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CONSULTATION SESSION
TRIBAL LAW AND ORDER ACT
Prior Lake, Minnesota
October 21, 2010

Transcript of Proceedings, taken before
Darla K. Fretheim, a Notary Public in and for the
County of Dakota, State of Minnesota, taken the 21st
day of October, 2010, at 2400 Mystic Lake Boulevard,
Prior Lake, Minnesota, commencing at approximately
1:10 p.m.

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PANEL: MICHALYN STEELE
CARLA FLANAGAN
LAUREL IRON CLOUD
ELMER FOUR DANCE
DARREN CRUZAN
SUSAN KAROL, M.D., F.A.C.S.
DENNIS ROMERO, M.A.
CARRIE PROKOP

I N D E X

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1 MR. CRUZAN: We want to start this
2 off right, so we've asked Paul Day from Leech Lake
3 to come up and start us off with a blessing, and
4 then we'll get started.

5 (Whereupon, Mr. Paul Day gives a
6 blessing in his native tongue.)

7 MS. STEELE: Welcome. Thank you
8 so much for being here. My name is Michalyn Steele.
9 I'm a counselor to Assistant Secretary Larry Echo
10 Hawk, and he has assigned me to represent him at
11 this meeting today. And I'm Seneca from the
12 Cattaraugus Reservation in western New York.

13 And in the Seneca tradition we
14 understand that one of the reasons that people were
15 given speech, the gift of speech and one of the
16 assignments and one of the reasons that came with
17 the gift of speech is to express gratitude. So I
18 express my gratitude to you for making the effort to
19 be here today.

20 The Tribal Law and Order Act which
21 the president signed at the end of July presents a
22 number of opportunities and challenges, both for
23 tribes and for the federal offices that have a trust
24 responsibility to tribes. So we're here as part of
25 an ongoing conversation in an effort to fulfill that

1 trust obligation, in order to receive feedback and
2 input from the start so that as we move forward in
3 implementing our responsibilities under the Tribal
4 Law and Order Act, we're there, you know, we want
5 your guidance and input so that we do that in a way
6 that makes us effective partners for you.

7 I want to express gratitude also
8 to all of our federal partners who are here today,
9 and I want to introduce the panel that's here.
10 First of all, I want to recognize that the United
11 States Attorney for the District of Minnesota is
12 here, B. Todd Jones. Thank you, sir, for joining us
13 and for your commitment to public safety on Indian
14 reservations, so we appreciate that very much.

15 Elmer Four Dance, the special
16 agent in charge of the law enforcement district is
17 here. Laurel Iron Cloud, who's a criminal law
18 specialist with the Office of Tribal Courts is here.
19 Carla Flanagan, the associate director of the Office
20 of Justice Services for Detention is here.

21 Darren Cruzan, who is on about his
22 third week of the job, but is the new director of
23 the Office of Justice Services. Mr. Echo Hawk has
24 tremendous confidence in Darren, and I think as you
25 get to know him better and work with him, you will

1 share that confidence with him. He's energized the
2 Office of Justice Services, and he's committed and
3 sort of working around the clock. He's been on the
4 job officially three weeks, and I think he's
5 probably slept for two or three hours of that. He's
6 been traveling and working so hard. And so we're
7 very pleased to have him here.

8 Dr. Susan Karol from the Indian
9 Health Service is here. Dennis Romero from SAMHSA
10 is here. May I just say that as I've been working
11 in the Assistant Secretary's Office, I've been very
12 impressed with the partnerships that are developing
13 and flowering among the BIA and the BIE and IHS and
14 SAMHSA. We have been working together better than
15 we have in the past. There's still, obviously, room
16 for improvement in our coordination, but we're
17 laying the groundwork of some very important work
18 together so that we're on the same page, hopefully
19 improving our effectiveness in the delivery of
20 services and meeting our obligations to tribes.

21 And then, I'm sorry, I didn't hear
22 your name.

23 MS. PROKOP: Carrie Prokop, and
24 I'm with the Field Solicitor's Office, Department of
25 the Interior.

1 MS. STEELE: Carrie Prokop from
2 the Field Solicitor's Office.

3 So thank you, very much. We have
4 basically three general areas on which we're seeking
5 input relating to the Tribal Law and Order Act. By
6 statute we have some quick deadlines for putting
7 together guidelines and establishing policies;
8 that's why the relatively short notice for the
9 consultation, because we've had a -- you know, we
10 have a relatively short turnaround in order to meet
11 our obligations under the statute of the Tribal Law
12 and Order Act.

13 One is the Special Law Enforcement
14 Commissions. And under the Tribal Law and Order Act
15 we are supposed to establish standards for entering
16 into a Memorandum of Agreement and issuing those
17 Special Law Enforcement Commissions.

18 The second is a detention -- a
19 plan for detention for both adults and for
20 juveniles, a long-term plan, is that -- that's one
21 of the things, right? And then the third thing is
22 the guidelines.

23 Under the Tribal Law and Order Act
24 BIA is charged with certifying long-term detention
25 facilities where tribes exercise the authority under

1 the Tribal Law and Order Act to exercise enhanced
2 sentencing authority, meaning they wish to amend the
3 Code and implement imposed sentences for longer than
4 a year.

5 And so BIA, under the Act, is
6 supposed to certify that the facility meet certain
7 basic guidelines for housing someone for longer than
8 a year, three years, and then potentially with
9 stacking, up to nine years. And so we're looking
10 for input and guidelines -- input on those
11 guidelines. Also, we have a duty to do -- I'll sort
12 of put the second item as detention, the long-term
13 planning and the guidelines.

14 The third item is backgrounds for
15 tribal officers, that we have a certain time frame
16 and we have to meet that and we have -- we have to
17 establish a policy that shows we can meet the
18 guideline for a fairly quick turnaround on the
19 background investigations.

20 So with that, let me see if the
21 panel has a few brief words and then we will -- we
22 want to recognize certainly any of those of you
23 designated to represent your tribe here today as
24 tribal leaders or other elected leaders or
25 designees, we want to make sure that you have an

1 opportunity to speak first, and then we will open
2 for comments from the field.

3 So again, just thank you so much
4 for being here. I'm going to ask Darren to say a
5 few words and then if anyone else from the panel
6 would like to say a few words as well.

7 MR. CRUZAN: Thank you, very much.
8 And like Ms. Steele said, it's a real honor to be
9 here and to have an opportunity to go around to
10 these consultations and hear what our tribal
11 partners have to say and think. Some of it has been
12 very positive. Some of it's been very negative.
13 But it's all been in the spirit of trying to make a
14 better product.

15 So as she said, I've only been on
16 the job for about three weeks now. That doesn't
17 mean I don't know Indian country. I actually found
18 out just -- as a matter of fact, I think I was
19 talking to Elmer when I found this out, is that I
20 started my law enforcement career 18 years ago with
21 the city police department and then I went to work
22 for my tribe. I'm an enrolled member of Miami
23 Nation in Oklahoma. And I went to work as a police
24 officer for my tribe. And then I went to work for
25 the BIA as a police officer.

1 So what I'm told is that -- which
2 is kind of cool, I'm the first director of the
3 Office of Justice Services that has kind of worked
4 his way through the ranks of the agency. So I have
5 a real unique understanding about -- you know, I've
6 been that police officer that's put that vest on at
7 11 o'clock at night and responded out to calls and
8 know that you're probably going to be the only
9 officer there, you know, for some time. And then,
10 you know, did investigation, I spent some time at
11 our academy as an instructor, and actually have some
12 classmates here from my class, '74.

13 But it is a great honor to be
14 here. And I find that -- and I've kind of used this
15 to try to sound smarter than I am, but I just
16 realized where I got that saying, it was from Dennis
17 over here, so kind of -- I got caught on this, but
18 it's a good friend really -- he really captured that
19 this Tribal Law and Order Act already is a success
20 in the fact that there's really smart people,
21 really, really smart people looking at this from our
22 tribal partners, as you are, and DOJ partners and
23 our -- you know, just everything in between.

24 I heard yesterday that there are
25 22 federal agencies that are on the hook, if you

1 will, that have responsibility for working on this
2 together. So what a great time in the history of
3 Indian country law enforcement that we're living in
4 right now. And it's a real great opportunity for me
5 to come in. And as she said, sometimes I feel like
6 I ramble on a little bit, and I don't want you to
7 mistake that for anything except sincerity and
8 complete energy and excitement and a sense of
9 urgency for what we have to do.

10 And so it's with that that I take
11 my direction from my bosses, Mr. Echo Hawk and
12 Mr. Black, to go out there and don't waste time, get
13 out there and work together on these issues.

14 And to Mr. Jones, I just want to
15 echo how much I appreciate that the fact the U.S.
16 Attorney for Minnesota has taken time out of your
17 day to come here and hear our issues. There's four
18 of you actually here that have actually taken time
19 out, and I think that speaks volumes about your
20 commitment to what we have to do and work together.

21 And DOJ has now met with the
22 deputy attorney general a couple times and working
23 with those folks there in D.C. And it's interesting
24 to me, they've basically given me the keys to the
25 Department of Justice and said whatever you need

1 from us, let us know.

2 And I know that historically law
3 enforcement, BIA law enforcement has been fairly
4 limited on resources and things like that, but this
5 new Tribal Law and Order Act we're going to plug in
6 to all of our partners' resources and work
7 collaboratively. You'll hear that more than once
8 today, not only from me, but from everybody up here,
9 how we're working collaboratively as partners.

10 Again, I'm very excited to be
11 here. I'm anxious to hear what you have to say.
12 Nothing's in stone at this point. We're hearing
13 these consultations, and as we move through today, I
14 have some e-mail address that I want to give you so
15 that you can post your comments and things like that
16 directly onto our Web page so that we can take that
17 back to Washington with us as we start compiling
18 everything that we're getting from all these
19 consultations.

20 And I not only look forward to
21 hearing what we have to say here today, but I know
22 that a lot of times there's a lot of good
23 conversations and a lot of productive things that
24 happen, you know, out in the hallways on breaks. I
25 don't leave till the morning, so if you feel like

1 you need to grab me or something, I'm here. I'm
2 available. So thanks again for letting us come here
3 and talk.

4 MS. STEELE: Just a quick note
5 that the proceedings are being transcribed, and so
6 when we do open it up, if you wouldn't mind stating
7 your name and where you're from as clearly as
8 possible so that it can be in the record, and then
9 we will post the transcript on-line when we get it.

10 Did anyone else have remarks?

11 MS. KAROL: Good afternoon. I'm
12 Susan Karol, and I'm the chief medical officer for
13 the Indian Health Service, so I'm a little out of my
14 league. I'm a doctor, I'm not a law enforcement
15 officer. And I apologize for that, but I'm learning
16 as each of these consultations go by, and it's been
17 very educational for me as an IHS-er who gets to do
18 a lot of consultations and now watch the BIA go
19 through this and enjoying it.

20 From my perspective -- I represent
21 Dr. Roubideaux, the director. She sends her
22 greetings and is wanting all to know that we, too,
23 in the Indian Health Service take this Act very
24 seriously and will be working hard. We have three
25 sections that particularly pertain to the Indian

1 Health Service. One is to work with the DOJ on
2 developing the sexual assault policy and protocol,
3 and we are actively doing that this week.

4 The second is to work with the
5 comptroller of the government accounting office, or
6 GOA, to study the response and capabilities of the
7 Indian Health Service to facilitate some research on
8 sexual assault and GD with the comptroller. So we
9 will be working on that.

10 And our third piece is on getting
11 federal employees in the Indian Health Service to
12 testify for domestic violence and sexual assault
13 issues. So we take that very seriously, and we will
14 continue to work with that.

15 Over the past couple weeks myself
16 and Dr. Rose Weahkee from the Indian Health Service,
17 our behavioral health director, has been listening,
18 and we appreciate some of the comments that the
19 tribes have been giving us, and of note I have a few
20 sort of summary points so that you'll appreciate
21 that we have been listening and we've written it
22 down and we want to move forward with this, as
23 Darren said.

24 We want to put together a timeline
25 with our federal partners, with SAMHSA, with the

1 BIA, with the DOJ. The BIA and the Indian Health
2 Service particularly need to coordinate our efforts
3 in health care for detainees, and we know that and
4 we are actively working on that. Mr. Echo Hawk and
5 Dr. Roubideaux have charged us with getting prison
6 health addressed and looked at, and so we're working
7 on that.

8 Alcohol, substance abuse and
9 mental health issues for detainees is definitely an
10 issue, and we appreciate that as we, as the health
11 care side of the operation here, need to pay
12 attention to that.

13 The Indian Health Service needs to
14 get funding for detox at these facilities, and we
15 will be seeing what we can do to effect that and, we
16 need to tighten up these timelines. Tribal leaders
17 have told us we need to tighten up the timelines and
18 move it forward. So we are paying attention to
19 that.

20 And finally, the tribes have said
21 that they really wish that OMB would be here
22 because -- OMB being the Office of Management and
23 Budget, and I would have to wholeheartedly agree
24 with that. So hopefully in the future that might
25 happen.

1 MS. STEELE: Thank you.

2 MR. ROMERO: Good afternoon.

3 Again, my name is Dennis Romero. I'm with the
4 Substance Abuse and Mental Health Services
5 Administration with HHS, sister agency to IHS.

6 The Tribal Law and Order Act of
7 2010 has some very specific -- both specific
8 requirements or responsibilities, and deliverables.
9 And you will hear this afternoon of some of the
10 pending deadlines, which is the reason for this
11 consultation and more to come.

12 But for SAMHSA we have a specific
13 requirement. It's Section 241 of the Tribal Law and
14 Order Act. It's actually subtitled the -- it speaks
15 to the Indian Alcohol and Substance Abuse Prevention
16 and Treatment Reauthorization Act.

17 It requires SAMHSA to take a lead
18 role in the coordination of all of the federal
19 agencies that are providing services in Indian
20 country relative to substance abuse and mental
21 health issues and strategize and be at the table as
22 we begin to -- as a collective body we begin to
23 think of solutions to better meet the needs in
24 Indian country, as Dr. Karol mentioned, the issues,
25 for example, of prison inmates with issues of mental

1 health and substance abuse.

2 We also have a requirement to work
3 with BIE on addressing the issues of at-risk Indian
4 youth and also requires us to collaborate with a
5 variety of agencies throughout the government. Just
6 to give you a quick, broad-brush of who we are
7 collaborating with, we are, obviously, collaborating
8 with BIA and BIE. We're collaborating with
9 Department of Education, specifically the Office of
10 Tribal Colleges and Universities and the Office of
11 Indian Education at the Department of Ed. We are
12 collaborating with IHS. We are also collaborating
13 with our partners within SAMHSA as well.

14 At SAMHSA we have three centers;
15 the Center for Mental Health Services, the Center for
16 Substance Abuse Prevention, and the Center for
17 Substance Abuse Treatment. And so they're playing a
18 key role in this initiative.

19 Our specific deliverables are that
20 we need to establish a Memorandum of Understanding
21 within the federal partners who will be
22 collaborating, corroborating on addressing the needs
23 of mental health and substance abuse in Indian
24 country. And the deadline is for July 29th of 2011
25 to secure the signage of nine heads of those

1 departments, which means establishing an agreement
2 that outlines each of our collective
3 responsibilities and our -- what specifically we
4 will look at doing within the time frame.

5 So I am pleased to tell you that
6 we are working -- as Darren said, we're working
7 really well here. In the past -- I'm relatively new
8 to the government, just about five years now. And
9 the momentum that this law has produced for the
10 agencies that are represented up here, it just -- it
11 makes me put my head on the pillow at night and know
12 that we're trying to do something right.

13 But the reality is that we cannot
14 do it by ourselves. You need to take ownership now,
15 and you need to take -- with all due respect, you
16 need to take the opportunity to shape the future of
17 Indian country by your input, by your suggestions,
18 and by your involvement and holding us accountable,
19 making sure we're doing what we're supposed to be
20 doing. That's what the law requires.

21 There are a number of things where
22 we are weakened at the federal level, but the only
23 way we're going to succeed with this is if there's
24 cooperation, collaboration, and input from tribal
25 leaders and others. SAMHSA needs to specifically

1 seek input from tribal leaders. We also need to
2 provide -- seek input from national Indian
3 organizations, professionals in the field of mental
4 health and substance abuse and the general public.
5 And so that's the purpose for SAMHSA being here with
6 our partners from Justice and -- I apologize, I
7 failed to mention Justice earlier as one of our
8 other partners. And there are several components
9 within the Office of Justice programs that are
10 involved in this initiative.

11 So without belaboring this point,
12 know that we are committed to helping you, and we
13 need to hear from you as often as possible whether
14 we're moving in the right direction or not. Thank
15 you, very much, for allowing me to be here today,
16 and it's because of you that I am here. So thank
17 you, very much.

18 MS. PROKOP: Hi, I'm Carrie Prokop
19 from the Department of Interior's Twin Cities Field
20 Solicitor's Office, and my role in this, as I see
21 it, is to listen and to support the BIA. The BIA is
22 one of our clients. We serve as legal counsel for
23 the BIA in the Midwest regional office as well as
24 the Great Plains regional office. And we also have
25 BIE as a regional client as well, so I'll be

1 listening and taking away points for BIE as well,
2 since BIE is one of our clients.

3 So I just wanted to give an
4 introduction for myself in support of this
5 consultation for BIA. So I'm going to just turn the
6 mic back over. Thank you.

7 MS. STEELE: With that, we'll be
8 hearing from our OJS staff during the course of the
9 meeting, so I think we'll turn it now to the -- to
10 you, and we're here to listen. We know you won't
11 hold back, and that's okay. That's why we're here.

12 Also just want to quickly
13 recognize that Bruce Loudermilk, the regional
14 director from the Great Plains region is here today
15 and Diana Rosen, regional director from Midwest
16 region is here, so if you need to grab them on
17 something, please do. Thank you.

18 Bruce and Diana, do you want to
19 stand so we can -- they can know to grab you? Diana
20 stepped out.

21 MISKOO PETITE, SR.: Good
22 morning -- or good afternoon. I'm here for the
23 Rosebud Sioux Tribe. My name is Miskoo Petite, Sr.,
24 and I'm the facility administrator for the
25 corrections services. And I'd just like to make a

1 comment on the Tribal Law and Order Act. It's much
2 needed, and it's helpful, but we all come from
3 different tribes and we all have differences in each
4 tribe.

5 Our tribe is one of the larger
6 tribes. We're currently building a 160-bed facility
7 with stimulus funds. And what we'd like to do in
8 the future is to increase our capacity locally. One
9 of the things that sticks out to me in the Tribal
10 Law and Order Act is the pilot project to set up
11 some increased federal prisons, setups.

12 And I think that puts a -- the
13 thing that is similar in each one of our tribes is
14 our families. And when we send our loved ones off
15 to federal facilities far away, it puts our families
16 at a disadvantage. And I think that in the future,
17 given the fact that much of our reservations have
18 over near 60 to 80 percent unemployment, if we could
19 build some infrastructure to help solve our own
20 problems, we can have a comprehensive approach that
21 includes mental health and substance abuse.

22 A lot of our statistics in
23 Rosebud, there are some horrible offenses, but a
24 majority of them have a lot to do with economic
25 development factors and inability to gain employment

1 and have some type of meaningful purpose in life, a
2 lot of self-destructive types of behaviors.

3 And so I think if we were to look
4 at how we can invest in Indian country and use this
5 Tribal Law and Order Act to keep our offenders home,
6 I think that will give us a better opportunity in
7 the future. Thank you.

8 MS. STEELE: I see a hand over
9 here.

10 ANITA FINEDAY: Hi, my name is
11 Anita Fineday. I work as the chief judge for the
12 White Earth Tribe here in Minnesota. We're the
13 largest tribe here in Minnesota, both geographically
14 and membership-wise. We have about 20,000 plus
15 tribal members.

16 And you have already received a
17 request from us. We want to be the first tribe to
18 move forward. We are in a Public Law 280 state.
19 And I don't know if any of you -- for the people who
20 are located here in Minnesota, public radio had a
21 piece on last week about law enforcement on our
22 reservation. And there have been 96 reports of
23 sexual assaults on our reservation in the past year.
24 The county attorney prosecuted one of them.

25 And so we are very unhappy with

1 law enforcement as it exists on the White Earth
2 Reservation today. And we are ready -- we have our
3 chief of police here, Randy Goodwin, who has
4 20 years of experience with the Minnesota State
5 Patrol. I'm a licensed attorney. I have 20 years
6 of experience in practicing law here in the State of
7 Minnesota. We have 26 officers, 26 tribal peace
8 officers on our reservation. They're all POST
9 certified, certified by the State of Minnesota. And
10 we are ready to move forward and to take over
11 control of law enforcement on our reservation.

12 I know that we have our U.S.
13 Attorney here, and we have talked to him. It's a
14 resource issue. We do not have a jail. We do not
15 have funds for a jail. One entire county lies
16 within our reservation boundaries. That county,
17 Mahnomen County, does not have a jail. Their jail
18 has been condemned. And so everyone is transported
19 outside of the area to be held.

20 And so we are ready. We feel like
21 we have everything in place. We have a court system
22 that is functioning. Everyone is law trained. We
23 have a law enforcement agency. Everyone is POST
24 certified. And we are ready to move forward, and we
25 want your support, and we need the resources to be

1 able to deal with incarceration. Thank you.

2 MS. STEELE: As a follow-up
3 question, Judge, you said you had a request pending
4 to the -- is it to the Department of Justice to
5 exercise concurrent jurisdiction?

6 ANITA FINEDAY: Yes.

7 MS. STEELE: I know that the
8 Department of Justice is holding a series of
9 consultations. They've joined on some of these.
10 They don't happen to be at this one today formally,
11 but they are promulgating standards that will guide
12 the resumption of concurrent jurisdiction and
13 hopefully, you know, will make sure that you're in
14 touch with Tracy Toulou and the others who are
15 working on that to make sure that your request is
16 conferred expeditiously.

17 MYRA PEARSON: Good afternoon. My
18 name is Myra Pearson, and I'm the Tribal Chairwoman
19 for Spirit Lake Tribe in North Dakota. And I'm here
20 today on behalf of the Spirit Lake Tribe as well as
21 the Great Plains Tribal Chairmen's Association. I
22 sit on that board, as well, as the secretary.

23 And so you're probably going to
24 hear all my testimony today, but I've got testimony
25 from both groups here. And my written testimony

1 focuses on the issues and recommendations for the
2 implementation of the tribal law and order code of
3 2010.

4 The tribal law and order code
5 calls for federal agencies to significantly change
6 the manner of delivery of justice services to tribal
7 communities in a number of ways.

8 Having reviewed the many
9 provisions in the Act, I believe the impact on
10 tribes will vary greatly depending upon current
11 services and resources available to the tribal
12 justice system.

13 I believe the Tribal Law and Order
14 Act has the potential to either become an historical
15 piece of legislation that will forever change the
16 face of our tribal justice system, or it will become
17 nothing more than a well-intentioned piece of
18 legislation that stalls out, all of which is
19 dependent entirely on how the Act is implemented.

20 In my mind, we are only going to
21 see this as an historic period in the development of
22 our tribal justice system if we implement this
23 legislation while we are both being realistic and
24 honest in our assessment and our path for change.

25 It is in the spirit of realism and

1 honesty that I'd like to deliver both my comments
2 about our present justice system on the Spirit Lake
3 Reservation and what I believe to be realistic
4 approaches that can and should be taken under the
5 Tribal Law and Order Act to implement meaningful
6 change.

7 You know, I've decided I'm not
8 even going to go through this whole thing because
9 you've all heard it before, and this is the second
10 consultation meeting regarding Law and Order that
11 I'm coming to.

12 I've also got a lengthy one here
13 from the Great Plains Tribal Chairmen's Association.
14 Attached to that one is a resolution asking for the
15 removal of our district commander, but nothing's
16 ever been done. And, Elmer, you've probably seen
17 this yourself, but these are things I want you to
18 take back and I want it to become a part of the
19 record, because I'm not going to read through it.
20 You're going to be bored with me by the time I get
21 done because you've all heard it over and over and
22 over.

23 I heard this gentleman here at the
24 end speak a little bit ago on collaboration. We've
25 done all that before, too. How many meetings do we

1 have to have before we can all understand that we're
2 supposed to be working together. I thought we were
3 all working together. How long do we have to wait
4 for those services to reach our reservations? Are
5 you going to all go back and live on your
6 reservation someday? And you're going to expect to
7 be protected by our law enforcement. It never
8 happens, you know.

9 We talk about a detention center
10 that's going to service adults and juveniles. We
11 have a jail that's being condemned. You know what
12 they want us to put into that jail? \$2 million
13 worth of Band-Aids, \$2 million. I could do
14 something good with that or at least have a start in
15 getting a detention facility that's going to house
16 these prisoners that we plan on incarcerating for
17 three years.

18 Again, I'm hearing "the prisoner,
19 the prisoner." What about the victims? These
20 prisoners are going to get better health care than
21 we do out of jail. So you're better off doing
22 something, going to jail, you're going to get better
23 health care.

24 It's all been a repeat of what,
25 you know, we've discussed before down in Rapid City,

1 up, you know, up into Aberdeen even one time, out to
2 Spirit Lake, and now here in Minneapolis again.

3 I'm not going to -- I'm not going
4 to speak no million-dollar words today. We want
5 some lip -- we don't want lip service. We want
6 action now. We want results.

7 I've been asking for more police
8 officers. I don't even have a chief of police
9 that's going to be there when I get home probably.
10 So what am I supposed to do? What are the people
11 going to do? You all have one or two bosses. Guess
12 how many I have? I have close to sixty-eight
13 hundred and plus bosses, and those are the people I
14 serve at Spirit Lake Nation.

15 And that's the reason why I say I
16 come from a sovereign nation, because we have our
17 own rules and regulations out there, too, that I
18 think you need to acknowledge and you should
19 understand. Come out there and see what we have to
20 live through.

21 You all probably live in cities
22 where you're guaranteed police protection. Your
23 streets get cleaned every winter. We don't have
24 that, but yet we're expected to survive. And we
25 have so far, but now I'm asking you to come across

1 on your promises.

2 I'm going -- when I go home here
3 today, I want to make sure I go home and tell people
4 I'm going to get that chief of police. I want that
5 chief of police here. And I want you to know that
6 I'm going to tell you how many police officers I
7 need out there. You're not going to dictate to me
8 how many you're going to give me or where the money
9 is going to come from. We can find that money,
10 because with your help and you and I working
11 together, we can find that money to get those
12 positions filled and more positions.

13 We might be in a remote area where
14 nobody really notices us or anything, but we still
15 need those services. We still require those
16 services. A lot of times we have to just forget
17 about some of the things that have happened because
18 there's no response from the police department.

19 And I'm going to say this, that it
20 shouldn't have to come to this, but my daughter was
21 assaulted. And this guy got out of the pen in March
22 and he assaulted three and my daughter was the third
23 one. The other two won't report anything, but not
24 everybody has a mother like my daughter.

25 And so I stepped forward, and I

1 addressed this, but I didn't address it to the
2 police department. I had to go off the reservation
3 to get anything done, any services. And that's what
4 I got. And so maybe we're better off bringing in
5 police officers from Devils Lake, where I live,
6 because we don't have enough at home.

7 We have -- I think they told us
8 nine officers, but I bet five of them are on day
9 shift and the rest of them are expected to work out
10 these evening shifts. Look at the police officer
11 that had to give his life, and that was because how
12 many hours did he work? How many hours did he work?
13 And he, you know, which caused -- probably caused
14 his accident.

15 That's what we have now. I work
16 twenty-four/seven, but I don't work all those hours.
17 When I get time off, I take it gratefully. But I
18 don't think any of us in this room are ever expected
19 to work 16 hours, and that's what the police
20 officers at Spirit Lake are expected to do because
21 our shortage of officers.

22 If we could have a little say in
23 who comes in as our chief or who's going to be in
24 charge there, I want to be a part of that. I want
25 to be a part of who comes in, because we had a good

1 officer, and pretty soon he was gone. But in the
2 two weeks he was there, things start calming down.
3 People were even getting speeding tickets, which we
4 don't have time to do. But it was the way he
5 scheduled out those officers. I even felt safe.

6 So my testimonies here today, take
7 back and make it a part of the record, because I'm
8 not done here yet. I want more officers. I'm going
9 to get them. And I'm going to be somebody's
10 nightmare until I get those officers. Thank you,
11 very much.

12 MR. CRUZAN: Chairwoman Pearson --
13 is it on yet? I wanted to just tell a quick story.
14 I actually was in -- flew in for the officer's
15 funeral there in Cheyenne River.

16 And as I was sitting at the
17 airport waiting for a shuttle bus, I called
18 Chairwoman Pearson and, of course, had to apologize
19 for just calling her on the spur of the moment, but
20 I just happened to have diverted from Billings up
21 here to attend the funeral, and had a very good
22 20 minute or so conversation with Chairwoman Pearson
23 and extended my hope that we could sit and talk.

24 And unfortunately, she was busy
25 the following day, as I was. But she and two of the

1 council members that are actually here today met me
2 at the airport on that Friday, and we sat and spoke
3 for, I don't know, it was a good conversation. And
4 I thought it was very meaningful and very helpful to
5 me as the new director.

6 And one of the things that you
7 said you were very frustrated with, and I can
8 certainly understand, is the timeliness it has taken
9 in order to get that chief of police position
10 filled. And so in talking to Elmer, he was somewhat
11 baffled why it was taking so long as well.
12 Apparently, they had put in the request several
13 times.

14 But I made a promise to you that I
15 would go back to Washington and not bring a chief of
16 police back to you because it just doesn't work that
17 quick, but to bring a plan to you. So I'm very
18 happy to say that when I went back, they were able
19 to -- the announcement actually is on the streets
20 right now. It will be up for, I think, three more
21 weeks. And probably within just a short amount of
22 time after that we'll be able to make a selection
23 and certainly would be interested in hearing your
24 input on who you think might be good for that
25 position.

1 But I was very excited about
2 bringing that good news to you. And hopefully, like
3 I said, and this is goes out to everyone, what you
4 hear me say is the right thing for a director to be
5 saying. I mean, it's all the right things. But it
6 comes from a real sincere place and from a real
7 honest heart. And so I know the trust is not a
8 given thing and I don't expect you to trust me just
9 because I'm the director at all, but what I would
10 ask you to do is give me the opportunity, like
11 Chairwoman Pearson has done, to follow through on
12 what we're saying, these kind of things, these kind
13 of partnerships, because really, as everyone has
14 said, that's the only way we're going to get better
15 is if we work together.

16 I think for years we've tried it
17 the other way, and I don't know exactly why that is
18 because we all have the same goal and mission, which
19 is to have our community members safe and feel like
20 they can go out and be in their community just like
21 anyone else expects in the United States, to feel
22 safe at home.

23 And so I want to bring that good
24 news to you, but at the same time I want you to hold
25 us accountable for those type of things. Anyway,

1 that's the good news I bring to you from D.C.

2 MYRA PEARSON: Can I say one more
3 thing? Are we going to have an opportunity to be a
4 part of that selection when it's made? Are we going
5 to be a part of that selection process?

6 MR. CRUZAN: I would be very
7 interested to hear your opinions and thoughts on it.

8 MYRA PEARSON: I'll wait for you
9 to let me know then. I marked it down here, so I'll
10 call you in three weeks.

11 MR. CRUZAN: Elmer, correct me if
12 I'm wrong, or whoever might know, I think it
13 actually closes the 18th or 17th of November. But
14 you can go onto usajobs and look at it. And I
15 encourage everyone to apply. We're looking for good
16 people.

17 JOHN MOUSSEAU: Hello. My name is
18 John Mousseau, and I'm the chairman of the judiciary
19 committee for the Oglala Sioux Tribe, and I'm the
20 classmate that Darren was talking about. I helped
21 him out a lot when he began.

22 All kidding aside now, I had the
23 chance to be for the two last years, be a part of
24 this Law and Order Act. I went to Washington. I
25 had some consultations and I -- but there's a lot of

1 things that was brought up in a lot of our meetings
2 that wasn't put in, like we have a lot of unfunded
3 mandates that's going to require our courts to make
4 a lot of changes. And one of the things that we
5 foresee back in Pine Ridge is the change for the
6 three years and possible stacking to nine years.
7 And you've got to remember, most courts like us,
8 we're a misdemeanor court for one year. So that's
9 going to put a burden on our corrections.

10 And as you know, our court system
11 is so underfunded, our staff -- our computers were
12 purchased from Wal-Mart, eMachines. So that's the
13 kind of technology that's in our court system.

14 So if we're going to make all
15 these changes, bottom line is we need more money,
16 especially not only for law enforcement, we need it
17 for the whole gamut, for the whole judicial process
18 in order for anybody, for any tribe, not only ours,
19 but any tribe to make a difference to make our
20 communities safe.

21 Pine Ridge, when I first started
22 back in 1993, we had 124 police officers, but a lot
23 of those were through grants. And some of you
24 that's not familiar with Pine Ridge, we encompass
25 three counties, a hundred square miles. It's a lot

1 of driving. Elmer's been there. I think, Darren,
2 you heard some of the stories we talked about.

3 For law enforcement, currently
4 right now we have 46, I believe, budgeted police
5 officers with 15 vacancies. And of those 31 that
6 are currently working, we have one chief of police,
7 two captains, five sergeants, which leaves 23 patrol
8 officers to cover twenty-four/seven a hundred square
9 miles.

10 So whenever you talk about
11 overtime -- my spouse, she's a police officer. She
12 goes to work at midnight, and I don't see her for
13 12, 14 hours. And she comes home, you know, after
14 she does her reports, she's home for maybe six hours
15 and she's back up and going to work. We're talking
16 fatigue, burnout, and that needs to be addressed.

17 Base budgets, I know we all talk
18 about it. And another thing is one thing that
19 really hurts our department is our recruiting. We
20 hire the officers. They have to go through the
21 background checks. I just heard a comment about the
22 background. Well, we have officers waiting for
23 tribal background. They apply for the BIA, within
24 three or four months they're working while we're
25 still waiting on the tribal background.

1 So we're just asking the same
2 considerations for that initial background that the
3 BIA gives their applicants for our tribal police
4 officers so we can make those emergency hires,
5 should they pass the initial background check.
6 We're just asking for the same consideration so we
7 can fill our needs.

8 Another thing that the BIA -- we
9 can't offer comparable salaries to what the BIA
10 offers because our budget numbers are too small. If
11 we offered comparable salaries, we'd have to cut
12 four or five police officers off the street. We're
13 not ready to make that sacrifice for the sake of our
14 people.

15 At Pine Ridge, when I first
16 started, I was making six something an hour. Back
17 then minimum wage was \$3.35 so I thought I was a
18 rich guy, but go to realize that's not nothing. We
19 don't have health benefits, health care, which is
20 something BIA offers. We need that to be applied
21 for our police officers.

22 And one thing that the BIA
23 probably understands now is the driving conditions
24 for our tribe. On my shift it wasn't nothing for me
25 to drive six, seven hundred miles on my shift,

1 eight-hour shift because I'll make one arrest, I'll
2 be tied up for two hours, transport, medical
3 clearance, booking. That's two hours of my area
4 being uncovered while my calls are stacking up.

5 So one thing about police work,
6 our backup response for police officers. The reason
7 why I'm so adamant about this is we need more
8 officers because we don't need more of our police
9 officers getting hurt in the line of duty.

10 Seven years ago I was shot in the
11 line of duty -- excuse me -- but I had to wait
12 20 minutes for a backup officer. And I don't want
13 to see that happen anywhere else, my reservation or
14 anywhere in Indian country. Sorry, it still gets
15 me. It's something real personal.

16 So being on that, I think that we
17 need to seriously take a look at what needs to be
18 fixed. And I think that the areas need to come to
19 have regional trainings with all the local tribes
20 for kind of a reintroduction of who does what, where
21 things go, because in tribal politics sometimes you
22 have two years turnaround, so you get new people
23 coming in making decisions, playing catchup. And
24 that's the advantage the BIA in Washington has that
25 the tribes don't enjoy.

1 So I think out of a necessity that
2 they should come to all the tribes and say, okay --
3 even if it's a letter saying this is who you need to
4 contact, these are the services that we provide and
5 how can we help you, we need to establish more of
6 those lines of communications more openly.

7 And one thing, too, is our
8 statistics that really bothers us in Pine Ridge. If
9 it is a crime in Pine Ridge to go to jail for being
10 intoxicated, it's a law in our books, go to
11 Aberdeen, but they consider it not really -- they
12 consider it a social problem, we were told. So
13 those statistics are not really reported.

14 But if it's a crime on our
15 reservation, it should be reported as a statistic in
16 Washington, because we are capable of writing our
17 own laws, we enforce our own laws, so they should be
18 recognized as a violation of our law.

19 I had a little more, but I'm about
20 to turn it over to Stanley. He's retired law
21 enforcement as well.

22 STANLEY LITTLE WHITE MAN: Thank
23 you. And I'm not retired. I was kind of pushed out
24 of the Bureau. One thing I wanted to say to Myra is
25 that she is correct about the lack of staff on the

1 Spirit Lake Reservation, because at one point in my
2 career I did work there.

3 My name is Stanley Little White
4 Man, tribal council for Oglala Tribe. Anyway, I did
5 work on Spirit Lake Reservation. And there was one
6 time where I had day shift, but by that afternoon
7 our whole department got wiped out because they all
8 had to go to federal court. So I ended up pulling
9 the evening shift as well as the midnight shift and
10 the day shift the following day. So it was a total
11 of 34 hours that I worked.

12 So these type of things are
13 reality on our small reservation where we have a
14 small department. If they all end up going towards
15 federal court or whatever, it can wipe out a whole
16 police department. So I do understand what overwork
17 means. I couldn't sleep after that because I -- I
18 just couldn't sleep because I was -- I'd been awake
19 too long. That was 20 years ago. And if that still
20 exists today, there's something wrong.

21 But one of the things that I
22 wanted to say was that man from SAMHSA has a good
23 point there when he said take ownership. When we
24 talk about taking ownership, we have to look at what
25 we as tribes have on our reservation.

1 I'll go back to stressing 93-638,
2 the ability to design our own programs on our
3 reservation, because we know what our needs are on
4 our reservation. But yet, over the past -- from
5 1976 we've been at odds. We've been kind of in an
6 adversarial situation with BIA over law enforcement
7 on our reservation. And it's always been from the
8 top down telling us what to do, or if we're making
9 progress with some program that we're doing, they'll
10 tell us it's not within our program to do because
11 it's not funded. So we're basically, you know, kind
12 of at the mercy of the BIA as to the success of
13 really the tribal programs.

14 So I wanted to stress that we need
15 some language within this Tribal Law and Order Act
16 that Public Law 93-638 is recognized, because, after
17 all, it is a public law, but you also have the BIA
18 regulations which, to me, circumvent the tribe's.

19 So, you know, we can look at this
20 in two ways. We can say this consultation is
21 telling what this whole body is supposed to do, but
22 then when it really comes back down to it, the
23 decisions are going to be made up at the top,
24 irregardless of how the tribes feel.

25 So there has to be this part of

1 taking ownership. The tribes have to be a part of
2 this. And 93-638 does, in my opinion, allow the
3 tribes to design programs which would benefit a
4 reservation. So I wanted to stress that again.
5 I've stressed it for the past two years. Mr. Echo
6 Hawk has heard me mention 93-638. We need to
7 seriously look at that in all the tribes. So I
8 wanted to really stress that point of it.

9 And the other part, too, is when
10 we receive anything from the Bureau, it should be in
11 writing. I've seen some of the testimony, and
12 that's what it's asking for is that it be in writing
13 rather than lip service because then we can't defend
14 ourselves when it's not in writing. We do
15 something, and then we're kind of penalized for
16 that. But I wanted to just stress that. And I did
17 have some notes. I'd like to talk a little later
18 on. Just wanted to give John a breather.

19 JOHN MOUSSEAU: Thank you.

20 ELTON SPOTTED HORSE: Good
21 afternoon everyone. My name is Elton Spotted Horse.
22 I'm the chief of police for the Three Affiliated
23 Tribes up in Fort Berthold, North Dakota. I've been
24 in law enforcement for a number of years, over
25 16 years. I had the opportunity to work with our

1 district commander, Elmer Four Dance. For years we
2 worked with the Bureau. And then during those times
3 we put a lot of hours in, a lot of hours. I think
4 there's, like, six or seven officers covering close
5 to a million square acres. Not only that, we have a
6 large lake that separates our reservation, runs
7 right down the middle of our reservation, one bridge
8 going across.

9 And before they installed a new
10 bridge here a few years back, the old bridge, I
11 think, was listed on one of the most 20 dangerous
12 bridges in the United States. So it was hard, a lot
13 of hard work. We put in -- longest shift I worked
14 was, like, 33 hours. But that's how we had to work
15 with the Bureau.

16 The money is coming in, you know.
17 You're all well aware that when Congress gives us a
18 dollar bill, by the time it gets to the reservations
19 it's five or ten cents that we get out of it. So
20 it's very difficult to run any programs on that kind
21 of funding.

22 We have the 638 contract now from
23 the Bureau. Also we have a tribal law enforcement
24 budget of, I believe it's a little over
25 \$1.2 million, which helps us with additional

1 officers.

2 Back home sometimes it's like a
3 revolving door with our police officers. We hire
4 one, get them trained. Six, seven months later
5 they're out the door looking for a higher wage, more
6 salary, and we have to start to the process all over
7 again. And it takes another six to eight months to
8 get an officer trained up and put them back on the
9 road.

10 I know a lot of reservations
11 experience this, and I believe the -- you know
12 these -- the salary rate that the officer has, it
13 doesn't match what his job duties are out there. He
14 puts his life -- him or her put their life on the
15 line out there every single time they go on the
16 road. And with just a small amount of money to
17 raise your family, feed your children, clothe them,
18 pay your bills, it's not worth it to a lot of them.
19 It's very difficult to try to put them at an
20 adequate salary when you need 15, 20, 30 officers
21 out there.

22 I've been the chief only for,
23 like, eight months now. After 16 years I resigned
24 from the Bureau, went to college and picked up my
25 four-year in criminal justice and came back. And

1 boy, it felt good to wake up in the morning at eight
2 and be with your family; my wife, been married
3 30 years, raised four children. But it felt good to
4 get up in the morning and go to bed at night and not
5 have to worry about if you're going to come home.

6 So I stayed out of law enforcement
7 for ten years. I was the director of EPA back home
8 and enjoyed it quite a bit. I know the
9 responsibilities of being a chief of police. I knew
10 it already. I knew what lied ahead on our
11 reservations, all the social problems that we have.
12 I was asked several times. I turned it down. But I
13 must have never got enough sleep the last time they
14 asked me, and I took it. But it's a very difficult
15 job, very difficult.

16 As Myra stated to you, we have not
17 only our bosses at the tribal council, we have the
18 people that we're there to protect and serve. And
19 one thing I seen lacking in our tribal program, law
20 enforcement was our traditional and culture values
21 and our ethics. You know, back in the day, my
22 grandpa used to talk to me about how things were
23 good down by the river before the flood came in and
24 the lake came in, how the social problems were just
25 bare minimum problems. Everybody respected

1 everybody. Everybody respected their property.
2 People went out and helped each other. They took
3 time off their own responsibilities and went and
4 helped their neighbor.

5 We don't see that now. We fight
6 each other. These ethics and values that our
7 forefathers were raised upon are not there yet, not
8 there. They're gone, it seems like. I think that's
9 what we need to pull back to our reservations is our
10 traditional values and our culture and implement it
11 somehow to the law enforcement.

12 And also, I see a lot of our
13 juveniles, a lot of alcohol and drugs. But we have
14 nothing there for them, no facilities to help them.
15 Instead, we open up two or three more bars. So it's
16 problems -- I guess you might say prevention --
17 activities that we can do to implement into our
18 children's lives, our grandchildren's and give them
19 a foundation to stand upon so they are not easily
20 knocked over, pushed down; understanding their
21 identity of who they are, where they came from.

22 I talked to the New Town sixth
23 graders. I went in their classroom. And out of
24 forty children in that classroom, sixth graders, two
25 of them new their tribe, where they came from, two

1 of them out of forty sixth graders. So it's lacking
2 a lot of our culture and identity of people. It's
3 really been kind of pushed aside. You could be the
4 smartest person, the highest Ph.D., a doctor, but if
5 you don't have no identity and no culture, you look
6 at books and try to implement programs out of books,
7 policies, thinking that they're going to work, but
8 they don't. They're all different.

9 I know in South Dakota it's very
10 difficult now, such a huge land base and huge
11 populations, but they're very limited on their law
12 enforcement budgets and financial problems. And I
13 just feel that we need to somehow implement that our
14 traditional values and our culture, instill it in
15 our children and somehow work that into the law
16 enforcement program.

17 And Elmer, his first language
18 was the Hidatsa language. He was brought up on
19 that. When I went to school, that's all we spoke
20 was our traditional language, and you had to learn
21 English when you went to school. But it identifies
22 us. It makes us who we are, to become better
23 people, better leaders, better police officers. We
24 get the politics out of the way, our leaders will be
25 more effective out there for our people.

1 And I just want to say that I know
2 that we went to down to Rapid City during this
3 talking conference and heard a lot down there, but I
4 just want to thank you all for coming today. And we
5 all share our problems, our life -- sometimes our
6 life stories. And we all take ideals that may work
7 someplace else and try to implement it back home.
8 Thank you for allowing me to speak.

9 MS. STEELE: Let's pause here just
10 for a few minutes, give the court reporter an
11 opportunity to have a break and everyone to stretch
12 and we will resume in ten minutes.

13 (Whereupon, a brief recess was
14 taken.)

15 MS. STEELE: To begin this next
16 session, Carla Flanagan, the associate director for
17 corrections is going to describe a little bit about
18 the process for developing guidelines on the
19 approval of detention centers and on the long-term
20 corrections plan.

21 MS. FLANAGAN: Thank you,
22 Michalyn. I appreciate it. Good afternoon
23 everybody. Thank you for being here. Thanks for
24 the great turnout.

25 I wanted to discuss a little bit

1 one of the first suspense dates that is in the
2 Tribal Law and Order Act, and that is for the Bureau
3 of Indiana Affairs to develop guidelines for
4 long-term detention to approve detention facilities
5 for the long-term sentences.

6 We are blessed with a 180-day
7 deadline, which puts us anywhere from January 25th,
8 which is somebody's very conservative estimate, to
9 my, hopefully, January 28th date. But nonetheless,
10 actually, it's Weezie (ph), I think, who said
11 January 25th, so that's what we'll go with.

12 So in recognition of that, we know
13 that we have a number of preeminent tribal partner
14 jail administrators. I can affirmatively state that
15 the tribes do a much better job managing detention
16 centers than we do, and that's not because of my
17 staff, that's just because the tribes are closer
18 tuned in to needs. They supplement the funding that
19 we give for those operations and just overall a
20 superior program.

21 We have in the room one
22 individual, Wanda Lyons, from Red Lake, if you want
23 to stand up, Wanda, and wave. Wanda was on our
24 group of jail administrators. We gathered in Denver
25 two weeks ago. We spent a week trying to develop

1 some guidelines that we will then publish on our Web
2 site and seek comments.

3 Wanda was joined by 12 of her
4 colleagues from around Indian country. I know that
5 we had -- Pine Ridge was represented very aptly by
6 Darwin Long. We had invited Rosebud but didn't get
7 a participant. But I've had a discussion with
8 Ms. Goodwin (ph), and we'll be looking for input
9 from you all as well.

10 I don't know how many of you are
11 familiar with the American Correctional Association,
12 but in general, it is the association that performs
13 accreditation procedures for local, state, and
14 federal jails and prisons, for probation officers or
15 training academies for juvenile facilities.

16 When we recognized that TLOA would
17 pass and that we would have a requirement, we did
18 not want to reinvent the wheel and to try and
19 determine hundreds upon hundreds of guidelines that
20 Indian country jails would have to meet.

21 So lucky for us, ACA published its
22 Core Jail Standards, First Edition. This is the
23 document here, and you're welcome to come up and
24 look at it, but I need it for the rest of the
25 consultations. But you're welcome to take a look at

1 it and see what's in it, to see the types of
2 standards.

3 So what we did with this group,
4 Wanda and her colleagues, Darwin and whatnot, went
5 through standard by standard. There's 138 standards
6 in here, 45 are mandatory, the balance are
7 non-mandatory.

8 What we determined going through
9 this document was the applicability to Indian
10 country, the ability for Indian country jails to
11 meet some of those issues and whether or not we
12 would need to adjust or modify them.

13 That resulted in another document
14 which either took out some requirements of these
15 standards or added to in recognition of the needs of
16 Indian country. Is that pretty much, Wanda, a fair
17 assessment?

18 WANDA LYONS: (Indicating yes.)

19 MS. FLANAGAN: And our intention
20 is that we're going to put the document in -- we
21 don't have a formal name yet, but we'll call them
22 Indian Country Core Jail Standards or some notion,
23 unless somebody tells me I can't do that. We intend
24 to put it up on the Web site, on our Web site and
25 seek comments.

1 We're also exploring the
2 possibility of conducting some other sort of broader
3 meeting, perhaps during NCAI, the time of NCAI
4 because we are planning on having a jail
5 administrator's conference during that. And there's
6 also a time where DOJ is having consultations and a
7 victim witness meeting in Palm Springs, although
8 that's in December and that would be cutting it.

9 We're very interested in what
10 tribes have to say about these guidelines as
11 developed, whether or not they're too stringent,
12 whether some need to be modified, whether some
13 don't. What this will do for us is put Indian
14 country jails in line with other jails around the
15 country.

16 Now, in general, the mandatory
17 standards under typical ACA, the mandatory standards
18 you have to meet, and they're really not
19 unrealistic, they're basic conditions of confinement
20 issues that you treat prisoners safely, humanely,
21 with dignity, firm and fair and so on.

22 So, again, we're interested. What
23 we did not get to, because we had such a condensed
24 effort to make sure we get the guidelines, is the
25 process by which we will approve those facilities

1 and who will approve them.

2 One of the things that our group
3 of tribal jail administrators was adamant about is
4 that tribes have the opportunity to be reviewers,
5 that they review and not review their own, some sort
6 of a peer review process. I think that's a terrific
7 idea. I think that as long as we're going to have
8 to approve these facilities and review them, that it
9 should be peers who do that because both from a
10 learning experience to find out what's going
11 right -- and there's a lot of things going right in
12 Indian country jails, we always talk about what's
13 going wrong but there's a lot of things going
14 right -- so that other jail administrators can see
15 that and also can impart their knowledge of whether
16 there are things that maybe aren't going so right.
17 I think it's a good process.

18 So we'll have to write up
19 something probably that seeks input from folks to
20 kind of give us some feedback on how we think that
21 approval process should work, things like how long
22 the approval should be valid for, should it be valid
23 for three years, one year, should there be a review,
24 an interim review, how do you seek waivers, because
25 there are some things that are not going to be able

1 to be met but could be corrected through corrective
2 action plans. So as soon as possible we're going to
3 get these up on the Web site.

4 We also -- I think Darren alluded
5 to it earlier; we're very excited about this new
6 opportunity for us to seek comments to e-mail. I'm
7 going to give you an e-mail address and you may
8 seek -- send in comments about anything concerning
9 TLOA, the Tribal Law and Order Act, the guidelines,
10 the long-term detention plan for adults, the
11 long-term detention plan for juveniles. You can
12 submit your comments for review by us and our other
13 federal partners as necessary to
14 ojs.divisionofcorrections, all one word, at BIA dot
15 gov.

16 Since I've stolen Darren's
17 thunder, I'm going to give the rest of them. The
18 next one would be --

19 AUDIENCE MEMBER: Could you repeat
20 that one more time, please.

21 MS. FLANAGAN: Sure. Sure. The
22 correctional aspect for correction or detention is
23 ojs, the letters o-j-s, dot divisionofcorrections,
24 one word, at BIA dot gov. If you have issues
25 related to law enforcement, police, criminal

1 investigative matters, in general related to the
2 Act, the Tribal Law and Order Act, you may send
3 those comments to ojs dot lawenforcement, one word,
4 at BIA dot gov. That's ojs dot lawenforcement, one
5 word, at BIA dot gov. And yet one more, in case
6 that's not enough, if you have general comments or
7 comments related to the Tribal Law and Order Act
8 that don't otherwise fit in those two categories or
9 this one is easier to remember, you can send it to
10 ojs dot TLOA2010 dot comments at BIA dot gov, and
11 that's ojs dot TLOA2010, the numbers 2-0-1-0, and
12 all that is one word, dot comments at BIA dot gov.

13 And if you go to the BIA Web page,
14 those addresses are up or those links are up now.
15 So you should just be able to hit it, Links, and
16 send in your comments. And we will be reviewing
17 those and farming them out as necessary. If there
18 are some in the general comment area or if I get
19 some law enforcement ones in corrections, we'll farm
20 those out, or if there's some for our partners, then
21 we'll also work with them. Are there any questions
22 on the guidelines? Yes, sir.

23 KEN JAMES: What about up at
24 Standing Rock, one of our highest numbers is our
25 criminal contempts where we have repeat people

1 coming in through our jails. And that's where it
2 seems our bottleneck is at. And we're being
3 out-resourced because we don't have adequate
4 treatment facilities. There's a backlog or waiting
5 list for people to go to treatment.

6 And the problem that is quite
7 obvious is that we don't have adequate
8 detoxification centers. Some of the people that
9 have dual diagnoses or they got different types of
10 specific needs, they don't need to be in the jail.
11 They need to be referred out to a detoxification
12 center and be held for at least -- you know,
13 sometimes up to 72 hours, and that will give the
14 families or give the people involved time to make
15 the appropriate referrals.

16 So I'm hoping that that will be
17 taken into consideration, that we would have -- you
18 know, right now I don't think in the northern plains
19 in the District 1 we don't have a detoxification
20 center. And I know we're just talking about
21 corrections and outdated jails and some that are run
22 down and everything like that, but that's a specific
23 need in Indian country, detoxification centers.

24 MS. FLANAGAN: Sure. And that
25 leads me into kind of another responsibility that we

1 have, and this is in conjunction with our DOJ
2 partners and it will also involve IHS and SAMHSA,
3 and that is the requirement to develop a long-term
4 detention plan for adults. That is within one year
5 of enactment of TLOA, and so that would be
6 July 25th, -7th, -8th of 2011, one of those days.

7 We are working with Department of
8 Justice on a group -- and this will be in
9 consultation with the tribes, the long-term
10 detention plan as well. And we right now are
11 gearing up -- DOJ is taking somewhat of the lead
12 because they have some responsibilities, we have
13 shared responsibilities within the Act, but they are
14 developing that.

15 And some of the considerations
16 that have to be made are alternatives to
17 incarceration, which is exactly kind of the detox
18 effort, different types of incarceration, whether we
19 use state and local facilities, which we're using an
20 awful lot of up in Standing Rock, in addition to our
21 own jail, the use of federal facilities and various
22 other options.

23 At some point there will be some
24 ability to comment on that either through the
25 consultation process or I'm going to strongly

1 recommend, based on the success of this e-mail
2 effort, that we have our DOJ partners or we kind of
3 use this similar type approach so we can get a broad
4 range of comments. But the detox centers are
5 certainly needed, and it's certainly something that
6 we'll consider.

7 And if I can just say one more
8 thing about the long-term detention plan, we're also
9 required to develop a long-term detention plan for
10 juveniles, and that effort will also encompass, and
11 I hope more so than the adults, alternatives to
12 incarceration so that the juveniles -- it's
13 traditional outside of Indian country you only want
14 to incarcerate the worst of the worst of the worst
15 of the juveniles when there is no other option. But
16 sometimes inside and outside of Indian country we
17 end up detaining juveniles because we have no other
18 options.

19 So in the same approach as the
20 adult plan is required of juveniles for long-term
21 detention, there are some requirements placed on
22 SAMHSA and also IHS in regard to both these plans.
23 And we are working -- and I can echo the previous
24 comments of the federal partners and also my
25 colleagues from BIA, we are working better together.

1 We travel together. Some of us have been together
2 for a couple weeks, and we'll be together a couple
3 more. So we've developed professional relationships
4 that I think are going to be very helpful to advance
5 the statute and its requirements.

6 So Dennis, I don't know if you
7 want to kind of comment on any of the detox issues
8 or --

9 MR. ROMERO: As I said, one of the
10 requirements of the Tribal Law and Order Act is for
11 us to provide technical assistance to our federal
12 colleagues, and so to be able to include the issues
13 of mental health and substance abuse in a variety of
14 settings; detention centers, detention areas, and
15 others.

16 So it forces all of -- it forces
17 the federal partners to ensure that the right people
18 with the right set of skill sets and the right level
19 of expertise are at the table as we strategize and
20 develop a proposal for your review.

21 So I echo Carla's comments, and
22 it's been a wonderful opportunity to connect with
23 the federal partners that I hadn't had before, and
24 we are trying sincerely to do right by the law.

25 MS. STEELE: Just one point of

1 clarification, I guess, maybe a question, it's a
2 long-term plan for detention, right, not plan for
3 long-term detention of youth. We don't want our
4 youth sitting long-term in detention facilities, but
5 we need to think long-term about the best approaches
6 and developing the kinds of programs that will keep
7 the youth out of detention. We're not planning to
8 have them long-term.

9 I'll ask Darren to talk a little
10 bit also about the SLECs, which is one of the
11 primary issues that we need to address in the next
12 couple of months.

13 MR. CRUZAN: Thank you, very much.
14 And as I've been traveling around, that's been one
15 of the issues that's come up in San Diego,
16 California; Billings; yesterday Albuquerque, the
17 SLEC issue.

18 And as we're going around, there's
19 three primary concerns that I'm hearing. The first
20 is, I guess, the number of classes that are taught
21 are too few, and so there's a concern that there's
22 not enough of those out.

23 The second one that's pretty
24 common is the locations where they're taught at
25 sometimes are a great distance for our tribal

1 partners to travel, and so it's cost restricting.

2 And the third one, the third
3 complaint that I hear, which is probably the most
4 concerning or I should say was the most concerning
5 to me and still is but I got a little of
6 clarification on it, was that the when the tribes
7 send officers to these trainings, sometimes it's
8 three or four or five years after the training
9 occurs that they end up getting their SLECs.

10 So I've got to tell you the first
11 time I heard that, I was beside myself and a little
12 bit -- well, pretty upset and anxious to find out
13 why that was the case. So I immediately from the
14 table started sending out e-mails, Hey, what's going
15 on, why is it taking so long to do that. And the
16 answer back to me was pretty reasonable and I can
17 understand it a little bit better now.

18 And so through these consultations
19 and having these talks, we came up with a solution.
20 But the problem was, or what I'm hearing from our
21 side, is that we oftentimes put the cart before the
22 horse, and we would have the training, and the
23 officers would come to get the criminal justice in
24 Indian country course and then would expect cards.

25 Well, the problem was, as you

1 know, there's a Memorandum of Agreement that had to
2 be in place. And the officers have to also have
3 their applications submitted, filled out, the
4 background investigations done prior to us issuing
5 out these Special Law Enforcement Commissions. And
6 so what we were doing is we were having the training
7 before all of those other things were really in
8 place. So it was just kind of out of line order.

9 And so what we're looking at doing
10 now based on these consultations and the
11 recommendations we've received, and I'd be real
12 interested to hear what your thoughts are on this,
13 is that prior to ever having the classes, what we
14 want to make sure is that we've got the Memorandum
15 of Agreement in place and that the officers have
16 their applications to us, filled out, their
17 backgrounds done prior to having class. It makes
18 sense.

19 So when they come and get the
20 class and at the end of the eight hours or
21 sixteen hours or whatever it ends up being, then
22 they can get sworn in and get the card and off they
23 go. So there's not that delay or an expectation of
24 as soon as the class is done, I get my card.
25 There's been some problems there.

1 The other thing that we're working
2 on with our DOJ partners is -- was a Diane
3 Lane (ph), her new role is to serve -- I don't know
4 exactly her title and all that, but she's doing
5 training for Indian country, kind of the liaison
6 person for DOJ as it relates to Indian country
7 training.

8 So what they're going to do, I
9 think, starting in November, is she's going to pull
10 a group of assistant U.S. attorneys from around the
11 country who have Indian country in there, bring them
12 together somewhat similar to what Carla did with our
13 detention program, and bring people together and get
14 refreshed on that criminal justice in Indian country
15 course.

16 And we're looking at doing some
17 different things. Right now I think it's 24
18 hours -- maybe somebody can tell me if I'm wrong
19 there, but I think it's a 24-hour course. We're
20 looking at cutting it back to anywhere from eight to
21 24 hours. But it seems to make a little bit more
22 sense maybe to cut that down to maybe eight hours.
23 But they're going to work on that.

24 And then as opposed to using
25 contractors to go out and teach that, I think

1 there's a lot of merit in this thought where the
2 Assistant U.S. Attorneys who are going to be working
3 with these tribal officers who present cases to them
4 for the U.S. Attorney's Offices, to present the
5 class. We're mandated to teach two of those per
6 region every year.

7 And I think there's some confusion
8 as to what regions mean, at least there is to me.
9 But as we talked with the Department of Justice and
10 they kind of leaned forward and sat on this, maybe
11 we want to take the lead. And I think there's a lot
12 of merit in the relationship that can be built
13 between the U.S. Assistant Attorney teaching the
14 class and the officers who will be getting it.

15 So I think that's a pretty good
16 process we're working on. Again, nothing is in
17 stone. And as we look at these consultations -- and
18 as Carla said, those things, as we wrap up next week
19 in Miccosukee in Florida, then what our plan is is
20 to go back to Washington, D.C., compile all the
21 consultation notes we've got together, come up with
22 our draft, put it on the Web site, and then allow
23 you to make comments.

24 So I'd be really interested to
25 hear if there's any questions or thoughts on that

1 process, if you think we can streamline it or if you
2 could care less or --

3 PATTY MARKS: Thank you, I'm
4 Patty Marks, the attorney for Oglala, speaking for
5 President Two Bulls.

6 There's two issues that came up
7 that, I think, merit consideration before you go
8 final on this. One of them is a clear, specific
9 statement from the Bureau as to who's eligible for
10 Commission cards, because we had issues raised by
11 the Columbia River folks and we had other situations
12 at Pine Ridge over our fish and game officers, for
13 example, or over highway safety issues.

14 I also had occasion to spend about
15 an hour and a half on the phone with my colleague,
16 Sharon Putwell (ph) at the Solicitor's Office in
17 Minneapolis. One of the big issues that comes out
18 of all of this hodgepodge of law enforcement on
19 reservations is tort claims and coverage.

20 Does the existence of the
21 Commission card in your pocket mean that you're
22 covered by tort claims. And many people in this
23 region remember the old Rattling Leaf case out of
24 Pine Ridge where we had an individual officer who
25 was a fish and game officer, got involved in a

1 high-speed chase and was subsequently told by the
2 U.S. Attorney, Sorry, you're on your own, you were
3 outside the scope. He said, But I've got the card.
4 And they said, No, that doesn't matter. Well,
5 ultimately, the tribe won that case. But for the
6 lawyers it's always been a problem of who is and who
7 is not covered by tort claims and does it make you a
8 federal officer simply because you had the card when
9 you were a BIA or tribal police officer and kept it
10 active. You kept your certification up, but you're
11 no longer working in law enforcement. So somehow
12 that's got to get clarified.

13 I think on this bigger issue of
14 backgrounds, and you'll see this when you see the
15 Great Plains written testimony, tribes are very
16 firm. We want to see the background check
17 standards, not just for commission cards, but for
18 regular hires, in writing and have an opportunity to
19 respond to them, because the push and shove doesn't
20 come in with the big issues like domestic violence
21 or felonies or even misdemeanors, it comes in on
22 issues where an officer might have had an
23 alcohol-related arrest at Pine Ridge 15 years ago.
24 Are they eligible? Aren't they eligible? Is 15
25 years long enough? Is five years too short? All we

1 want to see is something in writing with an
2 opportunity for the tribes to respond and talk about
3 their -- and Little White Man made that point, I
4 believe, with 638.

5 638 reservations have a lot of
6 poverty, a lot of issues, social issues that have
7 come into play. They feel like they know who is a
8 good officer in their community because they know
9 these people intimately. They want an opportunity
10 for those folks to be able to rehabilitate
11 themselves and come back in 15 years later and do
12 something positive.

13 So two points -- three points;
14 define tort claims, define who's eligible for these
15 cards, and give everybody an opportunity to respond
16 to all of that before you go final.

17 CARRIE PROKOP: I just wanted to
18 say that I think those are valid points and
19 clarification so everybody is on the same
20 understanding as to what coverage is there for the
21 Tort Claims Act for when somebody is a federal law
22 enforcement officer.

23 I think that all does have to be
24 thought out ahead of time. And it would be a great
25 opportunity now to address that so everybody

1 understands what the expectation is and some of the
2 officers understand the expectations as well. So I
3 think those are valid points.

4 ELMER FOUR DANCE: Well, good
5 afternoon. My name is Elmer Four Dance. I'm the
6 special agent in charge out of the District 1
7 headquarters in Aberdeen, South Dakota. I'd like to
8 wish you all a good afternoon, and I appreciate you
9 all taking the time out of your busy schedules to be
10 here at this very important event.

11 On the Special Law Enforcement
12 Commissions, it takes us great strides to achieving
13 an overall goal, which is to establish -- or to
14 improve and enhance Indian country law enforcement,
15 which I think the Act itself helps us do that. And
16 working together and collaboratively we're going to
17 be successful in achieving that.

18 When we have BIA police, whether
19 it's BIA police or whether it's tribal law
20 enforcement, all together we are Indian country law
21 enforcement. It doesn't matter what color our
22 uniform is or the shape of our badge. The bottom
23 line is we all want to work toward public safety and
24 ensure safe communities and address public safety
25 and quality of life issues working together.

1 And these Special Law Enforcement
2 Commissions help us do exactly that, which is
3 something that we have been working toward in
4 District 1 and, actually, working and establishing
5 training opportunities at all different levels
6 starting from the chief of police through executive
7 leadership, our police officers in service, as well,
8 our law enforcement assistants, administrative
9 assistants, and our dispatch, our telecommunications
10 equipment operators, to make sure that everyone is
11 receiving quality, professional law enforcement
12 training to be able to meet the challenges that we
13 face on a daily basis.

14 The Special Law Enforcement
15 Commissions are there to be able to meet those
16 through a collaborative effort, pooling our
17 resources. And we see conservation officers, some
18 also known as game and fish or game wardens, as
19 Indian country law enforcement.

20 Now, when you take a look at the
21 definition of that, you have to look at their
22 position description and see what their overall
23 duties are. Many of these officers, the game and
24 fish, tribal game wardens, whatever their titles may
25 be with their agency, many of them, and a majority

1 of them, attend the same Indian police academy that
2 the BIA police do.

3 As long as they meet those
4 requirements, it helps us use those resources that
5 are locally available in the best way possible so
6 that we can pool these resources and we can be more
7 effective on a local level. And I think that's all
8 what everybody wants is to have that available. And
9 we have entered into those agreements, and we have
10 some in place at this time, and it helps us to be
11 able to do that.

12 The bottom line is that all of
13 Indian country law enforcement officers meet those
14 minimum requirements, and those are well defined in
15 our law enforcement handbook at 25 CFR as well.

16 So as long we meet those
17 requirements and we're working toward achieving an
18 overall goal, we can do that when working together.
19 And so those are some things that we have in place,
20 and they are available, and we continue to work
21 toward those -- enhancing the collaboration both
22 between tribes, the state, and the BIA as well.

23 So to have the overall
24 collaborative effort and enhancing partnerships to
25 achieve overall goals is really what we're working

1 toward. And I think we've really achieved a lot of
2 progress over the past few years. And we have been
3 working with our U.S. Attorney's Offices throughout
4 the district to actually be able to provide that
5 type of training and bring it out and make it
6 available. And so we maintain records in our office
7 of who has this training and try to build our
8 partnerships on a broader basis.

9 PATTY MARKS: Mr. Four Dance, I
10 want to follow up just one second, please. I agree
11 with you 100 percent. Everybody who works on a
12 reservation understands the factual aspects of this.
13 Where it gets dicey -- and my concern is protecting
14 these officers. That's my job, is to protect these
15 officers -- Patty Marks again.

16 My concern is when an officer
17 carries a gun and we have an emergency situation, be
18 it a blizzard or be it a public display of
19 disagreement with the tribal government, we're
20 calling in all kinds of people to assist in that
21 effort. And we had that at Pine Ridge where we had
22 officers leave the job and others stepped in.

23 The concern that I have is when
24 the regulations don't spell it out and you're
25 calling in a fish and game officer caring a

1 Commission card to enforce tribal law or federal
2 law, that's where it gets dicey with these whole
3 issues of within the scope of their authority and
4 within the coverage of the Tort Claims Act.

5 This is an opportunity -- my point
6 is this is an opportunity for OJS to provide in its
7 new regulation some clarity that says you're okay
8 doing what you're doing. Don't leave it to the whim
9 of the lawyers in a courtroom, because when we go
10 before the judge and the judge says I don't see
11 anything in writing here as to whether this is okay
12 or not okay, this is your one opportunity, because
13 you're redoing this.

14 And what I'd like to see OJS do
15 and the assistant secretary do is support what
16 Mr. Four Dance is saying; in the reg you can step up
17 at the call of the chief of police and do these
18 other things.

19 Those of you that remember
20 Rattling Leaf, what we had is a fish and game
21 officer carrying a Commission card and there was an
22 emergency high-speed chase and people's lives were
23 in danger. And he responded to the call because he
24 was the only officer within the immediate geographic
25 area.

1 When it came down to the case
2 going to the tort claims adjudication, that officer
3 was left totally on his own. He was told he wasn't
4 even going to be represented by the United States.

5 We can't have that kind of a
6 weight out there any more. These people need to
7 know from the beginning can they step up and assist
8 in a difficult arrest, can they assist in an
9 emergency situation or can't they. And if they do,
10 is the United States going to stand behind them.
11 And those decisions need to be made right now.

12 The law gives you the authority.
13 They're directing you to redo the policy. So please
14 consider this when writing that final policy,
15 because I think Elmer's right, we've got one group
16 of understaffed good people putting themselves in
17 harms way; I don't want to see them left hanging if
18 they get injured or somebody else gets injured.

19 MR. FOUR DANCE: Well,
20 Ms. Marks -- this is Elmer Four Dance again. I
21 think the -- I know you all know that. That was for
22 the court reporter.

23 PATTY MARKS: For the record,
24 sure.

25 MR. FOUR DANCE: For the record.

1 But Patty, the policy actually -- and that actually
2 is spelled out as far as what is required and when
3 the coverage is available and basically if there's
4 any negligence or a willful, wanton act, something
5 that is outside of their work.

6 But a lot of this, what you've
7 mentioned, is actually in that policy. So, I mean,
8 that's the basis for it. And the role of some of
9 the officers termed as conservation officers, they
10 may -- that may be they provide -- you know, the
11 overall scope of their duties and their work, you
12 know, is both -- is twofold, you know, it's public
13 safety as well as during the particular hunting
14 seasons, if you will. So that's the reason why we
15 work with our tribes to be able to meet that
16 challenge.

17 MS. STEELE: I'll just say that,
18 Ms. Marks, you make an excellent point that the
19 Tribal Law and Order Act does authorize and require
20 that we implement regulations, and it does give us a
21 chance to look at these very kinds of issues and
22 assess where we can be doing better and have clearer
23 regulation.

24 If you are holding back because
25 you think we are still on designated tribal leaders,

1 the floor is open to whoever would like to speak. I
2 see Chairwoman Pearson and then Ms. Kingman, and
3 then the gentleman.

4 MYRA PEARSON: I have one question
5 on these regional meetings that are being held and
6 the information that's being collected. How is it
7 going to be handled before it becomes a final
8 document? Are we going to all be recognized
9 according to the regions that we provide this
10 information from, or are we going to all be put into
11 the same boat, I guess?

12 MS. STEELE: Chairwoman, is your
13 question whether we will be developing regulations
14 that vary from region to region?

15 MYRA PEARSON: Yes.

16 MS. STEELE: I think we're seeking
17 a unified policy, but we're holding meetings around
18 the country. And in recognition that there was a
19 lot of meetings, I know there was a gaming meeting
20 this morning, we've had consultation on consultation
21 in the consultation policy, the strategic plan,
22 we're hearing the message that you're consulted out.

23 We did public safety consultation
24 earlier in the summer before the Tribal Law and
25 Order Act passed. The Tribal Law and Order Act

1 requires us to do additional consultations. And I
2 think they're very beneficial but they are -- you
3 know, the challenge is that there are 565, -64
4 recognized the tribes, and one size does not fit
5 all. But how do we develop a policy that allows for
6 the variation of need among tribes. So that's one
7 issue.

8 The second issue is, you know,
9 we're not going to just -- from here we need to
10 develop a product. One of the things that happens
11 is we go on these consultations, if we bring a
12 product, sometimes we'll hear, well, we weren't
13 there for the start of this product. If we don't
14 bring a product, we hear, well, how come you didn't
15 bring us something to respond to.

16 So it's sort of a delicate balance
17 of moving forward, gathering input at each stage.
18 But certainly before any policies are final, we
19 will, you know, circulate them. They'll be on-line.
20 We'll continue to seek input on them until the
21 deadline. And recognizing that there are different
22 concerns in different tribes, different cultures,
23 different geographies; urban, rural distinctions,
24 we're trying to develop policies that are adaptable.

25 But I don't think that we'll

1 develop different policies for different regions.
2 Those kinds of variations can be addressed, for
3 example, with the SLECs, through the MOAs that are
4 between the tribe and the BIA, and in the long-term
5 plan, principals that can address the variation of
6 what the tribes want in different regions. It's a
7 different need in New York than, you know, in South
8 Dakota or North Dakota in the large land-based
9 tribes.

10 MYRA PEARSON: I think you're
11 going to see that the Great Plains are very unique
12 in their tribal issues. We're remote, so to speak,
13 and it seems, you know, we need a lot more officers
14 than they put down and send out. I heard Darren say
15 that your next consultation meeting will be down in
16 Miami, I believe. So I guess what I was wondering
17 is, you know, can we have as many officers as they
18 do down there? Because they're an urban area, you
19 know, I don't understand the -- they've got 160
20 police officers. But they were all took and
21 credited -- you know, credit for -- for that
22 actress', you know, death and stuff like that, which
23 is -- that's good, those are BIA officers. But how
24 do they rate more than -- we actually have, I bet,
25 between the South Dakota tribes now put together --

1 I guess what I want to know is are we going to be
2 lumped into one group and then, like you said, one
3 size fits all?

4 MR. CRUZAN: Chairwoman, I think
5 your question about staffing levels, that's
6 something that's very interesting to me, too. And,
7 you know, as we move forward -- right now we've had
8 some short-term deadlines that we're working on.
9 And somebody said to me the other day, Gosh, your
10 job's got to be like drinking from a fire hydrant.
11 And I said, it's like standing under the water tower
12 really. There's a lot of stuff coming in. And
13 there are many, many, many issues that I see as
14 priorities.

15 And really what I found in
16 listening through these consultations is, you know,
17 really it doesn't seem like any one of the problems
18 are overwhelmingly difficult or unsolvable. They
19 all seem pretty solvable to me, but it's just a
20 matter of getting the low-hanging fruit right now,
21 what do we have that's ripe this minute, you know.

22 It's this Tribal Law and Order
23 bill is just what's taking my attention for right
24 now. But that's one of the things that I really
25 want to look at as we move together through this

1 process. And I really enjoy these consultation
2 meetings, I mean, deeply, you know. Contrary to
3 what some people think, I think this
4 is tremendously -- and I know everybody up here
5 feels that way -- tremendously useful.

6 And so what I want to do after we
7 get through this initial Tribal Law and Order
8 deadline and moving through, I want to look at
9 exactly how are we -- explain it to me like I'm in
10 third grade, how are we determining how many
11 officers we have at each location.

12 And I know the national average --
13 Elmer, correct me, two point -- three point
14 something -- 3.5 officers per thousand people, kind
15 of the national average. So is that applicable to
16 Indian country or is it different or -- come up with
17 a different formula. It's kind of the same thing
18 with our funding formula. I think we need to have
19 some -- have to get a group of tribal folks together
20 and say, all right, let's figure out how we should
21 do this to make it fair. Is it based on the number
22 of people that live on the reservation, is it
23 transient, big tourist area, do you have a casino.
24 Those type of things we need to talk about as we go
25 through.

1 But I don't want to be the guy
2 that somebody says, Well, how did you determine how
3 many officers went there; Well, it just kind of
4 looked right to me. That's not the way to do it. I
5 want to make sure that we've got some kind of
6 formula out there that's applicable to everybody
7 and everybody can at least come to the table on. I
8 know we don't all agree on everything. I'm not
9 naive about that.

10 This is the way I've always
11 thought, as the decision maker for BIA law
12 enforcement, as the director, I can say here's the
13 problem I've got to solve, and I can bring all my
14 staff in and say, Okay, guys, here's what we're
15 going to do, and I don't want to hear any questions
16 about, this is what we're going to do because this
17 is what I've decided is the best way to do it. But
18 then really that's only as smart or as good as I am.

19 But if you bring a lot of smart
20 people together and say, Let's work on this
21 together -- conflict is a good thing, I believe, in
22 the right setting, as long as it doesn't become
23 personal. My experience at the Pentagon, if they
24 didn't teach me anything, they would have a problem
25 and they would throw that out on the table, and they

1 would bring people in there and they'd shut the
2 door, and you'd almost think they were mad at each
3 other. But every single time, without fail, when we
4 came out of that room we always had a better product
5 than if it was just one person. So I hope to
6 address staffing issues and funding issues that we
7 can all live with.

8 Again, I'm sorry for rambling on.
9 If you've got kids and you've seen that movie where
10 the dogs and squirrel kind of lose focus, I'm easily
11 distracted like that, so I apologize if I went
12 around your question but --

13 MYRA PEARSON: I would like you to
14 know that, you know, I know the gentleman down there
15 at the end said we need to start taking some
16 responsibility ourselves. Well, I believe we have.
17 I mean, I don't know about the other ones, but I
18 know at Spirit Lake we have.

19 With the shortage of officers, we
20 did set aside from our casino revenues to help fund
21 four officer positions. And Elmer came out there,
22 and we worked on an MOA with him. But we can't
23 compete with the BIA or the government, for that
24 matter, on the benefits and the salaries and stuff
25 that they may pay. So we tried to do that and, you

1 know^ up, we've come that far.

2 And I don't like to go around
3 asking anybody for help or anything, you know, but I
4 do believe there's a trust responsibility there, you
5 know. And I'm going to try and stand on my own two
6 feet, but I also want you to know that we've done
7 our part as far as trying to help with that protect
8 and serve services that we need very badly. So
9 anything I can do, you know, or the tribal
10 council -- as you see, we have our retired tribal
11 council here today, and anything we can do to help
12 in those ways, you know, we're doing them. But
13 please come across and help me out, too, sometimes,
14 because I need some help. Thank you.

15 JESS GREEN: My name is Jess
16 Green. I am a tribal attorney at this time. Back
17 at the seventies and eighties I was a state district
18 court judge. I want to emphasize on behalf of my
19 tribal clients that I've been serving for 25 years
20 that there is a very real need, as was stated
21 earlier, that you address the regulation, the tort
22 liability.

23 As you work in Indian country, you
24 end up with those officers that are conservation
25 officers stepping in and helping. You also, if you

1 develop a good relationship with the state court
2 officers, you tend to lose sight sometimes of where
3 your boundaries are, both on your reservation and
4 both on helping each other. And as a consequence,
5 you have encouraged over the years
6 cross-deputization agreements.

7 The problem with that is that that
8 liability is not well defined when they show up at a
9 state drug raid that's not in Indian country because
10 it's just over the line, but it's where all the
11 Indian kids are getting their dope. We need a clear
12 definition where it's okay for officers to go.

13 And then we have the gray area;
14 what if they're not in uniform and it was an
15 emergency. And then we have a further gray area;
16 what if they got in their own car because the only
17 tribal car they had was broke.

18 These kind of things occur to us
19 every day. But more importantly, they occur to
20 cities and counties that we cross-deputize with, and
21 they are impediments to our cross-deputization
22 agreements.

23 A clear regulation here that you
24 are going to cover these folks in these
25 circumstances will eliminate a whole lot of problems

1 I have when I sit down with new county sheriffs or
2 new city police department chiefs that are worried
3 about their liability. And what is most amazing is
4 occasionally even the county sheriffs that are most
5 adamant are Indian. They have that I don't trust
6 the Bureau, I don't trust the federal government,
7 you know, they're going to leave both of us hanging
8 out to dry, and it's going to be my county
9 commissioners that are going to end up paying, and
10 I'm going to lose the election because I'm Indian
11 and should have known better.

12 I mean, I have actually had one
13 sheriff tell me that he will not sign a
14 cross-deputization agreement because he says the
15 liability is not clear.

16 Your reg at this time that you're
17 allowed to produce could really give those of us
18 that are the pains in the rears that some of the
19 tribal leaders describe, the lawyers, some real help
20 in smoothing out a whole lot of issues and giving
21 our officers, which you've heard several
22 descriptions of how dedicated they are, getting our
23 officers covered to know that if they came to help,
24 that they would be covered. Thank you.

25 GAY KINGMAN: My name is Gay

1 Kingman, Executive Director of Great Plains Tribal
2 Chairman's Association. First of all, thank you all
3 of the agencies for coming, and I hope you continue
4 the collaboration. The one missing, I think, is
5 FBI, and I see in here their reports will have to be
6 submitted annually also.

7 But I wanted to preface my
8 comments that I think, as when you're in our
9 country, all of our comments have to start with a
10 treaty. The treaty of this Lakota, Dakota, Nakota
11 was signed in 1868 by the United States government
12 and the Sioux nation to nation and it promised
13 security and protection for our people. And that's
14 why I think our tribal leaders always mention the
15 treaties, because everything we have stems from
16 that. It doesn't stem from the recent Act of
17 Congress that was passed. It stems from the
18 treaties.

19 There was one thing that wasn't
20 mentioned here was that the training, the Great
21 Plains Tribal Chairman is on record that training --
22 the United Tribes Technical College will become one
23 of the training sites. And I just wanted to put
24 that in as a reminder that in the legislation it is
25 mentioned that there will be a training site at one

1 of the colleges, United Tribes, and we wanted to
2 start implementing that as quickly as possible,
3 because our officers having to go to Artesia, it's
4 just to burdensome, and we want a training site in
5 our own region.

6 And I'm glad you mentioned that we
7 are not all the same. I think we hammered that home
8 many, many times, and that's really correct. In the
9 Dakotas; North Dakota, South Dakota, Nebraska we
10 have a large land base. Other regions do not. We
11 all have tribal courts. We run our own tribal law
12 enforcement. Other tribes do not, they're BIA. But
13 it doesn't make anything right or wrong, it just
14 means that the consideration -- that you have to
15 take all of that into consideration.

16 In the Great Plains we have
17 specific needs to those large land base. In the
18 timeline there is an Indian Law and Order commission
19 that's going to be set up within 60 days of the
20 passage of the law, and that was in July. And the
21 Great Plains will be meeting on November 10th, and
22 we will be getting a name to you as quick as
23 possible on that.

24 I guess the other deadline that I
25 was concerned about was this commission that you're

1 talking about, the Special Law Enforcement
2 Commission that we'll be doing have several criteria
3 that they have to fulfill, including BIA
4 establishing guidelines. Now, is that one and the
5 same commission, the Indian Law and Order
6 commission?

7 And then to SAMHSA, I'm really
8 glad you're here because I think in December we're
9 going to have the joint meeting with IHS and BIA
10 within our region on our suicide prevention. But
11 over and above that, I just -- not just women and
12 violence issues, but we also have the construction
13 of a facility where we have to collaborate on
14 everything.

15 And I know at Cheyenne River years
16 ago, and Tracy was there, one of our tribal
17 attorneys, but we tried to do a facility with
18 juvenile on one side and adult facility nearby. But
19 it took us several years to get through all of the
20 constraints that we had to go through with IHS and
21 the BIA.

22 And somehow if these regulations
23 or collaborations could happen so the white tape
24 that we have wouldn't be so demanding or put
25 barriers in our way, that would go a long way toward

1 helpings us at the regional level.

2 I think that that is the things
3 that I had, but I wanted to put United Tribes
4 Technical College as a priority for a training
5 center than Artesia, and I hope that's in the works.
6 Thank you.

7 MR. CRUZAN: Thank you,
8 Ms. Kingman; is that correct?

9 MS. KINGMAN: Yeah.

10 MR. CRUZAN: Last week I came in,
11 Elmer grabbed me and said, Hey, you're not getting
12 out of the area without going to UTTC. So we did
13 kind of a surprise where we kind of -- you know,
14 they were gracious enough to -- Dr. Gipp wasn't
15 there, but Mr. Beard (ph) was there, and we spent
16 about, what, four hours there, four hours touring
17 through and looking at and discussing options and
18 things like that.

19 One of the things I think they'll
20 even tell you is that they're not ready for basing
21 the academy there, the driving, the shooting.
22 They're working towards that. And I would very much
23 encourage and support if we can do that. But I'm
24 going to ask Elmer maybe to -- the good news is
25 we're already doing training and have been for some

1 time. I'm going to ask Elmer maybe to speak to
2 that.

3 MR. FOUR DANCE: Thank you,
4 Dr. Cruzan and Ms. Kingman. We have been hosting a
5 wide number of training there and sponsoring that.
6 And the United Tribe's training facility have
7 actually sent -- you know, we've provided e-mail
8 addresses to all BIA and tribal law enforcement
9 agencies throughout the district and including the
10 bureau -- throughout Indian country, actually, to
11 actually get the word out there.

12 And we've hosted professional
13 standards training, our internal affairs
14 conferences. We've had police officer in-services,
15 canine recertification training there, a wide number
16 of training that we've had there, some domestic
17 violence advocacy training, as well, very recently.

18 And we're actually working with
19 the Rural Policing Institute out of Glynco, Georgia
20 to actually come out there and provide training at
21 least once a month. And so we've already worked
22 with the RPI, the Rural Policing academy to -- or
23 Rural Policing Institute to develop a schedule of
24 training over the next -- beginning in January for
25 the first eight months.

1 So we've got that actually lined
2 out. And some of those training announcement have
3 come out already. And all of those are going to be
4 advanced training such as interviewing for
5 investigators and police officers to improve their
6 interviewing techniques. And we've had photography
7 training out there where the photography training
8 was taught by the Federal Law Enforcement Training
9 Center through the instructors out at the academy.

10 And along with that training,
11 every officer and investigator that attended that
12 training received \$3,000 in camera equipment to take
13 back and utilize from that point on. So it's been a
14 very successful initiative, and it's continued to
15 improve. Thank you.

16 MS. STEELE: On the law
17 enforcement commission, the Tribal Law and Order Act
18 directs the establishment of the commission. It's a
19 nine member commission. Three members are appointed
20 by the president. The majority leaders of both the
21 house and senate each appoint two, and the minority
22 leaders each appoint one. Interior doesn't have --
23 we don't appoint anybody. So that's -- it's the
24 president and the Office of Presidential Personnel
25 that has been working on that.

1 And I know that their process --
2 it was a little bit of an unrealistic deadline for
3 60 days, because their process in terms of
4 background in order to be cleared as a presidential
5 appointee just takes a little longer than that. But
6 I know that that is in motion.

7 I haven't heard, don't know the
8 status of the legislative appointments. And if you
9 have input, that may be the more productive place to
10 submit those names at this point, because I know
11 that the White House process is underway and has
12 been for quite some time.

13 There's also a foundation, and I
14 don't know if you were referring to law enforcement
15 foundation of which Interior is supposed to
16 establish according to the laws of the District of
17 Columbia as a nonprofit corporation, if I understand
18 correctly, and it will be to receive donations and
19 things like that in support of law enforcement in
20 connection with the nonprofit and philanthropic
21 world.

22 DAVE ARCHAMBAULT: Hello. Thank
23 you guys for coming. My name is Dave Archambault,
24 from Standing Rock. I'm just want to -- I'm glad
25 that you have your ears open and listening to some

1 of our concerns. With Standing Rock, I want to
2 share some of the experiences that we have that's
3 been going on.

4 For the past, let's say 12 years,
5 we've had eight officers patrolling -- we're a large
6 land-based tribe, but eight officers patrolling the
7 whole -- it's 2.3 million acres, about the size of
8 Connecticut. And then we had I think it's called a
9 Dakota Peace Operation where we brought in a surge,
10 nicknamed it a surge.

11 And with the surge it was a good
12 thing, you know. For a long time we had a lot of
13 members in our community, a lot of elders, a lot of
14 victims complaining about the response time and not
15 having enough officers.

16 And then when you have a surge,
17 then you have a bunch of people complaining about
18 too many cops; "I got pulled over last night, and I
19 don't know why they pulled me over because my
20 taillight was out." So we experience all the
21 different complaints.

22 As a council member and tribal
23 leader, you'll hear them all, but over time those
24 complaints about having too many officers went away.
25 But that was a temporary Band-Aid, Dakota Peace. It

1 was there for three -- 90-day surge or something
2 like that, and then it was gone.

3 And then just recently we got
4 chosen to -- Standing Rock got chosen to be a part
5 of this crime reduction study. I think it's called
6 Operation Alliance, just studying to see if large
7 land-based tribes like ourselves having the
8 resources available, can reduce the crime.

9 And this Operation Alliance is
10 using federal recognized national park police to
11 come in and assist rather than pulling other BIA.
12 And the experience from that is something else that
13 I think the BIA can take away; the relationship that
14 we build, our community members build, the
15 relationship that takes place with the park police
16 is something that the Bureau needs to start taking
17 those same approaches and just building a
18 relationship with children walking on the street.
19 That's what I noticed in my community.

20 The national park police would
21 come and comfort or visit with community members.
22 The way it is now and the way it has been, it's
23 always been us and them. I think at Standing Rock
24 now there's more of an issue for not only park
25 police but the Bureau to have a youth event. They

1 had a youth event, and that was something else.
2 Little activities like that within the community go
3 a long way. And instead of looking at the police
4 officers as an enemy, we're looking at them as
5 friends, or having a competition, like sports, a
6 basketball game against law officers. Just being
7 out there in the community and being visual goes a
8 lot further than upholding the Law and Order Act.

9 Again, I don't know if it's a
10 temporary Band-Aid. This is something good right
11 now. And I heard you're cutting it back. I heard
12 that they're slowly going to pull away the park
13 police and they're going to try to pull resources
14 from other Bureau officers, which is unfortunate
15 because you hear from everybody else that they lack
16 police in their homes, so I would rather have them
17 pull from the park police, keep pulling from the
18 park police, even if they're cutting them back, and
19 not take from other agencies, other tribal agencies.

20 If we continue to do this -- I
21 don't know, it's something that we have to wait and
22 see, I guess. And I hope that this Tribal Law and
23 Order Act isn't something that's a temporary
24 Band-Aid.

25 If you look at the last 50 years,

1 over a half century of statistics, all the
2 statistics point and tell us that this Law and Order
3 Act was long overdue. We could say that the crime
4 rate or the number of people that we graduate from
5 high school, the number of people that we graduate
6 into the prison system, we look at all the different
7 statistics, and we'll see that this Law and Order
8 Act is long overdue.

9 But at the same time, we need to
10 make sure that just as a lot of the concerns that we
11 were worried about was the resources, not being able
12 to have all of the resources to address all these
13 acts, but it says it's in there, but the one thing
14 that you guys might be able to do, that you can help
15 with is to streamline the funding.

16 A lot of times when it comes to
17 federal agencies, with our experiences with the
18 Bureau, there's a lot of red tape before anything
19 reaches us. There might be some funding allocated
20 for the tribe, but by the time it gets down here,
21 there's probably how many layers that it had to go
22 through before it reached us, and how much was taken
23 off at each layer.

24 So the end result -- I'll give you
25 an example. We have -- housing is a concern,

1 finding homes for law officers at Standing Rock.
2 That's a big concern. We want them living in the
3 community. So we were given a grant for 2.5 million
4 to help with the housing issue. By the time that
5 grant gets to us to actually use it, there's about
6 1.8 million left. And we have 12 communities. We
7 were hoping to put duplexes up. But that 1.8, we're
8 going to be really stretching it thin to get
9 something accomplished.

10 If we had less red tape, and that
11 might be something -- whatever it is you guys are
12 addressing in this Law and Order Act, if you can
13 streamline it so that the majority of the funds are
14 reached at the tribe so that it allows us to do more
15 with what we have, that's one -- that's the only
16 issue I have right there.

17 But I agree that we have to take
18 ownership. But I think if we are to take ownership
19 within our tribe, then we have to work together.
20 And that's why I go back to having a positive
21 presence within the community. When you have that
22 positive presence, then the communities are going to
23 be more accepting of everything rather than saying
24 this is the law, this is from the Tribal Law and
25 Order Act, this is how things are going to be done.

1 But if you start making yourselves
2 present and start making yourselves -- kind of like
3 what you're doing today, it's going to be more
4 accepted.

5 And I that understand there's a
6 lot of differences, 536 different tribes. But I --
7 I think when you're going to start looking at this
8 thing, not only if you look at demographics or
9 population, look at the land, look at the space
10 between the community. That's real important. It's
11 not just population. Response time, that's where
12 you have to think about that.

13 And when you address that, it's
14 going to affect somebody else. You can't always
15 make somebody happy. But you can make it fair so
16 both sides understand. Thank you.

17 MR. CRUZAN: Thank you for those
18 comments. And I don't know if -- have you met your
19 chief of police for Standing Rock?

20 DAVE ARCHAMBAULT: Yeah.

21 MR. CRUZAN: I wish I could take
22 credit for hiring him back to the BIA, but he got
23 here before I got back, so I can't. But in
24 listening to him talk in the last three weeks I've
25 been here, our paths have crossed a few times, and I

1 can tell you, he is like-minded with you in, you
2 know, cops playing basketball or cops walking
3 around. You know, what is that all about? But
4 that's really the philosophy, that traditional law
5 enforcement in Indian country is community-oriented.

6 And also, you've got a district
7 commander here, special agent in charge for the last
8 several years, even when I was an officer and a
9 sergeant going through the academy and ended up as
10 chief of police, I used to look to Elmer and kind of
11 look at how he was doing things, and it's very -- I
12 know it's very cliché, but outside of the box way of
13 thinking. So that's my -- that's my philosophy as
14 well.

15 So my direction now to the special
16 agents in charge and the chiefs of police is to be
17 creative and to think of different ways -- you don't
18 have to be driving around in cars all the time.
19 Park the cars, walk through the community and get to
20 know the people you serve. And more times that not
21 you'll find that once the relationship is built, our
22 job is a little easier because people are more
23 willing to talk to us.

24 So thanks for your comments.

25 MS. STEELE: Just a quick word

1 before I give the microphone to Patty here, on the
2 HPPG, which Standing Rock is a part of, the
3 president's High Performance Priority Goals, and
4 they are a target that we are mandated as the
5 Department of Interior to reach. And one of them
6 was to reduce crime by five percent at least on
7 several of the reservations that were having the
8 most serious crime issues, one of which was Standing
9 Rock.

10 The idea is not that this was a
11 surge. That's the key. This can't be a surge. I
12 mean, we're surging forward, but we can't treat --
13 the idea of the park police and the other federal
14 partners who are sending in law enforcement are to
15 sort of hold the line while we backfill and hire and
16 staff up so that increased police presence is made
17 permanent. We don't want to just reduce the numbers
18 and then, as happened with Dakota Peacekeepers,
19 eventually the number trickled down again.

20 What we're trying to show is that
21 with adequate resources -- seems like it's
22 self-evident, but when we ask for budget numbers and
23 things, we have to show that what we're asking for
24 will work.

25 And so part of what Standing Rock

1 is doing and Mescalero and Rocky Boys and Wind River
2 is they're showing, they're demonstrating through
3 this demonstration project that when you have
4 adequate numbers of officers and engaging in
5 community policing, the crime numbers go down. And
6 we're looking to incentivize success.

7 We talk about developing a funding
8 formula. We don't want a funding formula that
9 rewards ever increasing crime rates. We want to
10 develop a funding formula that says Standing Rock is
11 doing something that is working, the crime rate is
12 falling. This demonstration project has another
13 year, and we have already seen a reduction of at
14 least five percent in violent crimes at each of the
15 reservations. So it is working.

16 And it is not going to be limited
17 to those four reservations, five tribes, because
18 there's two at Wind River, but we want to be able to
19 show that it has worked and, therefore, to
20 extrapolate from that, we need these same kinds of
21 resources all across the country throughout Indian
22 country. And so we're building that case.

23 Like I said, it seems
24 self-evident, but we're gathering evidence from
25 what's happening at Standing Rock so that we can

1 justify to Congress and to OMB and to all the other
2 people who pass out the money that this does work,
3 this approach works.

4 And we're not looking to put a
5 Band-Aid and get the numbers and walk out. We're
6 looking to make this a sustainable effort. Thank
7 you.

8 PATTY MARKS: President Two Bulls
9 wanted me to make two very important points, and it
10 goes to the issue of resources and goes to the issue
11 of interagency cooperation.

12 Right now everybody's tight on
13 money, we know that. But what's happening is, is
14 that money is not being managed in the most
15 efficient way possible. And it goes back to the
16 issue, those of us that have been around for too
17 many years now, and that is when law enforcement and
18 courts and construction and management and
19 alcoholism and alcoholism construction and operation
20 started getting divided up among different agencies.

21 Right now in the Great Plains and
22 most of the large land-based tribes in this country,
23 over a third of the budget for operation of law
24 enforcement is coming from DOJ. In the case of
25 construction, we've got DOJ building the building

1 and BIA trying to operate and maintain and staff.

2 This is an opportunity right now
3 because you're all at the White House together with
4 these other agencies, and you're there with OMB, to
5 try to fix what is really a pretty stupid problem.

6 I have four clients right now that
7 have all told me they would never in a million years
8 apply for another police officer position through
9 that \$50 million sitting over at DOJ, because every
10 time they do, it creates more problems than it's
11 worth.

12 DOJ has the opportunity to get
13 together with the new director of OJS and the
14 assistant secretary and start matching up things
15 that just make common sense. You have a DOJ grant
16 that starts in March and runs for 12 months, 24
17 months. You can spend a lot of Bureau money to
18 train an officer, and at the end of the period,
19 you've got to lay them off and go find somebody
20 else.

21 We have this whole issue of what
22 does it mean to supplant a BIA officer. The bottom
23 line, however, is that when you're operating a
24 program from two different agencies that aren't
25 talking to each other, you end up with a great --

1 here's your military analogy -- you end up with a
2 great tank, a great driver, and no gasoline. And
3 that's where we're at. And this is making no
4 logical sense to anybody.

5 From the position of the Great
6 Plains Tribe, and I think just about every large
7 land-based tribe in the country, the ultimate
8 responsibility for keeping people safe on
9 reservations rests with BIA, and they're not going
10 to get out of that. And the question should BIA be
11 in the construction business? It is. By statute it
12 is. You just haven't been doing it.

13 So I think when these discussions
14 start taking place on the next level, which is the
15 budget going forward, BIA has got to step it up.
16 Those DOJ grants were designed to be nothing more
17 than a supplement to the Bureau's program. But as
18 Mr. Mousseau pointed out this morning, when
19 everybody was working right with those things, we
20 had 108 officers at Pine Ridge. We're down to 30
21 now. Why? Because the agency programs are not
22 matching up with each other. And that's a massive
23 waste of federal money.

24 In Billings still, we all heard,
25 four tribes stand up and say we've got brand new

1 detention buildings but not a single staff person to
2 put in them. This is the kind of logistics that's
3 required to make all of this work. And the
4 logistics is falling apart at the seams. And this
5 is the opportunity, I think, to fix it.

6 I'm very thrilled to see and hear
7 that SAMHSA and IHS are working well together right
8 now. But that's another reality; we're going to be
9 building new detox centers, but IHS is also going to
10 have the responsibility for staffing those things.
11 If we don't get our act together and make this match
12 up, we're not going to improve anything.

13 The Great Plains took the radical
14 approach of saying take the 50, \$75 million out of
15 BJA, put it over in the Bureau and watch what we'll
16 do. That's a decision that just got made in
17 osmosis. I think some of the gentlemen in this room
18 and ladies have been around for a lot of years, but
19 I'm old enough to remember it; in the seventies and
20 eighties there was this big push, should we turn
21 Bureau of Indian Affairs law enforcement and courts
22 over to DOJ because we never have to worry about an
23 FBI agent's salary again. Tribes said, Hell no.
24 OMB, under prior republican administration, did what
25 we, the tribes, said don't do. And now what we've

1 got is Congress that doesn't want to up the BIA
2 budget because it thinks we're getting all of these
3 things out of DOJ or out of SAMHSA or others.

4 Those agencies have been great
5 partners, and we're glad they're out there. But
6 they're not going to take the place of core law
7 enforcement positions over here. So I'm really
8 hoping that you have the opportunity to sit down at
9 the high levels of the department and have these
10 conversations.

11 I see it from the attorney's
12 standpoint. 27 tribes went through the circle, 26
13 came out owing money back to the federal government.
14 We can't have that happen again. But it's happening
15 every day. I just got three more letters,
16 supplanting.

17 We need the director of OJS to sit
18 down with the director of BJA and define that term.
19 When does a 638 position that the tribe was funding
20 where there's not enough money to keep it going get
21 supplanted when you use DOJ money to pick up the
22 problem?

23 And I don't mean to take up too
24 much time, but little things like this drive me
25 nuts. You've got DOJ today saying, We won't pay

1 overtime for an officer. I have Mr. Little White
2 Man over here and public safety saying we've got an
3 officer on the scene at a very bad situation, by law
4 he can't leave, but DOJ regs say we can't pay him
5 overtime. So what does he become; a BIA officer?

6 It's those kinds of things where
7 you could fix this problem. I think you're the man
8 to do it because you came out of those Pentagon
9 meetings where people sit down and have common sense
10 discussions. That needs to happen and needs to
11 happen right now.

12 No more construction by DOJ and no
13 money to staff it. It's just -- I'm a taxpayer, and
14 it ticks the daylight out of me. But I'm also a
15 tribal attorney that has to look that victim in the
16 face and have them say, Why did you let this person
17 go?

18 SAMHSA and IHS, you've got a heck
19 of a job to do, but it doesn't do any good to create
20 programs that are not going to be operated. So now
21 is our opportunity. We tried to fix it in the bill,
22 it's going to get a big push on appropriations this
23 year, who should be getting this money. And Bureau,
24 you've let DOJ roll you over far too many years.
25 Somebody's got to step up and say tribes in this

1 room are looking to you; you're the ones that are
2 here, you're the primary, by treaty, you're going to
3 have to come up with a little cash, and one way of
4 doing it is take theirs. We'd love it if you'd take
5 theirs. I'm sorry to sound preachy, but this is the
6 one shot I think we've got to fix problems because
7 it's the first time we've had all of those agencies
8 plus OMB sit in the room.

9 And I think if you, sir, take some
10 time and talk to the tribes who have had these kind
11 operational problems, you'd see that a lot of this
12 is pretty simple to fix. It's just we never had
13 anybody in there with the talent to fix it, and I
14 welcome you and I thank you.

15 MR. CRUZAN: I don't want to look
16 rude sending an e-mail here, but as you're talking,
17 my mind -- smoke must be pouring out of my ears.
18 And so I've got a really good contact over there and
19 I said, Hey, can we sit down. So we'll see if maybe
20 we can start this. It's a great idea. It's very --
21 it's almost so simple you could breeze right past
22 it. But I appreciate that.

23 MS. STEELE: This might be a good
24 moment to give our court reporter a five-minute
25 break.

1 (Whereupon, a brief recess was
2 taken.)

3 MS. STEELE: Let's go ahead and
4 get started, anybody who would like to speak for the
5 record. You can also send comments to the e-mails
6 that Carla Flanagan gave. If you'd like to send
7 written comments, you can address those to Office of
8 Justice Services at the 1849 C Street. That's the
9 Department of Interior address at Office of Justice
10 Services, 1849 C Street North West, probably
11 everyone knows it, Washington, D.C., I think it's
12 20240. And we'd be happy to get written comments or
13 resolutions or anything that tribal leadership would
14 like to send.

15 Anyone looking for a mic?

16 DAVE ARCHAMBAULT: I'll just say
17 one more thing for the record; Dave Archambault
18 again. I just was real thankful and real grateful
19 that the Operation Alliance came to Standing Rock
20 and that it's going to be there. And it's good to
21 hear that they're going to be there until the
22 backfill comes in.

23 But along with that backfill is
24 the housing issue again and just making sure that --
25 and I know it's the same all over. But there isn't

1 a whole lot of housing for officers. So when you
2 bring that backfill, to make it easier for our tribe
3 to recruit, let us build a house that they would
4 like, the officers would like to move into.

5 And the gentleman right here is
6 looking forward to coming to Standing Rock. And I
7 would like to offer him -- it would be easier for
8 our tribe to recruit if we could offer him a nice
9 house in the community with a safe environment
10 around him, a space for him to grow a family and
11 maybe self-sustaining and energy efficient, not like
12 the housing in the stick fields that we see, maybe
13 something that is built with insulated concrete
14 forms or something.

15 But the tribes need to have some
16 type of flexibility in order to take ownership and
17 in order for us to have the ability to recruit
18 officers; a home is one, making sure your family has
19 a good education for their children. There's all
20 kinds of components that go into it, but a lot of
21 times our hands are tied because of the funding.

22 And this Operation Alliance is a
23 good thing until the backfill comes. But just make
24 sure that if you want us to take ownership, then
25 give us the support that we need in order to make

1 this a success. And it will be the same for every
2 reservation that you go to trying to reduce crime
3 rates with your funding formula. Thank you.

4 MS. STEELE: Have we exhausted
5 you, consulted out?

6 STANLEY LITTLE WHITE MAN: Thank
7 you, this is Stanley Little White Man again. Going
8 back to this funding formula that people are talking
9 about, I think that the funding formula should be
10 based off of a staffing analysis, referred back to
11 the corrections programs that uses it and the hours
12 in terms of scheduling their officers and stuff so
13 there's no downtime. I think that's an area that
14 should be considered rather than the three or two
15 officers per thousand and stuff, because that
16 doesn't work on a reservation. Let's not apply
17 rural type ideas -- I mean, urban area stuff into
18 rural areas, because then it understaffs our
19 reservations.

20 The other one, too, that
21 Mr. Mousseau forgot to mention was the use of
22 25 CFR. We still need to go back into the
23 comparable salaries part of it because it is written
24 in 25 CFR, but our tribal organizations are
25 underfunded, so to speak, as far as salaries go.

1 And those gentlemen here, I think
2 he's in the back here, the one attorney, the
3 jurisdictional things that we sometimes overlap into
4 other states or other counties and so forth. Some
5 time back ago in Utah -- well, stepping back a
6 little bit, one of the things that my tribe,
7 Rosebud, we don't like the term cross-deputization
8 because of the idea that it's giving away
9 jurisdiction or sovereignty and so forth or
10 encroachment, those terms.

11 And in Utah one of the things that
12 we used there was called a mutual aid agreement
13 which addressed all the avenues or things that were
14 brought up here as far as liabilities went. These
15 agreements under the mutual aid, basically it's just
16 written down on paper everything that everybody is
17 only responsible for their officers.

18 So in other words, if an officer
19 from the state side came onto the reservation --
20 well, they were there anyway, but the idea was that
21 the federal government would protect him in court.
22 But if he was wrong, then the state paid.

23 So these type of things were
24 written into it. So the use of the mutual aid
25 agreement, they used the term to soften it up, so to

1 speak, instead of cross-deputization. And I know
2 you've had problems with the BIA over that. It's
3 just a terminology thing, that was our position
4 anyway.

5 The other part, too, that we
6 didn't really get into was the data part. We need
7 all the data of Indian reservations to be collected
8 and stored and to be used rather than to just use
9 the FBI's portion of it, because it doesn't show a
10 true picture of what the reservations are going
11 through as far as the type of work, the type of
12 calls, the amount of time and so forth that's spent
13 for whatever reservation we have. Someday they'll
14 have legalized alcohol so they don't have
15 intoxication laws and so forth. But still, those
16 are all calls.

17 The other one I want to go back
18 to, Ms. Kingman here mentioned it, was the United
19 Tribes project. I was a product of United Tribes
20 back in 1977. It was a technical school at that
21 time, but BIA Academy recognized it as a satellite
22 program.

23 And they had all the curriculum,
24 you know, everything was built right into it, so it
25 was recognized at that time, which I think can

1 happen again. It can still be a technical school
2 that gives people the opportunity to go through the
3 whole course.

4 I don't think people who go to a
5 technical school are all that bad of people either,
6 because in going through this technical school, I've
7 gone through the supervisory course, I've gone
8 through the command management, I've gone through
9 the CI course that BIA has offered and so forth. So
10 there can be good candidates that can come out of
11 United Tribes.

12 The other one, too, in looking at
13 the overall picture of the Act, I think the main
14 importance at this point is to get the officers out
15 in the field. I think that's what the tribes are
16 longing for all these years. Like Archambault
17 mentioned, they needed officers. I think every
18 reservation needed officers. And this is what the
19 tribal government has been asking for. So that
20 should be the priority.

21 And again, too, going back into
22 the staffing analyses that were implemented, that's
23 where it can take place first because that's where
24 your problem areas are at in terms of enforcement,
25 protection, et cetera. So that needs to be, I

1 think, a priority of this Law and Order Act is to
2 get officers in the field as quick as possible.
3 With that, I'm done.

4 MS. STEELE: Does anyone else wish
5 to speak?

6 RANDY GOODWIN: Hello, my name is
7 Randy Goodwin. I'm the chief of police on the White
8 Earth Reservation in Minnesota here. Minnesota is a
9 Public Law 280 state with the exception of a couple
10 of our reservations which are 638, and that would be
11 Red Lake and Bois Forte.

12 We have some -- well, let me back
13 up here. A few months ago we had that listening
14 session in St. Paul, and I was able to represent and
15 present to the U.S. Attorney himself some of the
16 issues that we're facing in a 280 state with
17 concurrent jurisdiction. And when I was able talk
18 to a lot of the public safety directors from across
19 the nation that were coming from either 280 or 638
20 or BIA, they all kind of shared the same issue that
21 we have here in Minnesota, and that is concurrent
22 jurisdiction.

23 And what we have on White Earth is
24 that we have three counties that lie within the
25 exterior boundaries of the reservation. One county

1 in particular, the whole county lies within our
2 reservation. And what I see as a fix for us in a
3 280 state is that we need full jurisdiction. We
4 need full criminal jurisdiction on our reservations.

5 Tribal law enforcement, in my
6 opinion, and what I've seen over the years is really
7 coming along, and in most cases it seems to be
8 surpassing our local law enforcement, whether it be
9 city, county, or state. We have the means to
10 provide better public safety on our own reservations
11 than what some of the counties and states and
12 cities, our local law enforcement can provide for
13 us.

14 We need to have full jurisdiction.
15 As we all know, it's not only Native Americans or
16 Indian people that are living on our reservations.
17 We have a mixed breed of people living on our
18 reservations. And without that full criminal
19 jurisdiction, our hands are pretty much tied.

20 In Minnesota, especially on my
21 reservation, I know on many of the other
22 reservations, our full jurisdiction comes through
23 cooperative agreements with our county sheriffs,
24 which works fine if you have a good relationship
25 with your county sheriff.

1 When you have sheriffs that are
2 jealous of you being -- of your tribal law
3 enforcement because we are better equipped, we're
4 able to answer the calls and we have more personnel
5 than they do, it gets to be a sticky issue,
6 especially around reelection time.

7 There's been many times where I've
8 had a county sheriff approach one of my officers
9 angry at the fact that we're doing our job, and has
10 threatened to tear up those cooperative agreements.
11 And we have that problem all the time.

12 I guess what I'm suggesting and
13 asking for is that somehow that full criminal
14 jurisdiction be given to and granted to tribal law
15 enforcement across the nation.

16 I look back in our cooperative
17 agreements that we have. As far as concurrent
18 jurisdiction, by state statute of Minnesota, the
19 chief law enforcement officer and the sheriff -- or
20 I should say the chief tribal law enforcement
21 officer and the sheriff are supposed to, and by
22 statute it says, "shall have concurrent
23 jurisdiction." In my opinion that means we're
24 supposed to be on the same level of jurisdiction.

25 But in those contract agreements,

1 the cooperative agreements that we have, it
2 specifically spells out that me, as the chief of
3 police, my concurrent jurisdiction is beneath the
4 youngest deputy that's on the scene. To me, that's
5 a slap in the face, not only to me, to my officers,
6 but to my people. How can a young deputy with no
7 experience have control over me with 27 years of law
8 enforcement experience where I probably, you know,
9 have more knowledge than that lowly deputy has ever
10 learned in his life.

11 So that's kind of what I would
12 like to impress at this listening session. Thank
13 you.

14 JESS GREEN: If I may briefly
15 respond, my name is still Jess Green. If I may
16 briefly respond on the historical basis as to why we
17 don't have jurisdiction over white folk, some of
18 were alive in 1978, the United States Supreme Court
19 said we don't have jurisdiction over white folk.
20 And I don't think this republican Supreme Court is
21 going to be any different, and I don't think you're
22 going to get with the current changes in Congress to
23 get Congress to empower these folks in front of us
24 to give us jurisdiction over white folk at any time
25 in my lifetime.

1 Now, I also recall that in '91 the
2 Duro case took jurisdiction over other Indians away
3 from us. There are probably several of you who
4 remember that. Senator Noack (ph) from Hawaii
5 sponsored an amendment, got that given back to us.
6 And fortunately we've got United States versus us
7 Lara (ph) now, that the Supreme Court did recognize
8 that we have jurisdiction over other Indians.

9 While I appreciate life would be a
10 lot easier if we had jurisdiction over those
11 non-Indians in our reservation, I really think for
12 purposes of our discussion in the near future, it's
13 not going to happen. And from one Indian person to
14 another, I think we need to focus on having to worth
15 with those white folk and non-Indian other groups
16 simply because the will of the majority in this
17 country has been in existence '78. The Chickasaw
18 still don't like it, but we know we can't go back.

19 And I really think that the
20 Oliphant case is one of those types of circumstances
21 that we're going to have to find solutions. I think
22 utilizing these folks to help find those solutions
23 to that issue of non-Indians in our res area is
24 something these folks can help us with, but it's
25 always going to be there.

1 MS. STEELE: Thank you, Mr. Green.
2 I agree we're bound by the Supreme Court's decision.
3 I had heard those who worked on the Tribal Law and
4 Order Act in Congress talk about they could not --
5 it was a non-starter to try to address Oliphant at
6 this increment of the Tribal Law and Order Act.

7 Now, I think their vision is as
8 courts build capacity, as law enforcement builds
9 capacity, their vision is that it would take an
10 incremental approach to build on this Tribal Law and
11 Order Act in the future and expand jurisdiction, but
12 it will take an act of Congress to do so.

13 With that said, I really bristle
14 when I think about that our reservations have become
15 pockets of lawlessness where non-Indians are
16 essentially getting away with crimes against
17 Indians, especially in the domestic violence and
18 child abuse arena.

19 And so that is something that is
20 high on our list of -- the answer in terms of
21 prosecution is the U.S. Attorney's Offices. And I
22 think we've seen great progress just in the last
23 year on the U.S. Attorney stepping forward, the
24 deputy attorneys with the listening session that was
25 here in St. Paul with the attorney general.

1 The deputy attorney general at the
2 time issued a directive to the Attorney General's
3 Offices establishing tribal liaisons where there had
4 been none. I mean, some, obviously, had them, but
5 it made -- everyone with Indian country in their
6 district is now required to have a tribal liaison.
7 They're required to develop a plan in conjunction
8 with the tribes and consult with tribes in front of
9 the U.S. Attorney's Offices.

10 And I really see this as an area
11 where we're laying the groundwork and progress will
12 be made to make sure that those offenders are
13 prosecuted and to bring justice for the Indian
14 victims of those crimes absolutely.

15 And I specifically say non-Indian,
16 because I know it's not just white people. I think
17 there are other populations moving into the
18 reservations as people intermarry and build families
19 together and things like that. They just cannot
20 have them getting away with crime against Indian
21 people on the reservations.

22 Anyone else?

23 STANLEY LITTLE WHITE MAN: On that
24 subject, one of the things that we've used within --
25 well, in this administration from the tribal council

1 has been the use of the Bad Man's Clause, or the
2 treaty. And we've been addressing the non-Indians
3 in that sense. But at the same time we've also --
4 for some strange reason, the ones that seem to raise
5 hell on the reservations are the ones that are there
6 on what they call headquarter leases. Basically,
7 they're landless and somehow they moved onto the
8 reservation, and they become kind of violent people.
9 So we ended all the leases, land leases and so forth
10 and let them go that way.

11 So we're using the Bad Man's
12 Clause from the treaty in order to address
13 non-Indians on the reservation. So it was kind of
14 interesting how they used the treaty stuff.

15 MS. STEELE: Well, thank you.
16 Thank you for your input. Thank you for traveling
17 to be with us. We know that it is at the cost of a
18 great time expense for many of you, and we
19 appreciate your input, your guidance as we seek to
20 carry out the trust responsibility.

21 We do recognize the trust
22 responsibility to provide for the public safety on
23 the reservations. And the Tribal Law and Order Act
24 presents us an opportunity to do better, and we're
25 trying to do that and not come up with solutions

1 imposed from Washington.

2 You have in Assistant Secretary
3 Echo Hawk and Mike Black and Darren Cruzan, you have
4 leadership that knows that Washington doesn't know
5 best. And so we're here asking for your input to
6 develop solutions that emanate from you that fit the
7 problems that you're having. And so that's why
8 we're here.

9 And we'll come back, and you'll
10 get sick of seeing us, because we'll be back and
11 we're going to continue to consult on these issues,
12 continue to make sure -- one of our tasks,
13 especially in the Assistant Secretary's Office, is
14 to make darn sure that it's not just lip service,
15 that we're not just wasting your time and effort for
16 being here, that the things that you're telling
17 us -- obviously, we can't do everything. But we can
18 do some things. And we can move forward on the
19 counsel that we've received from your people today
20 and work harder and work smarter, and we will do
21 that.

22 And little by little -- I share
23 Darren's optimism that little by little we'll be
24 able to get these things addressed. So I want you
25 to feel confident.

1 One of my duties will be this
2 evening to prepare a report for the Assistant
3 Secretary and for the White House as to what was
4 said here today. And for each of the consultations
5 that I attend, that's one of my responsibilities.
6 And I've taken good notes and I've listened
7 carefully to what you've said. And I'm a little bit
8 of a middleman on this, but I will pass it forward
9 to the decision makers, want you to know they're
10 interested.

11 I've heard you loud and clear on
12 the issue of clarifying liability. I think that was
13 one of the main things to come out of today's
14 meeting. The issue of staffing, we're working on
15 it. But we know that you need more officers, and
16 we've heard that loud and clear again today. You
17 need more people, reduce the strain on the officers.

18 And with that, can I just take a
19 minute to thank the officers, whether they're here
20 or each of the officers in your community, we know
21 that they work a tremendous personal hazard, that
22 they work hard and long hours under stressful
23 conditions, and that they do put their lives on the
24 line, and that sometimes they do pay that ultimate
25 price, as happened tragically just a couple of weeks

1 ago. It was a sobering reminder of the life and
2 death consequences of this effort. So we're with
3 you on trying to relieve that burden by bringing
4 more officers in.

5 And it bears repeating that we
6 estimated -- I think there was something estimated
7 like 155 vacancies something like that funded for
8 BIA officers. That's not tribal. That's BIA
9 officers. And we have extended at a minimum 85
10 offers to try to fill those.

11 Now, bearing in mind, last year
12 they had a net gain of only two officers. So we've
13 been treading water for years on this. We would get
14 just a few applications a year. Since January we've
15 had well over a thousand applications. I think it's
16 something like 2,500 or better applications for
17 those positions in corrections. We're building up.
18 We're changing the way we do business. We're going
19 to build up those forces.

20 I've heard loud and clear the
21 message that we need to make sure that in the
22 overhead, what we keep in Washington to do our jobs
23 is streamlined. We should be the ones working on
24 the shoestring. I know many of you would be
25 thankful to have even a shoestring budget. I've

1 heard you say that you want the money getting as
2 much as possible to the programs and to the people
3 and not, you know, sort of sopped up in Washington.

4 We've heard the message about
5 funding and resources. That's a perpetual issue.
6 The Tribal Law and Order Act did not come with new
7 funding. But as has been noted, that will be part
8 of the budget process, be part of the president's
9 budget. And Congress needs to know, as well, that
10 these opportunities will cost money. So we've heard
11 that message as well.

12 I just want to thank you again for
13 your participation. I was passed a note, and very
14 appropriately so, it's not just the law enforcement
15 officers but the correctional officers, those who
16 work with the folks who are detained, very tough job
17 and in very difficult circumstances and certainly
18 appreciate them.

19 Unless anybody has anything else,
20 is there someone who would volunteer to close this
21 with a prayer? Everybody's too shy?

22 STANLEY LITTLE WHITE MAN: I'll do
23 it.

24 (Stanley Little White Man says
25 prayer in his native tongue.)

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(Whereupon, this matter was
concluded.)

1 STATE OF MINNESOTA)
2)
3 COUNTY OF DAKOTA)

4 I, Darla K. Fretheim, do hereby certify
5 that I am a Registered Professional Reporter, Notary
6 Public, in the County of Dakota, State of Minnesota,
7 that the foregoing 125 pages constitutes a true,
8 correct and accurate transcription of my shorthand
9 notes, all done to the best of my skill and ability,
10 of the proceedings in this matter.

11
12 Dated: November 12, 2010

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15 Darla K. Fretheim
16 Court Reporter

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