interested. But I also think it would be nice to have the Federal public defenders involved in that, too. We try to be fair in all things, but they tend to represent the other side. So I think it would be nice to have them.

Mr. THORNE. And they have resources that they share among themselves, it would help to share those with tribal defenders.

Mr. TOULOU. I could not speak for them; that seems reasonable to me.

Mr. THORNE. Judge?

Mr. WHITENER. That model has worked at Tulalip. We have, the tribe itself puts a training on every year for all the conflict attorneys and all of the tribal defenders and explains the collateral consequences and issues related to multi-jurisdiction and Federal and tribal jurisdiction. In those cases that have those Federal ramifications, what the Tulalip defenders do is work with the Federal defenders who then work with the U.S. Attorney's office and then they structure some sort of deal. And usually the deal is the U.S. Attorney's office says, we will sign an agreement essentially declining prosecution if it goes forward in the tribe. And you work those things out and figure out what pathway it is going to go, and then it goes down that pathway.

But again, that is a process that the Tulalip defender created working with their connections in the Federal public defender. There is no way for that to structurally be created unless you have those connections already. Luckily, we had defenders who had those connections, could set those systems up.

Mr. THORNE. Is there a problem caused by separating Federal chargeable offenses from tribal chargeable offenses and requiring two different prosecutions? So you have an offense that could be charged in the Federal court but then you have the intoxication, which may be the root cause, but it is probably just a tribal misdemeanor. Is there a problem caused by that, or are you able to work those things through?

Mr. WHITENER. Usually the tribes usually work those out, the tribal prosecutors. I think this is one of the benefits of the SAUSAs, is that they are in there working on it, and the decision is made as to which way this is going to go, is it going to go Federal or is it going to go tribal. If it goes one way or the other, we don't parse out the separate charges and have some go Federal and have some go tribal, usually. That is a really rare thing. Sometimes the prosecution will reserve it. They will dismiss everything to make it speedy just in case something goes south with the Federal charges.

But there is a coordination dance that has to be done with these crimes. Most of the time, the pathway is figured out.

Mr. TOULOU. If I could, I think we have talked about the SAUSA program, the tribal liaison program, a lot today. On its face, it would maybe just seem to have an opportunity for the tribal prosecutor to bring a Federal case. But it has become so much more than that. It is that ability for the SAUSA to actually be coordinating what happens, where it works well, with the Federal prosecutor. Because they are a Federal prosecutor.

Mr. THORNE. And what the appropriate response is.

Mr. TOULOU. Right. And vice versa. I have seen cases, and again, the courts up here I think are good examples of that, where things have gone either way. But there is a decision, and it is an knowing decision, it is not, oh, I just found out you filed in tribal court, oh, I just found out you filed this in Federal court. It really is, when

it works right, it is a discussion between everybody that is involved. That is why those two programs have been so successful, I think.

Mr. THORNE. Okay. Enhanced sentencing. Is it working? Is it a mixed bag? Are there problems that are unexpected with it? Judge?

Mr. WHITENER. I think it is a mixed bag in just that, it is hard to pay for it, for tribes.

Mr. THORNE. So the Bureau of Prisons issue, the pilot program, would help with that at least?

Mr. WHITENER. It would help with that. The other issue is that a lot of those things the tribes are left with, the only tool in the tool belt is incarceration.

Mr. THORNE. It is incarceration.

Mr. WHITENER. And we have heard the discussions about more alternatives and things that are, ways to divert out of just using the jail and using some other system. It is difficult, but we are seeing that all over the United States, that change. And tribes should be part of that, looking at things.

At Tulalip, for instance, the Tulalips created a sober living facility that we can take someone, put them in for 30 days. As long as they have been sober for 30 days, then instead of, I may sentence them to a year, but it allows me to say, well, you be good for three months, then you'll be sober for 30 days and then I'll move you to the healing lodge, and you can get day for day credit in that facility. So if we have those tools, we will use them, versus having somebody and putting them in jail.

Mr. THORNE. So enhanced sentencing works as part of an overall package, but not a solution by itself?

Mr. WHITENER. It needs to be part of a bigger, holistic package of alternatives and incarceration. There are absolutely people who need that three to nine years. But those should be the people who are violent.

Mr. THORNE. The ones who are a real safety concern?

Mr. WHITENER. Serious safety concerns for the community or which, and also, again, that triggers the Bureau of Prisons. In the Bureau of Prisons, Bureau of Prisons has sex offender treatment. And they have vocational treatment, they have chemical dependency treatment. And they have those things within their national program that we could be taking advantage of.

Mr. THORNE. Okay. Ms. Jaeger?

Ms. JAEGER. I just wanted to say something. Alaska is the third in the Nation in terms of incarceration rates. We incarcerate a lot of people. It is disproportionately incarcerating Alaska Native people. I think for Alaska tribes in general, they are not as interested in doing the incarceration and that enhanced authority along those lines. But being able to have that basic jurisdiction to be able to handle those lesser crimes and take care of things before they build into it, that is where really the heart is at. To be able to do that with restorative type sentencing, that is the only thing that is really working. It is time-consuming, it is not as expansive, but it is time-consuming. But it is really the only thing that kind of works. So we're kind of out on that.

Mr. URBINA. And it is hard to say right now. I think you have this new authority, there are a lot of tribes that are still going to

come online. We just recently had to change our constitution in order to pursue enhanced sentencing, because we were limited by our constitution. I think what will be helpful to determine how useful it is reporting on the back end, on the outcomes, and then doing an analysis of Federal outcomes versus tribal outcomes. So you are able to see whether there are results.

Mr. THORNE. What works.

Mr. URBINA. Right. So that will be an important piece to address, how we look at this. Tribes are contributing to this data and then it is being compared to Federal outcomes. You are going to making a decision whether to prosecute in tribal court or Federal court more than likely.

Mr. THORNE. Okay. Do you have the resources that you need to have that turned into the enhanced sentencing so you can use it selectively in appropriate cases? Or are you stuck with jail or nothing? Judge Crawford?

Ms. CRAWFORD. We are lacking in resources. One of the resources that was discussed earlier with SAMHSA is the mental health. A lot of our defendants, they are co-occurring, a lot of different things going on with them. We don't have the resources to adjust, we don't have a treatment center on the reservation, so we ship them out. They go to Wyoming, South Dakota, they go far away from home. So they lose their connection to family.

Mr. THORNE. Then they come home and face the same things.

Ms. CRAWFORD. Yes. So in the meantime, the family is still home doing the same things, they come back into the same situation and they don't have a support system. We do have one facility on the reservation and it is more of an outpatient, it is supposed to be an intensive outpatient. But it is almost like a self-study type thing. We don't have the money to hire licensed addiction counselors. IHS can staff our mental health psychologist, psychiatrist. We get somebody in there, if we get somebody good, we burn them out. Because we need them every day, all day, 24/7. So they leave. And then we have a hard time filling it. And IHS is, it is tough because of the area. We have no housing. Everything affects everything else.

So our problems, all the way around, it is a domino effect. So we can't seem to get the resources there. Money is always an issue, we know that. But we also need to come up with new ideas. And using the alternative sentencing I think is one of the goals that we want to look at. With the enhanced sentencing, our council just authorized it in November of 2013. So from 2010 to now, it is time-consuming to get in there, to change your code. Sometimes you have to hire people on the outside to come look and say, what do we need to do. It is a long process.

So right now, I mean, we have only been using it technically for less than a year, I think, because even though we authorized it and changed our code, we didn't have the facility to house them. And now we do. And we have several people sitting now on enhanced sentencing.

But the one thing I noticed about them is they were repeat offenders that were getting more and more violent. So that is one bonus, is that now we can do something about it. We have more, we have put teeth into it rather than, we are going to give you six months or a year and review it. We didn't have the places to put

them, so we would let them out. And then we didn't have the money for probation, so we took from other areas to put into probation to supervise the people, and now our probation is overwhelmed.

So we have this effect going on with all our programs. But resources, we are very short.

Mr. THORNE. Okay. Ms. Tingle?

Ms. TINGLE. Yes. There are several things I wanted to talk about. First of all, defense, defending a defendant, or public defender is paramount. A lot of the things that we are seeing in the 81 assessments that we do and that we have been out, is that that person has an advocate and that person has someone to day, to make the argument, well, maybe we could have some sort of alternative sentencing here, where they didn't have that opportunity before. So that is something that we are really supportive of.

I don't know that Ron knows, but we are in the process of an interagency agreement with the United States Court for the Federal defenders to train tribal defenders. We are finishing that up. It has been a consummated deal.

The other thing that Ron talked about is that in the Bureau of Prisons, sex offender treatment, defendants go, and Tracy can talk about in more detail, but they go to a particular place and they are treated at that particular facility.

Mr. THORNE. So it is not just dead time?

Ms. TINGLE. No. And Indian Country doesn't have that, absent the Bureau of Prisons opportunity. I think that is something that is very important, for the individual to be treated for the actual underlying issue. So they don't go back home and they don't re-offend and they don't victimize other Indian children. So I am very much in support of the public defenders positions.

Mr. THORNE. We talked a little bit about cooperation with the Federal courts. How is cooperation with the State courts? Is it there? Is there something that could be done to help that? Our people don't stay just on the reservation. They are off, they come back, they are off, they come back. What is your experience in working with State courts, or is it just non-existent?

Ms. CRAWFORD. One of the things that we do have is the unique cross-deputization agreement with the other agencies. So we do have somewhat of a relationship with them. I wouldn't necessarily say the courts, though, but more law enforcement, the county attorneys.

Mr. THORNE. Law enforcement works with each other?

Ms. CRAWFORD. Yes. And statistically, most of the arrests that one of the cities makes, it is a city on the reservation, it is about 50 percent Native, 50 percent non-Native, most of their arrests come from tribal members, they are arresting tribal members, because they are cross-deputized. But it helps us, manpower-wise, because we are all short-staffed. But it also can create problems and has because of, for instance, VAWA. Using the training tools that we are given, not that it is not important to them, but they are not aware of the big picture of it.

So when they come across cases where it is a non-Indian assaulting an Indian, they know that they are in an intimate relationship, they don't know the process of how it works. So without them being

trained under our cross-deputization, they take the guy to the county jail for DC, when they should be taking him to the tribal jail under VAWA, for the domestic abuse.

So getting that across in our collaboration with them has been a challenge, a bit.

Mr. THORNE. So maybe some training issues that relate to State as well as Federal and tribal people?

Ms. CRAWFORD. Right.

Mr. THORNE. Okay. Maybe like what the officers had talked about before, some sort of a bridge program?

Ms. CRAWFORD. Yes, and we do have that bridge program. It is just, sometimes we offer the training. But I just think it is maybe our leadership needs to get together and let everybody know how important it is.

Mr. THORNE. Do the judges ever get together and meet?

Ms. CRAWFORD. We do. And the judges, we actually had a meeting with, well, we had a meeting with law enforcement, with our tribal government, and we have been reaching out to the city governments. So we try to communicate.

Mr. THORNE. Okay. Judge, in Washington State, do you have a good working relationship with the state courts, or is it problematic?

Mr. WHITENER. I would say yes, although it can vary from, in Washington State, the judges are elected in the State. So depending on the judge, you can occasionally get judges that don't really want to work with the tribes, and then you get judges that do. I would say overall, the Washington State court system wants to work with tribes. We have a Tribal-State consortium, which is a group that has been formed and meets regularly to discuss issues.

I think that the tribal courts and the State courts seem to be working well in areas where we have concurrent jurisdiction. I know this is a little afield, but in the area of family law, for instance, we are able to work out where cases will go forward.

I think there is a lot of opportunity, especially in the area of research and data gathering. There is a lot of information that the State probably has that the tribes could access.

Mr. THORNE. Do you share criminal records with the State?

Mr. WHITENER. Well, no. Criminal records, no. We were able to see the State records through the regular means. There is not the similar system. We have 29 tribes in Washington and each of them has their own sets of criminal histories for each of their defendants.

Mr. THORNE. So you can't see if one of your people had a DUI someplace else?

Mr. WHITENER. Right. There is no system for reporting a central system in the State to report. I know that there are Federal ways that we could put our convictions into a Federal system. I don't know what the tribes would do, if they would do that or not. But there is no State sharing of that.

So those are the kinds of issues that these consortiums talk about, is how we are going to share information.

Mr. THORNE. Is there something TLOA could do to help that or encourage that? Or do you have it under control?

Mr. WHITENER. I think any time that there is support for funding those coordination efforts, it is going to help. I think one of the areas that TLOA can do is also remove those places where we are reliant on the State courts when we shouldn't be. I think the TAP program is a really important one for entering the protection orders in without having to go through the State.

So in Washington, for instance, in order for us to get a Tulalip order in the past, into the Federal system, we had to issue it in Tulalip, we had to send it to Swinomish County court to get full faith and credit, then it had to go to the sheriff's office, and the sheriff's office had to enter in into NCIC, before it would show up on a data base.

Along that line, once we sent it over, we didn't really know whether or not it actually made it into the data base, and we weren't told if it wasn't, that if it was rejected for some reason, we weren't necessarily told. And the TAP program allows us to do it, which is a big improvement. One of the things I know that we have been talking about is having more tribal involvement in the development of the policies for TAP and trying to expand it. I think those are important things that we are having ongoing conversations about.

But I think that program needs to be supported by the United States, made permanent. Because that is an area where the State court, we shouldn't have to coordinate with the State court but we are forced to in the absence of TAP.

So that is an area where I don't think we need to coordinate as much on that as should. And the other areas, we are doing the best we can. Support for things like tribal-State consortiums would help.

Mr. THORNE. In Arizona, are you able to work successfully with State courts? Your people are appearing in both systems.

Mr. URBINA. Right. We do have a fairly good relationship with the State, primarily with law enforcement. Our law enforcement officers are State-certified officers. We have an IGA with the county to share a record management system. So our tribal court arrests are available to the county as well as county information, State information to the tribe. Those convictions and that data is used in tribal court determinations for release.

We typically have that information available for our judges. I imagine that that same information is used by the State. We work with them also, we have done probably close to 70 extraditions in the past few years.

Mr. THORNE. Extraditions out of the State to tribal custody?

Mr. URBINA. From the tribe to the State. So we have developed an IGA for extraditions in the reverse. So we will reach out to the State here shortly for that purpose. Our VAWA defendants, the majority of them have a significant criminal history in the State of Arizona. Some of them are felons, some of them had warrants. So we need that information.

But now, in at least three of the VAWA cases, we have folks who have absconded from probation. So we need to reach out and have the ability to extradite those people back. The State law allows that, so we have crafted an IGA that will be talking to the State to move in that direction.

Also, we have been talking about a State SAUSA.

Mr. THORNE. Oh, okay.

Mr. URBINA. So a tribal prosecutor, a special State prosecutor that will be able to handle those State matters that arise off the reservation. So essentially, we build a program that would have the ability to prosecute in any jurisdiction. That would give us the opportunity to create like a crime control policy.

Right now, the State cases that come off reservation, there is a disconnect in communication. So when they are getting ready to prosecute, they are not getting the tribal court police records and they are dismissing the cases. So this program would help alleviate that. Then we would be able to have all the data for the reservation, both for non-Indians and tribal members.

Mr. THORNE. Are there any barriers you are encountering in trying to set that up that TLOA could try and help fix?

Mr. URBINA. I think TLOA would help if there was some language to encourage that. I don't think there is any barrier right now to meeting with State officials to enter an agreement. We have several agreements with Arizona DPS for evidence analysis and SWAT services. So it is just another piece of the puzzle that I think the county and the State would be interested in. Essentially, we have been working hand in hand for many years.

Mr. THORNE. Alaska is sort of the opposite end of the spectrum. How are the Native communities there dealing with State courts?

Ms. JAEGER. I mentioned a couple of things earlier, but our State supreme court just issued kind of a new ruling under their criminal rule 11 there that actually opens up a lot of opportunity to work with tribes on restorative justice, creative sentencing. So our State supreme court is really kind of tribal friendly at this point in time. So that is what is opening up some of these opportunities.

So the most recent one I had mentioned was for State criminal cases, tribes can monitor, court view [phonetically], whatever, and if they want to intervene on that case they can, just sort of like ICWA intervenors, but it is on criminal cases. And then be part of the sentencing procedures for the criminal cases. So that is very interesting, it is very new. We haven't really moved too much forward.

Another thing that is happening increasingly, and the most promising thing, I think, is State court judges, magistrates, are actually taking cases into a village, holding court, going off the record and we are doing circle sentencing. You might have 60, 80 people in a village in that. It is the most promising practice in rural Alaska that there can be.

So that is increasing.

Mr. THORNE. What is responsible for that? What helped create that?

Ms. JAEGER. Well, that takes certain individuals and certain spark plugs to make that happen. I really think that the commission report in 2013 that expressed how dire the situation is in Alaska really helped stimulate more activity. I really do think that was part of the catalyst.

Mr. THORNE. We are at the end. Just like the last panel, I want to give you a chance, if there is something you haven't said that needs to be put on the table, for the staff, for the members to con-

sider, here is your chance. In basically one minute, what is it that you want to make sure is on the table before you leave? Judge Crawford, I am going to start with you.

Ms. CRAWFORD. The Oliphant issue that was discussed earlier. I just wanted to touch on that real quick. It is just the criminal jurisdiction, having criminal jurisdiction over non-Indians, expanding that. In a rural area, I know it is quite different from being in an urban area. But the area we are in, it is not as rural as Alaska, but we have a tough time with our resources. The training that was provided, I would like to see that continue. Because we get people in there, we get them trained and then they move off. So we are left with a gap.

So those initiatives that are available, if they can put that out as often as they can, the information flow, we sometimes miss it a lot because we are not seeking it out. I really like the idea with the public defenders being part of the program.

Mr. THORNE. It's getting the resources, sharing the resources with the Federal public defenders.

Ms. CRAWFORD. Yes. Because Fort Peck has actually made an effort to give the public defender assistance to more defendants, because under VAWA, we have given it to non-Indians, so we are automatically giving it to the Indian defenders that are charged with those same crimes.

Mr. THORNE. Okay. Ms. Tingle?

Ms. TINGLE. I don't want to put a negative spin here, but what we have at the table here are the very sophisticated—

Mr. THORNE. The best.

Ms. TINGLE. Yes. And over Indian Country, there are three things that are missing for tribal courts. One is the infrastructure. There is not enough infrastructure and there are not enough resources. A bailiff is needed. I would bet you that 60 percent of the time, and that is a low figure, that a bailiff is needed. If you have a protective order, that judge and the people in that courtroom need protection.

So it is the simple things that we who have been in the Federal court take for granted. Bailiffs, pre-trial services, pre-trial services that would do an assessment on the needs of that particular defendant.

Mr. THORNE. That could get them started beforehand, without even having to lock them up, if they have to.

Ms. TINGLE. We are finding that that really does work, to do the assessment. I think in the Federal system it works, but in the tribal world, the Bureau is trying to do that, just to see, and there have been some successes. IT personnel. There are things that I never thought about, because I was a prosecutor. But a judge needs an IT person to keep all these things running. The code development, the understanding that the constitution has to be changed. Those are the infrastructures that tribes need that are small.

I commend everybody at this table who has trained at all of our trainings. But it is those tribes that need the infrastructure, the ability to keep their personnel so it doesn't change.

Mr. THORNE. Develop a professional cadre of people working in the system.

Ms. TINGLE. Right. And in that vein, housing. Housing is huge in Alaska. I was just in Bethel, AVCP did a training on VAWA. I know that Tanana Chiefs is going to do six. And at that training, more of the State law enforcement, which I thought was really spectacular, just getting people together. I think that AVCP is going to submit some of their training video that they did.

But the infrastructure of the villages in Alaska is lacking. It has nothing to do with the consortiums, it has to do with the funding.

Mr. THORNE. Okay, thank you.

Judge, what do you want to leave on the table?

Mr. WHITENER. Well, I am going to go actually to something that Chairman Cladoosby said, about the VOCA funding, Victims of Crime funding. We have been spending a lot of time talking about defendants, we have been talking about law enforcement, we have been talking about things. We need to think about the victims who are also in place. That is an area that tribes aren't being allowed to access, again, because it has to go through the States. So you are at the mercy of the States and less than a percentage of it gets passed over to the tribes.

The fact is, we also have to remember that our defendants move back and forth between status of defendants and victims. You would be hard pressed to find a defendant that hasn't been a victim multiple times of something. The culture of violence and addiction just swirls around them. That funding source should be accessed.

The other thing is to roll what we started with VAWA and roll it into TLOA and expand the special domestic violence jurisdiction to include crimes that are attached to the crime that triggers the jurisdiction. So situations to where someone commits a crime against an intimate partner but at the same time, in the same incident, commits a crime against a child, a violent crime. We have jurisdiction over one part of the whole incident, but not the other part. That peel-away reauthorization could change that and fix that and strengthen that, as well as adding the ability to prosecute stranger sexual assault.

I think those are two glaring areas.

Mr. THORNE. It doesn't have to just be intimate partner, but you could do the stranger offenses?

Mr. WHITENER. Correct.

Mr. THORNE. Okay. Thank you. Mr. Toulou?

Mr. TOULOU. I started out talking about the Intertribal Technical Assistance working group. I think you have heard a lot of great comments, I guess testimony, from some really talented and dedicated individuals up here. I would like to see, and I am not sure how it would exactly be structured, but some support in anything, any follow-up to the Tribal Law and Order Act that would enhance the ability to set those sorts of working groups up and take advantage of the expertise that it is in tribal communities. That is where the best stuff comes from.

Mr. THORNE. Expanding the multidisciplinary teams to look at other areas that are already succeeding?

Mr. TOULOU. Actually, the MDTs are fantastic, but also the working groups that bring different tribes together to share information and to talk to each other about, we know how to pull to-

gether a jury pool, well, we have a way to do public defenders that you haven't thought about, we have a sentencing option.

Mr. THORNE. Peer learning.

Mr. TOULOU. Right.

Mr. URBINA. I feel like that kid in The Christmas Story where they are kicking him down the slide. My friend from Alaska says a [indiscernible] fix, expanded definition of Indian Country. Of course, the Bureau of Prisons project. But if that is going to take a while, then we need a stop gap measure now. We need certainty for this process from now until that is done.

Direct funding to tribes, the consultation should be, there are annual consultations that are great, the reports are great, but they should be broken out by tribes. It is aggregate data right now. You really can't look at things until you have that data per reservation. So also the declinations and the investigation numbers, they need to include not just FBI numbers, but also tribal numbers and BIA numbers. It should be a little more, the reports indicate that there are problems with the data collection. But it has been five or six years, we should have been able to address that to get a more comprehensive look at what is actually going on out there. Because until we have that information, we are not able to being look at prevention and things like that.

So that is important. VAWA was enacted, but it doesn't have a reporting piece and it doesn't have a data collection piece to that. So we are going to look to reauthorization, but there is no data.

Mr. THORNE. Okay. So expand the data.

Mr. URBINA. Absolutely. If it could be done now, prior to reauthorization, that is going to be important, because Congress is going to be asking for this information.

Mr. THORNE. Especially if we are asking for more resources, they are going to want to see what the scope of the problem is and what the solutions are.

Mr. URBINA. Absolutely. So no caps on TLOA sentencing. If we are providing all the due process that any State court would give a defendant, then tribes should be able to determine what those caps will be. It could be a pilot program, it could be set up in a way where you have a, I don't know, but that doesn't need to be there anymore. Tribes have made the investments in the system. They have run these cases. There is plenty of information now to actually use.

And then just going back to that, the restoration of full jurisdiction for tribes.

Mr. THORNE. Okay. And for Alaska?

Ms. JAEGER. Just for the funding issue, just for a moment, though, TLOA did help Alaska tribes out in that it took off the restrictions for getting the CTASC grants from certain boroughs, and if the population dropped below a certain number of people, too. So we appreciate that. But we would love to have more CTASC grants going to Alaska.

It is really critical at some point in time that we be able to get some kind of recurring consistent funding coming in, even if it is small amounts.

Mr. THORNE. Something to build on.

Ms. JAEGER. Something we could build on. And we appreciate that. In the fiscal year 2016, there is funding in there to go to P.L. 280 States, and hopefully we are hoping that that could be recurring and some of that could actually go directly to tribes and tribal courts there. So we really encourage that.

But then on that last note, in terms of the jurisdictional issues, in the Congressional, in the report, in the chapter on Alaska, the recommendations there, I think there are five or six recommendations, did turn on that Congress should overturn the Venetie, that the tribes should be able to take land into trust, that Congress should affirm Native allotments and restricted town site lots are Indian Country. These are probably far stretches, probably, to imagine that it is going to bring any relief any time soon.

Mr. THORNE. To accomplish that, we need to start.

Ms. JAEGER. Yes. So I really think, in the reauthorization, if there could be consideration for somehow putting in a piece for a pilot project or looking at Alaska in a unique way that could authorize jurisdiction over these lesser crimes.

Mr. THORNE. Thank you.

Let me thank the panel. I appreciate your willingness to engage without an agenda and our flexibility. Let's give them a round of applause.

[Applause.]

PANEL THREE—RE-ENTRY AND RECIDIVISM

Mr. THORNE. And I know we are running behind on schedule, so I am going to ask the third panel to come up and we are going to try and get started right away. Thank you.

Welcome to the final panel session. After the panels are done, there will be an opportunity for public comments as well. Also feel free to submit things in writing to the staff. We want to make sure that everything gets considered. I know sometimes it is hard to sit in the audience and realize that you have a point that you think might make a big difference, so we want to make sure you have that opportunity as well.

This panel is to focus on how successful we have been or what we need to be successful for re-entry and to prevent recidivism, to see if the system worked. We have talked about the front end of the system, with law enforcement, we have talked about the middle of the system in terms of what the courts are doing. Now we want to find out, what do you need to make this work, so that all this effort is not in vain, so we can just break that cycle that we have gotten into in our communities, where violence and substance abuse has become such a risk for our children as they grow up.

How do we solve this, or how do we begin down the path to solve it? What has TLOA enabled you to do, or you would like to be able to do, but you feel constrained?

Mr. Sprint Williams, if you will start, just tell us who you are, where you are from and what you think has worked and what you need.

**STATEMENT OF SPRINT WILLIAMS, SENIOR CASE MANAGER,
MUSCOGEE CREEK NATION REINTEGRATION PROGRAM**

Mr. WILLIAMS. Okay. My name is Sprint Williams, I am from the Muscogee Creek Nation Tribe. We are located out of Henryetta, Oklahoma. I am a senior case manager for the Muscogee Creek Nation Reintegration Program.

Basically what we have done, we formed the Reintegration Program in 2005. Since then, we actually assist formerly incarcerated Creek citizens, but it goes a little further than that. We do up to 120 days of housing.

Mr. THORNE. A hundred twenty days of housing after they get out?

Mr. WILLIAMS. Yes, sir. After they get out. We visit the prisons, so we get to kind of know them, know the Creek citizens. I visit over 22 facilities out of the 33 in Oklahoma. We do 120 days of housing.

Mr. THORNE. So you work not just in the tribal facilities, but also in the State facilities?

Mr. WILLIAMS. All facilities.

Mr. THORNE. Wherever your members might be?

Mr. WILLIAMS. Yes, sir. We present our data, we have the data base that we run off of, we also do \$200 in clothing, \$100 in groceries. We do job placement, we do anything, where if they do find a job, we get them with clothing and everything else. We don't use a cookie cutter approach, we kind of use what works and then they have to work up a client plan. From there, we have an 80 percent recidivism rate - 80 percent success rate.

Mr. THORNE. Wow. Over what period of time?

Mr. WILLIAMS. In the last five years, calculated.

We are also constructing a \$6.5 million facility at our building now, then we are going to house 36 as soon as they get out, 28 male, 8 female.

Mr. THORNE. Is that like halfway housing?

Mr. WILLIAMS. Sort of, but it won't really be halfway, because they will be released from incarceration. So it won't technically be a halfway house.

Mr. THORNE. It won't be supervised, but it will be transitional.

Mr. WILLIAMS. It will be transitional, but we will have RAs on-site. It will be 24-7. We are turning our building now into a welding center, so we will have six welding shops where they can actually go weld. And we are purchasing land in a nearby town called Okemah, 20 miles away, where they can do CDL training as well. Because we kind of collaborated and found out that those are two areas where employment is pretty easy for our clients and our citizens to gain employment through there.

Those are just some of the avenues we have tried to approach. We are going to keep moving forward with it.

Mr. THORNE. So it is not just a probation approach that says, we are going to catch you if you do something, you are actually trying to build a bridge for them to transition back.

Mr. WILLIAMS. Yes, sir, we are. We also have a juvenile program as well that we are trying to strengthen. We are going to hire two more employees through that. Our funding has come from, we are tribally-funded, but we also have received two CTASC grants, and

then with the DOJ, they offered \$3.2 million for our facility and then our tribe kicked in the \$2.78 million. That is what was able to allow us to have our facility that we are currently building and will be completed in September. We have received over \$6.3 million in grant funding as well.

Mr. THORNE. How many clients have you worked with over the last few years?

Mr. WILLIAMS. Four hundred seventy-seven, I believe.

Mr. THORNE. With an 80 percent success rate?

Mr. WILLIAMS. Eighty percent success rate. I currently have 31 on my case load, so I think we have about 75 right now, total. So as soon as they get in, basically all you have to have is your time that you have to be linked to the Department of Corrections somehow. You have to be a Creek citizen, because we are tribally funded. And you do have to pass a drug screening as soon as they get released. If they can't, then we will find a rehabilitation center for them to go to. And if they complete that rehabilitation center, they can come back to the program.

Mr. THORNE. So you don't just kick them out because they were using, you will find them help?

Mr. WILLIAMS. Find them help however we can.

Mr. THORNE. Give them another shot.

Mr. WILLIAMS. Then in the housing, they have to abide by our rules, so they can't have alcohol, drugs, things of that nature. It is not that we are trying to be hard on them, but we are trying to instill in them some good values so they can be tax-paying citizens when it is all said and done.

Most find employment. So that is our biggest barrier. Our other biggest barrier, of course, probably what you guys always found, the hardest things for us and for everybody else is sex offenders, something that no one wants to talk about, no one wants to deal with. But that is an issue we are trying to tackle, I think everybody is trying to tackle it the same way.

But we recently found a grant to where we get three trailers each year we can purchase, up to \$15,000 apiece. So we can kind of locate our sex offenders that way, up to three trailers. That is a three-year grant, so we are trying to run off of that as well. We purchased these.

Because it is a public safety issue, and we actually know where our guys are at, so some people can't always say that. With our tribe, we are trying to treat everybody the same.

Mr. THORNE. Thank you. I appreciate that.

Dr. Cotton?

STATEMENT OF BEVERLY COTTON, DIRECTOR, DIVISION OF BEHAVIORAL HEALTH, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dr. COTTON. Thank you. Mr. Williams, that is an impressive program.

Mr. WILLIAMS. Thank you, ma'am.

Dr. COTTON. I will be excited to hear more.

I am Dr. Beverly Cotton. I am the Director for the Division of Behavioral Health, Indian Health Service headquarters. Our two primary programs within the Division of Behavioral Health are the

alcohol and substance abuse program and the mental health program.

As it relates to TLOA, IHS is a critical partner with SAMHSA, Bureau of Indian Affairs, DOJ, BIE, as well as other Federal agencies that are participating in the Indian Alcohol and Substance Abuse memorandum of agreement. The success for us, if I had to focus on one area, is the improved Federal coordination and collaboration around all of those responsibilities under the MOA.

In particular, IHS helps co-chair the tribal action plan work group. In the audience with me today is the Indian Health Service work group co-chair, Steven White Horn, who is helping to lead that effort for the tribal action plans.

Mr. THORNE. How many tribal action plans are in place?

Dr. COTTON. I think previously Ms. Beadle was saying that that is a hard number to capture, something that we could actually look back to see how many tribes have actually circled back. I think it is primarily an issue of the feedback loop of tribes that have actually established a tribal action plan, or they are actually reporting back to SAMHSA that that has been completed. I think an interesting question would be, how do you actually frame a TAP? There are many names, strategic plans, action plans that are addressing Indian alcohol and substance abuse that may not be termed a TAP but that still qualify and they are addressing those very issues.

Mr. THORNE. Do you have any idea, a ballpark, even?

Dr. COTTON. I don't, I'm sorry.

But the development of those TAP guidelines, actually standardizing a system so that tribes have a way to request the assistance from Federal agencies on how to develop those TAPs, the overall TAP regional trainings that have been conducted have resulted in a large number of knowledge sharing on how to develop those TAPs.

Mr. THORNE. Do you have the resources to help them create that? Or is it just sort of here is how you do it?

Dr. COTTON. Here is the training. So previously we did hear from Ms. Beadle saying, we can train a lot, but the implementation piece behind that is one of those areas that we want to focus on. The Federal agencies have come together on that Tribal Action Plan work group to start looking at a strategy on the implementation of those TAPs. So how can we take it a step further, from training to actually implementing the resources that are needed to build those Tribal Action Plans? You can imagine that that is no easy feat.

Mr. THORNE. And it is not one size fits all.

Dr. COTTON. Absolutely. It is tailored to each community, it has to be specific to that community's needs and to those available resources that are present in that community.

But presently, we are working on that strategy. We are also in partnership with Department of Justice through our TAP work group. We are successful in launching the virtual learning communities, so we are working on establishing additional resources through a virtual format to bring together tribes that have already worked on those TAPs to be able to share and disseminate that knowledge with other tribes.

Mr. THORNE. And mentor others. Okay. Ms. Broken Leg-Brill?

**STATEMENT OF PATRICIA BROKEN LEG-BRILL, DEPUTY
ASSOCIATE DIRECTOR FOR CORRECTIONS, OFFICE OF
JUSTICE SERVICES, BUREAU OF INDIAN AFFAIRS, U.S.
DEPARTMENT OF THE INTERIOR**

Ms. BROKEN LEG-BRILL. Good late afternoon, everyone, greetings. My name is Patricia Broken Leg-Brill, the Deputy Associate Director for Corrections at BIA. I joined the Bureau nine years ago. Coming into the Bureau, you really look to them as a guidepost for standards and guidelines and those kinds of things. Coming in the door, we didn't have that. When TLOA was passed, what that did for us was it was successful in opening the door to allowing us to put together BIA detention guidelines.

Those guidelines came from the American Correctional Association, the foundation of the core jail standards. What we did was we pulled together tribal practitioners from the field, tribal jail administrators, brought them together and we developed the first set of standards that were appropriate for Indian Country jails.

So TLOA was successful in opening that door through working with tribal partnerships and producing the first set of standards.

The second thing that it did was it allowed us to develop a long-term detention plan. So the Department of Interior, with DOJ, established a partnership and developed the first plan. What that did was it set up, it set the stage to start to enhance the current justice for alternative sentencing and rehabilitation.

Mr. THORNE. The plan, is that the nationwide plan or is that a plan specifically for individual tribe?

Ms. BROKEN LEG-BRILL. A nationwide plan. It was guide for all of us to look at and say here is a recommendation coming forth that all the agencies should start looking at alternatives to sentencing.

So with that, we had taken the first, in corrections, we had taken the first step in saying, we identified that not all of our juvenile detention centers had a full academic education program. And we took the first step in placing teachers at each one of our locations, and we have three nationwide, to be able to do that. Because we recognized earlier on that education is key to rehabilitation. Children who are not receiving that, we will not be taking steps toward rehab.

So that is what we did, was we put together the first education contract in those three locations.

Mr. THORNE. And that national plan that you put together for the detention centers, did you build in flexibility for the tribes to do things other than incarcerate?

Ms. BROKEN LEG-BRILL. Yes. And I will jump right on that next.

So the next thing we did was look at alternatives. Those alternatives included working with the courts, and what works by location. Because one size does not fit all. We know that, working in Indian Country. We also know that every court is different and how they sentence and their resources. So with that being said, we did leave that open. We definitely took a look at a lot of things that courts were currently doing and what works for them and continue to support them through the detention aspect. I am only speaking from the detention aspect.

Some of that could be, whether it be the ankle bracelets, drug courts and various different things, we continue to support those. And also encourage tribes to look toward the resources that the Federal Government may have, if they were interested in those kinds of programming.

Mr. THORNE. If a tribe is running the detention program, is there flexibility so they can, say, take some of those corrections officers and make them outreach people in the community? Or is it tied just to the facility?

Ms. BROKEN LEG-BRILL. In creativity, and this is what TLOA did for us, some programs, from some of our tribal programs we are already doing that. Meaning that some correctional officers were also working as case managers. They call them program specialists, and those kinds of things, because they recognized that in order to have that flexibility they needed to take some of those positions and then partner with the tribal resources. Whether that be transition kids or adults back into the community, but they were very creative.

So yes, some tribes were doing that. And now even more so, as we went throughout Indian Country learning what we were doing with the jails, we did learn that. So it was very creative, with the tribes' approach.

Mr. THORNE. So if a tribe has a program, they have that flexibility or at least they could work with you to get that flexibility?

Ms. BROKEN LEG-BRILL. Yes, they could work with us to get that flexibility, especially with juveniles. With juveniles, we realize that just, as you heard today, just placing them in jail is not going to solve anything. And if we could help and assist in any way we possibly can through the courts to find alternative placement, that is what we would do.

Education is one thing. But getting those valuable resources that only the community and the tribes can help us with is very important. That is what we would support. So those were the things and I am sure we will get more into alternatives. But those were the things that opened the door for us, was getting the standards in place, standards supporting health and care of our inmates and programs and services. So we did a very good job at arresting them and locking them up. But TLOA helped us to have care and concern, the two main pieces that we needed for our Indian people.

So we were able to do that and really basically get out of warehousing and now enter into rehabilitation and looking at alternatives.

Mr. THORNE. Okay, thank you. Mr. Little, welcome back.

Mr. LITTLE. Thank you, Your Honor.

I would just like to reiterate what my Chief of Corrections said and also, I met with numerous tribal councils and numerous tribal leaders. We are here to serve them, to help them, the same as our legislators. But it takes the village to raise the child and it takes the tribe to help the people. So I would like to put a personal face on it.

We recently ran a huge drug operation on our reservation down in New Mexico. We had 35 plus defendants. Two of my sisters were caught up in that, both federally and tribally. So it hit home to me. And what was the problem, what started it, again, education, early.

How do we bring these people back into our community now, dealing methamphetamine, dealing drugs? These are our relatives, these are our families. How do we help these people and bring them back?

It takes an individual, like Mr. Williams says, an individual map on each person to help them through the system. But it takes the cooperation between all the tribe, the tribal entities. The Federal Government can't do it themselves. The tribe can't do it themselves. It does take that cooperation.

Mr. THORNE. Okay. Judge Hart, what has TLOA been able to do to help you help the families and help the kids?

**STATEMENT OF HON. KAMI HART, CHILDREN'S COURT JUDGE,
GILA RIVER INDIAN COMMUNITY**

Ms. HART. My name is Kami Hart, I am a children's court judge with the Gila River Indian Community. One of the things is that we were doing a lot of things that other tribes weren't doing already in Gila River, prior to enacting TLOA. So we were already focusing on rehabilitation, we already had, we ran our own juvenile detention facility and our own adult detention facility. So we already had programs in place.

The thing that we had to focus on was how to put programs in place that were specifically for the long-term enhanced sentencing. Because all of our programs were programs that were for under a year. We didn't have GED programs in there for adults. We had it for juveniles, but we never had anything focused for anyone that would be incarcerated for longer than a year.

So that is where we started working on some of our more longer-term programs. But for our juveniles, it has always been that our juveniles should never stay in detention. There is not one case where it will ever be that the juvenile is just sentenced to detention. They always have the option to leave detention to go into a residential treatment center. We have been lucky to work really closely with our State Medicaid program, so they are actually the ones that are funding for our juveniles to go into detention. So it is not the tribe having to do it.

The problem is though, then it is up to Medicaid to decide when they go into treatment, and they don't always agree that they have reached that level of going into treatment. But it is always something that we are working for and pushing. So it is more on the program side for us.

Mr. THORNE. That has expanded your range of resources, then, that are available.

Ms. HART. Yes, absolutely.

Mr. THORNE. Okay. Mr. Toulou?

Mr. TOULOU. My Federal partners have talked a lot about the coordination that the Trial Law and Order has helped with on substance abuse and treatment, which is key in this area. And frankly, it is really tough. Just to take a little different way in, probably even a harder area to get a handle on in Indian Country is re-entry. Mr. Williams talked a little bit about that, I think. Sounds like he is a pretty well-resourced tribe with some things in place that we don't see everywhere, such as a job base and training to do that.

But we have been very interested in re-entry generally in this Administration, and this Attorney General in particular. One of the things we have been trying to do and have recently done successfully is to work not only with the tribes but with the surrounding State and local communities to try and find those re-entry resources that might not generally be available. Because frankly, a person who commits a crime on one side of the reservation line is likely to commit it on the other side the next day.

So at Standing Rock this last summer, they pulled together an MOU that set up a multidisciplinary, multijurisdictional re-entry services team. I don't know that that is going to work everywhere, because Standing Rock is fairly close to a non-Indian community that is big enough to have the jobs. But it does bring all those social service components in and the access to jobs in a way that just the Federal Government and the tribes often can't do.

Mr. THORNE. And targeting the local community, the realities of where are the jobs, how do we get people qualified for that.

Mr. TOULOU. Right.

Mr. THORNE. How do we make them acceptable to local employers.

Mr. TOULOU. Exactly. Because if you are going to have a successful re-entry program, you need to have a job for the person coming out. And that is often, given our unemployment rates in Indian Country, a tough lift. That is one opportunity we are trying to explore further.

Mr. THORNE. Mr. Williams, what do you need to go to the next step?

Mr. WILLIAMS. I think with the direction that we are going, with the housing that we are creating and everything else, we also try to utilize every part of the tribe that we can. So we use our TERO department, which is Tribal Employment Rights Office. So every client that comes into our office fills out an application for them, so every client goes into that job bank.

I would say the next thing for us would just be to expand even bigger. We purchased over five acres of land where we are now and then we have to purchase a little more. We got it for \$75,000 when we did come in and then we purchased all the way to a nearby nursing home to where we are. So we will just keep expanding. We are going to have a campus-style, almost like a college, right now, when it is completed in September. So the sky is the limit. We can just keep going, more clients, maybe some more job opportunities. We have looked at maybe some different kind of bead work, leather work, different things. We also have classes in place for those that can't maybe go to welding or do CDL. We are going to have instructors at our new building that are going to teach classes.

Currently, every client that gets out, they have to go through some little small courses, like [indiscernible] for a change, victim's impact responsibility course, job coaching and family relationships. So we are taking all these things into consideration, but we are never throwing any new ideas. But I would just say expanding and getting more clients to where we are just bigger.

Mr. THORNE. Are you able to access Federal housing or Department or Labor sources to facilitate, or multiply, leverage what you are doing?

Mr. WILLIAMS. That is interesting, because in our tribe we are not necessarily on a reservation. Our capital is in Okmulgee, Oklahoma, which is 15 miles north of where we are located, and we expand to eight counties. Eleven counties total, but the majority of eight counties, and a small part of three other counties.

So in tribal housing, where we are, they don't allow anybody that has a felony in our housing. So just this year, we were able to get the first one in there. So that is kind of, we are going to try to tackle that as well.

Mr. THORNE. So that sounds like a legal barrier. Is that something that TLOA could help you fix if there was at least a waiver, if they participate in a program like that, that the felonies would not be a disqualification?

Mr. WILLIAMS. Yes, basically it could, I think. Because at the same time, it is not a, we thought it was a NAHASDA requirement that it couldn't happen, but it is actually just our own tribe's housing. So we just put a new chief in place last month, so we are going to meet with him on some things.

We are also big on the box issue that is coming out, with trying to eliminate the box where you have to check off that you are a felon. So we are trying to work on that to where, it may not make it to where so many more are getting employment, but if we can eliminate that box coming in -

Mr. THORNE. Every success is one more person.

Mr. WILLIAMS. That they don't have to put down they have a felony, if we can eliminate that, then maybe 10 percent, 20 percent more of them might get that job. If somebody did something 15 years ago that was kind of a minor felony, obviously you aren't going to put someone who maybe embezzled into a place where they are handling money, but different things of that nature we are trying to tackle. Also the casino, we are trying to get some of our clients into the casinos where they can actually work. They currently have to have a gaming license, so they won't give somebody with a felony a gaming license.

But if we can get it to where maybe they can go in and wipe down machines or work maintenance or do janitorial work, or whatever it may be.

Mr. THORNE. You hate to disadvantage young people just because they were young and stupid once.

Mr. WILLIAMS. That's right.

Mr. THORNE. Okay, thank you. Ms. Cotton, what would you need to be able to take those services and put them into the hands of people who can make a difference, like Mr. Williams and people like him?

Dr. COTTON. We are taking some positive steps in unifying the Indian Health Care Improvement Act and the Tribal Law and Order Act memorandum of agreement. So there are two agreements that exist right now. What we are doing as part of our Indian Alcohol and Substance Abuse work is unifying those. So looking at the language that we can leverage the resources where they are needed, prevent the duplication. The partners that are working on both sides of the Indian Health Care Improvement Act and TLOA are often the same. So that is a positive direction, so that

we can address the mental health issues along with the substance abuse.

Mr. THORNE. Is there a way to leverage the Medicaid expansion?

Dr. COTTON. I think that is an interesting question and certainly, State by State. These particular issues are about coordination of programs, making sure that we are leveraging those resources, making sure that our memoranda of agreement work in tandem, that we can actually build the momentum to have a lot of forward movement under both agreements.

The other thing is just the comprehensive planning. The Tribal Action Plans are so important to make sure that there is a comprehensive approach in each community, so that tribes have the opportunity and the resources to be able to address all of the alcohol and substance abuse issues in a comprehensive way. That ties back into tying in mental health issues as well. So you can't address just alcohol, substance abuse. You have to be able to look at employment and education and housing and all the other things that are really integral to addressing substance abuse issues. Those are the positive steps, the next steps that we are interested in taking.

Mr. THORNE. Okay. Ms. Broken Leg-Brill, what do you need to be able to put the resources into the hands of people who can make a difference?

Ms. BROKEN LEG-BRILL. In detention, that is huge. We are just a small piece of everything that is going on in the community. I think if we were to enhance the community and those resources outside of us, that would make it a whole lot easier to be able to deliver the service on the inside.

Mr. THORNE. Are there barriers to that collaboration that you could identify that we could maybe fix?

Ms. BROKEN LEG-BRILL. It comes back down to resources and what is available. But that is what stands out the most to me.

I think because every court is different and every community is different, it takes time in each one of our communities to develop, I guess, that communication and what is available for our inmates, coming in and leaving. I think what would be helpful is if the courts had more tools, someone said it earlier, more tools in their tool bag other than just jail, especially for those who are mentally ill. They do not belong in jails. Those that are homeless, those that don't have anywhere to go, jail is not the option.

But we as a community, when I say we, I am talking about all our tribal programs, all of our tribes, we have a sentence to take care of our people. With that being said, I have to seriously depend on everybody in the community, the resources within the court, and so forth. So when I say detention is just a small piece of this, we are detaining them but it is really dependent on what is outside of us for jobs, opportunities, treatment, alternative sentencing, you name that.

So we are heavily impacted in one aspect of that. But it just dependent on what location we are in.

Mr. THORNE. If a tribe in Oklahoma or Arizona wanted to do something different in their detention, is there somebody they could come to at your office for help?

Ms. BROKEN LEG-BRILL. Yes, there is. What we would do is, for example, Salt River came and they wanted to become TLOA-com-

pliant. TLOA allowed us to, through the detention standards, to be able to take a look at their current practices and what they were doing, because our compact with the tribe is very limited in how we interact. So what they did is it opened up a lot of avenues to us to begin partnerships in how they address certain things within the detention center and the current resources that they had in the community.

So yes, the point of contact would be the BIA. What we are trying to do is get other components of it added, which is peer-reviewing. Peer-reviewing is a process where we would have like, if Oklahoma wanted to become a peer reviewer with us through the standards and looking at alternatives instead of just strictly jail, we would definitely entertain those kinds of things. Because there is enough flexibility for us to be able to have that approach.

Mr. THORNE. Okay. One of the things I have heard in some communities is they are afraid of doing alternatives, because they are going to lose the funding for their detention center if they do that. If they get to the point where they don't have anybody in their detention center, or they only have one or two people, they are afraid they are going to get their funding yanked. Is that accurate or is that just a myth that we need to work on?

Ms. BROKEN LEG-BRILL. I think that is a myth we need to work on.

Mr. THORNE. Okay, good.

Ms. BROKEN LEG-BRILL. The money stays right where it is. How we approach that, and through creativity, if the need is more, and maybe we can touch on that next with you, if the need is more to look at these alternatives, then that is something we should entertain. Because the need is still there regardless of how we look at it. It may not just be jail.

Mr. THORNE. Okay, thank you. Mr. Little?

Mr. LITTLE. One of the things I think we would like to see continued funding on is a pilot program that we started this year, the recidivism reduction initiative. We started this in three tribes and we got extra funding. It is to look at each individual person, take a percentage of the frequent flyers, the people who are incarcerated every week, every month for the same thing. We take these individuals, make a plan for them, how can they be successful in the community individually. And our goal was to try to reduce recidivism by 3 percent within a fiscal year. The three tribes combined reduced recidivism an average of 46 percent just within this first year.

Mr. THORNE. What tribes are those, so that people can start to look at those as examples?

Mr. LITTLE. Red Lake, Ute Mountain Ute and Duck Valley.

Mr. THORNE. Okay.

Mr. LITTLE. So we would like to put more programs like this out there, but again, it is working with the tribe, law enforcement and the court system to individualize progress for these people that keep coming into our system.

Mr. THORNE. What kind of resources would you need to be able to take those three lessons that are learned and share those with others?

Mr. LITTLE. If you model that with what some of the tribes are doing, better working with SAMHSA, with IHSA and in those communities, and getting those resources into one area, basically bring everybody to the table, you take that one individual, bring them into a room or into a setting, and have everybody at the table that is a stakeholder for that individual, would be unique, would be successful in our community, whether it is IHS.

So I think that is the key, is bringing everybody together to tailor that program for that individual.

Mr. THORNE. So a multidisciplinary approach custom fit?

Mr. LITTLE. Custom fit.

Mr. THORNE. Okay. Judge Hart?

Ms. HART. One of the things, and I know we have talked about it with some of the other panels, is the resources. But one of the problems we have is, we don't have the same funding resources as the States have. The States have entitlement programs that we have to always, year after year, apply for the grants.

Mr. THORNE. What kinds of programs do they have that you would like access to?

Ms. HART. A lot of it, even with the prison funding, the funding for the prisons, funding for the juvenile detention centers, the juvenile prisons, that we as Indian communities don't have access to, we can apply through CTASC, but then it is so competitive. CTASC is absolutely 100 percent a competitive grant, and everyone always refers to CTASC, well, you can apply for CTASC. It is competitive, and if we don't get that grant this year, we have to wait until next year and then apply, and keep applying.

I know at Gila River there was one year where we applied the exact same grant application three years in a row. I mean, we changed it to hopefully make it more competitive, but it was the same program that we kept wanting year after year because it is so competitive. Then once you get it, you have it for the three years and then what happens after three years? We are lucky in Gila River because we do have a lot more resources than some of the more rural tribes.

So we have access, we have more money than a lot of other tribes. And we have grant writers. A lot of tribes don't have grant writers, and if their only resource is the CTASC grant and hopefully maybe writing it well enough for whoever is reviewing it to give them the grant. And then even then, what happens if that person leaves and now three years later, that grant is up? Do you have to then stop a program because you ran out of funding for it?

Mr. THORNE. So you can use tribal money to sort of continue a program?

Ms. HART. In Gila River, we can. But in other places, it is almost impossible.

Mr. THORNE. More problematic. Okay. Are there specific Federal programs that you think States have access to that would help, if you could access it, like the State does, that would help you do continuation and planning and perfection?

Ms. HART. Particularly what I personally, is the education piece that tribes don't have access to the same education piece. When it comes to the State of Arizona's prison systems, having access to continuing education past getting their GED, our tribes don't have

access to the community colleges or the universities to then continue that education.

Mr. THORNE. Okay. Mr. Toulou?

Mr. TOULOU. We are talking about the Tribal Law and Order Act here, which is an authorizing statute. But the resources keep coming out, so I am going to jump on the bandwagon because it is important. In our budget for next year, we have asked for 7 percent set-aside in the Office of Justice program funding, which is CTASC, but that would more than double what we had last year. I know these are tight fiscal times, but we really think those resources would go where they need to go in tribal communities in a way that they maybe don't now.

Tagging it to what other communities are getting, it is 7 percent of the total OJP budget. We think that is an equitable way to do that and serve the needs of tribes. Again, I know this isn't about money, but money comes into it.

Mr. THORNE. Okay. Let me ask you to focus a little bit on reintegration. When people are leaving lockup facilities, what do you need, what are the barriers that you have to helping them succeed once they are back in the community? Anybody can start. Judge Hart?

Ms. HART. One of our barriers is housing. We actually did change our policies for housing to allow for felons to live in our housing, but we still have a lack of housing. So we don't have any resources, like a halfway house or someplace on-reservation for them to go. That is one of our biggest barriers.

Mr. THORNE. Okay. Anybody else?

Mr. WILLIAMS. I am going to agree with Judge Hart on the housing. That is probably the number one barrier, and then the immediate needs that would be number two would be the clothing and the groceries and different things and obviously the employment part. But with the housing, kind of what we do, we just do the 120 days, but we expand to all the counties. If they are able to locate somewhere where they want to live and they find a landlord that is willing to rent to them, we go and actually look at the housing, see if it is up to code and everything, then we start making the payments to them. So we kind of put the ball in their court a little bit, and we try not to place them to where they committed their crime. We try to get them away from the same, back to their old watering hole, per se.

We also utilize Tulsa a lot. I don't know if you are familiar with Oklahoma at all, but Tulsa is kind of where the bigger job market would be, compared to where we are located. It is really sparse where we are located, it is a really rural area. Housing is the biggest, and there have been a couple other tribes, I'll say this real quick, Choctaw Nation and Chickasaw Nation, Choctaw Nation just started a reintegration program they modeled off our program. They have been trying it for years and they are just now getting it started.

We just met with them the other day as well, and they are going to try a housing program as well. It may not be 120 days but it may be 90 days. But any kind of amount is better than a zero amount. I would say that if you do have the funding to put your people in housing somewhere, then that is the number one barrier

when many people get out. They have burned a lot of bridges with family and everywhere else. We try to get them to reconnect with their family a lot of times. But you get a guy that may have been we have one guy that was incarcerated at 17, he did 34 years, now he is 51 years old, he doesn't have any family. So for him, what is he going to do, where is he going to go? His \$50 and his bus ticket isn't going to take him very far. So if we didn't give him housing, what else would there be to do, other than probably re-offend and go back?

Mr. THORNE. Okay. For the Federal partners, are there programs that you can point to that say, here is an example of what we would like to be able to do elsewhere? Mr. Little?

Mr. LITTLE. I think continued care for that individual coming back into the community. We really lack, in our Federal system, as far as tribal, BIA direct service probation and parole. Continued service for that individual to help them. I talked to an inmate who is recurring, who came back into the system. I was talking to her and she said, "People stopped caring about me. People stopped caring what I did, so I just started doing it again." So I think that continued resource, we really don't have a good system for parole and probation.

Mr. THORNE. For a bridge coming back in, support systems.

Mr. LITTLE. Yes, tribal programs.

Mr. THORNE. Is there someplace that you have seen that does it well?

Mr. LITTLE. I think Salt River does it really well. They have that long-term tribal parole system.

Mr. THORNE. Okay.

Ms. BROKEN LEG-BRILL. I am going to have to agree with the same thing. Where do they go? Once we release our inmates, where do they go? They have burned bridges. We have them a point, by standards and policy they are healthy, we have them back on track medically, we have done a lot for them while they were with us. Now sending them back out, they don't have anywhere to go.

So I think if anything I would hope for is some sort of link, some sort of continuum of care for them, whether it be adult and juvenile. Juvenile is more serious, because sometimes when kids re-offend, they come back and they say, I don't have the structure, not in those words, but they will say -

Mr. THORNE. Where do I go and who cares about them.

Ms. BROKEN LEG-BRILL. And I'm going back to the same place where I escaped from. Those are the stories we hear over and over in detention. So if there is anything, as a Federal agency, that we really have to work on, it is that connection back to the community and those resources that, well, we took care of them once before and they are diabetic and we release them back into the community and they are off those medications again and something happens, that caring piece is not there.

Mr. THORNE. Rebuilding those relationships and helping them with the equivalent of after-care, really.

Ms. BROKEN LEG-BRILL. Absolutely, yes.

Mr. THORNE. Okay. Dr. Cotton, are there places you can point to that are doing this well?

Dr. COTTON. I think we have many examples of things that are working, the youth regional treatment centers that are that funded and operated by IHS and tribes are a necessary component to address for Native youth, I think. Patricia brings up about the after-care services, it is so important. The same concept of those youth regional treatment centers, they go for 90 days to treatment and then we put our Native youth oftentimes back into the same situations and the same environment. They have an uphill battle facing them.

In fiscal year 2017, we are requesting a small pilot project to look for helping with that, after-care services, what does that coordination look like after leaving especially a regional treatment center and the struggles that it takes for families to incorporate as part of the treatment, and looking at those after-care services, when they return home.

Another area that has been really critical is increasing access to treatment. How do we do that when we know we are facing so many struggles with recruitment, retention, all of the things that surround the shortages of behavioral health services in Indian communities. That has been through our Tele-Behavioral Health Center of Excellence, that was funded and established through a pilot project that was formerly called our methamphetamine and suicide prevention initiative, now referred to as our substance abuse and suicide prevention program. But we actually were able to establish that tele-behavioral center, expand it, I think, over the six-year pilot. There were particular projects that were funded to establish and increase the use of tele-behavioral health. We saw the tele-behavioral health encounters increase over that six-year period. We are definitely looking at expanding that nationwide, outside of just that initiative.

Mr. THORNE. Okay. Mr. Toulou, have you seen places that are successful at breaking that cycle of abuse, substance abuse, arrest, incarceration, release, substance abuse, arrest, incarceration, release?

Mr. TOULOU. I wish I had just one I could tell you. But honestly, and these folks have more contact than I do directly with those sorts of program outcomes. I don't, and it is partly because there are so many pieces that need to come in together. I think there are tribes out there that are doing nice bits and pieces.

I talked about the joint program of the State when I started out. I am hopeful something like that will bring those additional wrap-around resources in. But that hasn't gone far enough.

Mr. THORNE. Do you have any place that is charged with finding success stories and then spreading that?

Mr. TOULOU. Again, I wish I could say I did. But that is probably a good thing to be looking at in the future, is how we can identify. We have talked a lot about it in the first two panels, about things that are very concrete. This is really important, but it is much broader and harder to get our heads around. So it might be something we want to look for in the future.

Mr. THORNE. Okay. We are coming to a conclusion for the time for the panel. But I want to give each of you a chance to put anything on the table that you think needs to be considered by the staff, by Committee members, about TLOA, something that would

be helpful or something that would be helpful to get rid of. Mr. Williams, we will start with you. Is there anything you think needs to be on the table that we haven't talked about yet?

Mr. WILLIAMS. I think the mental health aspect of it, I think Dr. Cotton spoke a little bit about that. We recently received a grant for that as well. So that is kind of what we are more running into, is that a lot of the clients and our citizens that are getting out of incarceration, they can really gain employment and then hold employment due to the mental health aspect. So that is something I think that needs to be talked about and touched on.

Another thing that the Creek Nation is trying to do, my tribe, we got another grant to where we are funding 20 homeless veterans for the next couple of years. So they are going to hire a case manager to basically find these veterans and to get them a year voucher for housing and also help them out with the mental health aspect of everything.

So that is something, too, that we are trying to delve into a little bit is the homeless aspect of it.

Mr. THORNE. The issue of the veterans, Indian Country has the highest percentage of people who serve in the armed forces. That means we are going to have the highest percentage of people who are coming home with issues that we need to help with.

Mr. WILLIAMS. Actually, in July, myself and another co-worker, we stayed in downtown Tulsa. This is a tad off the subject, but we didn't cut our hair and we didn't shave or anything for seven weeks. We stayed for 60 hours in downtown Tulsa just to kind of see how it is and see how the homeless live. We stayed on the streets for that amount of time.

We have also now, we do search and rescue missions to try to find homeless people to try to take them to different shelters and what-not. We want to create, in the future maybe, if our tribe can create a building of some sort where we can actually house homeless veterans there. I think a lot of times when people deal with the homeless, a lot of them don't want to go into like a gym type aspect, where there are so many of them just sitting by one another. If we had like maybe even a small building that just had their own little room there, somewhere.

So that is another issue we are dealing with. It goes into the mental health aspect as well. I think that is a lot of the problems that we are getting used to, is more of our clients that are getting out of incarceration have extreme mental health issues that need to be addressed.

Mr. THORNE. Okay, thank you. Dr. Cotton?

Dr. COTTON. I think I would basically reinforce that answer, looking at not just the mental health issues, just make sure that we have a really strong, comprehensive approach to all of these issues. That is in TLOA, that is bringing us together for the coordination and the collaboration of those issues. So that already exists.

I think that the issues that we have heard about today are all of those after-care and transitional services that are currently in TLOA. That is such a critical component of being able to effectively address any of the alcohol and substance abuse issues, is that those other services, we may all together come together and just have a

piece of it. But without all of them, we don't make a comprehensive whole.

Mr. THORNE. Thank you. Ms. Broken Leg-Brill?

Ms. BROKEN LEG-BRILL. I want to also say that the wraparound services, all stakeholders being involved and helping reduce recidivism and re-entry back into the communities is very key, especially in tribal jails. Our tribal jails, although there are challenges to resources, there is still a way that our resources locally could meet and try to develop a plan, especially for our high offenders. I should say, the ones returning often.

Mr. THORNE. Frequent flyers.

Ms. BROKEN LEG-BRILL. Yes. There you go. So with that being said, I really think that as a Federal entity, continuing to participate at a national level and at a local level, because I get the honor of working in my jails as well. So on the local level, national level, continuing inter-agency communications and also begin to promote stakeholders being involved. I think once you show the Indian inmate you care, sometimes that is all it takes. Money and anything else, that is all set aside. It is how we move them back into the community, it is the services that we bring to them. Sometimes that is all it is.

Mr. THORNE. Thank you. Mr. Little?

Mr. LITTLE. I think after five years of TLOA, I think we kind of see kind of a road map of where we need to go. One of the most frustrating things, I think Mr. Walters can attest to this, some of the tribes that we deal with on a regular basis, is dealing with the bureaucracy in the government, trying to get something built that you need to get built, because everything is so stovepiped. So maybe going forward, if we could streamline some of the processes within the government system itself, I talk to tribes, again, daily. The biggest thing that they want is resources and stuff. Even if I had the resources, I can't get it to them sometimes, because of the red tape, because of the processes in place. So if we could streamline some of the bureaucracy within the government, I think it would help.

Mr. THORNE. Okay. Judge Hart?

Ms. HART. I know it was discussed earlier, but with the reauthorization of TLOA, that is one of the things that would be, to make it mandatory for, I know some things are mandatory as far as programming, but really make it mandatory with regard to the mental health aspect and the reintegration. I don't remember who said it, but it was on one of the earlier panels, that all of the perpetrators were victims at some point, not just for sexual abuse but even in just assaults or domestic violence. We are not addressing that, and we are not preparing the inmates to come out of custody and be a member of society, be a member of the community, be a parent, be a partner. They just don't know how. So that is one of the things that really needs to be mandatory in TLOA. Some of these mental health and reintegration and rehabilitation programs are actually in place that specifically are allowing them to come back into the community.

Mr. THORNE. So you are talking about mandatory programs in place if they are going to be incarcerated?

Ms. HART. Yes.

Mr. THORNE. Mandatory program while they are in custody?

Ms. HART. Yes.

Mr. THORNE. Okay. Thank you. Mr. Toulou?

Mr. TOULOU. First, thank you for moderating this all day. That is a long time on your feet, a long time sitting.

The one thing I would like to say is, I mean, I think everything everybody has said is completely valid. The substance abuse and mental health of this are really important. But I think the other thing we kind of touched on was the other components that are going to be necessary, which are jobs and housing. So if we are looking at this in the future we have a good working relationship with HHS and Interior as we work through these issues. There may be other agencies that should be involved. I'm thinking HUD and -

Mr. THORNE. HUD and Department of Labor?

Mr. TOULOU. Yes. If we could try and figure out how we can leverage other resources that will help those people successful reintegrate into the communities it would be good.

Mr. THORNE. An integrated approach rather than just silos, rather than just individual sticks. Try and build something with them rather than just a pile.

Mr. TOULOU. Absolutely.

Mr. THORNE. Okay. Well, let me thank the panel members. I know you waited through a long afternoon to have your chance. If you have thoughts on your way home about, well, I wish I had said this, or this really would have been helpful, please contact the staff. I know they want it. If you have written testimony you want to submit, if you have ideas or papers, please submit those. People in the audience as well.

We are going to go into a session where you have a chance to speak, where staff are going to be willing to listen. But if you have written things that you would like to submit or you have ideas that come up that you think we have missed, please send those so we can put those on the table. The idea is we want to make this better. We can't do that without good ideas from people who have a different perspective, who have the real experience.

Please join me in thanking the panel members.

[Applause.]

Mr. THORNE. And Mr. Andrews is going to take over.

**STATEMENT OF T. MICHAEL ANDREWS, MAJORITY STAFF
DIRECTOR AND CHIEF COUNSEL**

Mr. ANDREWS. I guess the first order of business is, as Tracy just mentioned, is thanking Judge Thorne for being on his feet for three hours and facilitating. Please join me in a round of applause for that.

[Applause.]

Mr. ANDREWS. Why don't we take just a short recess, let panel three unwind and if they want to sit and listen to some of the questions, that is fine too. In the meantime, we have staff setting up microphones over to the side or to the corner and the middle. If the members that sat here want to ask questions to the panel or to Tony and I, or even better, offer some solutions or comments on

TLOA, that will work, too. Right now we are kind of in the public comment portion. We will defer the microphone to you all.

Unless Mr. Walters has any brief remarks he would like to make before we get into public comments?

**STATEMENT OF ANTHONY WALTERS, MINORITY STAFF
DIRECTOR AND CHIEF COUNSEL**

Mr. WALTERS. I just want to thank everyone for coming out today and sitting with us this afternoon. I know Mike and I had to go in and out a little bit here and there, but certainly we are going to have a transcript prepared and all the staff will be able to take all this information we have heard today and information we will continue to hear in the next hour or so, however long it takes to get more public comments.

But as others have said, feel free to submit anything in writing that you want. All the staff will be working on this, as people have said, throughout the day. It does touch on all sorts of issues, whether it is health care, housing, education, obviously the law enforcement components directly. So a lot of our staff will work on it in different aspects.

So a lot of folks will be working on these ideas. I am happy to keep hearing some more as we continue through the afternoon. Thanks.

Mr. ANDREWS. And Amanda Kelly is our clerk, and she has provided her email address for any follow-up. I believe it is online. Anything else you want to mention on that, Amanda?

Ms. KELLY. It will be put on our website as well.

Mr. ANDREWS. Okay, thanks. There you have it.

So you guys are excused, we appreciate your time. Thank you again. We'll take a couple minute recess and then reconvene.

[Recess.]

PUBLIC COMMENT SESSION

Mr. ANDREWS. Let's go back on the record. We are now in the public comment portion of our program. If folks have something they would like to tell Committee staff that are still here, now is an opportunity. As we always do, please give us your name so we can put that down for the record. The floor is yours.

We will try, of course, to get everybody that wants to speak. We are cognizant of everybody's time. With that, we will have our first person, very familiar to the Committee, but go ahead and introduce yourself.

**STATEMENT OF LORETTA A. TUELL, ATTORNEY,
WASHINGTON, DC**

Ms. TUELL. Good afternoon. My name is Loretta Tuell.

I am here offering some opinions for the Association of Village Council Presidents, AVCP in Alaska, in the YUK Delta region. They represent 56 villages and they are very rural, very small. They actually have the smallest village and the largess village in their service area.

They have some written testimony, which I will submit. We also heard some testimony at the table about the recent training that they have had this month on Tribal Law and Order Act.

What I want to talk about is something very large and then something very small. It deals mainly with P.L. 280. As we go forward and we are going to look at the jurisdictional quagmire that we have I think it is time to maybe step back and do some oversight on P.L. 280. Some of the issues that wrap around that are the mandatory States and those discretionary States. When you look at it, California and Alaska were two mandatory States. There are 229 tribes in Alaska and 109 in California. That is half of the 556-plus tribes that are representing.

So when you talk about the Tribal Law and Order Act, you are actually leaving a whole segment of Indian Country off to the side as to how they can use it as a valuable asset for their communities. Because there are so many constraints in P.L. 280 tribes.

At this point, one of the main constraints is funding. When we talk about access to funding, it is real when you can't get funding because you are a P.L. 280 State. I say that because under a recent court ruling, *Los Coyotes*, in particular in California, is that BIA has the discretion whether to fund a tribe that is a P.L. 280 for Tribal Law and Order issues. That means that if it is discretionary and there is not that much money, those tribes are all left out on the side. That is shown.

As I talk about this in a universal way, I do think we need to step back and say, is P.L. 280 part of the problem. If a State has been delegated this authority and they don't do anything with it, and there is a vacuum, what is the liability there? What is the oversight of the United States Government when you have delegated authority to a State and they don't act, when you have these isolated vacuums of no authority?

So in Alaska, in the villages they have been having law enforcement with what they call village public safety officers, VPSOs. Those have been funded by Alaska. They are in the communities and they serve as the first responders.

But more recently now, as the State is in financial constraints, they want to pull back and pull out the funding for those village safety officers. So what does that mean? It is another vacuum. If the Feds aren't doing it and the States are not doing it, again, pursuant to the Law and Order Commission's report, you are going to find little islands all over within this region and all over Alaska with no law enforcement at all.

So it is not an answer to say we have also shifted this to the State when they don't do anything.

So how do we address that? Well, one of the things that the Corporations Committee has put out in this fiscal year 2016 is to have a study, commissioned for 180 days, the BIA and DOJ are supposed to look at P.L. 280 funding and what are the constraints, what are the solutions? Well, that is important to this Committee, because in that report, you need to have oversight, even though you are not the appropriator, because there will be substantive issues brought up that could be under the authorization of the Committee and maybe some reports, some examples could come out of something we could do in TLOA.

Now, they said 180 days, so I suspect, in government-speak, that is maybe August we get something. And as we are looking to reauthorize this, I don't know about the timing. But if you have some

meetings, have some oversight, because I am not sure if they are going to build in consultation with tribes to try and figure that out or not.

But the primary concern here from the Chair of the Interior Appropriations Committee, Senator Murkowski, who also sits on this Committee, is the vacuum in P.L. 280 States. If we step back, and I know we will probably hear some more discussion of that, what we do and is it the right road? Is retrocession the only answer? Is the answer within TLOA the answer? Or is there something we should step back and say, have we contributed to the problem and do we need to find a new pathway forward?

I also would say that the AVCP stands by all the recommendations in the commission report. Three of those revolve around land. We know the department of Interior has BIA potential land-into-trust regulations in Alaska. If those are found to be valid and they go forward, it is now going to shift to where they have authority over the land, but they are still under P.L. 280. So they end up much like the California tribes, in the same situation.

So it is not a solution. Land jurisdiction is not a solution. It is just another asset that you have, but it doesn't get you any more law enforcement.

That is why I am here, and I will submit the testimony. If you have any questions, I would be happy to answer them.

Mr. ANDREWS. Great. Thank you, Loretta. We appreciate that. Loretta, one question on that report. That is an outstanding report, if I am not mistaken. That is not a new report?

Ms. TUELL. It is a report that they were obligated to start this fiscal year. So it should be due this year, maybe August. So they should begin to start to do that. DOJ and BIA are vested with the responsibility.

Mr. ANDREWS. Okay, thank you. Sir?

**STATEMENT OF JOHN DOSSETT, GENERAL COUNSEL,
NATIONAL CONGRESS OF AMERICAN INDIANS**

Mr. DOSSETT. Hello, my name is John Dossett, with the National Congress of American Indians.

I wanted to make a brief comment about the process for the Tribal Law and Order Act. The Tribal Law and Order Act, as we heard today, we probably heard 100 good ideas and how do you get your arms around all those and put them forward to the tribes in a way they can give you feedback on them and come to accept them?

So I wanted to tell you about the process for the Tribal Law and Order Act. It really started in 2004 when Tom Heffelfinger, who was the U.S. Attorney for Minnesota, and he was the Chair of the Native American Issues subcommittee. He knew about the law enforcement problems in Indian Country and we worked with Tom to do a series of meetings around the Country with tribes.

We developed a memorandum that was tribal recommendations on improving law enforcement. It was just like an outline, an annotated outline with concepts. Many of the concepts you heard today. It was a way to sort of put them all in one place and keep track of them. And you could share them with tribe around the Country and then the tribes could look at them and give you positive or negative feedback or try to change them.

The hard part is getting multiple tribes in different parts of the Country, it may be a great idea for the tribes in the southwest, but it doesn't work for the tribes in the Great Plains. They all have to have input into that or else you are going to have difficulty coming up with legislation that all the tribes buy into.

So we have this outline and we circulated it with the tribes. After a while, it became clear that it wasn't going to work, just working with the United States Attorneys. So in about 2007, we went to Congress and started working with the Senate Committee on Indian Affairs. We gave them a long outline of all these issues and proposals and then the chairman at that time started his own outline of these issues, what he thought was doable and achievable. He circulated that with the tribes and held multiple meetings and got a lot of input.

John Hart was here earlier, he was the guy. You might want to have a talk with John Hart at some point. He was chairing the Senate Committee on Indian Affairs at that time, and he dragged us through that process. We were also pretty involved it, a lot of feedback.

Anyway, I think that idea of having some sort of an outline or central document that you can share with tribes and you can keep track of, the Tribal Law and Order Act is probably 100 different provisions. There is a lot going on in there. And if you don't write it down and keep track of it, it really gets pretty difficult.

Then after a while, then you can take that to legislative council, then you can work up draft legislation then circulate the legislation with tribes. That may be a somewhat longer process, but I thought it was a fairly effective process for getting a lot of input from the tribes. Then at the end of it all, you had a whole lot of tribes who really bought into the process. That is what helped to push it through.

You had sort of a, I don't know if it was unanimous, but we had a groundswell of tribes across the Country who were talking to their members and saying, hey, we have to get this done.

Anyway, I just wanted to suggest that as possibly a process, maybe look at some of the outlines that John Hart developed. They are probably still sitting around in a file folder somewhere. But that was a pretty good process for pulling all these ideas together and then getting feedback from the tribes.

Mr. ANDREWS. Great. Thank you for that.

**STATEMENT OF DANIEL JORDAN, FORMER COUNCIL MEMBER,
HOOPA VALLEY TRIBE**

Mr. JORDAN. My name is Daniel Jordan. I am former council member for the Hoopa Valley Tribe and self-governance coordinator and director of commerce. I also deal with business laws under the tribe.

First of all, I do want to thank the staff, the staff of the Senate Indian Committee past and present, for their work on this Law and Order Act and the work on law enforcement in general. It has been a big problem. The commitment and the dedication has been really appreciated.

Also I want to thank Darren Cruzan's office. Being a P.L. 280 tribe, this office has been the first to recognize that we also have

law enforcement problems and the BIA has been more supportive under this Administration than any other one. There are solutions to P.L. 280.

But I also want to echo what Loretta said, there does need to be kind of a step back and look at P.L. 280. Because when it was passed in 1953, it was kind of a wholesale thought, of a wholesale transition of Federal jurisdiction to the State. And we know now it is not, because criminal jurisdiction is what was thought to be kind of a holistic approach, but now we see under Cabazon and other things that it is not. For example, you take the entire Federal Transportation law, and it has a whole section on law enforcement, public safety, highway safety. But they are so over-regulatory and they have no jurisdiction. Yet the State of California gets the funding to implement it, but it cannot implement it on an Indian reservation.

We have a situation where the highway patrol, we have about 400 miles of roads on the Hoopa Reservation, 360 of which are on the BIA road system. But the highway patrol patrols generally 12 miles of State highway and then there is about another 30 miles of county road, and nobody patrols them. So when we deal with things that are happening on the reservation road system, we don't even have the support of the county or the highway patrol.

And then we have coupled with that the transitions that we are seeing with, marijuana is a good example, that the State is changing their criminal laws to decriminalize marijuana, where on the reservation, we are still, under tribal law we prohibit marijuana, because we don't have the law enforcement to deal with the underlying problems, the social problems, the crime, the other drugs, hard drugs and different things. So it is easier for us to prohibit it.

But the law enforcement agency we have on the reservation under P.L. 280, the laws are changing under them. So we are getting caught more and more in these jurisdictional voids because P.L. 280 is shifting underneath us.

Also, Hoopa is a very remote reservation, largest reservation land base in California, very remote, up in the hills. And you have to actually almost want to go there to get there. We are completely outside of the common population centers of the county. That also helps to, I guess, is a problem with even interpreting the application of P.L. 280, because the State system, the State sheriff is voted in by the populace of the county, which is not us. So they cater to the populace of the county.

So again, P.L. 280, as it was looked at in 1953, has changed a lot, not just in the changing of criminal law definitions under State law, but under the political process that drives its implementation, which is that county and State system.

For those tribes like Hoopa, we are caught in a position where we just simply are, we have no support. We are a sovereign tribe. So we have to get agreements with the county and the State and Defense to actually enforce Federal and State law. Those processes are not working today.

We had a lot of hope, we kept watching the purposes of the Tribal Law and Order Act up on the screen, and we kept hearing the comments. We really do appreciate and are encouraged by these

comments. But they don't apply to us, because the only way that they can apply is if Section 221 is actually approved by the Department of Justice. We are one of five tribes that actually applied under the Section 221 Federal reassumption to have been denied, two from California, two have been approved from Minnesota, and we are the last one.

Our request has been pending for about four years. We can beat up Tracy Toulou and Marcia Heard about what does it take to get this Department of Justice to say something. We are good at fighting issues and responding and taking care of problems. But when the voids occur, when faceless agencies within the Department of Justice, because we understand there is a couple of them that are saying, maybe we don't have to do this. Well, we are losing people out there. We have drug problems. We do have officers, we have about \$1.6 million in our tribal police program. We do have a stable program. We have been out there for about 35 years. And as P.L. 280, we are melting down, the tribe, even in a P.L. 280 State, without Federal assistance, kept moving to fill those voids.

Well, we do have officers with guns, we had the first tribal court in California. We do have police vehicles with red lights and sirens and they stop people on the road, but they can't enforce either State or Federal law today. We were hoping this 221 would be a logical step to bridging P.L. 280, but we are being blocked by Department of Justice people who simply won't come out from behind the curtain and say what the problem is. Now, if they say what it is, and we know what law enforcement is about, then we could at least go challenge them on it. But they are doing nothing.

So we are losing, we actually in the last two months, we have lost three people, dead because, and we always question about, who is going to even show up. Our tribal police officers are the only ones on the front line at Hoopa, and they can't enforce Federal or State law. They can enforce tribal law. But we can't put them in prison.

So we are completely in this void of 280 on one side, Department of Justice doing nothing on the other side to move this along. The Law and Order Act is great. We would love to get those kinds of programs working for us, because we can fix a lot of these things. But when agencies simply sit on these, Federal agencies, and do nothing, they are just causing generations of people to be lost.

Mr. ANDREWS. Thank you.

**STATEMENT OF HON. HAROLD FRAZIER, CHAIRMAN,
CHEYENNE RIVER SIOUX TRIBE**

Mr. FRAZIER. Harold Frazier, Chairman of the Cheyenne River Sioux Tribe. We are located in South Dakota. We have over 20,000 members. Our reservation boundaries encompass 3.1 million acres of land.

We have full civil jurisdiction on our reservation. And I was reading that sign out there and it says, has the Tribal Law and Order Act improved these past five years. I was the chairman from 2002 to 2006. For the Cheyenne River Sioux Tribe, in eight years, with me coming back, to me it has gotten worse in the area of law enforcement and courts.

One thing I can tell you, grants are not solutions. As I go around and visit people, our members, our staff, I always hear the same thing, we used to do that. That used to really work for us. And all the things were funded through grants. So right now, I can tell you that grants are not solutions for the Cheyenne River Sioux Tribe.

We are short of law enforcement officers. Couple of barriers. One is that the BIA refuses us to hire anybody and allow them to patrol unless they are certified in their academy.

This past April I walked into our jail. I saw a uniformed officer, badge, uniform, pistol, answering the phone. He was answering the phone like a secretary would. I said, how come you are not patrolling? And the sergeant on duty comes around the corner and says, because he is not certified. So I immediately called Artesia and said hey, and I found out we had three of them in that situation, and I said, hey, got to get these guys to training, get them certified, get them to patrol.

There were no openings until, at that time, this was in May of this year, they said, there are no openings down here until January of 2016. So then I called the State academy. They said there are no openings until August of 2016.

For about four months, I tried to figure out what we can on Cheyenne River. Because prior, when I was chairman, we used to be able to hire someone, certify them in weapons, give them an orientation and they were able to patrol, providing they went to an academy within the year. So I was trying to find that.

I finally found in 25 C.F.R. Part 12, there is a clause in there requesting a waiver. So in September, I wrote a waiver to Jason Thompson, I personally gave it to him. And it wasn't until a few weeks ago we got a response. This summer, we have had three homicides on our reservation. One of them is still out there, we don't know who did it. And that is a concern for our people.

When I was a young kid, first time, grade school, was told by our teachers the role of a police officer. The police officer is there to enforce the laws. The courts interpret the laws. The governments make the laws. That is the way I understand.

Today, when they go down to Artesia, these police officers also interpret the laws. I feel, and I tell them, if you see somebody breaking tribal law, arrest them. I don't care what color they are, where they come from, you arrest them. You put them in our jail. And when those individuals go to court for arraignment, they should be able to say, hey, I am not Indian, you have no jurisdiction over me, and the courts will say, fine, we don't. Case dismissed.

But Artesia does not teach our officers to enforce the laws, particularly tribal laws. And in the 638 programs, that is who they work with, the tribes. So they need to enforce tribal law.

Another big issue is backgrounds. Adjudicated backgrounds. What does that mean? The BIA has not been clear in defining what entails, is in there for certified background, or adjudicated background. Is this what it is? No. We have contacted other tribes, Rosebud. BIA is telling us we have to do this to have adjudicated backgrounds. Oh, no, we do it differently, but they approve of ours. So I don't like that. They need to come to us, be up front, honest and say, here is what is required to have an adjudicated back-

ground. That is what is happening at Cheyenne. They are saying none of our police officers or detention officers have an adjudicated background.

And like I mentioned earlier, it is a barrier to hire a certified police officer in our area, on our reservation. We are short police officers. So one of the solutions, we thought, well, let's go after a COPS grant and maybe try to hire 25 police officers. But what is going to happen when they are not certified? We are going to sit there with a million dollars and not be able to do anything?

I have been dealing all year with the Bureau of Indian Affairs about this. I said, if we can't do this, give us some solutions. Because bottom line, we need bodies on the street. Still they have not provided any solutions.

I always said, we are going to be just like the Indian Health Service, like they rotate doctors, you get a bad doctor at IHS, instead of firing them, they transfer them to Pine Ridge, transfer them to the State of Washington, their IHS. That is what is going to happen, that is what is happening with our police officers. So I even went as far, and I asked the other chairmen, fire some of your police officers so we can hire them. Whether they are good employees or not, as long as they are certified, they will be hired.

We recently had a review of our detention facilities. Eight years ago, when I was chairman, and I left, we were having Federal holds in our facility. It was generating revenue. When I go back today, our facilities is a mess. That review, done by the Bureau of Indian affairs, will attest to that. This summer, our computer software was down for five months. There was no lighting in the juvenile portion. The judge even said, I had some juveniles before me, they should have been sentenced but there is no way to house them. Let them go.

Also in their review, they said, our budget is under-funded by \$500,000, minimum. And again, we can't be having grants, we need to get our base funding increased. In our courts right now we are funded at \$600,000 per year. Our prosecutor's office is funded at around \$148,000 a year. I could honestly say that is for the past 10 years. We should have had an increase, decrease, around \$4,000 every other year.

Who would come to the Cheyenne River Sioux Tribe, a good law-trained prosecutor, for how much? The entire \$148,000? Maybe.

One of the things that is a big concern with us is meth. This past year, in March, I gathered everybody within the tribal programs I thought that could have the expertise, how are we going to, what is going on, what can we do. I was told at that time that we have had over 400,000 arrests, meth-related. Zero convictions. So I immediately wrote to the Bureau of Indian Affairs and said, hey, give us \$150,000 so we can try and hire another prosecutor. Well, before that happens, they said, you need to have an assessment on your courts. Okay, well, let's go.

So they come down, do an assessment. And the team that assessed agreed, you need another law-trained prosecutor, you need a public defender, you need a trained court administrator, law-trained court administrator. Okay. BIA didn't do any of that. All we got, they sent down \$100,000.

In 2007 we had an assessment on our courts. What they pointed out then they are pointing out now, short of funding. You need a new courtroom. You need more training. What do we do, go get a grant?

In that 2007 assessment it says how much funding we were lacking. And another good thing it said in there, it said that the tribe was very accountable and did the best they can with the money they received.

As I mentioned earlier about meth, I told our people, I don't just want to lock everybody up in jail. We need to have prevention, we need to have treatment. We have been working on treatment of that drug. What I found last week I couldn't believe. We have a detox facility. We have counselors. I found out that we are treating this drug like alcohol. On the Cheyenne River Sioux Tribe, we do not have the expertise to deal with this meth.

So yesterday I meet with Mr. McSwain, head of Indian Health Service. Do you have anybody that can help us come up with a treatment and prevention plan to deal with meth? He pointed out his expert and she said, no. That is a concern to me. And it should be a concern to everybody.

The Indian Health Service does not have the knowledge and expertise to address this drug? Where do our people go? I am also finding out that maybe the State of South Dakota is lacking that expertise. So that is something that needs to be looked at and addressed.

There is an initiative, meth, suicide prevention, I think, came out from Congress. We got a grant, \$150,000 grant. What I see is that these two initiatives need to be separated. Like I said, this meth is a monster that has come about these past few years. It is like this initiative is telling the tribes to, what do we want to address? Suicide or meth?

In our area, we have over 122,000 members. Our area is given \$1.2 million. It might seem like a lot of money to me, I have never seen that kind of money, but when you are dealing with 122,000 people, that comes to \$10,000 a person. I am finding out if you are going to send someone to a treatment center for meth, it is about \$25,000 a month. So we need to increase that funding.

Again, I am going to say this. Grants are not solutions, especially for tribes like us, or for any tribe. We just need to increase the funding base for law enforcement, tribal courts. I am a member of the TBIC committee. And the chairman from Montana, I think, Fort Peck or somewhere like that, he mentioned that at one time, Congress took Justice money out of the Bureau of Indian Affairs and moved it over to Department of Justice and turned it into a grant. If that is the case, that money needs to be back over in the Bureau of Indian Affairs.

I thank you guys for taking the time. Thank you.

Mr. ANDREWS. Thanks, Chairman. I will be seeing you tomorrow as well in follow-up.

Mr. FRAZIER. Yes. Thank you.

**STATEMENT OF CHARLES DOLSON, EXECUTIVE DIRECTOR,
RED LAKE BAND OF CHIPPEWA INDIANS**

Mr. DOLSON. Good afternoon. My name is Charles Dolson. I am the Executive Director of the Red Lake Band. Thank you, Mr. Andrews, for coordinating this. I really appreciate it.

I think the chairman kind of stole a lot of my thunder. I am going to couch a lot of what I want to talk about, I want to talk about funding first. I want to couch it in terms of infrastructure. So when you talk about data bases for courts and how they marry up with the States and stuff like that, even the Federal Government, court diversion programs, stuff like that, that is all infrastructure. And you are not going to be able to get that infrastructure with narrow purpose CTASC grants.

Instead, I think it was about a year and a half ago now, the Tribal Interior Budget Council wrote a letter to the DOJ, asking DOJ to take the money that is intended for tribes, presumably CTASC, and move that over to BIA so they could disburse that to tribes so tribes had a little more ability to move that money, instead of in that narrow purpose area of a CTASC grant. DOJ hasn't addressed that. But I also realize that DOJ will probably not address it because there are so many different hoops that go into the accountability act, other things like that. But it is probably time to map out where that money goes and what committees have jurisdiction in that and start setting the path so that can happen and so you can see that infrastructure start to go. Once you start having that infrastructure, you'll probably see crime and other troubles go down on the reservations, because they will have that infrastructure in place and they will have that ability to move the money to where they need to to affect their infrastructure.

Also, in terms of funding, BIA is where, Office of Justice Services, I believe, is where salary comes from for police officers, for those under self-determination. That is where the salary comes from for tribal police officers, is from that office. But TLOA did not actually fund that office. Instead, since TLOA has been enacted, that office has actually seen a decrease in money. So essentially we see it is more difficult to get officers out on the street. How to address that, again, I really don't have a solution. That has to do with funding sources, jurisdictions of committees and stuff like that. I can't speak intelligently about that.

Also, White Earth folks couldn't be here, so their secretary-treasurer called me and asked me to ask, they are one of the tribes that are taking part in TLOA. They asked that the CTASC, the money, that it would actually be separated out a little bit more. I think what they are getting at is that it needs to be a little bit more not so narrow focused.

Mr. ANDREWS. Flexible, right?

Mr. DOLSON. Be more flexible, thank you.

The next thing I want to talk about is jurisdiction. I only have one quick thing about jurisdiction. Frankly, we need an Oliphant fix. Every tribe is unique and every tribe that has the proper infrastructure could enforce their own laws, and they really should. So I think the simplest answer to anything is an Oliphant fix. I know that is going to be very difficult and it probably is very

unwelcoming. But that is kind of the reality of Indian Country, is, it is time to fix that.

Thank you.

Mr. ANDREWS. Thank you.

**STATEMENT OF RICHARD RUSSO, VICE CHAIRMAN OF LAW
AND ORDER, CHEYENNE RIVER SIOUX TRIBE**

Mr. RUSSO. Well said, Chairman Frazier, gentlemen, everybody. I'm Vice Chairman of Law and Order, Cheyenne River Sioux Tribe. I'm Richard Russo.

You just talked about population. Compared to what we do, the amount of miles, the reporters the officers do, I was also tribal police, Mesa, Arizona. Police academy down there, moved up, went to the service, here I am today. Tend to stir the pot up, I don't have a problem speaking up for the people. But our wage, pay scale, to our judges, \$40,000, \$50,000, compared to the prosecutors who get \$80,000 to \$100,000, we don't have that kind of money to pay the prosecutors. When you go out and advertise, first thing you hear is, that is all they pay? Where is housing? Oh, shucks, we don't have housing either. We make do, BIA. If you can get into a house that should be condemned. Lack of maintenance.

Earlier, I showed photographs of our jail. Never in my life I had seen stainless steel turn black because it was improperly cleaned, sanitized by BIA. Oh, they don't have any money. That is not our problem. If we were to put somebody in that jail, we are going to violate their civil rights. No disrespect to the Native Americans, the animals are treated better outside than the condition of that jail. Poor lighting, computer system down, to where the command center was actually pulled out and you could see everything. And all of a sudden they said, well, you can't have that command center there. The dispatchers could not be in the same—they changed the rules again—dispatchers could not be in the command center. Well, what more could you ask for? But the computer systems went down. It has all been documented. Fell on deaf ears.

I get to scratch quite a bit off, thanks to Harold, so I will keep it shorter. We had a safety officer, and you know, we get caught in the audit finding, because they keep changing the rules. This safety officer went out there and stopped a car for a traffic stop. There was three individuals there. He called for backup. The response time? He was out towards the west end. It is almost 40 miles from Eagle Butte to get there. Thank God that officer was fit. He overcome, but they took him down, he got back up. Few scratches, but that is the way it rolls.

When I was on the east end, 300 miles a night was nothing for me. My central location was Ridgeview, South Dakota. This is ETA, where do you want me to be, 120 miles, I can be there in 10 minutes. My response time was where it should be. But you shouldn't have to violate safety rules and regulations, because we have no officers.

I started out in a volunteer program working for the tribe at age 16. Just as a ride-along. I was involved in a head-on collision with my brother, going to a response where there was a situation down in a small community at Blackfoot, almost 80 miles from law enforcement. My brother had a panic attack, the only thing I said

was “247, 247,” no response. So he takes his gun belt off, hands it to the guy standing along the road and I’m going, what’s going on? So I get out, radio is bent now, so I picked up the radio and “247,” the only thing I knew was “help.” It didn’t take long for them guys to do cookies on the end of Main Street and come out 50 miles to the other side. Safety. When that officer or that individual had that gun [indiscernible], Mister, you can put that away. No, no, no, that belongs to that officer. Well, you ran across country about 500 feet to get to a phone. That is how desolate it is out there.

I have seen the training tapes and everything you guys got. Officer safety. We just now finally got cameras and recorders. But the suicides and the homicides, wow. That poor man that laid out there by the lake and we have no answers for the family, wow. Over 1,000 calls came in, of course, everybody texts nowadays. So like I said, no [word in Native language]. We are up here, this is three and a half years I have been here. I am up for election. My brother is running again, but I beat him and hope I beat him again, because I will stand up.

Like I said, I have been to all these guys’ doorsteps. Pinocchio, we all know what that means. They never have the answers. We asked for three officers. Mr. Little says, I will get you three officers. Have your chairman be nice today. Chairman was nice, the rest of them weren’t. But all of a sudden, he is going to show up Tuesday. I am going to be there, because I want those officers.

It took us, we finally got a new chief of police. The word “can’t” is not in my vocabulary. I said, if we have to use the BIA, let’s use the State. Wait a minute now, we have sister tribes, where do they go? Standing Rock, oh shucks, their BIA officers, they got 25 officers for search. When we asked those guys, no, couldn’t get it. Wow. Other tribes, background, adjudications. We have two people that do adjudications, BIA don’t recognize them.

As Mr. Frazier says, if we take our officers out there and they stop somebody what are you going to do? Well, we can’t recognize the evidence. What? Federal law says, FBI says, hey, send it our way, we will take care of it. Mr. Frazier says, well, it is at the BIA, well, don’t worry about the BIA. It is a Federal issue now. Okay, so we kind of get, I would like to take the direct cost money and share it with the rest. I think in, the Nationals in Vegas, we sat down, I think they are getting 6 percent. We made action that day to knock it down to 4 percent. Whether it happened or not, we don’t know. It is a lot of money. Because the direct cost, you guys got 17 warriors up here on the BIA side. When that direct cost hits, when you raise anything, they just get more. Transportation side, last year the chairman of the transportation committee, wow, like I told him, the fatalities we have because the roads aren’t fixed, I said, as representative, if I can’t get answers here, I will bring the people back. Because that lady and her child that lost their lives in the ditch because ten years went by and nobody fixed that little washout, we need help. And it is just not my tribe, it is the sister tribes too.

One of the grants, I know danged well don’t work. Because they have said it for two, three years, we don’t have the funding to bring it back in. What are the audit findings is protective custody. We used to charge everybody, years ago. They don’t have any money,

so we turned them in for PC. One of the audit findings said, we are going backwards. What do you mean, going backward? Yes, that is part of the audit finding, because you have to charge the people who are in jail. With what? How are they going to pay? They don't.

So we got a lot of the minor audits taken care of. But there again, deaf ears. That is why we are here today. I am glad we got to speak. I was getting frustrated, coming here in a taxicab, a 100 mile ride in a taxi because I didn't have an address, wow. Nevertheless, I will stay a little closer now, Residence Inn, thank God I am only 10 miles away.

There are a lot of issues out there. So I would like to thank you for your time and I hope you can help us before somebody else passes away. Because I am also the towing company. So all my memories are right here, and the only way I can vent to the people is right here. I have been here.

I watched, I didn't get to watch, I went and responded, where some kids, something happened, drifted over underneath a semi. There is nothing left of the Peterbilt either, or the flesh and bones that were burned on that blacktop. We had an off duty police officer, our safety man, heard the bang and the boom. And the ex-chief was one of the first responders. They couldn't do anything with the bodies but smell. You ever watch a young lady been cauterized, people who have been burned, watched two young men burn to death. The truck driver managed to get out. He drifted, he got off, out of the way as far as he could to try and avoid the accident. He made it but the kids didn't. So there are signs in our ditches, beautiful signs, the Lakota Way.

Thanks.

Mr. ANDREWS. Mr. Frazier?

Mr. FRAZIER. Can I read a letter into the record? I could even give you one now. Probably tomorrow I will bring in hard copy. I referenced this homicide. And I just got this. There are some things that I think should be here so you guys know that I am concerned with things like this and I am trying, that is why I come here, because I am concerned.

This was received today in my office. It says, "To Chairman Frazier and all elected officials, from the mother of a murdered child. I am writing this letter in regards to the overwhelming drugs being brought into our reservation by many employees, family members and possibly some dirty cops. I am attaching all these messages that I have received since my son's murder. And to this day, your tribe has not offered me any assistance [indiscernible] other than the funeral expense. There was a reward of \$5,000 and to people of [indiscernible] they see that as chump change.

This society works in large numbers. So what is a mom going to do? Trainings and flight trips monthly are attended to by not one official but a few. So I ask you all humbly to help with assistance in raising the reward. If not, I ask that you use a month salary to test all employees randomly. We have council who have ties to the drug lord in the past. Some have now been seen who knows what with men of a Spanish descent at the local drop-offs, which are casinos on the Standing Rock Reservation.

Why is that the Cheyenne River Housing Authority is the only entity who does random testing? They meth test homes, they allow the law enforcement drug dog to enter the premises to search employees, personal vehicles, program vehicles and work sites. You are the rule maker of this reservation. The people voted you in, so isn't it time you started protecting them instead of enabling them? My nephew went home higher than I don't know how to describe a reminder, my nephews are all under the age of 18 and in high school, demanding to know what he purchased, his high, or what was given to him and replied, me and Lank Phillips went and met Lane Condon at the motel and she gave us five joints. But aunty, it feels different.

Now, since this tribe is paying for hotel rooms for homeless families, I would figure you would have money to test the motel rooms, do random drug searches, hotel employees certainly distribute it as well. I believe we have every right to enter what you want, since it belongs to the tribe, right?

What happened to the Banish Law? What happened to fingerprinting criminals? FBI cannot identify the fingerprints that were left on my son. What happened to random testing of employees in the CHR program? How does a user who has been picked up numerous times on ingestion and possession of a controlled substance and is known to sell the needles from the Department, is she still employed or would you know? Why can't you draft something up, asking people to help? Why can't you bring in more officers and even allow BIA to come in and clean up if our officers cannot do it themselves?

Have your point of entry to stop all these Mexicans, black and white people from coming in and killing the people who elected you. The mothers, women who bring all these men in to destroy are just as bad as the person who killed my son. Why does this not seem to be a problem? You have employees who are heavy users. The BIE/BIA has had employees make it in their homes and yet they get moved to a new house. After a bust was done, the guy is still employed.

If we as parents want something done, and if we take the law into our own hands on trying to get children, mothers, fathers, grandchildren back for their families, are you willing to stand with us in stopping this epidemic? Is it time that we bring back the cuchita that once kept the camp safe, or is that a myth just like all the rules and resolutions that are in effect as problem solvers?

"Sincerely, a grieving mother, Sherry Trueheart, Cheyenne River Sioux Tribe Member."

See, these are the things that we are faced with. I try to, that is why I come here, and I mentioned earlier in my talk, we don't have the resources to have a prosecutor. We have one, but you know what you pay, right? Thirty dollars an hour, that is the type of prosecutor we have. That needs to change. We need more funding, more resources to help people like this.

I really hope that, and it is sad that everybody left. We should have been on this panel. I always tell our programs at home, the people out there, they are the true evaluators of our programs, of our work. Sure, BIA talking about doing a waiver to waive Indian preference. But at this point, we don't care who comes in.

So I think that in the future when you have panels, it is well and good you are taking the time to listen. But I think down the road, it should be people who really live there, not just in certain areas, successful tribes, but different areas. Be random and pick a tribe.

Again, thank you for giving me the opportunity to testify. Like I said, tomorrow in our meeting I will have a hard copy of this letter. Thank you.

Mr. ANDREWS. Thank you, Chairman.

Mr. WALTERS. Anyone else with a last comment? I want to say thanks to everyone who stayed with us throughout the day.

Mr. RUSSO. One last thing. We had some situations of family members coming back to the reservations and bringing non-members on the reservation. I was unfortunate enough to have two of them work for me. Turned out to be a small domestic violence. Well, it escalated about winter time, because they figured they could move in.

Did a rap sheet on him. The sheriff, Law 72 65, the rap sheet was taller than him, known to make meth five times. The situation, I talked to the sheriff a while back, got an individual stopped for a traffic stop and he had five grams of meth on him and a scale. So they arrested him, took him 35 miles up Timberlake and the prosecutor threw it out, because they felt it didn't belong to him and it's not illegal to have a scale on his person, because the guy said, well, I use it in cases I get cheated. But it got thrown out, along with the letter. I'll let you go.

Mr. WALTERS. Thank you. Well, Chief Melvin, Danny, I guess we can shut it down now. Thanks to everyone who stayed here with us today. We will continue to take comments from anyone who has them or wants to submit them later in writing. Other than that, thanks again and we will keep working on these issues.

[Whereupon, at 6:20 p.m., the Round Table was concluded.]

A P P E N D I X

PREPARED STATEMENT OF HON. RICHARD C. BLAKE, PRESIDENT, NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION (NAICJA)

My name is Richard C. Blake, and I am currently the President of the National American Indian Court Judges Association (NAICJA). I would like to submit the following written comments on the Reauthorization of Tribal Law and Order Act (TLOA) to the Committee for consideration. My comments will address issues related to state and federal databases, investing in traditional forms of alternatives to detention, and indigent client services.

Accessing state and federal databases. Tribal protection orders often are not entered into state and federal databases and has this has created a national safety crisis. Tribal courts and tribal court judges have been working for decades to gain direct access to state and federal protection order registries in order to enter their orders. NAICJA hoped that the passage of TLOA, which mandated the federal government to provide access to federal databases, would have closed this critical gap in public safety. But five years later, tribes still do not have access to vital state and federal databases despite the statutory requirement that tribes be given direct access to the NCIC system. While we understand there are some preliminary efforts to educate select tribes and install the equipment necessary to access some federal databases, the efforts fall short of the necessary access that tribal courts need to enter and ensure the enforcement of their protection orders. We request that you provide immediate direct access to tribal courts to enter protection orders to prevent further harm and loss of life in our communities. We also request that this effort be adequately funded.

Alternatives to Detention. While funding has been spent to research conventional, western-model alternatives to detention, less money have been spent on community-based and traditional alternatives. There are various peacemaking, wellness, and traditional justice models that are being used in tribal courts as alternatives to detention. More funding should be allocated to review how tribal courts integrate traditional justice and community values into varied aspects of tribal civil and criminal justice, to provide experiential training and tips for accessing tribal judicial systems that utilize cultural forms of justice, and to provide an explanation of how traditional peacemaking can unlock new approaches to provide effective representation of civil and criminal legal services clients. These community-based models are effective and cost efficient, yet very little funding is allocated to collect the requisite data needed to deem them “promising practices.” We request the Committee to support funding to investigate these models, collect data, and replicate efforts so all tribal communities can have the option of implementing successful models in a manner consistent with their community values.

Indigent client services. The requirement to provide indigent individuals representation before tribal courts is cost prohibitive to many tribal communities; however, this service is necessary to protect the due process rights and other rights of all individuals appearing before the court. Moreover, adequate representation also ensures equal and fair access to the courts to resolve any form of civil disputes and to encourage community wellness. There is grossly inadequate federal funding to support providing legal representation to tribal members. Additionally, the small amounts of federal funding that has been appropriated and granted to tribes and organizations to provide direct services, training, and technical assistance has been drastically reduced over the past few years (e.g. Tribal Civil and Criminal Legal Assistance Program). This type of funding should be maintained and considered an integral component of supporting tribal judicial systems—especially to those communities seeking to implement enhanced sentencing authority.

The NAICJA staff, Board of Directors, and I welcome the opportunity to speak with you about any of the matters addressed in this letter, and we thank you for your time and consideration of this important issue.

PREPARED STATEMENT OF THE RED LAKE BAND OF CHIPPEWA INDIANS
 THE RED LAKE BAND OF CHIPPEWA INDIANS DESCRIPTION OF THE TWO MOST
 SIGNIFICANT ISSUES REGARDING THE TRIBAL LAW AND ORDER ACT

Recurring Funding

The Tribal Law and Order Act Failed to put More Police Officers on the Street

One of the emphases of the Tribal Law and Order Act (TLOA) was to empower tribes with the resources to hire more police officers. TLOA noted that less than 3,000 officers patrol more than 56,000 acres—less than half of comparable rural areas nationwide. Additional officers would provide tribes with the resources needed to fight crime, including drug trafficking, sexual assault and domestic violence.

TLOA failed to put more officers on the street by not adding funding to the federal agency responsible for tribal police salaries. Funding to staff and operate tribal law enforcement agencies comes from the Bureau of Indian Affairs Office of Justice Services (BIA–OJS). But since implementation of TLOA five years ago, recurring BIA–OJS funding for tribal law enforcement agencies has not increased—it has decreased, due to Sequestration.

The TLOA has not resulted in any recurring funding increases for tribal law enforcement agencies. Tribes can apply for assistance from DOJ CTAS program—which existed in a different prior to TLOA—the application and reporting process however, are extremely burdensome. In terms of law enforcement needs, the most beneficial component are COPS Equipment Grants, which assist in providing much-needed vehicles. Neither CTAS nor COPS grants are recurring funding. Instead they are short term grants that require extensive reporting requirements that drain limited tribal resources.

The Tribal Interior Budget Council (TIBC) unsuccessfully attempted to solve the officer problem. In the fall of 2014, TIBC sent a letter to DOJ asking to move funds intended for Indian Country to the BIA to avoid those pitfalls. DOJ however, has not responded or engaged with TIBC about the logistical and jurisdictional barriers involved in such a move.

The most effective way to empower tribes to combat crime is to enact recurring BIA–OJS funding increases for tribal law enforcement agencies and tribal courts.

Strained Resources Results in Strained Relationships

Limited resources are not limited to only tribal law enforcement, federal law enforcement struggles to provide adequate law enforcement resources. In Red Lake, the murder of a young man remains unsolved and no arrests have been made. The murder remains unsolved not because of a criminal master mind or a powerful street gang but because both the FBI and Red Lake police lack the manpower to apply the pressure needed to make a break in the investigation.

The inability to solve the case has led to increased tension between the FBI and the Red Lake Band. Through a series of actions taken by both the FBI and the Band, our relationship has soured. Red Lake and the FBI are working through the problems however, the lack of adequate resources has created strain on our relationship.

Jurisdiction—Tribes Need More Jurisdiction

TLOA's focus is far too narrow to give tribes meaningful jurisdiction. The findings in the enactment of TLOA noted that criminals exploit the “holes” in law enforcement. These holes are not limited to instances of domestic assault and include instances of murder, drug trafficking, and other crimes.

In Red Lake, Christopher Peoples (a non-Indian) was arrested twice within a week with significant amounts of heroin. In the first arrest nearly 1,500 grams were seized by tribal law enforcement, which is believed to be a state record. Due to jurisdictional problems with non-members, the local county attorney charged Peoples with the lowest level possession crime under state law. Within days, Peoples was arrested again with more heroin by tribal law enforcement. Eventually, Peoples went to federal prison for a federal drug conspiracy. His co-conspirators were however, allowed to operate with impunity for months while tribal law enforcement and federal agents built the case. If Red Lake had the authority to prosecute and hold Mr. Peoples, he most likely would have remained in custody without risking the federal drug conspiracy.

In order to properly address crimes rates—which include unsolved murders and drug trafficking—tribes will need the authority to arrest and to prosecute all people who commit those crimes. Current federal statutes (such as manslaughter, assault with a deadly weapon and varying degrees of assault) do not adequately address crimes like drive-by shootings, drunk driving that causes death, and other crimes.

Since tribes are unique, it is important to give each tribe the tools to fight crime in the manner each tribe feels best fit. In this case, more authority is the best option.

Since tribes are unique and have the ability to govern and protect themselves, the best course of action to prevent the “holes” created in the differing jurisdictions is to grant more jurisdiction to tribes in criminal matters.

PREPARED STATEMENT OF THE WHITE EARTH RESERVATION TRIBAL COUNCIL

Dear Chairman Barrasso and Vice Chairman Tester:

The White Earth Band of Ojibwe is pleased to formally submit these written comments to the Senate Committee on Indian Affairs regarding the 5th anniversary of the Tribal Law and Order Act (TLOA). We regret we cannot be at the roundtable discussion in person, but we hope our comments will shed light on our experiences with TLOA to date and ideas to chart a path forward for all stakeholders.

As we are sure you are aware, White Earth was the first federally recognized tribe in the nation to be approved for the assumption of concurrent federal criminal jurisdiction over its reservation lands within the context of Public Law 280. With this federal assumption, we have found success in relationship-building with local law enforcement and county attorneys, the U.S. Attorney for the District of Minnesota, and our tribal justice and law enforcement agencies. The increased collaboration and cooperation has assisted us in developing a more comprehensive response to the increasing incidence of crime on our Reservation.

While increased collaboration and relationship-building has been a positive result of our experience with TLOA, we have also had several difficulties. We face a significant barrier to fully asserting jurisdiction contemplated by TLOA due to a lack of funding. We have received no direct funding to compensate us for the increased responsibilities we have assumed under the TLOA.

Throughout our discussions with the federal government during the planning phase, White Earth was promised numerous times that it would be provided with sufficient funding to pay for the additional services required of White Earth in assuming increased jurisdiction under TLOA. The language of TLOA includes provisions for grants to tribes in order to fund these increased responsibilities. These responsibilities include law enforcement, prosecution, and court services. While White Earth has continued to move forward with implementing our responsibilities under TLOA as best as we can, we have yet to receive any funding for assuming these increased responsibilities.

Even though the TLOA including language directing grants to tribal governments to support increased responsibilities, these grants were rolled into the Department of Justice’s Coordinated Tribal Assistance Solicitation (CTAS) applications. CTAS is a very competitive funding process that does not take into consideration a tribe’s increased responsibility under TLOA. Even though White Earth has assumed the increased responsibilities under TLOA, it has been denied CTAS funding to pay for these increased responsibilities. As such, the TLOA has become an unfunded mandate, constituting a substantial financial burden to White Earth. In short, the promises of funding made to White Earth during the planning phase has never come to fruition.

Due to the lack of funding, we have had several problems. Our relationships that we have developed have been hindered. We used to have monthly collaborative meetings between local and tribal law enforcement, county attorneys, tribal attorneys, and the U.S. Attorney. These meetings have fallen by the wayside as lack of funding as stalled implementation. White Earth is attempting to continue implementation on its own, but is in dire need of the federal government’s promise to fully fund our increased responsibilities.

Another area of concern for White Earth is the fact that our Tribal Law Enforcement Agency is responsible, for all practical purposes, to respond to every call within tribally designated housing areas. The Tribal Police dispatch center receives transfers from the 911 centers in Mahnomen and Becker Counties each day, requiring our Tribal Police to respond to these calls for service, even though White Earth receives no funding or support for 911.

The TLOA authorized grants for fiscal years 2011–2015. White Earth is formally requesting an extension of those grants, but also requesting that the TLOA-specific grants be separated from the broader CTAS applications. Placing TLOA grants into the larger CTAS determination has directly resulted in White Earth receiving no funding for its responsibilities under TLOA.

White Earth has had positive experiences in being the first P.L. 280 tribe to gain concurrent federal jurisdiction over major crimes. However, the lack of funding di-

rectly tied to TLOA places its success in jeopardy. As tribal leaders, we would have appreciated the opportunity to attend the meeting in-person, but lack of notice and insufficient timing have caused our absence from directly discussing our successes and concerns with you.

We would greatly appreciate the opportunity to continue this discussion.

PREPARED STATEMENT OF MONIQUE VONDALL-RIEKE, J.D., DIRECTOR, TRIBAL JUSTICE CENTER, ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS (AVCP)

Dear Senate Committee Members:

I am the Tribal Justice Center Director for the Association of Village Council Presidents (AVCP) in Bethel, Alaska. We are participants in the TIWALIE Initiative with the Bureau of Indian Affairs, DOI. We represent 56 tribes in Alaska's southwest region.

I. PUBLIC LAW 280 TRIBAL COURT FUNDING

In our region we have had very little attention drawn to the importance of Tribal Court development. Our active efforts at AVCP's Tribal Justice Center has helped to raise awareness of the importance of exercising tribal sovereignty through the use of tribal court systems in our villages and tribes.

The Tribal Justice Center at AVCP held a Violence Against Women Act training February 8-10, 2016 that was funded with federal VAWA funds to bring people from the nearby villages, from municipalities and cross sections of law enforcement funded by the State of Alaska and the tribes themselves.¹ The training involved both tribal and state judges to participate in dialogue on best practices with regard to Protection Orders. The training was a huge success and the surveys collected show that more training is necessary. We have plans and funding in place to hold a follow-up training for the Tribal Court personnel in the very near future, hopefully mid-May 2016. There were 75 attendees of the VAWA Training. We are sending you the link to access a video clip of our training in Bethel. The full training video is in production stage and will be distributed throughout Alaska and to our member tribes once it is completed.

We are writing to urge the Senate Commission on Indian Affairs to consider the hard work and dedication of the AVCP staff to not only inform the Commission that we are serious about tribal court development, but also to work with our Senate constituency to ensure equal representation throughout Indian Country and especially throughout Alaska. We are cognizant that funding is limited and unique for Tribal Court development, especially in a Public Law 83-280 state. The limited funding that is available for development of tribal courts in these states is upon us and we realize that the recent legislation that earmarks \$10 million for PL 280 Tribal Court development is certainly a rare opportunity for Alaska Native Tribes and Villages. The best way to make these dollars stretch is to know the needs of Alaska.

¹ Tribal Police Officers (TPOs), Village Peace Officers (VPOs), Village Public Safety Officers (VPSOs), and Alaska State Troopers (ASTs).

We offer up the following information as a precursor to our request for distribution of the \$10 million P.L. 280 Tribal Court Funding:

1. AVCP is already a partner in the pilot project known as the TIWAFB Initiative.
2. AVCP recently was awarded governance of the Y-K Delta Region CASA Program from the State of Alaska and National CASA, (CASA: Court Appointed Special Advocacy for Children). Along with the governance, AVCP also inherited a National CASA Grant in the amount of \$28,000.00 to expand the program to villages in the region.
3. AVCP has designed a virtual Family Service Center which focuses on navigational support for programs offered by AVCP to recognize high risk youth and adults for referrals for human services.
4. AVCP has already provided the U.S. Senate Commission on Indian Affairs with written testimony in support of the \$10 million P.L. 280 funds for Alaska Native Tribes.
5. AVCP has been approved for funding to provide its existing tribal courts with court docket software and recording devices for tribal courts.
6. AVCP has been working with State Court officials to improve relations between state and tribal courts.
7. AVCP has actively participating in the Court Improvement Project in the region, including holding bench bars for judges on important topics related to federal Indian law, such as the new BIA ICWA guidelines.
8. AVCP continues to be pro-actively training tribal councils serving as tribal courts until a tribal court is developed to provide input on children's cases and protection orders.
9. AVCP provides training and technical services as well as tribal code writing services to its 56 tribes.
10. AVCP has a plan in place to work with tribes to develop restorative justice programs and to bring outside resources closer to villages to address the safety and welfare of tribal members.
11. AVCP has been the recipient of a DOJ grant to address alcohol and illegal drug activity in remote villages and has helped to rewrite stronger alcohol and drug regulation codes for tribes in its region.
12. AVCP has a proven track record of success in programs that affect the social issues surrounding recidivism and re-entry, such as *Healthy Families*.⁴ Essentially, the AVCP Tribal Justice Center has been the centralized development program for tribal courts in this region. We have a high success rate of support by our tribes and also have the trust and responsibility to maintain that funding is used to directly support tribal court development. The centralization and navigational design of services has allowed us to make this past year a successful gain in tribal court development. We continue to lead the region in that respect.

We urge the U.S. Commission on Indian Affairs to consider the continued equal support of the tribes in Alaska. While we realize there are many Alaska Native organizations that will approach the Commission, we hope that equality continues to be the priority of funding such as the P.L. 280 Funding that will be distributed. We only ask that all of Alaska Natives benefit and that our program be considered as we have very few tribal courts due to inactivity.

⁴ *Healthy Families* is a program unique to the Yupik culture in the region and uses the everyday life practices of traditions and custom to heal participants in a retreat format, which essentially is a wrap-around experience. This program has been successful in addressing high suicide rates in the region and is also used to address family violence and substance abuse.

As one ICWA Worker puts it from the Native Village of Alakanuk, "when we had a tribal court for two years, none of our children left the village." When we look at what has happened to the Indian Child Welfare Act in Alaska State Courts, we are concerned that the future of our children is at stake and that we are able to equally provide support to our tribes to continue addressing local issues in local venues, such as tribal courts. The development of the tribal courts in our region is imperative to preserving culture and tradition, not to mention address safety and welfare of our tribal members because of the lack of law enforcement to these extremely remote regions.

II. LAW ENFORCEMENT IN RURAL ALASKA

To add to the issue of lack of law enforcement, we ask that the TLOA continue towards its efforts in addressing crimes throughout Native lands in America. In fact, the issue of land into trust is upon us in Alaska and we ask that you look to solving some of the issues of law enforcement by considering a plan to implement should the tribal Land into trust challenge by the State of Alaska be resolved. Namely, to commit to continued funding of BIA Law Enforcement in Indian Country and in Native Alaskan Villages. For us to fully exercise our right to govern ourselves, and to work collectively on equal ground with the State of Alaska, we must be reassured that the status handed to us as tribes is equally protected by the corresponding federal agencies. Therefore, we ask that the Commission also continue to impress upon Congress that additional funding for law enforcement in Alaska Native villages be a priority. As we see the State of Alaska try to budget for the entire state, we do not see a place in the future for continued funding of the State VPSO Program, nor do we see that the trust issue is going to ease in with a phase out process of state assistance. The abrupt disruption to an already struggling region in America that still has issues of access to justice would further oppress our Native Alaskan Tribes and Villages.

Already, Alaska Native Villages and in particular the AVCP Y-K Delta Region experiences the largest number of sexual assaults in history. For us to address these issues we must have law enforcement to back up the remedies we as tribes and tribal courts implement.

Thank you for your time and effort in helping Alaska Native Tribes develop tribal courts and to helping our communities remain safe.

