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5 UNITED STATES DEPARTMENT OF THE INTERIOR

6 BUREAU OF INDIAN AFFAIRS

7 TRIBAL LAW AND ORDER ACT CONSULTATION

8

9

10 October 20, 2010

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13 Albuquerque Marriott Pyramid North

14 5151 San Francisco Road, Northeast

15 Albuquerque, New Mexico 87109

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23 REPORTED BY: Rachel M. Lopez, RPR, NM CCR #276

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1 A P P E A R A N C E S

2 Presiding:

- 3 Carla C. Flanagan, Bureau of Indian Affairs
4 Christopher B. Chaney, Department of Justice
5 Danny H. Breuninger, Bureau of Indian Affairs
6 Darren A. Cruzan, Bureau of Indian Affairs
7 Dennis O. Romero, SAMHSA
8 Joseph D. Little, Bureau of Indian Affairs
9 Susan V. Karol, Indian Health Services
10 Wizipan Garriott, DOI, Office of the Secretary

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1 (Whereupon the proceedings commenced

2 at 1:10 p.m.)

3 MR. GARRIOTT: Okay. Everyone, let's have
4 everyone take a seat. We're going to get started.

5 Before we get officially started today, I'd like
6 to have us start off with a prayer. And we've asked
7 Councilman Jonathan Kitcheyan to say a prayer for us to
8 get us started, so we can pray for a productive meeting
9 and that we can all move forward and do important work
10 today.

11 (Prayer)

12 MR. GARRIOTT: Thank you,
13 Councilman Kitchen.

14 Good afternoon, I greet each and every one of
15 you with a good heart. My name is Wizipan Garriott. I
16 come from the Rosebud Sioux tribe in South Dakota, and
17 I come from the We Wrap our Hair band there. I serve
18 as the policy advisor to the assistant secretary of
19 Indian affairs at the Department of Interior. Welcome,

20 everyone, to today's consultation on implementation of
21 the Tribal Law and Order Act.

22 For the past day and a half, many of you have
23 been meeting at the symposium, discussing
24 implementation of the Tribal Law and Order Act, and
25 posing questions and making your thoughts and

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1 recommendations known there and also brainstorming on
2 some of the opportunities, challenges, and issues that
3 the act brings up. This consultation is a way for us,
4 the federal government, to hear directly on a
5 nation-to-nation basis from tribal leaders and others
6 who are working in this area. So it's a very
7 important -- very important process that's critical to,
8 I believe, the successful implementation of this Act.
9 As I talked about before, hearing from you, from tribal
10 leaders is going to be crucial, and this is an
11 opportunity for us to work together to make this act
12 and this law a success.

13 Before we get started, I'd also like to give an
14 opportunity to some of our federal partners, who are
15 here today, to introduce themselves and give brief
16 remarks. And then I'll say a little bit more about the
17 focus of today's consultation. And then I would like
18 to first hear from tribal leaders to have them -- give
19 them an opportunity to present something formally, And

20 then to open it up to a larger discussion, with
21 everyone else here -- who is there, from either a
22 practitioner side or representing your tribe.

23 So with that, I'm going to go ahead and start on
24 my left, with our new director of the office of justice
25 services, Darren Cruzan.

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1 MR. CRUZAN: Good afternoon. I think a lot
2 of us met over the last couple of days, and some of us
3 haven't. It's really my honor to be here in
4 Albuquerque and going through these consultations.

5 As Wizi said, I've been back with the BIA for
6 just about three weeks now. I had spent about ten
7 years with the BIA at various locations as a -- I
8 started my career as a tribal police officer, and then
9 through the BIA, and ended up in Washington, D.C.,
10 about the last four years. I have been over with the
11 Department of Defense at the Pentagon working but had
12 the opportunity to come back.

13 And what a great time to come back. I think
14 it's probably as historic of an opportunity as we've
15 ever had in Indian Country law enforcement to make some
16 real meaningful changes. And I know that maybe you're
17 thinking, well, you're just saying things that the
18 director should be saying, and probably that's a fair
19 assumption for you to think. And I know that as we

20 move through this process together, that trust is not a

21 given thing; it's an earned thing.

22 And so I hope that as we work together, as

23 tribal partners and our federal partners, to implement

24 these Tribal Law and Order Act things that we have to

25 do, that over time that you'll see that what I'm saying

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1 is sincere and that I'm very excited and very anxious
2 to work together in cooperation and partnerships with
3 everybody in a very important initiative.

4 And so you know -- in the three-and-a-half weeks
5 I've been here, I've been on the road most of the time.
6 And for the next week and a half, I'm out on these
7 consultations. But I think -- and you'll hear today,
8 as some of the questions come in and as we answer back,
9 where we're at on some of these issues. I think you'll
10 agree with me that we've made a lot of progress, And I
11 think that this Tribal Law and Order Act already is a
12 success, simply in the fact that we're here together,
13 talking about these issues, and we have been, and we've
14 got more things going.

15 And I've been very optimistic about the types of
16 people that are coming to these meetings. There are
17 people way smarter than I am, looking at these same
18 issues. And that's a really reassuring thing to me,
19 that it's not just one agency looking at this. I think

20 I heard yesterday there's like 22 federal agencies that
21 are -- that have responsibility on this Tribal Law and
22 Order Act. And then with all of our tribal partners,
23 that number just increases, and we're really -- I'm
24 very excited about what we're doing and the product
25 that we're getting.

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1 And I feel like sometimes I ramble on, but I
2 want you to not mistake that for anything but optimism
3 and excitement for what we have to do, and work
4 together.

5 As we move out, too, later on in the afternoon,
6 I'll give you some e-mail addresses that we've set up
7 on our website. And as we finish up our consultations,
8 and start putting some draft documents up on our
9 website, it will give you an opportunity to read these,
10 and folks that haven't been able to attend the
11 consultations, an opportunity to look at them, make
12 some comments, and, you know, prior to us saying, you
13 know, "This is the direction we're going." So we're
14 still very much in the draft portion of it.

15 And, again, I really look forward -- not only to
16 our conversations today in the meeting setting, but,
17 you know, the ones that we have sometimes offline and
18 after the meetings are very important and useful, as
19 well. So thank you very much. I look forward to the

20 opportunity of working with you. And with that, I'll

21 pass the --

22 AUDIENCE MEMBER: Would you repeat your name

23 and your office?

24 MR. CRUZAN: Sure. My name is Darren

25 Cruzan.

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1 AUDIENCE MEMBER: And also the opening

2 gentleman, I didn't get your name either.

3 MR. GARRIOTT: My name is Wizipan

4 W-i-z-i-p-a-n, last name Garriott, G-a-r-r-i-o-t-t.

5 And I serve as the policy advisor to the assistant

6 secretary for Indian affairs at the Department of

7 Interior.

8 And with that, I'd like to ask our other federal

9 partners to introduce themselves, starting with DOJ.

10 MR. CHANEY: Hi. My name is Chris Chaney.

11 I work for the US Department of Justice, office of

12 tribal justice. Many of you know me from some of my

13 prior career path at the Department of Justice and also

14 at the Department of Interior. I am a member of the

15 sen NA NE KA chi yoga tribe of Oklahoma, where I hail

16 from the TUR tell clan. I grew up in our tribe's area

17 in northeast Oklahoma.

18 And one of the interesting things for me is

19 being able to come back here to New Mexico. I started

20 as my legal career working as the prosecuting attorney
21 for the Jicarilla Apache tribe, just up the road, on
22 US 64. And since then, I've done a number of -- had a
23 number of opportunities to serve Indian Country, both
24 at interior and justice.

25 And if there's two things that I have learned

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1 over the years, the last 18 years or so of doing Indian
2 country criminal justice issues, one is that every
3 tribal community is different. Every tribal community
4 has different resources available and different
5 challenges to meet. And where I grew up in
6 Seneca-Cayuga tribe in Oklahoma, is totally different
7 than the Jicarilla Apache tribe in New Mexico, where I
8 started my career. Every tribe is different. And
9 that's one thing I feel very strongly about, is that as
10 we move forward, we can see the strengths and
11 weaknesses and opportunities that each tribal community
12 imposes.

13 And the other thing is, in Washington, D.C.,
14 it's important for us to remember that we work for you;
15 that we work for the public; that we -- our goal is to
16 make sure that we can assist you in making our
17 communities safer.

18 And with that, I will pass the mic down to --

19 MR. GARRIOTT: We also have representatives

20 from the US Attorney's office here in New Mexico. So

21 if you could stand up and introduce yourself.

22 MR. GONZALEZ: Hi. Good afternoon. My name

23 is Ken Gonzalez. I'm the United States Attorney here

24 in the District of New Mexico. I have been on the job

25 in this position about five months now. But I've been

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1 in the office for quite some time, for about 11, almost
2 12 years, And done a fair amount of work relating to
3 the issues in Indian Country and our Native American
4 communities all around New Mexico -- can everybody hear
5 me? No. Okay.

6 Good to see you Chris, and good to see familiar
7 faces here now this afternoon. Well, it's very good to
8 be here today, and I know you all have done a whole lot
9 of work already this week. I am the United States
10 Attorney here in New Mexico, and if I could take just a
11 moment to introduce some of the people who are here
12 with me from my office. And I'll begin with
13 Paula Burnett. I'll ask Paula to stand. Paula is our
14 criminal chief in the office. And in addition, we have
15 Glynette Carson-McNabb. Glynette is the supervisor of
16 what we now have in an Indian Country crime section.
17 And we also have Kyle Nayback. And many of you might
18 know Kyle. He's been in the office for a very long
19 time and also is very familiar with the issues that

20 we're dealing with in our native communities.

21 I mentioned, we have a brand new section in our
22 office called the Indian Country crime section. I am
23 not familiar with -- with any other office in the
24 United States that has a similar section. But we stood
25 that up as a practical response to the many issues that

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1 we're dealing with all around our native communities.
2 And that, of course, relates to violent crime, but that
3 also relates to some of the other kinds of criminal
4 activities going on in the native communities,
5 including white-collar or embezzlement-types of issues.
6 But across the board, We're trying to be as responsive
7 as we possibly can, as one effort, one step in a broad
8 effort in trying to address issues that we can identify
9 and actually be responsive to.

10 We've also hit the ground running in terms of
11 our outreach to our communities. We have about 11
12 assistant US attorneys in that particular section who
13 are dedicated exclusively to these matters. But we
14 also have assigned each one of them -- at least one, in
15 some cases two or three on our pueblos or Apache
16 reservations or even the Navajo Nation. It's those
17 communities that our AUSA's responsible for in getting
18 to and getting to know from a basic level, a very
19 interpersonal level of what's going on in each of these

20 communities. And hopefully, in that way, we can also
21 be responsive with having become familiar with what's
22 going on out there. Those are just two of the things
23 that we're trying to do in the US Attorney's office to
24 try to be responsive.

25 We know the issues out there are very large.

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1 They are very significant. They are very serious.

2 They're not issues we're going to solve overnight.

3 I know there's a lot of concern with the --

4 what's come to be known as a high declination rate by

5 federal prosecutors of criminal activity occurring in

6 Indian Country. I am very much focussed on that.

7 Everybody in my office is focussed on that. We're

8 trying to identify exactly what it is that's being

9 declined. What is a declination, number one, and being

10 as responsive as we possibly can be in order to address

11 that particular concern.

12 And I know there's a lot of concerns. Tribal

13 Law and Order Act, obviously, is intended to address a

14 lot of that. And so we're studying that act and trying

15 to figure out exactly what it is that we do in the

16 context of our work to make sure that that law is

17 effectuated in Indian Country; That's working with our

18 tribal law enforcement and working with our tribal

19 prosecutors, and ultimately with tribal courts that

20 exist now and that will be stood up as we go down the

21 road here.

22 So I wanted to take a moment just to, at least,

23 introduce myself to you and also to tell you a little

24 bit about what we're trying to do. I'm here today.

25 I'm just as eager as anybody else to learn and to

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1 listen and hopefully be responsive. Thank you.

2 MR. GARRIOTT: Thank you.

3 MR. ROMERO: Good afternoon. My name is

4 Dennis Romero. I am the acting director for the office

5 of Indian alcohol and substance abuse at the Substance

6 Abuse and Mental Health Services Administration, under

7 health and services, Department of Health and Human

8 Services. I -- just quickly, as background, I have

9 been with SAMHSA for the last five years. Prior to

10 that, I've been in -- in the private and public sector

11 20-plus years as a psychologist, administrator, and

12 program developer in the areas of mental health and

13 substance abuse. I've held several key leadership

14 positions at SAMHSA, most notably as the acting

15 director for the substance abuse prevention.

16 And so when my administrator and deputy

17 administrator assigned me to this new task, the Tribal

18 Law and Order Act, I was and remain both humbled and

19 awestruck at the potential of what this means for

20 Indian Country. And someone of my background and my
21 upbringing, to be surrounded with the talent that is
22 both in this room and on this front table, it's a real
23 humbling experience for me.

24 This Tribal Law and Order Act will only become
25 true in both -- the spirit and the letter of the law

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1 will only come to fruition if there is a true dialogue
2 exchange and trust. And it's got to be earned from
3 us -- it's got to be earned by us -- English is not my
4 first language, you need to know that.

5 So I commit to all of you to gain your trust and
6 try to commit to bringing together the skills, the
7 talent, the resources and the expertise in particular
8 from the Substance Abuse and Mental Health Services
9 Administration. This is a wonderful opportunity that's
10 before us to help you direct the direction of Indian
11 Country for tomorrow's children and for today's people
12 as well. So I am here to really listen, to learn, and
13 to afford the opportunity to chime in, in a way to --
14 that can only be to expand and make this event
15 fruitful. And I thank all of you, it's because of you
16 that I am here. So thank you so much.

17 And thank you, Wizipan.

18 MS. FLANAGAN: Good afternoon. My name is
19 Carla Flanagan.

20 Is this mic not on? Okay.

21 My name is Carla Flanagan. I'm the associate

22 director for corrections for the Bureau of Indian

23 Affairs. And I'd like, if I could -- I have some staff

24 here in the room. If they could stand so everybody can

25 see who they are, in case you have any issues. So

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1 corrections staff, please.

2 These are the management staff -- Garrett, could
3 you stand, please? Warren -- Warren in the back,
4 Warren Lebow; Garrett McClay; Dorothy Fulton; and
5 Patricia Broken Leg, the chief of corrections (phonetic
6 spellings). Thank you.

7 MS. KAROL: Hi, I'm Susan Karol, Dr. Susan
8 Karol. I'm with the Indian Health Service. I'm the
9 chief medical officer, and I'm here today to represent
10 part of the Tribal Law and Order Act, and hopefully to
11 help my comrades here on the table with -- what we have
12 to get done with the Tribal Law and Order Act. And as
13 some of you may now, the Indian Health Service is
14 piloting some programs presently for domestic violence
15 across the country. And we are in our first year with
16 that, in a three-year cycle, to try to correct domestic
17 violence, sexual assault in our communities.

18 So as the year goes by, we'll be watching to see
19 how those programs are functioning, how things are

20 going, and then working hard in Washington to obtain

21 further funding to extend those programs as we

22 hopefully see them. That's the present domestic

23 violence initiative for the Indian Health Service.

24 MR. LITTLE: I think it works. I'm Joe Little.

25 I'm the associate director for the division of the

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1 tribal justice support, who works with the tribal court
2 systems. I might point out that we work with about
3 186, and that's because those are the systems that we
4 fund in some regard. There are over 200 court systems,
5 but we don't necessarily interact with every one of
6 them, As I said, because it's tied to the funding
7 system that we deal with them.

8 So I'm in an unenviable position of trying to
9 ensure that tribal courts maintain autonomy and their
10 sovereignty and have the ability to make decisions
11 without interference, while still probably interfering
12 on occasion. So -- sorry about that. It's just
13 because of the funding system that we're tied to. So
14 other than that, I try to stay as obscure as possible.

15 MR. BREUNINGER: Good afternoon, everyone. I'm
16 Dan Breuninger, the special agent in charge for the
17 District IV southwest region, and I'd like to welcome
18 everyone to my district; this is all of the tribes in
19 the State of New Mexico, that also includes the Navajo

20 Nation in Arizona and parts of Utah and then our two

21 Colorado tribes, the Southern Ute and Ute Mountain.

22 Very quickly, I want to recognize all of our

23 tribal chiefs of police, BIA chiefs of police that have

24 taken time to be here for this very important

25 consultation. And also I noticed our two regional

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1 directors, Mr. Omar Bradley from Navajo -- I know he's
2 here somewhere. Wave to us here, Omar. And
3 Mr. Bill Walker from the southwest region. But anyway.

4 I look forward to a very productive meeting.

5 Thank you.

6 MR. GARRIOTT: Thank you, Danny, to you and your
7 staff for hosting us here this afternoon.

8 I also want to thank our other federal partners
9 who are here today, taking time out of their busy
10 schedules to be a part of this. And as you see, you
11 know, one of the things that we consistently hear from
12 Indian Country is that we need increased coordination
13 and collaboration among all of the sister federal
14 agencies. So I think that that's represented here.

15 I wanted to say one thing also about DOJ and the
16 US Attorney's office, is that they have been incredibly
17 responsive to the needs of Indian Country. I attended
18 a meeting over a year ago hosted by the attorney
19 general, in which they kind of laid out the law, the

20 Department of Justice plan of action. And I know that
21 the US Attorney's offices throughout the country are
22 working very closely and doing everything they can.
23 My mother is the director of the -- back in
24 Rosebud, of the tribe's child and family services
25 program. Needless to say, she's very critical of

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1 federal officials and federal employees. And one of
2 the comments she made was that she's seen more out of
3 the US Attorney's office over the past year than she's
4 ever seen in her 25-plus year career. So I just want
5 to commend DOJ and the US Attorney's office for all of
6 their hard work and the response that they've given.

7 Very briefly, again, we're here to talk about
8 implementation of the Tribal Law and Order Act. In
9 particular, we have three looming deadlines that we'd
10 like to focus on, realizing that there are many, many
11 issues to be discussed and that they are going to be
12 addressed today. But I would also ask that in your
13 comments and your recommendations, that you, if at all
14 possible, can address these three issues.

15 And the first two are regarding special law
16 enforcement commissions; One, the standards by which
17 those -- we negotiate those memorandums of agreements
18 and also the time lines of procedures for that. So if
19 you could comment on that. And then also third, the --

20 we have to put together a process for certifying

21 long-term correctional facilities.

22 Part of the Tribal Law and Order Act, of course,

23 has the provisions for enhanced sentencing authority by

24 tribal courts. Tribal courts, tribes choose to

25 exercise this authority, and then incarcerate

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1 individuals for three or more years. We have a --
2 we're going to have to develop a process for certifying
3 those facilities.

4 Now, we have -- these three deadlines are
5 January 25th for us. That's why we've -- I've engaged
6 in a very aggressive consultation schedule, six
7 consultations across the country. This is the third
8 consultation, and then folks are getting on a plane and
9 traveling to Minneapolis tomorrow. So in terms of
10 process, we're taking all the comments that we're
11 hearing and all the consultations, we're putting those
12 all together, categorizing the comments, and then those
13 are going to be the basis on which we move forward in
14 developing these three policies.

15 There is some questions about implementation
16 from our side of things, on how we're going to do this.
17 Is it simply a policy directive from Mr. Cruzan to his
18 staff? Is it a memo from the assistant secretary,
19 Larry Echohawk to Cruzan directing him to implement a

20 policy, or do we have to develop rules and regulations?

21 Well, in the short term, we're probably likely

22 going with some kind of short-term policy directive.

23 But that does not mean that we're -- for long term,

24 that we would rule out developing a rule or regulation

25 or an amendment to our departmental manual by which we

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1 operate. So again, we're going to put this in place in
2 the short term, based on your input. But again, we may
3 end up looking at these issues again and saying, you
4 know, what has worked, what hasn't worked, and then
5 going through that process again.

6 So as I mentioned earlier today, you know, this
7 is going to be, you know, a process that's going to
8 take several years before we're fully implemented here.
9 But in the short term, we're going to do everything we
10 can. And we're fully committed, and I'm fully
11 confident that we're going to meet all of our various
12 statutory deadlines that have been set with us.

13 So I think with that, what I'd like to do is
14 turn this over to our tribal leaders and have them have
15 an opportunity to make any formal statements they'd
16 like. And then after that, we can take a break, and
17 then we'll open it up for general discussion.

18 I also want to recognize Laura and Sarah, who
19 just walked in. She's from Department of Justice, and

20 we serve together on a -- co-chairing a committee, and
21 she's a wonderful person who's from this area. She's
22 been just a pleasure to work with. So real good work
23 on the juvenile detention side of things, coordinating
24 across 26 federal agencies on the issues regarding
25 juvenile justice.

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1 So with that, I'd like to turn it over to tribal
2 leaders who are here, and have you provide some opening
3 comments and make a statement, and we can go from
4 there.

5 And if there are none to make any comments, we
6 can -- is there anyone?

7 Also, just one thing, for anyone who's speaking,
8 we have a court reporter here who's monitoring, taking
9 notes. If you could state your name, title, and who
10 you're representing, that would be very helpful.

11 MR. KITCHHEYAN: John Kitcheyan with the San
12 Carlos Apache tribe. K-i-t-c-h-e-y-a-n. Okay.

13 Good afternoon. Thank you for taking the time
14 with us to meet with the tribes. One thing that I put
15 on was the special law enforcement cards that were
16 given out to the tribal members for tribal police
17 officers that would be commissioned through federal
18 commission standards. We'd like to get more
19 information on that portion of that. Just overall,

20 just general, just special law enforcement cards,

21 mainly, if you guys can talk about that today.

22 MR. GARRIOTT: We'll see if there's anyone

23 else who would like to make a comment, and then we'll

24 double-back and answer any of those questions.

25 MR. MEDINA: Good afternoon. Robert Medina,

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1 Pueblo of Zia. I'm actually the tribal judge, but I
2 also sit on a tribal council. And the thing that I
3 noticed yesterday, and it's obvious today, is a lack of
4 tribal leaders at this meeting. They need to hear from
5 these experts up here that have been involved with the
6 Tribal Law and Order Act, and of course, the people
7 that actually are out there in the trenches doing the
8 work. So it's upsetting to me as a tribal council
9 member.

10 This is not the first time I've ever come to a
11 symposium or conference and seen a lack of our tribal
12 leaders here. Especially in our pueblo country, we
13 every year have these appointments. Our tribal leaders
14 are newly-elected every year, and we have to reeducate
15 them, and kind of get them up to speed of what's going
16 on in Indian Country. So I think in the future, when
17 we do symposiums, we need to actually go out to the
18 reservations and tribal leaders and make it almost
19 mandatory that they need to come.

20 I had to go home to take care of some business,
21 and our tribal governor was there. If he can sit in an
22 office, I'm sure he could have attended this meeting.

23 So it's disappointing that I see a lack of
24 tribal members involved. It's just my two cents, but I
25 think that actually sending them a letter and telling

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1 them, "Please attend. We need your input. We need you
2 to understand the issues that we're facing and to hear
3 from the audience," you know, the work that they're
4 doing.

5 So that's just my comments and my two cents.

6 MR. DURAN: Good morning, everybody. With
7 all due respect, my name is Roman Duran. I'm currently
8 the lieutenant governor for the Pueblo of Tesuque. I
9 don't see any of our colleagues from the pueblo
10 leadership. And thank you for getting up, Judge. I'm
11 also the tribal court judge, and also president for the
12 National American Indian Court Judges Association. I
13 attended yesterday's presentations, and I came with
14 some comments.

15 But after hearing some of the discussion
16 yesterday and talking with a lot of other individuals,
17 that are in the trenches, I'm going to have to go back
18 and revise my comments, because there's a lot of
19 information that I think hasn't been shared, up until

20 this point. There's some confusion from some of the
21 actual practitioners in the trenches that need
22 clarification.

23 For example, for the tribal court judges,
24 justice systems historically, the Bureau of Indian
25 Affairs, has never invited any of the judges to any

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1 consultations. There's the tribal chiefs of police
2 associations that are actively involved with the Bureau
3 of Indian Affairs at the various agencies and get
4 direct training on a lot of the issues that are coming
5 down. Tribal courts have historically been left out.

6 Since 1994, you look at the bill -- the Indian
7 Tribal Justice Act was passed in 1994; however, a base
8 funding formula has not ever been established, so --
9 you know, going back a couple of decades. And
10 unfortunately, the tribal leaders aren't here to hear
11 this. I see that as a blatant disrespect to the tribes
12 in exercising their own sovereignty and respecting
13 their court systems.

14 For you officers, we interpret the law that you
15 guys are charged with enforcing and protecting the
16 community. One of the key elements in a true justice
17 system also incorporates a solid judicial system, which
18 we haven't had that much support from the Bureau in the
19 past. And as Mr. Little indicated, I am aware of

20 that the Bureau only funds certain court systems. But
21 there are actually other court systems within the PL280
22 states that have civil jurisdiction that exercise a lot
23 of different cases that they stem out of a criminal
24 case.

25 Case and point, the issue with the domestic

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1 violence, a lot of attention has been given to that
2 particular issue. The courts, of course, we have to do
3 our part by entertaining those types of cases on the
4 criminal side that the officers present before us. In
5 addition to that, what is unseen -- and I think there
6 is a disconnect on law enforcement's side -- is the
7 after effects of that criminal case that has a strain
8 on the justice system, itself, with regards to orders
9 for protections being filed that we have to entertain
10 that are not civil -- excuse me, that are not criminal.
11 They are civil restraining orders. In addition to
12 that, we also have to address the domestic issues that
13 may arise from that criminal case being filed.
14 For example, if a couple is married and the
15 violence has been going on for quite a long time, and
16 the victim decides they've had enough and want to leave
17 that particular relationship, they're going to be
18 filing a petition for dissolution. The courts have to
19 entertain that dissolution. If they are not married

20 and they have children, there may be issues regarding
21 child custody, child support, things of those sort,
22 which are additional cases that the courts have to deal
23 with. In addition to that, if the activity, the
24 criminal activity or the violence is so pervasive in
25 the community, what kind of effects does it have

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1 psychologically on these children? Not only

2 psychologically, but educationally?

3 That's where the courts are treating the

4 symptoms of domestic violence that maybe has gone

5 unreported or the cases where I know law enforcement

6 gets frustrated when the victim decides they want to

7 drop the order for protection. The courts can't really

8 do anything about that. That is their call.

9 But the psychological effects we deal with, with

10 regards to these children -- depending on their ages.

11 They may be acting out in kindergarten, elementary

12 school, high school. They may be turning to drugs and

13 alcohol as a way to cope within these domestic violence

14 situations. They may become truant; they start running

15 away. So they turn into juvenile cases. They may turn

16 into child welfare cases if they are reported.

17 So these are additional cases that the courts

18 have to take on. It's not our choice. We have to do

19 it. That's why we're there.

20 However, unfortunately, when you look at the
21 funding since 1994, it has been law enforcement heavy.
22 There has been no residual funding going to the courts
23 to offset the increase of the officers out in the field
24 and to compensate for the increase in the additional
25 civil cases that are filed. So I want to emphasize

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1 that point from the judicial point, because it is very
2 important.

3 I also spoke at the Department of Justice
4 consultation in Spokane, several weeks back. I'm just
5 going to use a footnote here for you guys to reference
6 that -- comments that are on the record. What I also
7 want to emphasize for the Bureau -- also, I'm glad we
8 have IHS and SAMHSA here. One of my recommendations
9 for consultation is to utilize a comprehensive
10 approach. I know this bill seeks to accomplish that;
11 however, it's deficient in several areas.

12 Department of Labor is not included. Department
13 of Housing is not included. Department of Education is
14 not included. The Small Business Administration is not
15 included. How these departments are relevant to the
16 whole picture of decreasing criminal activity within
17 Indian Country is to consolidate all these programs and
18 get them to the same table.

19 Department of Labor? Why? Lack of jobs in the

20 communities. How is that relevant to the Small
21 Business Administration? Creation of small companies
22 within the communities, which increases employment in
23 the community, which increases funding into the
24 community. Education needs to work closely with IHS
25 and SAMHSA, because of issues, as I mentioned earlier,

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1 the psychological effects that it has on children.

2 At one point in time, the Indian Health Service,
3 when I first got on the bench back in 1996, used to
4 have an evaluation form for juveniles, which included
5 not only the psychological, but educational testing
6 that would determine some of the core requirements,
7 reading comprehension, math skills. I really took
8 those assessments seriously, because it gave me the
9 ability, as a judge, to gauge exactly where this
10 juvenile was functioning. They may have been 14 years
11 old, may be eligible for freshmen level, but were only
12 reading at a fourth grade level. So comprehension
13 becomes a factor. Can they actually truly follow
14 direction?

15 And I know for law enforcement, you guys get
16 frustrated when you have these juveniles coming through
17 the system, and you wonder why they can't learn or they
18 can't learn from their own mistakes. It's because
19 their educational level may be at a point to where it

20 is so low, that they can't retain basic concepts. Or
21 they may be bipolar. They may have a dual diagnosis
22 that has not been caught. And they're basically caught
23 up in the system when the mental health -- or health
24 entities should be catching those issues.
25 The reason why I'm bringing up a lot of these

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1 issues is because the courts are in the front of a lot
2 of these issues that do not get fully supported, And
3 there has to come a time where the courts have to stand
4 up. Unfortunately -- or fortunately for me, I'm able
5 to do this, because I'm the lieutenant governor for the
6 Pueblo of Tesuque this year. Had I not been, I
7 probably wouldn't be, also, the president for the
8 National American Indian Court Judges Association.

9 We're having our annual conference together. We
10 are going to have several presenters there. I know I
11 invited Mr. Cruzan to attend; however, his schedule
12 does not permit, so he has allowed us Joe Little to
13 come and present, as well. And there are some other
14 individuals that are going to be speaking specifically
15 on the issues regarding tribal courts.

16 And again, I apologize for not having my written
17 comments today on behalf of the pueblo of Tesuque. But
18 again, it's going back to the fact that there is a lot
19 of information that I have not yet received, up until

20 this point, that's causing me to rethink the comments

21 that I need to make on behalf of our community.

22 With regards to the three issues, I'm not in law

23 enforcement, I can't speak specifically to those

24 issues, other than with the commissions. There are

25 already commissions in existence. For example, our

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1 community, Pueblo of Tesuque, we have, for the last
2 several decades, a relationship with Santa Fe County,
3 where they have given our officers commission cards.
4 So we have closed the gap with regards to non-Indians
5 committing crimes within our reservation, although it's
6 limited to the right-of-way, US 84/285.

7 However, we are making an impact on the DWI
8 cases, and not only within our community and against
9 tribal members, but against non-Indians as well.

10 There are other issues with regards to IHS having
11 access to SANE examiners, forensic investigators, for
12 example, so there's a lot of issues there.

13 With regards to the process, it would be nice
14 if, at some point in time, not only the Bureau but also
15 IHS identify who those contacts are within the local
16 areas, specifically from the Tesuque/Santa Fe service
17 unit, Santa Clara, BIANSPA for employees,
18 investigators, and to send that list not only to the
19 tribal leadership and the law enforcement officers, but

20 also to the courts. Because oftentimes, we're left out
21 of the loop. We don't get that information. And in
22 reading the act, if you're truly treating the tribal
23 governments as governments, the justice systems are the
24 third branch of the government, and we should be given
25 that respect, from my opinion. So all the tribal

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1 judges -- I know there are several judges here as well.

2 That information should be going directly to them as

3 well, out of that government-to-government

4 relationship.

5 I just have so much on my mind.

6 I'm also planning, again, like I said, our

7 national conference next week. But I will be preparing

8 a written testimony that we can forward to you. So if

9 you can let me know -- I know I'm going to meet with

10 Mr. Cruzan later. Maybe I can ask you who we submit

11 that to, to yourself or whomever it may be.

12 But as far as the National American Indian Court

13 Judges Association is concerned, as president, we are

14 going to be tackling some of the issues with regards to

15 the sentencing that are in conference, more particular

16 with the licensing issues for the judges, the

17 attorneys, co-development, because I know there's going

18 to be a lot of that taking place.

19 But we're looking forward to hearing from

20 Mr. Little and what we has to present and then also
21 addressing the corrections concerns that we have as
22 well and how that's going to play out, the beds that
23 are going to be available. We are interested in the
24 pilot projects that are taking place to get those, to
25 see how those are working out. Because the issues that

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1 we're going to be dealing with is transportation, how
2 do we coordinate with our local tribal law enforcement
3 on transportation; especially a small tribe that may
4 have five officers, and sending one out is going to be
5 a serious impact on their ability to maintain peace and
6 order in their communities.

7 The other specific issue will be with the
8 federal correctional facilities. If the tribes would
9 like to increase the sentencing, those facilities,
10 there's a provision in there. I don't see the US
11 probation office here. There is a provision -- I
12 forget the actual section -- that indicates that a
13 local community member can serve as a probation officer
14 in conjunction with the US probation office. I would
15 like to see how that's going to be played out,
16 especially for the folks that are looking at
17 implementing the three-year sentence and the sentencing
18 requirement.

19 So that's all I have for now. You guys are

20 going to be hearing from me more. So I want to thank
21 you for having this consultation, and I do appreciate
22 the Bar associates for allowing us the opportunity to
23 hear from some of the panelists here today, for
24 discussion, their thoughts on specific requirements.
25 NAIA (phonetic spelling) is willing to assist in any

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1 way that we can. We are a membership organization, a
2 nonprofit 501(C)(3). All our time is voluntary;
3 However, we do have a number of judges that have
4 specific expertise in certain areas that we can aid you
5 in, in developing any guidelines that we may be
6 considering. So please do not forget us. I know some
7 of you guys have my contact information. And I did a
8 late registration, so hopefully my information got
9 through with the bar associates, and they'll be able to
10 share that with you.

11 I'm excited, because I like to be optimistic,
12 even though sometimes I have to shift hats and be
13 pessimistic and subjective. But I serve my community.
14 I'm a member of my community, and I sit as a judge.
15 And one of the things that I'm very critical of,
16 especially with increased sentencing and the licensing
17 requirement and the disconnect that Congress has with
18 tribal culture traditions, is that when non-Indian
19 judges preside over cases dealing with our members,

20 they get to leave the office and go to their homes,
21 never having to turn back and look at the consequences
22 of their decision, especially for small communities,
23 small pueblo communities. We have to live with our
24 decisions, and what kind of impacts does that have on
25 our future generations.

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1 I wish we didn't have to have this kind of
2 discussion. I wish we didn't have to have increasing
3 of law enforcement to combat domestic violence. I wish
4 we didn't have to have any of those things, so we
5 wouldn't be here today.

6 Unfortunately, we've been utilizing a wrong
7 approach, and that needs to change. I truly believe in
8 order to make a positive impact. I know it's not going
9 to be immediate.

10 And I directed this to Secretary Sebelius, at a
11 prior consultation, is it starts with prenatal care.
12 In order to combat criminal justice in your
13 communities, starts with prenatal care. Go back to
14 your communities and find out the statistics on your
15 birthrate. Looking at your birthrate, also assess the
16 age of the mother. What you will probably find out is
17 that half of them are probably in their teenage years.
18 Now, can you honestly answer me by putting more law
19 enforcement into a community, that they're going to

20 train a 14-year-old how to raise a newborn child and
21 prevent that child from becoming a statistic, whether
22 it's through domestic violence, whether it's through a
23 juvenile case, child welfare, or even the mother
24 getting caught up in the system?
25 That's just my personal observation, is we

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1 really need to target at that particular point in time.
2 As a community, we need to come together and start
3 teaching our children not to not have children, but to
4 do it at a time when they are able, stable, and mature
5 enough to take on a family. There are some girls that
6 can do it at age 16, but the majority of them can't.
7 And you look at the demands placed on our welfare
8 system, Medicaid. You know, those are issues that the
9 tribes are dealing with as well.

10 So that's just my personal observation, and
11 hopefully, it gives you guys something to think about
12 on how you are going to approach criminal justice.
13 Because, of course, we're dealing with symptoms. We're
14 not dealing with the root causes. But as a sitting
15 judge, my personal position is to find out what the
16 root cause is and to pull in the available resources
17 that we have to combat and prevent, especially with
18 domestic violence, and stopping the cycle, teaching the
19 kids that there's a better life for them.

20 I read a report at one point in time that a
21 study was done on 40 children, 20 male and 20 female.
22 Of the male population and the female population, ten
23 of each of that group came from domestic violence
24 homes. The other ten of the group came from
25 non-domestic violence.

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1 The question that was asked, a simple question,
2 was, do you believe -- this question was posed to the
3 kids that were exposed to domestic violence. Do you
4 believe that little Johnny or little Mary next door
5 witnesses their father beating their mother? In that
6 domestic violence environment, the answer was yes
7 100 percent of the time. The same question on the test
8 group, the non DV homes, their answer, 100 percent, was
9 no.

10 Learned behavior. We learn from what we see.
11 We learn from what we hear. That's how powerful our
12 homes are. And if we can't reach into our homes to do
13 intervention and prevention, those cycles are going to
14 continue.

15 So I hope that the panelists today understand
16 where I'm coming from as a tribal court judge. Some
17 tribal judges, unfortunately, see this on a daily
18 basis. I don't where I'm at. When I was a tribal
19 court judge in Jicarilla, I would see it on a weekly

20 basis.

21 And what I would also encourage, as Judge Medina

22 pointed out, not only as tribal leaders, but you as

23 leaders, is to learn about your communities that you

24 serve, because we are all different. Just because

25 we're all the same color of skin, doesn't mean that we

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1 all think the same or we all practice the same. There
2 are major differences from one region to another.

3 So again, I want to thank you guys for your time
4 and giving me the time to present to you, and we will
5 be forwarding our written comments at a later time.

6 Thank you.

7 MR. GARRIOTT: Do we have any of the
8 governors? Just walked in right now? At this point,
9 we're asking tribal leaders if they'd like to make any
10 opening remarks or statements. No. Okay.

11 Well, first of all, let me again just thank
12 everyone for those opening remarks and setting the
13 stage. I think one of the things that becomes
14 abundantly clear is that this isn't just about police,
15 and Indian affairs certainly understands that. And
16 just by way of background, a lot of the work that we've
17 been doing recently has been centered around policing
18 and policing operations; however, we also realize that
19 we're not going to arrest our way out of these

20 problems.

21 And then ultimately, if we're going to make
22 Indian Country communities safer, it has to be an
23 integrated multidisciplinary approach that does not
24 involve strictly or only traditional approaches to
25 justice, Police, courts, detention, probation, et

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1 cetera; but that, you know, the best way to keep
2 someone from committing a crime is to probably make
3 sure that they have a good paying job, that they have a
4 good education, that they're receiving proper
5 healthcare and other services. So our challenge over
6 the next several years -- and the Tribal Law and Order
7 Act is helping this, and in some ways forcing us to
8 look at some of these issues, is how can we begin
9 supporting justice systems in looking at the complete
10 continuum of care, continuum of services.

11 And it has been mentioned, tribal courts are one
12 of those key and primary places that sits kind of at
13 the center, the epicenter of tribal justice, because
14 they see everything. And they're the individuals who
15 have an opportunity to intervene in any case, whether
16 it be a juvenile case or an adult case. They are the
17 ones who determine whether an individual goes to jail
18 or receive alternative sentencing, or, you know, what
19 those next steps are, if they're going to do treatment

20 or whatever the case may be.

21 So OJS is going to be taking a much more

22 integrated and much more comprehensive approach to the

23 way it does business. And the first part of that is

24 looking to tribal courts. The second part of that is

25 then looking at tribal corrections.

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1 And then, you know, as Carla will tell you, we
2 have a lot of work to do in tribal corrections. We're
3 not just -- we need to get past simply just housing
4 people, but get to the point where we're, you know, if
5 they need a GED, we need to be providing educational
6 services. What are we doing when those individuals get
7 out. Should they even be in jail? Should they be
8 receiving treatment from -- with the assistance of
9 SAMHSA. Do they need mental health services, with the
10 assistance of IHS.

11 So again, I want to emphasize that, yes, in the
12 beginning we have to get to a certain point in terms of
13 policing. We have to be at a certain level, a certain
14 number of police that are on the ground. But
15 ultimately, that's not the way out. But we have to be
16 looking at the full integration of services.

17 I'm going to ask Darren to -- one of the
18 questions was, if we could explain kind of the SLEC
19 issue and what we're looking for in that regards. So

20 I'm going to ask Darren if he could talk a little bit

21 more about that.

22 MR. CRUZAN: Well, one of the things in

23 traveling around and talking to -- is this on? It's

24 hard to tell -- in talking to people during these

25 consultations, I guess I've really seen three, or heard

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1 three primary complaints and not in any particular
2 order. But one of them is the number of criminal
3 justice in Indian country courses that we're giving,
4 and the second one is that the distance that the
5 officers are having to travel to attend these courses
6 makes it very difficult financially. And then the
7 third, which is, you know, I guess most disturbing to
8 me, and the one that I have the most affect on, is the
9 timeliness in which, when the officers take their
10 class, that it takes to get the SLEC cards.

11 And so in addressing and looking at those
12 issues, what we've done -- and again, as I've said
13 earlier, we've not -- nothing is written in stone at
14 this point. This is entirely a consultation process.
15 These are the things that we're hearing. And as we go,
16 we're putting some of these things down and trying to
17 get some ideas so that we can have a product to put out
18 there as a draft form for people to look at.

19 But one of the things that we're looking at is

20 in working with the Department of Justice,
21 Leslie Hagan, who has just recently been placed in a
22 position where she's in charge of the training for
23 Indian country, starting in November is going to begin
24 looking at bringing some assistant US Attorneys in to
25 look at our criminal justice in Indian Country course

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1 to see if there's ways that -- you know, with this new
2 Tribal Law and Order Act, there's obviously going to be
3 some updates that are going to have to happen to that.

4 Another thing that we're looking at, possibly,
5 is the time that it takes these courses -- I was
6 talking to Joe Rosen, who has been -- who has taught
7 these classes for us, I think, for the last nine or so
8 years. And one of the things that is a topic of
9 discussion, even internally within the office of
10 justice services is the amount of hours that we feel it
11 needs to be. You know, it ranges anywhere from
12 40 hours down to eight hours. So that's one of the
13 things that we want to look at.

14 Also, one of our sister federal agencies that
15 also provides commission cards, you know -- now, there
16 are some -- there are some huge differences in the
17 reason and why they do it. But you know, the training
18 that we provide for these officers to get their SLEC
19 cards is much more than what's required by the federal

20 agency. So what we're doing is we want it to look and
21 make sure that we're doing it the best, as far as the
22 amount of time that it takes.

23 The other thing that we're mandated to do, and
24 just makes perfect sense to me, is that the Tribal Law
25 and Order Act mandates us to have two criminal justice

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1 Indian Country courses per year, in each region. And
2 one of the things that -- there's a little confusion
3 on. Maybe it's just confusion on my part. But what
4 does "region" mean? What are they talking about?

5 So as we move forward to work with DOJ and some
6 other options that we have, you know, contracting to
7 get these classes out, we're looking at the US
8 Attorney's offices maybe hosting those classes locally.
9 And I think there's a lot of merit to that, in the fact
10 that, if our officers -- our tribal partner offices are
11 going to be presenting cases to the specific US
12 Attorney's office, it makes a lot of sense to me, if
13 there's a rapport that's being built there.

14 And you know, I think Roman said, and I agree, I
15 don't -- one size doesn't fit all. So we can develop a
16 course that we send out there, but there are some
17 unique things that each of these tribal officers and
18 the US Attorney's office are going to be dealing with.
19 So I think there's something to be said about having

20 those classes taught by the US Attorney for the rapport

21 part.

22 And then the other issue that, like I said, is

23 of great concern to me is the time that it takes. And

24 so when I heard that, it was a little disturbing to me.

25 And I understand that sometimes in my position you get

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1 one side of the story, and don't hear the other side.
2 But you know, that was very concerning that we had some
3 locations where it was several years after the training
4 had taken place, that the officers, you know, still had
5 not received their SLEC cards.

6 So in making some inquires into why that was the
7 case, what I'm being told is, of course, we have a
8 memoranda of agreement with the tribe, prior to even
9 accepting applications for the officers to have their
10 SLECs. So we were, in some cases, putting the cart
11 before the horse. And we were providing these
12 trainings, and so officers were attending these
13 trainings, with the expectation of, well, okay, I've
14 got the training now. I should have the card. But
15 there were no MOAs in place. And in some cases, you
16 know, even the applications maybe weren't filled out
17 correctly, the background investigations weren't done.
18 So that's where some of that confusion was coming from.

19 So what we're looking at doing -- and I'm also

20 hearing as I go out, that there have been numerous
21 cases where these memorandum of agreements have been
22 signed by the tribe and forwarded to the BIA. And they
23 kind of sit there in limbo and sit on somebody's desk,
24 and then it just becomes covered up with other things.
25 And to me, that is unacceptable. That's unacceptable.

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1 So we're working on the process to make those happen a
2 little quicker.

3 And then we want to make sure, prior to us
4 offering the class, you know, to the officers to
5 attend, that the MOA's in place, and that the
6 applications are filled out completely, the backgrounds
7 are done, and then we invite the officers to come take
8 the class and -- you know, whether that be an
9 eight-hour class or a 16-hour class, whatever that is.
10 At the conclusion of the class, the officers, you know,
11 take the test, pass, and then are sworn in and receive
12 the cards right then, which would eliminate a whole lot
13 of that gap that we got in there.

14 But again, like I said, that's kind of the
15 process that we're in. I know that there was some
16 questions yesterday, and we got the solicitor's office
17 right here, that may be able to help me answer that.

18 But as far as the --

19 I don't mean to put you on the spot there.

20 But if there's any questions regarding the
21 SLECs, and how the MOAs are going to work or how we're
22 moving forward on recommendations, you know, I think we
23 can certainly entertain those questions now. But
24 that's what we're looking at.
25 And again, nothing is solid until we make it

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1 through this consultation. I've also got -- as a
2 matter of fact, maybe I should take the opportunity to
3 give you these e-mail addresses. So that at the end of
4 the consultations, what we want to do is we want to put
5 together a draft document on each one of these items
6 that we're working on, and then allow folks that
7 were -- had attended the consultations or weren't able
8 to log on to our website, take a look at it, and then
9 make comments. So let me give you a couple of those.

10 You can get to the documents by going to the --
11 I'm not sure what the website is, but it's the BIA's
12 office of justice services webpage, If you can get to
13 there. And the e-mail addresses to make comments --
14 the first one would be ojs.tloa2010.comments@bia.gov.
15 And the second one is specifically for detention issues
16 comments that you want to make regarding the things
17 that we're working on with our corrections program.
18 It's ojs.divisionofcorrections, one word, @bia.gov.
19 Again, that's ojs.divisionofcorrections@bia.gov. And

20 then one last one is ojslawenforcement, one word,

21 @bia.gov. Ojslawenforcement@bia.gov.

22 And I really encourage you to get on there and,

23 you know, if you like what you see, comment on that.

24 If you don't like what you see, please comment on that,

25 because that's the only way that we can move forward.

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1 We're -- of course, we're recording this, and
2 getting notes from the consultations, and we're all
3 writing feverishly. But it also helps, with the amount
4 of information that's coming in, if we can get your
5 comments in writing. It helps us out a great deal. So
6 please, take advantage of this opportunity to voice
7 your opinions and concerns or, you know, that you're
8 happy with the direction that we're going, Because it
9 definitely does make a difference.

10 So with that, if there's -- you know, I'd like
11 to entertain questions.

12 MR. SPRUHAN: Hello. Good afternoon. My
13 name is Paul Spruhan, S-p-r-u-h-a-n. I'm an assistant
14 attorney general for the Navajo Nation Department of
15 Justice for human services in governments. We handle
16 public safety. We got a lot of representatives from
17 the division of public safety here today, who I think
18 can give some of the programmatic side of some of these
19 issues.

20 I wanted to talk about SLECs, which is a
21 significant issue on the Navajo Nation, as at least
22 Mr. Breuninger knows. We were locked in a dispute with
23 the Bureau of Indian Affairs for about seven years on
24 the SLEC issues, before the Tribal Law and Order Act
25 passed. And it has to do with the model deputization

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1 agreement that apparently was drafted by the D.C.
2 office of the solicitor. And it was a one size -- or I
3 assume it's still in effect -- a one-size-fits-all
4 document that applied across the board to tribal law
5 enforcement, whether they were 638 contractors or not,
6 and the county or other law enforcement. Navajo County
7 in Arizona wants to enter into the agreement, and they
8 were told they had to sign the same agreement the
9 Navajo Nation had to.

10 And there were several problems with the
11 agreement. Number one, it assumes, in the way that it
12 was drafted, that the Bureau of Indian Affairs is
13 currently providing law enforcement services on the
14 reservation, which is clearly not true with Navajo
15 Nation. There's no BIA law enforcement presence, at
16 all, on the Navajo Nation. But more importantly, it
17 requires the tribe to acknowledge, in the agreement,
18 itself, that federal tort claims act coverage only
19 applies when you're enforcing federal law under the

20 agreement, which is a patently-false statement, because
21 the 638 contractors were law enforcement and criminal
22 investigation.

23 We, of course, have FTCA coverage for negligence
24 when enforcing tribal law. And we attempted to
25 communicate that with the Bureau of Indian Affairs for

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1 years, and we were told, "No. You've got to sign this
2 agreement. Solicitor said you have to sign the model
3 agreement. Can't be changed." One word, one period:
4 Nothing.

5 Now, we had a hook in our 638 contract that
6 allowed us to litigate this matter, and compliments of
7 Mr. Breuninger and Mr. Hefty (phonetic spelling), we
8 were able to settle it in a way that was appropriate to
9 us. But that took years and a lot of time and a lot of
10 energy and a lot of money for the Navajo Nation to come
11 to the point of having simple changes made to the model
12 deputization agreement.

13 So given the opportunity with the new act and
14 new guidelines that are supposed to be issued by BIA,
15 we would suggest, given our experience, the wisdom of
16 our experience in the Navajo Nation, if you do
17 anything, please change that model deputization
18 agreement talking about the MOA. It talks about that
19 there's a certain timeline in which you're supposed to

20 approve an MOA when submitted. Well, that's fine and

21 good, but if the MOA stays the way it is, it is

22 problematic. We think it has patently-illegal

23 statements in there.

24 And it's a one size fits all. It really does

25 not apply, particularly to 638 contractors. I assume

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1 that there are other tribes here who have 638 contract
2 for law enforcement services, if not, maybe it's just a
3 Navajo issue in this region. But we're different than
4 a general funds tribe. We're very different than
5 county law enforcement who are seeking these cards to
6 be able to provide federal law enforcement services.
7 They are not 638, so of course, they only have FTRA
8 coverage when enforcing federal law.

9 As 638 contractors, we submit we should be
10 treated differently. If you're going to continue to
11 use that model deputization agreement, have it only
12 apply to non-638 tribes. We would propose to do what
13 we had to go through litigation to do, which is to
14 incorporate whatever additional provisions you may feel
15 are necessary into the 638 contract.

16 There is already a device, through the 638
17 process, wherein you can make requirements. Up until
18 we were declined to have SLECs issued, we had a
19 provision in our 638 contract. Once the model

20 deputization agreement appeared, sorry, you have to
21 sign this. It can't be changed. It doesn't matter if
22 it doesn't seem to apply to you. It doesn't matter if
23 it seems to have a false statement about FTCA coverage;
24 this is your deal. We were able to get that changed.
25 Other tribes may not have the hook that we have.

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1 The point is, we would ask, as part of this
2 process, please look at the MOA. Please look at how
3 it's written. Change it, so that it doesn't have those
4 patently-false statements. But also, if it only
5 applies to outside law enforcement, that's fine. For
6 people with 638 contracts, incorporate it into the
7 existing contract. Thank you.

8 MR. CRUZAN: And I thank you very much for
9 your question to me yesterday on that question. And we
10 all agree that there's certain standards -- some of the
11 verbiage are going to have to be in there, some of the
12 standards. But I agree with you, one size does not fit
13 all.

14 But I'm going to kind of look over here, and
15 Andy, maybe you can add some clarity to that?

16 MR. CAULUM: My name is Andy Caulum, and I'm
17 with the solicitor's office in Washington, division of
18 Indian Affairs. I just started -- I was -- I have been
19 assigned to work on the Tribal Law and Order Act. I

20 was not involved in the declination that you were
21 describing. But with the new Tribal Law and Order Act,
22 as the director said, there are certain elements of it,
23 I'm sure that you're aware of, that are going to be
24 prescribed by the law, and there's really nothing we're
25 going to be able to do. There may be some elements of

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1 it that we are going to be able to negotiate and to
2 address in a way that is particular to Navajo or tribes
3 in Oklahoma.

4 For example, Public Law 280 states -- Nonpublic
5 Law 280 states. We think that with this new law, there
6 really are some opportunities to afford on this, and I
7 think that -- you know, some of the things we're
8 hearing in the consultations, stuff that you just
9 raised, we heard some discussion about the -- these --
10 the commissions up in Billings. There's a discussion
11 about it in South Dakota. We expected there to be a
12 fair amount of it in Minneapolis and down in Miami, as
13 well. So hopefully these are things that we'll be able
14 to work on and have some flexibility going forward.

15 MR. GARRIOTT: And I just want to add to
16 that in that -- if you came to me right now and asked
17 me to outline the process for developing one of these
18 MOUs, and put timelines to it, I couldn't. I couldn't
19 hand you a sheet of paper that says here are all the

20 steps and here are the timelines on it. And that's
21 what these two provisions that we're talking about in
22 the law are asking us to do.
23 So it's something that's very good for us, and I
24 think very good for tribes, because I think
25 essentially -- you know, what I'm hearing, you know,

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1 the substance aside, is that there needs to be a
2 process for this and that all of the information needs
3 to be out there and available, so that everyone
4 understands that, you know, yes, there may be some
5 provisions in one of these agreements that is statutory
6 law, and we can't really negotiate around that. But
7 there are tons of other areas and places where we can
8 negotiate and where we should negotiate and work with
9 the tribes to make something, to develop something that
10 works for the tribe.

11 MR. ROGERS: My name is Bryant Rogers. I'm
12 an attorney representing a number of tribes, 10 or 15,
13 but here today specifically on behalf of Mississippi
14 band of Choctaw Indians. The tribe has been concerned
15 for a long time with the very issues that Mr. Spruhan
16 raised from the Navajo Nation.

17 And one of the very odd things about the special
18 law enforcement commission deputization agreement is
19 that BIA police officers are obviously covered by the

20 FTCA when they enforce tribal law. They are not
21 limited to the enforcement of federal law for their
22 FTCA coverage. And the notion that tribal police
23 officers who get these cards are suddenly going to have
24 less FTCA coverage than BIA police officers is just
25 ridiculous.

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1 So to enforce tribal law, a federal officer has
2 to have approval from the tribal council. And that's
3 been in the Law Enforcement Reform Act for 15,
4 10 years. But once they're authorized, they're covered
5 by the FTCA when they're enforcing tribal law. So
6 again, this whole idea that this agreement had to be
7 signed by officers who are employed by tribes that are
8 operating 638 contracts, it just has never made any
9 sense, and it has always been nonnegotiable, period.

10 So I think the process that the Navajo Nation
11 went through, you're going to see it a lot, if we don't
12 get changes. Because everybody is going to seek the
13 same solution that they got, which was a modified form
14 of deputization agreement, incorporated into their 638
15 contract, acknowledging the broader FTCA coverage.

16 No one disputes that if there's statutory
17 standards that apply to people who get the law
18 enforcement commissions, that those have to be in
19 there. We're not talking about that. We're talking

20 about things that are in there that are just contrary

21 to law, And it puts tribes and officers in a delicate

22 position.

23 With all due respect to the Justice Department

24 people here, it is no secret that Justice does not like

25 the fact that 638 contractors have FTCA coverage.

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1 Justice has tried to limit that coverage. They've
2 tried to get the statute amended. And so it is not
3 automatic that you get coverage. You have to work to
4 get Justice to honor the coverage. You give the
5 Justice Department a way out, they will take it.

6 So we don't want to sign a document that says
7 we're not covered. Our clients do not want their
8 officers to do that. It puts them in jeopardy. And so
9 we're asking -- we're joining in the Navajo Nation,
10 that you all change this package. I'd be glad to work
11 with any of you to help achieve that. It would improve
12 law enforcement.

13 If I may, I would like to address a couple of
14 other issues that relate to this whole process. I've
15 been doing this a long time. I started working for the
16 Choctaws in 1971. They have been operating a police
17 force for 25 or 30 years and their own court system
18 since 1980, '79 or so.

19 We've watched the evolution of the federal law

20 that they have to operate within. When they began, we
21 were negotiating buy Indian contracts, '71, '72, '73,
22 before the Self-Determination Act. At that time, you
23 sat down, and the Bureau says, "Here's what the
24 contract will say. Here's the amount of money you will
25 get." There was no negotiation about the language.

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1 "Here are the policies you're going to follow. Here
2 are the Bureau directives you're going to adhere to,
3 take it or leave it."

4 638 statute revolutionized that in 1975. And
5 one of the key things that that statute does -- and I'm
6 going to read it, because it's really important that
7 you not forget this change between the fundamental
8 relationship between the government and tribes that
9 this act brought about. Again, we used to say that the
10 act substitutes tribal control for federal management
11 of Indian reservations, and that is critical from the
12 Choctaw's perspective. They want to run their turf,
13 within the limits of the law, and Congress has
14 authorized them to do that.

15 So this is a provision in the statute that is
16 too often ignored. This is 25 US code 450L(C) --
17 that's a parened "C," -- section 1B11. It's in the
18 model contract. Every 638 contract has this provision
19 in it, And every title IV agreement is governed by the

20 same provision.

21 "Federal program guidelines, manuals, or policy

22 directives, except as specifically provided in the

23 Indian Self-Determination and Education Assistance Act,

24 the contractor is not required to abide by program

25 guidelines, manuals, or policy directives of the

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1 Secretary, unless otherwise agreed to by the contractor
2 and the Secretary or otherwise required by law."

3 So as you move to implement the new statute,
4 please realize that you are not free to dictate to the
5 tribes how they implement this law, unless the statute
6 specifically requires that.

7 I want to illustrate this. I don't know how
8 many people -- I don't know how many people in this
9 room have ever seen this book. This is the 2008 -- I
10 like this title. BIA Office of Justice Services Law
11 Enforcement Written Directives Handbook. "Written
12 Directives Handbook." 2nd edition. It's over 500
13 pages long. OJS seems to believe that this is
14 enforceable against tribes without their consent. I'm
15 dealing with it right now. There is zero legal
16 authority for that position.

17 When you ask the Interior Department, where do
18 you get the authority to do this? What law gives you
19 that power? No answer.

20 Well, we have a regulation, 25 CFR, part 12. 25
21 CFR part 12 was adopted in 1997. It states, in subpart
22 12.14, that the bureau will provide that book or a
23 handbook the most current, it says, to every tribe
24 every year. They don't do that. I checked a number of
25 our clients; they didn't get this thing. I had to get

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1 it by calling for it. It's not published anywhere.

2 It's not online. Okay? I mean, why do you have to ask

3 for it, when the statute says you will provide it.

4 But the key point is, it is not mandatory that

5 you follow it. Many tribes -- you know, they adopt it,

6 they agree to it. Fine. If they agree to it, that's

7 fine. But 12.14 says that, "The tribes shall operate

8 their programs in accordance with the minimum standards

9 set out in the BIA law enforcement handbook." It also

10 refers to a manual provision that doesn't exist

11 anymore -- but nonetheless.

12 But when they passed this regulation in 1997,

13 there was no draft published for tribes to comment on.

14 Federal Register notice said, "We're thinking of

15 adopting some Indian Country law enforcement

16 regulations. Any comments?" Literally, that was the

17 sole introduction to the topic to the tribes. I got

18 the Federal Register notice here.

19 All right. When they did this, they didn't make

20 a copy of whatever the manuals and handbooks were that
21 existed in '97, and file them with the office of
22 Federal Register; but that's what's required in 1 CFR
23 part 51. That's been there since 1982.
24 Part 51 has a subprovision, discovery Federal
25 Register notice. Once you post a manual by

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1 incorporation, rather than put the whole manual there,
2 you can incorporate it by reference, no problem. If
3 you change it, you have to republish it or post another
4 notice and tell them where to find it. Bureau has
5 never done that. OJS has never done that. OJS has
6 never had one word of consultation with tribes, when
7 they went from the 2006 manual, that was 400 pages, to
8 this manual, which is 500 pages.

9 Most tribes have their own operating procedures
10 and policies. That's what 638 is all about. OJS has
11 no authority to impose this on them, but they do it,
12 unless you fight back. So I'm asking, as you all
13 grapple with the new law, please honor the spirit and
14 the law as required by self-determination. Let the
15 tribes decide whether this is a manual they want to
16 use, or whether they want to adopt their own manual.

17 And it spills over to the special law
18 enforcement commissions. You can't use that as a back
19 door to impose conditions on tribes that the statute

20 doesn't do. The statute imposes it, fine; nobody is
21 arguing that. But 638 says you can't take your policy
22 judgments and impose those on the tribes.
23 And that's why I'm here. I'm instructed by my
24 client to say that they really want you -- let's have a
25 new beginning here. Law enforcement, in particular,

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1 has gradually encroached on tribal prerogatives, and
2 they've gotten to a point where they know better. They
3 know what's better for the tribes, and they want to
4 tell them what to do. Congress has said you can't tell
5 them what to do, beyond what Congress has authorized
6 you.

7 That manual is not authorized. The extra stuff
8 in that deputization agreement is not authorized, and I
9 ask you to please relook at it. It's just unnecessary,
10 and it's unlawful. Thank you.

11 MR. GARRIOTT: Thank you for those comments.
12 And as you pointed out, OJS has, in the past, not ever
13 really engaged in consultation. And to my knowledge,
14 this is OJS's seventh consultation ever. So I hope
15 that this is representative of our new way of doing
16 business.

17 MR. CRUZAN: And I, too, welcome those
18 comments. And we don't know each other, So you don't
19 have any reason to trust what I'm saying. But I'm

20 telling you this, and then in -- over time, I hope to
21 earn that trust. And I like what you say about new
22 beginnings. And it's never made much sense to me that
23 we've -- I mean, at the end of the day, we all want the
24 same thing. We want our communities to be safe. We
25 want our people to enjoy the same feeling of security

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1 that anybody else in our country feels. So when I was
2 writing this stuff down --

3 I'm more than happy to sit down with you. And
4 as Wizipan said. I can't speak to what we've done as
5 far as consultations in the past, but I've been here
6 three weeks, and I'm here to tell you that my playbook
7 that I've called out of my entire career has been one
8 of cooperation, collaboration, and it's been very
9 successful for me. And I don't intend to add any new
10 plays to it. I plan on doing what's worked for me.

11 And if the decisions that I make as director of
12 the office of justice services are just limited to my
13 thoughts and my ideas, then they're only going to be as
14 good or as smart as I am. But if we reach out to our
15 tribal partners and come to the tables and take our
16 coats off and roll our sleeves up and say, "Okay.
17 Here's the problem. Let's come up with a solution that
18 at the end of the day meets those goals that we're all
19 working for, then that's where we're successful. And

20 that's where I'm coming from, and it comes from a very

21 sincere place.

22 MR. COWBOY: Good afternoon. My name is

23 Samson Cowboy. I'm with the Navajo Division of Public

24 Safety. You just got on the board; three weeks is a

25 long time. You got a tough job. Mr. Chaney, Dan, and

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1 Dwight, and other folks, good afternoon.

2 I have two concerns that I'm going to bring out,
3 number one is the SLEC, which has already been
4 discussed; However, it's a one size fit all, that's how
5 I've seen it, when I first came in, in 2003. And I
6 struggle with it. And it was one word, one word that
7 delayed the signing of the MOA, just that one word that
8 we couldn't agree on. I think if we would have
9 massaged it a little bit, like the way that we were
10 doing from the beginning, it would have been okay. We
11 would have passed it and got it in place; however,
12 that's one word, the position that we, BIA, didn't want
13 to come forth. They wanted to change that word,
14 although it was in our contract, the way it was
15 written, and we were abiding by that.

16 So I think there is an MOA, we have to
17 understand that. Also, if there's a contract, we have
18 to understand that. So with other tribes, I think the
19 issue is still going to come up. If BIA does not

20 recognize the contract -- that's what happened in this

21 case.

22 The second one is that -- the gentleman brought

23 up the policy book. We have not incorporated our

24 general orders yet. I spend a lot of money, a lot of

25 man hours, and it took us, like, almost two years just

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1 to put a document together, our own document, that
2 benefits the Navajo Nation, not a document that is --
3 was done somewhere and given to us and we were told to
4 follow it. And I totally agree with this gentleman.

5 I think that's where we need to sit down and
6 have some minds coming together and understanding each
7 other. Because right now, that's not happening.
8 Because anything that's incorporated or that's
9 developed by BIA or the federal government, it's given
10 to us, and we're mandated to follow it -- It does not
11 work, folks, it will not work.

12 And I joke about this. Yesterday I joked about
13 it. How many of you have really worked in Indian
14 Country? I know Chris has. He's been in Navajo
15 Nation. Danny has. Really, Indian Country is the
16 Navajo Nation. I was joking about it. But the point
17 I'm making is all tribes have their own needs, and they
18 have issues out there that they have to deal with.
19 Navajo is totally different from Santa Ana over here.

20 Isleta is totally different from Hopi out on the
21 Arizona side. So these are the things that you need to
22 understand.
23 Lastly, I hope that that website is up. I've
24 been to a consultation before that Eric Holder had. At
25 the end, I never received a written response back.

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1 There is no written response on these consultations.
2 And I hope you are correct, sir, that it's on the web,
3 that we can comment on it, and I hope there's a written
4 response that's given back to us. Because I haven't
5 seen it yet.

6 I went through all the consultation -- and that
7 was with Eric Holder, got my picture taken with him.
8 That's the only thing that I can say that I attended
9 that. So other than that, I never received a response,
10 and I hope we get a response back.

11 Mr. Chaney, I hope you take the word back.
12 Thank you.

13 MR. NELSON: Good afternoon. My name is
14 Steven Nelson, Captain, Navajo Police Department from
15 the great eastern Navajo agency, regarding the SLEC.
16 My comrades, my colleagues here that wear different
17 uniforms, different colors, but they're the first line
18 of uniformed officers. They are out there 365 days a
19 year, seven days a week, day or night, rain, shine, or

20 snow. But when you tell us that we need our SLECs, and
21 we're asking, "When is that training going to take
22 place?" We have to wait. And then we're told that the
23 criminal investigators have to go first.

24 Let's not distinct between one or the other.

25 Let's provide that training for all law enforcement

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1 officers. Let us provide them the means to do their
2 job. They risk their lives every day.

3 And all due respect, Your Honor, you asked why
4 is the law enforcement heavy? Because we're the first
5 ones out there. We bleed, we die. Seven years without
6 this card, we risked our lives.

7 And the question was asked, how many more law
8 enforcement is it going to take to raise and help
9 mothers raise our child? As much as we need. Because
10 we are parents as well, and sometimes we are parents to
11 those homes that are empty of parental guidance. And
12 we do the best that we possibly can to love those
13 children, even though they're not our own. Because we
14 are the first line of defense, and we are the first
15 ones to respond to those assistance.

16 I plead on behalf of our uniformed officers,
17 give us those cards, if we pass the training. We want
18 to know how soon we can get these cards. I've got 32
19 officers. Law enforcement services in eastern agency,

20 I was able to get eight of my officers to go into that

21 training with the criminal investigators.

22 I still have 24 officers that need to be

23 commissioned. We're told the US Attorney's office is

24 helping provide these training, but then we're told

25 that it's got to be approved by the Indian police

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1 academy. How soon can we get those approval? Our
2 officers need those commissions. We want no
3 limitations on the number of officers that can be
4 trained, but give us as much numbers as we can to get
5 our officers fully commissioned and also get these
6 special law enforcement commission cards.

7 We are part of the community. We do not
8 separate ourselves from that community. I just don't
9 do law enforcement work. I'm also a spiritual leader
10 in my community. I also do mentoring, volunteering one
11 hour of my time a week -- because that's all I can
12 spare -- to help those children that are at risk, whose
13 parents are incarcerated. My young man, Zachary, has
14 went from a straight "F" to a straight "A" student,
15 just spending that one hour with him.

16 Help us. And you are asking for our assistance,
17 you're asking for our comments, help us. We need those
18 cards. Thank you.

19 MR. GARRIOTT: If we may, I want to go ahead

20 and take a quick ten-minute break. And then we'll

21 resume, and we'll start with this individual here.

22 (Recess taken from 2:54 p.m. to 3:26 p.m.

23 and testimony continued as follows:)

24 MR. GARRIOTT: Welcome back. We're going to

25 resume our conversation from earlier. And we're

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1 starting with the gentleman who we left off with.

2 MR. TRIMBLE: Okay. Good afternoon,
3 everybody. My name is Tim Trimble. I'm chief of
4 police with the Zuni Pueblo, here in New Mexico.
5 T-r-i-m-b-l-e. And I'd like to talk a little bit about
6 the SLEC process. I don't want to keep on the same
7 exact topics that has already been covered, but we did,
8 within our department -- I applied for the SLECs for my
9 two criminal investigators back in 2007. As has been
10 mentioned, it was kind of a lengthy, time consuming
11 process. But with the assistance of some of the folks
12 out at District IV in Albuquerque, we were able to get
13 through that process.

14 We did have to go through that deputization
15 agreement and sign it as it was verbatim. We didn't
16 have any wiggle room in there. But we did to that, and
17 we got it. And we have since utilized that on a number
18 of occasions to send cases to the US Attorney's office
19 here in the District of New Mexico.

20 And I had a few questions that I wanted to kind
21 of move on beyond the process of getting the SLEC. And
22 I think those issues will be worked out. I'm very
23 excited that Director Cruzan is there in Washington
24 now. I feel that that gives us a lot of confidence and
25 enthusiasm that somebody from our own ranks is in there

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1 and knows what we go through and knows what we're up
2 against and is there to advocate for us. So I really
3 appreciate him being here. And I'm glad that we have
4 the US Attorney here, Mr. Gonzales, as well as some of
5 his staff, because I want to kind of direct my comments
6 and questions a little bit farther into the SLEC
7 process or, we have it in hand, now what.

8 And I know my investigators have sent cases
9 directly to the US Attorney's office on Major Crimes
10 Act type cases and been successful in working with them
11 on prosecutions. But in the Tribal Law and Order Act,
12 there's also mention of SLEC holders being able to
13 issue central violations, bureau citations, and also
14 expanding the warrantless federal arrest that we're
15 able to do. And I'd like a little bit of
16 clarification, especially from the US Attorney's
17 office, on how they intend to handle that type of case
18 that will be coming to them. And if we get a lot -- we
19 can't talk about other districts that we don't have

20 those US Attorneys' here. But for New Mexico, anyway,
21 how does New Mexico plan to handle the additional cases
22 that are coming in from these SLEC equipped officers?
23 And a little bit more information about the
24 warrantless arrest, and will there be training provided
25 from the US Attorney's office to help make sure that

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1 that process actually gets fulfilled from start to
2 finish; not just holding the card, but making those
3 arrests and getting those people through the federal
4 system and successfully prosecuted.

5 And then one other comment was -- I know I
6 brought this up in the past at several meetings, but
7 there is some mention of law enforcement training for
8 tribal police officers in the Tribal Law and Order Act.
9 I know myself and I know Chief Betz from Santa Ana, and
10 others, have brought this up to District IV. We're
11 less than excited about the switch to the land
12 management police training that is taking place down at
13 the Indian police academy. And I won't speak for
14 Chief Betz, but I know he's expressed concern that
15 New Mexico DPS is now becoming reluctant to provide
16 serve-by-waiver training to officers certified through
17 the LMPT training that may present a problem to us.

18 And is there going to be a review from the
19 director's office to review that basic training for

20 tribal police officers down at Artesia, and see if that
21 is meeting the needs of the tribal agencies? And if
22 not, if changes will be made to bring it up to par of
23 what we need.

24 And one last thing in that area, also, is when I
25 went through IPA years ago, and then Sergeant Cruzan

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1 was my training sergeant, when we graduated we got a
2 DSO card, a deputy special officer card when we
3 graduated. And one thought that may be of assistance
4 in the future is that when our cadets graduate the
5 Indian Police Academy, they've already been through the
6 background check, the vetting process, everything, why
7 can't we get the SLEC card right then when they
8 graduate? Since they're staying an extra week, as it
9 is, because the training isn't incorporating the
10 federal law, They're getting that training on the spot,
11 can we look at seeing about having the SLEC come home
12 with them when they graduate from that training? Thank
13 you.

14 MR. WRIGHT: Good afternoon. Thank you for
15 the opportunity to say a few words. The constitution
16 of the United States -- oh. Darrell Wright, I'm a
17 member of the Chippewa Cree tribe. I am a public
18 defender. W-r-i-g-h-t.

19 Now, the constitution of the United States was

20 written to give its citizenship -- guarantees some
21 freedoms, you know, freedoms for speech, freedoms from
22 illegal search and seizures, due process of law. In
23 1968, the United States Government finally decided to
24 bestow certain of those rights to the members of tribes
25 through the 1968 Indian Civil Rights Act. And today,

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1 we have, in 2010, the Tribal Law and Order Act,
2 promulgated on the principle that we are now going in
3 and providing safe environments for the Indian people
4 in our communities.

5 And while I can certainly enjoy, you know --
6 enjoy and understand that our communities do, indeed,
7 need some help in, you know, bringing safety within our
8 homes, freedom from illegal drugs and other substances
9 in our communities, and I can really appreciate the
10 effort. But on the ground level of implementation, I'm
11 here to tell you that a completely different scenario
12 is taking place in those communities.

13 We heard the word "warrantless" searches. Well,
14 out in our community, warrantless searches don't apply
15 to a certain condition, if certain conditions are met.
16 It's being applied that we no longer need warrants to
17 go into your homes. We no longer need warrants to
18 search your cars. A car of teenagers with a broken
19 taillight will all be brought outside that car, hands

20 on the hood, and they're entire vehicle searched,
21 whether they have consent or not. That's how it's
22 being applied.

23 Just last week, a veteran officer, 25 years of
24 the Rocky Boy police force, suffering from Alzheimer's
25 disease right now, had his back door kicked in. He was

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1 slammed up against the wall. So when we talk about all
2 of this good stuff coming down the tubes for Indian
3 Country, and we talk about something like Reagan's
4 economics, which is a trickle down theory, that
5 eventually the good things are going to be coming to
6 our community, that's not happening. And I think
7 safeguards, those in charge of writing these
8 regulations, have got to ensure that at the very basic
9 levels of implementation of this plan, that there be
10 safeguards that do, indeed, protect our people, our
11 tribal memberships from the violation of some of the
12 most basic rights that every citizen in the United
13 States of America enjoys.

14 I hear these problems on a daily basis as a
15 public defender, and I know some of them are the
16 stories that I'm told. But I also know that some of
17 them are very real and that something needs to -- you
18 know, needs to happen in those areas.

19 You know, I happen to come from a tribe that I'm

20 very proud of in some regards. I have one of the best
21 court systems that continues to evolve and get better.
22 You know, we have a new facility being raised in our
23 foundation and being laid for detention. There's still
24 some question on, you know, juvenile detention and some
25 alternatives to detention, because we all know, with

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1 juveniles, we should be searching for those

2 alternatives.

3 But all I'm here to say is to give you notice

4 that on the ground level, we're seeing a different

5 thing. Something that is so good for Indian Country,

6 at the very basic essence of what's happening on the

7 ground, is not happening. And I believe it was you who

8 said that the whole purpose of this was to bring public

9 safety to our communities. But we don't want public

10 safety if it means violating the most basic principles

11 that make us nations, or that make us part of the

12 United States.

13 So with that, I'd like to thank you very much

14 for your time.

15 MR. GARRIOTT: Of course, Rocky Boy is a 638

16 program, so both the tribal court system and the police

17 force there is controlled by the tribe. You know, we

18 don't control that. But I'd be happy to have a

19 discussion with you afterwards and to talk more about

20 this.

21 MS. MARTIN: Good afternoon. I am Bernadine
22 Martin, M-a-r-t-i-n. I am the chief prosecutor for the
23 Navajo Nation, and I want to enlighten you, as you go
24 through in helping to build the product of the Tribal
25 Law and Order Act.

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1 First of all, I want to ask you a real basic
2 question. How many of you have been out to my
3 reservation? Okay. We have ten districts. Have you
4 visited all ten districts? We have ten courts, we have
5 ten district police departments, we have ten offices
6 where prosecutors are housed. We are huge. We're
7 27 million acres. We are about 270,000 people, as of
8 the 2000 census. We'll see what happens with the 2010
9 census.

10 And we work in the trenches. I work in the
11 trenches, and I'm consistently dealing with many, many
12 issues that the Tribal Law and Order Act could fix, not
13 entirely, not in the next year, not in the next two
14 years. I'm looking at seeing this change come around
15 in five years -- I'm planning for five years. We have,
16 still, the clients from the US Attorney's offices for
17 child molestation, sexual assault, numerous sex
18 assaults and homicide. It's ridiculous. We need to be
19 able to impose the justice that we feel is necessary on

20 our reservation.

21 And where does that come from? Why do I say

22 that? In 1861, on June 1st, the treaty with the

23 Navajos was signed, and it was in Bosque Redondo, New

24 Mexico. Four years prior, Navajos had to walk from

25 Fort Wingate, New Mexico, to Bosque Redondo. Walk, 10

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1 to 20 miles a day, regardless of their age, regardless
2 of whether they were pregnant, regardless of whether
3 they were ill, regardless -- no matter what, they had
4 to walk. Upwards to eight to 11,000 people had to make
5 that walk. And during that walk, the women were
6 suffering from atrocities by the calvary, that's a
7 given. That's in the record.

8 Once people got there, they ate. They didn't
9 eat our food. Our Navajo people were thriving on our
10 food. They were given flour and coffee, and many
11 people died from all that food. We weren't used to it.
12 We didn't know what to do. They handed us flour, and
13 people didn't know if they should eat the paste, and
14 they ate the paste, and they got sick. The families
15 were given eight ounces of meat per day, per family,
16 during the years they were there. Now, I went to four
17 years of law school -- four years of undergraduate
18 school, and three years of law school, and not once
19 have I ever suffered the way my ancestors have.

20 Once the treaty was signed, two weeks later,
21 June 15, 1868, they were sent home; no bus ticket, no
22 horses, they walked home. Nobody talks about that half
23 of the atrocities on Navajo people. With that, our
24 leaders who were suffering during this time held out,
25 held out for Navajo land. They held out that we would

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1 have Dene land. The alternative was to be shipped to
2 the east somewhere. Who knows where we would be if
3 they gave in. Thank goodness they didn't give in. We
4 thank our holy people for who were. I'm four-fourths
5 Navajo, full Navajo.

6 Now, the Tribal Law and Order Act gives us a
7 lot. It gives us a judicial structure. It gives us
8 prosecution, it gives us law enforcement. And you
9 can't talk about this without the others. We can't
10 have jails like you want to build for felony sentences,
11 without a sentence. How do we get a sentence? We
12 can't get a sentence without a judge. How do we get a
13 judge? We can't get into court without prosecutors.
14 The law requires constitutional protection to the
15 defendants. How do we do that? Does that mean we have
16 to have attorneys as prosecutors? Does it mean we have
17 to have law school trained public defenders, law school
18 trained judges? All that is not written anywhere.

19 There are some statements alluded to licensing,

20 not clear, not clear as far as I'm concerned on my
21 reservation. And we have a very healthy public
22 defender system, and I know those challenges will be
23 raised.

24 Now, I invite you all to come out to the
25 trenches, spend a few days -- not a day, but spend a

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1 few days. Come and look at our system. We are in need
2 of buildings. We are in need of people. We have
3 270,000 people, as of 2010, and we have about 240
4 police officers. All we want at the end of the day is
5 to feel like you do when you go home, Safe in your
6 home, safe in your bed. Because you have more police
7 around your community than we will ever see in ours in
8 the next few years.

9 Now, we're not going away. We have a tribal
10 government. We stand by our laws, our system -- it may
11 not be the best. We have a legislature, we have
12 courts, we have a president, and we want those honored.

13 I came on as chief prosecutor September of 2009.
14 I have yet to meet, now, the new New Mexico US
15 Attorney. I've written to him, I've asked the staff,
16 "Set up a meeting." And now he's going to have to come
17 out to the res. I've offered for him to come here.
18 He's not coming here. I work well with Dennis Burke,
19 the US Attorney for Arizona. I have yet to hear from

20 the US Attorney in Utah.

21 We spread through three of your jurisdictions,

22 one Navajo jurisdiction, and we need to come to the

23 table on the Navajo and talk about our systems and our

24 needs. And come and see what we have and what we don't

25 have. Because the list of don't-haves is way higher

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1 than the list of haves.

2 You lawyers, you know, there has been -- there
3 has never -- it has never been -- our reservations were
4 never intended to be permanent, and that's evidenced by
5 history. We've had the termination era. Did that
6 work? No. We had the allotment era. That didn't
7 work. And now it's assimilation. And we're -- I'm
8 going to be there as chief prosecutor reminding you
9 that we have our system of government, and we want to
10 exercise our lifestyle on our reservation. And we want
11 the tribal law and order code to help us build that.
12 Thank you.

13 MR. DELMAR: I'm Jesse Delmar, chief of
14 police from Fort McDowell. D-e-l-m-a-r. I just wanted
15 to remind everybody in here, including the folks
16 sitting before us here, that the purpose of this act,
17 the way it came to be, it was all because of all the
18 problems we had in Indian Country, way back when, when
19 there was some problems that was presented to

20 Senator Dorgan.

21 Here we are, years later. We have this product

22 here, something that the tribes apparently, themselves,

23 raised, because we had some issues in Indian Country.

24 We had a lot of violence. We had problems with

25 prosecution, law enforcement, our detention, records,

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1 gathering of data in Indian Country, so we could be

2 eligible for grants and stuff like that, and so on.

3 And we're here now.

4 What I was expecting to hear was a strategy from

5 the Bureau of Indian Affairs as to how we are going to

6 do this. How are we going to do detention? How are we

7 going to do law enforcement? We've been talking about

8 SLEC. SLEC is just one component to six titles that we

9 haven't talked about others yet. We haven't addressed

10 others. How are we going to strategize as far as data

11 collection? How are we going to do it better? How are

12 we going to address collections? How are we going to

13 address law enforcement?

14 SLEC director, you explained it well. Right

15 now, I think it's a simple solution. It can be done

16 within a week or a couple of weeks. Somebody told us,

17 you know, "This is how it works, and you -- let's do an

18 agreement first." Okay. That's done. There's a

19 contract. There's certain stipulations that the tribes

20 agree to in the contract. Then there's training
21 involved, and then there is the issues of the cards,
22 itself, and this is how it's done.
23 A lot of us tribes are not familiar with that
24 protocol at all, whatsoever, and, therefore, there's
25 a -- a mix up, you know. There's chaos. We are

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1 instructed to submit our applications to IPA, and IPA
2 is not responsive whatsoever. And that's part of the
3 problem.

4 I think strategizing on behalf of the BIA to
5 involve the tribes, too, as well in your strategy, and
6 talk about these issues that are related in the law
7 that was passed. That's where you start. We're just
8 going through the consultations again, and we're
9 talking, reiterated what a lot of tribes iterated way
10 back when, over and over again. You probably heard
11 that before.

12 One item that happened with detention that I --
13 when Mr. Chaney was there, we started talking about
14 detention issues in Indian Country, and we started
15 having district meetings here and there. I thought
16 that was an excellent idea, and we thought we were
17 going somewhere as far as detention. In my area, as
18 far as detention, we're trying to, right now,
19 regionalize it, trying to come up with some ideas as to

20 how we can do this.

21 But I thought that approach was an excellent

22 approach as to trying to strategize. Hey, let's talk

23 at a district level, and invite all the tribes and talk

24 about all of the issues that we have and come up with a

25 strategy. I think that would be a way to go, and come

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1 up with a national strategy about how we could address
2 each law, each component of the law, all the elements
3 of the law that we're talking about.

4 One of the items that the US Attorney's office
5 from Arizona did was when this draft was being
6 developed, when this law was being drafted, they stayed
7 on top of it. And at this point in time, they're
8 pretty much -- they have a strategy. And now they're
9 saying that they're putting together a 45-minute
10 PowerPoint presentation for other tribes. I think
11 they're about to do that. And a lot of areas that were
12 addressed in the law, itself, they pretty much
13 addressed it. And they're working on trying to, I
14 guess, let the tribes know what the law is all about.

15 I think a lot of the tribes -- well, one of the
16 problems is, I can tell you right now, that a lot of
17 tribes are probably not familiar with the law, and
18 they're asking -- sitting there, waiting for some
19 direction from the US government to come and tell them,

20 "Okay. This is what needs to happen."

21 Okay. Thank you.

22 MR. GARRIOTT: I think that that comment is

23 very helpful, especially, you know, one of the reasons,

24 just for further clarification, is we have a

25 January 25th deadline that we have to meet for these

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1 specific provisions, which is why we essentially kind
2 of rushed this series of consultations out quickly.
3 And they're all occurring this month. But there are
4 many other provisions of the law that we have to take
5 into account; for example, put together a national
6 detention plan, both for adult and juvenile. So I want
7 to just thank you for that recommendation. That's an
8 excellent idea to moving forward in some of the
9 provisions where we have more time to develop and put
10 this together.

11 MR. CRUZAN: Yeah, and I appreciate that, as
12 well. And I'm also happy to, you know, as we solidify
13 the process and things like that, to put that on our
14 website. And once the determination, okay. Here's
15 what we got with the SLEC process, and here's what
16 we've decided. Okay. This is what is going to work
17 the best, is to put those kind of things on our
18 website, and maybe a link where you click on it, and it
19 opens it up, and it spells it out, step by step.

20 I ask you if that's -- is that kind of what

21 you're looking for? Or am I --

22 MR. LASNIER: Good afternoon. My name is

23 Chief Mike Lasnier, L-a-s-n-i-e-r with the Suquamish

24 tribe in Washington State. I want to thank the members

25 of the panel as individuals for being here, listening

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1 to us today and put the travel and the time that you
2 spent here. I wish I could thank your organizations or
3 be more congratulatory, but the reality is, it took a
4 federal law to get us to this table just to do the
5 right thing. Had this meeting been two years ago or
6 five years ago or ten years ago or 15 or 20 years ago,
7 I could be more congratulatory to the agencies
8 involved, but the bottom line is, it wasn't. And only,
9 when we finally got to our elected officials and forced
10 the organizations to the tables, are we here today.

11 So again, I know you, as individuals at the
12 table, have been a service to Indian Country and have
13 done wonderful work, so please don't take that
14 personally, but I think there's still some skepticism
15 from those of us that -- that, we're not here because
16 we volunteered to be here. From the tribes we are, but
17 from your perspective, we're here because a federal law
18 was passed that has us at the table.

19 Briefly, kind of an overarching concern that I

20 have, I am going to hit on SLECs and jail issues. But
21 the BIA, tribal justice really needs to investigate the
22 transparency regarding funding. I come from Washington
23 State. There's virtually no BIA presence in Washington
24 State from the law enforcement perspective. There's
25 one agent assigned to a drug task force, but we all are

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1 638 or self-governance. But from our perspective, at
2 least, we're voiceless. We have virtually no contact
3 with the BIA office of tribal justice, other than they
4 want our statistics. We never see a finished product.
5 We never know what's done with those statistics.

6 BIA and office of tribals justice represents
7 about 25 percent of the police departments in Indian
8 Country. The other 75 percent are like ours. We're
9 out there. We're the ones that are actually doing the
10 job. We have no communication, we have no input. We
11 have no voice. I think our funding reflects that.

12 I would very much like to see a salary study
13 comparing tribal law enforcement, the other 75 percent,
14 to what the pay and the benefits and services are for
15 the 25 percent that have a service provided by BIA,
16 because it is dramatic. The first tribe I worked
17 for -- I'm currently serving my second tribe. The
18 first tribe I worked for, we had a heck of a time
19 keeping staff, because the pay and the benefits and the

20 nonexistence of a retirement system. As soon as they
21 were trained, they would leave to go elsewhere. So
22 those are some of the challenges that BIA may not be
23 aware of, because there is -- historically, there's
24 been no communication.

25 I'll follow that statement with the fact that

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1 Director Cruzan is back in this position, back at the
2 BIA, gives us great hope. So I leave here today with
3 optimism, seeing that he's back in this position. And
4 I have high hopes, knowing that he's got a vertical,
5 uphill battle, trying to undo lord knows how many years
6 of what he inherited. But we do have high hopes for
7 you.

8 I did have kind of a follow-up question. There
9 was information put out to tribes about \$20 million in
10 unspent funds that we haven't heard back on. You know,
11 many of us wrote proposals for that funding. It went
12 out, as far as I know, nationwide, so some kind of
13 follow-up. I've called the Billings office multiple
14 times with no response, no call back. Nobody seems to
15 know anything. So if we could get some follow-up, that
16 would be great, just to know it's still in existence.
17 I could be a brief conversation, but maybe for everyone
18 in the room to know that something is still going on.
19 Because I just assumed that at the end of your fiscal

20 year, that was a dead issue.

21 AUDIENCE MEMBER: November, Where it will

22 come out.

23 MR. LASNIER: Okay. BIA academy, somebody

24 else brought it up, so I threw it on my list. I have

25 two officers that were pretty seriously injured going

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1 through the BIA academy. I have heard mixed reviews on
2 Bureau of Land Management. Quite frankly, I'm not
3 using BIA or Bureau Or Land Management. If I can at
4 all avoid using those academies, I will. I pay \$5,000
5 to send them to the State academy, and I consider that
6 money well spent when I look at the damage to my
7 officers, the physical damage, the fact that both of
8 them required surgery in the aftermath of attendance at
9 the BIA academies. I would rather spend \$5,000 and
10 have them trained locally and, I guess, in a more
11 responsible manner. And I have had this conversation
12 with the director of the BIA academy, which is one of
13 the first consultations that I've had an opportunity to
14 bring up some of these issues.

15 So yeah, the State academies, there are some
16 issues with those, also, And the fact that if there's a
17 waiting list, we can't get in, because tribal agencies
18 are not mandated. But currently there are no vacancies
19 due to the academies. And there are no waiting lists,

20 and there's plenty of vacancies.

21 Special law enforcement commissions, Not many of

22 the agencies in Washington. We pursued them years ago.

23 I actually hosted two of the training classes and paid

24 for them out of our own pocket and then submitted the

25 paperwork and got no response out of Billings. In

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1 probably the past five years, most of the tribal police
2 chiefs in Washington have come to -- basically, we're
3 kind of questioning what's the value of a BIA law
4 enforcement commission. The BIA doesn't really have
5 any authority in Washington, that we're aware of, all
6 on reservations.

7 So I guess I'll direct my comments to the
8 Department of Justice. The issues -- Justice has done
9 a good job of providing training and equipment and
10 funding opportunities for the tribes in Washington for
11 the past, basically, ten years. The one area where I
12 think Justice needs to catch up or give some thought to
13 is, they never really thought about what if we were
14 really successful. What if that training worked? What
15 if that equipment worked? What if the officers in
16 Indian Country became highly competent and very stable
17 organizations -- Which, many of them are.

18 For us, it seems more valuable to have a
19 cross-commissioning through the FBI, something that the

20 US Attorney's office in western Washington would be
21 more likely to recognize. Because in western
22 Washington, they don't get cases from the BIA. They've
23 never worked with the BIA. So for us to show up at a
24 commission for the BIA would probably get nothing more
25 than a raised eyebrow; whereas -- and I've had many

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1 conversation with my US Attorney. We had a
2 consultation with her on Monday, which is also a step
3 in the right direction.

4 And I'll finish up with jail. Again, if people
5 have questions about corrections in Indian Country,
6 they probably go to BIA, head of corrections, this nice
7 lady sitting right there. I don't know you. I've
8 never really had any interaction with you, because we
9 pay for our own. We contract for our own. And the
10 vast majority of tribes in Washington do that, because
11 it financially makes sense.

12 Unfortunately, then the only way for us to get
13 funding from BIA historically seems to be if we build
14 our own jail. Well that hasn't been a very logical
15 decision for us. I see that it's on the list for
16 consultation or discussion. I just would like to
17 reiterate that there are many, many, many tribes out
18 there that are doing the right thing. We want to keep
19 our incarcerated defenders close to our communities so

20 that they're close to their families, close to the
21 support networks, close to the services we can provide
22 them.
23 To have just a few large facilities where we
24 warehouse people kind of goes back to that old Indian
25 boarding school philosophy: Take them, ship them off

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1 somewhere, where we can have centralized resources.
2 That might be easy to manage from a federal government
3 perspective, where it had been centralized in a few
4 locations. But we've seen, over time, that that may
5 not have been the best methodology to follow for Indian
6 Country. So I would urge you to keep in mind that many
7 tribes would like to keep, especially our juvenile
8 offenders, close to home, where we can reach them, we
9 can support them. The families can reach and support
10 them.

11 Thank you, again, for your time.

12 MR. CRUZAN: And Chief, before you walk
13 away -- go ahead and clap for him, because that's good.
14 I just wanted to ask you, one of the things that's been
15 a common denominator, as I go around talking to people,
16 responsiveness and communication and things like that.
17 And you know, keeping in mind that the way we've got
18 our districts set up right now, with a lot of area to
19 cover for those folks, one of the things that I was

20 looking at doing, and would be real interested to hear

21 your thoughts on this, is creating some new -- not

22 necessarily -- we don't want to call it redistricting,

23 but some new positions in strategically-located places.

24 One of them that we're looking at is in that

25 Pacific Northwest area. We had looked at the Portland

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1 office, simply because we have a regional office there,
2 and so space and all of that, being what it is. But
3 you know, knowing the layout down there, you know, what
4 are your thoughts on that. I mean, would that be
5 helpful?

6 MR. LASNIER: Portland geographically
7 doesn't make a lot of sense. There are -- 24 of the
8 tribes are kind of centered in western Washington.
9 Seattle seems more logical from that perspective or
10 somewhere around the Seattle and western Washington
11 area. I think they can certainly still reach the
12 tribes down in Oregon. But if you're looking at just
13 sheer volume of the number of the tribes, somewhere in
14 central, western Washington would make more sense to
15 me, to reach the tribes in that area. And really, it's
16 a black hole, quite frankly, from Billings, because we
17 have no communication.

18 MR. CRUZAN: And would that be useful for
19 you, if we were able to, say, put one up in the Seattle

20 area? Does having -- I guess, responsiveness is going

21 to be better. Is that something that would be --

22 MR. LASNIER: That's a solution. Another

23 one may be to have local or regional consultations.

24 Quite frankly anything would be an improvement over

25 what we have right now. But once a quarter -- the

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1 tribal police chiefs meet once a quarter. If someone
2 from Billings would come over to that meeting and
3 communicate with them there, that might be another
4 option. I'll leave it to you to decide what the best
5 bang for your buck is, but I'll take anything.

6 MR. CRUZAN: I'd like to be invited to your
7 next police inservice.

8 MR. LASNIER: Okay. Done. I'll get your
9 e-mail.

10 MR. CRUZAN: And thanks for your comments.
11 And this is just -- the other locations that we're
12 looking at, places where other senior folks go, so we
13 have a little bit more close connection, is in the
14 Sacramento area. And we're also looking at up in the
15 Minneapolis, somewhere up there, another senior persons
16 o that when a tribe calls and somebody picks up the
17 phone and returns the call within, you know, a
18 reasonable amount of time, as opposed to, you know,
19 sometimes never getting a call back.

20 And the other thing I want to speak to you on
21 that funding -- and Chief, thanks for -- we did put out
22 a request for one-time funding. And what I've done is
23 I've asked Jason Thompson, who most of you probably
24 have dealt with, who right now is the acting assistant
25 director. I've asked him to make that a -- his

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1 number-one priority. And so first -- he's supposed to
2 be back in the office on the first of November, with a
3 plan ready to go for me to look at and to get that
4 money back out. I don't know what the exact dollar
5 amount is. I don't know that. I just simply don't
6 have an answer to that. But those monies are trying to
7 be allocated out appropriately. And so hopefully that
8 will be coming out real soon.

9 MR. LASTIYANO: Good afternoon. My name is
10 Tyler Lastiyano, L-a-s-t-i-y-a-n-o, from the Pueblo of
11 Zuni. I just wanted to make a few comments. First of
12 all, the -- we talked clearly about the information
13 sharing. And I think that's very important for law
14 enforcement, but it's also very important for the
15 corrections department to receive that information.
16 Because in the world of corrections, we have to
17 classify these inmates. And the more we know about the
18 history, the better we can classify and place them
19 within our facilities for security and whatnot.

20 Along with that, for the training in Artesia, we
21 need to have our own corrections staff, trained
22 corrections officers. Where we're at now, they have
23 law enforcement doing the training and teaching our
24 correctional staff. But we need to have our own do
25 that.

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1 Because law enforcement -- and I'm not knocking
2 on our brothers in law enforcement, but they do go out,
3 and they make their arrests and whatnot. But when they
4 take them to our facility, that same -- that same
5 criminal is then within our hands, and after sentencing
6 from the courts, we may have that person for 30, 40,
7 60 days, who knows, And we need to have our officers
8 trained by corrections officers. It's a totally
9 different world between law enforcement and
10 corrections. We need to have that. And I speak on
11 that, because I've met with many administrators from
12 Indian Country corrections, and we all feel the same
13 way, that we need to have our own staff teaching our
14 corrections personnel.

15 Along those same lines, I talked earlier about
16 the cops programs, the tribal resources, the tribal
17 resource grant programs that are being offered to law
18 enforcement. We also need to have that same type of
19 funding avenue for us to be able to get personnel for

20 three years, equipment, vehicles, operational dollars.

21 There was a funding that came out, the Era

22 funding that was designed specifically for management

23 operations. As a tribe, we applied for that, and we

24 weren't selected. And I looked at the awarding list,

25 and there was no Native American tribe that was

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1 selected -- all but one. It was only sheriffs and
2 municipal state facilities that received that. Part of
3 that funding, it was similar to cops, because it
4 required -- or it was providing officer salaries. It
5 was providing operational dollars. And I was sad to
6 see that no tribal -- all but one was selected.

7 And when it comes to the Bureau of justice's
8 systems, I want to thank them, because they did provide
9 us with money to build a new facility. But at the same
10 time, there was no money for staffing it. And I want
11 to thank Carla and Patricia and the people that are now
12 in corrections. They understand the need for staffing.
13 And so they have been working with us. It takes time
14 for funding to come in.

15 And again, with money going into law
16 enforcement, you may put five, six, ten more officers
17 out there, but we have the same amount within our
18 facility. We may have two or three taking care of 40,
19 50 people at one time. So I just want to reiterate

20 that.

21 And then I just want to -- the mental health
22 patients. We have people that come to our facilities
23 that have serious mental health issues. And with that
24 comes psychotropic medication. Now, we're talking
25 about standards for personal facilities. And if you

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1 understand some of the health issues, the only person
2 that can actually provide psychotropic medication is a
3 licensed medical professional or a nurse. So that
4 puts -- again, that puts a lot of liability on
5 correctional facilities in dealing with these people
6 who have issues.

7 And Indian Health Service does not have
8 facilities designed for mental -- not as far as I know,
9 for mental health -- excuse me, for mentally-challenged
10 people within the justice system. We tried working
11 with the state. The state does not recognize tribal
12 court orders. So what are we to do with these
13 individuals? We are warehousing them within our
14 facilities.

15 And as you all know, there is a high rate of
16 suicide in Indian Country. Again, we are the people
17 who have to take care of these individuals, so we need
18 to have Indian Health Service provide us with some kind
19 of training, some kind of balance, some kind of

20 assistance in taking care of these individuals.

21 And just to touch a little bit on the juvenile

22 side. I want to thank Laura, first of all. Laura has

23 been out there helping us in Indian Country, providing

24 assistance for juvenile delinquency programs. One of

25 the hardest thing about a correctional facility -- and

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1 I can talk for myself as well as other facilities -- is
2 providing education. Children provide -- children are
3 required to receive education. If they are a special
4 needs child, then they are mandated by law to receive
5 services.

6 I sit on the school board back home, so I can
7 force -- I shouldn't say that -- I encourage education
8 in our facility. But there's -- there's facilities out
9 there that did not provide education. And these are
10 the children that may end up becoming future adult
11 offenders, so we need to make sure that services are
12 being provided for them.

13 And I think that's about. I think we should
14 just call it a day now. Thank you very much.

15 MR. TSADIASI: Good afternoon. My name is
16 Donovan Tsadiasi, T-s-a-d-i-a-s-i. I'm from the Pueblo
17 of Zuni. I've taken on the task of changing our
18 probation department at the Zuni tribal courts and the
19 Zuni tribe. I had a great time with Sergeant Cruzan.

20 He was my sergeant in IPA. Also Steve Juneau, taught
21 us a lot of stuff. One was to, you know, know what
22 you're doing, do it the best way you can, get it done,
23 and lastly to get home safely, alive, and whatnot.
24 I've also taken on the task of being on the
25 terrorist wing for corrections, and going on to the BIA

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1 corrections facility -- or corrections program,
2 training program. And then I took on this task of
3 running the probation department. The probation
4 department had found out that the probation officer
5 that was currently there for the longest time had no
6 training of probation, called other probation officers
7 around the area, and found that they had no training;
8 come to find that the probation officer that's under
9 me, went to a house, and went to a known violent
10 offender, walking into a house with no background of
11 any training of any kind, and it was pretty scary for
12 me to see.

13 But the thing that I need to get across is that
14 learning these training through IPA, through
15 corrections program, I think we need to develop one for
16 probationers, probation officers -- I'm sorry,
17 probation officers.

18 I recently went through the tribal probation
19 academy, through the Valley Technical Institute, but

20 it's being held up in Shelton, Washington, now. And it
21 covered a lot of stuff under tribal jurisdiction. And
22 it was some stuff that I wanted implemented, has been
23 implemented, so they're making their training program a
24 lot more longer.
25 However, will this training program be

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1 recognized by BIA? That's one question. The other is,
2 what's -- in section 405, assistive probation offices,
3 the language that lieutenant and judge said earlier
4 was -- where did I put it? Section 405 would authorize
5 and encourage the appointment of Indian Country
6 residents to serve as assistant probation officers to
7 monitor federal probationers or prisoners living in --
8 on or entering Indian lands. What are "Indian Country
9 residents," as far as appointing those people to become
10 probation officers, to oversee federal prisoners that
11 are returning back on Indian land.

12 Again, training has to be implemented. Again,
13 those people that are in the front lines. We don't --
14 I don't see any training given to them. I am just in
15 fear of other probation officers getting hurt. I'm in
16 fear of that they're not going to get the job done.
17 Because, you know -- I go back home, and my tribal
18 council and everybody else in the village is saying,
19 "We need to create a dent in our crime," whatnot.

20 But the thing is, we know that officers making
21 arrests, defendants go through the courts, judges make
22 sentencing, the defendant goes to detention. Under the
23 sentence guideline, they are court ordered to go
24 through services through substance abuse, whatever it
25 may be, and then they are placed on probation. Now,

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1 the question again, is BIA going to recognize probation
2 officers, and I think that's something that I want
3 answered. Thank you.

4 MR. CRUZAN: Real quick, just out of
5 curiosity, how long did you envision a training program
6 would need to be to adequately train probation
7 officers?

8 MR. TSADIASI: Well, the one that Fox Valley
9 Training does is three weeks. They incorporated Indian
10 Country or Indian criminal justice deal, only one day
11 of defensive tactics, not a whole lot. I make my
12 comments, I make my requests, and they've lengthened
13 that to, I think, four to five weeks. But I'd like to
14 see updates being done. I'd like to see how we're
15 going to incorporate this Law and Order Act, where it
16 says that we're going to appoint probation officers to
17 oversee federal prisoners.

18 MR. LITTLE: Yeah. I might point out that
19 the probation officers generally fall into the purview

20 of the court operations. They're not over with law
21 enforcement or detention. And that has been a big gap
22 throughout court funding over the last few years. We
23 have very few probation officers, and we have tried to
24 provide more funds to tribal courts to go ahead and
25 hire more probation officers.

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1 And we're starting training for the court
2 systems in March, here at the training center in
3 Albuquerque. We're going to begin with the judges and
4 then prosecutors. They're looking at administrators,
5 and then going to training for probation officers, as
6 well. It may not be the extensive three weeks, but
7 we're beginning that process, too. So we will be
8 getting ready to train probation officers within this
9 year.

10 MR. CRUZAN: And really quick, Joe, just a
11 question. Do you know how many probation officers we
12 have in Indian Country?

13 MR. LITTLE: No. Just generally looking at
14 most of the setups we got, it's pretty minimal. I
15 mean, most court systems -- let's go from top to
16 bottom. I've got one here in New Mexico that has one
17 probation officer for 80 people, pretty incredible, and
18 then I've got, up north -- Rocky Boy, for instance, has
19 about four. So it varies all over the place.

20 It depends on how much money they've got, how
21 big -- how they are dealing with their defendants.
22 Because if you're just placing them, probation officers
23 aren't necessarily on-call. But if you've got a lot of
24 alternative sentencing arrangements, drug courts, these
25 types of things, you need more probation officers in

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1 that regard. We've even funded some for vehicles, just
2 to get them around, because you can't track them down
3 for that. So it was an area that was overlooked for a
4 long time. We're trying to tie into that. And we will
5 be working with a federal process on the ones -- the
6 feds have been relatively good about providing
7 probation officers out to the -- for federal offenses,
8 not tribal offenses.

9 The other thing that's interesting in this
10 state, in New Mexico, there's actually a pretty good
11 probation program, where the State will actually, if
12 the tribe wants, will have state probation officers
13 track after their sentence, back onto their
14 reservation. They have to get agreement with the
15 tribe. But they have to be willing to do it, and
16 they're doing it. And more particularly in tribal
17 areas, we're trying to beef up that whole probation
18 end, because it's been sorely lacking.

19 MR. ROGERS: Now that you segued into

20 corrections and detention, I want to touch on -- I'm
21 not sure you're all aware -- Bryant Rogers,
22 R-o-g-e-r-s -- how much you all are aware of the public
23 law 93638, title I and title IV right of tribes to
24 tribal shares of the area or regional detention and law
25 enforcement money. The tribes were able to take their

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1 share of that. Well, a predicate to do that is you
2 have to know how much money is available to that tribe.

3 I represent a tribe here in New Mexico that's
4 been trying to get an answer to that question for three
5 years. I dealt with Mr. Breuninger and his office. We
6 finally got ahold of a notebook that was published from
7 headquarters, from OJS, that said there's no money
8 available, there's no tribal shares available. It's a
9 three-ring binder, region by region, published in '09.
10 It says it's 100 percent residual. Well, that means
11 you can't have a share. There is no way that BIA
12 detention money is 100 percent residual. That's
13 impossible. It's contractible.

14 We finally were able to extract some information
15 regarding one detention facility. And what they told
16 us was the money is 100 percent for staff. They have
17 no money to pay utilities, repairs, food, electric --
18 you know, anything, except staff. Well, that's just --
19 that makes no sense.

20 So if you could do something, first, to get --
21 and I'll give you a copy of the manual, because it was
22 given to all the regents. The manual came from
23 headquarters, it said tribes can have no shares.
24 That's flatly contrary to the law. I'll give you a
25 copy of that, ask that you take a look at it, and see

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1 if you can't get -- I don't know.

2 Directed to you, I guess, your office did it. I

3 don't know. It's ridiculous.

4 So it needs to be rescinded, because people are

5 being given misleading information. It can't be

6 legally correct. And we need to do something to

7 facilitate the provision of information on how tribes

8 can opt to take their shares of BIA or OJS operating

9 detention facilities, because some of them want to do

10 that, and take that money and use it to place their

11 prisoners in local jails. Thank you.

12 MS. ASHLEY: Good afternoon, panel, ladies

13 and gentlemen. Thank you for all being here. My name

14 is April Ashley, I'm a senior correctional officer with

15 the department of corrections for the Navajo Nation.

16 One concern that I'd like to bring out for the

17 department of corrections is that first of all, lack of

18 bed spaces. I'm sure this is for all the tribal

19 entities, as well as Navajo Nation.

20 The big problem that Navajo Nation, and I'm sure
21 with all the tribal entities here, also, is alcohol,
22 drugs, and gangs. For one thing, the Navajo Nation, we
23 need a detox center, which would eliminate law
24 enforcement to make the arrests of individuals on a
25 daily basis and for corrections for us to eliminate our

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1 bed spaces. We have a detox center, and then law
2 enforcement could focus more on other crimes that are
3 in the community, like domestic violence, homicides,
4 and whatever.

5 But they meet on a daily basis. I was looking
6 through some of the concerns that were highlighted.
7 The alternative incarcerations that Navajo Nation would
8 like to see would be for rehab centers, have the
9 offenders go to rehab, get a psychological assessment
10 on the defender's self-esteem. Another one would be
11 community service work. And for the individuals in
12 custody, the type of resources that we need for them,
13 for juveniles and for adults, would be to have a GED,
14 behavioral health services within the facilities, which
15 they can be open to domestic violence, substance abuse
16 counseling.

17 And one of -- the gentleman that did come up and
18 talked about a license, We do need a nurse, a doctor
19 on-hand to evaluate these individuals that need help,

20 that need psychological help. We are not trained as
21 EMTs or doctors in our facilities, but we do the best
22 that we can. That's all I have to say. Thank you.

23 MS. BENALLY: Good afternoon, ladies and
24 gentlemen, board. My name is Jennifer Benally, I'm a
25 supervisor with the (inaudible) corrections.

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1 B-e-n-a-l-l-y. Just to inform you, what April was
2 talking about, to give you an idea of what our
3 correction officers do -- I'm glad that we do have
4 commissioned officers here. I wish we had more
5 correction staffs here, but you know how it goes. It's
6 money; we're short on that, also.

7 But the thing is, is with corrections, you have
8 to understand that we're put on the floor. We're put
9 on the floor with inmates that need help. They need an
10 education. They need someone to talk to. For the
11 18 years that I've worked with Navajo Nation, I've been
12 it all. I've been a mother. I've been a cook. I've
13 been a counselor. I've been a teacher. I've even gone
14 to counseling with some of the inmates, not only the
15 adult inmates, also with the juvenile.

16 For about seven years, I worked with the adult
17 detention, along with my fellow -- former co-worker,
18 James Begay, and it's something else. The reason why I
19 transferred over to juvenile corrections is because my

20 idea was catching the younger ones right away before

21 they even become adults.

22 The biggest concern when we came to do adult

23 detention was the lack of education. For about three

24 years, I was fortunate enough that my supervisor

25 allowed me to bring GED -- bring a counselor in. You

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1 cannot believe how much it changed a lot of people out
2 there. Out of the ten, I only got the opportunity to
3 have two graduate from GED, go on to college.

4 One of the mothers that was incarcerated for
5 60 days in our facility, she took the GED class, she
6 passed. She went on to college, and would you believe
7 where I found her. She's now a council delegate for
8 the Navajo Nation. It's little things like this that
9 can improve what we can do out there, along with the
10 officers out here. They try to do the best they can.

11 But my biggest concern right now is money.
12 We -- you have a lot of people out here on the Navajo
13 reservation doing their job, sacrificing everything
14 that they have, only their own natural resources, and
15 it takes a lot out of us. It takes us away from our
16 family. It takes us away from people that really need
17 us the most.

18 The reason why I say money is with corrections
19 on a Navajo reservation, when we retire, we have

20 nothing to look forward to; as opposed to our
21 commissioned officers, they have retirement benefits.
22 But I'm not one to step down on that. I will continue
23 to do the job to the best of my ability.
24 And one thing that I ask of you is, please, come
25 out to the tribes. Look at our facilities, and you'll

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1 see where the problem is at. I have a 13 bed facility.
2 I can only house eight males. And as I was telling
3 (inaudible) here, if the boys are bigger than me, I'm
4 sorry, I can only hold about six. And as you can tell,
5 15-year-olds, they don't stay small no more. They're
6 taller than me. It's amazing when you have to tell
7 them, "You go in there, please," and you're looking up
8 at them.

9 But it's truly amazing when you can talk, how
10 you can talk, approach a person and get them to do the
11 things that you need to do.

12 I need you guys to go home -- and I tell this to
13 everybody, everywhere I've gone. I need you to go home
14 and talk to your children and hug them. And tell them
15 life is going to change right before your eyes. It
16 takes that -- about three minutes just to hug your
17 child and tell them that you care about them, and it
18 takes a lifetime for them to remember them. If we can
19 catch every one of these juveniles before they become

20 adults, we have a better chance of -- how would you

21 say? Limiting our crimes.

22 With the Justice Department, me, and

23 Herb Yazzie, justice and peace, we're always going head

24 to head, because Mr. Yazzie has built several

25 courthouses, has made a promise to communities out

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1 there that we're going to take criminals off the
2 street. My biggest beef with him is, where is your
3 jail? All the officers can't do it. They're going to
4 other calls. Correction officers, we're limited with
5 spaces. When you fill up those spaces, the people that
6 really need to go to jail, we can't put them in jail.

7 But I do really hope that you hear us and take
8 it into a big consideration how much law enforcement,
9 corrections, and the justice system have to sacrifice
10 just to be out there. Thank you.

11 MR. SPRUHAN: One quick question, that's
12 sort of off the main topic. But it came up at the
13 Lamar Associates. And since we have someone from IHS
14 here, I think it would be helpful to discuss. The very
15 back of the act, it talks about testimony by federal
16 employees and changes, at least that was the height of
17 now defaulting into a requirement that IHS or BIA, OJS
18 employees are now allowed to testified in tribal court.

19 But there's a qualifier at the end that we

20 discussed briefly with Mr. Chaney and a couple of other
21 people that talks about internal policies about
22 impartiality, which, I noticed in the previous draft of
23 the Tribal Law and Order Act, that it had a couple more
24 words to it that said, basically, when dealing with
25 private litigation, there's a policy of impartiality,

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1 where OJS or IHS employees cannot testify in those
2 circumstances. The private litigation part was taken
3 out of the final act, so now all it says is, "you are
4 required to testify upon request or subpoena, unless
5 there is a policy of impartiality that prevents you
6 from doing so."

7 So one of the questions that we had -- because
8 this is -- not to make this another Navajo fest, but a
9 Navajo issue, which I think is an issue with everybody,
10 IHS employees refusing to honor tribal subpoenas upon
11 advice of their attorneys and basically not being
12 allowed to come to very important tribal prosecutions
13 and testify about sexual assault and other things. So
14 some question, which was unable to be answered by the
15 people who were at the conference earlier, what is this
16 policy of impartiality? Is it clearly set out
17 somewhere? Is there some way that we can understand,
18 particularly with OJS but also with IHS, does one
19 exist, what is it, and is it going to be a giant hole

20 that you will drive a truck through upon advice of your
21 attorneys to simply negate the provision that allegedly
22 changes the playing field that says, "Yes, we will
23 testify, unless we've got this policy, too bad."

24 So if someone could clarify from OJS and IHS, as
25 to what's being referred in the Act, we understand,

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1 under what circumstances you will again decline
2 subpoenas to testify in tribal court.

3 MR. ROGERS: Bryant Rogers. Before you all
4 make a decision about what it means, you ought to
5 consult with the tribes, so you can hear their side of
6 the story. That's the whole part of the problem, you
7 just think that everything is correct.

8 MR. GARRIOTT: And we hear you loud and
9 clear. Obviously, it's most helpful for us to have
10 something in written form. So I assume we'll be
11 receiving your written recommendation.

12 MR. SPRUHAN: Well, just to clarify, this is
13 a legal standard that was put into the Act by Congress.
14 It has to mean something. Does anybody here --
15 anybody? Anybody here have any idea what they're
16 talking about in this Act? I mean, I hear guidelines,
17 suggestions, blah, blah, blah, it was put in there for
18 a reason, and it was changed for a reason. And if no
19 one here knows, who does? It's legal language in there

20 that I can almost guarantee the office of the solicitor

21 will quote this language and will tell us something.

22 But does anybody know, have any idea what they're

23 talking about?

24 MR. GARRIOTT: I personally don't know. But

25 again, you know, if I have a question, I'm going to go

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1 to the solicitor and say, "What do you think?" But if
2 it's a policy call, that means there's room; in which
3 case, your interpretation of what this means is going
4 to be helpful. And I'm sure -- maybe there is, maybe
5 there isn't -- legislative history regarding that
6 particular provision. I don't have that legislation
7 (inaudible) a lot of lawyers. And that's what you get
8 paid to do, right?

9 MR. THEER: Good afternoon. My name is Jeff
10 Theer, T-h-e-e-r, and I'm the chief judge at Ohkay
11 Owingeh. I'd like to thank you for the opportunity,
12 and thank everybody for being here as well. A couple
13 things, I guess. You're talking about the deadlines
14 that are coming up soon. And as a judge, the only
15 thing I -- I guess, in terms of the discussion so far
16 and the cards and things like that and law enforcement,
17 I'll leave that to the officers.

18 But with regard to the detention, I do think
19 that the 100 person test pilot program presents some

20 interesting issues in terms of when it's going to
21 start, how it's going to be implemented, and also
22 whether it's going to be on a first come, first serve
23 basis. Are some of the larger tribes that changed
24 their statute and go ahead and implement some of the
25 rules and regulations going to fill up the program

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1 without allowing some of the smaller tribes an
2 opportunity to participate?

3 And this begs the larger question, which is the
4 fact that when we go into negotiations, contract
5 negotiations as a pueblo in New Mexico, we don't have a
6 detention facility. We have to send people to Santa Fe
7 County DC. We also have a contract with Southern Ute,
8 in Colorado, in terms of housing prisoners, and so we
9 have to pay for that.

10 And so one of the things that has been
11 constantly discussed during this whole process is
12 funding, funding, and funding. And if we don't have
13 funding, how is this going to work? And it seems to me
14 kind of difficult when you will provide -- even though
15 it's a small amount, even though it's necessary,
16 funding for law enforcement. And you will provide
17 funding -- or BIA will provide some funding for tribal
18 courts, but then you cannot use any of that money for
19 an incarceration.

20 And if you're looking at incarcerating at \$85 a
21 day or \$80 a day in the county, a ten-day stint is
22 \$800. It adds up very quickly. And we do need help
23 with this. So I would agree with the person that said
24 that we don't want these people warehoused in federal
25 facilities in South Carolina or wherever they may go.

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1 I know they've been in a lot of different places from
2 tribal courts. We do want to keep them local. So I
3 don't know whether the ideas in terms of licensing
4 these additional facilities on whether we can focus on
5 tribal programs that we would be able to add or
6 supplement their jails and their facilities to
7 incarcerate additional tribal members.

8 But I'm also glad that SAMHSA and IHS are here
9 in terms of treatment components, because I think we've
10 come pretty close to having half -- well, maybe not
11 quite half -- of the people in treatment, pursuant to
12 court sentence, as opposed to being incarcerated.

13 Now, the one thing that everybody in the room
14 from a tribal community will tell you is that it
15 doesn't matter how long the sentence is; they're going
16 to be coming home. They always come home. And so
17 we're going to be dealing with the situation either
18 way. And to provide treatment for a lot of these
19 problems is going to be a great asset for us. And

20 you'll know that that gets into issues with dual
21 diagnosis, things like that, and the problems that we
22 have.

23 The last thing -- two other things, I guess I
24 should say, while I have the floor, communication, I
25 can't stress it enough. I'll tell you, recently, we

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1 had a case with a tribal member who was subject to
2 court order from another tribal court, an Ohkay Owingeh
3 tribal member, subject to an order of Nambe. And BIA
4 got a report of alleged sexual abuse. So they came to
5 our court in terms of membership, and then they went
6 over to Nambe, because they had the custody order,
7 because of the enrollment of another person; when it
8 turns out the incident occurred over in Rio Rancho, And
9 it had to be forwarded to Rio Rancho.

10 Well, you know, by the time they wound up
11 getting a forensic interview with this child, I can
12 tell you it's probably not going to be too useful in
13 court, if there was going to be any substantive
14 prosecution of the matter. So I would also encourage
15 you to work on that aspect in terms of communication.

16 The last thing that I'd just like to address is
17 the requirements. I encourage everybody on the panel,
18 and as they're implementing this law, in terms of
19 tribal courts and the judges, the law training, and the

20 training for defense counsel and whether we could have
21 advocates -- I'll never forget the first time that I
22 got out of law school and a Navajo Code Talker by the
23 name of Merrill Sandoval taught me some lessons about
24 practicing in court, ran some circles around me. And I
25 know that we have a lot of qualified advocates out

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1 there. We have a lot of qualified lay judges out

2 there. We have a lot of appellate courts that involve

3 tribal councils and things like that.

4 And then there is -- a lot of tribal courts, you

5 know, a priority of law that says the tradition,

6 custom, and practice is number one, you know, not this

7 other stuff and that you remember these things in terms

8 of looking at how this law gets implemented and trying

9 not to make tribal courts and going for this greater

10 jurisdiction and authority, which is not only, you

11 know, appropriate, but I'd say deserved; that you don't

12 just make those courts look, function, and act like

13 other courts and other jurisdictions, because that does

14 a great disservice to the people that we are trying to

15 serve. Thank you.

16 MS. SALAZAR: My name is Marissa Salazar.

17 I'm an attorney with the New Mexico Legal Aid, Native

18 American program. And thank you for having the session

19 today and to everybody that's here. I'd like to also

20 just acknowledge a board member that -- for New Mexico

21 Legal Aid, and that is Paul Spruhan.

22 The reason I'm up here is to ask the same thing

23 as him. But just to reiterate it, because our Native

24 American program has five attorneys, and we help Native

25 Americans who not only live on the pueblos, but also in

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1 the state, with tribal issues, also state issues. And
2 we have, about a few times a year, a client who has a
3 case where a government agency or government or
4 somebody who works for a government agency in the IHS
5 or with the BIA counseling, that it would be really
6 important for that person to come to court and testify.
7 And I've never had -- or we've never had a case that I
8 know of -- and I've worked there almost four years --
9 where that actual person or agent doesn't want to
10 testify. They always do. They're always willing to be
11 helpful. But that procedure for getting that person to
12 actually come to court and really help our cases -- in
13 some cases it's not so important. We figure another
14 way to work our case and be successful, thanks to god.
15 But in other cases, it really is detrimental.
16 So I'm just asking you again to please be sure
17 that somehow, in some way, that procedure or process or
18 whatever that policy is going to be, is really
19 enunciated, articulated, and set out so that when an

20 agent wants to, and their boss wants to allow them,

21 they can, and there's not a hold up or anything

22 impeding that. Thank you very much.

23 MR. JACKSONBEAR: Good afternoon. My name is

24 Jane Jacksonbear, and I'm a service provider for the --

25 J-a-c-k-s-o-n-b-e-a-r -- and I'm a service provider, a

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1 social worker by profession. And I'd like to first of
2 all applaud you for being so brave and being here. And
3 second of all, I also want to empathize with you the
4 terms that I am a non-tribal member working for a tribe
5 that I am not enrolled in. So I understand the
6 challenges that are there and the difficulties that
7 come with trying to modify theories and implement
8 practices. So on that note, I'd like to say thank you
9 for your time and attention.

10 Like I said, I work for the pueblo, and I come
11 in as a non-member. And I'm a native of New Mexico,
12 and I was gone for about 30 years, living in Salt Lake,
13 and working with the tribes there in Salt Lake. And I
14 came home, and I would say the pueblos brought me home.

15 So you know, I find the culture to be very
16 unique in a way that we have a contemporary court
17 system, which is run by a trained -- you know, a law
18 judge, and that we have a traditional court system that
19 is run by a tribal pueblo leader. And also we have the

20 Santa Ana police department, and we have the

21 traditional officers that serve the pueblo.

22 So we have all these dynamics that we work with.

23 And we have to learn to balance it. And we have to

24 learn to communicate, coordinate, and collaborate, the

25 three Cs, so that we can be able to work as a team and

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1 that we can best serve the tribal member that is facing
2 the issues that they face.

3 And as a provider, you know, I work with a
4 client before they get incarcerated. You know, at
5 times, my therapist is visiting the facility at -- that
6 they're incarcerated at. So we're working with them
7 during their incarceration, and we're working with them
8 again after they are incarcerated to reintegrate them
9 into the community and things like that. So I think
10 that one of the things that we often --

11 And this is really hard for me to say, because
12 you know, I was born and raised on a Navajo
13 reservation. I was schooled in boarding school, but
14 all my higher ed I did in Utah. So you know, coming
15 back to New Mexico and thinking, okay, Albuquerque is
16 considered Indian Country -- it's the hub of Indian
17 Country is the way I understand it. And so I come
18 here, and I sit in these meetings, and I'm still seeing
19 that my neighbor doesn't know about the culture of

20 New Mexico, the Native American culture. I'm finding
21 that state, federal, county workers still don't
22 understand what the community does next door.
23 So I find that very -- I'm offended by it,
24 because as a provider, I think that we need to learn to
25 be diverse. And I think being -- what education

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1 teaches us, formal education. And my understanding is
2 to be diverse, to be open, and that's the way I assumed
3 people to be. But that is not always the case.

4 So my recommendation to you is to be respectful
5 of the customs and the traditions that are already
6 there. Because I hear pueblo governors say we are
7 unique. You know, that one shoe doesn't fit all, and
8 even among pueblo people, it's the same way. And I
9 know that working with tribes up in Utah and working in
10 the urban setting, it is the same way, too.

11 So you know, that would be my caution to you and
12 to recognize the holistic approach, the traditional
13 approach. Because as native people we -- to me, you
14 know, my traditional practices come first before the
15 western medicine, before I run to the doctor. And
16 that -- those are the kind of people that we serve, you
17 know, who value their custom and who value their
18 traditional practitioners.

19 And you know -- and talking about facilities,

20 you know, sometimes I know that under the Native
21 American Religious Freedom Act, we have, you know,
22 practitioners, traditional practitioners that go into
23 prisons and that are able to perform ceremonies and
24 things like that. So sometimes if we're looking at
25 three years of incarceration, we're going to be looking

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1 at some spirituality, and some renewal and the change
2 of heart. So you know, I asked for that consideration
3 to be made for our people, our native people, you know.

4 And that's really all I have to say. I don't
5 think I need to say any more than to be respectful of
6 the custom and for who we are and who we've been.
7 Because like one lady said, we're not going away.
8 We're going to be here. And as providers, we're going
9 to come and go, but the footprint that we leave on the
10 community has an everlasting effect, and our role in
11 social work is do no harm, and start with kindness.
12 Thank you.

13 MR. LEE: Good afternoon. My name is Calvin
14 Lee, Jr. I'm with the legislative council for the
15 public safety committee on the Navajo Nation -- it's
16 Calvin Lee, Jr., like Calvin Klein blue jeans. I just
17 wanted to state that, basically, you heard from a
18 number of people here from Navajo. You've heard from
19 attorneys, our chief prosecutor, our corrections

20 people, some police officers that -- you haven't heard
21 from any elected officials. And I apologize on their
22 behalf, because they are in full session right now,
23 because the last full session of our council of 88. So
24 some of you may have heard they'll be booted to 24 in
25 January. So I just briefly conferred with our

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1 legislative advisor who is over there now assisting
2 several council members up in Window Rock.
3 But I just wanted to express that I think
4 principally, we did have some concerns about the SLEC
5 and that Mr. Spruhan had brought out. I think you
6 heard a whole gamut of issues as well, and I think I've
7 also run into some of these issues as well, myself, in
8 my own private practice, as Paul also mentioned about
9 the other agencies testifying, such as IHS. I think
10 there needs to be some clarification there. Because we
11 do get pro bono cases. Our courts do regularly have to
12 count on us members of the bar, including some of us
13 that are in government, to handle some of those cases,
14 and it does help to have that testimony.

15 Again, I just want to express our gratitude.
16 You came out here. And I also agree with some of the
17 remarks made by Mr. Rogers here as well. I think we're
18 kind of in agreement, both Navajo with some of his
19 clients. And thanks for coming out here. And I do

20 want to say also to the US Attorney to come on out to
21 Navajo. And as I said before, earlier this afternoon,
22 I think the idea of the law here now, having a
23 commission and a tribal advisory committee is great,
24 and hopefully that will get established soon. Again, I
25 hope they come out and visit Indian Country here in the

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1 southwest. Thank you.

2 MR. TOLEDO: Good afternoon. My name is
3 Allen Toledo. I'm the contemporary judge from the
4 Pueblo of Santa Ana, and I'm also the magistrate for
5 the CFR courts, Santa Fe and Albuquerque Indian school.
6 As far as the CFR courts are concerned, you know, under
7 the 25 chapter 11, the maximum sentence under that
8 provision, the CFR court has \$5,000 and one year. I
9 guess now you have to -- I don't know how the CF courts
10 are affected by these regs. You're going to have to
11 publish it in the Federal Register to change the
12 sentencing, and if the bureau is going to provide
13 defense of counsel, all the strappings that require us
14 to implement the regulations.

15 Also, I am -- the same thing applies to the
16 tribes right now. Most of the tribes here in
17 New Mexico can't apply this -- it's a nice law, but
18 it's useless, because we don't have the infrastructure
19 to implement it. You need a judicial complex, because

20 you're going to have to have defense counsel. You're
21 going to have to have an office for a defense counsel.
22 You're going to have to have an office for a
23 prosecutor. And most of these traditional tribal
24 courts don't have an infrastructure to implement this.
25 So if you want the tribes to get up to speed, you're

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1 going to have to provide funding for judicial complexes
2 before this can even be implemented. So you know,
3 about three or four steps ahead of the tribes,
4 traditional tribes, anyway, that can't use this.

5 The other problem that I see with implementing
6 this act is the fact that most of these tribes have
7 inadvertently caused their problems. By that I mean
8 they have created -- they have established casinos.
9 They've invited businesses, outside businesses to come
10 to the reservations, restaurants, golf courses. And
11 with that, you've got problems with non-Indians and
12 also with non-member Indians.

13 In my court, my contemporary court, about, I'd
14 say nine out of ten cases, involved nonmembers, which
15 means that the court is not -- my court is not
16 established to adjudicate tribal members. My court is
17 established to adjudicate those nonmember Indians that
18 are causing problems. That have been either
19 incarcerated or they've violated traffic or criminal

20 codes. Now, we have to incarcerate them. So the
21 detention centers that you're talking about is going to
22 be not for members of Santa Ana Pueblo, necessarily.
23 It's going to be for nonmembers, because that's who we
24 adjudicate in our courts.
25 So you know, I'd like to have the panel take --

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1 look at the big picture of what is really needed in
2 Indian Country. Who is being incarcerated, who is
3 being adjudicated. The other problem I see is the
4 non-Indians coming out to the reservation causing
5 problems, actually violating our criminal codes. We
6 don't have any jurisdiction. The State is supposed to
7 have it. But the DA wants a understanding to prosecute
8 these cases. I don't know. Do you have any figure of
9 how many there were? I have no idea.

10 AUDIENCE MEMBER: How many cases?

11 MR. TOLEDO: How many cases got adjudicated
12 by the DA?

13 AUDIENCE MEMBER: It varies. I think last
14 year we had about 13.

15 MR. TOLEDO: 13? So how many are declined
16 by the DA for crimes committed on the reservation by
17 non-Indians? Do you have any stats to show that? Are
18 you keeping records of how many non-Indians commit
19 crimes on a reservation that are not adjudicated by the

20 courts? I think that's important. Most of these
21 states say we have umpteen number of crimes, or
22 whatever, committed on the reservation. But how many
23 of these are non-Indians? And how many of these
24 adjudicated?
25 I think you need to look at the big picture. To

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1 me you've got tunnel vision here. You're only looking
2 at one problem. You need to look at overall crimes,
3 who's committing them, who's adjudicating them, and how
4 many of them are actually being adjudicated and who's
5 job is it? I think the state needs to get involved.

6 We have a tribal judicial consortium, that is a
7 consortium where the tribal judges meet with the state
8 judges quarterly to discuss some of these issues. But
9 I think the feds need to fund these type of
10 organizations, so they can foster joint cooperation,
11 jurisdiction issues, whatever, that the state and the
12 tribes are experiencing.

13 Thank you for your attention.

14 MS. TSOODLE-MARCUS: My name is Sherry
15 Tsoodle-Marcus, T-s-o-o-d-l-e, hyphen, M-a-r-c-u-s.
16 I'm half Kiowa and half Taos Pueblo. I just want to
17 say that I've worked the entire system, police, courts,
18 corrections, and prevention and treatment. And you
19 name it, I've been through the -- been there, done

20 that. And that's what made me an effective judge now.

21 I am a judge for my tribe.

22 And I just wanted to say that this reminds me of

23 that act, the Law Enforcement Assistance Administration

24 Act that was put out in the 1970s. And that will tell

25 you just how old I am, because at that time, I was the

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1 Indian justice specialist for the State of New Mexico.
2 And at that time, I was going tribe to tribe and doing
3 assessments and police, courts, corrections, and the
4 whole gamut, to find out what each tribe needed. And
5 I'm hoping that this Law and Order Act will do the
6 same, will assess each tribe and see what their needs
7 are in their justice system and what the different
8 styles of justice systems that everybody has before any
9 decisions are made.

10 I wanted to say that BIA recently came out and
11 did an assessment, and we had the GAO also come out to
12 our reservation, as small as it is. We're Taos Pueblo.
13 It's about three hours from here. And they came out
14 and assessed our system, too. And it was very
15 interesting to us, and there was a lot of things I
16 didn't know that they came out with.

17 And we've had a good attorney, Bryant, over
18 here. We're so proud of him. He represents us
19 everywhere, too. But we've been very -- as I look at

20 it, as an Indian justice person, I never saw the Act
21 define Indian justice, period. It defines "Indian" in
22 a different way, and it defines "jurisdiction" a funny
23 way. And it's got some -- going through that Act,
24 there was some definitions in there that are a little
25 different from what I've read in the past or know

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1 about. And those are the only things that kind of

2 bothered me a little bit.

3 All in all, I remember in the '70s, Joe Little

4 was writing tribal codes at that time. And the law

5 enforcement assistance administration just gave certain

6 money for police, courts, corrections. And we were to

7 run around and do these assessments and send that

8 application in, and get money for the tribes. And some

9 of them didn't have police departments, so we developed

10 them for them. And that was like seed money. And it

11 was nice, but it was a one time shot deal. It was not

12 something that was going to continue. But at least it

13 started up the justice systems in New Mexico. And I

14 did Colorado, New Mexico, Utah, and Arizona. At that

15 time I was working with all those tribes in that area.

16 But you know, the LEAA grant or Act, had monies

17 attached to it. This one does not. And so I'm

18 thinking that maybe there is a Tribal Law and Order Act

19 part two, the one that has the money in it. So I'm

20 hoping that maybe you will go for part two now. But --
21 and not try to just get little crumbs here and try to
22 make it fit. Because now I see some of you all are
23 scrambling around to put little dollars and cents
24 together, so you can make this Law and Order Act a
25 reality. But you're going to need some money for that,

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1 and maybe that's the second part of this Law and Order

2 Act.

3 And then maybe on the second part, they'll

4 include the tribes a little bit more than what they

5 did. I think this new commission -- I hope they don't

6 put in a bunch of non-Indians that don't know us. I

7 hope that this commission is filled with a lot of women

8 and a few good men. No. But anyway, put this

9 commission together, and I'm hoping it's grassroots

10 people. And I'm hoping that it's people that know

11 Indian Country. Because I think we're all tired of

12 trying to train everybody when they come to the res,

13 and trying to tell them, "Well, this is like this,

14 and" -- I always feel like a tourist guide.

15 But the thing is that, you know, when I was

16 working corrections, I always had to help train the

17 warden. And every year, we'd put in for that position,

18 and none of us got it. So we finally left, some of us

19 good women. So I hope that this is not what happens in

20 the future, that somehow, some way, this Law and Order

21 Act is going to open up some monies and some

22 commitment.

23 And we need some real commitment from Congress.

24 We don't need a bunch of words. We need money. And it

25 should be in this Act. And if they're really going to

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1 help us do something, that's what it ought to have.

2 And you know, let's be realistic. Because

3 you're not going to -- you know, the tribes -- like

4 Allen Toledo, the Judge Allen Toledo said, we always

5 meet all the time, the judges, thanks to Roman Duran.

6 Judges meet together, and we kind of know what's going

7 on in that area. But as Allen said, some of us don't

8 even have the infrastructure.

9 Like in our reservation, our police officers are

10 the prosecutors. And they're not trained to be

11 prosecutors, but they are, because we don't have the

12 money for prosecutors. And defense counsel? Oh well,

13 where's that? We're lucky if we get that. And then,

14 you know, most of our Indian people, poor things, they

15 just come into court and say, "I'm guilty," and then

16 you go from there. But you know, there's a lot of

17 civil rights that need to be paid attention to there.

18 And I come from a tribe that didn't accept the

19 Tribal Indian Civil Rights Act yet. And it's been

20 since 1964, and they're still not recognizing it in my
21 tribal council. But you know -- and I don't know if
22 they'll recognize this one. So all I'm saying is that
23 there's a lot of these kind of acts that come out that
24 really need to be explained to these tribal council, so
25 they can understand the fullness of it.

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1 And also our little non-Indian friends next
2 door; let's see, what are we going to do with them?
3 They don't like us. They are prejudiced against us.
4 They don't work with us. So I suggest that maybe Lamar
5 Associates puts a national symposium number two out for
6 the non-Indian communities that live close to Indian
7 nations, so that they can be brought up to par with
8 what's going on, on some of the reservations; that we
9 are, in fact, intelligent and that we are professional
10 and that we do have credentials and that they should
11 see some of the things that we do out there.

12 So these non-Indian friends of ours out there,
13 this border was supposed to make them coordinate and
14 collaborate. Well, good luck on that one. But I think
15 you're going to need more webinars and more whatever to
16 get those people to understand what Indian Country is,
17 because we're sitting here. You know, we're a closed
18 group, and we're going to go home, and we're going to
19 know all about it, and there's your sheriff in the

20 county who could care less. So there we are, you know,
21 we're just out there again, battling things by
22 ourselves. So it would be nice if non-Indian
23 communities could be given the opportunity to
24 participate, too, in knowing what Indian Country is
25 about.

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1 And one of the dreams that I had a long time
2 ago -- of course, a person my age hardly has -- I just
3 have a few dreams now. But I used to have thousands
4 and thousands.

5 Remember that, Joe Little? You used to, too.

6 But anyway, one of the dreams that I thought was
7 that all police academies, state and federal, and all
8 those police academies would have a section in there
9 teaching about tribal Indian justice, because that
10 little system there is not being taught anywhere. So
11 these non-Indian police officers go out in the tribal
12 community and break all the laws whatsoever. Some of
13 them don't even come to my court to let me know they're
14 on my reservation. They don't understand that they
15 have no jurisdiction there. They still can't get it.
16 So like I'm hoping that, you know, this piece, this
17 curriculum will be put in the state academy, too.

18 I mean, our tribal police officers are taught to
19 study federal and state and tribal. And how come

20 they're so ill-trained, is what I'd like to know.

21 Because all they know about is like the State officers

22 only know about State jurisdiction. That's it. They

23 don't know anything else. And they don't even know how

24 the tribal courts operate.

25 So these are things that, you know, we need to

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1 bring our ignorant friends up to the level of what we
2 know and start to teach them what we're about. Because
3 it's time that they need to know, because I think some
4 of the these bad relationships that we have will fix
5 their-selves at that point.

6 I was talking to a Tesuque PR guy that goes
7 around and meets with everybody, and I was just amazed.
8 He goes everywhere and meets with everybody, State
9 police and everywhere, makes speeches everywhere and
10 everything like this. That's the kind of thing we
11 need, a PR person, maybe, that could go out and train
12 these people about tribal justice, tribal Indian
13 justice.

14 And then there's two pieces of it. There's the
15 modern justice system, and there's the traditional
16 system, which none of you people even know about,
17 except for maybe a few of you. But that system there,
18 our tribe is not that enthusiastic to go towards the
19 western thought of justice systems or jurisprudence.

20 We want to hang onto our traditional jurisprudence, and
21 then we want to have just a little bit of the western
22 jurisprudence, maybe, just so we can handle our guests
23 that have been invited from the outside to come in and
24 play games and do whatever they are going to do. So,
25 you know, we're not interested in turning ourselves

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1 into a big, massive, non-Indian justice system. We are
2 careful about what we accept and what we use on our
3 reservation.

4 And so -- and I always used to get mad at the
5 tribal council, because they used to go so slow on
6 things. But now I realize that the reason that they do
7 that is because they're always cautious. They're
8 always cautious. They always see what the hidden
9 agenda is behind all these acts. They always look at
10 everything. You know, we can always be proud of our
11 tribal leaders.

12 That's another thing that some of you, maybe,
13 don't understand, is that I rule in my tribal court, my
14 tribe can overrule me, because they have that power.
15 Remember, they're sovereign nations. They are a nation
16 within a nation. So just remember that, you know, that
17 state license bar guy that's going to go in that's
18 highly paid may have his rulings overturned by some
19 traditional leader, because he doesn't feel that's

20 right. So there we go again, you know, we're back to,

21 again, who is in charge? And I say the tribes are.

22 Thank you.

23 MR. ROGERS: I'm probably wearing out my

24 welcome here, so this will be the last one. Something

25 about the interplay of state and federal jurisdiction

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1 really triggered what I'm fixing to say. I grew up in
2 Michigan. Like I said, I work with the Choctaws there
3 a long time. They have worked really hard to establish
4 good state and federal relations, and they have good
5 cooperation now between their tribal law enforcement,
6 and the state law enforcement and the judges. But that
7 wasn't always the case.

8 And I want to convey that what you all are doing
9 is critical for Indian Country. I may come over harsh
10 sometimes in my experiences and what I communicate, but
11 the tribes can't rely on the states. We had so many
12 cases when I started there of Indian people killed by
13 non-Indians with the US Attorney deferring to state
14 prosecution, and they get a six-month suspended
15 sentence in magistrate court. There's no justice off
16 the reservation in too many places in Indian Country.
17 So it's got to be the tribes and the federal
18 government, And hopefully, this will provide better law
19 enforcement.

20 The tribes aren't allowed to do non-Indian
21 prosecutions. If the fed doesn't do it, there's no
22 state jurisdiction to prosecute non-Indians for crimes
23 against Indians. 1153, 1152, those are exclusive
24 federal jurisdictions. So the answer is not to go to
25 the states.

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1 So thank you for your efforts. Thank you for
2 listening. I'm going to report back that I feel like
3 we were heard. And that's not always the case in these
4 consultations, I can tell you that. So thanks.

5 MR. GARRIOTT: Well, I think that that was a
6 natural segue to concluding today's consultation;
7 However, before we do, I'd like to give some of our
8 federal partners an opportunity to have any closing
9 remarks if they'd like. And perhaps the US Attorney
10 would also like to say a few words in closing, and
11 we'll turn it over to the folks here.

12 MR. GONZALES: The only thing that I think
13 is worth mentioning at this point is, you know,
14 there's -- it's clear there's a lot of frustration, and
15 there's a lot of history for that. It's legitimate.
16 And it's -- but I think, you know, this -- the Tribal
17 Law and Order Act and a lot of efforts like this, they
18 are all so well intentioned. Everybody, you know, I
19 think has the right motivations in mind to try to bring

20 some changes to -- to these communities. And it's not

21 an easy task, obviously. Everybody here knows that.

22 It is significant, though, that we do have this

23 law. The trick is implementing. And we all clearly

24 know that. It's a tough job. But I think the fact

25 that we have a lot of people who are interested and

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1 very like minded in how to do it, and to do it, number
2 one, is the most important first step. Everybody here
3 has a very tough job and I am keenly aware of that.
4 The fact that you are here is a very important step.
5 And I appreciate that. I think everybody here
6 appreciates that, too.

7 I think the comments that were made, the input
8 that I was given, I think, is useful. And it's the
9 challenge of using all of that input, and put it into
10 something very useful to be able to implement, that's
11 the challenge. That's a lot of work ahead.

12 Nobody expects results overnight or even in a
13 long term. These are all things that are going to take
14 a lot of time, a lot of effort. And everybody, I
15 think, is realistic about that.

16 But I appreciate that you were here, and I think
17 that's shared among a lot of people here. And I
18 appreciate all the comments that were given also. I
19 think they were all very helpful. Thank you.

20 MR. CHANEY: I would like to express the
21 appreciation for you all. You guys are the front line,
22 whether you're working in law enforcement or crime
23 prevention or prosecution, tribal courts, corrections,
24 probation. We've heard from all the different aspects
25 of the criminal justice system in Indian Country, and I

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1 appreciate the efforts that you guys make, being out
2 there on the front line, trying to make our communities
3 safer. And it's been a privilege for me to be here to
4 hear about some of the ideas that you all have about
5 how to go about implementing the Tribal Law and Order
6 Act in a way that will have maximum positive impact on
7 Indian Country.

8 And I think US Attorney Gonzalez says it all
9 when he points out that the challenge for us at this
10 table is taking this information back to Washington,
11 take that information, and doing something with it,
12 doing what needs to be done with it to try to make this
13 work. And my goal is, I'm here taking a lot of notes.
14 And I've got stars and arrows and squiggles all over
15 this notepad. And I've used half a pad this week. And
16 I'll be taking this information back, and I'll be
17 talking with some of the folks that deal with some of
18 the DOJ programs that we talked about, run some of this
19 up the flagpole, and see if we can get some of your

20 ideas to work; not only in New Mexico, but also in all
21 of Indian Country.

22 Thank you for allowing me to be here. Thanks.

23 MR. ROMERO: Hi. I, too, echo the remarks
24 from my colleague here, Chris. And it's truly a
25 humbling opportunity to spend the time here listening

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1 and appreciating the circumstances, challenges, and the
2 resourcefulness on your part to still make things
3 happen, to still keep a safe environment, a safe
4 community.

5 But we have a job. We have a responsibility,
6 and we are taking this terribly, terribly seriously.
7 So know that your comments and thoughts -- I've got my
8 own set of squiggly lines and things that are really
9 important -- stars with a little "X" on top of it means
10 it's even more important. And it turns out that I've
11 got more little stars with an X on top of it than not.
12 So it really sets the importance of the wisdom that's
13 coming out of this consultation.

14 So I want to comment -- several times today, the
15 issues of juvenile work was raised, as well as the
16 issue of substance abuse illness in the detention
17 centers and jails. And that is an issue that we
18 collectively need to work on from the federal
19 perspective and with our colleagues here. I want to

20 let you know, number one, that SAMHSA has reached out
21 to be required, according to the law, to reach out
22 to -- through consultations to tribes, but also to
23 national Indian organizations, professionals in the
24 field, and individuals. And we at SAMHSA have -- I've
25 done that. I specifically have done that, and the

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1 information from them has been, again, terribly
2 valuable. But hearing from this perspective, your
3 perspective, it just adds -- adds further wisdom.

4 So I don't want to belabor this too much, but I
5 guess, though, the point that I want to make sure that
6 you all get is that I see, SAMHSA sees, the challenge
7 of the Tribal Law and Order Act to breathe life to
8 this, to these words and in so doing, ensuring that the
9 issues of mental health, substance abuse, are clearly
10 addressed and are discussed around the table, as we
11 strategically look at addressing these other issues.

12 Because you cannot address one issue, distinct
13 and apart from the other pieces. Because we're still
14 talking about a human being and that human being will
15 be -- may have substance abuse, may have legal issues,
16 may have housing issues, may not have a job. It's
17 still that same individual, so we can't
18 compartmentalize, and that's what the law is trying to
19 make sure that we do that.

20 And just don't forget, I said it this morning,
21 but please do not forget that these consultations and
22 the Tribal Law and Order Act serves as that wonderful
23 opportunity for you to help shape the future of Indian
24 Country. And so it's a collaborative effort, the three
25 Cs that I heard earlier today, and that really stands

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1 out really, and it resonates quite well with me.

2 So thank you very much for allowing me the

3 opportunity to listen to you all.

4 MS. KAROL: The Indian Health Service has

5 been working in consultation for a long time, I think,

6 period of time. And although I'm somewhat new to the

7 Indian Health Service, I find that the leadership

8 that's there is committed greatly to working with the

9 BIA and Department of Justice, SAMHSA, to effect

10 change. And I think that we have, for the first time,

11 a really great team that starts up at the White House

12 with Kim Tegee, and works with Wizi, and Dr. Robido and

13 myself, Jody Dillette (phonetic spellings) are

14 committed native individuals that really, I think, have

15 the best ideas to accomplish what this Tribal Law and

16 Order Act and what other healthcare -- Indian

17 Healthcare Improvement Act, Indian Affordable Care Act

18 can accomplish for the first time in many years.

19 So I'm optimistic as we look forward with an

20 administration that really supports us. And hopefully
21 in the next couple of years we can really make some
22 changes with what we're working on right now. Thank
23 you for letting us listen to what you have to say and
24 I'm happy to take any questions from a health
25 standpoint, although a little bit separate from what

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1 you're interested in today.

2 MR. CRUZAN: All right. I, too, want to
3 thank you. This is just like every other consultation
4 that we've had; I come away with some really good
5 information. There's a different flavor at every
6 location that we go to, different needs, but their all,
7 kind of, baseline foundation is the same.

8 So it was a very good day, and on behalf of all
9 of my staff this year, associate director for
10 corrections, Carla Flanagan, and of course Joe and Mr.
11 Breuninger, who is the special agent in charge out of
12 this region. I got all kinds of people, almost all of
13 our correction folks are here from the area, and as
14 well as our PSD people. It's very important to us.

15 Mr. Gonzales, I just want to thank you for being
16 here as the US Attorney. I know that you got 1,000
17 different things or more pulling your direction, but I
18 think it's a real testament to your sincere interest in
19 this that you cleared your schedule and you're here all

20 day. That's -- I think that's really admirable. I

21 really -- I appreciate that, that you're willing to do

22 that. It says a lot.

23 And then the last person I want to thank, and I

24 think maybe doesn't get enough credit, is Wizi here.

25 I've sat in some meetings with him in Washington, D.C.,

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1 whenever -- when I first got there, and we were working
2 on some issues. And there was an issue that related
3 directly back to what we were trying to do. And it was
4 one of our own -- own BIA folks that was not really
5 giving us the answer that we needed, and Wizi came
6 about that far up out of our chair, and he said, "No.
7 Unacceptable. You get this done quicker."

8 And so you see him up here taking notes and
9 doing what he's doing, but what you don't see is what I
10 get to see, and what we get to see, is the tenacity
11 with which he works for you in Washington, D.C., on
12 behalf of the assistant secretary. So I really do
13 appreciate what you do for us Wizi. That's very
14 sincere. Thanks for that.

15 MR. GARRIOTT: Thanks, Darren. I appreciate
16 that. Again, I just want to thank you, everyone, for
17 attending today. I want to thank our federal partners
18 for joining us today and being a part of this. We're
19 looking forward to a collaborative way. And again, I

20 just want to recognize, you know, all the folks that
21 comprise the team, you know, not only of Indian Affairs
22 but across the federal government. There's some very
23 committed people. We do this work for the right
24 reasons.

25 You know, I mentioned earlier, I'm from Rosebud

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1 Indian reservation, where I was born, grew up, went to
2 a BIA school there, and we take this work very
3 personally. I can say that, you know, I don't have a
4 single female friend, you know, back home in Rosebud
5 who hasn't been impacted in some way, either directly
6 or indirectly, by sexual violence. I can go down the
7 line and talk about -- all my relatives. So the work
8 that we do is not -- we do it because it's going to
9 impact people's lives. And you know for many of us, it
10 directly impacts our families and our relatives and our
11 friends back home. And that's why we do it.

12 And it's the same reason that all of you are
13 involved and that you do this work as well. Because at
14 the end of the day, it's about making life better for
15 the people who are back home and in our communities;
16 and sharing that our children and our families can go
17 home at night and they do not have to worry about
18 experiencing violence and not have to worry about being
19 preyed upon by sexual predators or whatever it may be.

20 So again, I just want to commend all of you and thank

21 all of you for your work.

22 And you know, these meetings, they can be long,

23 and they can get tedious. But one thing that I always

24 tell people is because we're having these

25 consultations, that means work is getting done. And

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1 sometimes the tone of these meetings -- and we're
2 always talking about these problems, but in some sense,
3 the fact that we're talking about them is good. It
4 means that we're moving forward, and that, you know,
5 the problem has moved to not, we need a change in a law
6 to enhance tribal sentencing. The problem is now how
7 do we implement that. So in some ways these are good
8 problems to have, and good things to be working out.

9 So I just wanted to leave everyone with that,
10 and finally thank everyone for -- you know, I always
11 tell people, I say, if I don't know what the problem
12 is, then I can't fix it. And you know, open and honest
13 dialogue is critical. It's key to moving forward, and
14 that means, you know, being open and honest on both
15 sides. So you know, again, I just want to thank
16 everyone for bringing all of these various issues
17 and -- it's very helpful.

18 And on our side, it's important that we're open
19 and honest about our past deficiencies and look what

20 we've done right and done wrong and moving forward to

21 correct those deficiencies. And it's not going to

22 happen overnight, but each day, we can honestly say

23 that we're getting better at what we're doing.

24 So with that, we can conclude. And again, just

25 thank you all for being here and safe travels home.

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1 Thank you.

2 (Whereupon the proceedings were concluded

3 at 5:29 p.m.)

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1 REPORTER'S CERTIFICATE

2

3 I, Rachel M. Lopez, RPR, NM CCR #276, a Court

4 Reporter, do hereby certify that the proceedings of the

5 above-entitled cause were reported by me

6 stenographically on October 20, 2010, and that the

7 within transcript is a true and accurate transcription

8 of my shorthand notes.

9 I FURTHER CERTIFY that I am neither an

10 attorney nor counsel for, nor related to or employed

11 by any of the parties to the action, and that I am

12 not a relative or employee of any attorney or counsel

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