

NLWJC-2006-0197-F (seg 3) Kagan

Folder: Native American Issues –

Law Enforcement [2]

*Indian
Native American -
law enforcement*

DRAFT RELEASE
8/28/97 - 1:00 p.m.
C. DiBartolo, OPA

WASHINGTON, D.C. -- Following President Clinton's call to improve law enforcement and criminal justice in Indian Country, the Justice Department today reached out to tribal leaders across the country to discuss how to build stronger and safer tribal communities.

In letters sent today to tribal leaders in 33 states, Attorney General Reno and Secretary Babbitt have encouraged tribal representatives to participate in consultations that will increase public safety on tribal lands.

Earlier this week, in a memorandum to Attorney General Reno and Secretary Babbitt, President Clinton expressed concern over that fact that while the national crime rate has fallen 17 percent since 1992, and the homicide rate has declined about 22 percent, homicide rates in Indian Country often surpass those in large American cities. Consistent with his 1994 memorandum on government-to-government relations and tribal self-governance, the President requested Babbitt and Reno to work with tribal leaders to address the growing law enforcement problem in Indian Country.

"Violence and crime interfere with the ability of Indian Tribes to achieve meaningful self governance and assure peace and stability in their communities," said Reno.

In response to the President's memorandum, Attorney General Reno and Secretary Babbitt formed an Executive Committee to analyze the nature of the problem and present a list of viable options for

(MORE)

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improvement. The Committee, co-chaired by Kevin DiGregory, Deputy Assistant Attorney General at the Justice Department and Hilda Manuel, Deputy Commissioner of Indian Affairs at the Interior Department, will consider the ideas generated during consultations between U.S. Attorneys and tribal leaders and make recommendations to the Attorney General and Interior Secretary. Tribal leaders and federal law enforcement officials will also serve as members of the Committee.

The Attorney General and Interior Secretary will then take the recommendations from the Committee and submit a report to the President.

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(MORE)

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THE WHITE HOUSE
WASHINGTON

Native American -
law enforcement

August 25, 1997

MEMORANDUM FOR THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR

SUBJECT: Law Enforcement in Indian Country

I am proud of my Administration's progress in reducing violent crime and improving public safety for our Nation's citizens. Our efforts are making an important difference. Nationwide, the violent crime rate has dropped approximately 17 percent since 1992, and the homicide rate has declined about 22 percent.

Unfortunately, during the same time period life has become more violent for the 1.2 million Indian citizens who live on or near reservations. Homicide rates, for example, have increased to levels that often surpass those in large American cities. Numbers alone, however, cannot convey the tragic impact of such violence on Indian families and their communities.

This and other information you have provided to me make clear that we need to refocus on this growing problem. While some tribal governments have developed strong law enforcement programs, many others have encountered significant difficulty in doing so. Many Indian citizens receive police, investigative, and detention services that lag far behind even this country's poorest jurisdictions.

The Federal Government has taken steps to address this problem. My Administration has sought increased Department of the Interior funding and tribal control of law enforcement programs on Indian lands. This year, the Federal Bureau of Investigation (FBI) established an Office of Indian Country Investigations in its Violent Crimes Section, allocating additional agents to Indian Country. The FBI also initiated a nationwide outreach training program for Indian Country law enforcement officers. We have created additional tribal liaison positions in the United States Attorney's Offices in Indian Country, intended to improve our ability to bring offenders to justice. Through our Community Oriented Policing Services Program, we have assisted tribal law enforcement agencies in hiring officers in Indian Country.

Yet, law enforcement in Indian Country remains a serious problem. For these reasons, consistent with the spirit of my 1994 memorandum on government-to-government relations and tribal self-governance, I hereby request that you work with tribal leaders to analyze law enforcement problems on Indian lands. By December 31, 1997, you should provide options to me for improving public safety and criminal justice in Indian Country. To the extent that these options might affect the Departments' budgets, they should be included in your fiscal year 1999 budget submissions and should be consistent with the funding targets of the Bipartisan Balanced Budget Agreement.

William L. Clinton

Directive on Law Enforcement in Indian Country

Background

- **There is a federal responsibility for law enforcement in Indian Country.** Approximately 1.2 million Indian citizens live on lands governed by federally recognized tribes. The federal government generally has jurisdiction over major crimes committed on Indian lands.
- **There is a crisis in public safety and law enforcement in Indian Country.** While violent crime is falling nationwide, it is rising on American Indian reservations. Since 1992, homicides have risen over 80% in Indian Country, while decreasing by about 16% nationwide. The homicide rate for Indians is the highest of any ethnic group and more than double the rate of the white population.
- **Law enforcement resources in Indian Country are inadequate and have been dwindling.** There are only half as many officers per capita in Indian Country as in the rest of the United States. Resources for the Bureau of Indian Affairs, which funds law enforcement for Indian Country, have decreased since 1992. In contrast, other federal law enforcement agencies have received funding increases during this period.

President Clinton's Directive

- **Making improved law enforcement on Indian Country a priority.** The Executive Memorandum, which should be signed next week, directs the Attorney General and Secretary of the Interior to analyze the law enforcement problem in Indian Country and to submit options to the President by October 31 to improve public safety on these lands.
- **Continuing Government-to-Government Relations with tribes.** In keeping with the President's 1994 Memorandum on government-to-government relations with tribes, the memorandum requests that the Attorney General and the Secretary of the Interior work with tribal leaders during the process.
- **Building a consensus to solve the problem.** Upon receiving the President's directive, the Attorney General and Interior Secretary will appoint a 15-member committee, which will work with agency representatives, tribal leaders, and experts to develop the set of recommendations to be submitted to the President on how best to address criminal justice problems in Indian Country.

Clinton Administration's Accomplishments

- In addition to seeking increased funding for the Interior Department, and tribal control of law enforcement programs on Indian lands, the Clinton COPS Program has helped tribal law enforcement agencies to hire officers in Indian Country.
- This year, the FBI established an Office of Indian Country Investigations in its Violent Crimes Section, allocating additional agents to Indian Country. The FBI also initiated a nationwide training program for Indian Country law enforcement officers.

Native American Issues -
Law Enforcement

THE PRESIDENT HAS SEEN
7-7-97

THE WHITE HOUSE
WASHINGTON

July 4, 1997

MR. PRESIDENT:

Bruce Reed and Elena Kagan have proposed, based on a recommendation from Attorney General Reno and Secretary Babbitt, that you issue a Memorandum next week directing Reno/Babbitt to appoint a commission to work with tribal leaders to analyze the law enforcement problems in Indian Country. The Commission will report by October 31.

On many reservations, public safety is less secure than in the most crime-plagued inner cities. Some violent crimes go wholly uninvestigated because of a shortage of law enforcement officers. The Bureau of Indian Affairs at Interior wields most of the law enforcement authority, but one consideration is to transfer this authority to the better-funded DOJ -- the commission would study this option, among others.

A copy of the DPC memo and proposed directive is attached. This has not been fully vetted and approved yet, but we expect that it will early next week. Rather than bothering you on the road, we wanted to let you know about it now and will have it executed on your behalf next week. If anything changes, we will let you know.

OK

Phil Caplan

PCW

Copied
Reed
Kagan
COS

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN

7-7-97

July 3, 1997

'97 JUL 9 9:51:04

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN 

SUBJECT: DIRECTIVE ON LAW ENFORCEMENT IN INDIAN COUNTRY

The attached Executive Memorandum directs the Attorney General and Secretary of the Interior to analyze the law enforcement problem in Indian Country and submit options to you by October 31, 1997 for improving public safety in those areas. The Attorney General and Secretary proposed the Memorandum; they hope to submit it to the House Appropriations Committee next week in support of a request to reprogram funds to pay for this project.

Indian Country is currently facing a massive law enforcement problem. While violent crime has dropped nationwide, it has increased steeply on Indian lands -- with homicide rates rising a full 80% since 1992. On many American Indian reservations, public safety is less secure than in the most crime-plagued inner cities. Some violent crimes in Indian Country go wholly uninvestigated because of a shortage of law enforcement officers.

The federal government generally has jurisdiction over major crimes committed on Indian lands; it therefore can take direct action to remedy this escalating crime problem. The Bureau of Indian Affairs (BIA) at Interior currently wields most of the law enforcement authority of the federal government, but its budget for these activities has declined by 5.1 percent since 1992. This decline stands in stark contrast to the increased funding that other federal law enforcement agencies have gained during the same period. One possible solution to the Indian Country law enforcement problem, now being considered jointly by the two departments, is to transfer some or all of Interior's law enforcement authority to the better funded Justice Department.

On receiving your directive, the Attorney General and Secretary of the Interior will appoint a 15-member committee to develop recommendations on how best to address criminal justice problems in Indian Country. Consistent with the Presidential Memorandum you signed in September 1994 on government-to-government relations with tribes, tribal leaders will participate as full members of this committee.

The DPC recommends that you approve this memorandum. We will then work closely with the Departments of Justice and Interior as they develop recommendations on how to improve law enforcement in Indian Country.

MEMORANDUM FOR THE ATTORNEY GENERAL AND SECRETARY OF THE INTERIOR

Subject: Law Enforcement in Indian Country

I am proud of this Administration's progress in reducing violent crime and improving public safety for our Nation's citizens. Our efforts are making an important difference. Nationwide, the violent crime rate has dropped approximately 17 percent since 1992, and the homicide rate has declined about 22 percent.

Unfortunately, during the same time period life has become more violent for the 1.2 million Indian citizens who live on or near reservations. Homicide rates, for example, have increased to levels that often surpass those in large American cities. Numbers alone, however, cannot convey the tragic impact of such violence on Indian families and their communities.

This and other information you have provided to me make clear that we need to refocus on this growing problem. While some tribal governments have developed strong law enforcement programs, many others have encountered significant difficulty in doing so. Many Indian citizens receive police, investigative, and detention services that lag far behind even this country's poorest jurisdictions.

The Federal government has taken steps to address this problem. The Administration has sought increased Department of Interior funding and tribal control of law enforcement programs on Indian lands. This year, the Federal Bureau of Investigation (FBI) established an Office of Indian Country Investigations in its Violent Crimes Section, allocating additional agents to Indian Country. The FBI also initiated a nationwide outreach training program for Indian Country law enforcement officers. We have created additional tribal liaison positions in the United States Attorney's Offices in Indian Country, intended to improve our ability to bring offenders to justice. Through our Community Oriented Policing Services Program, we have assisted tribal law enforcement agencies in hiring officers in Indian Country.

Yet, law enforcement in Indian Country remains a serious problem. For these reasons, consistent with the spirit of my 1994 memorandum on government-to-government relations and tribal self-governance, I hereby request the Attorney General and Secretary of the Interior to work with tribal leaders to analyze law enforcement problems on Indian lands. By October 31, 1997, the Departments of Justice and Interior should provide options for improving public safety and criminal justice in Indian Country. To the extent that these options might affect the Departments' budgets, they should be included in your 1999 budget submissions and should be consistent with the funding targets of the Bipartisan Balanced Budget Agreement.

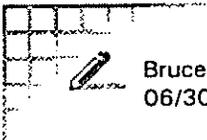
Native American Issues -
Law enforcement

Leanne A. Shimabukuro 06/30/97 02:46:09 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP
bcc:
Subject: Re: indian violence 

According to the Deputy AG's office, crime on Indian country has increased during the Clinton administration. They are looking into whether this trend pre-dates our administration.
Bruce N. Reed

 Bruce N. Reed
06/30/97 12:48:50 PM

Record Type: Record

To: Leanne A. Shimabukuro/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: indian violence

Has crime actually increased in Indian country on our watch, as the directive implies?

06/30/97 14:30 8

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06/27/97 13:21

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202 514 4997

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JMD BUDGET STAFF

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Native American Issues -
Law Enforcement

DRAFT

6/27/97

DRAFT

Mr. Kenneth L. Schwartz
Deputy Associate Director
Transportation, Commerce,
Justice and Services Division
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Schwartz:

This letter requests approval from the Office of Management and Budget (OMB) to notify Congress of the Department's intention to reprogram no-year resources originally appropriated to the General Legal Activities (GLA) appropriation in the Transportation Appropriations Act, 1990, Emergency Drug Funding. Of the unobligated balance of \$2,125,543 currently available, \$575,000 will be used to fund an interagency Executive Committee for Indian Country Law Enforcement Improvement. No year funds are required because the work of the Executive Committee will begin in FY 1997 and continue into FY 1998.

By Presidential Memorandum dated _____, the President directed the Attorney General and the Secretary of the Interior to analyze the criminal justice crisis in Indian Country and develop a comprehensive proposal for ensuring improved criminal justice in Indian Country. In response, Attorney General Reno and Secretary Babbitt will appoint the Executive Committee for Indian Country Law Enforcement Improvement, which will consist of approximately 15 representatives from Federal agencies and Tribal governments, and will be supported by a staff of approximately 15 employees. The staff will include a full-time staff director (detailee from the Department of Justice (DOJ)) and contract secretary, and part-time detailees from DOJ components and the Department of the Interior (DOI). All non-personnel expenses of the Executive Committee and all expenses of the staff will be provided by DOJ or absorbed by DOJ components.

There is a criminal justice crisis in Indian Country. While violent crime is falling in American cities, it is rising in Indian Country. The homicide rate for Tribes under federal

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Mr. Kenneth L. Schwartz

Page 2

jurisdiction has risen 87 percent since 1992. The overall homicide rate in Indian Country is four times the rate in smaller, non-urban areas, and certain reservations have homicide rates that dwarf those in cities like Washington, DC. Other violent crimes, such as gang violence, domestic violence, and child abuse have paralleled the rise in homicides.

As you know, the Federal Government and Tribes share jurisdictional responsibility for law enforcement functions in Indian Country. By statute, however, enforcement of major crimes in Indian Country is purely a federal responsibility that cannot be delegated to state or local jurisdictions. Currently, the FBI and Bureau of Indian Affairs (BIA) share this responsibility.

Not only is violent crime growing in Indian Country, but federal jurisdiction is expanding. The 1994 Crime Act's expanded list of gun, drug, and domestic violence provisions all apply to Indian Country, and many Tribes have asked the Federal Government for help with the growing problem of violent and repeat juvenile offenders.

At the same time, federal law enforcement resources, which have been increased and deployed to great effect throughout the United States, have actually been reduced in Indian Country over the past few years. This has severely compromised public safety and the safety of law enforcement officers, diminished the number of investigators to the point that many violent crimes in Indian Country remain uninvestigated, and resulted in jails that are grossly inadequate in capacity and neither secure nor safe. Today, Indian citizens receive police, investigative, and detention services that are not only inadequate, but also suffer by comparison to this country's poorest jurisdictions.

The Executive Committee will engage in dialogue with the Tribes and pertinent agencies, experts, and interest groups; develop a consensus on the best manner to address criminal justice problems in Indian Country; and submit a report to the President with recommendations no later than November 14, 1997. The \$575,000 will be used primarily for travel for the Executive Committee, staff, Tribes, and BIA area supervisors. In addition, funding is required for contract secretarial support, court reporter or stenographer services, and to pay the salaries of detailees to DOJ from DOI. All administrative functions will be performed by staff currently assigned to the Criminal Division, within the GLA appropriation.

A draft copy of our proposed congressional notification is enclosed for your review. Your assistance in processing this

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06/30/97 13:50

☎202 514 6897

06/27/87 13:22

☎202 514 4997

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JMD BUDGET STAFF

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Mr. Kenneth L. Schwartz

Page 3

notification quickly will be greatly appreciated, since the Executive Committee would like to begin its work in July. The Department will provide any additional information you may require. Please contact Adrian A. Curtis, Director, Budget Staff, on 514-4082 if there are any questions.

Sincerely,

Stephen R. Colgate
Assistant Attorney General
for Administration

Enclosure

The Honorable Harold Rogers

Page 2

There is a criminal justice crisis in Indian Country. While violent crime is falling in American cities, it is rising in Indian Country. The homicide rate for Tribes under federal jurisdiction has risen 87 percent since 1992. The overall homicide rate in Indian Country is four times the rate in smaller, non-urban areas, and certain reservations have homicide rates that dwarf those in cities like Washington, DC. Other violent crimes, such as gang violence, domestic violence, and child abuse have paralleled the rise in homicides.

As you know, the Federal Government and Tribes share jurisdictional responsibility for law enforcement functions in Indian Country. By statute, however, enforcement of major crimes in Indian Country is purely a federal responsibility that cannot be delegated to state or local jurisdictions. Currently, the FBI and Bureau of Indian Affairs (BIA) share this responsibility.

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At the same time, Federal law enforcement resources, which have been increased and deployed to great effect throughout the United States, have actually been reduced in Indian Country over the past few years. This has severely compromised public safety and the safety of law enforcement officers, diminished the number of investigators to the point that many violent crimes in Indian Country remain uninvestigated, and resulted in jails that are grossly inadequate in capacity and neither secure nor safe. Today, Indian citizens receive police, investigative, and detention services that are not only inadequate, but also suffer by comparison to this country's poorest jurisdictions.

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06/30/97 14:32 ☎

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06/27/97 13:24 ☎202 514 4997

JMD BUDGET STAFF

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The Honorable Harold Rogers

Page 3

The Office of Management and Budget approved this notification on _____ I look forward to hearing from you soon, because the Executive Committee would like to begin its work in July. The Department will provide any additional information you may require. Please contact me if there are any questions.

Sincerely,

Stephen R. Colgate
Assistant Attorney General
for Administration

Leanne A. Shimabukuro 07/01/97 06:58:39 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Houston-- we have a problem

We have reached what could be a huge stumbling block on the directive: at about 4:00pm today, Ken Schwartz at OMB informed me that they had some concerns about what recommendations the Committee would give to the President (i.e., tribal law enforcement needs could require \$200-300 million in new funding). Apparently, Michael Deich is concerned that we will be locked into the funding level proposed by the Committee since it is linked to a Presidential directive. OMB sent over some proposed language this evening to address their concern. The key sentence reads, "Recommendations should conform to the funding targets of the Bipartisan budget agreement." Needless to say, Justice would have major problems with including this sentence in the text of the directive.

I was then told later this evening that Michael Deich discussed his concerns with Frank Raines at another meeting and Raines told him to "slow down the process" on the directive so they could have more time to look at the issue.

According to OMB, the timing on the directive does not need to be tied to the subcommittee markup. This is because the funds identified in the reprogramming request to fund the Executive Committee is old, unspent funding that the Approps Committee has not targetted for rescission and does not otherwise revert back to the Treasury.

While this may buy us some time, I am concerned that OMB's current resistance to a directive which merely asks DOJ/DOI to look into this completely legitimate problem and devise a recommendation may be thwarted because of their speculation on the results.

Bottom line: OMB will oppose going forward on the directive at least for the rest of this week. They have not ruled out that this could be done next week.

We need to discuss where to go from here. Thanks.

MEMORANDUM FOR THE ATTORNEY GENERAL AND SECRETARY OF THE INTERIOR

SUBJECT: Law Enforcement in Indian Country

I am proud of this Administration's progress in reducing violent crime and improving public safety for our Nation's citizens. Our efforts are making an important difference. Nationwide, the violent crime rate has dropped approximately 17 percent since 1992, and the homicide rate has declined about 22 percent.

Unfortunately, during the same time period life has become much more violent for the 1.2 million Indian citizens who live on or near reservations. Indian Country homicide rates, for example, have risen dramatically -- over 80 percent, often surpassing the rates in large American cities. Numbers alone cannot convey the tragic impact of such violence on Indian families and their communities.]?

This and other information you have provided to me make it clear that we need to enhance available resources in Indian Country to address this growing problem. While some tribal governments have developed strong law enforcement programs, many others have encountered significant difficulty in doing so. On a number of reservations, the number of police officers and investigators has diminished to the point that many violent crimes occurring on Indian lands remain not only unsolved, but uninvestigated. Jails are grossly substandard. Many Indian citizens receive police, investigative, and detention services that lag far behind even this country's poorest jurisdictions.

As President, I recognize the federal government's obligation to act, arising from our long-standing trust relationship with Native Americans, and from federal statutes that set forth our law enforcement responsibilities in Indian Country. We cannot look to others to solve this problem. Until we address this problem with resolve, with adequate resources, and with seamless interagency cooperation, the scourge of guns, drugs, domestic violence, and juvenile crimes will continue.

For these reasons, I hereby direct the Attorney General and Secretary of the Interior to analyze the law enforcement crisis and develop a comprehensive proposal for improving public safety and criminal justice in Indian Country. Consistent with the spirit of my September 1994 memo on government-to-government relations and tribal self-governance, Indian tribal leaders should be asked to participate directly in the process of developing solutions. I further direct the Departments of Justice and Interior to submit their recommendations to me no later than November 14, 1997.

Recognizing the dire situation in Indian Country, I ask that you reach out to tribal leaders and others around the country to

work with us toward a viable solution. To this end, I pledge the full support of my Administration to achieving adequate and effective law enforcement services in Indian Country.

William J. Clinton



Associate Deputy Attorney General

Washington, D.C. 20530

RUSH TO

June 27, 1997

*+ return
Brouce/earne*

After however many weeks, DIT/DOI sent

MEMORANDUM

TO: Elena Kagan
Deputy Assistant to the President
for Domestic Policy

FROM: David W. Ogden
Associate Deputy Attorney General

SUBJECT: Law Enforcement in Indian Country

This over Friday night with the "request" that we issue it by Tuesday. Take a look at it. I guess it it's fine with Lynn, it's fine with me, though it's unremittably bleak. (There's also one sentence I don't understand.) Let me know ASAP.

As we discussed, I am forwarding for your review a draft Presidential directive on law enforcement in Indian Country. It directs Attorney General Reno and Secretary Babbitt to analyze the public safety crisis in Indian Country and provide their findings and recommendations to the President no later than November 14, 1997. *we should also get their reprogramming proposal.*

With apologies for the extremely short notice, I am told that the signed Presidential directive and reprogramming proposal must be sent to the Hill no later than July 3, 1997 in order to be acted upon during the appropriations process. As a practical matter, this means that if at all possible the Presidential directive must be issued no later than July 1, 1997 in order to ensure that this effort can be funded. Our JMD staff has already been in contact with OMB Justice/GSA Branch Chief David Haun. They have incorporated his informal recommendations into their proposal and stand ready to do everything they can to help move this through the process as soon as the directive is signed. *Elena*

Ideally, we would highlight the issuance of the directive with an event involving the President. Those of us working on this issue have discussed the possibility of a radio address or White House event and are prepared to assist with whatever roll-out effort the DPC deems appropriate. Given the time exigencies, however, we recognize that constraints on the President's schedule will dictate our options. It may be better to announce

the directive through a press release, reserving a larger announcement for the issuance of the recommendations to the President next Fall. In any event, we are ready to assist in whatever kind of announcement is deemed appropriate.

Please call me if you have any concerns or questions about the directive or timing. Thank you for your assistance.

Attachment

cc: Seth P. Waxman
Acting Deputy Attorney General

Charles F.C. Ruff
Counsel to the President

Lynn Cutler
Deputy Assistant to the President and
Deputy Director of Intergovernmental Affairs

Anne Shields
Chief of Staff
Department of the Interior

3-8

Native Amer. Law Enf.

Close to set of concrete proposals - sense of urgency.
But need to bring others into process - incl. reps of
Indian Country - need buy-in.

Glautier: Funding + organizational aspects
BIA - not much. Where does it come from?
Shouldn't spring on tribes even a b-r commission

<u>Conventional</u>	<u>All-tribal</u>
Former tribal leaders Senators etc.	depts st + local tribal
People w/ law enf expertise higher profile	keeps out of FACA.

joint staff -

MDick: Offsets? How to pay for...
Com'n will come back w/ expense proposals.

Waxman: Only shift -
we will figure out how to do w/in current budget
reprogramming / exercise of transfer auth.

Dick: Timmy. Pres has but proposal FY 98

Waxman: FY 99.

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Dick - Then again, shouldn't have formal commission.

TO - we only have 6 mos
can't do w/ formal comm'n.

AG / Secy - do consultative panel?

cutler - need to consult
w/ cong!



U.S. Department of Justice

Office of the Deputy Attorney General

Native American issues -

The Deputy Attorney General

Washington, D.C. 20530

law enforcement

May 7, 1997

MEMORANDUM

TO: Bruce N. Reed
Assistant to the President
Office of Domestic Policy

FROM: Seth P. Waxman *SPW by DWO*
Acting Deputy Attorney General

SUBJECT: Law Enforcement in Indian Country

This memo and the attached draft letter to the President provide you with background information for our meeting scheduled for tomorrow, May 8th at 2:00 p.m. At that time, Anne Shields, David Ogden and I plan to present a joint proposal of the Departments of Justice and Interior recommending that the President launch an Administration Initiative designed to improve law enforcement in Indian Country.

Violent crime is rising in Indian Country while it is falling in American cities. On many reservations, public safety is less secure than in the most crime-plagued inner cities. The situation is truly critical and getting worse. Because the United States has primary responsibility for law enforcement in Indian Country, this Administration has a unique opportunity to make a meaningful and important difference in what is a crisis in public safety for many of our Native American communities. This issue further brings together two goals to which the President is deeply committed: improving law enforcement and improving the lives of the Nation's disadvantaged minorities.

The Departments of Justice and Interior formed a working group late last year to explore ways to remedy the failure to provide for adequate public safety in Indian Country. The group developed several models for reform, and useful projections of the associated costs. Ultimately, the process produced what I believe to be a strong proposal that the President establish a blue-ribbon Task Force on Law Enforcement in Indian Country -- supported by a joint Justice-Interior staff -- designed to develop a consensus on the best manner to address this problem and to present a report to the President with recommendations.

- 2 -

As the attached letter explains in greater detail, we believe that White House leadership is critical to improving law enforcement in Indian Country. The problem is complex and subject to a variety of conflicting interests. The President's personal commitment will greatly reassure Tribal leaders, who otherwise might be skeptical of the Administration's commitment to achieving meaningful, lasting change. Full participation of Tribal leadership will be crucial to the success of this venture. Finally, because more than one federal department and more than one set of oversight committees of the Congress are involved, Presidential direction will help cut through distracting parochial concerns.

I look forward to discussing this proposal further tomorrow.

Attachment

cc: Anne H. Shields



Office of the Attorney General
Washington, D. C. 20530

DRAFT

The President
The White House
Washington, DC 20500

Dear Mr. President:

We are writing to propose that the Administration, under your leadership, undertake an historic initiative to provide effective law enforcement to our Native American communities. More than anywhere else, the United States is responsible for public safety in Indian Country. Tragically, however, we are failing to fulfill that responsibility, with shattering impact on the lives of many of our Native American citizens. Yet the problem is solvable, with a finite federal financial commitment and a new approach to management of law enforcement resources. We believe that, with the President's personal commitment, this Administration can and should make a dramatic improvement in this very important area.

Current Conditions Are Dire

There is a crisis in public safety and law enforcement in Indian Country. While violent crime is falling in American cities (due in large part to this Administration's support of local law enforcement), it is rising in Indian Country. At the same time, law enforcement resources, which have been increased and deployed to great effect throughout the United States, have actually been reduced in Indian Country over the past few years. This has severely compromised public safety and the safety of law enforcement officers, diminished the number of investigators to the point that many violent crimes in Indian Country remain not only unsolved but actually uninvestigated, and resulted in jails that are grossly inadequate in capacity and neither secure nor safe. In recent years, the pattern of neglect has become unprecedented in the modern history of relationships between the United States and the Tribes. Today, Indian citizens receive police, investigative, and detention services that are not only inadequate, but also suffer by comparison to this country's poorest jurisdictions.

CLINTON LIBRARY PHOTOCOPY

DRAFTThe President
Page 2

The Administration's hard work to reduce violent crime and increase the quality of life in America has paid dividends. The Federal Bureau of Investigation (FBI) reports that the nationwide violent crime rate in 1995 dropped 10 percent below 1991 levels, and that the homicide rate has declined by 16 percent since 1991. Unfortunately, life has become much more violent during the same time period for the 1.2 million Indian citizens who live on or near reservations. For example, the overall homicide rate for Tribes under federal jurisdiction has risen 87 percent since 1992. The overall homicide rate in Indian Country is four times the rate in smaller, non-urban areas, and certain reservations have homicide rates that dwarf those in cities like New Orleans and Washington, D.C.

Other violent crimes have paralleled the rise in homicides. Increasing gang violence, widespread domestic violence, and child abuse are cruel realities on many reservations. For example, on the Tohono O'odham Reservation, with a resident population of 13,479 and 75 miles of common border with Mexico, the FBI reports more than 30 open child abuse cases and says that another 30 could be opened if additional resources were available.

Due to chronic underreporting and in some cases no reporting at all, statistics actually understate the real extent of violent crime on Indian lands. There is unanimous agreement among law enforcement professionals and United States Attorneys in Indian Country that the situation is grave and getting worse.

One of the most disturbing developments is the recent rise in several states of Indian gangs that model themselves after their urban counterparts. For example, last October, five members of the East Side Crips Rolling 30s were indicted under the RICO statute with predicates that included murder, arson, and witness intimidation. All were members of the Salt River Pima-Maricopa Indian Community of Arizona. At least six of the 46 homicides on the Navajo Reservation last year were related to the 54 juvenile gangs on the reservation. The violence associated with such crimes can be shocking. Last year, Navajo gang members burned a rival to death in his car using Molotov cocktails. After a gang member was beaten to death on the Navajo Reservation recently, the perpetrators carved gang markings on his forehead. On Good Friday of last year, a man on the Laguna Pueblo Reservation was bludgeoned with a beer bottle, stabbed 72 times, then left with a ritualistic triangle carved on his side. During the same year on Laguna, the nine police officers (who must patrol one-half million acres) were assaulted 34 times. Hundreds of thousands of law abiding citizens are affected by these grisly episodes and the many other violent crimes in Indian Country.

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When officers do make arrests and tribal courts order defendants held, the lack of available detention facilities in Indian Country makes a mockery of those courts and the hard work of the Bureau of Indian Affairs (BIA) and tribal officers. Most detention facilities are old, understaffed, have high suicide rates, and need to be repaired or, in many cases, replaced. During 1996, the Navajo Nation police made approximately 28,000 arrests, but only 121 beds were available in jails on the reservation. One facility was in such bad condition last year that guards drew a line in the dirt to represent a perimeter fence.

Federal Responsibility to Act

The Federal Government has the singular responsibility to fix this broken system. Federal law enforcement is the only protection for the victims of violent crimes in most areas of Indian Country, and the federal commitment has not met the challenge. The Indian Commerce Clause vests Congress with plenary authority in Indian Country. The investigation and prosecution of major crimes cannot be deferred to local authorities. Except as otherwise provided by Congress, the United States has exclusive jurisdiction over major crimes. Although all Tribes have concurrent jurisdiction with the Federal Government over criminal matters involving Indian perpetrators, sentences are limited to a maximum of one year and \$5,000, per offense. And, in any event, Tribes in almost all cases simply lack the resources to do the job alone.

Indeed, federal law enforcement jurisdiction in Indian Country is actually growing. The 1994 Crime Act's expanded list of gun, drug, and domestic violence provisions all apply to Indian Country, and many Tribes have asked the Federal Government for help with the growing problem of violent and repeat juvenile offenders.

Yet, as both violent crime and federal jurisdiction are increasing in Indian Country, federal resources are dwindling. The BIA in the Department of Interior (DOI) has primary responsibility for enforcement and detention, but since 1992, the total BIA law enforcement budget has declined from \$78.5 million to \$74.6 million -- a 5.1 percent decrease. The decrease between fiscal years 1995 and 1996 was almost 15 percent. Budget cuts have caused RIFs and increased attrition across all of BIA's law enforcement services. This decline is in stark contrast to increased funding for all other federal law enforcement agencies.

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The devastating consequences of these cuts are readily apparent. The number of BIA criminal investigators has dropped from 144 in 1993 to 78. There are now only about half as many uniformed officers per capita in Indian Country as in the rest of the United States. Finally, few of the 67 jails in Indian Country meet minimum BIA detention standards. All BIA funding requests for construction have been denied by the Congress during the last two fiscal years.

The bottom line is that Indian Country has been largely neglected in the Federal Government's otherwise committed fight against violent crime. Although there is considerable debate about how to improve the situation, there is universal recognition that the current structure has failed. It is clear that it is the Federal Government that bears the responsibility to act.

Possible Solutions

To identify the range of law enforcement issues in Indian Country and develop possible solutions to the problems, the Department of Justice (DOJ) and DOI formed an Executive Working Group last October. Its mandate included preparation of options, cost estimates, and guidance on policy concerns and funding possibilities.

Three basic options emerged: (1) Consolidate the criminal investigative services of the BIA and FBI within a new Indian Country Investigative Service (ICIS) under DOJ. Uniformed police and detention services would remain with the BIA. (2) Transfer all three major law enforcement programs in BIA to ICIS in Justice. (A variation would be to assign detention responsibilities to the Bureau of Prisons.) (3) Consolidate criminal investigations, uniformed police, and detention services under the line and budgetary authority of BIA's Division of Law Enforcement Services (DLES). DOJ would assist DLES by expanding the availability of technical assistance and training.

No matter which option is selected, the costs of improving law enforcement services would be roughly the same. To make law enforcement services in Indian Country comparable to those in similar areas of the United States, DOJ or BIA would have to fund approximately 405 investigators and 2,300 uniformed officers. Annual costs for the investigators are estimated at \$57 million and for uniformed officers at about \$150 million. BOP estimates that facility construction and renovation costs would be between \$150 - 200 million, and detention operating and maintenance expenditures would average about \$72 million per year.

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It is clear that finding the solution cannot be a "Justice Department" or "Interior Department" initiative, because both Departments (as well as smaller agencies within them) share responsibility for federal law enforcement. Similarly, responsibility for law enforcement and Indian Country is spread across at least two congressional committees.

Finally, and perhaps most important, the Tribes themselves must be part of the process of developing a solution.

Need for Presidential Leadership

Presidential leadership offers the best chance to achieve the fundamental changes that are needed in Indian Country law enforcement. We believe that you should establish a blue-ribbon Task Force on Law Enforcement in Indian Country, composed of members from inside and outside government, including Tribal leaders. Our Departments stand ready to provide a first-rate, integrated staff to support the task force. The task force would engage in dialogue with the Tribes and pertinent agencies, experts, and interest groups; develop a consensus on the best manner to address this problem; and present a report to the President with recommendations. We believe that the President's commitment to this endeavor would lend such a process great credibility with the Tribes, the Congress, and the American people, and could create momentum for needed legislative and administrative action.

There are several reasons why such a task force is required.

First, the problem is complex and subject to a variety of conflicting interests. Some of the difficulties in solving it are the product of centuries of American history, and longstanding neglect of our treaty and trust obligations. While everyone can agree there is a serious problem, only through assembly of a broad and diverse array of interests and expertise can we hope to create a consensus for implementation of any particular solution. The President is uniquely situated to accomplish this.

Second, the President's personal commitment will greatly reassure Tribal leaders, who otherwise might be skeptical of the Administration's commitment to achieving meaningful, lasting change. The full participation of Tribal leadership is crucial to the success of the venture.

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Third, because more than one federal department and more than one set of oversight committees of the Congress are involved, Presidential direction will help cut through distracting parochial concerns.

There is no time to lose in addressing this crisis, and the establishment of a short time frame, like that achieved for the Vice President's recent initiative relating to airline safety, is crucial. Once again, Presidential commitment will help drive the process to an early conclusion.

Presidential leadership also makes sense because the current problem stems, at least in part, from fragmented responsibilities and overlapping jurisdictions. Recommendations to consolidate and streamline these bureaucratic structures would fit well with this Administration's commitment to reinventing government.

Our citizens in Indian Country have never enjoyed the adequate law enforcement that most of us take for granted. It is time to change that. In the face of a rising tide of violence and despair throughout Indian country, a meaningful improvement in public safety is achievable, and would be an historic reminder that the Federal Government has not forgotten its solemn trust and treaty obligations to American Indians. This could be -- and should be -- one of the Administration's significant legacies.

Respectfully,

Janet Reno
Attorney General

Bruce Babbitt
Secretary
Department of the Interior