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UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Tribal Law & Order Act
Consultation

TRANSCRIPT
OF
SAN DIEGO CONSULTATION
TUESDAY, OCTOBER 12, 2010

BEHMKE REPORTING & VIDEO SERVICES
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- 1 APPEARANCES:
- 2 WIZIPAN GARRIOTT
- 3 DARREN A. CRUZAN
- 4 SCOTT KEEP
- 5 PALMER MOSELY
- 6 JASON THOMPSON
- 7 CARLA FLANAGAN
- 8 JOE LITTLE
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- 1 TUESDAY, OCTOBER 12, 2010; 1:03 P.M.
- 2
- 3 MR. GARRIOTT: Okay. Go ahead and get started. For
Page 2

4 the initial kickoff -- (Indian language).

5 Good afternoon. We greet each and every one of
6 you with a good heart. My name is Wizipan Garriott.
7 I'm from (inaudible) in South Dakota where I grew up,
8 and I come from the we wrap our hair band there.

9 Before we begin, I'd like to ask that we start
10 off with a prayer, a prayer to have a good, productive
11 meeting. The work that we do is to make Indian Country
12 community safer, so it is important work.

13 I would ask Juana as I have many times in the
14 last year to start us off today.

15 MS. MAJEL-DIXON: Each of you can go in your own way
16 and prepare yourselves for this Indian prayer. (Indian
17 language).

18 I ask the Creator come here and be with us and
19 that we as leaders and people who guide and govern our
20 people that when we give breath to the words that we
21 remember that they no longer belong to us. They belong
22 to the people. That we give thoughtfulness in what we
23 say and do. That we open up our hearts to be clear, our
24 minds to be open to differences and understanding and
25 compromise.

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1 We have a great task ahead of us, Creator, one
2 that you put in our hands, to collaborate with our
3 allies in the federal interagency departments, but also
4 among ourselves as tribes and tribal leaders. I ask
5 that you guide each of us with great strength, great

6 knowledge, knowing that things that have already been
7 said in place. Let us be mindful of what those steps
8 might be. Recognize the friendships, recognize the
9 compromise, recognize the collaborative efforts that we
10 put together. All these things I ask and trust for your
11 guidance -- (Indian language).

12 MR. GARRIOTT: Thank you, Juana.

13 Before we get started, I guess we should do
14 very quick introductions so we know who everyone is.
15 Let's go ahead and start at the table down here.

16 MR. MOSELY: Good morning. Or good afternoon. My
17 name is Palmer Mosley. I'm a Special Agent with the
18 Bureau of Indian Affairs based out of Anadarko,
19 Oklahoma.

20 MR. KEEP: Good afternoon. I'm Scott Keep. I'm the
21 Assistant Solicitor for Tribal Government in Alaska, in
22 the Division of Indian Affairs in the Office of the
23 Solicitor in Washington, D.C.

24 MR. CRUZAN: Good afternoon. My name is Gary
25 Cruzan. I'm the new Deputy Bureau Director for the

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1 Office of Justice Services with the Bureau of Indian
2 Affairs. I'm very glad to be here and look forward to
3 hearing what's happening here in California.

4 MR. GARRIOTT: Again, Wizi Garriott. Policy Advisor
5 to Assistant Secretary for Indian Affairs.

6 MR. THOMPSON: Good afternoon. I'm Jason Thompson.
7 I'm the Acting Assistant Deputy Bureau Director for the
8 Office of Justice Services.

9 MS. CARLA: Good afternoon. I'm Carla Flanagan, the
10 Associate Director for Corrections, Bureau of Indian
11 Affairs.

12 MR. GARRIOTT: Let's go ahead and start here on this
13 side.

14 MR. PETERSON: Hello, everybody. My name is Frank
15 Peterson. I'm with the Sun'Aq Tribe of Kodiak, in
16 Kodiak, Alaska.

17 MR. HAYES: Good afternoon, everyone. My name is
18 Gary Hayes. I'm vice chairman of Ute Mountain Tribe in
19 Towaoc, Colorado.

20 MR. MENDOZA: Good afternoon. My name is David
21 Mendoza. I'm the Chief of Police for the Robinson
22 Rancheria.

23 MR. MARSTON: Les Marston with the law firm of
24 Rapport & Marston on behalf of the Robinson Rancheria
25 and the Hopland Band of Pomo Indians.

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1 MR. RHODES: Hi. Good afternoon. Brett Rhodes,
2 Chief of Police for Hopland Band of Pomo Indians,
3 California.

4 MS. BURKHARDT: Good afternoon. My name is Jill
5 Burkhardt, and I'm here on behalf of the United States
6 Attorney's Office for the Southern District.

7 MR. BARTON: Hi. Robert Barton, Holland & Knight.

8 MR. MOUNTAIN LION: Lt. Jason Mountain Lion,
9 BIA-OJS, Truxton Agency.

10 MR. LaROSE: Good afternoon. Erik LaRose with the

11 Ute Indian Tribe, Criminal Investigator.

12 MR. CHAPOOSE: Curtis Chapoose, Criminal
13 Investigator with the Ute Indian Tribe.

14 MS. HAMMONS: Hi. I'm Diane Hammons. I'm the
15 Attorney General for the Cherokee Nation.

16 MS. SANCHEY: Good afternoon. I'm Athena Sanchey,
17 Yakama Nation, Tribal Council Executive Secretary.

18 MR. BENALLY: Hello. I'm Alejandro Benally, Chief
19 of Police, San Carlos Tribal Police Department, San
20 Carlos, Arizona.

21 MR. HOFFMAN: Good afternoon. My name is Mitchell
22 Hoffman. I'm with the San Carlos Apache Tribal Council.

23 MR. BRANDENBURG: Good afternoon. I'm Tony
24 Brandenburg. I'm the Chief Judge of the Intertribal
25 Court of Southern California.

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1 MR. AGUILAR: Hello. Temet Aguilar, Court
2 Administrator, Intertribal Court of Southern California
3 (inaudible).

4 MR. CALICA: Judge Floyd Calica, Confederated Tribes
5 of Warm Springs.

6 MR. LEVINE: Good afternoon. I'm Mike Levine. I'm
7 the Chief of Tribal Law Enforcement for Morongo Band of
8 Mission Indians.

9 MR. MUNRO: Hello. I'm David Munro, the Emergency
10 Management Director to Morongo Band of Mission Indians.

11 MS. TAYLOR: Hi. I'm Leslie Taylor, Attorney
12 General for Delaware Nation, also elected secretary.

13 MR. HOLTON: Kerry Holton. President of the
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14 Delaware Nation, Anadarko, Oklahoma.

15 MR. HARJO: Good afternoon. Tim Harjo. I'm
16 representing the Tribal Law & Policy Institute.

17 MS. FREEMAN: Good afternoon. My name is Sharee
18 Freeman. I'm Director of the Office of Self-Governance
19 in DOI.

20 MR. MARTINEZ: Good afternoon. My name is Nick
21 Martinez. I'm the Police Chief of Tule River in
22 Porterville, California.

23 MR. LINDSEY: Paul Lindsey. I'm the Police Captain
24 of the Tule River Tribal Police Department.

25 MS. ALTHER: My name is Dorothy Alther. I'm Senior

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1 Staff Attorney with California Indian Legal Services
2 here in San Diego.

3 MS. HODAHKWEN: Good afternoon. My name is Marnie
4 Hodahkwen. I'm Assistant United States Attorney, tribal
5 liaison with the U.S. Attorney's Office in Arizona.

6 MS. PADILLA: Good afternoon. My name is Helen
7 Padilla. I'm the Director of the American Indian Law
8 Center. We administer the Southwest Intertribal Court
9 of Appeals.

10 MR. MICHAELS: Good afternoon. Michael Michaels.
11 Sycuan tribal former treasurer, former development
12 corporation, and also Sycuan Planning and Development.

13 MR. DENKE: Good afternoon. My name is Bill Denke,
14 with Sycuan Tribal Police here in San Diego County.

15 MR. CLARKE: My name is Gerald Clarke, Junior. I'm

16 Vice Chairman for the Cahuilla Band of Indians.

17 MS. THORNSBERRY: Hello. My name is Samantha
18 Thornsberry. I'm with the Cahuilla Band of Indians,
19 tribal council member, and domestic violence advocate
20 for the Cahuilla Consortium.

21 MR. WILLIAMS: Hi. Bill Williams, chief of the
22 criminal division for the U.S. Attorney's Office in the
23 District of Oregon.

24 MR. LEONHARD: Brent Leonhard, Deputy Attorney
25 General for the Umatilla Tribes in Oregon.

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1 MR. ADDLEMAN: Good afternoon. I'm Tim Addleman.
2 I'm the Chief of Police for the Confederated Tribes of
3 Umatilla Indian Reservation in Pendleton, Oregon.

4 MS. LESTER: Good afternoon. I'm Lauren Lester,
5 attorney for the Warm Springs Tribe in Oregon.

6 MR. SMITH: Good afternoon. I'm Carmen Smith, Chief
7 of Police for the Confederated Tribes of Warm Springs
8 out of Oregon.

9 MR. THOMAS: Ed Thomas, president, Tlingit and Haida
10 Central Council, Juneau, Alaska.

11 MS. MAJEL-DIXON: My name is Juana Majel-Dixon of
12 the Pauma tribal council member, first vice president of
13 the National Congress of American Indians.

14 MS. CALAC: Good afternoon. Bennae Calac, Pauma
15 Tribal Council.

16 MR. GARRIOTT: Thank you, everyone, for joining us
17 here today.

18 MR. LAWSON: Allen Lawson, Tribal Chairman,
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19 San Pasqual Band of Mission Indians.

20 MR. CONTRERAS: Mike Contreras, economic
21 development, president.

22 MR. GARRIOTT: Anyone else who joined us late in
23 order to --

24 MS. KUPSCH: Good morning. Francine Kupsch, tribal
25 spokeswoman for the Los Coyotes Band of Cahuilla and

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1 Cupeno Indians.

2 MR. GARRIOTT: Thank you.

3 welcome, everyone, especially those who have
4 had to travel a long distance to be here and attend
5 today's meeting.

6 very briefly, we're here to consult
7 implementation of the Tribal Law & Order Act that was
8 signed into law several months ago.

9 As many of you know, there are a number of
10 provisions that impact not only Department of Interior,
11 but Department of Justice, several other agencies,
12 including IHS, and also have some significant impacts on
13 tribes and tribal governments, and recognizing some of
14 their inherent authorities and expanding of some of
15 their inherent powers.

16 So it's a lot to do, it's a lot of work, and
17 there are some aggressive deadlines, which is why we
18 have this aggressive consultation schedule. I believe
19 we have six in all all during this month. A lot of our
20 staff is going to be on the road for a lot of this

21 month.

22 And we've responded fairly aggressively
23 internally. We put together basically an implementation
24 team of about six or so senior staffers who are working
25 kind of nonstop on this, pulling all this information

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1 together into developing this information and to meeting
2 our deadlines. And we're very focused on meeting the
3 deadlines that are specific to the BIA.

4 The white House is also taking a very -- a
5 strong leadership role in this and pulled together a
6 number of interagency meetings, asking us to work
7 together in the coordination and development of these
8 policies, especially the policies where they impact both
9 agencies at the same time.

10 Specifically, what we are most interested in
11 today are three provisions. Of course, we're ready and
12 willing to talk about all provisions of the act, but we
13 have deadlines approaching, three deadlines in January.
14 We have to meet those on January 25th, and those three
15 specific provisions are:

16 1. The Secretary of Interior must establish
17 procedures to enter into memorandums of agreement to
18 Special Law Enforcement Commissions within 180 days of
19 enactment;

20 2. The Secretary must develop minimum
21 requirements for SLECS -- a memorandum of agreement
22 criteria within 180 days of enactment with tribes;

23 3. The BIA must develop guidelines for

24 improving correctional centers for long-term
25 incarceration in consultation with tribes.

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1 And of course that provision refers to the
2 expanded sentencing authority of tribes from one year to
3 three years and making sure that correctional facilities
4 are suitable for long-term incarceration.

5 So that's what we're most interested in today
6 because we have to have this information produced and
7 ready to go by January 25th. But there again, I think
8 folks came with probably a lot of questions and also a
9 lot of recommendations regarding other areas of the law.

10 I'm going to ask our new director, Mr. Cruzan,
11 to say a few opening statements. And then after that, I
12 would like to ask the -- or open the floor up to any
13 elected tribal leaders who have any opening statements
14 that they would like to give.

15 MR. CRUZAN: Thank you, Wizi.

16 And again, as he said, I'm the new department
17 bureau director as of about two weeks ago. Not my first
18 stint in Indian Country. I spent about ten years with
19 the BIA, going through different positions there, ended
20 up in Washington, D.C.; left for about four years, went
21 over to the Department of Defense and worked at the
22 Pentagon. And this opportunity presented itself.

23 And I thought long and hard about the
24 ramifications that it would have on me professionally
25 and personally to take this position, and realized very

1 quickly that, you know, my heart and my passion are with
2 our police officers and our correction officers and our
3 telecommunication officers that are out there getting
4 their hands dirty every day. And I remember sitting
5 back when I was one of them, thinking if I ever had an
6 opportunity to get into a position where I could effect
7 some change or have some positive outcomes in what it is
8 we do out there, then I would do it. And sure enough
9 that opportunity presented itself.

10 In talking to some of you this afternoon
11 already and in the two weeks I've been in this position,
12 I've had several conversations with other tribal
13 partners across the country. And it's very clear to me
14 that our mission is the same. The outcome that we want
15 is the same. We want our communities to be safe. We
16 want our officers that are out there protecting our
17 communities to be safe. And we wish basically to
18 improve the quality of life of the people that are
19 living in our communities. And that seems to be the
20 common denominator that everybody has.

21 So, now, I also realize that one size doesn't
22 fit all everywhere. There are unique challenges
23 everywhere we go. But baseline, the foundation of what
24 it is that we're trying to do is the same: It's to
25 improve the quality of life of the people that are

1 living out there in the areas that we're responsible
2 for.

3 So I really am -- and I said this at our
4 meeting in Denver and I'm sure I'll say it at every one
5 of our consultations: Trust isn't just a given thing.
6 And I understand that. And as the director of the BIA
7 Office of Justice Services, I'm saying things right now
8 that I'm supposed to say. But it comes from clean
9 motives. It comes from a clear place.

10 And as I said, I know trust is not a thing
11 that's just given, it's learn earned. And so I
12 challenge you to keep me in check if any of my actions
13 as we go through this process together, not just today,
14 but I am talking about on through our time working in
15 Indian Country together, if something that I'm doing is
16 not in line with what I'm saying, then it's -- it's your
17 responsibility to let me know that and keep me in check.

18 But I tell you that, saying that my motives are
19 clean. I have a serious sense of urgency to get out
20 there and do what we're talking about, to improve, and
21 very, very anxious in listening to what you have to say
22 today. And I kind of feel like I'm rambling, but I hope
23 that you understand that's my passion for what we're
24 here to today.

25 So thank you very much for coming and I very

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1 much look forward to hearing what you have to say.

2 MR. GARRIOTT: Thank you, Darren. Can't say how
3 pleased and happy we are to have a permanent director in
4 place.

5 I also want to recognize Jason Thompson who
6 filled in on an acting basis and he's done an admirable
7 job and we're just very, very thankful for the
8 leadership he's provided the organization in the
9 interim. We're looking forward to Cruzan's leadership
10 moving forward.

11 Next, you know, I'd like to make sure that
12 elected tribal leaders have an opportunity to make any
13 opening statements that they would like. And after
14 that, we'll open it up to discussion and move forward
15 from -- from there. So with that, if there are any
16 elected tribal leaders who want to make opening
17 statements, please do.

18 MR. LAWSON: Yes. I am Chairman Allen Lawson for
19 the San Pasqual Band of Mission Indians, which is right
20 here in San Diego County, just north of San Diego.

21 My question is, you know, and it talks about,
22 you know, the inefficiency of Public Law 280 and the
23 ability, you know, for the federal government to fund,
24 you know, the limited law enforcement officers that we
25 have on our reservation.

1 Funding is really important for us to be able
2 to take care of our reservation. The Sheriff's
3 Department in San Diego County does do a fine job, but
4 they have limited resources, too. They don't have the

5 manpower to take care of our reservations like the city
6 has a regular police department. We're a rural Indian
7 reservation and we need funding.

8 A lot of reservations have one officer, two
9 officers, maybe five or six. But that's as far as we
10 can go until we get some funding on our reservation. We
11 don't have the ability of the FBI or the Marshals
12 Service or anybody else to come out there and patrol our
13 reservations.

14 We've had problems now where we have -- the
15 Mexican cartels are coming onto our reservations.
16 They're growing marijuana in the mountains, in the back
17 areas where we can't control it. It's quite an epidemic
18 on our reservation. And what we need is funding. And
19 we need funding because if the government is not going
20 to provide us with BIA police officers on our
21 reservations to protect our areas, then you have to fund
22 us so that we can hire and train our own officers.

23 And we need funding to send them to the
24 academies. We need funding to send them to the BIA. We
25 need to get them cross-deputized so that we can have the

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1 enforcement -- you know, enforce both the federal,
2 public, and state. It's very, very important for
3 somebody to listen to us, you know, along that level
4 there.

5 And I applaud, you know, President Obama who
6 has told us that he is working very, very vigorously,

7 you know, to provide Indian Country with the funding
8 that it needs and the access that we need to the public
9 departments that are important to our reservations.

10 But law enforcement is very, very important on
11 our reservations along with Indian health. You know, as
12 a tribal leader, I face these issues every day when my
13 tribal elders ask me about, "well, what are they doing?
14 They're saying they're going to do this, they're going
15 to do that."

16 And that's why I'm here today because I'm
17 interested in what are you going to do. Are you going
18 to fund us or not? Are you going to provide us federal
19 officers to live on our reservations and take care of
20 it?

21 Thank you very much.

22 MR. HAYES: Good afternoon. My name is Gary Hayes,
23 and I'm vice chairman of the Ute Mountain tribe.

24 I take this opportunity to address this
25 consultation meeting. Again, I think it really focuses

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1 around, again, on the budget issue. President Obama is
2 already wanting to balance the budget, and part of that
3 process is nondiscretionary funds that he's going to
4 freeze or cut at 10 percent or whatever that number's
5 coming out to.

6 There's going to be several questions. Do I
7 just ask all at once or do I -- or do you guys write it
8 down and respond back or how would that work?

9 MR. GARRIOTT: I think probably, unless folks have a
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10 different idea, I'll let tribal leaders make opening
11 statements, and then we can go back and address those
12 questions if that would be okay with everyone.

13 MR. HAYES: Okay. That would be my question. One
14 of the questions is, what's the position of the
15 Secretary of Interior as far as protecting Indian
16 programs from these cuts that have been proposed?

17 The next issue is the FBI, 19 million that was
18 set aside for FBI agents. How is that going to be
19 allocated or what areas are you going to begin focusing
20 on? And we'd like to be able to see where they'll be
21 positioned at.

22 As far as the corrections facilities, if we're
23 going to do long-term, can you identify these correction
24 facilities for long-term prisoners.

25 when you look at your facilities that you

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1 currently have, one of the things that I've noticed, and
2 I've looked at our facility, it's a regional facility,
3 the individuals, our tribal members, and we have several
4 that are incarcerated there, the food that they eat.
5 They have sandwiches for lunch and they have sandwiches
6 for dinner. Peanut butter or bologna sandwiches. If
7 you're going to do this long-term incarceration, there's
8 got to be a better way to feed our people in these
9 facilities.

10 My suggestion, the tribe's suggestion is
11 looking at ACA standards, the American Correctional

12 Association standards, where it cross-sections
13 everything. We're talking about not only detention, but
14 we're talking about programs that will help our citizens
15 who are incarcerated there with training, with
16 treatment. Because I think part of the solution has to
17 be looking at the (inaudible) of our citizens that are
18 incarcerated and help them, give them the tools to help
19 them to become better citizens, whether it's substance
20 abuse or whether it may be a mental issue, but the tools
21 and training to be able to hopefully help them as they
22 get released to -- again, to be citizens, to be
23 productive citizens in our communities.

24 The Special Law Enforcement Commissions, we
25 participate in that in the state of Colorado. The issue

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1 we have is with the county and the state. How can
2 our -- well, we're direct service. How can BIA officers
3 now -- we have some issues with the county and the state
4 not accepting BIA officers as far as cross-deputizing,
5 going in reverse, being able to --

6 what's happening on our reservation is that we
7 have non-Indians coming on our reservations, committing
8 crimes. It may be minor, but for us it's serious,
9 especially when there's altercations. And we call the
10 county and the county -- and they would have to wait,
11 who knows, up to an hour for a response.

12 what we'd like to see is to be able -- BIA
13 officers to be able to give some type of authorization
14 so they can take them to county instead of waiting for

15 the county police to show up, and they can have that
16 same authority to do that.

17 Right now, our county is balking on it because
18 they're saying, "Well, BIA has to meet your standards."
19 So I'm hoping that with the policies that you come up to
20 be able to address that issue. And also to talk about
21 the sentence.

22 As you know, a lot of counties and states have
23 fiscal problems also. What's the incentive for them to
24 be able to cooperate with us? You know, you think about
25 a lot of tribes throughout Indian Country, the counties

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1 and the tribes don't have a great relationship. Let's
2 be honest. There's racism. And those are the issues.
3 What would guarantee that if we want to move forward,
4 how would they be able to participate and how can we
5 make it mandatory that if you have a reservation in your
6 county that you will participate, whether it's tribal or
7 BIA, that you will be able to assist whatever needs to
8 ensure that the community is protected?

9 So those are just some of the opening remarks I
10 want to make because I think as we move forward, as we
11 know in our communities, as we try to become
12 self-governing and self-determining, what we would like
13 to do -- safety is prime. Anytime you try to do
14 economic development, foremost is -- key is to have a
15 safe and secure environment, where investors can come in
16 and feel secure about the due process and court issue.

17 And I'm hoping that we will meet with the
18 Interior to work with the Department of Justice and work
19 with IHS. Because our facility, we still have an issue
20 with medical clearance issues. I know, especially the
21 rural areas, if they're -- that's going to be a big
22 issue. Some of these hospitals will not accept BIA
23 because of the lack of funding at IHS. There's got to
24 be cooperation from IHS and BIA. Because the nearest
25 hospital we have, which is in Cortez, is 15 miles away,

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1 north from us. They will not accept any arrested person
2 to be medically screened in their hospital because the
3 issue becomes: where's the funding?

4 Right now, there's bill (inaudible) that's been
5 on there for two years now. And BIA is pointing at IHS,
6 IHS is pointing at BIA, saying, "We didn't arrest them."
7 BIA is saying, "We're not a health care business.
8 That's not our responsibility." And so now we have to
9 go -- the BIA officers have to go 32 miles south of us
10 to get these medical screens.

11 So I'm hoping this issue will be looked at. As
12 you talk about building facilities in the future, that
13 needs to be addressed. And mainly we're dealing with
14 IHS is the treatment.

15 So those are just my opening comments. Thank
16 you very much.

17 MS. KUPSCH: Yes, hi. Again, my name is Francine
18 Kupsch, tribal spokeswoman with the Los Coyotes Band of
19 Cahuilla and Cupeno Indians, and we, too, are in a very

20 rural area of San Diego County. We are in the northeast
21 corner of San Diego County where we have a lot of --
22 well, not a lot, but we are seeing some issues with
23 marijuana and illegal growing on -- you know, around our
24 reservation. And that concerns me in regards to the
25 Public Law 280 and the issues that we have with the

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1 county.

2 And just as Chairman Lawson was saying,
3 explaining to you all that the issues here are very
4 concerning for us tribal leaders here. And that is why
5 I'm here today: to hopefully work these out and listen
6 and learn and see if we can try to get this -- moneys
7 down for our people so that we can be safe and protected
8 in our communities.

9 Thank you.

10 MR. THOMAS: Greetings from Alaska. My name is
11 Edward Thomas. (Indian language.)

12 As I mentioned earlier, I'm the president of
13 the Tlingit and Haida Central Council Tribe of about
14 27,000 tribal citizens. And I was very honored to be at
15 the signing ceremony of this particular law and really
16 was very pleased that the Congress passed this and Obama
17 signed it into law.

18 One of the reasons I'm down here is because I
19 had not seen any scheduled consultation for tribes in
20 Alaska. And I know that budgets are tight, but we have
21 approximately 230 tribes, federally recognized tribes in

22 Alaska. And the distances are vast. Small tribes can't
23 afford to even fly into Anchorage for a consultation,
24 let alone to San Diego. And so it really does create a
25 huge hardship on the tribes in Alaska.

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1 You know, I know that there's been discussions
2 within the people who are in the know that maybe because
3 there's not reservations in Alaska, maybe somehow we
4 need to be treated different.

5 Let me assure you that this law, we did provide
6 amendments in the law that equalled the playing field,
7 if you may, for Alaska tribes. And I just want to point
8 out that, yes, there is one reservation in Alaska, and
9 within southeast Alaska we have two tribes that have
10 trust land. And we have thousands of acres of native
11 allotments and village sites in Alaska. And so I know
12 that there are often charges that maybe we should not
13 really do so much in Alaska.

14 One very important provision that Section 201
15 made changes to Public Law 280. That law was a mandate
16 that there was not going to be tribal jurisdiction over
17 misdemeanors. Now, this particular provision makes it
18 possible in six states, including Alaska, and that
19 includes California, Minnesota, Nebraska, Oregon, and
20 Wisconsin, and it's very important for us in Alaska that
21 the Department of Justice and the Department of Interior
22 come up with a strategy on how we will go about
23 requesting and hopefully granting concurrent
24 jurisdiction in some of our areas.

25 The law also mandates some studies. And I

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1 heard the comment that there's some very short time
2 frames. And in the law this is one area that has a
3 short time frame.

4 Now, we in Alaska, because of my opening
5 statement that I made earlier, really would be one of
6 those areas that really should be studied by the
7 Department of Justice and the Department of Interior. I
8 can't think of anywhere in the nation where we have such
9 vehement clashes with our state government over tribal
10 issues. The state constantly challenges our small
11 tribal jurisdictions in our rural community. It refuses
12 to fund police officers and municipal courts within our
13 villages, but yet it goes and discredits the tribal
14 courts that are native in our villages.

15 And so this is really a very important
16 provision in the law that really I'm asking that a
17 little bit more aggressive action be taken. I believe
18 that there are lawsuits that have been settled that kind
19 of clears the air, but it really does take an
20 administrative interpretation of this law to make it
21 worthwhile for us to move forward in Alaska.

22 Another section is Section 301(c), the Indian
23 Law Enforcement Foundation. Now, while that law is
24 somewhat limited in what it can do in Alaska, the one
25 thing that is very important is how the BIA interprets

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1 it for Alaska. And that's right in the language. And
2 so we don't know who's going to be in charge of making
3 that interpretation. If we can create a dialogue.

4 If you'd rather I write up the interpretation
5 and you sign it, that would be fine, too.

6 But this is very important to us in Alaska.

7 The other that is along the same lines is
8 Section 305 that establishes the Indian Law and Order
9 Commission. Now, while I totally agree that most of the
10 issues dealing with this act is on reservations, I
11 believe it's also important to have a voice from the
12 200-plus tribes in Alaska. And so I really hope that as
13 you go through these hearings that you will keep in mind
14 the many, many issues that we have with law enforcement
15 in our rural communities in Alaska and with our many
16 small tribes.

17 Our tribes are very isolated as you may
18 imagine. Many of the communities, if not all of them --
19 I shouldn't say all of them -- do not have road systems,
20 metropolitan areas. Everything is by small plane or
21 boat. In my region, boat ferries are used up north. In
22 the remote areas, they have to fly. And that's pretty
23 expensive. And so when you're initiating law
24 enforcement over even a misdemeanor, it gets very
25 expensive to have law and order and justice served when

1 all of the magistrates, et cetera, are in urban centers
2 elsewhere or in hub communities.

3 Another provision that I'll close on is
4 Section 407, improving public safety in rural Alaska.

5 Now, this, once again, is very limited in
6 scope, but the issue of training is brought about. And
7 we have contracts with the state government to provide
8 what we call village public safety officers. They're
9 not certified in the sense of carrying side arms, but
10 they are law enforcement in the sense they do keep peace
11 in the communities. And it's very important that they
12 get adequate training. Because if they don't have good
13 training, they not only put themselves at risk, they put
14 also other people that are dealing with that at risk
15 unknowingly.

16 I think that one of the more important things
17 that this section also does, it repeals the 2003
18 appropriation rider that prohibited certain Alaska
19 tribes from receiving Department of Justice grants for
20 tribal courts and police services. That is very
21 important for us. Not because we know you've got lots
22 of money. It's important because we really find it very
23 awkward and difficult when we're dealing with a rider
24 that set Indian policy. It really should be public law
25 that sets Indian policy and not riders. And so I'm very

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1 thankful for this provision on behalf of Alaska tribes.

2 And with that, I'll close and I thank you for

3 having given me this opportunity. I thank you for
4 having this hearing. I wish you well. Thank you.

5 MS. THORNSBERRY: Hi. My name is Samantha
6 Thornsberry again. I'm tribal council member for the
7 Cahuilla Band of Indians. More importantly, I'm a
8 domestic violence advocate for the Cahuilla Consortium,
9 which basically consists of three tribes in
10 Southern California: Los Coyotes Band of Cahuilla and
11 Cupeno Indians, Cahuilla Band of Indians, and Santa Rosa
12 Band of Indians.

13 I started this job on February 1st. I was an
14 educator before that. And so I really -- you know, I
15 jumped in wholeheartedly. And I can tell you today that
16 it's a job that needs to be done; that there are native
17 women and children out there that need everybody's help.
18 And I've been busy. And I'm here today because what
19 we're doing here today will save lives of Indian women
20 and children especially.

21 I wanted to say that what has made my job hard,
22 what I've recognized since doing this work, the first is
23 just lack of coordination between services, county
24 services as well as native services. You know, it's
25 like one hand doesn't know what the other hand is doing.

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1 And part of my time on this job has been doing outreach
2 and trying to bridge the gap. Because ultimately, in my
3 experience, even within the past couple of weeks, when
4 there's a domestic violence call on my reservation, that
5 call is going to come to my cell phone. Not 911 or

6 Riverside County Sheriff's Department. It comes to my
7 cell phone. And as a DV advocate and council member,
8 you know, I've got to figure out what to do.

9 So just coordinating services, bridging the gap
10 with services, creating trust -- again, reiterating on
11 what's been said about the inefficiency of Public Law
12 280, and just the whole -- you know, the buzzword I
13 think now, the coined term of jurisdictional maze when
14 it comes to jurisdictions and the SLEC certification and
15 our officers not being recognized and what they can
16 enforce. I mean, it is a nightmare. And it makes my
17 job and what I do for native women even that much more
18 difficult. And we have to -- you know, the common
19 denominator is to keep these women alive and safe. And
20 we've got to all get on the same page.

21 The last thing -- I don't have statistics.
22 When I jumped in -- this shows you how naive I was.
23 When I jumped into this position, I wanted to know what
24 were the statistics for these three reservations. So I
25 went to the Riverside County Sheriff's Department and

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1 said, "Can you look in your database and tell me how
2 many times have you been, let's say, to my reservation
3 for domestic violence calls and give me the data. I
4 want to know what I'm working with."

5 well, the data is very skewed. It doesn't
6 paint an accurate picture because the number of calls
7 might be for calls to the casino, and that gets lumped

8 into the information or the count. There's no data, I
9 can tell you that, because things are not being -- you
10 know, these cases are not being prosecuted.

11 And just to kind of close out, as a reminder:

12 "Indian reservations nationwide face violent
13 crime rates more than 2.5 times the national rate.
14 Some reservations face more than 20 times the
15 national rate of violence. More than 1 in 3
16 American Indian and Alaska Native women will be
17 raped in their lifetimes, and 2 in 5 will face
18 domestic or partner violence."

19 I'm reading from the Department of Justice
20 Tribal Law & Order Background that was e-mailed out.

21 I'm skipping down.

22 "However, over the past 5 years, Federal
23 officials have declined to prosecute 50 percent of
24 alleged violent crimes in Indian Country, including
25 75 percent of alleged sex crimes against women and

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1 children."

2 So -- and then just looking at the major
3 provisions that Tribal Law & Order Act -- you know, the
4 background, the key words that stand out to me are
5 these. I've highlighted them: sharing; improved
6 transparency; increased training; authorizes, increases
7 deputation; authorizes, increases, expands training;
8 tribal police access; programmatic reauthorization.

9 So I think we all recognize what the problem
10 is. It's just how to get there.

11 And thank you. I'm not well versed in all the
12 legislation and all the language, but I'm at the front
13 line and I can share with you my experiences and, again,
14 what makes my job harder to do.

15 Thank you very much for your time.

16 MR. MAJEL-DIXON: I've got my notes and I've got
17 what I need to say to you and I've got to hold this
18 blessed thing down.

19 There's a couple of things I wanted to say.
20 And what I think is really critical and is important to
21 understand is I do not misinterpret Public Law 280 when
22 it comes to Pauma. Our tribal leadership has a
23 relationship with our general council, which is all our
24 tribal members. We have exclusive jurisdiction over our
25 tribal members. We don't give it to anybody nor do we

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1 give it out. What we do require is that anybody that
2 comes to Pauma, is that they are governed by our laws,
3 our tribal laws. We also have an understanding that
4 after 48 hours being on our reservation, if you don't
5 state why you're there, we escort you out. We also have
6 an understanding that if you come to Pauma, you enter
7 into an understanding. Even members who are non-member
8 Indians, who are members of another tribe, have to sign
9 a memorandum of understanding or agreement that they are
10 willing to be governed by our laws or they have to
11 leave. We have asked tribal members to give up
12 relationships with their partners if they were not

13 willing to be governed by our laws. These are things we
14 had to do in order to maintain exclusive jurisdiction
15 over our tribal membership. This has nothing to do with
16 the federal government. This has to do with our
17 authority, our inherent sovereign authority, having
18 sovereign authority over the citizens of our nation. We
19 don't give this up, nor will we ever give it up. Nor
20 have we given it up because Public Law 280 exists in the
21 world. We what have learned to do is to compromise.
22 Even those tribal members who are of mixed blood, of
23 another nation, whether it be Cheyenne, whether it be
24 (inaudible), whether it be Ute River -- we have gone to
25 those nations and entered into full-faith relationships.

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1 Even with (inaudible) Pueblo, we have entered into
2 relationships with them because our children are all of
3 those bloodlines. Our children have to be governed by
4 their laws when they go there. We as a family had to go
5 to (inaudible) and make a restitution because we had a
6 nephew who was out of line one summer.

7 So the tribes here are not ignorant of what it
8 is to do jurisdictional relationships with one another.
9 We don't have jurisdictional unclarity. It sits in the
10 hands of the federal government. We're here to help you
11 get clear on how to make this happen. The Tribal Law &
12 Order Act was created so that we can begin to walk that
13 direction. There are things that are cleverly being
14 used. I think the antiquated rules of Public Law 280 is
15 so outdated that the state and the federal government

16 does not want to be held accountable for their lack of
17 trust, responsibility, and caring for the protection of
18 the tribes who were subjugated to their cruel law. It
19 was never sanctioned by the tribes to have that law
20 govern us. But you're not holding yourselves
21 accountable for what you let this law become. And while
22 we allow our brothers and our relatives who are not
23 Indians, who are our contemporaries, who sit out there
24 in the world next door to us, who are ignorant of who we
25 are because this country still practices

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1 institutionalized racism. It does not bother to teach
2 us to the young in the public school system so they know
3 that they have a relationship with us. So we put that
4 aside. We still work with you. We still have the
5 passion. We still have the desire to still maintain
6 this relationship. But we have jurisdiction over our
7 citizens. If any tribe in here does not have that
8 responsibility, then take that responsibility --
9 everybody here doesn't take that responsibility lightly.
10 It's something we cherish and care about. Yeah, we can
11 talk about what might be personally going on in anyone's
12 personal reservation. And, yes, tribal councils and
13 tribal chairs and anyone who is elected officers, their
14 phone gets called for anything that goes on the
15 reservation. They're held accountable. I don't care if
16 it's fixing the plumbing in an elder's home or he's
17 going to take care of a kid who fell in a ditch. It's

18 whatever it is, these council members are held
19 accountable. They are the front-line jurisdiction.
20 Now, we have grown because we've brought things onto our
21 reservation that has (inaudible) the population that is
22 non-Indian. But what has been perpetuated on Indian
23 Country is the lack of responsibility, prosecution, and
24 accountability of the federal government for the crime
25 that has been allowed to go unchecked in Indian Country.

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1 we know that organized crime is at our doors. We know
2 that we have drug traffic that's going on. We know that
3 we have sexual crimes that are at a rate they shouldn't
4 be. It is horrible to know that one out of three native
5 women in this room alone, let across the nation, will be
6 assaulted or raped in this country by a perpetrator that
7 is -- either 70 percent of them are either black or
8 white. You know, this -- where is that accountability?
9 We understand that, yes, you have increased the
10 jurisdiction or the sentencing power of the tribes. But
11 you really use words cleverly when (inaudible) says you
12 give us greater authority. Hell no. You don't give us
13 greater authority. You bumped it up three years to five
14 years. That's not a whole lot of authority when the
15 sentencing is 10 to 15. You know what I'm saying. You
16 know what I'm talking about. When we look at these
17 collaborative relationships, we look at the county, we
18 look at the county not being educated from the get-go,
19 K to 12, want them to establish a relationship with the
20 tribe locally, and now we ask them to look at the SLEC,

21 the state local commission -- you know what I'm talking
22 about, things of priorities there -- I'm drawing a blank
23 on the name. But anyway, what I'm talking about is
24 you're talking about standardizing the equipment,
25 standardizing the appearance, standardizing -- coming up

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1 with a uniform code that is recognizable. I mean, you
2 can simply put a T in front of the state code and -- as
3 a tribal code and make it more uniform so that we can
4 carry out the jurisdictional processes that need to be
5 done. We don't need to make this complicated. It's
6 doable.

7 One of the things we look at when we see how to
8 enhance provisions of the Special Law Enforcement
9 Commission is that we're being asked to consider what is
10 long-term incarceration, how do we deal with the
11 recidivism and relapses and re-incarceration, and we
12 looked at the fact that when you look at the money
13 that's been put out there, that you have \$201 million
14 set aside in an '06 budget that hasn't increased much
15 except by 1.7 million, so you've only increased the
16 budget in the last, oh, what is that, last eight years
17 by 2 million. Then you throw in \$200 million to the
18 Bureau for building up detention facilities and
19 improving upon them, but there's no communication in the
20 strategic plan that's going on with the BIA and making
21 this happen. The money's being dolled out when
22 (inaudible) the issue of what's going to be done with

23 discretionary funding. I do believe we need to approach
24 this with absolute (inaudible). And each of our
25 partners' relationships, whether it's HHS, VHS, SAMHSA

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1 or BIA or DOI or BODOP (phonetic), that there needs to
2 be money set aside to help further this act along. It's
3 to help all of us. We're to have clarity in our
4 jurisdictional authority, but you're not putting the
5 money behind it. So let's do that.

6 One of things you also -- you were willing to
7 look at the -- at the statistics for what is right is
8 you look at the Argus report and you look at the
9 aggravated assaults in a four-year period from 2006 to
10 2010, there are 22,000 aggravated assaults in San Diego
11 County alone. When you figure in San Diego County you
12 have 29,000 Indians in urban populations and roughly
13 about 22,000 in the county, that when you look at those
14 numbers and you do the statistical formula that's being
15 applied by VJS (phonetic) and applied by NJCNS
16 (phonetic) and by the current stats that are out there
17 with DOJ, looking at just sexual assaults, looking at
18 rape, looking at domestic violence, and you have no
19 (inaudible) how aggravated assaults -- are they issues
20 of substance abuse? Are they issues of domestic
21 violence? Are they issues of rape? They don't separate
22 them out. But then I did a comparison with the Argus
23 report, in the same time period (inaudible), the FBI,
24 the BIA, and these guys don't share statistics. And in
25 speaking with them, I looked at just the nine

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1 reservations in north county San Diego, and I saw that
2 there were over 700 rapes in that four-year period that
3 were reported by the Bureau. Of those rapes that were
4 reported, the 700 that were reported, only 80 of them
5 were subject to any kind of prosecution. But because of
6 lack of chain of custody, of evidence, and the fact that
7 we don't have prosecuting agents out here. We don't
8 have FBI special agents because everybody wants to cloud
9 the issue with the Public Law 280. The BIA was the
10 biggest culprit of that, I can guarantee you, up until
11 we got rid of Ragsdale. And I don't know where you put
12 him, but whatever you did, he was our worst culprit,
13 perpetrator, as far as I was concerned because he didn't
14 think the jurisdiction existed in (inaudible) and we
15 don't need to be taken care. Go ahead, rape us. That's
16 essentially what he was saying. And I'm not going to
17 hide this from him. I'll say it to his face and I think
18 that I have. But the thing is, is that when I look at
19 these issues and I look at what you're trying to
20 establish, (inaudible) is a good thing, TLOA is a good
21 thing. But when you look at the long-term, when you
22 look at 132 beds, at a minimum you need a 20-member
23 staff, you need roughly 150,000 square feet. What kind
24 of money are you willing to put behind giving California
25 a correctional facility that can house long term; that

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1 can look at not only the administrative offices, but
2 examining its facilities to include culturally
3 appropriate services, active care service for the
4 prevention of relapse and re-incarceration, and have
5 jurisdictional clarity that we would enter into an
6 agreement as California tribes and (inaudible) agreement
7 that we would utilize this correctional facility from
8 across the state and enter into a relationship with our
9 brothers in Nevada, Arizona -- and who's above us.
10 Oregon or Washington. I can't remember right now. But
11 anyway, these are things that we could do. And when I
12 look at the tribal (inaudible) programs, you want us to
13 be held accountable for reporting additional data
14 (inaudible) to Indian Country. Who is going to control
15 the data? What are you going to do with the existing
16 data that's out there? How are you going to use a
17 collaborative model that we build on what's been said?

18 I know in our own courthouse that we have here
19 that the case level has built on reservations that
20 belong to our intertribal court in California, I think
21 we have like ten of them, but just looking at the one
22 we've got here, our caseload is building, that the stats
23 are there, you know, that the tribes themselves also
24 have to be held accountable. And we do. We have to
25 come up with our own code. We have to come up with a

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1 uniform code of one another that we're willing to do
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2 some (inaudible) relationships with one another that
3 will, I think, better our relationship with you. And
4 seeking consultation with the tribes, I know that you
5 have some obligations and the BIA is being directed to
6 establish certain policies, certain procedures, and
7 certain guidelines when consulting with tribes, and then
8 they have to get the BIA approval on what the guidelines
9 are. And what I'm curious about on this BIA approval
10 is, is it approval from a financial -- you know, where
11 we're held accountable for the financial end of it? Or
12 are you looking at the trust end of it? Because we
13 don't hear from the BIA, you know, is this a trust
14 responsibility you have as a result of the Tribal Law &
15 Order Act to make these guidelines, policies, and
16 procedures to establish (inaudible), or are you looking
17 to make sure that we have a good interagency
18 relationship and establishment?

19 And again, one thing about incarceration, when
20 we enhance the sentencing provisions, it is an
21 enhancement. It's not giving greater authority.
22 Because if we had greater authority, we would be on
23 equal footing with the federal codes that are out there.
24 We should be able to implement -- at this stage of the
25 game, we should be able to implement the same level of

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1 federal codes in sentencing power that they have.

2 A great example of that is the horrific
3 response I think to the Adam Walsh Act. We can only do

4 a Tier 1 -- even with the improvement of the TLOA being
5 brought in, we can still only reach a Tier 1 level of
6 prosecution in the Adam Walsh Act. There's something
7 wrong with that. And it's a great act. But then when
8 you look at the habitual offender and you look at the
9 firearms and the VAWA and that act, you find that we
10 have greater authority -- even in a 280 state, we
11 enhance the authority of the tribe (inaudible) habitual
12 offender. If we try him in tribal court twice and once
13 in state, it's a triple offence, it automatically kicks
14 in the federal response. Why isn't that happening here?
15 Why didn't we consider that? Or let's consider that,
16 then. Let's go the next step and consider making us at
17 least on equal footing with federal standards.

18 When we're contracting with legal and state
19 facilities for alternative incarceration, we know right
20 now that everybody is overloaded. The whole country is
21 talking about there isn't enough room everywhere. So we
22 know that going into this relationship. I think we
23 should still consider it. I think tribes still should
24 go ahead and lease space at the county jail. I think
25 tribes need to have those relationships if they're

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1 available and they are there to have them.

2 But I don't want us to sit here and let that be
3 the door that slams shut when you can find the money to
4 fund a whole statewide facility for the state of
5 California so that we can run that. And I also think
6 that we should enter into relationships with our

7 brothers and sisters that are in Nevada and Arizona, in
8 a cooperative relationship with their existing
9 facilities.

10 when we look at the juvenile detention and
11 treatment, it's the same thing that's being asked.
12 we're looking at the construction cost and we're looking
13 at the operation of that. we're looking at what is our
14 plan to have operation and maintenance. If you want us
15 to come up with that, we'll come up with that. But what
16 will you do to back it up with money? And when you're
17 looking at the state again, you're looking for
18 alternatives in incarceration for the juvenile, but
19 you're also asking them (inaudible) look at the
20 detention centers in Indian Country and come up with
21 guidelines and principles that will help, again, in the
22 standardization of making this happen.

23 I think the authority of the tribes is
24 important. I know you're also asking to pilot a project
25 for transferring tribal prisoners to the Bureau of

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1 Prisons. I think we can work something out. It's the
2 same thing that we're looking in terms of tribes that
3 look at Adam Walsh Act with sexual assault registry. We
4 know that in the state of California they still have not
5 committed to the federal government that they are going
6 to do a statewide sexual assault registry. They keep
7 playing the game. They have until July of this coming
8 year to end that relationship or to make it happen. And

9 they're not bothered with the fact that they're going to
10 lose 10 percent of their (inaudible) money if they don't
11 do a sexual assault registry.

12 But where does that leave the tribes in
13 California? when you look at DNA and the collecting of
14 evidence, we have a problem. So the tribes themselves
15 can't -- under the VAWA can't have a national sexual
16 assault registry that we can participate in and make it
17 happen where the tribes of California may be protected
18 by VAWA under that provision. But when we look at the
19 concurrent (inaudible), as you know, the tribes and the
20 state and the county enter into a relationship together
21 to agree to have certain aspects of PL 280 under current
22 jurisdiction in the civil/criminal aspect of it. We
23 need to continue to foster those relationships as a
24 positive thing. If it has worked, let it continue to
25 work. But when you look at the section of the TLOA 221

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1 is the assumption of confirmed jurisdiction, we're going
2 to talk about December 8th in Agua. We're going to have
3 that conversation in greater detail. I'm saying that
4 now at this meeting so that it is not forgotten that we
5 will have a more concrete discussion on PL 280. But I
6 think the concerns that you have right now are great.

7 One of the things that concerns me is also the
8 fact that SAMHSA is given a greater responsibility as
9 the lead agency to bring all the agencies together under
10 TLOA. And you all know that. And I know that this
11 isn't the subject you're looking at, but when you look

12 at the (inaudible) alcohol, substance abuse, and
13 (inaudible) prevention treatment issue, that's their
14 biggest thing. They're required with the Attorney
15 General and the secretaries of IHS and SAMHSA and DOI to
16 enter into an MOU. And this is critical as part of
17 that, they have to be done within the first year, as
18 well. And also as part of what defines the
19 constitutional relationship you and I are going to have,
20 which faces a really kind of a backwards kind of
21 relationship right now because we're consulting how to
22 consult. And in some ways that always concerns me. But
23 we need to be particular in the provisions.

24 And I have no problem sitting with you, I have
25 no problem giving you my notes, I have no problem doing

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1 concrete discussions with you on this, but it is strong
2 emphasis on decreasing the violence against our women in
3 native communities. We have agreed at Pauma to take a
4 zero tolerance to violence because we don't want to go
5 into some kind of lengthy process where you end up being
6 a sexual offender for XYZ. We decided zero tolerance of
7 violence was a greater way to help not only our elders,
8 our seniors, our tribal members, but our youth who have
9 a greater impact of the outside world and buying into
10 the outside world and its standards, a greater
11 acceptance that violence is not acceptable in our
12 country. That that was easier to do and expand our
13 authority over our membership than to try to label them.

14 But what that did do, we created banishment
15 laws. You have to decide as a tribe if you're going to
16 have a banishment law that is permanent, part time or a
17 partial banishment or temporary. These are things we
18 have to be held accountable for as tribal sovereigns.
19 I'm hoping that you will look -- actually, I'm telling
20 you to look at what we do do and do do right and that
21 does work in our countries that we somehow bring them
22 into some kind of jurisdictional clarity so that when we
23 sentence a tribal member, we banish them, that you know
24 this, you understand that it's for a grievance thing
25 that they have done.

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1 Now, we have done this already. IHS will
2 coordinate the (inaudible) standards of sexual assault,
3 policies of protocols. Now, that's a big thing that
4 TLOA is asking that they do. But it doesn't say that
5 they're working with (inaudible). It doesn't say
6 they're working with what has been out there. I don't
7 want to reinvent the wheel. I don't think (inaudible).
8 So you need to get clarity on our behalf that that does
9 not happen.

10 We also know that Assistant U.S. Attorneys will
11 be deputized under the act, but we know that Special
12 U.S. Attorneys will be deputized under the act.
13 (Inaudible). We haven't got a definition of what that
14 is. We need to know. And I know that Gary brought it
15 up in terms of what that might be look like. We also
16 know that we were looking at the title on the tribal

17 justice system sections 241 specifically addressing
18 TAFSA (phonetic), one of the greatest problems we have
19 is TAFSA is going to be the lead agency on this. They
20 cannot get their (inaudible) authorized because of
21 faith-based organizations. That's what's stopping
22 SAMHSA right now in Congress. It's not what we have
23 done. We have done our footwork as tribes. We have
24 moved this forward. Now you have to do your job as
25 partners in this federal relationship to get the

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1 faith-based off our backs and get SAMHSA reauthorized so
2 the things that you want done under this current time
3 line in the next year by July 29, 2011, you want this in
4 place, you've got to get them to move. Now that's your
5 job. That's part of what you have to do. And we'll do
6 it with you. We know that the collaboration that we
7 need to do in the agency is to be effective in
8 subtitle D, and we're to do the implementation with
9 other agencies as part of that. This is clear language
10 that's identified in the TLOA. I'm going to leave it at
11 that.

12 There's many, many more things I could say, but
13 I'll hold off. I also plan to write you in great detail
14 of the things I've said. But I have some real grievous
15 concerns in that we do this step by step. This is a
16 four-year process of implementation for the TLOA, and
17 I'm hoping that the tribal leadership in the room will
18 garnish everything they can of their knowledge that when

19 we meet December 8th in Agua on the PL 280 issues that
20 we go to some concrete steps and you're willing to
21 follow our lead on that. We have authority over our
22 citizens and we have and can enter into full-faith
23 (inaudible) relationships, and it is not unrealistic to
24 ask that we raise the level to equity that the U.S.
25 codes and federal codes (inaudible) be equal measure

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1 with the tribes.

2 Thank you very much.

3 MS. CALAC: I'm not sure what to add in reference to
4 that. I have to say that I'm honored that Juana is not
5 only one of our tribal members, but someone who I look
6 up to immensely.

7 I'm Bennae Calac, Pauma tribal council member,
8 and also board member to the Strong Hearted Native
9 women's Coalition.

10 I guess the only thing that I ask to do is
11 obviously reiterate what our tribal leadership has said
12 prior to me, but if we are going to be asked to be held
13 accountable, then I ask the same of you. I also ask
14 that if there's a document that's going to be prepared
15 that it doesn't sit on the shelf and that it sees its
16 way through and that we're able to use that document; as
17 agreements are being placed, that those agreements are
18 being upheld and the policies, as well.

19 we as tribal government work hard and deal with
20 our own people, but we ask that we be respected.
21 There's many times where even our local court offices

22 will tell us that you shouldn't take it to tribal court
23 because it's not going to be held as serious. That's a
24 concern.

25 I ask that you support our federal court

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1 systems and that we sit down and we think about what
2 we're doing and we look towards the future for our
3 people, and I hope that the outcome of this meeting is
4 truly positive.

5 Thank you.

6 MS. SANCHEY: Good afternoon. I'm Athena Sanchez.
7 I'm the tribal council executive secretary for the
8 Yakama Nation. Again, thank you for this opportunity to
9 at least make a comment.

10 I sit here and I represent over 10,000 enrolled
11 Yakamas. Our treaty is from 1865 and today is 2010.
12 And in the tribal law that's in front of us today, I
13 read one statement that sticks in my mind that this bill
14 will establish (inaudible) to hold the United States
15 government accountable.

16 Since 1865, and before that, the Yakama
17 (inaudible) people have always been accountable. We've
18 been accountable to the air, the water, to Mother Earth,
19 and to ourselves and to other native American
20 populations. And I think, ironically, 2010, the federal
21 government is trying to be accountable to us. The
22 Yakama, as each one has spoke before us, have the same
23 issues and problems with domestic violence. We have

24 issues with marijuana grown on our reservation. Not by
25 our people but from individuals to the south of us. we

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1 also have meth labs. we have gang violence. we have
2 alcohol abuse. And again, ironically, the government
3 has taken the time to count my people in a negative way.

4 Again, we have wonderful people. we have
5 wonderful elders. we have wonderful individuals within
6 the Yakama. And when it comes to negativity, for some
7 reason the government always chooses to count my
8 population, the native American Indians. And I never
9 see that in other populations in the United States. And
10 that's kind of harmful as a native American and
11 representative of the people. But as we go forward,
12 that is how it is.

13 And in short, I read the bill. I understand
14 it. I'm not going to reiterate Public Law 280, but the
15 Yakama Nation will be revisiting Public Law 280 and
16 knowing that we have the means to regulate and govern
17 ourselves as well as any member of our reservation. we
18 will be going forward with that.

19 In (inaudible), brothers and sisters in the
20 room, our government, our federal government that sits
21 in front of us, is asking us to communicate to them.
22 How many years have we been communicating to each other
23 as a people to survive, to live, to love each other, and
24 to honor each other? Again, Department of Interior,
25 Department of Justice in front of us, asking for

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1 consultation. Consultation only seems to be convenient
2 when they have a deadline. My people die every day of
3 domestic violence. They die of criminal acts that are
4 not by native Americans, not by Yakamas. But we have a
5 180-day deadline for them.

6 And that is my comments to you and I look
7 forward to the rest of the discussion. Thank you.

8 MS. LA CHAPPA: Good afternoon. Chairwoman Monique
9 La Chappa for Campo Band of Mission Indians.

10 First and foremost, I would like to thank
11 everyone for coming today and discussing some of the
12 very important issues that we have as far as the
13 California tribes in our area. With Public Law 280, it
14 does not -- it's no longer needed. We can have our own
15 school systems today. We have our own welfare
16 department. And we do, some of the tribes, have our own
17 police force.

18 Although I come from a small rural tribe close
19 to the border, we're not there just yet, but we are
20 working towards every day to be able to be like some of
21 the bigger tribes who have their own police law
22 enforcement. Also, we have issues with the federal
23 border patrol, (inaudible) securities, that also feel
24 that they have jurisdiction over our lands here on the
25 reservation, where they can come up in anybody's yard

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1 because of the -- I can't think of the law now -- that
2 gives them the jurisdiction because we're so close to
3 the border. And it makes it really hard for the local
4 law enforcement and to work with the border patrols in
5 our area.

6 we've come a long way from when I was a child
7 growing up on my reservation when we didn't have any law
8 and order, or it didn't seem like we did or somebody
9 cared about us, and many of our people did die. And --
10 I mean, I could say I was a witness to some of these
11 things. And it's been hard. I'm glad to see that we
12 are still trying to uphold an ongoing discussion in
13 order for the improvement of our -- betterment of our
14 lives. And that was the Patriot Act. And it really
15 involved our tribe with -- given the jurisdiction and
16 with Homeland security personnel coming onto the
17 reservation without giving notice to anything.

18 Also, we'd like to look at having more funding
19 for tribal courts and the prosecution of (inaudible)
20 laws, the environmental laws, and in terms of economic
21 development, the tribal courts can be upheld and -- on
22 the same level as any other court system. It will be
23 more beneficial for us as a people and us trying to do
24 business without having to give up our sovereignty.

25 I agree that we should try to look at some type

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1 of uniform code within the tribes. But each nation is
2 its own nation and they have special needs and special

3 things. And like for me, I can only speak for my tribe
4 and no one else's. But some of the things I've been
5 hearing since we've been in here, we all have some of
6 the same problems. Some things may be unique, like my
7 tribe right next to the border. And I look forward to
8 us getting together on December 8th and I will come in
9 to talk about Public Law 280.

10 I would like to see us do some type of
11 cross-deputization with tribal law enforcement and the
12 San Diego County police department or sheriff's
13 department. We have been working together to
14 communicate more effectively on a quarterly basis, and I
15 have seen that with some changes on my reservation that
16 has limited some of the crimes and more prosecution of
17 offenders in our territory. But I do agree with
18 Miss Majel that we do have exclusive rights over our
19 people. And we want to be like Pauma. We're going to
20 work towards that.

21 Thank you.

22 MR. ROMERO: Good afternoon. My name is Clyde
23 Romero. I'm the tribal secretary for Taos Pueblo, and
24 I'd just like to thank everyone for all your comments
25 that you made today on behalf of native people.

1 As tribal leaders, we're held accountable to
2 our people, and that is the reason why I'm here today is
3 because we have many questions that face us on a daily
4 basis, on an hourly basis, every five minutes or so, in

5 regards to people who wander onto our reservation. At
6 Taos Pueblo, we -- we need support from you. We're not
7 interested in playing the blame game. What we're
8 interested in is coming to resolution on a lot of the
9 issues that you're hearing today. And like I said, we
10 are accountable to the people and we need your support
11 so that we can go back and inform them about what is
12 going on in terms of the law. And right now, it seems
13 like there isn't a lot of support. But we need that
14 support so that we're able to create systems within our
15 communities that represent who we are. Like some of
16 them said, we're unique. We all don't have the same
17 kind of issues and challenges that others have.

18 So being from Taos Pueblo, we still operate a
19 traditional form of government. We do have tribal law
20 and order code. Right now, our main push is to revise
21 that code that so it reflects our traditional values as
22 well as the contemporary values of the tribal court
23 system. We need support in that. We also need
24 direction also and want to know if there is money for
25 facilities. We don't have facilities. We have to haul

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1 our people off three or four hours out of town to go to
2 jail. We need something in the community that is
3 culturally sensitive to their needs, as well.

4 The issues go on and on and on. And like
5 everyone said, I'm not going to reiterate the same
6 comments, but I'd just like to say that I concur with
7 those comments and thank you all for your comments.

8 MR. GARRIOTT: Any other tribal folks who want to
9 make an opening statement?

10 Okay. So I'm going to attempt to answer some
11 of the questions. There was a lot of issues that have
12 been addressed. I'd ask that my colleagues jump in at
13 any point to assist me.

14 And this is probably the number one concern
15 that I've heard thus far with regard to TLOA and that's
16 the funding issue. Yes, there are new authorizations
17 and expanded responsibilities and capabilities, but, you
18 know, where is the support for that going to come from.

19 Obviously, over the next couple of years with
20 the economy and the federal budget, this is going to be
21 a tough issue that we're going to have a lot of further
22 discussions about. What I can say for the OJS
23 organization and BIA is that, you know, we're doing our
24 part to ensure that we're spending the money that we are
25 getting, which, of course, if you're going to ask for

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1 increased funding, then you have to spend the money that
2 you are getting. And that's been actually probably my
3 number one priority coming in to this job and working
4 with the OJS organization, because, you know, let's just
5 be honest, at the end of years previous we had been
6 leaving some pretty big sums of money on the table,
7 carryover, you know, to the tune of, say, \$18 million in
8 some instances. And for us that was just completely
9 unacceptable. So, you know, we fixed that problem. we

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10 are fixing that problem.

11 A part of this is also transparency and
12 accountability, which is really how I see tribal
13 (inaudible) and what really TLOA is about. When you
14 look through the various provisions, you know, we are
15 accountable for providing certain reports and data to
16 the Department of Justice and to Congress. And this,
17 you know, is a direct result of some of those previous
18 problems of not being able to spend the money and then
19 also people coming to us and saying, "well, how is this
20 being allocated? what are the funding formulas?" So
21 we're addressing those issues. TLOA makes us address
22 those issues.

23 Again, it comes back to accountability. One of
24 the women in the back talked about meeting deadlines and
25 coming to tribes with deadlines. You know, we're happy

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1 about these deadlines because it forces us to act
2 quickly. That's why we didn't in the beginning. When
3 it comes time for us to comment on a bill, usually we
4 have an opportunity to weigh in and say this is
5 reasonable, this is not reasonable. But because we felt
6 that strongly, that that's why we left those deadlines
7 in place and asked that we hold ourselves accountable.

8 So, yes, there's deadlines and, yes, we have an
9 expedited consultation policy moving forward. But, you
10 know, to me that's a good thing because it's making us
11 be accountable.

12 You talked about this being a four-year plan.

13 And I also really want to stress that, again, our
14 urgency in the beginning for these opening consultations
15 is implementation of those three provisions where we
16 have a looming deadline on January 25th.

17 Now, how we implement those is going to be open
18 for some discussion because, you know, perhaps we need
19 to go through a negotiated rule-making process for some
20 of these provisions. Perhaps we need to make certain
21 changes to our departmental manual, you know, with the
22 solicitor's office to determine what the best mechanism
23 for that is.

24 However, what may be the best mechanism is not
25 going to be achievable within, you know, a three- or

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1 four-month deadline. So we're going to be taking
2 interim actions perhaps for some of these provisions, a
3 simple memo from the secretary down or the assistant
4 secretary down to the OJS director, and maybe the OJS
5 director is the one who writes a memo to his staff.

6 But again, I want to say that that's an interim
7 policy and interim actions that we're going to be
8 taking, and that full implementation of this, again, is
9 going to take several years for us to work out all of
10 the various provisions, to review them, to fully
11 implement. And again, just because we may implement one
12 thing in a certain way this year or next year doesn't
13 necessarily mean that that's going to be the best way in
14 the long-term. We're going to have to continue to have

15 open dialogue and discussion about all of these issues
16 that we're talking about here.

17 Certainly, the assumption of concurrent
18 jurisdiction of 208 states is going to be an area where
19 Department of Justice and us and tribes are going to
20 have to be at the table to talk about how that's going
21 to work, talk about the logistics of that and how we're
22 going to implement that going forward.

23 So again, everyone's comments are very much
24 appreciated because it's going to set up the framework
25 for the long-term discussions and implementation of

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1 this. So it's very important for us to hear those
2 initial concerns and comments.

3 I'm going to go through some of these initial
4 kinds of questions and do my best to answer them. And
5 again, if folks want to chime in --

6 You talked about the FBI, what that
7 provision -- question was about \$19 million going to the
8 FBI to increase the number of officers in Indian Country
9 by about 40. Well, this directly goes to one of the
10 concerns that we've heard for a long time is, "Well,
11 crimes are happening on Indian reservations, but they're
12 either being declined or nothing's happening, there's no
13 movement."

14 Well, this is to address some of those issues
15 to make sure that there is enough federal manpower on
16 the ground to actually do a good job of investigating
17 those cases. Because one of the problems the U.S.

18 Attorney's Office faces is, they can't bring a good case
19 if the investigation and the groundwork isn't laid out
20 in the beginning for them.

21 I've heard U.S. Attorneys say many times that
22 they will prosecute every case that's prosecutable
23 that's brought before them. But in order to do that,
24 you have to do the groundwork in the beginning. And
25 that starts with a good FBI investigation. In some

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1 cases that means that BIA and our police officers have
2 to do a better job of setting that up. So, you know,
3 we're well aware of those issues.

4 It's a bit premature for us to -- we've had
5 some discussions with the FBI about how that's going to
6 be allocated, but we haven't had a real concrete
7 discussion about how those officers are going to be
8 allocated. And in fact, we would welcome
9 recommendations from Indian Country about how that
10 should be done because it hasn't been set in place. I
11 think once that the -- we're operating now on a
12 two-month continuing resolution from Congress, but we'll
13 see what happens when Interior appropriations is passed
14 that has that funding for 2011 in it.

15 Absolutely right that -- and this is, again,
16 because there's not a lot of -- well, there are some
17 baselines for correctional facilities and what those
18 policies on the ground should be, but it's not
19 standardized in any real way. And again, this is one of

20 the areas that we actually have a time line,
21 January 25th time line, to develop these standards and
22 procedures. So the more input we can have on what those
23 should be, what they should look like, the better.

24 Someone mentioned -- I believe it's ACA as a
25 model. We've actually kind of started to take a look at

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1 that and are seeing how we can incorporate that and we
2 think we have a tribal working group that's looking at
3 that. But again, what I'd like to do is get that
4 published, get it out for comment, and then we can go
5 into having that ready by January 25th. And again,
6 maybe we can have that in place and we operate on an
7 interim basis with that, but there's further tweaks that
8 need to be made over the next few years. And again, we
9 should continue to have that discussion.

10 MR. CRUZAN: And if I could just add to that. I
11 have Carla Flanagan sitting down here as our associate
12 director for corrections, and just last week Carla and
13 about 20 tribal partners met in Denver for a couple of
14 days to go over just that very issue with ACA to try to
15 work on that, tweak that, you know, make it Indian
16 country specific, but to still use those baseline guides
17 there that are in place.

18 And my kind of push out to her and to her staff
19 is that -- and it goes to, I don't remember who said it,
20 but about the programs. You know, we need to move this
21 from warehousing to rehabilitation when we have these
22 corrections -- when we have these people in our

23 correction facilities. You know, it's one thing that
24 we've got to get better at doing is making sure that
25 recidivism is not the problem.

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1 I'm going to make this very quick, but it's a
2 story that I shared -- probably carry this with me
3 forever, but when I was at Crow agency in Montana, we
4 had an inmate that you could almost -- and I'm sure that
5 everybody outside here has one or two guys like this --
6 that you could almost guarantee that on Thursday, Friday
7 night, he would get some alcohol, he would get
8 intoxicated, somebody would call the police, and then
9 guys who would respond out there have to fight him.
10 And, you know, inevitably, somebody would end up injured
11 that evening, whether it be him because he was fighting
12 with us or one of the offices. And that was just one of
13 those things that happened. But then -- Mike was his
14 name -- come Monday morning, you could almost open the
15 cell door and say, "Mike, you need to walk over to the
16 court and see the judge." He would have, sober, have
17 done it. He would have walked right over.

18 And every Monday morning the judge would say,
19 "Mike, what are you doing?"

20 "I got drunk."

21 "All right. Well, two weeks. Go back in
22 jail."

23 So he was doing a life sentence in two-week
24 increments. He would go to jail for two weeks, get out

25 for a little bit, and then he would end up right back in

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1 there.

2 But especially as we've done been doing some of
3 these consultations, talking to people, I always
4 wondered: Did I ever do anything to break that cycle?
5 Did I ever -- and I'm not trained in the prevention and
6 those kind of things. But did I ever do anything? Did
7 I ever try to get him any help? And, you know, sorry to
8 say that I did not.

9 A side note on that. I did -- when I was
10 meeting with correction folks there in Denver, there was
11 one of the correction officers there from Crow, and I
12 asked her, I said, "Hey, is Mike still there?" And she
13 said yeah. I said, "Is Mike still Mike? Is he still
14 having the same problems?" Yep.

15 So the sad part is Mike's still having the same
16 problems. The good part is now I kind of get a second
17 chance to fix that. And so that is one of the mandates
18 that we kind of pushed out. We need to get better at
19 that. We don't want it to be a place where we warehouse
20 our people. We want it to be a place when they are
21 there, then we can provide some kind of service.

22 So I don't remember who said that, but I was
23 definitely nodding my head in agreement with you on
24 that. You know, suicide prevention, training, really
25 glad that you're here, back there, the domestic violence

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1 coordinator. We've got some of those now. We're
2 starting to see, hey, this is what we need.

3 Jason and I, we were flying in and we were
4 talking about an incident where we were able to send one
5 of our victim --

6 what do we call them?

7 MR. THOMPSON: Victim witness coordinators.

8 MR. CRUZAN: -- victim witness coordinators, that
9 went up there; whereas, you know, police officers, we're
10 pretty driven to get to the answer and we need the facts
11 and we need to get going. We're getting better at that,
12 but that's kind of our mind-set. Whereas this victim
13 witness coordinator came in, went to the hospital, the
14 same things that you're doing. A lot of work to do.
15 And we need to get more people out there doing this kind
16 of thing. It's very important.

17 So appreciate your comments. That's what I had
18 to say. Thank you for the comments that we heard.

19 MR. GARRIOTT: Thanks.

20 And, again, everything that you just talked
21 about requires, and then someone mentioned this, that we
22 have coordination, proper coordination with Indian
23 Health Service, other branches of the federal
24 government.

25 How do we make that happen? Well, certainly

1 within the development of a long-term correctional plan,
2 we need to have provisions in there that -- well, IHS
3 has to be at the table in building this plan and making
4 this plan happen. SAMHSA should be at the table along
5 with DOJ. I think Department of Education, as well.
6 And we're willing -- we're moving to bring those folks
7 that are our federal partners to the table.

8 But again, this is -- we have people in
9 D.C. and we have these lofty discussions at the table.
10 But that doesn't mean anything unless things change on
11 the ground. So that's the challenge. And one thing
12 that, especially with regard to implementation of the
13 TLOAs, I would like to hear a little more discussion on
14 what concrete actions we could take to make that happen.
15 Is it a joint memo from the assistant secretary of the
16 Indian Health Service to the people on the ground
17 directing them to meet -- meet with the tribes? I don't
18 know what the best mechanism is. And I'm going to ask
19 you for more input on that.

20 MR. THOMPSON: Can I add to that. I'm sorry. I
21 don't mean to jump in there.

22 Mr. Hayes, thank you for those questions. I'll
23 give you credit for it because I wrote down your name.

24 One of the things -- and we talked about
25 programs and we talked about -- and I'm not meaning to

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1 jump over Ms. Flanagan's specialization here, but when
2 we talk about long-term programs, Mr. Hayes, you talked
3 about programs, and we talked about from a number of
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4 areas, this kind of covers a number of the questions
5 that came in, this is why I wanted to address this, is
6 about our coordination with IHS and SAMHSA and DOJ and
7 all those other programs or service providers out there.
8 If we're talking long-term detention and housing people,
9 we have to then be talking about rehabilitation, we have
10 to be talking about substance abuse treatment, we have
11 to be talking about domestic violence treatment, anger
12 management; we have to be talking about family
13 counseling, parenting, training, all those things.

14 But that's going to require the participation
15 of all those other programs: IHS and SAMHSA and all
16 those programs that have those. Social services and
17 their involvement.

18 Because historically, I am -- and I'm honored
19 to say that Darren Cruzan and I are the first two
20 uniformed-patrolmen-wearing supervisors of this program.
21 But whenever we viewed long-term detention from a
22 uniformed officer standpoint, we were arresting people,
23 taking them to jail, going to court and testifying, and
24 going to the next call. And we were going as hard and
25 fast as we could to try and do the best job we could do

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1 to keep as many people safe as we could. In that
2 immediate moment. From 4:00 to midnight, that was my
3 job: to keep everybody safe. And tomorrow from 4:00 to
4 midnight, I was going to go do it again.

5 well, now, fortunately, 15 years later, we're

6 sitting here with a broader spectrum of that knowledge
7 in that area; that 4:00 to midnight is not when we're
8 going to keep those people safe. It's from midnight to
9 midnight all those folks are in that detention facility
10 for that crime that the uniformed patrolman picked them
11 up for. While the detention staff is caring for that
12 inmate, while we've got programs in those facilities,
13 we've got to get those folks enrolled in those programs
14 that they need to be enrolled in. We've not had that.
15 There is no Bureau of Indian Affairs or to my knowledge
16 638 detention facility that runs programs. And I don't
17 mean any programs. There are certainly some programs
18 out there, but very few that covers this broad spectrum.

19 We are tasked with the Office of Justice
20 Services, every one of you who are tribal leaders are
21 tasked for public safety of your communities. Public
22 safety is -- and this is something that we talked about
23 this year. And I don't want to get on the soapbox
24 because I will talk as long as you will let me, but if
25 we look at public safety as only those folks that are

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1 putting on a uniform and getting in a patrol car and
2 going out enforcing the law, if that's your idea of
3 public safety, you will never have public safety.
4 Public safety are all of those programs. They are all
5 of those providers. They're social services. They're
6 IHS. They're tribal government. They're the federal
7 government. They're BIA-OJS. They're all of the Indian
8 service programs. They're everything that we do.

9 That's how you get public safety. It is enhanced tribal
10 courts. It's all of those things. It's finding
11 alternatives to sentencing.

12 And Mr. Cruzan talked about somebody serving a
13 life sentence two weeks at a time. Any of you who have
14 anything to do with law enforcement know that person.
15 You may not know that Mike, but you know Tom or Jack or
16 whoever. We all know that person. And we've got to get
17 away from the idea of public safety is BIA OJS'S
18 problem. Or it's our tribal police department's
19 problem. It's got to be all of those programs' problem.
20 And the Tribal Law & Order Act now gives an opportunity
21 to include all of those other programs in that process.

22 And I know that there was a question about
23 detention facilities and programs there. And certainly
24 that's an absolutely correct statement. We have to do
25 that. But it has to go beyond those detention

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1 facilities. It has to go into our communities
2 themselves. And how do we do that? We've talked about
3 having uniform tribal codes. And maybe you take the
4 state code and put a T in front of it. Whatever that
5 may be. I understand what you mean. That's an easy way
6 to do it. But at the same time, when we talk about
7 those programs, that's a different thing. Whenever we
8 talk about -- I'm an enrolled member of the Cherokee
9 Nation. Our culture and our customs are not the same as
10 Pauma's. They're not the same as Delaware's. They're

11 not the same as Hopland's.

12 So when we start to develop programs, those
13 have to be done locally. Those have to be done by the
14 people on the ground in those locations, who know those
15 customs and know those -- you know, those issues have to
16 be -- that these programs have to be sensitive to. And
17 all I would offer with that is that we know that, we
18 identify with that.

19 We realize that we are not where we need to be
20 in that aspect. Whether it's programs in the detention
21 facility, whether it's programs that the Office of
22 Justice Services supports or law enforcement supports or
23 contracted programs supports or technical assistance
24 that we're providing to your law enforcement program --
25 we have to emphasize those things, those programs, and

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1 law enforcement's involvement in those programs, so that
2 we're no longer the -- forgive me -- the jackboots thugs
3 of law enforcement. That cannot be how we move forward.
4 We have an opportunity to change that. Whether it's you
5 and your programs or Mr. Cruzan and ours, we don't need
6 knuckle --

7 I was a knuckle-dragging door kicker for many
8 years, and proudly identified myself as that. I was the
9 guy who told you that you don't want a bunch of me, but
10 you got to have one of me. And good Lord willing, I
11 have grown out of that and realized that that person is
12 not today's law enforcement. They cannot be today's law
13 enforcement.

14 And I'm on a little bit on a soapbox, so I'm
15 going to tail back here a little bit, and I've gotten a
16 little bit off of your subject, but those programs are
17 how we do that. And law enforcement's continued
18 involvement in the courts, continued involvement in that
19 as alternative sentencing option, that's how we have to
20 reidentify that in my personal opinion. And I'll shut
21 up now.

22 MR. GARRIOTT: Obviously everyone is very passionate
23 about what we do and try to do things better.

24 Also, Mr. Joe Little has joined us. He's the
25 associate deputy director for tribal courts within OJS.

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1 I'm going to go ahead and try to finish up here
2 and then we'll take a break and we'll come back.

3 A gentleman from Alaska spoke about inclusion
4 of Alaska natives, and they are mentioned in the act.
5 This gives us an opportunity to provide a little bit
6 more support for tribal nations in Alaska. Obviously,
7 we don't have any direct services up there, but we do
8 fund and do assist some tribal courts, and then of
9 course the act expands eligibility of Alaska native
10 governments to apply for Department of Justice funding,
11 but the development of these programs. I want to thank
12 the gentleman for reminding us to include Alaska in our
13 discussions. And perhaps we could have an Alaska native
14 specific call, probably not this month, but maybe first
15 part of November if that would be -- maybe you can help

16 us set that up.

17 Again, you know, getting back to the SLEC
18 issue, you know -- and again, this is probably -- I
19 would say probably the number two issue for this group
20 here, and that's lack of respect and coordination
21 between state, tribal, and local governments. And the
22 SLEC issue can help address that issue. But it's not
23 the end-all answer or the final solution. It's just one
24 of many steps that we have to take.

25 California correctional facilities. Again,

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1 getting back to the long-term detention plan, one of the
2 ideas that has been put on the table, and it has been
3 met with some mixed review from Indian Country, and that
4 is regional detention facilities. I think that's
5 probably a discussion we're going to have to have a
6 little bit more. Department of Justice provides funding
7 for tribal correctional facilities; however, that's a
8 competitive grant process and in no way ensures that
9 everyone who applies for a grant is going to get one.

10 And it's a finite resource. There's no way
11 that that program can fund every single tribe. So that,
12 again, I think especially with the enhanced sentencing
13 authority, TLOA, we're going to have to go back to the
14 table and start talking about regional detention
15 facilities. And again, I would look for leadership from
16 the tribal nations here in California to put together a
17 proposal, a package, and say this is what we'd like to
18 see for detention in this area. And maybe that's not

19 just California but some of the other surrounding
20 states. Because again, that's an issue that, quite
21 frankly, we and the federal government are not going to
22 be the best people to sell that idea. It's going to
23 have to be endorsed and put forward by tribal leaders.
24 And that's the way it should be.

25 I really liked the comment about accountability

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1 going both ways: that it's the federal government and
2 tribal government. Because as Jason talked a little bit
3 about earlier, federal government coming in and merely
4 providing the resources or us saying this is how it
5 should be done or try to raise the profile of public
6 safety in Indian Country is not going to work. You
7 know, ultimately solutions are best developed at the
8 community level, and Indian Country is going to have to
9 make it a priority. But again, in the end that means
10 accountability both ways. And we're trying to do this
11 part. TLOA in many ways makes us accountable in many
12 ways.

13 I think I could spend a lot of time on each one
14 of these individual issues, but I think what we'll do
15 now is go ahead and take a quick, ten-minute break, and
16 we'll come back here at 2:57 and we'll continue our
17 discussion.

18 (Recess taken.)

19 MR. GARRIOTT: Okay. Welcome back, everyone.

20 we're going to go ahead and continue. We can

21 push on until about -- a little under two hours to go.
22 But I think right now I'd like to open it up to anyone
23 else whoever would like to make comments. And again,
24 we're ready to discuss any and all subjects regarding
25 TLOA, but what would be especially helpful to us moving

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1 forward is discussion around the provisions where we
2 have a January 25th deadline.

3 There are three provisions. And again, those
4 are: 1, Secretary of Interior must establish procedures
5 to enter into memorandums of agreement with regard to
6 SLECs, and we have to do this within 180 days of
7 enactment of the act; 2, the Secretary must develop
8 minimum requirements for SLEC memorandums of agreement
9 within 180 days of that; and then 3, BIA must develop
10 guidelines for approving correctional centers for
11 long-term incarceration.

12 So, again, those are the three areas where we
13 have deadlines that we have to meet by January 25th.
14 But again, it's open to discussion. So whoever wants to
15 talk, we're ready to go.

16 MS. HAMMONS: Thanks. I'm Sioux Cherokee.
17 Apparently I didn't get the later notice that you were
18 going to have consultations in Oklahoma or I wouldn't
19 have gotten up at 2:00 a.m. to take a flight here.

20 You know, we've had SLECs and our tribal courts
21 and law enforcement in place for a number of years now.
22 And as all of you know, jurisdiction in Oklahoma is
23 different than it is anywhere else, you know, the crazy

24 quilt, checkerboard, or however you want to characterize
25 it, so that we have to do a lot of agreements with local

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1 and state law enforcement just to make sense.

2 what struck me in hearing the comments by all
3 my relatives a little while ago was the similar issues
4 that we have and not the dissimilar issues. And one of
5 those that I'd like to talk about is incarceration.

6 what we have to do -- you know, our
7 jurisdiction covers 14 counties in northeastern
8 Oklahoma. what we have to do is have agreements with
9 the county jails to incarcerate people. And we have to
10 pay them. I don't know what the daily rate is now, but
11 it's in excess of \$30 a day. You know, we put somebody
12 in jail for three years, we're breaking the budget. So
13 that's an issue. And I think that in Oklahoma
14 particularly, I don't know of any tribal detention
15 facilities in Oklahoma. I know there's some juvenile
16 detention facilities. And there may be some. I just
17 don't know of any. But the other tribes, I know that's
18 what they have to do, too, enter into agreements with
19 state facilities and pay them money. I don't know what
20 the answer is unless it's to, you know, to help fund
21 that, provide incentives to those local jails to get
22 them to lower their fees to us or something like that.
23 But that's what we're facing in Oklahoma.

24 Thank you.

25 MS. CARLA: Hi. I'm Carla Flanagan.

1 Can you hear me? I can't hear back.

2 So we have not done the best job we should be
3 doing in Oklahoma. Probably amongst many other places.
4 So we do need to do a better job.

5 The cost of incarceration, the federal rate is
6 \$69.01 a day an inmate. So you can call it for FY 10 or
7 11, it's going to be about \$70 a day. That's without
8 medical and that's without transportation in general.

9 So we do need to talk about kind of what we
10 provide in Oklahoma and how we provide it. If you have
11 \$30 beds, we need to use more of them. And
12 unfortunately, the competition is with the --

13 MR. THOMPSON: Sold.

14 MS. CARLA: -- United States Marshal Service. Not
15 so much immigration up there, but with the United States
16 Marshal Service. Buy up beds and have 1.4 billion, with
17 a B, budget to house their prisoners.

18 That doesn't help you. But if you let me know
19 afterwards, I'll give you a point of contact for you to
20 talk to and we'll start doing what we can within our
21 budgetary means of providing.

22 I know that we have taken some problematic
23 prisoners from some of the Oklahoma tribes this year.
24 And we're happy to do so. And for any tribe, if you
25 approach us and we have enough information, we'll try to

1 take them and put them in a more suitable area. Of
2 course, that becomes a problem. When people know that
3 you've got a problem or a management problem coming
4 their way, one of the best places we can put them costs
5 a hundred dollars a day. But they get managed.

6 So if you'll see me afterwards, we'll kind
7 of -- I'll give you some info and we'll try and work
8 something out. Thank you.

9 MR. GARRIOTT: Anybody else?

10 MR. MARSTON: Lester Marston on behalf of the
11 Robinson Rancheria and the Hopland Band of Pomo Indians.

12 Tracey Avila is the chairperson of the Robinson
13 Rancheria. Roman Carrillo is the chairman of the
14 Hopland Band of Pomo Indians. They did not want to come
15 here today because they were sending me here to speak on
16 their behalf. So I'm here today to speak on their
17 behalf.

18 Those two tribes have established a blueprint
19 on their reservation. And what they need is some
20 assistance from the Office of Justice Services in
21 getting them the tools and services that their police
22 officers, who are specially commissioned by the Office
23 of Justice Services -- the tools that they need to
24 provide effective law enforcement on the reservation.

25 We do not have jails. We do not have mutual

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1 aid radio systems. We do not have access to the state

2 law enforcement telecommunications system. As a result
3 of that, we are putting officers out in the field whose
4 lives are being put in danger. Not only the lives of
5 the officers that are working for the tribe and that you
6 specially commissioned, but also the lives of local
7 county deputy sheriffs and residents of the reservation.

8 we have officers who are pulling over cars at
9 2 o'clock in the morning and don't have the ability to
10 run arrest warrants or license plates or drivers'
11 licenses to find out if the person that they're
12 approaching is somebody who just robbed a car, who is
13 driving a stolen vehicle, and who's armed with an
14 automatic weapon. And I use that as an example because
15 that has already occurred on Hopland a number of times.

16 we don't have mutual aid radio systems to be
17 able to communicate with other law enforcement
18 officials. So when specially commissioned officers of
19 the Office of Justice Services employed by the Robinson
20 Rancheria are doing a joint law enforcement action on
21 Rancheria property and Forest Service property and your
22 specially commissioned officers see a sharpshooter in a
23 tower that's armed with armor-piercing rifle with intent
24 to kill the officers who are coming into the field to
25 bust the marijuana grown, they have no way of telling

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1 the U.S. Forest Service cops that they're going to get
2 shot.

3 In order to have these tools, we need to be
4 able to prove to the California Department of Justice

5 and to the governor's office, the California Emergency
6 Manpower Agency, that we're federal law enforcement
7 officers. Because a lot of the criteria that they have
8 under state law for providing these systems and making
9 these systems available, they do that. Because the
10 criteria they have established and the criteria they
11 have established is you're eligible if you're a law
12 enforcement agency or you're a governmental agency or
13 you're a public agency or you're a federal law
14 enforcement agency. And so what we don't need -- and
15 we're trying to convince these agencies that we are
16 those things. And what we don't need is the Office of
17 Justice Services and the solicitor's office sending
18 letters to these agencies without talking to us
19 beforehand, without consulting with us, writing to them
20 and saying that we're not law enforcement agencies or
21 we're not federal law enforcement officials.

22 we presently -- both of these tribes presently
23 have applications submitted to the California Department
24 of Justice for access to SLEC. And we have NCI
25 (phonetic) access. But we don't have the money to hire

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1 24-hour dispatch to be able to dispatch officers in the
2 field at 2 o'clock in the morning. So we want to enter
3 into an agency agreement with our local sheriff. And
4 the local sheriff wants to do it.

5 I mean, we're fortunate enough -- both of these
6 tribes have entered into agreements with the local DA to

7 prosecute state crimes when these federally commissioned
8 officers issue violations under state law. And we've
9 entered into agreements with the sheriff to utilize
10 their jail, okay, so that when we make an arrest under
11 state law and if we make an arrest under federal law,
12 they'll house them until we can transport them to the
13 appropriate magistrate or appropriate jail that's manned
14 by the U.S. Marshal's office. But then, you know, those
15 sheriffs are under attack and those DAs are getting
16 criticized for entering into those agreements by people
17 in the California Department of Justice. And they're
18 getting their information supposedly about what our
19 status is or what we have the authority to do from you.

20 And we don't know about the meetings. We don't
21 know what is said. We only know what is being
22 represented by the particular person from the California
23 Department of Justice about what one of your special
24 agents in charge said or one of your solicitors said.

25 So we have a number of concerns and we're going

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1 to have, I know, a meeting with you here afterwards
2 where we're going to get into some real specifics, but I
3 just wanted to lay the groundwork.

4 We developed some model 638 contracts. We know
5 that under the Indian Law Reform Act, the Indian Law
6 Reform Act specifically authorizes the Secretary of
7 Interior to enter into deputization agreements. We also
8 know based on the lawsuit that Hopland brought that law
9 enforcement services are a contractible program. And we

10 like the 638 contract and process better. And so at
11 least I can tell you you're going to get a number of
12 requests from tribes in California to contract for law
13 enforcement services under the Self-Determination Act.

14 We see both of those acts -- all three of those
15 acts working together: Self-Determination Act, Indian
16 Law Reform Act, and the new Tribal Law & Order Act. We
17 don't see any of the provisions in any of those acts to
18 be inconsistent. We like the language under 25 USC
19 Section 450(f) which says that we are employees of the
20 Bureau of Indian Affairs for purposes of the Federal
21 Tort Claim Act. That's a much stronger statement, we
22 believe, than what's actually in the Tribal Law & Order
23 Act or the Indian Law Reform Act.

24 We have some specific things that we would
25 like -- we'd be happy to send you our model agreements

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1 because we have -- everything we put in there, there's a
2 specific reason why we put it in those agreements, and
3 it's to meet a specific need that we have to provide --
4 to make sure that our officers get the tools not only
5 for you to enforce federal law, but also the tools that
6 we need from the state agencies to be able to enforce
7 federal law.

8 So we'd like to see those SLEC agreements make
9 specific reference to our authority to be able to
10 contract with state and local law enforcement for the
11 use of mutual aid radio frequencies.

12 we'd like to see those SLEC agreements provide,
13 specifically reference that we have the authority to
14 enter into agreements with state law enforcement
15 agencies for access to law enforcement telecommunication
16 systems.

17 we'd like to see those special SLEC MOUs or
18 agreements specifically reference agreement with state
19 and local -- a specific reference that we have the
20 authority to enter into agreements with state and local
21 law enforcement to be able to exercise state peace
22 officer powers that the state -- that the state of
23 California under state law grants to federal officers or
24 federal criminal investigators.

25 we'd like to see specific reference in those

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1 SLEC agreements that specifically authorize us to enter
2 into state and local agreements with local counties for
3 the use of their jail, for both federal arrestees and
4 also for any arrests that we make pursuant to any
5 authority that we exercise that's conferred to us by the
6 state to enforce state law.

7 And finally, we'd like to see some specific
8 reference in those agreements that says that, you know,
9 we have the authority or that nothing in this agreement
10 prevents us from entering into agreements with state and
11 local agencies, specifically district attorneys, for the
12 prosecution of state citations that are issued by
13 federal officers, exercising state peace officer powers
14 that are conferred upon them by federal law because they

15 are in fact acting within the course and scope of their
16 federal authority that was granted to them under the
17 deputization agreements.

18 So thank you very much.

19 MR. CRUZAN: Thank you. You're going to provide all
20 this in an e-mail to me?

21 MR. MARSTON: Sure. We can do that.

22 MR. GARRIOTT: Other comments?

23 MR. SMITH: Chief of Police Carmen Smith from
24 Warm Springs. I want to talk about first of all the
25 Special Law Enforcement Commissions.

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1 Everybody talks about those and how they need
2 to be done in a timely fashion. And without SLEC cards,
3 we can't enforce federal law on the reservation or the
4 federal crimes or the serious drug offenses in Title 21.
5 Although our detectives are certified, commissioned
6 U.S. Marshals under the FBI Safe Trails Program, which
7 we do enforce entirely, the Title 21, they don't give
8 Title 21 for that. That's why it's important that we
9 get the SLEC cards so we can enforce that and start
10 working these drug cases.

11 You know, the inability to have that, to
12 enforce federal law, enforce the public safety and
13 personal safety of our officers on the reservation. In
14 respect to non-Indians, we cannot enforce laws against
15 non-Indians on the reservation. And there's a gap here
16 between that, us enforcing that, the criminal laws

17 against them. And in order for us to do that, we've got
18 to be cross-deputized, either county service office that
19 gives authority to do so.

20 But under this, you know, the SLEC cards would
21 help us enforce that. It would help us with that
22 jurisdictional gap that we have against non-Indians.
23 And with that, that would fix that.

24 And it's been pretty frustrating for us, not
25 only warm Springs, but I'll say the northwest tribes,

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1 because we've sent officers to the training, they pass
2 the test -- and this was over like five years ago -- and
3 we sent the paperwork back to the district office, but
4 yet we never got our cards.

5 And I spoke with different tribes in the
6 northwest, like Umatilla, the chief sitting right here
7 next to me. We're doing it for over seven years, trying
8 to get the cards. And they've been through the
9 training. And the tribes of the northwest, I talked
10 with them, and they had the same issues: we do all the
11 training, send in the information, we get no cards.

12 And these cards are only for three years. So
13 now we have to go through the whole process again.
14 And -- so that's a problem that we're having with that.

15 We're recommending that, you know, that be
16 pushed up to at least five years instead of three years,
17 which would give us time to do all this and get that
18 done. But yet, you know, it's frustrating that you do
19 this and it doesn't happen.

20 And then the other thing is regional training.
21 It should be regional training close to the tribes.
22 Like our staff, we sent people -- we'll be able to send
23 maybe two or three to these trainings. Because they're
24 far off. And other tribes, like Umatilla, they might be
25 able to send one. But if we have it locally, where each

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1 tribe is able to send officers, we could get more
2 officers certified through the program. So it needs to
3 be regional, where we can do this closer to tribes that
4 are doing this instead of far off.

5 And that's something we want to recommend is
6 that, yeah, there's different areas where you can put
7 these trainings, but it should be close to the tribes
8 that are doing this. That would help us out where we
9 could send more people and get more people certified.
10 And that was one of the issues we talked about.

11 So these issues with SLEC cards, you know, if
12 we can get those in a timely manner and get it done, and
13 we can start enforcing the laws the way we're supposed
14 to enforce them on non-Indians and the criminal side.
15 So it's imperative that we get these.

16 And I know we talked about this and talked
17 about we could start, you know, to work now to try to
18 get that done, but still, you know, we're still meeting.

19 I was in a meeting on May 11th in Portland. We
20 talked about the same issues. That was almost what,
21 five or six months ago. Now we're here again talking

22 about the same thing. And now we're going to another
23 meeting. Billings. Now there's one in Albuquerque.
24 Now there's another one in Minnesota. I mean, all these
25 meetings, we keep having meetings, but nobody's really

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1 doing anything. And, you know, we keep attending them,
2 saying here's what we need, here's what we need. Not
3 just our tribe, Umatilla, but all the tribes are saying
4 the same thing. And all the tribes are pretty
5 frustrated with this process.

6 But if we can get, you know, the cards and --
7 we also talked about get a website to do a
8 refresher course once these lapse in five years, if we
9 get the five-year status. But again, if we do that and
10 we've got to send the paperwork in again to get our
11 cards -- so another recommendation would be if we're
12 going to take these tests and do all this training, then
13 they should have the cards here available to us to say
14 you passed this -- because they grade the test right
15 there in front of you, say you passed, but yet you've
16 got to send the paperwork in, when we could have the
17 cards right there; if you pass, just sign off on the
18 cards and give us the cards at that point. Why do we
19 have to send it to the district office to get our cards
20 sent right back to us? That was something we talked
21 about, too, is that we could do that right away and not
22 have to wait the time to send it to Billings and then
23 back to us.

24 So -- but that question came up about getting

25 the website to do the refresher, but that question came

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1 up again with, okay, if we do that, do it online, get
2 the refresher course, how do we get our cards, which
3 means we'll probably have to send our paperwork back to
4 Billings to do that.

5 So these are the issues that we've had and we
6 talked about. And if we can get that done and start
7 working on this, and then -- we're willing to say, hey,
8 send this paperwork in. If we have to do that, then we
9 recommend that we at least get a response back in 30
10 days to say, hey, you get your cards. Just as long as
11 we get them soon instead of five years down the road
12 when it's already lapsed. But yet, nobody has received
13 those. So we're still stuck again, waiting again. So I
14 hope we can -- we hope we can correct that.

15 Again, there's a lot of issues here that we've
16 talked about. And I'm glad that the new director is
17 here because I think he needs to hear some of this stuff
18 that's going on, and you're the one that's in charge and
19 hopefully get this system going.

20 The other issue, real quick, is the long-term
21 incarceration that we've been talking about, the
22 guidelines for that for correctional facilities. And
23 the guidelines need to focus on the size of the facility
24 if we're going to do a facility.

25 Now, we talked about tribes requesting a

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1 facility if you're going long term, and we've talked
2 about a regional facility. And that's something we need
3 to work on. I know you can't provide a jail for each
4 tribe, but at least a regional facility could help that
5 out where all the tribes would have a regional area to
6 take all their prisoners to. So that's something we've
7 talked about, too, as far as the jails.

8 Our tribal facilities must also have the
9 ability and expertise to operate and house such
10 programs. You know, when they presented this act in
11 DUNLA (phonetic), there was no money attached to any of
12 these things we're trying to work on. And I know that
13 falls under the BIA to help with that, but, you know --
14 it's good that they do this, but they should attach
15 money to it to help fund these programs.

16 Now, I know you can't pay for everybody, but at
17 least we can get some of the money done so we can get
18 some of these facilities going.

19 For example, our jail was built in 1985. And
20 they said, "In a 25-year span, you'll be up to negotiate
21 a new jail. It should last 25 years."

22 Well, we're at 25 years, but there's no plan to
23 upgrade it or do another jail. And that's something we
24 talked about, too, is that where is it anywhere stated
25 that, okay, when they came and built a jail, they said

1 this. Now we're here. But now we can't even get a
2 jail. Or even get it remodeled now. And there's
3 nothing other than what they've told us to say, okay,
4 after 25 years, you get another jail. Well, it doesn't
5 say that anywhere.

6 So we're still waiting to find out through this
7 process what's going to happen as far as jails are
8 concerned. But yet, you know, if we don't get one,
9 then, hey, it's past 25 years, the lifespan's gone, so
10 it needs remodeling. It's not just our jail, but
11 there's other jails that came up, too, you gave us 25
12 years, it's here, and now we're asking what's going to
13 happen. Do we get another jail or is there going to be
14 funding for that? And every year, we put in our
15 requests to have our jails remodeled or a new one,
16 especially as grants come out or when BIA gets money for
17 correctional facilities. And they said, "well, at one
18 point we're kind of at the top of this list, and by the
19 time it's all done and said, we're at the bottom."

20 Now, I know a lot of jails -- a lot of tribes
21 need jails and they need to be remodeled. But I don't
22 know what the methodology is to get these jails. What
23 criteria do you use to say, "Okay. This tribe over here
24 gets a jail before you." And we've been told that
25 there's a strategy for that and a formula to do that.

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1 well, we've asked you about the formula that's supposed
2 to be there and nobody can give us an answer on what

3 that formula is or how they choose who gets one over the
4 other.

5 But we've been waiting a long time. And
6 through this process, well, our jail's been there 25
7 years and it's up to being built, we should have a new
8 one. But yet, we still don't understand the criteria of
9 how you select that or select which tribe gets one. So
10 that's something that, you know, we want to talk about
11 and present to you so that -- not only just us, but the
12 other tribes that are asking for new jails and waiting.

13 The other thing we talked about here is the
14 background checks from OJS. And we're talking about
15 getting these background checks and having a time limit
16 of 30 days. Because once we do all this stuff, in our
17 hiring process, by the time we get the background back,
18 it's been like six months. And by then, the people
19 they've had as applicants go to another agency because,
20 "well, we can't wait that long." So we lose our
21 applicants. So we're back to square one again, doing
22 the same thing and sending our background stuff in but
23 not getting it. So, you know, people that want to come
24 work for us, not just our tribe but other tribes, run
25 into this issue where, okay, now, by the time we get to

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1 them and say your background cleared, we're ready to
2 hire you, they've already got another job somewhere
3 else. And just because of that one reason, we lose
4 applicants that way. So if we could set a time frame to
5 get that done. And we'd recommend 30 days' turnaround.

6 And I know how busy you guys are and I know everybody's
7 busy, but this is something we need to get done so we
8 can get applicants and police officers to work for us.
9 So that's been pretty much something we need to work on.

10 And I want to talk a little bit about the
11 collection and the analysis of the data.

12 Now, we're told that through this new act, new
13 law and order act, that we're going to be sending stats
14 to the Department of Justice. Now, I looked at the
15 Department of Justice form. And we sent two people to
16 the training in Albuquerque for that. They come back
17 and explained that form to me. And the way that the
18 Department of Justice collects data as opposed to the
19 way the BIA collects data is two different forms. And
20 some of the stuff on the BIA stuff that we cover, like
21 assaults, stabbings, all that, we cover in our
22 reporting, a lot of it gets categorized in one offense
23 in the Department of Justice form. So we lose all that
24 data because they take only the specific stuff out of
25 there and don't show all the data that we send. So

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1 we're cutting ourselves short because of the way the
2 form is set up. So if we send stats to the BIA and send
3 one to the Department of Justice on their form, then
4 it's not going to be the same.

5 So that's something that we looked at already
6 before I came here. And we're not going to be -- get
7 the right stats in to get funding like you say. If we

8 get stats in, that helps us get funding. But if it's
9 going to be on two different forms and there's going to
10 be an issue there, you know, we're not going to be
11 counted for all the stats we send in. So if funding is
12 based on stats, then we'll be cut short every time we do
13 that because they're not the same.

14 So that's something we need to look at and
15 that's something I seen right off when they came back
16 and explained that to me, that there is going to be an
17 issue. So I don't know how we fix that or just come up
18 with one form for both agencies to look at so it's the
19 same form that goes in and the same stats get accounted
20 for. So that's something that we've talked about. And
21 that could be an issue down the road, especially for the
22 tribes that look for funding or expecting funding when
23 you send stats in. So that's something that needs to be
24 looked at.

25 So the three issues you talked about, I kind of

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1 covered that. And then the stat issue, I just wanted to
2 bring that up to say that there's issues there that we
3 need to look at. But I think, you know, if we work
4 together on this and get everything done, I think, you
5 know, we can get back on track, the tribes and the
6 bureau, and get the stuff done.

7 So that's all I have for now.

8 MR. CRUZAN: Chief, thank you very much. I like
9 what you said there at the end: If we can work together
10 on this. I'm all about that. I'm telling you the truth

11 on that.

12 On the data collection, I'm going to let Jason
13 talk about that, but first I want to talk about those
14 other issues that you brought up. And since we're in
15 the consultation part of this, let me just kind of share
16 with you what I'm thinking about. And I'll work
17 backwards, specifically, with the background checks and
18 60 days, but I get your point, I understand you're
19 saying getting those back in a timely manner -- if
20 you're getting them back in six months, that's still
21 further out than the 60 days.

22 One of the things that I'm looking at is --
23 because that's a concern for me, as well. Because if
24 I've got our investigators out doing background
25 investigations, I don't have a great number of resources

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1 to pull from either. I don't have a standalone
2 background investigation division at this point. So one
3 of the things that I've asked our associate director for
4 administration to provide me is a statement of work on
5 what it would cost for us to go out to contract that
6 piece of it.

7 There's a lot of different organizations,
8 companies, whatever, that do that kind of work. OPM
9 primarily, Office of Personnel Management, primarily
10 does their background investigations through contracts,
11 as well. So it's not -- we're not asking something
12 that's not being done already. That's one of the things

13 we're looking at. And my hopes would be that that would
14 be something where you could say here's an officer --
15 you basically would take BIA-OJS out of the equation and
16 deal directly with somebody we're contracting with. So
17 you would provide the name to them, they would start
18 doing background investigation, adjudication piece, and
19 back to you with a determination within that 60-day time
20 frame.

21 So that's something we're looking at doing, as
22 well. And it's just very difficult with the resources
23 that we've got. We're pulling special agents off the
24 reservations -- not off the reservation, but we're
25 pulling them away from a job that they're supposed to be

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1 doing to do those kinds of things. So it's not being a
2 good steward of the government's money, if you ask me,
3 if we're asking these guys to do that. So that's
4 something that we're looking at.

5 And since we're in a consultation mode here,
6 after I'm done, if anybody else has any thoughts or
7 input on that, I'd certainly be glad to hear that
8 because that's the direction I'm leaning right now.

9 The other thing, the formula for getting new
10 jails, that's one of the things we work with our
11 Department of Justice partners on. Quite honestly, I
12 don't know what goes into that, either, that formula.
13 That's something I really want to get engaged on,
14 especially as we look towards possibly regional jails
15 and where do we put those, where would we get the most

16 bang for our buck if we put them here. So that's one of
17 the issues that I'm trying to get clarification on, too.

18 I asked Carla to take the lead on that to, you
19 know, get with DOJ and find out exactly how is it that
20 we're making these determinations and what can we do
21 better than we're doing now. And can we -- through
22 these consultations, can we go out and say what we and
23 the tribes feel would be a good location would be here
24 because it's centralized, it's -- you know, some of the
25 thoughts from the California tribes. That may be

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1 something that we can do that makes a lot of sense; it
2 could meet a lot of needs. So I'm interested in that,
3 as well, like you.

4 And then the SLECs, I'm very disturbed to hear
5 that it's taking our agency five years, seven years to
6 get those -- that's unacceptable to me. Jason left the
7 room as you were talking to go call down to the
8 districts or down to our associate director for that, to
9 get an answer for why it's taking so long specifically
10 on those. But I'm very interested to know that answer
11 like you are.

12 I like the idea of possibly, when the training
13 is done, having the SLECs right there. I'm not sure why
14 that might not be an option. There may be a reason why.
15 But, you know, I know that I sign those, and so through
16 the district office we've kind of delegated that down to
17 our SLECs locally. But I don't know why that wouldn't

18 be a viable option so that when the training is done and
19 the officers pass, they couldn't have their SLECs. Like
20 I said, there may be a reason why that I don't know, but
21 I kind of like "telling it to me like I'm in third
22 grade" kind of philosophy, and if you tell it to me like
23 I'm in the third grade, it makes a lot of sense that it
24 happens that way.

25 And then the online training that you talked

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1 about, I'm in favor of that, too, for a refresher.

2 Hopefully, I answered those three things. I
3 want to move over and kind of give it to Jason and let
4 him talk about data collection and why we collect it the
5 way we do and why the hierarchy is important in
6 reporting crimes.

7 MR. THOMPSON: Thank you. And you're right, there
8 are two different systems there, there are two different
9 forms, two different sets of data being collected.

10 The issues that you're talking about with DOJ
11 and the way it doesn't -- you don't get every
12 (inaudible) maybe the way the form we utilize does.
13 That's the hierarchy rule. And the DOJ requires that
14 all crimes be reported under hierarchy.

15 we track the data in a different way. We're
16 required to show how many of those crime are
17 alcohol-related, how many of them are DV, how many of
18 them are those types of crimes. So it's actually
19 different information.

20 We are trying very hard to get tribes to

21 understand the hierarchy rule. Because it should be
22 reported to us the same way under hierarchy. And this
23 is way outside my area of expertise. I'm trying to
24 explain a little bit so that everybody knows what the
25 hierarchy is, is that if I leave here tonight and I run

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1 downtown in Darren's rental car and I run over somebody
2 on Main Street and a police officer gets behind me and
3 we go on a high-speed chase for 15 miles and when we get
4 out, I fire a shot at the police -- well, I've committed
5 five infractions over that period of time. What the
6 hierarchy is, is that you don't report all five of those
7 infractions. You report the one primary crime: what's
8 the most egregious crime that's committed? The rest of
9 those are the product of one criminal act.

10 And that's what hierarchy is. We haven't
11 reported that way.

12 And a lot of times when you look at the
13 statistics for Indian Country crime, you'll see where
14 we've got 30 or 40 times the national average crime
15 rate. That's why. Because that information doesn't get
16 pared down in hierarchy. I'm not saying the crime is
17 not higher in Indian Country. That's not what I'm
18 saying at all. But is it 30 times what the national
19 average is? Probably not in most places. So that's
20 what that hierarchy is. And that's why they're
21 different. We're required to report some different
22 information.

23 we are trying, again, to get everybody, even
24 our own programs we're doing with OJS, to teach
25 ourselves what hierarchy means. And that's the process

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1 by which DOJ takes that data. Without doing a dual
2 reporting so that you've got this segment of information
3 and this segment of information, and having me calling
4 you and say, "well, I'm not giving you any money because
5 your information don't match up." You don't want that,
6 obviously. So what we're trying to do is pare that
7 down.

8 But it's not necessarily the same information,
9 because, like I said, we have to report different sets
10 of data. The drug or alcohol involvement, those types
11 of things, juvenile involvement that UCR doesn't
12 necessarily capture.

13 So I hope that answers your question to some
14 degree. We are working on it.

15 MR. CRUZAN: And I'm not going to put any DOJ
16 partners on the spot, but there are some in here, if
17 anybody has any thoughts on that or if we're not
18 explaining that correctly, you know, please feel free to
19 jump in.

20 MS. HODAHKWEN: I don't have any thoughts on the
21 data part specifically, but I will say, I'm tribal
22 liaison (inaudible) in Arizona. And with regard to SLEC
23 training, we have a really good working relationship
24 with BIA in Arizona, and we've assumed responsibility
25 for conducting the training. And we take them to

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1 tribes. We just told our tribal partners, "If you'll
2 give us a room for a couple of days, we'll do the
3 training. You fill up the room." And we've been able
4 to train about 250 officers in the last two years doing
5 that. We probably could have done more if it was easier
6 to get the BIA (inaudible).

7 MR. GARRIOTT: And that's -- basically, it's that
8 procedure in a lot of states and will be standard
9 procedure across the board is that SLEC is conducted by
10 U.S. Attorney's Office locally.

11 MR. WILLIAMS: I would say that's great, because I'm
12 from the U.S. Attorney's Office in Oregon. We'll assist
13 in doing the training if the cards are issued. That's
14 been the problem. If you're asking U.S. Attorney's
15 staff to spend the time to do the training and do cases,
16 as well, and manage caseloads and expect the tribal
17 officers to show up and take that course and not get
18 their cards, that's not right.

19 MR. THOMPSON: I can assure you that moving forward,
20 so long as a tribe has submitted their application, has
21 entered into the deputization agreement and submitted
22 all of the pertinent data that needs to be submitted to
23 get the SLEC, which is a basic application process, we
24 will alleviate this delay. Whatever that is, whatever's
25 created, that will be taken care of. I don't see

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1 that -- there can be no reason if all the information is
2 presented why there should be any such delay.

3 MR. CRUZAN: Is there any reason why we can't issue
4 those cards right after the training?

5 MR. THOMPSON: It's only that. Is the data there
6 present? And maybe that's the answer. They don't go to
7 training until all that data is there. If you've done
8 that, then you don't have to worry about doing training
9 when people are not prepared to proceed.

10 MR. GARRIOTT: I was going to say, this is exactly
11 what the act is asking us to do is to streamline all of
12 this so that this problem doesn't persist.

13 MR. HAYES: I have a comment on that, because we ran
14 into that situation, too, where the solicitor, when we
15 send in an agreement, the problem is that the regional
16 solicitor is holding it back. The only reason why we
17 got ours approved is because we notified the higher-ups.
18 I'll give your her name later on, but it's the regional
19 solicitor. I don't know how other regions are, but
20 that's where the log jam is, the solicitor is holding on
21 to these. It don't make sense to me. Because a lot of
22 law enforcement officers, they take one plan that worked
23 in one area, in one region, and then try to use it in
24 southwest region. And they say, "well, we can't use it
25 because the solicitor -- it's up to that individual."

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2 your solicitors in each region and come up with
3 streamlining the process.

4 MR. THOMPSON: If I can I'll comment on that before
5 we move on.

6 Currently, there are basically three model
7 deputization agreements: there's the PL 280 deputization
8 agreement, there's the non-PL 280 deputization
9 agreement, and the Oklahoma deputization agreement. If
10 you are utilizing one of those model agreements, it
11 doesn't have to go to the solicitor. If you are
12 requesting some change thereto, some special provision
13 for your area, then that's the only time it would go to
14 a solicitor, is to approve a change to that.

15 So I'd love to visit with you about it just to
16 see what the specifics are to that issue.

17 MR. MARSTON: Just a comment.

18 I know you're talking about deputization
19 agreement. The whole reason that Hopland submitted the
20 638 contract to law enforcement services is because
21 under the Self-Determination Act there's specific time
22 requirements: You have to approve that contract within
23 90 days; if you don't, then it is deemed approved.

24 And you can only reject or refuse to enter into
25 the contract for those purposes that are specifically

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1 set forth in the Self-Determination Act that allow you
2 to decline a contract. That's another reason why we
3 chose that method.

4 And you have to recall, at the time that we did
5 that, you had a moratorium in place. You weren't
6 issuing any deputization agreements. We sued to declare
7 the moratorium invalid and that law enforcement services
8 were a contractible program, so --

9 And there is another contract out there, just
10 so you know. It's the Hopland contract.

11 MR. THOMPSON: That's a litigation-based contract.
12 That's not a model agreement, is what I'm talking about.
13 I'm talking about model agreements.

14 MR. MARSTON: But you just need to know that that
15 contract is being requested all the time and is out in
16 Indian Country. And you're going to get lots of
17 contracts. They're going to be asking for the same type
18 of contract that Hopland has.

19 And you're absolutely right. It was Judge
20 Alsup ordered the Department of Interior to come out
21 from Washington, D.C., sequestered them in a conference
22 room with Magistrate Chen, and from 8:30 in the morning
23 until about 6 o'clock at night we sat across the table
24 and negotiated that contract. So there are things in
25 that contract that aren't in any other -- aren't in any

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1 of your model agreements.

2 And the tribes like those things because it was
3 an actual bargained for, negotiated process that was
4 done under the direct supervision of the federal
5 district court judge under threat of contempt.

6 So, you know, there are things in that
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7 agreement that I think are beneficial to the tribe. And
8 I would hope that Office of Justice Services would be
9 open to that. Because, quite frankly, that contract is
10 working and it's working very effectively.

11 MS. ALTHER: I have a comment along those same
12 lines, because one of the things I did notice in the
13 TLOA, it does say that the MOA must be developed in
14 consultation with the tribe in establishing the minimum
15 requirements.

16 I know that a number of the officers that I've
17 worked with in tribes, we get that model contract and
18 we're basically told this is it, this is the contract,
19 and there's really no negotiation or anything. And so
20 I'm wondering with this new change on requiring that
21 there be consultation, are the tribes going to still be
22 submitting these standard model contracts and being told
23 this is it, and if you change anything, then it will go
24 to the solicitor's office for a year or two?

25 MR. MARSTON: Not if it's self-determination.

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1 MS. FLANAGAN: would you let us know who you are,
2 please.

3 MS. ALTHER: Oh. I'm sorry.

4 My name is Dorothy Alther.

5 MR. GARRIOTT: Again, for SLECs, it really sounds to
6 me like in this, as we develop these guidelines, that
7 there needs to be -- that all the steps need to be
8 outlined and then some time lines put on each step.

9 And, you know, we need to get that information
10 out to tribes because, again, I hear this quite often,
11 "We don't even know what the steps are."

12 And if I put a request for information and I
13 say, "Darren, give me all the steps that are required to
14 get a SLEC," he would have to put that information
15 especially together. He doesn't have a document that he
16 can say, "Here. This is what we give to tribal leaders
17 when they ask the questions." So part of that is
18 getting the information out there so that we have some
19 statutory limitations that we have -- that we have to
20 work with them.

21 But then beyond that, you know, where is our
22 wiggle room in this and then what are the reasonable
23 time lines to make this happen as quick as possible and
24 is everyone on board with those time lines. So, for
25 example, there's modifications to one of these and it

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1 goes to the solicitor's office, you know, they need to
2 have a time line in terms of getting back and reviewing
3 that document. Maybe they set that internally, maybe
4 they don't, but -- I know that they have an incredible
5 workload, but for something like this, for law
6 enforcement purposes, you know, it needs to -- the
7 policy or the guideline needs to be that it moves up in
8 priority for them. So again, just making sure that all
9 of this is outlined clearly as we develop this.

10 MR. BRANDENBURG: Judge Brandenburg, Chief Judge of
11 Intertribal Court.

12 I'd like to take a different tack for a moment
13 in looking at the act, if you will. As I read it, and
14 I've read the Congressional Research Service Summary,
15 it's real sketchy when it comes to tribal courts. Now,
16 the overall goal of the act is to provide law and order,
17 to bring law and order to the reservations and make our
18 neighborhoods, if you want to call them that, safe,
19 public safety of course being the first job of any
20 government. But a lot of things that we do and the
21 things that happen on a reservation don't rise to the
22 level of some of the things you're talking about. We
23 have issues like some civil regulatory things; we have
24 family issues; we have children's issues, whether it's
25 guardianships, conservatorships, adoptions; and elders'

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1 issues; zoning, hunting, fishing -- we can't expect the
2 feds or the state to jump in on this. We need our
3 tribal courts.

4 My question is -- and I'm going to keep talking
5 after I ask the question, so bear with me -- is what
6 about tribal courts? What about the tribal court
7 development, maintenance, and support in a Public Law
8 280 state? What does this act do for us?

9 The basis of what we're talking about here --
10 and underline. Nobody's mentioned sovereignty. Our
11 tribes are sovereign nations. They want to run their
12 own court systems. And to do that, not everything, as I
13 said earlier, rises to the level of calling in the feds

14 or the state. We have other issues. And we want to
15 know what we can do in terms of providing our people
16 with dispute resolution forums and taking care of these
17 lesser things so they don't rise to the level where we
18 have to call in the feds or we have to call in the
19 state.

20 In a 280 state, that's what our problem has
21 been all along. In a Public Law 280 state you cannot
22 enforce county codes on a reservation. We have to have
23 our own. The sheriff will not come and enforce tribal
24 law. That's not part of the scheme, if you will.

25 Classic case is I have two women, two elders,

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1 beating a dog with a broom, who's attacked another
2 woman, and they called county animal control. County
3 animal control says, "Get the dog and put it in the
4 middle of the road." Because county codes don't apply
5 on the reservation. Something as serious as that. We
6 have a woman getting malled by a dog. That's a tribal
7 issue.

8 we need tribal courts. We need this act in
9 every way possible to apply to the day-to-day lives of
10 our people in situations long before they rise to the
11 level of something serious.

12 Now, you've talked about codes. You've talked
13 about cops. And if I can steal a line from CLNS
14 (phonetic), you left out the third C. You need codes,
15 cops, and courts. And if we're going to talk about
16 self-determination and sovereignty, we need tribal

17 courts. And I want to know what this act can do for us
18 at the local level to support, maintain, and bring about
19 the access to justice that our people need on a
20 day-to-day basis.

21 Thank you.

22 MR. LITTLE: Judge, you always ask the hard
23 questions, don't you?

24 It's -- and I'll defer to little bit to the
25 solicitor here, but not totally. It's my understanding

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1 that under the act those new provisions that allow for
2 concurrent jurisdiction on an individual, case-by-case
3 basis, if you will, the tribe coming in and asking for
4 concurrent jurisdiction to allow for 1152 and 1153 of
5 the U.S. Code to apply, pretty much eliminates the old
6 280 provision, if you will. To me, it's tantamount to
7 having a tribe come in and get retrocession, but where a
8 tribe has come in, they're under 280, they want to take
9 jurisdiction back, the state agrees with them, the
10 bureau agrees with them, and we go ahead and go back to
11 tribal jurisdiction, so that you now have federal and
12 tribal jurisdiction. We've done that in several
13 individual areas.

14 My understanding of the bill, that's pretty
15 much what would occur if a tribe came in under the
16 sections and said, you know, we want concurrent
17 jurisdiction to allow 1152, 1153 to apply, DOJ, or
18 U.S. Attorney says yes, go ahead and do it, then I think

19 it's no different than any other res that we've got and
20 you really don't have a 280 situation anymore. As far
21 as I'm concerned. Now, the solicitor might argue with
22 me, but that's kind of the way we're looking at it.

23 So what our office is getting ready for is
24 those tribes that come in, get blessed, if you will, by
25 Department of Justice, it would be like dealing with the

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1 cops: we'd have no alternative but to accept the 638
2 contract and provide the court system for you. Unless
3 I'm way off on that.

4 MR. BRANDENBURG: Joe is a friend of the tribes,
5 I'll give him that any day of the week. Thank you, Joe.

6 MR. LITTLE: So actually I'm a little excited. This
7 is my excited face. Apaches don't, you know, show a lot
8 of excitement at times. But I'm excited to see this
9 apply in 280 area because I think this is where it's
10 going, and I think it would be very interesting for
11 California to start applying that for a number of
12 reasons.

13 One is that I know many of your court systems
14 are already kind of working with the county, you can't
15 handle all the cases, but you're similar to it, and
16 you've got resources. You know, I'm used to dealing
17 with tribal court systems that are separated from
18 everybody else. And we're sitting up there, looking for
19 resources to work with cops that aren't existent.

20 You're in a different situation. You're kind
21 of right in the middle of everything here. I don't know

22 whether it's good or bad. Maybe the state will leave
23 you alone completely to your chagrin. Maybe it's a
24 better working relationship, I don't know. But I'm a
25 little bit excited to see how it's really going to

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1 operate, because moving to that, I think it also kind of
2 addresses some of the Alaska issues in terms of their
3 jurisdiction situation.

4 MR. GARRIOTT: One thing that you mentioned, codes,
5 we've had a number of -- number of questions about what
6 does it mean at the tribal level and does the tribe have
7 to go back and amend its law and order code if they've
8 adopted the -- is anything in their tribal constitution?
9 Are they going to have to amend their constitution to
10 allow -- to take advantage of the expanded sentencing
11 authority because maybe they've adopted that in their
12 tribal constitutions? So there's a lot of work that's
13 going to have to be done at the tribal legislative
14 level. And let's be honest. We don't provide the
15 greatest technical assistance to tribes in terms of code
16 development. But maybe that's an area where we need to
17 ramp up. I mean, I don't know what the best mechanism
18 for that is. And so perhaps you folks have some
19 recommendations on that.

20 MR. MARSTON: Mr. Little, a follow-up question to
21 you. Last week the Robinson Rancheria Citizens Business
22 Council joined to retrocede. We're going to retrocede
23 on -- we're going to retrocede on nine crimes under

24 1152. We're going to retrocede on the Assimilative
25 Crimes Act. In fact, I have the resolution, I'm

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1 drafting it, so the request is probably going to go out
2 next week.

3 where do we send it?

4 MR. LITTLE: Department of Justice.

5 MR. MARSTON: What's the procedure? Should we
6 contact the local U.S. Attorneys? Do we -- the Office
7 of Justice Services?

8 MR. LITTLE: My understanding is it goes directly to
9 the Office of Tribal Justice Support with the Department
10 of Justice. You'd probably be the second tribe.
11 They've only got one tribe so far making the request. I
12 think it's out of Wisconsin or Minnesota. So you'd be
13 probably the second.

14 But to be quite frank, they don't necessarily
15 have a process yet. They're developing it. I've talked
16 with them and they've assured me that they'd work with
17 our office, as well, under some kind of review
18 arrangement. But DOJ is the one that will actually be
19 the one -- or U.S. Attorney's Office will be the one
20 agreeing to the concurrent with some interaction from
21 our office to establish that.

22 MR. SPEAKER: And your office is --

23 MR. LITTLE: Well, actually turned out to be the
24 Office of Tribal Justice Support, same as DOJ, but we're
25 within OJS. So I deal with tribal court systems. The

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1 justice department, that department, which is going to
2 be elevated under this act to a little higher level,
3 deals with all U.S. Attorneys -- well, all federal
4 issues within Indian Country. And that would be Tracy
5 Toulou's office.

6 MR. THOMPSON: I know you've been trying to get on.

7 MR. ALLEN: Thank you. I'm Tim Allen. I'm chief of
8 police at Umatilla Tribal Police Department.

9 I know a lot of people here had a lot of things
10 to say. Their frustration level has probably been a lot
11 longer than mine since I've only been on the job since
12 January 4th. But I will tell you that I haven't found
13 anything more frustrating in my almost 34 years in law
14 enforcement as having to deal with the SLEC issues.

15 I've been a long-time trainer myself. And I've
16 never put on a course myself, including teaching police
17 officers how to use weapons systems, and at the end of
18 the class to certify them and give them a certificate or
19 a card saying they are certified to use that system in
20 the defense of themselves or another. But with the
21 SLECs, you've got my written test. And I hope you read
22 that and take it to heart. And I'm not going to go
23 through the whole thing, but one of the things that, in
24 doing research, trying to get ready for this, and
25 actually just over the SLECs in general, is that, you

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1 know, we entered into an agreement with BIA for
2 deputization agreement back in 2005. You've already
3 heard this from Chief Smith a little bit about our
4 frustrations, where it was in 2006 that several of our
5 officers, we received a letter from the special agent in
6 charge stating that ten of our officers had successfully
7 completed the course, but we never received a card. And
8 they still haven't to this date. And here we are. None
9 of our officers hold SLEC cards and the training has
10 been expired. And obviously we've already discussed
11 it's a three-year commission. It really should be a lot
12 longer than three years. But there needs to be a timely
13 response. I heard people talking about when the class
14 is presented, be ready to issue the cards right there.
15 And from what I can see, and there probably is something
16 maybe within the statutes saying you can't do it, but I
17 just don't see a reason why they can't be issued at that
18 point. Right away. They've successfully demonstrated
19 the knowledge, give them the cards.

20 The other part of that, someone in the back was
21 talking about USA's office putting on these classes or
22 Assistant U.S. Attorney, Bill Williams, from the OJS
23 organization district, he's been trying with BIA for the
24 past year, like he said, trying to be able to put that
25 class on himself. And he just wants some assurances

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1 cards are going to be issued. And he's gotten
2 absolutely no response from BIA on this.

3 So we've had partners trying to get this going
4 for us, trying to think outside the box, the BIA box,
5 trying to get this accomplished, and nobody will respond
6 to it. And I don't know if it's just the BIA in general
7 or our district coming out of Billings. And I've got to
8 be honest. From what I've seen, that seems to be one of
9 the biggest issues, roadblock, is stumbling right there.
10 But when we --

11 Some of the stuff -- like I said, I'm not going
12 to go over my full testimony, but some of the
13 frustration, too, is I think there's a real need for
14 the -- we need to have the control back into our region.
15 We used to have control back there in Oregon, an office
16 in Redding, but obviously it's back in Billings, and
17 it's -- it just seems -- it just doesn't seem to work.
18 There needs to be more local control for tribes to have
19 contact with the BIA local offices.

20 Last year, Assistant Secretary Echo Hawk talked
21 about he supported this. Our tribe and several other
22 tribes had presented resolutions to the BIA, supporting
23 the move back to the Oregon office. And we haven't
24 heard anything back on this. Nothing whatsoever.

25 So there's several issues that, like I said, I

1 brought up my written testimony to supply to you by our
2 Attorney Brett Leonhard here and I hope you take it to
3 heart.

4 Some of the other training issues I wanted to

5 point out is that it seems to be one or two classes here
6 and we have to go a long ways to go there. We're not a
7 poor tribe by any means, but at the same time I don't
8 have officers that I can send all the time to training
9 outside the state and outside the region. There just
10 has to be more training close by, especially with the
11 SLEC. And if the BIA has a hard time accommodating
12 that -- I heard you talking about contracting for
13 background services. Look into the possibility of
14 contracting for these educational services, as well.

15 I attended a FLETC conference a few months
16 ago -- and, I'm sorry, I forget his last name -- Chuck
17 Daenzer -- and I asked him about is there any
18 possibility FLETC could do this. Because they're more
19 than willing to come out and put on classes wherever
20 they can. "But because that's a BIA thing," he says, "I
21 don't know if we can basically tread in those programs."

22 So I would encourage you guys to think outside
23 the box. I know you're saying that like with the
24 background investigations, you don't have officers to be
25 able to pull off and do the background investigation.

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1 It may be true for the training, I don't know. But look
2 at contracting. Make sure it gets out. There are a lot
3 of people who I know can teach the stuff and teach it
4 very well, and it would make it much easier I think for
5 you to get the training out to everybody in a very
6 timely manner.

7 Thank you.
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8 MR. THOMPSON: Can I respond to part of that before
9 yours, just quickly if I can.

10 The SLEC aspect of the training. We're working
11 with Department of Justice in D.C., Leslie Hagen and
12 those folks, with training there. What they're going to
13 do in November is pull U.S. Attorneys together to
14 remodel what their training is, the syllabus for the
15 SLEC training so the U.S. Attorneys are -- so it's
16 consistent.

17 Right now, we offer it through a number of
18 U.S. Attorney's Offices and through contractors out of
19 IPA or Artesia. But if you go to that training in one
20 location and you go to it in another location
21 geographically, you'll find that that training is not
22 identical. What we're doing is taking that program away
23 from FLETC and making it an agency-specific program as
24 far as the SLEC training.

25 Now, what that allows us to do is to let the

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1 U.S. Attorneys decide what is important for SLEC holders
2 in that training to develop the training, to develop the
3 test. The Tribal Law & Order Act requires that we hold
4 that training twice a year in every region. The
5 smartest way for us to do that is have the
6 U.S. Attorneys provide that training twice a year in
7 every region. That way we don't have to pay contract
8 fees for it. They're currently contracted and FLETC
9 does provide us a couple of locations. But for us to

10 pay them to come out -- everything they come out and
11 teach, we have to pay for. So if the U.S. Attorneys
12 rewrite it and they rewrite the syllabus and then
13 rewrite the test and then they provide it, we should be
14 able to get you into the training very close to where
15 you're at and, like I said, twice a year.

16 The other aspect on the delays, I've got one
17 question. You talked about training. You haven't
18 completed the training? Have we submitted the
19 deputization agreements and the applications for the
20 SLECs?

21 MR. ALLEN: Umatilla Tribe has a deputization
22 agreement they entered into in 2005. They did all the
23 training. In May 2006, we got a letter from the special
24 agent in charge out of Billings, Montana, saying that
25 ten of the officers were considered commissioned. Two

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1 of them I think later were.

2 We never ever got any cards indicating that
3 they're special law enforcement commissioned officers.

4 And it makes absolutely no sense, but I think
5 the reason is because it went regional. And because of
6 that, and because of other efforts that the tribes in
7 the northwest have done to obtain federal law
8 enforcement authority, one of which was officers went to
9 training to receive special -- to receive law
10 enforcement authority from -- I forget --

11 which agency was it, Carmen, that you had the
12 training for officers? Was it the FBI? Oh.

13 U.S. Marshals.

14 MR. SMITH: U.S. Marshals.

15 MR. ALLEN: U.S. Marshals.

16 They went to training. They had the training.
17 The day of the training they were told that the BIA
18 would not recognize them. The day of. They stopped it.

19 And we have requested, Umatilla, Warm Springs,
20 Yakama, Colville, (inaudible) a resolution to remove the
21 authority from Montana -- Billings, Montana, region, to
22 put it back to the local level. which is mandated under
23 the federal statute. It doesn't give you an option. It
24 says you shall.

25 We've received no response. Echo Hawk has said

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1 that he supported it. Stan Speaks supports it. The
2 special agent in charge of Montana strongly opposes it.
3 But we don't care. We're almost at the point of going
4 into federal court and seeking a writ of mandamus to
5 force it to happen.

6 MR. CRUZAN: Let me ask -- because I missed
7 something.

8 when you said the BIA wouldn't recognize the
9 U.S. Marshal -- I'm confused on that one.

10 MR. ALLEN: Carmen can speak to this.

11 MR. SMITH: Okay. We've been working on the task
12 force for the northwest, and we've been working on this
13 for like three years to get a task force for all the
14 tribes in the northwest. We met with the marshal's

15 office. We submitted all our applications for temporary
16 emergency commissions for the U.S. Marshal's Service and
17 for this team. And we got that authority in D.C. to do
18 that.

19 Now, we were going in on Friday afternoon to
20 get all sworn in, all 30 officers. Well, your special
21 Agent Ridley at the time called his Portland office and
22 said since we didn't go through the BIA law enforcement
23 that we're not authorized to have those. So they
24 stopped them.

25 Now, I've been to D.C. four times. Met with

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1 ONDCP, met with senators, met with Department of
2 Interior, met with Ragsdale on the task force concept
3 proposal that we had. Initially, he said that's a good
4 proposal. He was for it. He was supporting that
5 proposal. Now, I got the FBI, I got the DEA, got the
6 U.S. Attorney's Office, Washington and Oregon, ONDCP to
7 support this program, to get this task force going for
8 the tribes. And it's still there.

9 And we went to ONDCP because they were going to
10 fund it. Then we met with -- we went before Congress,
11 the Senate Committee on Indian affairs, talked with
12 (inaudible) Dorgan (phonetic) and did our testimony
13 there, and we were going to get special appropriations
14 for this task force. Well, then we were told by then
15 senator that, "well, we're giving BIA several million
16 dollars for gangs and drugs. So that's where the money
17 should be coming from, the BIA, to support that task

18 force."

19 Inside that proposal, our long-range goal was
20 to get the Indian Country HIDTA programs. Well, we've
21 got the Indian Country HIDTA program out of Warm
22 Springs, but yet nothing's been done on the task force.
23 So it seems like every time we've tried to take this
24 extra step to get something done, there was always a
25 roadblock to stop us.

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1 And we sent letters to Gitner (phonetic),
2 everybody that was in there at the time, department
3 director, requesting funds to start up the program. We
4 initiated this through all the tribes in the northwest.
5 They had police departments of 35 tribes supported this.
6 And this is something that's going to be coming up is
7 that the treaty tribes are having meetings now and
8 they're talking about doing MOUs between tribal
9 departments in the first meeting that we had. And I
10 said, "Well, why were you doing that?" He said, "We've
11 already done that. We've already done the proposal.
12 we've already done all this work to work together."

13 I said -- so -- again, we went to Stan Speaks
14 because he's the regional director. He talked to the
15 director of BIA and that's how it got started. ONDCP
16 got involved. We did the whole thing. We did a threat
17 assessment for all the northwest tribes. And we
18 attached that to everything that we've done. But yet
19 today, we're still waiting to see if BIA's going to help

20 us fund this program. Which we haven't gotten an answer
21 yet. And that's what he's talking about. Because that
22 was going to give the U.S. Marshals authority to work
23 here in Oregon and here in Washington, Idaho. So we had
24 that. But that got stopped on us.

25 And when I went back to ONDCP and before the

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1 senators that was a question they asked me: what
2 authority did BIA have to stop it? which was told to us
3 none. It was a tribal thing. But it got stopped. So
4 we don't get them. So all these questions came up. And
5 after that, that's when they called us down, me and the
6 chief of Colville, Matt Haney, to come testify before
7 Congress on what happened, why didn't this program go.

8 So we testified before Congress on gangs and
9 drugs, and we brought up the task force and kind of what
10 happened with that because they wanted to know why BIA
11 stopped the commissions. So now we're still waiting to
12 see if this task force is going to be funded.

13 And like I said, we've been working with the
14 treaty tribes. And that came up in our meeting and I
15 said this is already done, we've already done this,
16 we're just sitting here waiting. If BIA supports this
17 and funds it, it will cover all the tribes in the
18 northwest and we'll have all the agreements there to do
19 it. And I said, "Can we get resolutions for this, all
20 the tribes?" And especially Umatilla, Colville, and
21 Yakama was part of this, and everything was packaged and
22 sent in. But yet, we're -- we're still kind of waiting

23 to see if this is going to be funded.

24 So we're kind of -- like I said, this has been
25 going on. It took us three years to put all this

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1 together. And it's almost a year now since we met with
2 Ragsdale over this, and yet all these roadblocks came up
3 and everybody is asking us how come we're not doing
4 this. I go back to the tribes, ask them how come, you
5 know, we started this, we signed this, we did this, yet
6 nothing's happening. But yet, there's still these
7 Mexican cartels are still on the reservation, they're
8 still growing marijuana. This would have helped us out
9 a great deal if we can pull officers from different
10 tribes to help us out or help Umatilla or whoever needed
11 help. That's what this program was for. It was like a
12 mutual aid task force. And yet they're asking me now
13 what's going on. This is what I know so far. I said we
14 were asked to do all this, we were asked to meet
15 U.S. Attorney's Office, asked to do a threat
16 assessment-- everything that was asked of us to do,
17 we've done. But yet out of all the federal agencies
18 that support this program, the one that's supposed to
19 help the tribes isn't doing anything to help us.

20 And that's kind of where we're at today. And
21 that was something I would like to meet with you and
22 Mr. Thompson about.

23 MR. CRUZAN: Yeah. I would very much like to meet
24 with you on that.

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25 And then probably even before the first day

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1 that I actually started, one of the things that Jason
2 had talked to me about what was what you're talking
3 about is some of these positions -- it's been a long
4 time since BIA law enforcement has really looked at:
5 Okay. Do we have our resources put out in the right
6 spots? You know, at one point we had a position in
7 Sacramento, and then that went away. We had one in
8 Portland, and that went away.

9 And so as I'm saying, one of the things that
10 Jason was talking to me before, he was kind of pounding
11 the table about, we've got to realign our positions out
12 there to make sure that we're getting -- the tribes out
13 there, when they call, somebody picks up the phone and
14 then has follow-through with what they're doing.

15 So his recommendation to me was we need to get
16 that Sacramento position advertised and out there. We
17 need to get that Portland position advertised and out
18 there. And we need to probably get one in Minneapolis
19 out there, at parity with our regional office at OJS so
20 that they can be speaking. You know, at this point I'm
21 not saying redistricting, but at parity, where they can
22 be answering some of those questions.

23 I've been here two weeks. I'm pretty close to
24 pulling the trigger on that one and making that happen
25 so that you do have somebody local maybe right there in

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1 Mr. Speaks' office. I know that they've given us space
2 there before. And I don't know where in Sacramento we
3 would put them, but those are important things that we
4 need to do, more accessible and more timely.

5 I couldn't agree with you more. We don't have
6 to beat this horse any longer. But I'm telling you that
7 the SLECs, the time it is taking is unacceptable to me,
8 as well. That's something that we're really going to
9 get our arms wrapped around.

10 And then going back to having these taught by
11 contractors or by our U.S. Attorney's offices, I think
12 what Jason is saying has a lot of merit there, too.
13 That not only having them. There needs to be some
14 consistency in the class. But somebody over here said
15 earlier one size doesn't fit all. And we know that.

16 So there's some specific things that each
17 U.S. Attorney's Office, if they were teaching a class,
18 could be giving to our tribal officers here taking a
19 class. And not only that, but you kind of start
20 building rapport with the person that's going to be
21 working with you on these cases. So I think it has a
22 lot of merit, in my opinion, to have these taught by our
23 U.S. Attorney's office.

24 But I agree with you, Bill. If you're going to
25 do it, you don't want to waste the resources and the

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1 time and energy --

2 MR. WILLIAMS: If we do ongoing training. But this
3 is specific to SLEC where, quite honestly -- you know, I
4 went to that listening session in Minneapolis last year
5 about this time, and the number one complaint was this:
6 People were getting training, doing everything they
7 needed to do but not getting the cards. And frankly, I
8 took the position that I wasn't confident that if we did
9 the training, they would actually get their cards.
10 which is sort of a sad state of affairs. But that's the
11 best evidence of it.

12 I'm working with Leslie and, you know, they're
13 developing plans for -- obviously, Arizona does, as
14 well. We're willing to do that. We just want to make
15 sure these guys get their cards.

16 MR. CRUZAN: I agree. And I think as Leslie works
17 through that with the U.S. Attorneys and tribal partners
18 and BIA, as we build that thing, I think that has to be
19 a component of it that -- you know, those cards are
20 right there on the table. And I'm oversimplifying it.
21 But you have the test to score, you know, you go
22 outside, you wait until everybody else takes the test,
23 you come back in, you have a swearing in, you have the
24 cards, and off you go to do -- do your work. I think
25 that -- it needs to be that simple. We overcomplicate

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1 things sometimes. I think it can be that simple. I'm
2 not sure why -- why it's not. But that's something that
3 we need to make sure in November as the class is written
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4 that we draft it up that way.

5 MR. LINDSEY: Paul Lindsey, Police Captain for the
6 Tule River Tribe.

7 I don't want to beat a dead horse here, but
8 back in 2006 when we started our department, we made
9 sure we had an independent California POST-approved
10 background investigator do all our background
11 investigations, and that investigator has done every
12 background investigation subsequently ever since then.

13 Now, two years ago, District 3 office received
14 an anonymous complaint letter lodged against our chief
15 of police who at that time held a SLEC card. Based upon
16 this anonymous complaint, District 3 immediately revoked
17 our chief's SLEC card. We later found out from that
18 special agent in charge that there was no investigation
19 done by the BIA. They just unilaterally, based upon an
20 anonymous complaint, revoked the card.

21 we subsequently appealed it. We've never heard
22 back. We've gotten promises. "We're going to look into
23 it. We'll get you your card back. We'll have Addington
24 (phonetic) look into it" -- nothing's ever happened.

25 Now, our chief of police, every time we hold a

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1 SLEC class, is kind enough and patient enough to sit
2 through that SLEC class once again just to make sure his
3 SLEC training is up to par in the event that he might
4 ever get that card back.

5 Can you guys justify that somehow? You know,

6 where's the due process in that? That's one of the
7 issues I have.

8 One of the other issues that we're having for
9 California, there's this -- and I don't want to upset
10 any other tribe, but infamous Quinn letter that came
11 from the solicitor's office that was presented by our
12 local sheriff the other day. And I'm not going to get
13 into the specifics of this solicitor's letter. It had
14 to do with an agreement between another tribe and a
15 district attorney for direct filing. But the local
16 sheriff and the state's sheriff's association, they're
17 using that as ammunition, saying, "well, this letter
18 pretty much says you guys aren't federal officers, so we
19 really can't cooperate with you anymore."

20 we need your help in California, specifically
21 when it comes to this SLEC issue, for our tribe, we need
22 to get this revocation matter resolved and we need it
23 done right away. But we also need your help I think in
24 stepping forward to the plate and making a determination
25 to the state's sheriff's association, the state DOJ,

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1 "Hey, look, the cards we issued the SLEC officers tells
2 them they're federal officers. So what's the problem?"
3 If you could address that, I'd appreciate it.

4 MR. CRUZAN: What I can address real quick, Captain,
5 I've got your card. I've got the chief's card, as well.
6 And I will take that back and look at it. What I can't
7 guarantee without knowing all the facts is that he will
8 get his card back. I obviously can't make that

9 statement and I won't make that statement. But I will
10 get you an answer for that, to that question. And
11 timeliness, obviously, has been a problem for us. And
12 it won't take too awfully long before I get a response
13 back to you. It may not -- like I said, it may not be
14 what you want to hear, I don't know what the
15 circumstances of that are, but I do have the ability to
16 get an answer for you.

17 MR. LINDSEY: As far as the second part of my
18 question, the issue with this Quinn letter that's
19 floating around, apparently all the chiefs of police in
20 California and all the sheriffs of the counties in
21 California, what's the BIA prepared to do to correct
22 that information that went out?

23 MR. THOMPSON: Yeah, I'll speak to that.
24 We can't tell you what we're prepared to do.
25 This is a letter that came out of the solicitor's

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1 office. There's currently litigation over this issue.
2 There's issues --

3 MR. LINDSEY: There's not litigation over that
4 issue.

5 MR. THOMPSON: I haven't seen all --

6 MR. LINDSEY: There's no litigation over that issue.
7 I've heard a number of solicitors and a number of people
8 say (inaudible). There's no litigation over this issue.

9 MR. THOMPSON: Okay. Thank you. Thank you. But
10 it's something that's going to have to be researched.

11 we're going to have to see exactly what the position is
12 going to be. We've got a new director. We've got a new
13 program. We know what the position of the previous
14 director was. I don't think that that's a mystery to
15 anybody in here. But we've got a new director. And
16 that's something that he's got to be educated about.
17 He's got to see what all the issues are. This is going
18 to do great things towards educating him, so that he
19 knows what all the issues are that are coming out of the
20 state of California.

21 I think that's where we're at. We have to go
22 back and find out where we're at. I think -- you know,
23 we've talked about issues with flets (phonetic) and
24 clemar (phonetic). I don't think we've got any problems
25 supporting any tribe who is trying to run a law

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1 enforcement program in the state of California to the
2 state of California that they should have access to
3 those things. Whether you're a federal officer or not,
4 whether that issue exists are not, you should have
5 access to those things. And so that's where we're at.
6 We've got to go back and find out where we're at on
7 those positions so that we can respond to you.

8 MR. MARSTON: Just with respect to putting somebody
9 back into Sacramento, I think that the tribes would
10 support that. I think that would go a long way to
11 enhancing communication between the Office of Justice
12 Services and the tribes here in California. And so my
13 question is, is there something that the tribes can do

14 to make that happen? Do you need resolutions of
15 support? The one thing that I would say is, don't just
16 put somebody in there that-- put somebody in there.
17 Clearly define what their authority is. Clearly define
18 what they can do for tribal police departments and
19 clearly define what services they can provide. Because
20 I think that if you put somebody in there, and,
21 hopefully, put somebody in there taking into
22 consideration some input from the California tribes in
23 the selection of that person, somebody that knows
24 something about tribal issues.

25 MR. CRUZAN: I don't think I need any resolutions or

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1 anything like that on a decision like that. I'm pretty
2 convinced in my mind that that's the right thing to do.
3 I just want to make sure -- two weeks is not a whole
4 long time, but I'm not going to sit on it very much
5 longer. I've got a lot of airplane time on my hands, so
6 I get to get a lot of thinking in as I'm flying from
7 place to place.

8 The other thing, when and if we do, when we
9 advertise that position, you know, it will be out there
10 for anybody to apply for. And so I would encourage you
11 to encourage people, good people to put in for that.
12 And we would never put anybody in there that I didn't
13 think was absolutely the best because they're a
14 representative of me. And I have a sincere urgency to
15 do the right things. So I'm going to definitely be

16 basing my decisions on who gets in positions based on
17 their talents, on their merit, and their motive. You
18 know, what have they done, what can they do, why do they
19 want to be in there. So we're lock-step on that one.

20 MR. HAYES: I just want to piggyback on the
21 conversation about making sure we get people that are
22 knowledgeable about Indian Country.

23 I hope when you guys do the FBI issue, about
24 getting FBI agents in Indian Country, that you don't
25 pick someone from white collar, from New Jersey. We

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1 need people who really understand Indian law, Indian
2 Country. Because too many times just in our region, we
3 have an FBI agent that's just focused on white collar,
4 casinos. That's not appropriate. We need individuals
5 who are going to be able to support our BIA or tribal
6 law enforcement officers.

7 MR. CRUZAN: I can definitely carry that message,
8 but I think -- my understanding is DOJ is going to do --
9 I know I've heard the phrase "consultation fatigue," but
10 I think DOJ is probably going to be coming out here. So
11 I would encourage you to voice that, as well. But I can
12 carry that message for you.

13 MR. HAYES: One more thing. We go back to data.

14 I just want to ensure that BIA and Department
15 of Justice are really working on this. Because there
16 are two funding sources for Department of Justice and
17 BIA. Which one is going to be the one that's going to
18 count the most for tribes getting their funding?

19 MR. THOMPSON: I appreciate your concern there.
20 That is something that we are working very
21 closely on. We've got workers focused on a number of
22 issues. This is one of the big ones. Because for us
23 data is -- it's critical. It's critical for them. When
24 you start talking about even your grants and all those
25 processes, for us, base funding is determined for a

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1 number of locations partly on data. We've done a number
2 of trainings in conjunction with DOJ about the
3 hierarchy, about UCR statistics and how the hierarchy
4 rule works for them. We're working very closely with
5 DOJ. We are comparing numbers for that process. So,
6 yes, we understand that concern, absolutely.

7 MR. GARRIOTT: I just want to add we have a -- what
8 we call a deputies working group, which is chaired --
9 co-chaired by currently the Acting Deputy Attorney
10 General and the Deputy Secretary for Interior, Mr. David
11 Hayes, who are essentially the number twos from both
12 departments, the chairs of this working group, and
13 they've identified about six subgroups to the Department
14 of Interior and Department of Justice are to work on.

15 Essentially, these working groups put together
16 work plans, identify all the various issues that need to
17 be worked out between both departments, and then put
18 time lines deliverable to each of those plans, and then
19 we meet quarterly. And again, the deputies are the ones
20 who chair these meetings, so they're not answering to me

21 or even to Larry, but they're answering to David Hayes
22 and the counterpart in the Department of Justice to work
23 through these issues. So it's very high priority on
24 both sides. And data collection is one of the subgroups
25 that they actually have a work plan in place.

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1 MS. FLANAGAN: I'd like to also mention that under
2 the BOP pilot program for the prisoners, the BOP will
3 use a hierarchy system. That's how they classify
4 prisoners and that's how they determine where that
5 prisoner will be sent. So that will also come into play
6 when and if you opt to request the Bureau of Prisons to
7 take a tribal prisoner.

8 MR. DENKE: Bill Denke, Sycuan Tribal Police.
9 Darren and Jason, how much can you share as far
10 as the minimum requirements the protocols changing for
11 the Special Law Enforcement Commission? As chiefs, are
12 we going to see stuff on our end as language is typed
13 up, ambiguity removed? Just wanting to know what to
14 expect here in the near future.

15 MR. THOMPSON: You know, let me respond to this.
16 I'm going to defer to Palmer Mosely as needed. He's
17 been working on the actual documentation and what's
18 there.

19 what we're trying to stick with for
20 requirements is just 25 CFR. What are the minimum
21 requirements for law enforcement officers? The
22 background, training, those issues. We don't want to
23 make that any more complicated than the law already

24 makes it.

25 And the protocol, as far as that's concerned,

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1 what we're trying to do is set those time frames that
2 we're talking about. And unfortunately, in the Umatilla
3 case, where we've got the information, once we have that
4 information, we've got signed deputization agreements,
5 we've got all the applications and background
6 information that's required, that should invoke a time
7 frame. That should say you now have this long to issue
8 that card. So long as all those things are in place.

9 As far as the deputization agreement's
10 concerned, we haven't looked at the deputization
11 agreement. I will agree with you a hundred percent
12 there is some extreme ambiguity, for a lack of a better
13 word, in the deputization agreement. I think if that
14 were written the way that I would like to have seen it
15 written back when it was written in the first place, I
16 don't think we would have near the issues that we have.
17 But that's got to get sorted out. And when it does, do
18 I believe that that may result in further litigation?
19 It may. And it may not. If we can all get input on it
20 and we can all look at it and say here's what we need,
21 here's what we're willing to do, can we meet there
22 somewhere regarding what -- you know, how much liability
23 is there and all those other issues, I think we can sort
24 that out.

25 But for purposes of today, the first thing

1 we've got to get worked out is the requirements and the
2 process. And then the deputization agreement is
3 something that we've got some time to massage, for lack
4 of a better word, or change the gray for some clearly
5 defined words, in my personal opinion. But it's
6 something that we absolutely --

7 And Mr. Cruzan's been here for two weeks. This
8 is absolutely one of the biggest issues he's got. So
9 please -- please understand. This is one of the issues
10 we're working diligently towards because it's -- it's
11 needed. Not only is it a matter of great contention,
12 we've got law enforcement officers out here working and
13 we need to make sure they've got everything they need to
14 do that within our power. And if we've got the ability
15 to do that, then we need to get it sorted out. So
16 that's -- I hope that answers your question.

17 Yes, we're trying to keep the requirements as
18 minimal as we can within the law and the processes. The
19 biggest issue for me is the time frame. If we get
20 here's what's required as far as the deputization
21 agreement, here's what's required for the application
22 and background, so long as those are set -- and those
23 are requirements by law. As long as we have those, that
24 should set a time frame. That should be really the
25 basis of what the process is. If we get everything, we

1 should have X amount of time to get it back to you. And
2 short of that, I don't see any other process that's
3 necessary. Give it to us. I mean, it dumbfounds me
4 that we've got these issues.

5 MR. MOSLEY: Well, the X amount of time is going to
6 be 60 days according to TLOA. For the last month I have
7 basically set in the office in Washington, D.C., and
8 read through TLOA as well as look at our SLEC policy and
9 our agreements.

10 I have to echo some of the statements that
11 Mr. Thompson has said. I do definitely agree and will
12 recommend to Director Cruzan that we look at our
13 agreements a lot closer. In my personal opinion,
14 they're not working. They're not worded correctly and
15 they need to be relooked at.

16 In reference to the SLEC policy, we're not
17 trying to reinvent the wheel. Like Mr. Thompson said,
18 anything that's required by law will be in that policy.
19 To be personally honest with you, I wouldn't want
20 anything less due to liability concerns. But the things
21 that are in there at this moment -- and again, this is
22 just a draft copy, mind you. We're taking everything
23 that we receive from these consultation meetings and
24 taking them back to the office, and eventually we'll
25 have a final copy. But everything that we have looked

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1 at right now is basically what was in there before. we

2 just took some clearer language and put it in there. A
3 lot of it was what the applicant has to have before
4 they're issued the SLEC card. That's basically remained
5 the same. We just cleared it up a little bit.

6 And second of all was the background
7 investigations. That is where we hold a lot of
8 liability on our side in reference to background of the
9 SLEC applicant. If that background investigation is not
10 done properly and not done thoroughly and we issue an
11 SLEC card to an individual that doesn't deserve one
12 because they might have a felony conviction, then
13 there's a huge liability there. And that's the reason
14 why we've really looked at the background investigation
15 side of the SLEC policy.

16 But again, it's drafted at this time. We
17 welcome your suggestions, your ideas, your concerns,
18 your questions. Eventually, we will have a final
19 product. But again, I do think the deputization
20 agreements need to be looked at a lot closer than they
21 have in the past. That's my recommendation.

22 And again, remember, we're not trying to
23 reinvent the wheel here. But also understand this:
24 There's a huge liability when we issue those SLEC cards.
25 Plain and simple. Nobody can argue and debate me about

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1 that. That's the plain honest truth. When we issue
2 those cards, there's a huge liability on our side. So
3 we want to make sure that everything -- that the "i's"
4 have been dotted and the "t's" have been crossed.

5 And to be honest with you, when I've heard
6 people say about us not giving the cards, I have no idea
7 how to respond to that. I really don't. I don't know
8 the answer to that question.

9 But I will tell you this -- again, Director
10 Cruzan hasn't been beaten up here today. And I'm glad
11 to see that because I'm sure we could take him out in
12 the back alley and just whip him. But, you know, he's
13 brand new, he's committed to doing what is right.
14 Because the last two weeks that I've worked with this
15 man, I have seen him be pulled in a thousand different
16 directions by a thousand different people, and at the
17 end of the day he's still committed in doing what's
18 correct. So let's give him some time, and then after
19 he's been in office for a while, he hasn't done what he
20 has promised to do, then that's when we'll really go
21 after him.

22 But that's the reason why I'm here. He's asked
23 me to do certain things. I have done that because of
24 that reason.

25 But again, in reference to SLEC cards, you

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1 know, we're not going to leave them in the bill. We're
2 going to make a few slight changes. And hopefully, the
3 problems that you have told us about today, we can get
4 those taken care of, as well, because, again, there is
5 no excuse for that. We have to research and see why
6 those things are happening. But again, when Chief Smith

7 said something about -- we're looking at changing it to
8 five years. When you renew your card, we're close to
9 looking at that. I wouldn't go further than five years,
10 but I think that we need to do something to streamline
11 that process.

12 MR. GARRIOTT: Other comments? Recommendations?
13 Suggestions?

14 MR. LINDSEY: Paul Lindsey from Tule River again.

15 I'm just a little confused. On the SLECs, is
16 there going to be a change in the background process,
17 then? Is the tribe not going to do their own background
18 and submit it or is that --

19 MR. MOSLEY: No, we're just making sure that --
20 again, there's no big change. We're just making sure
21 that the policy specifically states what has to be
22 there. There's not going to be really any difference.
23 We're just making sure that you have no questions.

24 MR. THOMPSON: Paul, it's really defining what that
25 background -- what's required in that background. If

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1 you ask ten different people from five different
2 districts right now what's required in our background,
3 you're going to get four or five different answers.

4 And it shouldn't be that way. You ought to get
5 a packet that says, "Hey, we want an SLEC. Here's the
6 deputization agreement we signed. We're ready to go.
7 What do you need us to do?" We should send you a packet
8 that says do this and then do this and then do this and
9 then send us that, and you'll go for training and when

10 you get done, the U.S. Attorney will issue you your
11 card.

12 MR. MOSLEY: And we've already done that. In this
13 month-long time period in D.C., we've already
14 established certain guidelines to do background
15 investigation. And what they are is --

16 Like, I'm a special agent. I investigate
17 crimes. I don't do background investigations. But if
18 you were to give me those guidelines, as a special agent
19 I could look at step 1 and follow to step 23 and I can
20 do that background investigation the way that it has to
21 be done. It's a streamlined process. And it's -- I've
22 done background investigations in the past. I've used
23 this process, it's very thorough, so it answers all the
24 questions.

25 MR. GARRIOTT: All within 60 days.

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1 MR. MOSLEY: And all within 60 days, correct.

2 MR. LINDSEY: So at some point we'll see a draft of
3 this thing?

4 MR. MOSLEY: Yes, sir. Again, we have to go to all
5 these consultation meetings, get all the ideas, we'll
6 put everything together, and, you know, we'll come out
7 with a final product eventually.

8 MS. SPEAKER: Do you have any idea of time line as
9 far as when the compilation of the comments and draft
10 regulations or products that you're describing will be
11 distributed to the tribes for comment?

12 MR. GARRIOTT: Yeah, this is --

13 We're almost finished here. We've got about
14 ten more minutes. So we can talk and process.

15 You know, at the end of the month we'll
16 complete the -- finish the consultation period. And I'd
17 like probably within about two weeks afterwards, or
18 about mid November, I think we'd like to go through all
19 the written documents, compile everything that has been
20 recorded here today, get summaries out, and then be able
21 to post these draft guidelines for comment. I'd
22 probably like, again, maybe have that open for a week,
23 two weeks for comment, and then we can have that in
24 place and be ready to go and to meet our January 25th
25 deadline. If there are recommendations in terms of what

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1 I just said in terms of you'd like to see something
2 different, let us know and we can try to make that
3 happen. But kind of what I was thinking was two weeks
4 afterwards, after the conclusion of consultations, and
5 then two weeks after that for kind of an open comment
6 period.

7 MS. FLANAGAN: Stacey, if I could, I think we may be
8 able to put out the guidelines for corrections for the
9 detention center a little bit sooner. They may involve
10 some more feedback. But we're looking at how we're
11 going to do that and hopefully put it on the website.
12 But we're pretty close to having a product that we can
13 share and seek input on. So if that's something that we
14 can approve and do, I think it's doable for us.

15 MR. GARRIOTT: And if we do that, we need to make
16 sure that we have a mechanism to let Indian Country know
17 and especially the individuals here know and have an
18 opportunity to review.

19 MR. THOMPSON: What we'd like to do on that is to
20 actually post these documents on our website so that the
21 tribes can just go there and access them, but also to
22 have a web address there for each of the specific
23 issues, SLEC, detention, whatever the case may be, so
24 that you can go there and post comments. You've looked
25 at the drafts, you've got suggestions, you've got

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1 specific issues that you'd like to see. That's the
2 easiest way to do it.

3 Now, we're 25 years ago technology-wise, and
4 for us this would be a huge thing to get done. But we
5 think we're going to be able to get that done. So if
6 that's the case, some of these drafts, we can start to
7 put up even though -- understanding that they are
8 living, working documents through the consultation
9 process.

10 MR. MARSTON: Based on the consultation here today,
11 there are documents we'd like to submit to you,
12 including a model -- what we think is a model 638
13 deputization agreement to California. Who should we
14 submit those to and at what address?

15 MR. THOMPSON: Submit those to me in the D.C.
16 office.

17 MS. SPEAKER: Excuse me. Who's "me"?

18 MR. THOMPSON: I'm sorry. Jason Thompson. I
19 apologize. That was inconsiderate of me. I'm the
20 Acting Assistant Deputy Bureau Director.

21 MS. SPEAKER: Thank you.

22 MR. MACARRO: Mark Macarro, tribal chairman,
23 Pechanga.

24 Question for Les. Just a clarification
25 question. Les Marston, you said you had a model 638

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1 deputization agreement. Who has that model? Is it
2 Hopland, is it Robinson, or is it you?

3 MR. MARSTON: Well, it's a document that I developed
4 based upon input from a number of different tribal
5 police departments, starting with our Hopland agreement
6 that was negotiated as part of the litigation.

7 MR. MACARRO: Thank you.

8 MR. GARRIOTT: Anything else? Anyone else?

9 Well, let me just conclude by first saying
10 thank you to everyone for participating. This is our
11 first consultation, implementation of TLOA, and we have
12 a number of other consultations scheduled. If you have
13 comments that you want to submit now, get those to
14 Jason. If you have future comments that you want to
15 submit after you take it back to your respective
16 leadership or you think about issues or something comes
17 up that you didn't get a chance to talk about today, get
18 those to us. Always welcome to participate at the other
19 consultation sessions. But again, we're really focusing

20 on the three provisions for the January 25th deadline.
21 But these meetings are going to be ongoing throughout
22 the year. We have a lot of work ahead of us, but we're
23 absolutely committed to meeting our deadlines and making
24 sure that we're doing our part to make this act a
25 success not only on behalf of our association, but on

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1 behalf of the secretary and the president that's going
2 to do a lot in Indian Country. It's not the end all,
3 save all, but it's a good step in the right direction.

4 And again, with new leadership on board, I
5 think you've heard from him about how committed he is,
6 and we're really excited that he's here and he's going
7 to take the reins on a lot of initiatives that we have
8 moving forward.

9 So with that, I think we'll conclude today's
10 session. And again, we're always available. Contact us
11 with any questions or concerns.

12 Thank you, everyone.

13 (Adjournment at 4:58 P.M.)

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7 I hereby certify that the foregoing transcript
8 is a true and correct record of the proceedings as
9 reported by me, a duly certified shorthand reporter, at
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11
12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 22nd day of October, 2010.

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