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TRANSCRIPT OF PROCEEDINGS
OF THE TRIBAL LAW AND ORDER ACT
CONSULTATION MEETING
BUREAU OF INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
ON OCTOBER 26, 2010, AT 1:00 PM
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

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MEMBERS OF THE PANEL

Darren Cruzan, Director of BIA,
DOJ, Washington, DC.

Carla Flanagan, Associate Director
for Corrections, Washington, DC.

Doyle W. Argo, Magistrate, Western
District of Oklahoma, Oklahoma City,
Oklahoma

Joe Little, Director for Tribal
Justice Support with Tribal Court
Systems, Albuquerque, New Mexico.

Palmer Mosley, Special Agent,
Bureau of Indian Affairs, Anadarko,
Oklahoma.

ALSO PRESENT:

(See attached sign-in sheet)

1

2

PROCEEDINGS

3

4 MR. CRUZAN: Why don't we
5 go ahead and get started. And as
6 we've done everywhere that we've gone
7 on this consultation -- I think this
8 is my third week on the job and I
9 think my sixth consultation across
10 Indian Country. So I've been on the
11 road quite a bit. But as we have
12 always done, I'd like to start this
13 out right. And we've asked the
14 Chairman of the Kiowa Tribe, Mr. Ron
15 Twohatchet to open this up with a
16 word of prayer.

17 (Payer given by Chairman Twohatchet)

18 MR. CRUZAN: Thank you,
19 Chairman.

20 Good afternoon. This is a
21 little bit different for us.
22 Typically we'll have -- (Inaudible)
23 Garrett (all phonetic) will usually
24 accompany us and he is not able to
25 make it so this is going to be my

1 first time running one of these. I
2 think I'll be all right. We're
3 going to -- as Palmer passed around
4 that Agenda, we'll try to stay on
5 that but if things go as they've
6 gone in the past I'm sure that there
7 will be other issues that you'll want
8 to talk about. We'll get off on
9 different topics, but I'd like to
10 kind of keep it there if we can, or
11 as close to that as we can.

12 My Name is Darren Cruzan, I'm
13 the new Director for the Bureau of
14 Indian Affairs Office of Justice
15 Services and have been for a
16 whopping, like, 20 days now. So I
17 certainly don't have all the answers.
18 But I will tell you one thing for
19 sure, I have a real sense of
20 urgency, and a real excitement, and a
21 real passion for what we're doing and
22 what this new Tribal Law and Order
23 Act has afforded us the opportunity
24 to do.

25 Like I said, we've traveled

1 around, we've done -- gosh, we've
2 done California; Billings, Montana;
3 Albuquerque; Minneapolis; we're here
4 today and then jump on an airplane
5 in the morning and fly out to
6 Florida to the Mikasuki Tribe. But
7 it has been extremely beneficial to
8 me as the new Director.

9 Just a real quick background
10 about myself. I was with the BIA
11 for some time. I'm an enrolled
12 tribal member of the Miami Nation and
13 it's a real treat for me to be back
14 in Oklahoma. I see Mr. Batese back
15 there and welcome him. But I
16 started as a tribal police officer
17 and then I went to the BIA and did
18 some time at the academy as an
19 instructor, and then out to Oregon
20 and Montana, and then Washington DC,
21 and then I left in 2006 and went
22 over as an Assistant Special Agent in
23 charge at the Pentagon for criminal
24 investigations and protection. And I
25 got an opportunity to travel around

1 the world, but then there was a --
2 you know, be careful what you wish
3 for and never really write your own
4 plan -- your life plan out because
5 you never know where it's going to
6 lead you. But an opportunity came
7 back to -- to come back to the
8 Bureau of Indian Affairs Office of
9 Justice Services in this position.
10 And honestly what drew me back was -
11 - you know, I started as a GS -- I
12 don't even remember, maybe a three or
13 a four -- GS4 and I can remember
14 pulling up next to other BIA police
15 officers -- and this has been years
16 ago -- and saying, you know, can you
17 believe what we're doing and can you
18 believe what's going on? I wish I
19 had an opportunity to make some
20 changes or, boy, if I was ever in
21 that chair this is what I would do.
22 Well, the opportunity came along and
23 I'm finding -- and we're honored to
24 have Mr. Ragsdale from the Cherokee
25 Nation. He was sitting in that

1 chair just before me.

2 MR. RAGSDALE: Thank you.

3 MR. CRUZAN: So I -- we had
4 an opportunity to talk. But it's
5 kind of interesting that you don't
6 really know all of the thought
7 processes that go into a decision
8 until you sit in that seat. It's
9 pretty easy until you actually get
10 there. I'm learning that there is a
11 lot of unintended consequences, and
12 thoughts, and issues that go into
13 every decision that you make.

14 However, that being said, I
15 come here with a real sense of
16 urgency to move forward and to --
17 you know, time is not on our side
18 when it comes to these issues; or
19 maybe you can look at it and say
20 time is on our side. This Tribal
21 Law and Order Act has given us some
22 real clear time lines that we have
23 to meet. I want you to know going
24 into this that I am -- I'm here to
25 tell you that no decision on anything

1 that we are working on has been
2 made. I really see and believe from
3 the most sincere place, that if we're
4 going to be successful in Indian
5 Country law enforcement, we're going
6 to have to kind of get past maybe
7 some of our old distrusts or dislikes
8 or concerns and we're going to have
9 to come to a place of a partnership
10 and working in collaborations and
11 cooperations. I said this yesterday,
12 the International Association of
13 Chief's of Police were meeting and
14 the Indian section was there.

15 I don't mean this as any
16 disrespect toward the BIA folks or
17 our tribal partners, but it's been my
18 experience that as I've moved up
19 through the ranks I've seen where
20 sometimes it's almost engrained that
21 the tribes are not going to get
22 along with the BIA and the BIA is
23 going to kind of -- I don't know,
24 reel back and become defensive and
25 not want to -- but I think that we

1 have got -- if we're going to be
2 successful there is no doubt in my
3 mind it's going to take consultations
4 like this, it's going to take us
5 coming to the table, taking our coats
6 off, rolling our sleeves up, and
7 building real relationships and not -
8 - you know, the Tribal Law and Order
9 Act is good in that it has forced us
10 to be here, if you will. And I
11 don't mean that in any other way
12 other than, you know, consultations
13 are part of this. But going
14 forward, that's definitely going to
15 be my -- my charge is to move
16 forward. I think there are so many
17 issues as we travel around and even
18 today talking about some of these
19 important topics that we've got that
20 -- you know, I learn a lot by
21 listening. I'm not -- I don't
22 pretend to be overly intelligent but
23 I'm smart enough to know that I
24 can't do it alone; BIA can't do it
25 alone; the tribes can't do it alone;

1 our DOJ partners can't do it alone.
2 Literally, we're going to have to
3 come together and work as a team on
4 that. And so I want you to know
5 that you have my commitment, and I
6 know that trust is not a given thing
7 or shouldn't be a given thing, it
8 should be an earned thing. And I'm
9 saying the things that probably a
10 Director should say, but I want you
11 to know, and I don't think there
12 will be any problem with this. But
13 I want you to hold me accountable.
14 If you, as we move forward together
15 in this process, not only on the
16 Tribal Law and Order Act, but down
17 the road, if you see me acting or
18 behaving in a way that is not in
19 line with what I'm saying right now
20 about this teamwork and partnerships
21 and meetings and talking and working
22 together, then I want -- you know, I
23 want to be held accountable for that
24 and I know that you will.

25 But, again, it's a real honor

1 for me to be here. What I'd like to
2 do, is I'd like to open the floor up
3 to any comments before we introduce
4 the Panel up here. Well, maybe we
5 should go ahead and do that; I think
6 we should go ahead and introduce the
7 Panel. Then what I would like to do
8 is if there is any tribal leaders
9 that are here that would like to
10 start off, have any comments or words
11 that they would like to share, and
12 then if we have any of our DOJ or --
13 now I know that a lot of you
14 probably were here this morning for
15 the Department of Justice. They held
16 their consultation this morning
17 before us. So there are still a few
18 here that might be able to answer
19 some questions, if they're any here.
20 Certainly, aren't any sitting -- yes.

21 So we do have somebody on the
22 Panel sitting up here. And then
23 what I'd like to do is, there are
24 three main topics that we're really
25 looking at short time lines on. I

1 think January 25th for the three of
2 them.

3 One of them that we'd like to
4 discuss and get some input on is our
5 BIA Special Law Enforcement
6 Commissions and how that relates.

7 The other one would be the
8 guidelines for the BIA approval of
9 correction centers for long term
10 incarcerations under the enhanced
11 sentencing guidelines. And then the
12 standards and deadlines for our
13 background investigations that we've
14 got. And then from that point we
15 will just open the floor up to
16 anything that anybody has to say.

17 So why don't we -- if we can
18 start from this side and do an
19 introduction.

20 MS. FLANAGAN: Good morning.
21 My name is Carla Flanagan. I'm the
22 Assistant Director for Corrections
23 with the Bureau of Indian Affairs.

24 MR. MOSLEY: My name is
25 Palmer Mosely, Special Agent with the

1 Bureau of Indian Affairs out of
2 Anadarko, Oklahoma.

3 MR. LITTLE: Joe Little.
4 I'm Associate Director for Tribal
5 Justice Support in working with the
6 Tribal Court Systems. We're based
7 out of Albuquerque.

8 MR. ARGO: My name is Doyle
9 Argo, I'm an Assistant U.S. Attorney
10 in the Western District of Oklahoma
11 and also the tribal liaison for the
12 Western District. Earlier this
13 morning the Western District had a
14 consultation with some of the tribal
15 leaders about law enforcement issues,
16 generally. Also I know in the
17 audience are representatives from the
18 Northern District. I think that
19 Clint Johnson is here, and then also
20 from the Eastern District of Oklahoma
21 is Dean Burris. So they are also
22 present representing the U.S.
23 Department of Justice, U.S.
24 Attorney's offices.

25 MR. CRUZAN: Thank you, very

1 much. And if we could just do this
2 real quick, this would be helpful.
3 We'll move around the room and maybe
4 if you could just introduce yourself
5 and where you're from and then when
6 we're done there, we'll open the
7 floor up to any tribal leaders that
8 have a comment that they'd like to
9 make or are concerned with.

10 Would you start.

11

12 (See attached sign-in sheet)

13

14 MR. CRUZAN: All right. As
15 you can see for yourself as we go
16 around the room, there are some
17 extremely important, intelligent
18 people in the room. And I think
19 that's what gives me the most
20 optimism. This has been a pretty
21 common thing that I've seen when
22 we've gone around is that -- again,
23 like I said, that makes me so
24 positive that we can make some great
25 strides is that there are so many

1 smart people working on these issues.
2 I don't think necessarily any one of
3 these issues are overly complicated,
4 I think they're all addressable, and
5 fixable.

6 So like I said, there's nothing
7 that -- we're going to end Thursday,
8 our scheduled consultations, we may
9 have one more in Alaska and we may
10 have one in the northeast, so nothing
11 that we've taken or created or
12 drafted or any of that is in stone.
13 And very much so is going to be part
14 of our process when we go back we're
15 going to meet, compile all of our
16 notes and put everything together.
17 And so you'll know, right over here
18 we've got a court reporter, that's
19 why she was asking names.

20 So if I could ask whenever you
21 come up to the microphone or when
22 you speak, even if you've given your
23 name once before, if you could give
24 it again so she can get that in the
25 record. For her, that makes it a

1 little easier. And, also, I know
2 that some of the court reporters in
3 the past have given us really the
4 hairy eyeball when we don't take
5 breaks often, because everybody else
6 can kind of get up and go and do
7 their thing, you know, if they need
8 to.

9 So we'll try to break, you
10 just give me the high sign and we'll
11 take a short break.

12 THE REPORTER: Thank you.

13 MR. CRUZAN: With that being
14 said, let me give you one -- well,
15 let's go ahead and turn it over to
16 any tribal leaders who would like to
17 get it started and give comments they
18 want to start with or talk about,
19 the floor is yours.

20 MS. HARJO: Good afternoon,
21 my name is Leslie Harjo-Wandre
22 (phonetic spelling). I am with the
23 Cheyenne/Arapaho Tribes. I'm the
24 Lieutenant Governor. I'm just kind
25 of here today to see what your input

1 is and maybe from there I could
2 probably ask more questions. But I
3 do see that you guys work with some
4 of the juveniles and maybe work with
5 the construction part and maybe it'll
6 improve our domestic crimes. And we
7 also would like to hear more input
8 about when there is embezzlement
9 within our tribe so we can know
10 which direction to work with, and
11 work with the BIA or work with the
12 FBI so we do have a lot of that
13 right now in our tribe and I would
14 like to hear your opinions on it.
15 So that's pretty much what I've got
16 to say today. Thank you.

17 MR. CRUZAN: Okay. You'll
18 have to forgive me. I'm not sure if
19 there was an exact question in there.
20 Or if it was just --

21 MS. HARJO: No. There was
22 no question. I was just kind of
23 looking for what you were going to
24 speak about today.

25 MR. CRUZAN: Okay. And

1 please, I know it's kind of -- you
2 know, talking in front of people is
3 everybody's biggest fear sometimes.
4 But this is really -- I really would
5 like this to be a real back and
6 forth on suggestions and topics and
7 thoughts. And so I'm as interested
8 as you are to hear what we have to
9 say, we're equally interested to hear
10 your thoughts and comments.

11 MR. LITTLE: To address your
12 embezzlement issue. Those come up a
13 lot. I guess the question you might
14 be asking, what we're thinking of is
15 obviously whether these are the
16 federal offenses or the tribes under
17 the new three years, can we make
18 that an offense they want to deal
19 with? I guess the issue in Oklahoma
20 is that you're kind of split. Some
21 of you have tribal courts and some
22 have CFR Courts. So obviously under
23 the tribal court side that's kind of
24 your option if you want to amend
25 your Law and Order Code to maybe

1 make three years an embezzlement
2 issue, if you're having trouble with
3 the US Attorney taking it. I
4 presume that's kind of where you're
5 going on that.

6 In terms of the CFR Courts.
7 That's a question that's up in the
8 air yet and we're not sure which
9 route we're going to take on that.
10 We're have the solicitors take a look
11 at it. But we're not sure if it
12 means that we come back in and amend
13 the current Section 25 under 25 CFR,
14 Section 11 to add the longer
15 sentences. Right now we just -- we
16 just changed the regs recently to go
17 from six months -- they have been at
18 six months for quite a few years, to
19 the one year. We're debating whether
20 to go back in and change that again
21 for three as an option or whether
22 there is a possibility of just having
23 -- because we have provisions in
24 there where can adopt tribal law and
25 order codes. And if might not be a

1 better route than having to change a
2 regulation just to have a tribe adopt
3 the Law and Order Code that increases
4 the three year sentences and then we
5 would just adopt that into the court
6 function. We're not even sure we
7 can legally do that. That's what
8 were looking at right now. So I
9 think that might address in a round
10 about way, concerns you've got on the
11 embezzlement end of it. I'm
12 presuming you are looking at it from,
13 do we do it or do the feds do it
14 under federal law or do we have a
15 third option for increasing those
16 sentences.

17 MS. HARJO: We do have a --
18 there is an issue that was brought
19 up to our attention; if our tribal
20 attorney doesn't want to do the
21 prosecution of another elected
22 official, what do we do there?

23 MR. LITTLE: Are you talking
24 about CFR or you're --

25 MS. HARJO: Tribal.

1 MR. LITTLE: -- you're
2 tribal. If you're attorney doesn't
3 want to prosecute well, I --

4 MS. HARJO: The Attorney
5 General.

6 MR. LITTLE: Yeah. Well, I
7 imagine you could always go out and
8 get another attorney but I'm not sure
9 how that really works in terms of
10 what the Council's authority is
11 there. I mean can the Council block
12 that or, you know, that type of
13 thing. So I don't have an answer.
14 I hear what you're saying, I don't
15 have an answer because I don't know
16 how you're structured. If there's a
17 way that you can have a different
18 Attorney General for that one case, I
19 think that would be appropriate. I
20 don't know whether you can do that
21 under your constitutional system or
22 however you are set up, at that
23 point then I guess you would have to
24 trust the US Attorney's office.

25 MS. HARJO: The Attorney

1 General is under the Executive branch
2 and we've got four branches of
3 government. And that's where it lies
4 right now. Kind of like, you know,
5 the client --

6 MR. LITTLE: Yeah. I don't
7 --

8 MS. HARJO: -- favorites.

9 MR. LITTLE: -- I don't
10 think the provisions in the bill
11 address that. That's an internal
12 issue you have to try to figure out,
13 I guess.

14 MR. KODASEET: I was looking
15 in the Title 2 (inaudible).

16 THE REPORTER: Would you
17 come up to the microphone, please?
18 Sir.

19 MR. CRUZAN: I'm sorry.
20 Could you -- could you come up to
21 the microphone. There is one up
22 here.

23 THE REPORTER: Please state
24 your name.

25 MR. KODASEET: Title 2,

1 a c c o u n t a b i l i t y a n d c o o r d i n a t i o n . H o w
2 w o u l d t h a t - - I n o t i c e t h a t , y o u
3 k n o w , a l o t o f t i m e s t h e c a s e s i n
4 c o u r t , e s p e c i a l l y i n I n d i a n c h i l d
5 w e l f a r e c a s e s a n d t h e r e s e e m s t o b e
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9 I t s e e m s l i k e w e h a v e t o g o t h r o u g h
10 t h e p r o c e s s o f g o i n g t h r o u g h t h e i r
11 c o u r t c l e r k o r g o i n g t h r o u g h - - i n
12 f r o n t o f a j u d g e a n d g e t t i n g t h a t
13 a p p r o v e d . S t u f f l i k e , w i l l t h i s - -
14 w i l l t h i s d e a l , I g u e s s , w i t h t h a t ,
15 i m p r o v e t h a t o r i s i t g o i n g t o a d d
16 m o r e r e d t a p e ?

17 M R . L I T T L E : C o u l d y o u s t a t e
18 y o u r n a m e f o r t h e c o u r t r e p o r t e r ,
19 p l e a s e ?

20 M R . K O D A S E E T : M i c h a e l
21 K o d a s e e t .

22 M R . L I T T L E : I g u e s s I c a n
23 t r y t h a t o n e t o o . P r o b a b l y n o t
24 u n d e r t h e p r o v i s i o n s t h e w a y I r e a d
25 t h e b i l l i t p r o b a b l y i s n ' t g o i n g t o

1 impact that directly. That's a
2 comedy issue that's kind of an
3 ongoing thing nationally, but it
4 varies from state to state. I don't
5 know what the whole situation is in
6 Oklahoma. We just recently addressed
7 it in New Mexico with the tribes
8 coming together with the state and we
9 had a state Supreme Court regulatory
10 change that allows for what they call
11 a -- this is for Protective Orders
12 but it kind of follows with other
13 issues -- is that there is a
14 one-page document that they attach to
15 their orders now. The big fight
16 we've had in New Mexico and other
17 states is that a lot of state judges
18 don't like the way the tribes write
19 their orders or vice versa, so we
20 get into hassles over just how
21 they're written. So to kind of
22 avoid that what they've done in New
23 Mexico, is they've actually -- the
24 State Supreme Court has actually set
25 up a regulation and you now have a

1 single page -- it's cover page for
2 the order that addresses all the
3 issues that they need to for the
4 cops and those types of things
5 because the cops don't like to arrest
6 if they don't like the order, if you
7 will, that type of thing. But it's
8 something that's standard now, and so
9 the state and the tribes will use it
10 to be able to actually enforce their
11 Protective Orders off the reservation
12 as well as on.

13 I understand in Oklahoma it may
14 be more complicated than that just
15 because of the working relationships.
16 But in the long-run when we get into
17 comedy issues it comes down to that
18 working relationship between the two
19 jurisdictions and I'd have to say, if
20 you don't have it, you don't have
21 it; if you can do it, it's a really
22 good thing and it works out by being
23 able to do these kind of procedural
24 things to address it.

25 Taking it to the next step of

1 old faith and credit is usually a
2 big problem, so we've probably
3 addressed it more on a regular basis
4 than the comedy level of it than we
5 try to do for a (inaudible) issues.
6 I feel your pain but it is kind of
7 that working relationship that you
8 can build with the system.

9 I'm a little surprised -- well,
10 not really surprised. You know, your
11 symposium always impresses me for
12 this state in terms of when I come
13 that you have such a big showing
14 from the state Supreme Court judges
15 that seem to work our well. We
16 don't quite have that showing in New
17 Mexico when we have meeting but do
18 have a consortium between the judges
19 and the states, they kind of work
20 out these kinds of things and that's
21 been very effective and I've seen it
22 work in other states as well.

23 MR. MOSELY: Let me
24 interject something and -- first of
25 all, some of you might not understand

1 the whole specifics of the Tribal Law
2 and Order Act. And sometimes we, up
3 here, kind of jump ahead because
4 we've been talking about this all the
5 time.

6 The Tribal Law and Order Act
7 is basically a federal piece of
8 legislation that puts certain
9 mandates not only on the Department
10 of Interior, the Bureau of Indian
11 Affairs, but also Department of
12 Justice, Bureau of Indian Education,
13 DEA, FBI, there is a lot of
14 departments involved. And we're
15 talking about just a few issues right
16 here.

17 Please, if you have any
18 questions, we'll try to answer them.
19 I know we're sticking specifically to
20 backgrounds, and special law
21 enforcement commissions and
22 correction issues, but during a break
23 or after the meeting, if you have
24 any further questions don't hesitate
25 to get with us. If we have time

1 we'll be able to get with you
2 further, but we do want you to give
3 us your input and suggestions and
4 please do not feel like you don't
5 have anything to say because it's
6 important that we get information
7 from you.

8 Mr. Ragsdale, I see you at the
9 end of the room, sir.

10 MR. RAGSDALE: Good
11 afternoon, everybody. My name is Pat
12 Ragsdale. I'm with the Cherokee
13 Nation. I didn't see on the Agenda
14 a topic for training, so I wanted to
15 just bring that up to facilitate some
16 conversation about it. I know that
17 it has been an issue with a number
18 of the tribal police departments here
19 in the State of Oklahoma.

20 First of all, I want to tell
21 you and the Bureau of Indian Affairs,
22 we appreciate all of your support for
23 our law enforcement efforts for the
24 Cherokee Nation in particular and
25 technical support. We have a strong

1 relationship with the Bureau of
2 Indian Affairs as well as Department
3 of Justice and its related agencies.
4 And we're proud to be a part of that
5 cooperative law enforcement effort.

6 I wanted to bring up
7 specifically training of police
8 officers and other related public
9 safety personnel. And Darren, you my
10 -- the reason I'm here is at the
11 request of Marshal Sharon Wright
12 (phonetic). So I'm really speaking
13 in her behalf. I know she's already
14 talked to you about this, but I
15 thought it would be useful to
16 facilitate some discussion with
17 tribal leaders that are here this
18 afternoon, and that is the Cherokee
19 Nation takes strong objection to the
20 term in the training at the Indian
21 Police Academy. It is our perception
22 that the department decided to lessen
23 the standards for police officer
24 training, and I assume for correction
25 law officer training, as well, Carla,

1 and tone that down a little bit in
2 an effort to try to get more people
3 through the system. I do know,
4 being a former director, that it is
5 difficult to keep up with your
6 recruitment and there is always
7 concern about the number of failures
8 that we have at the Indian Police
9 Academy.

10 One of the reasons you have a
11 number of failures is primarily that
12 the people -- some of the people
13 that come there are not trained and
14 ready for the discipline of physical
15 activity and classroom activity as
16 well as the other processes that you
17 go through, but we think it's very
18 important. We've got a very high
19 success rate of everybody that we
20 send through the academy as well as
21 most of the tribes here in Oklahoma.
22 If you look at the numbers of the
23 Oklahoman's that have been through
24 it, that we're by and large very
25 successful in meeting whatever

1 standards the department has put out
2 through the FLETC effort. What I
3 think is going to happen if they
4 continue down that road of lessening
5 the standards and doing away with the
6 Indian part of the police academy is
7 that you will find that the tribes
8 just will not use your service
9 anymore and I think that will be a
10 disservice to Indian country if that
11 happens. Looking forward to that
12 effort, I think that there is already
13 a movement here in Oklahoma to
14 combine our training at the CLEET
15 facility in Ada, Oklahoma who has a
16 partnership with east central and the
17 Chickasaw Tribe. They have a
18 first-class facility and the last
19 time that I talked to them are more
20 than willing to accommodate an Indian
21 curriculum, where it's a federal
22 curriculum where they combine it with
23 the CLEET curriculum. And that would
24 be something that I would like to
25 see discussed this afternoon. Thank

1 you .

2 MR. CRUZAN: Thank you, Mr.
3 Ragsdale. And as I shared with you,
4 you know, I have a real passion and
5 a real love for the Indian Police
6 Academy, as well, as a graduate and
7 as a former instructor. I know
8 we've got several former IT graduates
9 in here as well. So I appreciate
10 that comment. That's one of the
11 things that we're looking at.

12 I went up to United -- UTTC up
13 in Bismarck and they are, you know,
14 the northern tier tribes are voicing
15 the same concern about the -- well,
16 I shouldn't say concern, but raising
17 the same issue. And I guess concern
18 is probably the right word to use
19 for that. But we're wanting to see
20 what kind of options we have up
21 there as well. And, you know, one
22 of the problems there is
23 infrastructure, you know, housing,
24 feeding, and the driving ranges, and
25 the firing ranges, and all those kind

1 of things. I'd be real interested
2 to come down here and take a look at
3 that. I know that when you were
4 director you came down and toured it.
5 And I would probably like to do the
6 same thing and take a look at that
7 and look at our options.

8 One of the things that Ms.
9 Wright had shared with me is that
10 she was a little concerned or
11 bothered by the fact that there
12 wasn't much discussion or
13 consultation regarding the change
14 from the basic police officer
15 training program to the land
16 management police training. Still a
17 basic FLETC class but there are some
18 differences. I think the structure
19 -- discipline structure more of a
20 paramilitary has -- maybe they've
21 kind of gone away from that. Like I
22 said, I've only been back about three
23 weeks, but the Indian Police Academy
24 is a real important place to me.
25 And I want to make sure that we're

1 getting the best officers in to the
2 academy, first of all, and then
3 through the academy and then out to
4 the field. And our attrition rate
5 historically has been about 50
6 percent and, you know, I see part of
7 that as, and we talked about it,
8 part of it is the level of
9 applicants that the Indian Police
10 Academy is getting. I mean there is
11 a large degree of people that leave
12 the academy for personal reasons, and
13 it's a great distance away from home
14 and it's kind of tough. There is an
15 equal amount that fell out on the
16 written test. The legal issues that
17 we talked about and then there are
18 also some that aren't able to do the
19 physical part of it. So I guess
20 there is a coming together, if you
21 will. It'll have to take place to
22 make sure that we're getting the very
23 best applicants to the academy, that
24 they are working very hard to get
25 them through the academy and then

1 back out to the field.

2 But I appreciate that. I'd be
3 really interested in hearing any
4 thoughts, other thoughts or comments
5 on that police academy or any other
6 thoughts or comments.

7 MR. HAMILTON: My name is
8 Dale Hamilton.

9 I'd like to know if there is a
10 mechanism in place to hold the BIA
11 Police accountable for their actions
12 as well as inactions?

13 MR. CRUZAN: I'm sure. You
14 know, like I said I expect you to
15 hold me accountable as the new
16 director. And you know, I don't
17 have my arms wrapped around all the
18 issues. And glad to talk to you
19 later or however you want to do that
20 but very concerned about your issues
21 as am I. There are things that we
22 do very well, and there are things
23 that we can do better, always, all
24 of us, everybody in the room. But
25 like I said, as the Director I

1 expect you to hold me accountable.
2 If I'm not doing what needs to be
3 done as we go through this and, you
4 know, I will take care of that
5 myself. I'm not going to stick
6 around and be ineffective. I have a
7 real sense of urgency and my tempo
8 is high. Time is not on our side.
9 All of those things. So I ask that
10 you give me an opportunity. As I
11 said, trust in an earned thing. And
12 so follow-through is important.
13 Words are words, and they only last
14 as long as they are out there, but
15 actions speak much louder.

16 MR. HAMILTON: I guess to
17 be more direct, in the past they've
18 had an Internal Affairs; have they
19 done away with that?

20 MR. CRUZAN: No. Not at
21 all.

22 MR. HAMILTON: Is it under a
23 different name?

24 MR. CRUZAN: Well, PSD is
25 probably what you've heard it,

1 Professional Standards Division. And
2 what that group of folks do is they
3 not only have internal affairs
4 investigators and, you know, we've
5 got a few of them in Bismarck and I
6 think we've got a few of them in
7 Albuquerque. I don't know if we
8 have them anywhere else but they are
9 -- and then they are also responsible
10 for our program support, like our --
11 you know, inspections is such a harsh
12 word -- but our program reviews.
13 They also do the program reviews
14 throughout Indian country, both for
15 our operations and our corrections.
16 But you may have heard it, you know,
17 in the past referred to as Internal
18 Affairs, they are kind of going under
19 -- and I don't know how long they've
20 been doing that, but kind of been
21 going under the name PSD,
22 Professional Standards Division.

23 MR. HAMILTON: Yeah. I'd
24 just like to see more information out
25 there as far as taking any

1 complaints. I've located a law
2 enforcement services on the internet
3 and all I get is mailing addresses.
4 We should be able to contact that
5 person -- the BIA Police who take
6 complaints should be more accessible.
7 That's my complaint.

8 MR. CRUZAN: Okay. Noted.

9 MR. MOSELY: Mr. Hamilton, I
10 can give you a little further
11 information. It's -- if you go to
12 the BIA website there is actually a
13 drop-down section that says Office of
14 Justice Services. And if you click
15 on that little drop-down section
16 there at the BIA website, Office of
17 Justice Services, you can actually
18 navigate to where you have the
19 Internal Affairs, PSD, contact
20 information. It's a little hard to
21 get to and I wish it were a little
22 bit more user friendly, but it's
23 actually on there. You can actually
24 get contact information for every
25 district office in the United States

1 there at the BIA website .

2 FEMALE SPEAKER: Good
3 afternoon . My name is Lon Lea Shone
4 (All phonetic) . And Director Cruzan ,
5 you were leaving the Indian Police
6 Academy as I was coming in as a
7 legal instructor . And I want to
8 tell you that not only am I proud of
9 you , but I brought some Bacone
10 College students , Native American
11 students who are very proud of you .
12 You are a wonderful role model and I
13 just wanted to tell you that .

14 I have a couple of comments .
15 One having worked at the US Indian
16 Police Academy , I think it's critical
17 that the academy retain a Native
18 American identity as far as support
19 from the tribes and the police
20 departments go . That is the
21 uniqueness , what makes it unique . We
22 think , sometimes it's easy to get
23 busy with looking at technology and
24 all the other requirements and issues
25 that you have to deal with , but

1 never forget the population that you
2 serve, which is the tribal people.
3 Native American identity is very,
4 very important and I would urge you
5 to hang on to it. Don't let it be
6 just the marching where they have the
7 -- when they do the drills where
8 they -- where that remains as far as
9 the old IPA identity. Let it be
10 more than that, bring back your
11 Native American instructors.
12 Sometimes you can contract away your
13 soul and I don't want to see that
14 happen.

15 The other thing is in order to
16 be competitive and to be successful,
17 I think the bureau is going to have
18 to look at as far as training goes,
19 you're going to have to look at
20 decentralizing. Offer training at
21 other locations that are convenient
22 for tribes and other organizations.
23 Also take a look at forging new
24 partnerships in a new way with other
25 institutions of higher learning. I

1 heard Mr. Ragsdale talking about some
2 of the colleges in Oklahoma. They
3 are also -- please do not limit it
4 to public institutions, because some
5 of the private colleges such as
6 Bacone, can offer -- have a lot to
7 offer. So I would urge you to be
8 willing to look at things in a new
9 way.

10 And finally the last thing,
11 training is important. You've got to
12 look at the potential that these
13 individuals, these young men and
14 women, Native Americans who choose
15 law enforcement as a career, you have
16 to look at them and choose them
17 carefully. Choose them for the
18 potential that they have and heart
19 that they have and offer them a
20 chance not only for the training and
21 the internship, but also a chance if
22 they are already on a college career,
23 a college track, offer them a chance
24 to do degree completion, because it
25 takes not only training but education

1 to prepare your officers for a world
2 which is beyond the small confines of
3 a police department. Today our
4 police officers have to know state,
5 tribal, and federal law to be
6 successful and not to pose a
7 liability for their department or for
8 the bureau or for the tribe. So to
9 get better qualified officers you
10 have to go out and you have to
11 recruit and we have to give them
12 something to hang on to, to redeem
13 them. A job, perhaps a scholarship,
14 such as what Indian Health Service
15 offers.

16 These are my comments, and
17 thank you, very much.

18 MR. CRUZAN: Thank you, very
19 much, and thank you to the students.
20 I had an opportunity to have lunch
21 with them today and I think it's
22 very encouraging the type of people
23 that we have that are interested in
24 law enforcement in the BIA. And,
25 you know, we've got jobs. And our

1 Indian -- our tribal colleges are
2 graduating students with criminal
3 justice degrees and we've got to
4 figure out a way to get them
5 together and get those jobs filled
6 with our people coming out of
7 colleges. You know, it's amazing to
8 me the opportunities that we have.

9 What I'm going to ask is,
10 Palmer Mosley is a Special Agent
11 assigned here in Oklahoma. What we
12 did -- not what we did, but prior to
13 me getting there what was done is
14 they brought some senior folks in to
15 Washington D.C. to work on these
16 issues that have time lines for us.
17 So one of the topics that Palmer was
18 asked to look at and kind of come up
19 with a skeleton, if you will, a
20 draft, is our Special Law Enforcement
21 Commission. So I'm going to ask
22 Palmer to brief that and then I'm
23 sure that will open up a lot of
24 discussion.

25 MR. MOSLEY: First of all,

1 thank you for being here today. I'm
2 going to speak specifically about
3 Special Law Enforcement Commissions
4 and we also call these SLECs. And
5 I've already -- before we began this
6 I talked to a few people and this is
7 a very important topic because it's
8 far reaching.

9 If you do not have a copy of
10 the Tribal Law Enforcement Order Act
11 I urge you to get one. And it's a
12 very -- it's a long read and I can't
13 guarantee you that you're going to
14 understand everything that's in it
15 because it's very lengthy. I mean,
16 if we were to give everyone a copy
17 of it right now you'd probably be
18 reading through it and think, what
19 does this mean? Well, sometimes we
20 have the same question. So if you
21 don't have a copy of it, I urge each
22 one of you to get a copy of it and
23 start looking over it because there
24 are some very important issues
25 contained in this legislation.

1 **48:45 In reference to this
2 Special Law Enforcement Commission is
3 the Tribal Law Enforcement Order Act
4 requires that no later than 180 days
5 after the date that President Obama
6 signed this, which was July 29, the
7 Secretary of the Interior should
8 establish procedures to enter into a
9 Memorandum of Agreement, which is
10 also a Deputation Agreement. That's
11 mandated by law now. Okay. We also
12 have to develop a plan to enhance
13 the certification and provision of
14 the Special Law Enforcement
15 Commissions to Tribal Law Enforcement
16 officials and anyone that we offer an
17 SLEC card to. We are also mandated,
18 the Bureau of Indian Affairs, to host
19 regional training sessions in Indian
20 country not less frequently than
21 biannually, to educate and certify
22 candidates for the Special Law
23 Enforcement Commission. That's
24 always been an issue.

25 And again, the reason that

1 we're here today is to have
2 consultation with Indian tribes in
3 reference to developing minimum
4 requirements for applicants for the
5 Special Law Enforcement Commission.
6 So we need your input; we need your
7 suggestions; we need your ideas today
8 so we can take that back to
9 Washington D.C. And not later than
10 60 days after the date in which the
11 BIA determines that everything in the
12 Special Law Enforcement Commission
13 application is correct, then we are
14 to enter into a Deputation Agreement
15 with the tribe or the applying
16 agency.

17 Now what my job was in D.C.
18 was to basically comb over this
19 massive piece of legislation and try
20 to interpret what our requirements
21 were on the part of the BIA. And
22 I'll be honest with you, we're not
23 trying to reinvent the wheel and
24 we're not going to do that in
25 reference to the Special Law

1 E n f o r c e m e n t C o m m i s s i o n s . I w a s
2 h a v i n g a d i s c u s s i o n , w i t h D e b o r a h
3 h e r e , b e f o r e t h e m e e t i n g s t a r t e d a n d
4 y o u k n o w , S p e c i a l L a w E n f o r c e m e n t
5 C o m m i s s i o n s h a v e b e e n a n i s s u e a t
6 a l m o s t e v e r y m e e t i n g b e c a u s e i t ' s
7 s o m e t h i n g t h a t a l o t o f t r i b a l l a w
8 e n f o r c e m e n t a g e n c i e s , s t a t e a g e n c i e s ,
9 i t ' s s o m e t h i n g t h a t t h e y ' r e
10 r e q u e s t i n g . A n d p l e a s e u n d e r s t a n d
11 t h a t w e ' r e n o t t r y i n g t o r e i n v e n t t h e
12 w h e e l w i t h t h i s , w e ' r e s i m p l y t r y i n g
13 t o m a k e s u r e t h a t e v e r y o n e i s o n t h e
14 s a m e p a g e , b e c a u s e i n t h e p a s t w e ' v e
15 h a d s o m e c o m p l a i n t s a n d s o m e p r o b l e m s
16 t h a t , w e l l , t h e B I A h a s i t t h i s w a y
17 a n d t h e t r i b e h a s i t t h i s w a y . W e
18 w a n t t o m a k e s u r e t h a t e v e r y b o d y i s
19 o n t h e s a m e p a g e a n d t h a t e v e r y b o d y
20 u n d e r s t a n d s i n r e f e r e n c e t o t h e
21 S p e c i a l L a w E n f o r c e m e n t C o m m i s s i o n .
22 S o t h o s e a r e s o m e o f t h e t h i n g s t h a t
23 a r e m a n d a t e d i n t h e n e w l a w . I k n o w
24 t h a t t h e r e i s a l o t o f p e o p l e o u t
25 t h e r e t h a t h a v e S p e c i a l L a w

1 Enforcement Commission questions. So
2 what we want today is to give us
3 your input. What are your ideas;
4 what are your suggestions? What do
5 you want us to do in reference to
6 this particular issue? How can we
7 help you make things better?

8 And I know that there are a
9 lot of guys out there that have that
10 question. So does anybody have a
11 question right now that I can
12 address?

13 Randall, I know that you had
14 some issues and I'm sure that you'll
15 say something here shortly. But does
16 anybody have any particular questions
17 concerning the Special Law
18 Enforcement Commission and how we can
19 do things different?

20 Eric, go ahead.

21 MR. PAYNE: I'm Eric Payne,
22 Chief of Police for the Otoe-
23 Missouria Tribe. My main concern
24 with the Special Law Enforcement
25 Commission is if the officer -- if

1 we send them to the IPA and, by the
2 way, I am pro-one hundred percent
3 IPA. The standards that they stood
4 for when I went through it, I would
5 like for them to still be there.
6 However, I don't know what our cadets
7 are going through today so I cannot
8 pass judgment on what is going on
9 there.

10 My question for the --
11 concerning the SLECs is -- and it
12 has been brought up to me so many
13 times, 25 CFR, Part 12. The police
14 officers will have the same
15 background investigations as a bureau
16 federal police officer.

17 Also under the same Part 12,
18 the tribal police officers will be
19 paid the same as the federal police
20 officers. That has been a problem
21 for me for so long for officer
22 retention. I have a great set of
23 guys. Every year we send someone
24 through, we can't retain them. Give
25 them 11 months -- 10, 11 months, you

1 have a -- I do know one of our prior
2 trainees is attached to our training
3 program at IPA right now. And she
4 served with me about 11 months after
5 her training. My last several, four,
6 I believe, that we sent through IPA
7 moved on, almost every single one of
8 them to the BIA. And that's
9 something that -- we want to retain
10 them. We need -- we have a real
11 need to retain those individuals, but
12 we cannot compete with that and
13 that's the biggest issue that I have.
14 Because once we obtain an SLEC then
15 it also appears that we are
16 commissioned to do the same job,
17 however, those guys will not be paid
18 the same. And let's -- you don't
19 even have to get into tribal
20 benefits, which a lot of our tribes,
21 mine is one of them, they don't
22 exist. So that's another big issue
23 that we cannot overcome. And when I
24 brought this up to some individuals
25 in a meeting last week and they told

1 me, That's something you're just
2 going to have to get use to. Your
3 guys won't get paid the same as my
4 guys, and we will recruit from your
5 department. And that's just how it
6 is. And I'm not comfortable with
7 that. But that's the -- the
8 condition of seeking an SLEC, I don't
9 think we need one because of that
10 basis. I'm not -- I don't have the
11 pickings that I want out of the
12 young man that comes out of college,
13 that's physically fit; that has a
14 criminal justice degree, but we can't
15 retain him. And an SLEC is not
16 going to make him retainable, because
17 he knows he can go to work right
18 over there and make quite a bit more
19 money than he can if he stayed with
20 us. And that's a big, big factor in
21 our officer retention.

22 Thank you.

23 MR. CRUZAN: Thank you,
24 Eric. A couple of things. In
25 reference to background checks, the

1 Tribal Law Enforcement Order Act has
2 mandated to the Bureau of Indian
3 Affairs, the Office of Justice
4 Services to conduct and complete
5 background checks no later than 60
6 days after the date of receipt of
7 the request.

8 Now the BIA is -- the Office
9 of Justice Services were looking at
10 this and saying, well, how are we
11 going to accomplish this? How many
12 requests are we going to receive from
13 some of these tribal law enforcement
14 programs? And that's something that
15 again, that's information that
16 Director Cruzan is seeking from you
17 today is suggestions in reference to
18 that. So understand that this TLEOA,
19 the Tribal Law Enforcement Order Act,
20 has some mandates in reference to
21 tribal background checks. We have
22 established some minimum requirements
23 in reference to that. Again these
24 are just proposals right now. But
25 it's not going to be a background

1 check that's anymore stringent than
2 what we go through.

3 MR. CRUZAN: Let me throw
4 this out on the table and see what
5 you think regarding these background
6 investigations.

7 One of the things that we did
8 over at the Department of Defense,
9 obviously, is we contracted with the
10 Office of Personnel Management. I
11 mean they -- well, we used OPM for
12 our background investigations, we did
13 our preliminary but then they came
14 in. But interesting enough, OPM is
15 a -- there are very few OPM
16 investigators that are employed by
17 OPM. Most of them are contract, mom
18 and pop shops, all over the country
19 that OPM contracts with.

20 One of the things that we're
21 looking at doing is possibly
22 contracting that service where it's a
23 cradle to grave, where BIA doesn't
24 necessarily get in to it. Because
25 that's pretty intense for us if we're

1 responsible for doing these
2 background investigations. And what
3 I've got to do is I've got to take
4 an investigator, you know, who should
5 be out doing investigations off of
6 the street and then they're, you
7 know, doing these background
8 investigations.

9 What I'd like to hear your
10 input on is the possibility of a
11 cradle to grave where tribal police
12 department has an employee that
13 they've just hired, they need a
14 background on, we -- BIA contract
15 with a company who then, you provide
16 the name and the application and the
17 SF86 kind of documentation, and then
18 off they go. They do the background
19 investigation; they do the
20 adjudication and then that comes back
21 to the tribe where it really doesn't,
22 other than just knowing that we have
23 this many in the queue, if you will,
24 we don't really get our hands
25 involved in the background

1 investigation. I think that serves
2 two purposes. It makes sure that
3 anywhere in the country where there
4 are Indian country folks needing
5 background investigations done, that
6 it can be done within that 60-day
7 time period, and also it doesn't
8 require us to take investigators out
9 of what they should be doing and
10 into, you know, background
11 investigations. So I'd be interested
12 to know -- that's kind of where I'm
13 looking, but I'd like to hear -- Mr.
14 Ragsdale?

15 MR. RAGSDALE: Yeah. I
16 know there is a variance throughout
17 the country of the places we work --
18 there is a variance throughout the
19 country that's doing background
20 checks. But, Palmer, I'm sure you
21 would know, the Native tribes, are
22 doing their own background checks
23 right now. Are you saying that they
24 will be required to get an additional
25 background check?

1 MR. CRUZAN: No.

2 MR. RAGSDALE: To get an
3 SLEC or will our background still be
4 accepted?

5 MR. CRUZAN: Yes.

6 MR. RAGSDALE: Assuming that
7 they meet --

8 MR. CRUZAN: Assuming that
9 they meet whatever and they are
10 adjudicateable, all of that kind of
11 good stuff, whatever process you're
12 working now, I'm not trying to throw
13 in another --

14 MR. RAGSDALE: Yeah. And
15 I'm not necessarily opposed -- we're
16 not necessarily opposed to the
17 delegating that authority for you to
18 do it, provided it's economic and
19 efficient. We probably could have
20 some discussion about that. Because
21 we're currently doing our own and
22 hiring independent people to do that
23 in our offices.

24 MR. MOSELY: And please
25 remember it's in reference to the

1 S L E C application. If your officer
2 has gone through a thorough
3 background investigation by the
4 Cherokee Nation, and it's been
5 adjudicated by a trained
6 professional, that's good to go. So
7 we're not imposing anything. This
8 T L E O A is not imposing anything extra.
9 It's just saying if your background
10 investigation is good to go and is
11 adjudicated by a trained professional
12 like ours are in reference to the
13 S L E C, it's a good situation.

14 MR. RAGSDALE: Well, it
15 could be more efficient to just do
16 them all.

17 MR. MOSELY: Absolutely.

18 MR. RAGSDALE: If you could
19 -- if you could find outsourcing to
20 do it efficiently then the 60-day
21 mandate is really a tight mandate to
22 get a --

23 MR. MOSLEY: It is.

24 MR. RAGSDALE: --
25 substantive background check done for

1 a law enforcement officer to just go
2 beyond just doing criminal checks.

3 MR. CRUZAN: Well, yeah, and
4 if they lived in one location it's a
5 little easier, but if they've moved
6 around or lived in -- you know,
7 that's pretty intense. So you're
8 exactly right.

9 MR. MOSELY: And Eric, I'm
10 going to answer -- well, try to
11 answer that. The pay, the same in
12 CFR, that's -- I've been asked that
13 thousands of times in reference to,
14 well, if I get an SLEC background,
15 am I going to get the same pay as
16 the BIA? Personally, I would have
17 to do research why that was written
18 that way, because again, I've been
19 asked that question thousands of
20 times. I don't know who wrote that
21 original regulation. I know Mr.
22 Ragsdale probably has experience in
23 that and if you could address that,
24 Pat.

25 MR. RAGSDALE: Well, this is

1 one that did not enforce the
2 regulation as the former director,
3 and perhaps with the new funding it's
4 -- it's time for the bureau to
5 enforce its own federal regulation
6 which says that if a tribal officer
7 is hired to carry out the law
8 enforcement function of the BIA,
9 they're supposed to be paid equal to
10 if not greater than the BIA. The
11 BIA has never enforced that. Those
12 regulations have been in place for 15
13 years or more and the rationale that
14 we -- why we didn't enforce it was
15 because of the level of funding that
16 we had for so many of our agency
17 jurisdictions and so therefore we
18 didn't want to cripple the manpower
19 out on the reservation. But perhaps
20 it's time -- perhaps it's time we
21 start nudging up the professional
22 requirements and payments of our
23 police officers -- tribal police
24 officers are not able to meet that
25 standard. And that standard will

1 never be met unless that is ???
2 there is some funding that goes along
3 with it as well as professional
4 requirement.

5 MR. MOSELY: I think we'd
6 have to look at that a lot closer.

7 MR. HAMILTON: One thing
8 that that has forced us to do, which
9 has become more convenient for us is
10 to hire non-Indian, because the
11 non-Indian candidates that we hire
12 are not pursued by BIA law
13 enforcement services. And of course,
14 that brings a lot of heat on to our
15 governing body. Why are you hiring
16 that person and that sort of thing,
17 but, of course, we get to retain
18 that guy.

19 MR. MOSLEY: Anything else
20 in reference -- I know everybody has
21 a -- I know there are some more
22 questions concerning Special Law
23 Enforcement Commissions.

24 MR. CARTER: Hi. My name
25 is Randall Carter, treasurer of the

1 S a c a n d F o x N a t i o n .

2 T h e q u e s t i o n I h a v e i s o n
3 t h e s e S p e c i a l L a w E n f o r c e m e n t
4 C o m m i s s i o n s , w h o d o e s t h e a c t u a l
5 t r a i n i n g ? I s i t t h e U S A t t o r n e y ' s
6 O f f i c e o r i s i t j u s t t h e i n s t r u c t o r s
7 a t y o u r a c a d e m y o r w h o ? B e c a u s e i n
8 O k l a h o m a , t h e o n l y I n d i a n a c a d e m y i n
9 O k l a h o m a w a s d o n e - - i n 1 9 7 9 . T h e
10 r e a s o n I k n o w t h a t i s m y f a t h e r w a s
11 a p a r t o f i t .

12 I ' d a l s o r e c o m m e n d t h a t y o u s e t
13 u p t h e I n d i a n P o l i c e A c a d e m y b a c k i n
14 O k l a h o m a b e c a u s e y o u h a v e m o r e t r i b e s
15 c e n t r a l l y l o c a t e d i n o n e p l a c e t h a n
16 a n y w h e r e e l s e i n t h e c o u n t r y a n d i t
17 w o u l d a l s o l e s s e n t h e b u r d e n o n
18 t r i b e s t o a l l o w t h e i r o f f i c e r s t o
19 a t t e n d t h a t t r a i n i n g .

20 T h e c o n c e r n s I h a v e w i t h t h e
21 S p e c i a l L a w E n f o r c e m e n t C o m m i s s i o n s
22 a s i n d i c a t e d i n t h i s m o r n i n g ' s
23 s e s s i o n w i t h t h e U S A t t o r n e y i s t h e
24 f e d e r a l a u t h o r i t i e s w o n ' t p r o s e c u t e
25 o n t h e m i s d e m e a n o r d o c k e t s u n l e s s

1 they have special BIA law enforcement
2 commissions that have been trained
3 and certified. So that's what I
4 would bring to the BIA.

5 And also increase your funding
6 for these law enforcement officers
7 either through the Department of
8 Justice or through the BIA, including
9 for tribal law enforcement officers.
10 Like Chief of the Poteau Police
11 Department, we have the same issues
12 they have in retaining qualified
13 individuals, because once you train
14 them out they're eligible to leave
15 and go to any other department they
16 choose to do so. And so we have a
17 high turnover rate. So I'd recommend
18 to increase the funding, the training
19 for tribal officers, as well as your
20 BIA officers, so the tribes can
21 retain qualified individuals.

22 Thank you.

23 MR. CRUZAN: One of the
24 things that we're working on is that
25 there is a lady by the name of

1 Leslie Hagan out of the Department of
2 Justice and just recently been put in
3 that training position. I know that
4 just -- matter of fact, a bleep came
5 up on the radar on my email
6 yesterday or the day before, and my
7 understanding is that what they're --
8 the US Attorney's Office, Leslie
9 Hagan, I should say, is pulling
10 Assistant US Attorneys from across
11 the country together to hit the
12 refresh button on our criminal
13 justice in Indian country training.
14 We're looking right now, I think it's
15 a 24-hour class, I think it's a
16 three-day class, we're looking to see
17 if it's necessary for it to be a
18 three-day class. It's one of the
19 things we're looking at. Maybe it
20 can be an eight-hour class.

21 And then the other thing is,
22 as I travel around there are three
23 issues that I continually hear
24 regarding these SLECs from the
25 tribes.

1 The first one is just exactly
2 what you said, is the frequency which
3 these classes are taught. So what
4 the US Attorney, Leslie Hagan, with
5 the US Attorney's Office getting more
6 engaged in our criminal justice in
7 Indian country classes, what I think
8 may be the best solution to this and
9 they're certainly on board right now,
10 is to have the local US Attorney's
11 office present that training. We're
12 required -- we're mandated to conduct
13 two trainings per region every year.
14 And what that means region-wise is
15 still a little bit fuzzy to me, what
16 exactly that's saying.

17 But my thought is, two things.
18 If we have one at every US
19 Attorney's Office where there is
20 Indian country twice a year we would
21 get a lot more, you know, bang for
22 our buck and then the other thing is
23 it allows the Assistant US Attorney
24 and the officers who are going to be
25 presenting cases an opportunity to

1 build rapport. And I know that one
2 size doesn't fit all and so it's not
3 realistic to think that one criminal
4 justice in Indian country course is
5 necessarily going to be -- you know,
6 if it's taught by somebody that goes
7 around, it may not be necessarily the
8 best way to do it, but the Assistant
9 US Attorneys that teach it can give
10 it the local flavor, if you will,
11 and again build that rapport and get
12 more trainings out there. 1:08:05

13 The other thing that I'm
14 hearing, a lot of times is that the
15 location where the training is held
16 is a great distance from where the
17 tribes are. And so it's kind cost
18 prohibitive, prohibited -- you know,
19 what I mean, it's expensive to do.
20 And so the tribes have a hard time
21 going there and so they just don't.
22 So that's another thing that having
23 these locally would fix, if you will.

24 And then the third thing that
25 I'm hearing, and the one that I have

1 the most control over and the one
2 that bothered me the most as a new
3 Director is, well, you know, the
4 tribes are saying, look, we've sent
5 our officers to that training and now
6 here it is three years, four years,
7 five years, and we still don't have
8 our Special Law Enforcement
9 Commissions. And I've heard that a
10 couple of different times in a couple
11 of different locations. So when I
12 heard that, it was just like, what
13 is going on. So I got on the phone
14 immediately and reached out to some
15 of our folks and said, why is that
16 the case? What possibly could be
17 going on? And it was explained to
18 me and it made some sense after
19 listening to them. But what we've
20 got is this Memorandum of Agreement
21 between the BIA and the tribes that
22 has to be in place. And what we
23 have done in the past in some
24 locations is put the cart before the
25 horse and we've offered these

1 trainings. These officers will come,
2 get the training, and then the
3 assumption is that, okay, I've
4 received the training and now I
5 should get my SLEC card. And we did
6 that prior to getting the Memorandum
7 of Agreement in place. And like
8 Palmer said, sometimes we get the
9 applications from the officers and
10 they're not filled out right or the
11 background is not complete.

12 So one of the proposals that
13 has been brought to the table on
14 this particular issue is that we,
15 number one, before we offer the
16 training, that we make sure that any
17 tribal officer that is coming, to
18 make sure that their tribe has a MOA
19 in place and it's done and has been
20 signed off on; that the application
21 is filled out correctly and their
22 background is done, and then we offer
23 the training. And then when they
24 come at the end of that eight hours
25 or sixteen hours or whatever it ends

1 up being, and they take the test and
2 they pass, then they get sworn in,
3 and they get their cards right then.
4 And then they go -- so they've got
5 their cards. And I think there has
6 been some confusion there and
7 certainly was on my part. But that
8 cleared it up a little bit to me
9 that maybe we didn't have our
10 processes put in place in the right
11 order.

12 And then one last -- well, two
13 more things on this that we're
14 looking at doing. We're looking at
15 right now the -- what do you call it
16 -- re-up, if you will --

17 MR. MOSELY: Re-up would be
18 a good word.

19 MR. CRUZAN: You know, when
20 they get it re-done every three years
21 or --

22 MR. LITTLE: Renewal.

23 MR. CRUZAN: Right. A
24 renewal. Every three years now we're
25 looking at making that five years and

1 then we're also looking at as opposed
2 to making the officers come back for
3 additional training that we provide
4 something online is an option that
5 we've heard. I mean, it's 2010 and
6 I think we need to start embracing
7 technology and trying to work a
8 little smarter in that arena.

9 So those are some issues that
10 we're looking at.

11 Palmer, did you want to say
12 something?

13 MR. ARGO: Yes. Just so
14 everybody knows what we're talking
15 about, the Special Law Enforcement
16 Commission essentially allows a
17 tribal officer to have federal
18 authority so when they are responding
19 to a call they are not just acting
20 under tribal authority but they are
21 acting under federal authority as
22 well. They are essentially no
23 different than a BIA officer. And
24 one of the reasons, if somebody is
25 going to be presenting a case in

1 federal court is we want to make
2 sure that the officer has the full
3 authority to be a federal officer.
4 So if they're doing an investigation
5 it's not solely based upon tribal
6 authority, which may not extend to an
7 investigation or a criminal action
8 involving a non-Indian, but they've
9 got federal authority which would
10 include prosecution of a non-Indian
11 and an Indian. So that's one of the
12 reasons our office wants to make sure
13 if somebody is presenting a case in
14 federal court under the misdemeanor
15 docket that we talked about this
16 morning that some of you may not
17 know about, but we have a system in
18 the Western District where you can
19 charge an individual by a ticket
20 which is much like other federal
21 tickets which are issued at the
22 Veterans Administration Hospital, or
23 the National Park Service areas, or
24 the Corp of Engineers. There is a
25 federal ticketing system and some of

1 the tribes have taken advantage of
2 that. So that's in answer to your
3 question, that's why we require, if
4 an office is going to be part of
5 that system that they have federal
6 authority, not just tribal authority.

7 With respect to the second part
8 of what you just asked, Mr. Carter,
9 our office and I know myself I've
10 done this training numerous times and
11 Assistant US Attorneys throughout the
12 country have assisted in providing
13 the legal training for those officers
14 trying to get their SLEC so that
15 they have sufficient background
16 information and training so that they
17 can be aware of what the Indian law
18 issues are and the federal law issues
19 are. So we've been more than
20 accommodating to the Bureau of Indian
21 Affairs when they've asked us to do
22 the legal part of the training. And
23 I've done it. I can't even count
24 how many times I've done it. But
25 again just so that we're clear, the

1 Department of Justice is not the one
2 that issues these commissions. It's
3 all done by the Department of
4 Interior and they're really in the
5 driver seat with respect to what the
6 requirements are, the background that
7 has to be filled out, the forms that
8 have to be completed. And our part
9 is simply providing the legal
10 training. And I know that our
11 office and other offices have been
12 more than willing to assist in
13 providing that training locally when
14 we're asked to do that. But just so
15 that we're clear, that's not
16 something that our office processes,
17 that would have to go through the
18 BIA.

19 MR. CRUZAN: All right.
20 Thank you very much.

21 Yes, ma'am.

22 MS. TINGLE: I just want to
23 follow up on Argo's comment. I'm
24 Tricia Tingle, from the Solicitor's
25 office and I know that Argo knows

1 this but I want to make it clear for
2 the record because we're being --
3 having a court reporter here. An
4 SLEC Commission only grants what the
5 BIA is granted through legislation
6 and nothing more. And that's a very
7 important concept that I want to make
8 clear at this point. You may be a
9 federal officer but you only in the
10 (inaudible) of the BIA officer and
11 nothing more. And that's, of course,
12 a jurisdictional issue. I know
13 people know that but there is some
14 litigation going on and I want to
15 make that clear coming from the
16 department. And I just have to say
17 this here and I'll just -- I was an
18 AUSA in Minnesota and I -- there is
19 the law enforcement academy which
20 does its job and then there are the
21 AUSAs that do the training and when
22 you're thinking about your training
23 please don't forget the AUSAs and how
24 important the rapport is between that
25 lawyer that was putting your officer

1 on the stand and that there is a
2 good rapport and then there is good
3 training. And one of their very
4 first districts do that with the
5 district -- the Western District of
6 Oklahoma and Argo deserves a lot of
7 credit for that.

8 MR. CRUZAN: Thank you,
9 Patricia. I got the hairy eyeball
10 and I think that it is time that
11 maybe we should take a break. I'm
12 more than happy to come right back
13 upon this SLEC issue, but let's take
14 ten minutes and come back in and
15 then we'll either get back on this
16 or we'll move on to the next topic.

17

18 (Break)

19

20 MR. CRUZAN: Okay, guys,
21 let's -- and ladies and gentlemen I
22 should say, let's go ahead and get
23 started back up.

24 Thank you for coming back so
25 promptly. I want to kind of -- we

1 left off with our Special Law
2 Enforcement Commission issue and I
3 wanted to kind of, just leave it
4 there, if we need anything out on
5 the table or talked about let's -- I
6 guess you guys must have been -- oh,
7 go ahead, sir, please. I'm being
8 told that the DOJ got most of the --
9 of the information out this morning.
10 So maybe that was -- maybe most of
11 your questions or comments were put
12 out then.

13 Yes, sir.

14 MR. HAMILTON: My name is
15 Dale Hamilton. In reference to, say
16 veteran officers out of law
17 enforcement for three to five years
18 what's the re-certification criteria
19 for that? Do they go back to the
20 two-week block for the legal part?
21 Or how does that work?

22 MR. MOSLEY: Mr. Hamilton,
23 TLEOA also addresses and I'll try to
24 answer your question more
25 specifically. The Tribal Law

1 Enforcement Order Act also allows the
2 Bureau of Indian Affairs to employ a
3 law enforcement officer under the age
4 of 47. So what we have done, our
5 minimum requirement was 37, this is
6 going to max our minimum or our
7 maximum age limit at 47 years of age
8 by law. We're going to have to do
9 research on that particular issue
10 concerning retirement benefits and
11 again that will eventually be
12 answered down the road after
13 everything is looked at.

14 In reference to
15 re-certification, that's another
16 issue that we discussed while we were
17 in Washington D.C. in reference to if
18 you were in prior law enforcement and
19 if you've been out for several years,
20 what that individual is going to have
21 to do be certified by us, to either
22 be employed and/or get a Special Law
23 Enforcement Commission. So we're
24 looking at that particular issue.
25 There hasn't been a final decision,

1 so if you have any suggestions or
2 any comments that you would like for
3 us to take back to D.C., you know,
4 feel free to voice anything that you
5 would like us to look at.

6 MR. CRUZAN: Let me give
7 you an email address that you can
8 send comments to. When we get back
9 to D.C. next week, as I said, we're
10 going to meet with the folks that
11 have been traveling around on these
12 consultations, put all of the
13 information together and then we will
14 come up with some draft documents.
15 And what we're going to do is we're
16 going to post that on BIA Office of
17 Justice Services web page. And then
18 I've got emails for you and what I
19 would ask and encourage you to do is
20 to go and take a look at those and
21 then make any comments or, you know,
22 good or bad; if you think, yeah, I
23 agree with that or, hey, I'd like
24 you to look at this.

25 So let me give you -- Carla

1 will give you another one here in
2 just a second, regarding corrections
3 issues, but I want to give you the
4 one specifically that you can use for
5 Special Law Enforcement Commission
6 comments. All right.

7 It is OJS, Office of Justice
8 Services, just the letters
9 ojs.tloa2010.comments@bia.gov and we
10 certainly welcome any comments that
11 you have. With that being said, if
12 there is no further questions on our
13 SLEC, then what I'm going to do is
14 I'm going to ask Carla Flanagan, who
15 is the Associate Director for
16 Corrections -- was there a question
17 back here?

18 MS. SHERMAN: Hello. I
19 might be a little out of order on
20 the Agenda, and I have a lot of
21 concerns and I'm going to go ahead
22 and jot my thoughts down. And if
23 there is somebody that could answer
24 or give me some type of direction, I
25 would appreciate it.

1 I'm understanding that the
2 Tribal Law and Order Act, the bill
3 seeks to bring greater local control
4 to tribal law enforcement agencies to
5 combat crime. However, there are
6 some serious conditions that
7 contribute to violent crime and one
8 of them is the erosion for tribal
9 authority or no assistance with
10 tribal enforcement. And it creates
11 chaotic tribal politics and state and
12 federal laws are so corrupted that
13 our perpetrators are criminals are
14 usually let go. And what I would
15 like to know is how will these types
16 of issues be addressed?

17 MR. MOSLEY: Well, I can
18 take a little bit of a shot at that.
19 We're talking about three particular
20 issues today; the Special Law
21 Enforcement Commissions, backgrounds,
22 and corrections. We're mandated by
23 law to have consultation on these
24 issues. But the Tribal Law
25 Enforcement Order Act applies to a

1 lot of the things that you're talking
2 about and that was something that at
3 the first, I said we're talking about
4 three different issues today. There
5 is a gamut of issues in this
6 legislation. And we're not talking
7 about them today because we just
8 simply don't have time. We could
9 have three or four days of this just
10 to reference this legislation.

11 The issues that you just raised
12 it mandates that the Department of
13 Interior, the Department of Justice,
14 Bureau of Indian Education -- just a
15 whole bunch of departments have to
16 come together and look at what's
17 going on in Indian country not only
18 when it comes to law enforcement,
19 tribal courts, corrections, substance
20 and mental health abuse issues, youth
21 related alcohol, teen suicides. I
22 mean this -- this legislation looks
23 at a full gamut of issues and to
24 make -- to answer your question to
25 the best that I can, we have

1 coordinate and communicate with the
2 tribal governments. That's what it
3 boils down to.

4 This legislation mandates for
5 us to reach out to the tribal
6 governments and say, listen, these
7 are the problems that you have, how
8 can we solve these problems together
9 as a group? And the three things
10 that I -- when I look at this
11 legislation, there are three things
12 that come to mind; accountability,
13 communication, and coordination. We
14 have to do those three things for
15 this to work.

16 And I know that sometimes in
17 the past there has been probably mis-
18 communications, there has been
19 mistrust. Like Director Cruzan said,
20 at the opening statement, we have to
21 get past those points. We have to
22 work together as a team to solve
23 some of the problems.

24 In reference to some of the
25 specific statements I really can't

1 provide answers to you right now.
2 All I can tell you is that we're
3 mandated by law to work with the
4 individual tribal governments to help
5 solve some of these problems. And
6 you know, we have a BIA
7 Superintendent in here today; we have
8 a Regional Director here today.
9 They're going to be a part of that
10 process, you know, if you work in
11 corrections, we have a tribal judge
12 here, substance abuse person, we all
13 have to work together. And that's
14 the reason why I suggest highly that
15 if you don't understand TLEOA, please
16 get a copy of it and read over it,
17 because it's not just a law
18 enforcement issue; it's not just a
19 correction issue, it involves a whole
20 lot of departments working together,
21 consulting with each other, and
22 coming up with a plan to address
23 some of these issues in Indian
24 country.

25 To be totally honest with you,

1 it really requires us to get more
2 input and feedback from the tribal
3 officials than any other time. And
4 the more that I've read this bill,
5 you know, it's really become clear to
6 me that we have to do a better job,
7 the BIA Office of Justice Services,
8 and every other department, DOJ
9 included, BIE, we have to work with
10 the tribal governments to come up
11 with solutions. And hopefully -- I
12 know I didn't answer your question
13 specifically, but we have to work
14 together. That's what I want you to
15 understand.

16 MS. SHERMAN: Okay. I hate
17 to take a little more time but -- so
18 with that legislation, you are just
19 are going to meet with tribal leaders
20 of the committee. Are they non-
21 Native members? Is the committee
22 non-Native?

23 MR. MOSLEY: What committee
24 are you talking about, ma'am?

25 MS. SHERMAN: Well, is it

1 the Senate committee that makes these
2 bills?

3 MR. MOSLEY: Well, they, of
4 course, had a whole bunch of
5 hearings. I think there were 17
6 altogether. The tribal officials,
7 they voiced their concerns to the
8 Senate Indian Affairs Committee. If
9 you will look back at some of the
10 transcripts, like I have, of those
11 hearings you will find them right
12 here some of the concerns. And at
13 the end of the day they want us, the
14 federal government, to come to the
15 tribes and say, listen, let's get
16 together on these problems and figure
17 out a way to solve them. And that's
18 why we're here today is we're
19 actively seeking your input and
20 asking for your assistance on solving
21 some of these issues. And don't
22 think that we're just going to stand
23 up here and say, okay, we're going
24 to let them have their voice, and
25 then go back to D.C. and not do

1 anything. That's definitely not the
2 case. We are actively seeking your
3 comments and we want your assistance
4 to do our job better. Because if
5 we're not serving you, which is our
6 goal and our responsibility, we're
7 not doing our job. And again, that
8 goes back to Director Cruzan's
9 statement holding us accountable.

10 MS. SHERMAN: No one has to
11 answer this, I guess I can be
12 available afterwards, but, you know,
13 I feel like we can talk about
14 mandates, and at times I feel like
15 there seems to be a self-service when
16 it comes to native people. And when
17 that happens, we almost are
18 revictimized or victims through that
19 process. And I also wanted to -- as
20 much as I would like to embrace
21 Tribal Law and Order Act, how much
22 Indian sovereignty power so we give
23 up in order to adhere to these
24 federal guidelines and policies?

25 MR. MOSLEY: To be honest

1 with you I don't think that you give
2 up very much at all, if any. I
3 think it's a working relationship
4 that probably hasn't worked well in
5 the past, but hopefully with these
6 consultation meetings and us working
7 together with the individual tribes
8 and getting your comments and
9 concerns I think that just
10 strengthens that relationship and it
11 doesn't erode tribal sovereignty.

12 We're asking for your help to
13 do things better, is what it boils
14 down to.

15 MS. SHERMAN: Okay. Thank
16 you.

17 THE REPORTER: Ma'am. Could
18 I have your full name? Ma'am.
19 Could I have your full name? I'm
20 sorry.

21 MS. SHERMAN: Pardon me?

22 THE REPORTER: Your full
23 name.

24 MS. SHERMAN: Angelita
25 Sherman.

1 MR. CRUZAN: Ms. Sherman, I
2 like you, I'm available afterwards
3 and it sounds like you have some
4 maybe specific issues that you want
5 me to carry back, I'm glad to do
6 that. So if you want to grab me
7 afterwards, I don't fly out until
8 tomorrow. So I'm here all evening.

9 MR. JOHN: My Thomas John.
10 I'm with the Chickasaw Nation. I
11 have a variety of comments and
12 questions and I apologize for going
13 out of order but I have to leave
14 shortly so I wanted to take this
15 time.

16 The first -- and I'm glad to
17 hear you guys tell about working
18 together because there are a number
19 of legal requirements, not just with
20 TLEOA but elsewhere that require
21 cooperation with agencies within DOJ
22 as well. So I want to ask to what
23 extent is the BIA working on behalf
24 of tribes to facilitate relationships
25 and specifically cross deputations

1 authorities with other federal law
2 enforcement agencies, such as FBI,
3 BIA, US Marshall, Secret Service --
4 so that's the first one.

5 Secondly, also, in regard to
6 manpower issues is that this past
7 year the BIA was given \$18,000,000.00
8 to raise budget to hire actually
9 additional FBI agents. And so I was
10 wondering what is the status of that
11 initiative?

12 And then also, in regard to
13 potential manpower and jurisdiction
14 issues is this past summer there was
15 some reports or rumors going around
16 that the BIA was considering a
17 redistricting plan relative to its
18 OJS law enforcement districts. So I
19 was wondering what is the status of
20 that?

21 In regard to corrections,
22 obviously with expanded sentencing
23 authority there is going to be a
24 greater need for additional detention
25 facilities, and is the BIA going to

1 make that a high priority within its
2 upcoming budget formulation cycles?

3 And then lastly, I wanted to
4 address a few of the issues regarding
5 data collection and data systems. It
6 was recently brought to my attention
7 that the BIA is considering
8 implementation of an IMAR System for
9 law enforcement reporting. And I
10 guess my question there is is that
11 system UCR compatible? And secondly,
12 is it going to be rolled out so that
13 tribes have direct access to that
14 system?

15 Secondly, in regard to access
16 to data systems and this is part of
17 TLEOA is to what extent is the BIA
18 again working on the tribes behalf to
19 obtain direct access to other federal
20 data systems related to fingerprints
21 and DNA, specifically. IAFIS and
22 CODIS or CODECS.

23 MR. MOSLEY: CODIS.

24 MR. JOHN: CODIS. And then
25 lastly, as it regards the use of

1 this data to what extent is OJS
2 developed or going to develop a data
3 driven funding formula? Those are my
4 questions.

5 MR. CRUZAN: Well, I think
6 I can answer a few of those. As far
7 as -- and I won't answer in any
8 particular order, but with what I
9 know the answer to and then I'll get
10 back with you on the other stuff.

11 The reorganization of our
12 districts, I've heard that too. You
13 know, you're not the first person
14 that's asked me that. We obviously
15 would not do anything like that
16 without getting out and talking to
17 the tribes. One of the things that
18 may be a misunderstanding out there
19 is we have some vacant positions that
20 historically have been filled. One
21 is in Sacramento, to support our
22 partners out there, the tribes out
23 there. One is in the Pacific
24 Northwest and that is the Portland
25 office. As a matter of fact, I held

1 that position at one point to address
2 the needs of the, you know, 35
3 tribes along the Pacific Northwest.
4 So we're looking at filling those
5 positions as technical support to the
6 tribes in that area. But as far as
7 redistricting and those kind of
8 things, that's certainly not on my
9 top five priority right now. And as
10 we move and start getting these
11 issues with our tribal law and order,
12 our high presidential -- our HPPG
13 sites and some of these other things
14 that are on those top five priority
15 lists.

16 If you know how our districts
17 are shaped -- I mean we are
18 districted, you know, we've got --
19 District 5, for example, has I think
20 six states and, you know, it's very
21 difficult for our district staff to
22 be engaged at the level that I -- my
23 expectation of them to be engaged.
24 I expect my district or my SAC is in
25 the area, when tribe calls, you pick

1 up the phone and talk, you know,
2 with big areas like that. That's
3 definitely something that probably we
4 should look at. And as I was saying
5 earlier there are resources used
6 where they are allocated in different
7 locations and I want to get my arms
8 around that and make sure that we've
9 got our folks in the right areas
10 that they are providing the best
11 services. If there are tribal
12 problems that take care of those
13 areas and we've got an over-abundance
14 of BIA folks in there, then maybe we
15 ought to look at where are we short.
16 But as far as reorganization there is
17 nothing in the works there other than
18 a need that needs to be looked at,
19 but nothing being discussed, I can
20 assure you that.

21 IMARS is a -- I have a meeting
22 scheduled for next week sometime when
23 I get back to D.C. to talk about
24 that very issue. It just blows my
25 mind that we don't have a data

1 collection system that we're using.
2 It doesn't necessarily have to be
3 universally, but we're still doing in
4 some locations with pen and paper and
5 that's over simplifying it but it's
6 not far from that. And, you know,
7 as I said earlier, it's 2010 and I
8 think that we need to be embracing
9 technology and trying to get better
10 at that. Some of the crime reports
11 -- and I'm not here to dispute them,
12 but when I hear crime rate in Indian
13 country is 30 times higher than the
14 general, you know, that causes me a
15 pause. And I know that in some
16 locations without question crime rate
17 is higher, but I think if we had a
18 better system of tracking these
19 crimes and reporting in the hierarchy
20 and those kinds of things like is
21 done outside of Indian country, I
22 think our numbers may be a little
23 different. I don't know that to be
24 the case but I think it is.

25 My understanding with this

1 IMARS system is that we're certainly
2 not prepared to push the IMARS on to
3 the tribes. I know that my
4 understanding is that DOI is, you
5 know, that we are -- the BIA is
6 supposed to be rolled out with the
7 other Department of Interior partners
8 when this IMARS comes onboard. I'm
9 being told that it may not meet all
10 of our needs and so that is one of
11 the things that I'm wanting to look
12 at, we want to make sure it has a
13 corrections component and a CAD, or
14 Computer Aided Dispatching and then a
15 record management system and those
16 kinds of things. So that's a
17 concern I have. I'm told that
18 relatively quick, relatively soon,
19 they're planning on rolling that out.
20 I know that we've been sending our
21 folks to training on it and some of
22 our tribal partners as well. But I
23 don't have a real good sense on what
24 that IMARS is going to really mean.

25 When you talk about is the BIA

1 kind of a one-voice representative
2 for Indian country with our partners?
3 I can tell you this, that I have
4 been just amazed at the level of
5 open arms that DOJ has given me in
6 the short time that I've been here.
7 I've been brought over there to the
8 Department of Justice and I've had
9 them to come over to us at almost
10 the highest level.

11 I'm meeting with the Attorney
12 General's Senior Advisor but
13 basically have been told that we know
14 there are tremendous needs out there.
15 And we want you to know that we're
16 here to help you and we want to in
17 essence give you the keys to DOJ. I
18 realize, and I hope you realize this
19 too, so please don't misunderstand
20 the statement, but BIA law
21 enforcement and Indian country law
22 enforcement right now does not have
23 the machine behind us that DOJ does.
24 That is a tremendously well, for a
25 lot of aspects, a well oiled machine.

1 They have a tremendous amount of
2 resources and things that we could be
3 tapping into. So that's kind of my
4 push. Until we're able to stand up
5 and do these kind of things on our
6 own and we may never be able to
7 operate at that level, we need to be
8 opening our arms up just like they
9 are and tapping into those resources
10 and pulling things that we can get
11 from DOJ. So I'm real happy with
12 that.

13 What we're doing as far as the
14 cross deputizations, you're talking
15 about state cross deputizations and
16 --

17 MR. JOHN: Federal.

18 MR. CRUZAN: Federal. Okay.
19 I guess I'm going to have to sit
20 down and talk to you exactly what
21 you're looking for there because I'm
22 not exactly sure.

23 MR. JOHN: Well, for
24 example, under SORNA, the authority
25 for tracking down absconders is the

1 US Marshal System Service. Is it
2 possible that BIA could work with the
3 US Marshal Service to get cross
4 deputation agreements with tribal law
5 enforcement or BIA law enforcement to
6 assist in that function?

7 MR. CRUZAN: Is that a data
8 base? Is that what you're asking
9 for? You're asking for a processing
10 of these?

11 MR. JOHN: That was a
12 separate question. The first
13 question is getting the authority
14 through a cross deputation styled
15 agreements for tribal and/or BIA law
16 enforcement to track down sex
17 offender absconders. Well, that's
18 just one example. I mean other
19 examples, with DEA, I mean, we're in
20 southern Oklahoma so we've recognized
21 on a couple of occasions trafficking
22 going on between Texas and Oklahoma.
23 So obviously we need greater
24 authority than just what the tribe
25 has or the state of Oklahoma has in

1 order to properly investigate those .

2 Similarly, with the Secret
3 Service, at least for the Chickasaw
4 Nation, one of our higher volume
5 crimes just by volume is
6 counterfeiting. But when we're
7 talking about 10 here and 20 there,
8 you know, it's difficult to get even
9 the attention of the Secret Service.
10 So, you know, getting the authorities
11 to investigate those crimes -- types
12 of crimes further on our own when
13 the federal agency isn't willing to
14 pick it up. So --

15 MR. CRUZAN: What I would
16 ask you to do -- and I'm taking
17 notes on everything that we're
18 talking about, but if you can be
19 real specific and send us an email
20 to this address right here, we're
21 compiling all of that and then we'll
22 make a punch list, if you will, of
23 things that we need to make sure
24 that it's getting in the right
25 section and the right people are

1 looking at those. But those are all
2 important issues that I'm absolutely
3 willing to be the voice for you in
4 Washington D.C. If you could send
5 those to me it would be extremely
6 helpful.

7 MR. JOHN: Okay.

8 MR. MOSLEY: And Mr. John,
9 just to answer your question just a
10 little bit further and I'm somewhat
11 biased because I am a proud member
12 of the Chickasaw Nation. We are
13 working together with DOJ and all
14 those other departments. We're
15 facing right now a situation where we
16 have specific deadlines that we have
17 to meet in reference to specific
18 issues. Some of the issues that
19 you've raised are things that are in
20 the future. It's just we have
21 certain things that we have to get
22 done by law and that's what we're
23 addressing today. But yes, you're
24 right on track. I mean, if you
25 don't take anything away from this

1 meeting today, I want you to take
2 away this one thing; there has to be
3 coordination. And not only are we
4 required by law to do that, but I
5 think that under Director Cruzan,
6 that that's going to even continue to
7 multiply in the future when we start
8 looking at these other issues that
9 you're talking about specifically.

10 But again, right now we're kind
11 of focusing on certain things, but
12 again those are down the road. And
13 I agree with you 100 percent, we
14 have to have coordination to do that
15 to better serve Indian country.

16 MR. JOHN: Then the other
17 half of that side was access to the
18 federal data bases like IAFIS and
19 CODIS.

20 MR. MOSLEY: And that's
21 something that we're also going to
22 have to look at with DOJ because,
23 again, that's in the law. And we're
24 going to have to figure out
25 procedures and ways for tribal law

1 enforcement programs to enter those
2 data bases whether it be CODIS or
3 IAFIS or whether it be NCIC. I mean
4 we still have issues with tribal law
5 enforcements entering information in
6 the NCIC computer. So those are
7 issues that we are looking at in the
8 future with DOJ and FBI.

9 MR. CRUZAN: And also I
10 wanted to -- and you'll have to
11 pardon me for not doing this. I had
12 announced that the floor was open for
13 tribal leaders that want to speak.
14 We're beyond that point so if you've
15 been holding back because you thought
16 we were still operating that way, my
17 apologies. So the floor is open to
18 anybody.

19 That being said, I'm going to
20 go ahead and turn this over to Carla
21 Flanagan. Carla is the Associate
22 Director for Corrections. She works
23 out of our D.C. office as well. And
24 she's going to talk to you about our
25 Tribal Law and Order Act, as it

1 relates to corrections .

2 MS . FLANAGAN : Good
3 afternoon . Thanks very much for
4 being here . And as we've previously
5 advised , one of the short term
6 deadlines of TLEOA is a requirement
7 to establish guidelines for the
8 approval of long-term detention
9 facilities for adults . In
10 recognition of this , about three
11 weeks ago we assembled a group of
12 Indian country jail administrators ,
13 some of the just top notch , best in
14 the business , from around the country
15 and Oklahoma was ably represented by
16 Tracy Haney , in the back from Sac
17 and Fox Juvenile Detention facility .
18 It was great to have him . I also
19 visited the facility yesterday ,
20 visited with Tracy and his staff .
21 And what an outstanding facility that
22 is . And I hope that we can use that
23 as a model looking forward and also
24 have a bigger part in using that
25 facility in Indian country and using

1 it to its full potential .

2 But , back to the guidelines .
3 We have 180-day requirement from
4 enactment from passage of -- or
5 enacting of the law . And I used to
6 think that that would be on or about
7 January 28th , but Mr . Garrett
8 (phonetic spelling) has reminded me
9 and determined it would January 25 ,
10 so I hope it doesn't get shorter and
11 shorter and we lose days .

12 We assembled a group in Denver
13 and we sat and tried to figure out
14 how we could use a standard or
15 standards that were already
16 established in some form or fashion
17 so we wouldn't reinvent the wheel .
18 And we were very lucky in that the
19 American Correctional Association
20 which is the association that
21 publishes guidelines for prisons ,
22 juvenile facilities , jails , probation
23 departments , training centers , and
24 non-secure halfway house facilities .
25 They had just published their core

1 jail standards in May or June. So
2 we took a look at that and just so
3 you can see that it is an official
4 document. These are the ACA core
5 jail standards. Feel free to come
6 up and look at them, if you're
7 interested. I don't have one to
8 give away and I still need this for
9 the rest of our consultations.

10 What we decided to do was go
11 standard by standard. In this
12 document there are 135 standards, 48
13 of which are mandatory, the balance
14 are non-mandatory. And we evaluated
15 each standard for applicability to
16 Indian country jails. And if we
17 needed to -- in general, they were
18 all applicable. What we knew that
19 we might have to do is enhance some
20 to some degree so that it would
21 cover the special needs of Indian
22 country.

23 A for instance would be, we
24 required that inmates or prisoners
25 have access to traditional cultural

1 and religious activities in
2 conjunction with the safety and
3 security orderly operation of the
4 jail. We wanted to highlight that
5 that was important for us, that those
6 prisoners had access. But in general
7 -- and Tracy, you may or may not
8 agree and weigh in if I go astray
9 here.

10 In general, we kept with this
11 document with some exceptions. And
12 our intent is to publish these on
13 the website -- on our website in a
14 prominent area so that you can go
15 right to them and see comments. And
16 I'm going to give you a website or
17 an email address and that is,
18 ojs.divisionofcorrections@bia.gov.
19 And what we'd like to do is we'd
20 like your input -- seek your input
21 whether you agree, whether you see
22 something, a standard that needs to
23 be tweaked; whether we've missed
24 something; whether you think that the
25 standards are too stringent or not

1 s t r i n g e n t e n o u g h .

2 B u t o u r g o a l i s t o u s e a
3 b a s e l i n e a n d t o u s e t h e s e s t a n d a r d s
4 w h i c h a r e c o m m o n t h r o u g h o u t t h e
5 c o u n t r y f o r j a i l s - - g e n e r a l l y f o r
6 c o u n t y j a i l s , s o t h a t w e ' r e n o t
7 s t r a y i n g t o o f a r .

8 A g a i n , w e a r e r e q u i r e d t o h a v e
9 t h e s e p u b l i s h e d o r p u t o u t o n o r
10 a b o u t J a n u a r y 2 5 t h . W e w o r k e d s o
11 h a r d o n e s t a b l i s h i n g t h e s t a n d a r d s w e
12 h a v e n ' t r e a l l y c o m e u p w i t h a
13 p r o c e d u r e f o r t h e a p p r o v a l p r o c e s s
14 a n d h o w i t w i l l b e d o n e . W e h a d
15 s o m e b r i e f d i s c u s s i o n s , a n d I t h i n k
16 T r a c y w o u l d c o n c u r , t h a t w e k n o w t h a t
17 w e w a n t t o i n v o l v e o u r I n d i a n c o u n t r y
18 e x p e r t i s e i n s o r t o f a p e e r r e v i e w .
19 S o w e w o u l d t a k e j a i l a d m i n i s t r a t o r s
20 s u c h a s T r a c y , a n d T r a c y m i g h t g o
21 r e v i e w a c o u p l e o f j a i l s i n S o u t h
22 D a k o t a o r N o r t h D a k o t a a n d l i k e w i s e ,
23 N o r t h D a k o t a o r S o u t h D a k o t a
24 A d m i n i s t r a t o r s m i g h t b e o n a r e v i e w
25 o f a j a i l i n N e w M e x i c o a n d s o o n .

1 I think that's a great way to share
2 expertise both if the jail is lacking
3 in something and you have somebody
4 coming in to review it or better
5 yet, to have a learning experience
6 for all the good things that are
7 happening in jails and take it back
8 to your own jail as a reviewer.
9 You'll have to publish kind of that
10 procedure also in conjunction with
11 the guidelines and would seek input
12 on that.

13 That's the most -- well, I was
14 going to say that's the most
15 important, they're all important, the
16 deadlines and all the issues are
17 critical. That's our most time
18 sensitive right now.

19 There are a couple of other
20 issues within TLEOA that are relating
21 to detention specifically and I have
22 to get this right, because I've mixed
23 up the words and it's turned
24 something totally different in to it.

25 One, we have to develop a

1 long-term plan for detention for
2 adults .

3 Two , we have to develop a
4 long-term plan for detention for
5 juveniles . And we're doing both of
6 those in conjunction -- in close
7 conjunction with the Department of
8 Justice . We are co-responsible for
9 those . Gina Tyner-Dawson who is here
10 is a member of a couple of those
11 workgroups . We will also have tribal
12 representation and in doing so we'll
13 do with tribal consultation those
14 plans .

15 We are getting the basics in
16 laying the groundwork for those plans
17 now , so I'm not -- I don't really
18 have anything solid to present to
19 you , except that we'll be working on
20 it and we'll seek your input . I
21 think we'll see great -- I'd like to
22 see greater use of our website so
23 that we can get information out to
24 you in a timely fashion and I think
25 DOJ also has that same intent and

1 they have websites that are up. So
2 it may end up being overkill on the
3 info but at least we will have that
4 out to everybody.

5 Another program that isn't
6 necessarily related to Indian country
7 detention, per se, but touches on it
8 and Joe may be -- Joe Little may be
9 discussing it. There is a
10 requirement for the Bureau of Prisons
11 to have a pilot program to take 100
12 Indian country prisoners who are
13 sentenced under enhanced authority,
14 sentenced under one of the major
15 crimes act. And the Bureau of
16 Prisons is working on that and the
17 expectation is that they will put out
18 information related to that either on
19 their website or through another DOJ
20 website and I don't know if that was
21 discussed this morning.

22 I will tell you that from my
23 perspective of where I sit, my one
24 concern is how to get those Indian
25 country prisoners into the Bureau of

1 Prisons and the ConAir System which
2 is a massive transportation system of
3 unbelievable complexity. And when we
4 take a situation like what is
5 required under this pilot program
6 it's somewhat out of the norm for
7 what the US Marshals are used to
8 doing which is taking and
9 transporting prisoners to their next
10 stop and getting them into that
11 transportation system. So my goal
12 will be to work with DOJ and its
13 components to have us be able to,
14 whoever is accepted into that BOP
15 Program, to go to the nearest jail
16 and become the responsibility of the
17 US Marshals, both custodially and
18 financially. Because we're prepared
19 to have to have Indian country law
20 enforcement transport these
21 individuals to distances close or far
22 where the BOP may designate the
23 prisoners.

24 In Oklahoma, for those of you
25 that don't know, at the airport there

1 is a thousand (1,000) bed federal
2 jail. That's where most planes fly
3 in and out of with prisoners every
4 day under -- the prisoners go through
5 there. And they also do overflow, I
6 think, at El Reno. So it may be
7 more -- it may be an easier task in
8 Oklahoma than it is in other parts
9 of the country. This only -- that
10 pilot program only applies to adults.
11 The BOP does not house juveniles.
12 They have responsibility for some
13 juveniles, but they do not house
14 them, they contract them out as do
15 the Marshal Service and Immigration
16 and Customs Enforcement. We are the
17 only federal agency that houses
18 juveniles, so it makes our job a
19 little bit more difficult.

20 Those are the issues right at
21 hand. I'm here until tomorrow. My
22 card is up here. Please feel free
23 to come up and talk to me and take
24 my card. Talk to Tracy and he may
25 have some views on the exercise of

1 developing the guidelines that he can
2 share with you. We're very excited
3 about it. And I know that -- just
4 one more thing that's kind of
5 exciting, not necessarily tied into
6 TLEOA, but kind of a by-product.

7 In recognition of the
8 importance of the juvenile issue the
9 BIA -- we have hired on my staff, a
10 juvenile expert with 30 years of
11 juvenile experience, some of which is
12 in Indian country, a significant
13 amount of his work has been done in
14 Indian country. He's now on my
15 staff in New Mexico and I think
16 that's going to offer some great
17 benefits to us in that -- his name
18 is Alex Escarsca (phonetic). And
19 Alex will be able to traverse the
20 intricacies of funding in the
21 juvenile laws and trying to get
22 enhanced services for Indian country
23 youth.

24 So, again, if you have any
25 questions, I'm here. Let me know if

1 I can help you out or do anything.

2 Thank you.

3 MR. CRUZAN: You know, one
4 of the things that I want to make
5 sure that we don't do, is I don't
6 want to be a warehouser of our
7 people in these correction
8 facilities. But as we've traveled
9 around, most places we've been we've
10 had IHS folks and we've had SAMHSA
11 folks traveling with us. I know
12 that in this group we have a lot of
13 providers that do programs, you know,
14 alcoholic programs and things like
15 that.

16 I want to tell you a story.
17 I know everybody in here has a
18 "Mike" that you've dealt with. And
19 I'm going to carry this story for
20 the rest of my life and it's not
21 anything that I'm proud of, as a
22 matter of fact, I'm a little ashamed
23 of it. When I was at Crow Agency, I
24 was the Chief of Police there for
25 the BIA and we had a fellow by the

1 name of Mike. And Mike was a great
2 guy when he was sober. Matter of
3 fact, he was -- he and I became
4 really good friends over the time
5 that I was there. But Mike had an
6 alcohol problem. And you could
7 almost count on Mike on a Thursday
8 or Friday night to go into Hardin
9 (phonetic) and somehow get some
10 alcohol, he would get intoxicated.
11 And he would go -- where ever he
12 went someone would call the police.
13 So my folks would have to respond
14 out there, and when was Mike was
15 drunk, Mike was a handful. Not a
16 very big guy, but just full of --
17 just anger when he was intoxicated.
18 So, you know, every weekend Mike
19 would get drunk, and our guys and
20 ladies would respond out there, and
21 about half the time somebody would
22 come back hurt. It would either be
23 Mike would get hurt because of the
24 way he was acting and he would get
25 injured or one of the officer would

1 get hurt. And so they would wrestle
2 him into the car, they would wrestle
3 him out of the car, they would
4 wrestle him into the jail and then
5 they would put him in there. And
6 then Monday -- we never did it this
7 way, Joe, but you could almost --
8 you could almost have done it this
9 way. You could almost open the door
10 to the cell and say, all right,
11 Mike, go get a shower, go get
12 cleaned up and then walk over to the
13 court and see the judge. And I
14 guarantee you Mike would have done
15 that. That was the kind of guy he
16 was when he was sober.

17 So we would take him over
18 there and the judge would go, Mike,
19 what are you doing here again?

20 Well, Judge, I got drunk and I
21 got in a fight and I did this.

22 Okay, two weeks, back in the
23 jail.

24 So what Mike, in essence, was
25 doing was a life sentence in two

1 week increments. So he would go to
2 jail, he would spend two weeks in
3 jail, and he would get out and he
4 would be okay for a few days, and
5 then Mike would get drunk again and
6 the process would start again. So
7 he was doing a life sentence in two
8 weeks.

9 But when he was in the jail or
10 in the correction center, he would
11 ask, hey, can I go see the chief?

12 And, of course, the corrections
13 people knew he and I were kind of
14 buddies. You know, buddies in the
15 sense of, you know, at work. And he
16 would come over and knock on the
17 door. "Hey, Chief, can I empty your
18 trash, can I vacuum the floors or
19 dust or whatever you need?"

20 Yeah, Mike, sure. Go ahead.

21 And we'd -- sometimes we would
22 even sit and have lunch together, you
23 know. But then I left and I think
24 -- I look back on that and I go, did
25 I ever do anything as the Chief of

1 Police -- and I had -- we had IHS
2 right there and we had all these
3 different programs, but it was -- it
4 was never a joke to me but it was
5 always kind of like, oh, Mike's back.
6 And, you know, the floors are going
7 to be clean and the trash is going
8 to be empty and he was kind of okay
9 with that life, but you know, it was
10 not good. He could have been better
11 and lived a productive life.

12 So I leave and, you know, I
13 carry that with me. Did I ever do
14 anything to help Mike? Did I ever
15 try to provide any connectivity to
16 anybody that could have helped him?

17 Well, flash forward. This
18 story, you may be thinking has a sad
19 ending and it's not a happy ending
20 because of anything that I did.
21 But, I'm in Denver with Carla and
22 our detention partners that were
23 there working on this issue and I
24 told that story, and, you know, not
25 proud of it at all. I look over and

1 there is a young lady sitting there ,
2 a big smile on her face .

3 I said what's are you -- what
4 so -- what?

5 And she said, I work at Crow
6 Agency and I know who you're talking
7 about .

8 And I said, really. How's
9 Mike doing?

10 And she said, not like you
11 think. Mike is now a counselor at
12 our alcohol treatment center called
13 Seven Hills, I think is what they
14 call it, on the Crow Indian
15 Reservation. But it's not because of
16 anything that I did, but somebody
17 saw, hey, I need -- we need to do
18 something here. Got him some help.

19 Now he's not only helped but
20 he's helping people .

21 And so now, again, flash
22 forward to the position I'm in. Now
23 I have an opportunity, you know,
24 sitting in -- as the Director to
25 say, look, we're not going to operate

1 the same way anymore. Warehousing
2 our people is not what we want to
3 do.

4 I'm also a police officer. I
5 put the vest on and responded to
6 calls at 11:00 at night and I know
7 there are some people that need to
8 be in jail. There are some people
9 that don't. And most of them don't.
10 Most of the people that I saw in
11 jail in Indian country, was not
12 because they were bad people, in fact
13 that is not the case at all it's
14 because they have alcohol problems or
15 drug problems or things like that,
16 that we now are thinking, well, let's
17 not just be warehouseers of our
18 people. Let's try to get them some
19 support and some help.

20 So that's my mandate to our
21 folks. And I wish our SAMHSA and
22 our IHS partners were here because
23 they are doing some pretty amazing
24 things as they work through this
25 Tribal Law and Order Act as well.

1 So that's a good story. It's
2 not any -- it's not something that I
3 did but it was a very good lesson to
4 me and, you know, that's my push
5 now, is that we're going to
6 incorporate prevention into this, and
7 recidivism, and we're going to try to
8 keep our people that don't need to
9 be in there out of our jails and get
10 them some help. And I want to make
11 sure that we're doing, not only
12 treatment, but, you know, when we do
13 have these folks that are
14 incarcerated for, you know, a certain
15 amount of time, what are we doing
16 with bureau of -- our Indian
17 education partners. What are they --
18 can you bring in some folks to help
19 get their GEDs or some of these
20 other life skills that we've got to
21 do.

22 So that's where I'm coming
23 from. I'd be really, very, very
24 interested to hear from anybody out
25 there that might have a -- this

1 might be part of what you do is
2 prevention or treatment. If you have
3 any thoughts or comments on what we
4 can be doing, you know, to help the
5 Mike's that are out there, they can
6 be very productive if they are given
7 the opportunity.

8 MS. YEAHQUO: My name is
9 Rowena Yeahquo. I work for the
10 Cheyenne/Arapaho Tribe. We got a
11 grant from the Department of Justice
12 to look into building a detention
13 center on tribal land. During needs
14 assessment we've come to the
15 conclusion that that's not what we
16 need is to house our tribal members,
17 but to build a justice center that
18 will have a traffic court, a short
19 term law enforcement jail and the
20 program that you were talking about.
21 Juvenile services, and drug and
22 alcohol and substance abuse, prisoner
23 program, domestic violence, all the
24 things that are contributing to the
25 incarceration of our tribal members.

1 You mentioned that this is
2 going to be a mandate for BIA. Just
3 exactly what kind of programs or
4 funding are you going to make
5 available for those programs?

6 MR. CRUZAN: Well, that's
7 not something that -- that's a
8 SAMHSA. You know, we've got 22
9 partners that have the responsibility
10 --

11 MS. YEAHGUO: The BIA
12 specifically isn't going to be active
13 --

14 MR. CRUZAN: Well, I mean,
15 I can't say BIA law enforcement
16 specifically. There are certain
17 things that we do. We do the
18 corrections part of it; we do the
19 law enforcement part of it and
20 investigations, and those kinds of
21 things. But we're reaching out and
22 saying, okay, partners who do that
23 kind of work, how are you going to
24 come in and help us? So SAMHSA is a
25 good example of that. IHS is a good

1 example of that. Like I said, I
2 wish they were here because there is
3 a new guy named -- his name is
4 Dennis Guemero (phonetic) and he's
5 the Acting Director for SAMHSA. He's
6 a great guy and sees it. He and I
7 have spent several hours together on
8 flights back and forth to these
9 things and we've talked at great
10 lengths about just those kind of
11 things and we see it very eye-to-eye.
12 Me, personally, there is not anything
13 I can do except for in our
14 facilities and as the voice, you
15 know, in Washington D.C. I can make
16 sure that we're getting those people
17 connected that do actually do those
18 kind of things.

19 MS. YEAHGUO: And another
20 question for you about the detention
21 facilities. Is that going to be --
22 is that just for long-term detention
23 facilities or just a short term in
24 the cell detention facility as well?

25 MS. FLANAGAN: The

1 guidelines --

2 MS. YEAHGUO: Uh-huh.

3 MS. FLANAGAN: -- it's
4 stated for long term but there
5 shouldn't be any reason that we
6 shouldn't aspire to have that for all
7 our facilities. Now I know that we
8 are going to invoke direct service in
9 tribally operated facilities. There
10 are many that we're going to have to
11 have a waiver process for because
12 there are things that we're not going
13 to be able to meet. And so we have
14 to develop a waiver process for both
15 the short term -- a short term
16 waiver for fixable things and then
17 things that may never be changed
18 because of physical plant issues or
19 things like that. So the intention
20 will be for it to cover all of the
21 facilities.

22 Now I want to kind of
23 elaborate on what Darren was saying.
24 There are really two issues.

25 One, we do need to stop

1 warehousing our prisoners. We need
2 to provide them with programs. And
3 we need to provide them with
4 treatment services and so on. We
5 need to do that irregardless.

6 But secondly, the plan that we
7 have to develop in conjunction with
8 DOJ and I was remising in not saying
9 IHS plays a big role in it, SAMHSA
10 plays a big role in it. We are all
11 required to be major partners and
12 contributors in this effort, so it's
13 not just a DOI/DOJ requirement. One
14 of those requirements is an
15 alternatives to incarceration.

16 And so I think what you're
17 planning or what you realized under
18 your planning grant, perhaps, is that
19 you need a concentration on
20 alternatives to that and that has to
21 be part of the plan that we have to
22 develop and so we're excited about
23 that.

24 MS. YEAHQUO: That was going
25 to be my next question which should

1 probably be directed towards you
2 instead. I know that I saw in this
3 Tribal Law and Order Act under
4 Section 404, that was going to
5 Construction of Tribal Justice
6 Centers that combine courts, police
7 and correctional services. And I was
8 just wondering when they make these
9 acts, how long does it take before
10 the funding comes to actually
11 implement them?

12 MS. FLANAGAN: Well, funding
13 didn't come. The funding doesn't
14 come with this act. There are some
15 interesting -- interesting
16 requirements and Gina may or may not
17 want to comment. I mean there are
18 some set-asides in here that talk
19 about if there is funding how much
20 money from the grants that flow
21 through to DOJ should be set aside
22 for Indian country specific. But
23 that's not -- that didn't come with
24 money. That's just if appropriations
25 are made in the future how those --

1 h o w t h a t w o u l d d o . B u t I t h i n k p a r t
2 o f t h e l o n g t e r m p l a n h a s t o a d d r e s s
3 - - w i l l c l e a r l y h a v e t o a d d r e s s t h e
4 f u n d i n g .

5 A n d i f I c o u l d j u s t t a k e a
6 q u i c k m i n u t e t o j u s t o u t l i n e t h e l o n g
7 t e r m p l a n f o r t r i b a l d e t e n t i o n w h i c h
8 h a s t o d e s c r i b e a d e s c r i p t i o n o f
9 p r o p o s e d a c t i v i t i e s f o r t h e
10 c o n s t r u c t i o n , o p e r a t i o n , a n d
11 m a i n t e n a n c e o f j u v e n i l e p r o g r a m s
12 c o n t r a c t i n g w i t h s t a t e a n d l o c a l
13 d e t e n t i o n c e n t e r s .

14 A l t e r n a t i v e s t o i n c a r c e r a t i o n
15 d e v e l o p e d i n c o o p e r a t i o n w i t h t r i b a l
16 c o u r t s y s t e m .

17 A n a s s e s s m e n t i n c o n s i d e r a t i o n
18 o f t h e c o n s t r u c t i o n o f f e d e r a l
19 d e t e n t i o n f a c i l i t i e s i n I n d i a n
20 c o u n t r y , w h i c h I l e a r n e d l a s t w e e k
21 t h e i n t e n t o f t h a t i s f o r B u r e a u o f
22 P r i s o n s ' f a c i l i t i e s , n o t f e d e r a l - -
23 n o t f e d e r a l B I A f a c i l i t i e s o r n o t
24 d i r e c t f a c i l i t i e s , b u t f o r B O P t o
25 d e v e l o p t h o s e .

1 And any other alternatives as
2 the secretary -- meaning the
3 Secretary of Interior, in
4 coordination with the Attorney
5 General of the Department of Justice
6 and in consultation with Indian
7 tribes determines to be necessary.

8 Now that's the long term --
9 that's one description of the long
10 term plan for tribal detention. So
11 I think the emphasis -- you know,
12 I've said it before, I'd like to be
13 out of the juvenile business, because
14 I think most of our juveniles don't
15 need to be locked up. I think they
16 need to be dealt with otherwise, in
17 all due respect to Tracy and the
18 great program that he runs. There
19 will always be some juveniles that
20 have to be locked up. And the same
21 with adults. I mean, I think we're
22 always going to have -- somebody said
23 it, I think Darren -- we're always
24 going to have people that we have to
25 lock up but we should lock up fewer,

1 lock up the more serious, provide the
2 programming for them and take the
3 others and get them the help and
4 assistance that they need rather than
5 locking them up.

6 MS. YEAHQUO: I just have
7 one other thing on here. It says
8 that any issues related to the
9 collection analysis of data for
10 tribes regarding Indian country crime
11 and spending on tribal public safety
12 justice programs.

13 There was a lot in the Law and
14 Order Act about the sharing of
15 information, getting the data from
16 the tribes to the appropriate justice
17 systems to get the data to the
18 Senate and everything.

19 In reverse, when we were doing
20 our needs assessment, we contacted
21 the Bureau of Indian Affairs to find
22 out just exactly what was the crime
23 and the incarceration rate for
24 Cheyenne/Arapahos in our area and
25 we're still waiting for that data.

1 That never came to us. We've
2 requested it and requested it from
3 Albuquerque, from Southern Plains and
4 for some reason that information is
5 just not available to the tribes.
6 Asking for coordination from the
7 tribes to you, we would like some
8 coordination to get that information
9 to us.

10 MR. CRUZAN: Is it
11 information that the states would
12 have or the counties?

13 MS. YEAHQUO: It's
14 information the Bureau of Indian
15 Affairs would have whenever they
16 arrest somebody on tribal land, they
17 should have a report of those
18 arrests.

19 MR. CRUZAN: Okay.

20 MS. YEAHQUO: They should
21 have a number; they should have how
22 many; what they are incarcerated for;
23 how long they were incarcerated,
24 where -- for this -- for our actual
25 tribe, we could not -- for our data

1 for grants and programs and we need
2 to get for our tribe and we
3 requested it from the Bureau of
4 Indian Affairs several times.

5 MR. CRUZAN: Well, let's get
6 together on that. That being said,
7 if it's okay with you, let's take
8 about a 10 minute break and we'll
9 come back, but we're pretty close to
10 -- we'll be here as long as you want
11 but we're pretty close to the time.

12

13

(Break)

14

15 MR. CRUZAN: I think if we
16 took another break we might be down
17 to like three of us. You know what,
18 I know this is kind of a -- and to
19 our DOJ partners, I certainly
20 appreciate you guys hanging in there.
21 I know that it can be a very long
22 day and you guys have been here
23 since 9:00 this morning. So I
24 appreciate you guys hanging in, it
25 shows a sincere concern and interest

1 in what we're doing and I really
2 appreciate that. That really kind of
3 wraps up the formal stuff that we
4 wanted to talk about. I guess at
5 this point, you know, let's just open
6 the floor up. You know, if there
7 are issues pertaining to the Tribal
8 Law and Order Act or if there are
9 issues that you would like, since
10 you've got us here, that you want to
11 talk about, certainly want to open
12 those up. Obviously, the Tribal Law
13 and Order Act is why we're here, but
14 if you guys feel satisfied that, you
15 know, you're kind of understanding
16 what's going to happen.

17 Here's the other thing, and
18 Palmer hit on it and I apologize.
19 We've been dealing with this Tribal
20 Law and Order Act at a 1000 miles an
21 hour for quite sometime. So we have
22 a pretty good understanding of what's
23 going on. But I sense that it's a
24 little bit of an overload for you
25 sometimes if you really haven't had

1 an opportunity to read through that
2 thing and understand it can be a
3 little bit overwhelming. So my hope
4 is that what you can do is you can
5 pull it up on the internet. There's
6 a 100 different ways -- thousands of
7 ways to find it and you can go back
8 and take a look at it. What I would
9 ask you to do is to look at those
10 issues that have deadlines, which are
11 the ones that we talked about, the
12 SLECs, the detention plan, and then
13 our background investigations for
14 officers, those have those short time
15 lines on them. And then if you
16 would pay extra close attention to
17 those as you go back and read up on
18 it and then probably I would say in
19 about two weeks or so -- don't make
20 any promises, but in about two weeks
21 you'll start seeing things on our BIA
22 Office of Justice Services webpage
23 that are in draft form, and it will
24 be a compilation of the things that
25 we have heard as we've gone out

1 through Indian country and talked and
2 put it together. And it will be a
3 -- it will be in draft form and then
4 you can take a look at that and make
5 comments on it. So that's what I'd
6 ask you to do. I know it's a little
7 unfair to ask you to come in and
8 have a real open debate about it and
9 talk about it, and more times there's
10 questions than conversation. This is
11 really an opportunity to have your
12 voices heard.

13 And it's exciting to me to
14 look around and, you know, every
15 place I've gone so far on these
16 consultations I've run into former
17 Indian Police Academy graduates that
18 were there when I taught, that are
19 now -- like Chief Payne, it's now
20 Chief Payne instead of Cadet Payne.
21 So it's exciting to me. And what
22 that does for me is it gives me a
23 real -- it gives me real hope and
24 real optimism that as I, you know,
25 said earlier when we first began,

1 t h e r e a l w a y s k i n d o f s e e m e d t o b e
2 t h a t , w e l l , t h a t ' s j u s t t h e w a y w e ' v e
3 a l w a y s d o n e i t . Y o u k n o w , w e ' v e
4 a l w a y s k i n d o f h a d t h a t k i n d o f
5 r e l a t i o n s h i p . T h i s g i v e s m e a r e a l
6 h o p e n o w t h a t - - n o w t h a t I ' m i n
7 t h i s p o s i t i o n a n d w e h a v e s o m e p e o p l e
8 s t a r t m o v i n g i n t o t h e s e C h i e f o f
9 P o l i c e p o s i t i o n s t h a t w e h a v e
10 r e l a t i o n s h i p s w i t h a l r e a d y , i t j u s t
11 m a k e s t h o s e k i n d s o f t h i n g s e a s i e r .
12 A n d , y o u k n o w , w e c a n h a v e r e a l o p e n
13 a n d c a n d i d c o n v e r s a t i o n s a n d I c a n ' t
14 m a k e y o u d o p u s h u p ' s n o w i f y o u
15 d i s a g r e e w i t h m e o r d o n ' t l i k e w h a t
16 I ' m s a y i n g . I t h i n k y o u s t i l l o w e
17 m e 25 t h o u g h , C h i e f .

18 M R . P A Y N E : P r o b a b l y .

19 M R . C R U Z A N : B u t a n y w a y . I
20 j u s t a s k t h a t y o u g o b a c k a n d t a k e a
21 l o o k a t t h a t a n d m a k e s o m e c o m m e n t s
22 o n i t s o t h a t y o u r v o i c e c a n b e - -
23 y o u k n o w , t h i s i s h i s t o r i c . T h i s i s
24 a g r e a t t i m e , v e r y h i s t o r i c .

25 Y e s , s i r .

1 MR. MILLER: I appreciate
2 you doing these sessions and getting
3 some things aired out that need to
4 be heard. My name is Frank Miller
5 and I'm with the Eastern Shawnee
6 Tribe. And I just want to say
7 up-front that we look at the Tribal
8 Law and Order Act as a great deal to
9 help us do our job and we're very
10 thankful that we've got it.

11 My question is about the
12 background checks. I know in the
13 cross deputation agreement that it
14 was filed in 2006 that we've been
15 operating under -- for our officers
16 to have the SLECs. Indicates in
17 there that SLEC cards can be denied
18 in the event of a guilty plea to a
19 felony. However, I know that there
20 are some that look at it a little
21 bit differently as far as
22 adjudication goes. Some word it as
23 though it has to be a conviction.
24 I've dealt several times with tribal
25 members that have applied for police

1 positions, and I've denied them based
2 on the fact that they entered a
3 guilty plea and received a deferred
4 sentence, which doesn't meet the
5 criteria to be classified as a
6 conviction, even though they filed a
7 guilty plea. Once they meet the
8 terms of their deferment, their
9 record is expunged and a regular
10 background check doesn't even reveal
11 the nature of the felony they may
12 have committed. However, I've got
13 case files on those applicants that
14 include handwritten confessions to
15 the felonies they committed, although
16 it's not classified by the legal
17 sense of the word, conviction, as a
18 conviction.

19 Can you speak to that just a
20 little bit as to where SLEC
21 applicants would stand if they had
22 pled guilty and received a deferred
23 sentence?

24 MR. MOSLEY: Argo, do you
25 think you could address some of that

1 to some degree? I mean -- I will
2 say this, in reference to the
3 guidelines it's a conviction of a
4 felony offense. That's what we were.
5 I understand what you're saying
6 because I've been asked this question
7 before.

8 Do you think you can address
9 that to some degree in reference to
10 expungement and things of that
11 nature?

12 MR. ARGO: Sure.

13 MR. MOSELY: I'm not an
14 attorney so I'll let the attorney
15 talk about it.

16 MR. ARGO: I'm not totally
17 familiar with what BIA requires.
18 Sometimes if you look at those
19 background inquiries they may, "have
20 you ever been charged with a crime
21 that's a felony". Obviously, if
22 somebody has been charged with a
23 crime and then went through a
24 deferral and ultimately the case was
25 either deferred -- they met the

1 deferral requirement and essentially
2 they were not -- didn't have a
3 judgment entered against them for a
4 felony, it would kind of depend upon
5 what the application asked for.

6 So "have they been charge" the
7 answer would be yes.

8 Do they have a conviction, I
9 guess the answer would be no. And
10 I'm not exactly sure what the Bureau
11 of Indian Affairs application for the
12 SLEC commission asks.

13 Does it ask a charge or does
14 it ask conviction?

15 MR. MOSLEY: I believe it
16 asks for any conviction. I'm wanting
17 to say that it was, if I'm not
18 mistaken -- I think we're looking at
19 a felony conviction. That's a
20 disqualifying factor. But we're also
21 asking on that application process if
22 you've had any type of conviction
23 regardless of whether it's felony or
24 misdemeanor within the last -- I'm
25 wanting to say seven years, if I'm

1 not mistaken. I don't have the
2 document in front of me, but I'm
3 wanting to say it goes back to a
4 seven year period. You know, list
5 any conviction including
6 expungements. When we get an
7 application we want to know
8 everything that we possibly can about
9 that applicant. Again, we can get
10 into -- the expungement question has
11 been posed to me before.

12 MR. MILLER: The question is
13 not so much about expungement but A
14 deferred sentence is not classified
15 as a conviction.

16 MR. MOSLEY: Correct.

17 MR. MILLER: Even though
18 there is a guilty plea and a
19 handwritten confession and I've got
20 -- gone out and gotten a handwritten
21 confession that they have -- that
22 they are guilty of kidnaping charges
23 and domestic violence charges, but
24 it's not a conviction.

25 MR. CRUZAN: But let me ask

1 you this, since we're having this
2 that now it's kind of turned into a
3 consultation. What is your -- where
4 do you come down on that?

5 MR. MILLER: I think that
6 if the wording said, that you are --
7 you're disqualified from an SLEC if
8 you've committed one of these acts.
9 It doesn't matter whether it's a
10 felonious act or a domestic violence
11 act, so be it, but if you committed
12 the act. That way, if you've got a
13 guilty plea entered, given a deferred
14 sentence and you meet the deferment,
15 but even though there is no
16 conviction entered, if you committed
17 the act and you've got the
18 handwritten confession, you can still
19 deny somebody that's guilty --

20 MR. CRUZAN: Right. And I
21 think the final -- that rests with
22 me finally and I've got to tell you
23 -- I take that pretty seriously
24 giving those SLECs out. And, you
25 know, I want to make sure that we're

1 not just handing those out and you
2 know, that we're getting the best
3 because that's a tremendous liability
4 that goes out with that as well.
5 That's something that needs to be
6 addressed and I didn't know that that
7 wasn't --

8 MR. MILLER: Well, on the
9 tribal police end of it we're trying
10 to step up to the plate and do the
11 right thing so we can improve the
12 quality of tribal law enforcement.
13 But yet, when you deny somebody a
14 tribal commission because our minimum
15 job requirements stipulate that you
16 have to qualify for an SLEC. But if
17 BIA will say, well, no there's no
18 there is no adjudicated for
19 conviction that has been entered then
20 we wouldn't deny them.

21 MR. CRUZAN: Right.

22 MR. MILLER: However, if
23 they actually committed the crime,
24 there is a guilty plea, I'd like to
25 be able to deny them.

1 MR. CRUZAN: Yes.
2 Absolutely. No. I just wanted to
3 make sure that you and I were seeing
4 it the same way, but, yeah, I agree.
5 We just need to make sure the
6 language in that Memorandum of
7 Agreement is strong enough that, you
8 know, supports you making those kinds
9 of decisions. I certainly see it
10 that way.

11 MS. FLANAGAN: If you just
12 want to qualify, for everybody in the
13 room, the background procedures are
14 also applied to corrections
15 officials. Sometimes the SLEC issue
16 and the backgrounds get combined but
17 they are separate issues.

18 In the backgrounds, the
19 specific sentence is:

20 In general, the Office of
21 Justice Services shall develop
22 standards and deadlines for the
23 provision of background checks to
24 tribal law enforcement and
25 corrections officials.

1 So for any of you that that
2 wasn't clear, just so you know it
3 applies to corrections.

4 MR. HAMILTON: Under that,
5 the corrections aspect, does that
6 also -- I heard that earlier, that
7 it also applied to the 638 contracts
8 with detention agreements. And I
9 want to just clarify this. When
10 this is implemented we are mandated
11 -- we are going to have to get these
12 done for our detention contracting
13 agencies. Or is that just specific
14 BIA long-term detention contracts?

15 MR. CRUZAN: So your
16 question is will the contracted
17 detention facility employees have to
18 have that background; is that what
19 you're asking?

20 MR. HAMILTON: Yes. If
21 that -- does that apply with our 638
22 contract?

23 MR. CRUZAN: You know what,
24 that's a good -- I don't know the
25 answer to that. Do you know the

1 answer to that one?

2 MS. FLANAGAN: It does with
3 your 638 police programs, right?

4 MR. HAMILTON: Well, no, we
5 contract our detention services out
6 to the county.

7 MS. FLANAGAN: Well, no.
8 It -- okay. In Oklahoma it would
9 not where you're contracting out to
10 the county facilities because those
11 county facilities have their own
12 background requirements.

13 MR. HAMILTON: Okay.

14 MS. FLANAGAN: It's where
15 you have a 638 contract with us and
16 you operate it, such as -- well,
17 Tracy's is a self-governance. But if
18 it were a 638, then it would apply,
19 but not when you export or contract
20 out your prisoners to another
21 locality.

22 MR. CRUZAN: I'm going to
23 ask a question too, Carla, but I'll
24 do it on the mic.

25 When we do those 638 -- or

1 when the tribes contract out to the
2 county, do the ACA standards -- do
3 we have a mechanism in place that
4 goes out and certifies them?

5 MS. FLANAGAN: No, we do
6 not.

7 MR. CRUZAN: Okay.

8 MS. FLANAGAN: I was
9 discussing this, I think, with the
10 judge here and this may or may not
11 surprise Darren, and I may or may
12 not have a job by the time we get
13 done in Florida by the end of the
14 week, but for a long time and to
15 this day we are not providing
16 services in Oklahoma; detention
17 services that we should be. We just
18 haven't been doing it because of
19 funding, is my understanding.

20 Do I have the funding now?

21 Not particularly.

22 Do we need to a needs
23 assessment again? The last one I
24 think we did was in '06 or '07, to
25 find out where you're housing your

1 prisoners and then we would have to
2 assume or try to assume some of that
3 responsibility. But right now my
4 understanding -- I mean I know that
5 most Oklahoma tribes are -- have
6 their own agreements with the
7 counties and the locals. Some of
8 them are mutual assistance agreements
9 as I understand it. Some of them,
10 as the judge is saying, you're paying
11 for the housing of prisoners.

12 I know that in the last six
13 months we took, I think it's at
14 least two prisoners, management
15 problem prisoners, we took custody
16 of, took responsibility for because
17 they we're just somebody that the
18 county wouldn't handle and that there
19 were no jails.

20 I'm here to admit we need to
21 do a better job with that. As long
22 as the situation continues with you
23 exporting those prisoners or housing
24 them in county or local facilities,
25 it's understood that the state or the

1 county or the locals have done their
2 due diligence in the background and
3 that -- at least right now that they
4 wouldn't have to meet the guidelines
5 because they meet other guidelines in
6 some states. Texas -- I mean Texas
7 is one of them, but Oklahoma isn't.
8 I think they have pretty stringent
9 Texas jail standards. In Oklahoma I
10 don't think they are as strong. But
11 we would rely on their operations for
12 the standards.

13 MR. CRUZAN: How many would
14 you say just on any given day
15 inmates do you have in a county
16 facility?

17 MR. HAMILTON: We average
18 three a month.

19 MR. CRUZAN: Three a month.

20 MR. HAMILTON: Yeah.

21 MR. CRUZAN: Well, is there
22 anything else? I don't want to --
23 I'm not here to rush you. This is
24 your time.

25 Yes, sir.

1 MR. HANEY: I guess one of
2 the main things is, Carla, you said
3 something about, you know, there's no
4 funding available but when there is
5 funding I really want you to look
6 our way, for one thing. Sometimes
7 with -- and you know the Sac and Fox
8 Nation Juvenile Detention Center is
9 there -- and I'm sorry, ma'am
10 reporter, my name is Tracy Haney and
11 I'm with the Sac and Fox Nation
12 Juvenile Detention Center.

13 THE REPORTER: Thank you.

14 MR. HANEY: But we lost the
15 regional designation as a detention
16 center. So I still haven't been
17 able to find out how or when that
18 occurred but I would like to obtain
19 that back. Because unfortunately
20 we've had total reliance or maybe
21 even a dependence upon a state
22 contract to carry us through. And
23 my opinion was they have become
24 problematic because I think that
25 infringes on our tribal sovereignty

1 when I have agencies and their
2 oversight agencies that we contracted
3 with wanting to come in and impose a
4 jurisdiction, maybe conduct
5 investigations and involved in
6 tribally placing children there as
7 well. I've denied them access and I
8 will continue to do so in that
9 regard. But without having, you
10 know, anything else to go on, I mean
11 it's kind of become a unnecessary
12 evil for us to enter into those
13 contracts. I would like to -- like
14 I said just, you know, for some
15 consideration to be looked at as
16 maybe, you know, what do we need to
17 do to get that status back? I know
18 that we're the only tribally operated
19 detention center -- juvenile
20 detention center in the state of
21 Oklahoma. And I know that there are
22 tribes that have had needs and I
23 also know that those tribes also have
24 their own problems with having
25 funding available to do this -- (All

1 partially inaudible due to
2 background.) -- have an appropriate
3 juvenile justice programs within
4 their own tribes. So I know that's
5 an issue that's always coming back
6 down to funding for this. But I
7 would like to see, you know, those
8 agreements, that contracts the
9 (inaudible) and see where we are
10 actually (inaudible) out there in
11 Indian country in regards the legal
12 fee issues where we can detain them
13 at our facility and while they are
14 there (inaudible) will provide
15 appropriate programming where the
16 time that they are there is a
17 productive and not idle time. But
18 unfortunately we got -- you know, we
19 could -- I think we have a real good
20 strong educational within our
21 juvenile detention center. We've
22 actually graduated students with a
23 high school diploma while they are
24 there.

25 But there is more to that. We

1 get a lot of kids with mental health
2 issues. I think it's important that
3 we have physicians on staff to be
4 able to address those issues and be
5 able to have that funding available
6 to contract a psychiatrist, you know,
7 to be able to meet those needs as
8 well.

9 Our clinic there within the
10 nation is (inaudible) at best as
11 well. You know, they contract with
12 a psychiatrist who when they contract
13 them they go to the clinic. They
14 will not go off site. You know,
15 when transporting our detainees to
16 the clinic poses problems as well,
17 because you know, if you're there
18 going to the clinic with your family,
19 you don't want to see somebody coming
20 through in leg irons and chains and
21 (inaudible) to come and get you and
22 there's some uneasy feelings. So I
23 think it's important that we consider
24 what those needs are, especially in
25 regards to juveniles because there is

1 an increased responsibility when we
2 take those juveniles as opposed to
3 adults. And I would just ask, you
4 know, for your consideration, to look
5 at those issues in regard to juvenile
6 detention as well.

7 MS. FLANAGAN: Thanks, Mr.
8 Haney. And based on what I saw
9 yesterday and without being too
10 presumptuous, I'd recommend to
11 anybody, the judges or anybody,
12 please coordinate with Tracy and, of
13 course, it's his house, his facility
14 and his nation but what a great
15 facility he has there. And the
16 services are certainly incredible.

17 One of the things that I heard
18 earlier was, I think Palmer
19 mentioned, about BIE participating
20 more. Well, when I talked to Mr.
21 Haney about the education there, the
22 county is in there and they are
23 graduating. They have cap and gowns
24 -- cap and gown graduations. And
25 there is nothing more important for a

1 kid, because I know there is nothing
2 more important for an adult than to
3 have a cap and gown graduation.

4 So I think one of the things
5 we have to do is figure out what the
6 unmet needs are in Oklahoma. I
7 think we have to somehow provide
8 support for those unmet needs. I'd
9 like to recommend that we start with
10 the juveniles and then if tribes and
11 nations are sending their juveniles
12 somewhere else, I'd like to recommend
13 and try and say that if we foot the
14 bill we could support Sac and Fox in
15 that program because of the Indian
16 centric values and the cultural
17 importance that are in that facility.
18 Now the one -- the one issue and for
19 those of you that are on the law
20 enforcement and the police side, I'll
21 be honest with you, the one issue
22 that we have is transportation. And
23 while we work on it, transportation
24 is a big issue for us. But we've
25 had some of the tribes with

1 management problems that we took, we
2 were lucky and the police chief
3 recognized that, and he transported
4 that prisoner -- it was an adult
5 prisoner -- and transported that
6 prisoner to where we placed that
7 individual. But, you know, if there
8 are juveniles in Oklahoma, tribal
9 youth that are sentenced, I think we
10 can certainly work something out to
11 keep them in Oklahoma, put them in
12 Sac and Fox, and allow them to get
13 the programming they need. That's
14 the first thing.

15 The only other issue that I
16 have that we've seen in some
17 locations, and we're working with
18 IHS, is treatment out of their
19 service area for IHS. And this has
20 become a problem in a couple of
21 areas. In other areas it's not. So
22 we would have to work through that
23 issue. That's kind of ours in
24 Washington but for those of you that
25 are here if you would participate in

1 our Unmet Needs Survey, we'll ask our
2 law enforcement folks to also help us
3 in getting that out. That will
4 allow us to evaluate what that is.
5 Thanks.

6 MR. CARTER: This is Randall
7 Carter again. And I just had one
8 last question for maybe, I guess,
9 Palmer.

10 This is with the SLECs. The
11 question I have is -- see I'm not
12 even sure about my own tribe about
13 the MOUs regarding SLECs. I guess
14 my question is, due to the Tribal
15 Law and Order Act because I know
16 MOUs and cross deputations agreements
17 have been challenged by defendants
18 against law enforcement agencies, the
19 validity of those.

20 I guess my question is, you
21 have 180 days to enact guidelines,
22 regulations, according to this act
23 regarding all of those; SLECs
24 included. I guess are you guys
25 going to post those online on all

1 the tribes that you have current MOUs
2 with, regarding SLECs?

3 MR. MOSLEY: Well, Randall,
4 there is basically three -- there is
5 three deputation agreements out
6 there. And we name them this.

7 There is the PL-280, there is
8 what we call the Reservation
9 Deputation Agreement, and then there
10 is the Oklahoma Agreement.

11 You know, we're looking at all
12 those agreements and we want to clear
13 up some of the gray areas. As you
14 just said there has been some --
15 there has been some case law
16 concerning some of that. And we
17 want to incorporate what some of the
18 case law is and clear up some of
19 those gray areas to where those
20 deputation agreements are a little
21 bit stronger. And right now we're
22 just in the process of getting input
23 from the tribes.

24 You know, 180 days from now on
25 January 25th we're not going to have

1 the final product. But we just have
2 that 180 days to get input from all
3 the tribes, suggestions and comments
4 on how to do that.

5 But you're absolutely right.
6 But, again, we have three different
7 agreements that we have right now in
8 place that we currently use in
9 BIA-OJS.

10 But, again, yes, we're in the
11 process of looking at every one of
12 those agreements, and, of course,
13 they have to go to the Solicitor's
14 Office and get final approval before
15 we start implementing those out in
16 the field.

17 And, again, we're not trying to
18 reinvent the wheel. I mean we want
19 to have a situation where you, as a
20 tribe, understand what we want and
21 then we understand what you need and
22 what you want. I mean we want to
23 have that openness there.

24 Also understand this, along
25 with the Deputation Agreement there

1 is also the SLEC policy on the side
2 of the BIA. And both the tribes and
3 BIA have to understand there is a
4 policy behind the agreement as well.
5 And what we're trying to do right
6 now is try to -- we're thinking
7 about incorporating a lot of the
8 policy into the agreement itself, so
9 that way it's kind of like a
10 one-stop shop where you don't have a
11 lot of questions out there.

12 MR. CARTER: Yeah. I guess
13 my biggest concern is once those are
14 finalized and tribes agree -- either
15 agree to them if they're wanting
16 those, are those going to be
17 published online on your website?

18 MR. MOSLEY: I would hope
19 so. I don't -- I would think that
20 eventually that would happen. I will
21 say this, the Oklahoma Deputation
22 Agreement is probably the best one
23 out there because it has the
24 addendums.

25 MR. CARTER: Right.

1 MR. MOSLEY: That doesn't
2 happen at the reservations and the
3 PL280 states. So the Oklahoma
4 Deputation Agreement is really
5 strong. And it's a lot easier
6 versus the other two agreements that
7 are out there. But I would hope
8 that eventually that would be posted
9 online and I agree with Director
10 Cruzan that this is 2010, we have to
11 utilize that technology.

12 MR. CRUZAN: You're talking
13 about the boilerplate memorandum
14 agreement?

15 MR. CARTER: Yes. Generally
16 the tribes have signed off currently
17 --

18 MR. MOSLEY: Yeah.

19 MR. CARTER: And I'm not
20 exactly sure which ones, who, where.
21 Not even my own tribe.

22 MR. CRUZAN: I just want to
23 make sure. Are you talking about a
24 list of tribes that have --

25 MR. CARTER: Yes. Because

1 I know just with Oklahoman's cross
2 deputation, there have been court
3 cases where they have challenged the
4 validity of the officer either to
5 make the stop --

6 MR. MOSLEY: Correct.

7 MR. CARTER: -- in a state
8 situation.

9 MR. MOSLEY: Randall, I've
10 seen that somewhere and I'm sorry I
11 can't remember off the top of my
12 head where I've seen a list of that
13 but it's also on the Oklahoma Indian
14 Affairs Commission. On their
15 website, you can look that stuff up
16 as well. But they don't have the
17 actual agreement online. They have a
18 list of all the agreements in place.
19 But you're absolutely correct, but I
20 can't remember off the top of my
21 head where I saw that at.

22 MR. CARTER: All right.

23 Thank you.

24 MR. MOSLEY: Absolutely. In
25 reference -- I'm sorry. I'll get

1 right back to you. I just want to
2 say one thing about that, Randall.
3 That list that you submitted in the
4 first session in reference to key
5 points. I can tell you that
6 coordination is the key to a lot of
7 that and it is being done.

8 Yes, ma'am

9 MS. DAWSON: The list I've
10 seen of those agreements is the
11 located at the National Congress of
12 American Indians website.

13 MR. MOSLEY: You're right.

14 MS. DAWSON: It's fairly
15 detailed, it's a variety of
16 agreements.

17 MR. MOSLEY: Yes, ma'am.
18 You're right.

19 MS. DAWSON: And I
20 frequently send people to that
21 location and it's probably something
22 that we need to look at as a justice
23 agency and how we could make that
24 more available on the website. So
25 thank you for the comment.

1 I again I'm Gina Tyner-Dawson,
2 with the Office of Justice Programs,
3 DOJ. If could borrow this time to
4 say where there are more
5 consultations occurring on Tribal Law
6 and Order Acts. I don't know if we
7 had a chance to make those
8 announcements this morning or not,
9 Argo, but thank you.

10 First to the Department of
11 Interior for letting DOJ join two of
12 them; April 14th in Billings, and the
13 one more recently in Albuquerque that
14 joined up with the summit and for
15 permitting me to sit in as an
16 observer today. We greatly
17 appreciate it.

18 We're also coordinating for a
19 session in Albuquerque with the
20 National Congress of American Indians
21 Annual Convention the week of
22 November 15th through the 19th. We
23 don't know exactly the details on
24 what day that will be, but we know a
25 number of people are planning to be

1 t h e r e w h i l e w e h a v e a l a r g e
2 c o n g r e g a t i o n o f t r i b a l l e a d e r s a t
3 t h a t m e e t i n g . A n d I ' m s u r e y o u d o
4 n o t h a v e t o b e a m e m b e r o f t h a t
5 o r g a n i z a t i o n i n a n y w a y w h a t s o e v e r t o
6 p a r t i c i p a t e i n t h e c o n s u l t a t i o n
7 s e s s i o n t h a t w e w i l l h a v e .

8 A f t e r t h a t w e w i l l b e i n P a l m
9 S p r i n g s , C a l i f o r n i a D e c e m b e r 6 t h
10 t h r o u g h t h e 8 t h . T h e f o r m a l
11 c o n s u l t a t i o n d a y w i l l b e o n D e c e m b e r
12 8 t h . W e ' r e v e r y p r o u d t h a t w e h a v e
13 a r e l a t i o n s h i p w i t h s e v e r a l f e d e r a l
14 d e p a r t m e n t s a s w h a t w e c a l l t h e
15 I n t e r d e p a r t m e n t a l T r i b a l J u s t i c e
16 S a f e t y a n d W e l l n e s s s e s s i o n s .
17 D i r e c t o r B l a c k i s a s i g n a t u r e o n t h a t
18 r e c e n t i n v i t a t i o n t h a t ' s g o i n g o u t a s
19 i s t h e S A M H S A A d m i n i s t r a t o r , t h e
20 D i r e c t o r o f I n d i a n H e a l t h S e r v i c e , m y
21 A s s i s t a n t A t t o r n e y G e n e r a l f o r O J P
22 a n d s e v e r a l o t h e r c o m p o n e n t s a t D O J .
23 B I A h a s b e e n w i t h t h e a g e n c y s i n c e
24 M a r c h o f 2 0 0 7 . T h o s e a r e
25 c o n s u l t a t i o n t r a i n i n g a n d t e c h n i c a l

1 assistance sessions, so you can
2 expect all three of those to occur
3 on Tribal Law and Order Act in that.

4 I have, yet, another website, I
5 apologize for that. It's
6 tribaljusticeandsafety.gov and that's
7 where you will find all the
8 information about that statute. And
9 we coordinate with the Bureau of
10 Indian Affairs on a weekly basis in
11 planning those sessions out. So
12 thank you again for that coordination
13 effort as well.

14 Quickly, the topics that we're
15 planning to cover in a formal letter
16 that went out to tribal leaders on
17 October 5th is the correction centers
18 for long term incarceration that
19 Carla has spoken about already today;
20 Tribal detention programs; Juvenile
21 detention and treatment centers; the
22 pilot project for transferring tribal
23 prisoners to the Bureau of Prison
24 facilities; and Indian country crime
25 data and tribal public safety and

1 justice programs .

2 Dennis Romero's name was
3 mentioned earlier, we are working on
4 an interagency agreement where he
5 will be housed almost half time with us
6 because of the significant
7 intersection between alcohol and
8 substance abuse, mental health
9 issues, and justice matters. So
10 we're excited about SAMHSA appointing
11 him as an acting director to help
12 all of us coordinating according to
13 the law .

14 And then finally on the funding
15 question, a dilemma that we're facing
16 at this hour across the government is
17 the continuing resolution. There are
18 wonderful new provisions in this and
19 lots to look forward to and see how
20 we're going to implement those. A
21 continuing resolution will limit full
22 implementation on any new programs or
23 any new funding. So everything that
24 we're doing at this hour through
25 December 3rd is based on the

1 authority that we have currently in
2 fiscal year 2010. So we will work
3 with, I guess, the issue of how do
4 we move forward implementing new
5 programs afforded under the laws with
6 the existing appropriations while
7 we're in an environment of what we
8 call the continuing resolution
9 authorized by Congress on an
10 incremental appropriation bases at
11 this time.

12 That was all I had to say. I
13 hope I said it quickly enough. I'm
14 here for a little bit longer too, if
15 anyone has any questions.

16 Thank you.

17 MR. CRUZAN: All right.
18 Anybody have any questions?

19 With that being said, I think
20 as we started a prayer, I think the
21 plan is to close with one.

22

23 (Prayer given by Doyle W. Argo)

24

25 MR. CRUZAN: Thank you again

1 for coming and have safe travels.
2 I'm going to be here as long as I
3 need to be, so if you would like to
4 talk to us about anything else, feel
5 free.

6

7

(Meeting Concluded)

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