

INDIAN TRIBAL DETENTION FACILITIES

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARING ON ISSUES AND PROBLEMS RELATED TO THE
CONDITIONS IN INDIAN TRIBAL DETENTION FACILITIES

JUNE 23, 2004
WASHINGTON, DC



pp. 1-41;
281-326

U.S. GOVERNMENT PRINTING OF
WASHINGTON : 2004

94-555 PDF

For sale by the Superintendent of Documents, U.S. Govern
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington

All other pages
are graphs/charts
and cannot be
read clearly (on paper
or on computer).
These pages are all the
text/statements.

COMMITTEE ON INDIAN AFFAIRS

BEN NIGHTHORSE CAMPBELL, Colorado, *Chairman*

DANIEL K. INOUE, Hawaii, *Vice Chairman*

JOHN McCAIN, Arizona,

PETE V. DOMENICI, New Mexico

CRAIG THOMAS, Wyoming

ORRIN G. HATCH, Utah

JAMES M. INHOFE, Oklahoma

GORDON SMITH, Oregon

LISA MURKOWSKI, Alaska

KENT CONRAD, North Dakota

HARRY REID, Nevada

DANIEL K. AKAKA, Hawaii

BYRON L. DORGAN, North Dakota

TIM JOHNSON, South Dakota

MARIA CANTWELL, Washington

PAUL MOOREHEAD, *Majority Staff Director/Chief Counsel*

PATRICIA M. ZELL, *Minority Staff Director/Chief Counsel*

CONTENTS

	Page
Statements:	
Anderson, David, assistant secretary for Indian Affairs, Department of the Interior	9
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado, chairman, Committee on Indian Affairs	1
Devaney, Earl, Inspector General, Department of the Interior	2
Guardipee, Fred, council member, chairman, Health, Education and Social Services Committee, Blackfeet Tribal Business Council	25
Henke, Tracy, principal deputy assistant attorney general, Department of Justice	13
Johnson, Hon. Tim, U.S. Senator from South Dakota	2
Juan-Saunders, Vivian, chairman, Tohono O'odham Nation	18
MacDonald-Lonetree, Hope, chairman, Navajo Council Public Safety Committee, Navajo Nation	20
Martin, Darrell, president, Fort Belknap Indian Community Council	24
Richards, Sr., Howard D., chairman, Southern Ute Tribe	16
Smith, Hon. Gordon, U.S. Senator from Oregon	7

APPENDIX

Prepared statements:	
Anderson, David (with attachment)	39
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado, chairman, Committee on Indian Affairs	31
Daschle, Hon. Tom, U.S. Senator from South Dakota	31
Devaney, Earl	33
Henke, Tracy (with attachment)	281
Juan-Saunders, Vivian	304
MacDonald-Lonetree, Hope (with attachment)	311
Martin, Darrell	36
Richards, Sr., Howard D. (with attachment)	318
Steele, John Yellow Bird, president, Oglala Sioux Tribe, Pine Ridge, SD	37
Additional material submitted for the record:	
Responses to questions from Jane Lyder, Legislative Counsel, Office of Congressional and Legislative Affairs, Department of the Interior, Washington, DC	325

INDIAN TRIBAL DETENTION FACILITIES

WEDNESDAY, JUNE 23, 2004

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to other business, at 10:15 a.m. in room 485, Russell Senate Building, Hon. Ben Nighthorse Campbell (chairman of the committee) presiding.

Present: Senators Campbell, Inouye, Johnson, and Smith.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. We will now convene our hearing for the morning. I will tell all of our witnesses who are in the audience, though, we are told we are going to have five votes in a row at 11:15 a.m., so we have a choice of finishing this up by 11:15 or waiting and coming back in about 2 hours from now, and I do not think most of our witnesses are going to want to do that. So I would ask all of our witnesses to be relatively brief. We will include all of your written testimony, but if you will try to keep it down to about 5 minutes apiece or so, I think we can get through it and still have some time to ask some questions.

This committee's oversight hearing is on issues and problems related to conditions in tribal detention facilities. Several weeks ago, this issue caught my attention when I read a series of articles regarding a Federal probe on tribal prison deaths in the newspaper, USA Today and other newspapers as well.

The articles spoke about abuse, neglect, and inhumane conditions, overcrowding as well as staffing shortages, inmate access to weapons and poor prisoner monitoring and supervision. In fact, one story reported that the lack of prison monitoring resulted tragically in the death of a 16-year-old girl. I believe that is not only deplorable, but inexcusable and just should not be happening.

In order to determine exactly what has happened and what is happening, and what we can do about it, this morning the committee will hear from witnesses from Federal agencies and Indian tribes to share their thoughts and experiences with us. I will submit my full statement for the record, in light of our short time.

[Prepared statement of Chairman Campbell appears in appendix.]

The CHAIRMAN. Senator Johnson, did you have any opening statement on this issue before we proceed?

**STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM
SOUTH DAKOTA**

Senator JOHNSON. Mr. Chairman, I would like to make a couple of comments. There are numerous problems in Indian country today that require immediate attention. Unfortunately, we are faced with a crisis surrounding the state of our detention facilities.

If the conditions of our off-reservation facilities were found in the same conditions as many of our reservation facilities, there would be widespread public outrage. We are grateful for new construction going on in my State of South Dakota, but it has been a constant battle to receive appropriate maintenance and staffing funding.

One of the prominent problems that needs immediate attention is the lack of appropriate care given to juveniles. Juveniles must not be held in the same holding cells as adults. This is a safety issue, among other things. In Crow Creek, young people, many of them juveniles who had attempted or were suspected of committing suicide, were being held in the only jail facility on the reservation, a condemned adult detention facility. That is simply unacceptable. We have to do better to address the situation and I look forward to reviewing the recommendations that arise as a result of this hearing.

The CHAIRMAN. Thank you, Senator Johnson.

We will now start with our first witness, Earl Devaney, the Inspector General, Department of the Interior, Washington, DC. Welcome, Inspector General Devaney. If you would go ahead and proceed. As I mentioned, your complete testimony will be in the record. You can abbreviate if you wish.

**STATEMENT OF EARL DEVANEY, INSPECTOR GENERAL,
DEPARTMENT OF THE INTERIOR**

Mr. DEVANEY. Thank you, Mr. Chairman. I am pleased to be here today to speak about Indian detention centers in Indian country.

In September 2003, my office began an assessment of these facilities. I initiated this assessment following a conversation with the Chair of the Attorney General's Advisory Committee on Indian country, U.S. Attorney Thomas Heffelfinger, who had expressed his concerns to me about overcrowding and poor conditions in Indian country jails. I then discovered that these same concerns have been articulated for years by the Department of Justice in a variety of reports. My office had also begun to receive anecdotal reports of appalling conditions at detention facilities in Indian country.

With all this information, I felt compelled to address these concerns immediately. I would like to point out that we began our assessment well before the confirmation of Assistant Secretary Anderson and prior to any of the recent media disclosures of allegations made by a former BIA law enforcement official.

While we have completed all of our planned site visits, we have not finished our analytical work, nor have we even written a draft report. However, given the committee's interest in this issue, I would gladly share with the committee the same concerns I shared with Secretary Norton in April of this year when I gave her an interim report on the deplorable conditions we were finding at some of these facilities.

For many years, the BIA's detention program has been characterized as drastically understaffed, underfunded, and poorly managed. Unfortunately, we have now reached a similar conclusion. Simply stated, BIA's detention program is riddled with problems, and in our opinion is a national disgrace, with many facilities having conditions comparable to those found in third world countries.

Unfortunately, BIA appears to have had a laissez faire attitude in regard to these horrific conditions at these detention facilities. In most of the 27 facilities we have visited, basic jail administration procedures are not followed, and many detention managers and their staff have not received professional certified training in how to run a detention facility. In fact, BIA OLES officials admitted to us that none of their detention facilities come close to even meeting BIA standards for operations, which supposedly derive from nationally recognized detention standards.

Based on our visits, we discovered that serious incidents are almost never communicated up the chain of command. In fact, during the last 3-year timeframe, we found well over 500 serious incidents, including deaths, suicide attempts and escapes that were either undocumented or not reported to BIA's Office of Law Enforcement Services.

We learned 10 deaths from the facilities we visited. Five of these deaths were suicides and five were non-suicides. Inexplicably, only five of these deaths were reported to OLES. Among those deaths reported to OLES was the recent death of a 16-year-old student who died while in a detention cell at the Chemawa Indian Boarding School in Oregon. This case is under active investigation by my office, in conjunction with the U.S. Attorney's office in Portland, OR.

Based on our findings, suicide attempts appear to be a regular occurrence at many of these facilities. At one facility in Washington State, there have been an alarming 53 suicide attempts within the last 3 years. None of those incidents were reported to OLES.

At many of the facilities, we found multiple suicide attempts made by the same inmate. For example, during 2001 an individual detained at a detention facility in New Mexico attempted to hang himself seven separate times using articles of clothing or towels left in the cell. The corrections officer's response was quite elementary. If the inmate tried to hang himself with his socks, take the socks away. If the inmate tried to hang himself with a towel, take the towel away. Until finally, the inmate was left in the cell without any clothing or any towels.

For the most part, the corrections officers at these facilities convey stories of prisoner escapes with an air of casual inevitability. We found that some facilities do not even notify local law enforcement of prisoner escapes. This is not only disconcerting, but it is irresponsible to allow escaped prisoners to travel freely in the community while local law enforcement authorities have no information about their escapes.

One of the most common problems we found while visiting these facilities is a lack of staffing. This factor has an enormous impact on officer safety. In many cases, having only one correctional officer on duty per shift is not unusual. It is actually common practice.

One BIA district commander told us, "every officer here has been assaulted."

Aside from the lack of officers on staff, the current officers at these facilities are for the most part poorly trained. This lack of training not only hinders the officers' ability to properly document incidents and follow standard procedures, but also leaves the officers unprepared to prevent physical harm that may be targeted against them or against other inmates. One district commander quipped, "most BIA standards cannot be met, so why even try?"

In addition to officer safety, the safety of inmates themselves must be considered. Officers who are improperly trained and who have not undergone a thorough background investigation may become a liability. Recently, a corrections officer at an Indian youth detention center in Montana was convicted of raping a 17-year-old female inmate while transporting her to a medical facility.

During my discussions with the Secretary in April, I made a number of recommendations to her, including instituting new reporting protocols and the prompt investigation by BIA of any serious incidents. I was pleased by her immediate response to my briefing. Following our meeting, she tasked Associate Deputy Secretary James Cason, along with Assistant Secretary Dave Anderson, to begin addressing the concerns that I had raised. To assist them in this effort, she also made a request to DOJ for an experienced corrections professional from the Bureau of Prisons to be detailed to BIA. I am now beginning to detect a new sense of urgency about these concerns at BIA.

Finally, Mr. Chairman, the responsibility for these failings we have found at Indian detention facilities cannot be attributed to any particular individual or administration. Some of these problems are decades old, thus the solutions will not be easy to achieve and may take considerable time, effort and additional funding. Nothing, however, less than a herculean effort to turn these conditions around would be morally acceptable.

Mr. Chairman, this concludes my oral remarks. I would welcome the opportunity to answer any questions from you or any of the members of the committee.

[Prepared statement of Mr. Devaney appears in appendix.]

The CHAIRMAN. Thank you, Mr. Devaney. I have several questions and I think other members have several, too, and some we will put in writing to you.

First of all, what percent of tribal police or corrections officers on reservations attend Federal training through FLETC?

Mr. DEVANEY. I think it is actually a requirement, Mr. Chairman. The problem is that the moneys that are made available for this training are not always there. So you might have, for instance, a corrections officer being brought on board and not get to that training for 2 or 3 years. We actually found cases where officers had been at the facility for multiple years without that training. I think the intention is to give everybody that training, but it is a matter of money and getting the opportunity to send these folks there.

The CHAIRMAN. Give me some feedback on this. I visited one reservation and asked them why they were having such retention trouble keeping either tribal policemen or corrections officers, and

I do not know if this is true or not, or if it is throughout all Indian country or not, but they told me that that particular reservation, the policemen are only law enforcement officials when they are on duty, and the corrections officers when they were off duty had no police powers. Consequently, the police, as an example, would arrest someone and then when they got off duty, guess what? The first time the people got out that they arrested, they would lay for them and there would be some altercation, and the guys that did the arresting would end up getting beat up. Did you find anything along that line in this investigation?

Mr. DEVANEY. To be honest with you, sir, we did not find that, but it would not surprise me that that is the situation. It is very, very difficult to recruit corrections officers.

The CHAIRMAN. Have you visited any facilities personally, the 74 facilities?

Mr. DEVANEY. Yes; I had an opportunity to. I wanted to visit one because I thought it would be appropriate if I did. So I did go with a team out to the Yakama Detention Facility in Yakama, WA last month. I could make a few observations. Before I was the Inspector General, I spent about 30 years in Federal law enforcement. I have been in hundreds, maybe thousands of jails, State, local, and Federal during my career.

I have seen some jails as unclean or in poor condition as this jail. But I have never seen jails that are so prone to suicide or easy to escape from, and so dangerous to not only officers that work in these jails, but dangerous to the inmates as well.

Quite coincidentally, Yakama turned out to have the highest number of suicide attempts, 53 in the last 3 years. I can recall visiting in a cell with a young woman who told me that she had not been outside in over 5 days. I then turned to the officer that was giving the tour, and I said, "well, when can she expect to be outside." He said, probably not for another week.

The CHAIRMAN. Some of those conditions, wouldn't you consider a violation of basic civil rights?

Mr. DEVANEY. Well, I think so, yes. I think 12 days without seeing sunshine in a windowless cell could drive someone to attempt suicide. I would note for you that the standards, for instance, for the State of Virginia for condemned inmates is that they get outside 1 hour a day for 5 days a week. So there is quite a parity difference here.

The CHAIRMAN. Of the 74 facilities, 20 are operated by the BIA and 46 are operated by tribes under contract. Did your auditors find any qualitative differences in how the tribal facilities were run or compare with the BIA-operated ones? Which ones were in better shape, if there was a conclusion to that?

Mr. DEVANEY. First of all, as I mentioned earlier, we only visited 27 of the 74 facilities. Of those 27, 12 were operated by BIA and 15 were 638 facilities. In terms of some of the better facilities we found, quite frankly, they were 638 jails. We found that some of those jails were, even despite the poor condition, the physical conditions of the jails, they actually had very good management, former corrections folks running those jails. Somehow they were making it happen even over and above the lousy maintenance and the poor conditions that we found there.

So from a perspective of some of the better things we saw, they were principally at the 638 jails.

The CHAIRMAN. I am glad you mentioned that, because some of us think around here that Indians can run their own affairs a whole lot better than the Government can anyway. So that is good. I live at Southern Ute which has, in my view, one of the newer and better-run jails in the country, and that gets done under the 638 program.

You mentioned that most of the facilities you visited failed to follow basic jail administrative procedures. Is there any national framework for procedures that go out through the BIA that tribes adhere to?

Mr. DEVANEY. That is something I think BIA's detention program is going to have to work on. There are, of course, national correctional standards at the Federal level, at the State level and most counties have those standards. BIA purports to model their standards after those correctional standards, but I think a lot of work needs to be done to bring those in line.

The CHAIRMAN. And your review found nearly 500 serious incidents not being reported to the BIA office or law enforcement services. In reading notes provided by staff, I am very sorry to say that 41 suicide attempts were attempted in the last 3 years in Lame Deer, MT where I happen to be enrolled. I was not aware that it was that bad, very frankly.

Did your auditors find out why these cases were not reported, the 500 that were not?

Mr. DEVANEY. Well, I think there are probably a variety of reasons for that. Sometimes it is a matter of they did not know they were supposed to report these incidents. Other times, we were told, quite frankly, Mr. Chairman, we rarely found correctional officials that had anything good to say about BIA's detention program. In fact, in that jail that I visited, the Yakama detention facility, the chief told me that he had not seen or heard from BIA in 5 years.

So there is a disconnect there. I am hopeful that the folks that the Secretary has put in charge of fixing this problem will address those issues.

The CHAIRMAN. Another report I have heard over and over is that they do not have adequate separate facilities for men and women, and sometimes the interaction between them leads to some real problems of rape or intimidation or so on. Did you find that also?

Mr. DEVANEY. Yes; we did. We found incidents where unfortunately female inmates were put in with male inmates, inadvertently, but nonetheless it happened, and bad things happen when that occurs. Of course, there is the issue that was raised earlier on the juvenile facilities, and the fact that juveniles almost on a regular basis are housed in some of these jails in situations which actually the law forbids them to be housed in.

There is the sight and sound provision in the regulations that suggests that juveniles should not be within sight and sound of adult prisoners. We found widespread abuse of that particular regulation.

The CHAIRMAN. I see. I have some further questions I would like to submit in writing, if you would get back to us, but I want to move along because of the impending votes.

Mr. DEVANEY. Yes, sir.

The CHAIRMAN. Before I yield to our vice chairman, Senator Smith has shown up. Did you have any opening comments before we move along with our questions?

Senator SMITH. I will put those in the record.

The CHAIRMAN. Okay.

Senator SMITH. I do have some questions.

The CHAIRMAN. All right, fine.

Senator Inouye.

Senator INOUE. I just have one question, Mr. Chairman. I note that up until fiscal year 2003, the Department of Justice was expending about \$34 million a year for facilities, and suddenly the following year it dropped to \$5 million and now it is \$2 million. Can you explain why?

Mr. DEVANEY. I really cannot. I know there is a witness from DOJ that is going to follow, so maybe that witness could. There is an issue in our minds about the disconnect between the facilities that BIA would like to see built in terms of priority, and the facilities that actually get the grants at the end of the day. At some level, that process needs to work better.

There needs to be a better coordination between DOI and DOJ to ensure that the actual facilities that need to be built are the ones that are being built, and that there is not a difference of opinion between DOI and DOJ. There may be some difference of opinion at the end of the day, but a closer coordination is clearly called for here. Monies should not be given to the best grant writer.

Senator INOUE. Thank you very much. I would like to submit other questions.

The CHAIRMAN. Thank you.

In the order of appearance, Senator Johnson, you were next.

Senator JOHNSON. Thank you, Mr. Chairman, and thank you, Mr. Devaney. I think this is very sobering testimony you have provided to the committee.

The only question I would have this morning would be your investigation is ongoing. Can you give us any sense of when the final report would be issued?

Mr. DEVANEY. Sir, we are targeting the end of the summer. I would say late August or early September.

Senator JOHNSON. Very good. We look forward to that. This is one report that I hope will not be one of those gathering dust reports, but will be truly an impetus to very major action on the part of this committee and this Congress. Thank you.

The CHAIRMAN. Senator Smith.

STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Senator SMITH. Thank you, Mr. Chairman. Mr. Devaney, thank you for being here.

As I listened to your testimony, frankly, I am fearful we have an epidemic, and this BIA really needs to get on top of this. We need to make sure they have the resources. Normally, we do not think

of jails as suicide prevention centers, but frankly that may be what we have to begin factoring in.

You mentioned the case of Cindy Sohapp from the Chemawa Indian School in Salem, OR. Representing the State of Oregon, I have particular concern about what happened there. It is clearly not the Department of the Interior's fault that she drank so much that she killed herself. But clearly, if we have places where we hold them; if education and prevention of alcohol abuse have failed and you resort to detention, there ought to be some way to monitor, help and medically assist those who because of their own choices and actions put themselves in such grave danger.

I echo the comments of all of my colleagues that I hope the Department will put in place procedures, systems, and facilities that are equal to what is clearly an epidemic problem. So I do not know that I have a question other than can you give us any more information as to what has happened to Cindy, what might be done differently in the future, and then adjust the admonition to deal with a crisis.

Mr. DEVANEY. Senator, as I mentioned earlier, that case is under active investigation. We are working with the U.S. Attorney's office, and the U.S. Attorney in Oregon is obviously quite interested in this case. So I hesitate to say a whole lot about the investigation or where we might be headed. But having said that, I personally was shocked to find a detention center or a detention cell, if you will, and this was a cell. This was like any jail cell in any jail we have ever seen on television, at a boarding school, and particularly unmanned by a professional. At the time, I think, of her death, there was a woman who I understand is some sort of a dormitory counselor who could have observed a television screen to see this child in crisis, but apparently did not.

When I was told about this, I was not interested, quite frankly, in assessing blame at that level. I am interested in knowing who knew about this condition and for how long and why did they let it exist. I will stop short of giving you too many details, but we are working our way up the chain of command on both the law enforcement side and the school side of BIA to figure out who knew what and when and how far up that was.

The CHAIRMAN. Thank you, Mr. Devaney. I appreciate your time. I am going to ask you to do something for us that I am going to ask all of the witnesses today, and that is we obviously have a big problem in Indian country with law enforcement. If you have any recommendations how we can help from the standpoint of framing up legislation. I do not know if the answer is just more money, although obviously the resources in the form of money certainly help. But if you would give the committee some recommendations of how we might try to make it better, I would appreciate it.

Mr. DEVANEY. I would be glad to do that.

The CHAIRMAN. Thank you.

Mr. DEVANEY. Thank you.

The CHAIRMAN. Thank you for being here.

Our next witnesses will be Dave Anderson, Assistant Secretary of Interior; and Tracy Henke, the Deputy Assistant Attorney General at the Department of Justice.

As with the last witness, your complete testimony will be in the record. If you would abbreviate, that would be fine.

Nice to see you, Dave.

**STATEMENT OF DAVID ANDERSON, ASSISTANT SECRETARY
FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR**

Mr. ANDERSON. Good morning, Mr. Chairman and Mr. Vice Chairman, and members of the committee. My name is David Anderson, Assistant Secretary for Indian Affairs.

Thank you for allowing me to speak today about the Administration's vision to improve the Bureau of Indian Affairs' [BIA] detention center program. Recent events have highlighted the need to continue to implement improvements, in addition to those changes already underway. The ultimate goal is to improve the delivery of services to tribes and individuals who are serviced by the Bureau's owned and funded detention facilities.

Until the 1960's, jail construction on Indian lands was very limited. The Department of Justice, Law Enforcement Administration assistance grants were provided for the construction of jails in Indian country. Many of these facilities, now 40 years old, are still in operation today. All of the detention centers present many challenges such as ongoing maintenance and needed improvement to these aging high-use facilities.

There are 75 confinement facilities, detention centers, jails and other facilities to be referred to in this testimony as detention centers, operated by tribal authorities or the Bureau of Indian Affairs in Indian country. Thirty-nine facilities are Bureau-owned; 19 facilities are Bureau-operated. Three of these detention centers do not house inmates and are used for law enforcement offices. The remaining 36 detention centers are owned and operated by tribes, either independently or through Public Law 93-638 contracts or self-governance compacts. All of the Indian detention facilities are designed for short-term detention and have difficulties accommodating long-term sentences.

In February 2004, when I became assistant secretary, I was briefed on Indian country detention programs and the ongoing challenges related to physical conditions and management structure. I want to thank Mr. Devaney and his office for bringing this to my attention. At this briefing, I immediately determined that critical improvements were needed, in addition to those that were already underway.

Since February, we have taken immediate and proactive steps to identify the deficiencies at these detention centers and take appropriate action. I would just like to say that prior to my coming on board, my previous background was in the restaurant industry where we take the health, safety and welfare of our guests to be the highest priority. When I was made aware of this by Mr. Devaney, I took the same reaction, that this was a very important priority and I tackled that problem with a sense of urgency. In fact, within the first 24 hours, I had gathered members of my staff and discussed a detailed plan of action that I wanted taken and expressed that the current conditions of the Bureau's detention facilities were totally unacceptable to me.

Within the next 48 hours, we had assembled a task force to start working on this problem. By the end of the week, we had mobilized over 100 people to start our own investigation throughout Indian country, especially the Bureau facilities that we run, to take and do an investigation on what was actually taking place.

I just want to highlight that. I cannot answer for what happened before, but upon my hearing about it, we did not waste one day; we acted immediately to start putting things in place.

Even though it is not in my testimony, I would like to address the concerns that you have regarding Chemawa. Like Mr. Devaney, since it is under active investigation, I cannot comment specifically on it. But I want to share with you that when I had heard about this, we stopped that practice of holding children in detention cells. There are currently no detention cells in our school systems that are being used.

In addition, we also implemented a safety procedure that if any of our children are inebriated, that we have totally changed how they are treated. They are immediately sent to a hospital and placed under a physicians' care until they can be released. When they are released, and brought back, they are under supervision. There are many things that we have implemented regarding the health and safety of our youth, so an incident like the one at Chemawa's should never happen again.

Also, even though it is not in my testimony, one of the things that we did was to stop including juveniles adult facility. We have stopped that process immediately. There are no juveniles being held in adult facilities. It has caused some problems in the past, but we have put a stop to that practice.

It is important to get across we have not treated this as business as usual. We have taken this to be a high priority and have treated it with a sense of urgency and immediacy.

Thirty-nine of the Bureau-owned detention centers were inspected for operational health and safety concerns by March 10, 2004. The 20 worst detention centers that are owned by the Bureau were also inspected for structural, plumbing, electrical and environmental concerns by March 10, 2004. The remaining 19 were inspected for structural, plumbing, electrical and environmental concerns by June 1, 2004.

Inspections were completed in compliance with BIA handbooks that are based upon national standards such as the American Correctional Association standards, uniform building codes, national fire life safety codes, and all pertinent environmental standards. Thirty-nine Bureau-owned detention centers were inspected to determine necessary repairs, whether minor or major. All needed repairs were entered into the Bureau's facility and management computer information system for tracking of project completion and full financial accountability.

I would like to further comment that our staff put in a very herculean effort to put this report together so that I would have correct and full information; so that I knew what I was dealing with. I would like to acknowledge the work done our staff on that.

The CHAIRMAN. Can we have that report? I do not think we have a copy of that report. Could you provide that so we can include that in our record?

Mr. ANDERSON. Yes.

The CHAIRMAN. Thank you.

Mr. ANDERSON. This year, in 2004, we have dedicated a total of \$6.4 million to address normal annual facilities operations, as well as facilities safety and environmental deficiency concerns. Prior to that, the budget was \$1.4 million. Within the first several weeks, we had identified another \$2 million, and since then we have raised that to a total of \$6.4 million. I think it shows that we have reacted swiftly to take care of the things that we could do immediately.

About 84 percent of this funding has already been distributed to the detention centers for completion of identified repairs and normal annual operating expenses. In addition, about 45 percent of these immediate repairs have been completed since we started this.

The Office of Facilities Management and Construction and the Office of Law Enforcement Services have already begun corrective actions to reduce threats of harm to life and property. These actions include, number one, closing unsafe facilities, revising procedures for reporting and reviewing serious accidents, which was one of the concerns of Mr. Devaney's office, the reporting. I would also like to recognize Mr. Walt Lamar who is our Acting Director for Law Enforcement. He is here with me. If necessary, he is willing to help answer questions.

I would like to say that he has done a terrific job. He has set up a war room in the Department of the Interior, bringing in his best officers. They have been working night and day. They have worked through weekends and even this past weekend, missing Father's Day, to work on restructuring our reporting procedures.

A lot has happened, and I want to say that much of this has happened even before it was brought up in the newspapers. I want to assure the committee that this was not something that just happened because there was something in the newspapers; these officers have done a remarkable job considering the constraints that they are under. We have good police officers and I know they are. I would like to recognize that before this committee.

[Prepared statement of Mr. Anderson appears in appendix.]

The CHAIRMAN. I am pleased to see that the Department of the Interior and the Bureau takes the issue so seriously, and that you have provided some very strong leadership in trying to correct it.

Let me ask you a couple of things. I think there is a movement, or maybe not a movement, but certainly some discussion about whether it would be wiser to try to establish regional correctional facilities, rather than having every tribe have one. What would your view be on that?

Mr. ANDERSON. I think that is something we are considering. We are looking at being able to maximize the resources that we do have. It is something that is being looked at.

The CHAIRMAN. The second thing is that some tribes, as I understand, they have, for lack of a better term I guess, over-capacity. They have more cells. They have more space than they need. They are renting those out to other tribes, which helps offset the cost of running the facility, too. Is that something the Bureau encourages?

Mr. ANDERSON. I think that what we are doing is using whatever facilities are available. I think in some instances we have extra

space. In other facilities, we find ourselves overcrowded. We have had to move prisoners to appropriate facilities.

The CHAIRMAN. Have you initiated any special training or partnerships with other agencies to try to reduce the terrible suicide attempts in BIA jails?

Mr. ANDERSON. Yes, sir; we have. We have recently met with the Department of Health and Human Services. We have also been working with Justice. I would like to say this, you know, the suicides that happen are not a product of detention centers.

The CHAIRMAN. Yes; they come in with emotional problems or additions to drug or alcohol or something, and that is contributing.

Mr. ANDERSON. This is one of my concerns as assistant secretary. I have gone on record that we need to declare war on drugs, alcohol and gangs in Indian country. As you are aware, I have spent much of my time visiting tribes in the short time I have been on board, and have visited almost 40 schools throughout Indian country in talking to our Indian youth. I really believe that the high suicide, high alcoholism and substance abuse, the dropout rate and the unemployment in Indian country are not a result of Federal interference, but it are really a result of young people growing up without hope.

We had an opportunity to talk the other day. One of my goals is to be able to work within our school systems to turn our schools into leadership academies, to start addressing the mental health of our children, being able to teach them success principles because I really believe that when our young people do not have hope in their future, that this is what causes the despair. I really believe that one of my roles and the reason why I was brought on board, because I think you could have found many other people that could have addressed some of the trust issues and other things like that, but I really believe that the message that I bring to Indian country is that as Indian people, we have a future; if we work together, we can achieve great things. That is the message that our children need to hear.

The CHAIRMAN. I commend you for that attitude. It is sorely needed. Thank you.

One other thing, the Department of Justice said in their testimony that there are roughly 500 unreported incidents. Is there any changes in detention staff being trained or something on how to report incidents in the Bureau's jails?

Mr. ANDERSON. Yes, sir; there is. Again, as I stated earlier, we have treated this with an immediacy, a sense of urgency, to the point that we have a war room within the Department. It is something to see, we have taken every aspect of law enforcement and detention centers and we are addressing every single issue. We have 32 high-priority elements that we feel must be taken care of or we are going to continue to experience these same problems.

One of our priorities is the reporting of suicides and attempted escapes. I will share with you that throughout law enforcement the Department and the Bureau know that this is of the utmost concern to me. It is something that I do not take lightly, and it is something that we have implemented as part of the job performance.

The CHAIRMAN. Thank you. Again, thank you for your leadership on this issue.

Senator Inouye, did you have questions of Secretary Anderson?

Senator INOUE. Just a couple of questions.

Mr. Secretary, I want to commend you for the proactive attitude you have adopted and for the work carried out by you and your team. I think it is safe to assume that these conditions existed before you took over. Was BIA notified of these conditions? Does the record show that they knew about it? Or did it suddenly become obvious?

Mr. ANDERSON. I cannot answer what happened before me. I do know that it is being investigated by Mr. Devaney and his office. I will assure you that when I came on board, that not 1 day went by before we took action on it. I believe that the health, safety, and welfare of our Indian people or those who are non-Indian who are within our jurisdiction are a very high priority and the issues raised by Mr. Devaney should be treated with the utmost of urgency.

Senator INOUE. I have participated in many hearings, and this is one of the most depressing, obviously. If you had to select one facility or one tribe as having a good arrangement, can you pick one so we can have a model prison? Is there such a thing? I would like to have something positive in the record. [Laughter.]

Mr. ANDERSON. We have the Southern Ute who will be testifying. They are highly regarded for the work that they have done within their law enforcement and detention center.

Senator INOUE. So this is a model that Indian country should look at?

Mr. ANDERSON. Yes.

Senator INOUE. Thank you, sir.

The CHAIRMAN. Chairman Richards of the Southern Utes is here and he will be testifying. We will ask him some particular questions about that facility.

Now we will move to Ms. Henke. If you could go ahead and proceed. The same thing, we will submit some questions for the record and please abbreviate.

**STATEMENT OF TRACY HENKE, PRINCIPAL DEPUTY
ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE**

Ms. HENKE. Certainly. Due to time, I will abbreviate.

Mr. Chairman, Vice Chairman Inouye, my name is Tracy Henke and I do serve as the Deputy Associate Attorney General for the Department of Justice. I want to thank you for the opportunity to discuss the Department's limited role with tribal detention facilities.

There are two groups of Indian offenders who may be in Federal custody. First, there are prisoners who have committed an offense under Federal law. Often, these offenses fall under 18 USC Sections 1152 and 1153. Section 1153 is known as the Major Crimes Act and 1152 is the Indian Country Crimes Act. Offenders in this category are under the jurisdiction of the Bureau of Prisons and not in Indian tribal facilities.

The second group of prisoners have committed offenses under tribal law. Indian prisoners in this group are under the jurisdiction of the tribe whose law has been violated. As part of their inherent

sovereignty, Indian tribes have jurisdiction to prosecute all crimes committed under tribal law by Indians in Indian country. These prisoners are generally in facilities operated by the BIA or the tribal government.

The Department of Justice's involvement with Indian country detention facilities is generally limited to our correctional facilities on tribal lands program. This program provides funds to American Indian and Alaska Native tribes to construct correctional facilities on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

Specifically, the Department of Justice has administered tribal correctional facility grants. It is important to understand that these grants are statutorily limited to brick and mortar construction costs only. Grantees are responsible for fully supporting, operating and maintaining these correctional facilities.

Since the inception of funding of the program, the Department of Justice has provided funding to 23 tribes for jail construction. Of these 23 facilities, 8 facilities are exclusively juvenile, 12 are combined adult-juvenile; and 3 are exclusively adult. All 23 tribes are actively implementing design or construction initiatives. Some have added beds to existing facilities, but most involve new construction. Proposed facilities range in size from 8 to 68 beds.

In addition to the correctional facilities on tribal lands program, the Department's Bureau of Justice Statistics compiles statistics relating to detention facilities in Indian country. In November 2003, the BJS published Jails in Indian country 2002, the most recent survey of adult and juvenile detention centers in Indian country. Data for this bulletin was obtained by mailed questionnaires, accompanied by phone calls and faxes. In total, 68 of the facilities in Indian country responded. For the committee's review, copies of the bulletin, as well as the questionnaire, have been provided to the committee.

It is important to note that while the Bureau of Justice Statistics Bulletin contains statistical information about the Indian detention facilities, it does not gather information regarding conditions in jails. As the Administration, through the BIA, works to improve Indian detention facilities, the Department of Justice will continue to assist as we are able. Most recently, as pointed out, an experienced administrator from the Department's Bureau of Prisons, has been detailed to the BIA to assist in the development of strategies to improve the delivery of detention services in Indian country. The Department of Justice looks forward to this opportunity to work with the Department of the Interior to address this issue.

Mr. Chairman, this Administration, specifically Attorney General John Ashcroft, has pledged to honor our Federal trust responsibility and to work with sovereign Indian nations on a government-to-government basis. The Attorney General and the entire Justice Department will honor this commitment and continue to assist tribal justice systems in their effort to promote safe communities.

As you have pointed out, Mr. Chairman, often the most effective solutions to address the problems facing Indians and the tribes come from the tribes themselves. Our role is to help them to develop and implement their own law enforcement detention and criminal justice strategies.

This concludes my statement. I am happy to answer any questions that you might have.

[Prepared statement of Ms. Henke appears in appendix.]

The CHAIRMAN. Thank you. Just a couple of quick questions.

You mentioned the funding that the DOJ has provided. How is that funding distributed? Does it go through the Bureau?

Ms. HENKE. Actually, sir, the funding that has been provided, Congress has specifically directed the Department on where those funds are to go.

The CHAIRMAN. Okay. Is there a formula for that, based on the number of enrolled people in the tribe?

Ms. HENKE. It is done through congressional earmarks through the appropriations process.

The CHAIRMAN. I see.

Also, you stated that an experienced administrator was assigned to help the Bureau develop strategies to improve detention facilities services. How long has that person been in that position? Have you measured any progress in that period of time?

Ms. HENKE. He has only been there about two weeks.

The CHAIRMAN. Okay.

Senator Inouye, do you have further questions?

Senator INOUE. Ms. Henke, if I may ask, for fiscal year 2000 until 2002, the Justice Department devoted about \$35 million in funding to tribal detention facilities. Then in fiscal year 2003, it went down to \$5 million and then in 2004, to \$2 million. Can you explain why?

Ms. HENKE. There are a couple of reasons, sir. As pointed out by the Chairman earlier, not all the facilities were operating at capacity. On average, according to the Bureau of Justice Statistics report, during the month of June 2002, the average capacity was approximately 79 percent. In addition to that, the Administration believes that we have to identify, because the Department of Justice grant program is only for construction, not for operation and maintenance et cetera, funds for those activities have to be identified.

Finally, sir, Congress has not provided the Department of Justice any discretion in working with the BIA on how to allocate those resources. Congress has specifically directed. There has been no disagreement in the past between the BIA and the Department of Justice on where those resources should go. We just have not been given the discretion to allocate those accordingly.

So in making some tough budget decisions, the Department currently has not requested additional new construction costs.

Senator INOUE. So you are suggesting that the sudden drop in funding was a congressional decision?

Ms. HENKE. Well, Congress has appropriated the dollars and has specifically earmarked where those funds should go.

Senator INOUE. Did Justice request more funds?

Ms. HENKE. The Department of Justice, the Administration, has not requested additional funds for new construction. We believe funds need to be identified to address the current situation facing the current facilities, and those issues are maintenance and operation, before we request funds for new construction.

Senator INOUE. Thank you very much.

Ms. HENKE. You are welcome.

The CHAIRMAN. One follow-up, Ms. Henke. You mentioned that sometimes the construction is based on earmarks from the Hill here that does not go through some formula. Would you support eliminating that current system and going to some kind of a need-based program that is determined by the Administration?

Ms. HENKE. The Administration has stated on numerous occasions that they do not support the earmarks through the appropriations process in general. So we would support having the ability to have a needs-based or additional formula-based process to distribute those funds.

The CHAIRMAN. Okay. I thank both of you for appearing here today. As with our first panel, if you have any recommendations how we might get involved to make things a little better, we would certainly appreciate it.

Mr. ANDERSON. Thank you.

Ms. HENKE. Thank you.

The CHAIRMAN. Thank you, Dave, and if you have the time you might want to stay and hear our last panel, or at least some of our last panel, I think their testimony is very important.

We have Howard Richards, the chairman of the Southern Ute Tribe; Vivian Juan-Saunders, chairperson of Tohono O'odham Tribe from Arizona; and Hope MacDonald-Lonetree, chairperson of the Navajo Council Public Safety Committee; Darrell Martin, president of Fort Belknap Indian Community Council; and Fred Guardipee, council member for the Blackfeet Tribe of Montana.

We will go ahead and proceed with Chairman Richards, my friend and colleague and neighbor from Southern Ute. They have a facility at Southern Ute that I think very frankly could be a model for the tribal jails and courts that could be used nationwide. If any of you have an opportunity to visit that, you should get a hold of Chairman Richards.

Go ahead and start, Howard.

STATEMENT OF HOWARD D. RICHARDS, Sr., CHAIRMAN, SOUTHERN UTE TRIBE

Mr. RICHARDS. Mr. Chairman, Mr. Vice Chairman, members of the committee, thank you for allowing the Southern Ute Tribe to provide testimony on an age-old issue that has been around since the Government detention facilities.

I am the chairman of the Southern Ute Indian Tribe from Ignacio, Colorado. I am not out here to magnify or illustrate what has already been said to this point. We all understand that there is a problem in Indian country in the field of detention facilities, a problem that has existed when I first became a tribal police officer in 1979. I experienced the horrors of a government-run detention facility up until my departure from the tribal police department in 1991, when I was then elected to the tribal council. So in short, been there, done that, and seen everything that the issue brings forward today.

I would just like to offer recommendations based upon what Southern Ute has experienced. They are five recommendations that I bring to this committee. Recommendation number one is that Congress must allocate enough money to build and maintain facilities that are secure and legally sufficient. Having said that, the

tribe itself funded construction of the new facility in 1999. Given what was happening in Indian country specific to Southern Ute, we had enough of the government. We had enough of the BIA-run program.

The tribe actually funded the total project cost in excess of \$9 million to build the corrections facility at Southern Ute. Why did we do that? We felt that we would have better control of the facility outside of 638 contracting with regard to detention, without the BIA regulations hindering the tribe. The other reason why we chose to go it alone is that the Southern Ute Tribal Council looked at rehabilitation of inmates versus warehousing of inmates as you see today.

The tribe subsidizes the operation and costs by intergovernmental agreements. Today, we have 18 IGA's with 17 tribes, many of the Pueblo Tribes of New Mexico. We have one presently with a tribe from California. We have two other IGAs with the Federal Government, that being the Immigration and Naturalization Service and the Federal Marshall's program.

Point number two is to allow tribes more flexibility for involvement in management of Federally funded tribal detention centers. The flexibility that I am talking about is rehabilitation that our program, our tribal detention center has 13 proactive programs. You will find in my testimony that I submitted, with rehabilitation in mind, that the Southern Ute Tribal Council wanted the inmates, once they were released from our detention center to be productive members of the society, as well as productive members of the Southern Ute Indian Tribe.

Point number three is the need to separate detention from police functions which is very critical, very important. You will hear testimony to that. At the Southern Ute Indian Tribe, detention has been separated. It has a separate administration and budget. The reason for that is that when we looked at the Federal funding on the government side, that Federal money for law enforcement programs usually means detention. Funding takes a back seat to other spending. We lived with that for many years, so the attitude in changing to a tribal control where we would run our own programs and separate that from the police action.

Point number four is to hire detention professionals to manage detention centers. That is what the Southern Ute Tribe did in 1999, with the separation of detention from tribal police for many reasons. When you hire professionals that deal only with detention, you have a better control of the inmates. When you combine police and detention facilities, the majority of the times, nine out of ten or ten out of ten, you will have tribal police officers acting as detention officers at that point, which can be viewed by police officers as punishment for whatever, or to be utilized as a training grounds. They also would dispatch for law enforcement in addition to supervising inmates.

Point number five, for detention, the need to have good operating policies and procedures in place are very critical, as found at Southern Ute. Our principal policies are reviewed on an annual basis. We have adopted the American correctional standard as far as detention facilities at Southern Ute.

In conclusion, Mr. Chairman, Mr. Vice Chairman, we realize that few tribes can afford to build and operate their own detention center without any Federal funding, as we have done. We hope however that our experience and our recommendations might give you some ideas on how to improve conditions in Indian tribal corrections facilities.

I want to thank you for inviting me to testify before this committee. On behalf of the people of the Southern Ute Indian Tribe, thank you very much.

[Prepared statement of Mr. Richards appears in appendix.]

The CHAIRMAN. Thank you, Chairman Richards.

We are going to run out of time before we get to ask everyone questions. So before going to Vivian Juan-Saunders, let me ask you a couple of things, and Senator Inouye may, too, before we have to run to vote.

The Southern Utes, a very progressive tribe, have an alcohol recovery program called Peaceful Spirit. Does that work in conjunction with the tribe on what you call rehabilitation of people that are in the jail?

Mr. RICHARDS. That is correct. The inmates have an option of moving into and taking treatment at the Peaceful Spirit Center, but also we provide AA-type rehabilitation while they are incarcerated in the jail itself, in the detention facility.

The CHAIRMAN. In that program, you use the modern systems of rehabilitation, which is counseling. But also I noticed that they also have sweat lodges and things that try and use the traditional and religious way of recovery, too. Is that correct?

Mr. RICHARDS. That is correct, Mr. Chairman. The Southern Ute Tribal Council felt that because of the process that we were experiencing, that there was no spiritual or traditional healing within the justice system. So therefore we chose to run our own detention center that would allow traditional and cultural healing within our people.

The CHAIRMAN. Good.

Senator Inouye, did you have any questions of Chairman Richards before we move on? I guess we have kind of run out of time. Okay, then let's go ahead. Vivian Juan-Saunders, if you would proceed.

STATEMENT OF VIVIAN JUAN-SAUNDERS, CHAIRWOMAN, TOHONO O'ODHAM NATION

Ms. JUAN-SAUNDERS. Good morning. Thank you for the opportunity to testify. My name is Vivian Juan-Saunders, chairwoman of the Tohono O'odham Nation in Southern Arizona.

The BIA built our detention facility in 1961. It was built to hold a capacity of 34 inmates. The BIA owns the facility and through 638 contracting the Nation operates the facility. For many years, the detention facility on our Nation has had the unfortunate distinction of being one of the most overcrowded jails in Indian country. Our average daily population ranges from 110 to 115. This has resulted in a 300 to 350 percent overcapacity rate.

In 1987, the BIA renovated the facility. However, it did not address the overcapacity issues. It costs approximately \$3.4 million per year to operate this facility. The BIA provides only one-third

of the funding. The Tohono O'odham Nation uses our own tribal funds to pay for two-thirds of the operations, or approximately \$2.3 million. Our juvenile corrections program is separate from the adult facility and is operated by our tribal court system. Once again, the tribe pays for the juvenile program with no support from the BIA.

Our adult detention facility has a staff of 40 people. In our testimony you have a listing of the positions. However, five of the positions are frozen due to funding limitations. From our own experience, we know that proper and ongoing training is essential to effective jail management. Through our own efforts, without any direction from BIA, we have established policies and procedures that are in accordance with standard corrections operations. We have ongoing staff development and training practices. We implemented a classification system that assesses an inmate's psychological background, reviews past offenses, and evaluates the prevalence of mental illness and other relevant factors to establish the appropriate placement and treatment of the inmate.

The corrections staff attends the Indian Police Academy for basic corrections training and participates in a structured in-service field training program. We continue to operate with a philosophy to respect inmates. However, oftentimes because of our shortfalls with staffing, we do fall by the wayside. However, that is our common philosophy.

We have many programs funded by the tribe, volunteers who come into the facility to provide help, prevention, addictions, religion, traditional services and contact visitations. One of the concerns that I am hearing from our tribal behavioral staff is they are trained to address alcohol and drug addictions, and not mental health issues. So they are concerned going into the detention facility about their own safety because of the lack of training, but increase in mental health issues of inmates coming in.

A recent report issued by the Inspector General in the Department of the Interior gave our adult detention facility a fair rating. While we are stretching our resources as far as possible, the facility continues to suffer from extreme overcapacity and need for basic capital improvements, such as upgrading the ventilation system, fixing showers, and replacing old backup generators.

In the wake of the USA Today articles, we were informed by local BIA officials that additional resources have been identified to address deficient jail conditions. However, we have not been provided specific information regarding what additional resources or funding will be available.

I am happy to report that we are in the design stage for a new facility intended to house minimum security inmates that will be constructed with funding from the Department of Justice, a total of \$6.7 million. Our timeline for operations is September 2005. The facility will be designed for 52 beds for both adults and juveniles. This will solve part of the problem. However, we still do need a maximum security facility to address violent criminals, sexual offenders, and gang members whose activities are increasing on our reservation.

Another related problem that must be addressed is the lack of prosecution by the Arizona U.S. District Attorney for serious fel-

only-level offenses. For example, we have had people in custody for murder who after the maximum tribal sentence, walked free with no Federal prosecution. We believe that additional Federal resources must be provided to address this serious problem. A specialized Indian country crime unit should be created in the Arizona U.S. District Attorney's office with Federal law enforcement personnel assigned to work exclusively with tribal police and prosecutors. Without appropriately prosecuting violent crimes in Indian country, the crime rates will continue to rise and repeat offenders will continue to go unpunished.

A model is the FBI Safe Trails Program, where the Tohono O'odham Nation has access to five FBI agents to assist our tribal police with homicides, crimes against children, gang-related violence and serious aggravated crimes. So there is a model out there through the FBI.

Also within the Department of Justice, sufficient funding for tribal detention facilities must be included in its annual budget. Within the BIA, sufficient funds must be budgeted for facility operations. Both of these Federal agencies must consult with tribal governments and undertake a strategic and comprehensive planning effort to implement reform of tribal corrections facilities. The BIA should create a separate line item for corrections programs which includes adequate funding for staffing, equipment and operation and maintenance of facilities.

Along these lines, proper respect and recognition must be accorded to the corrections profession. This means we must provide competitive wages, professional development opportunities, and training incentives to attract and retain qualified individuals.

In conclusion, the appalling condition of jails in Indian country have been ignored for too long. Sometimes it takes an unfortunate tragedy to bring attention to these needs. We have not reached that level on the Tohono O'odham Nation, but based on our experience, jails in Indian country need immediate attention.

Thank you for the opportunity to testify today.

[Prepared statement of Ms. Juan-Saunders appears in appendix.]

The CHAIRMAN. Ms. Juan-Saunders, you were here last July and testified that your tribe annually spends about \$2 million to \$3 million on border patrol. We all know that border patrol is supposed to be a function of the Federal Government, the cost of it, but you are sort of stuck with it, being on the border where your tribe is.

Is any of that money reimbursed by any of the agencies of the Federal Government, like the Bureau of Immigration and Customs Enforcement?

Ms. JUAN-SAUNDERS. The total cost is \$7 million and, no, we are not reimbursed.

The CHAIRMAN. You do not get any reimbursement for that. Okay, thank you. We will have some further questions. We will move on to Ms. MacDonald-Lonetree please.

STATEMENT OF HOPE MACDONALD-LONETREE, CHAIRPERSON, NAVAJO COUNCIL PUBLIC SAFETY COMMITTEE, NAVAJO NATION

Ms. MACDONALD-LONETREE. Good morning, Mr. Chairman, Vice Chairman Inouye, members of the committee. Thank you for the

opportunity to provide the Navajo Nation's statement on Indian tribal detention facilities.

On behalf of the Navajo Nation, I want to thank you for your support and your funding of these facilities in Indian country. The Navajo people directly benefit from your concern and your support.

For the record again, my name is Hope MacDonald-Lonetree. I am an elected Navajo leader and serve as the chairperson of the Public Safety Committee of the Navajo Nation Council.

As the nation with the largest population and the largest Indian reservation, we have various unique geographic, demographic and intergovernmental features that require significant congressional awareness, leadership and budgetary considerations. Navajo does not have enough detention facilities, personnel and equipment. This leads to unsafe communities and a lack of economic opportunity. We need the resources to provide more detention facilities, personnel and equipment to make our communities secure.

Navajo currently only has 103 jail bed spaces for a nation of more than 300,000 people. Detention facilities were built in the late 1950's and early 1960's, and they became so deteriorated that in 1992 the Navajo Nation court ordered all facilities closed as health hazards. The court and Federal inspectors told the tribe that the jail facilities were not fit for human occupants and not even safe for detention personnel.

I have provided you with a page of major incidents and fatalities as a part of my written testimony.

The CHAIRMAN. It will be included in the record.

Ms. MACDONALD-LONETREE. Thank you.

After minor renovations, by consent decree the jails were reopened with limited bed space and that resulted in the 103-beds now available. Those often close intermittently due to the environmental health inspections because of the unsafe nature of those old facilities.

We have only three juvenile detention facilities and one of these has been recently closed due to a lack of funds to make those repairs. Despite this lack of jail bed space, we have over 33,000 arrests a year on our reservation.

Members of the committee, I urge you to come and see for yourselves the deplorable condition of our detention facilities. But more than that, I hope that you will see for yourselves the need for immediate resources to ensure Navajo public safety. We need additional facilities, new facilities. We need increased law enforcement personnel. We need adequate and up-to-date equipment.

Mr. Chairman, members of the committee, the tremendous rise in crime on the reservation is not due to the lack of resolve on the part of the Navajo Nation. It is not due to the lack of dedicated officers who are well-trained and committed. It is due to the lack of sufficient annual funds to address the need for detention facilities, more personnel and adequate equipment.

The high crime rate is directly related to high unemployment and poverty. Very few companies want to come to an unsafe community. Therefore, economic opportunity and jobs for our nation are adversely affected by the lack of safe and secure communities.

The U.S. Attorney's office of Flagstaff, Arizona estimates that violent crime on the Navajo reservation is six times higher than

that of the national average. Increased crimes include alcohol and drug abuse, domestic violence and child sexual abuse. We cannot even address domestic violence on Navajo because we cannot even separate the abuser from the victim due to the lack of facilities, and the abusers know that.

We cannot even protect our children from sexual predators. Just in one community, there were over 100 reported incidents of child sex abuse in 1 month. We cannot protect our families from somewhere to put the perpetrators threatening our communities. Navajo Nation averages one officer for every 4,000 people, compared to the national average of three officers per 1,000. Our officers perform alone without partners and without radio communication for backup. As you heard earlier from the Inspector General, we often only have one detention officer for a facility, and that is very dangerous for our officers.

Let me share an incident that will enlighten you on some of the situations that we face on Navajo. An officer responded to a call and found a man beating his wife and family. The wife did not want him arrested. She knew that he would be detained for a few hours due to the lack of facilities, and feared that he would return more violent. Because she did not want him arrested, she attacked the officer herself and tried to get his gun. The officer managed to get away, leaving the abuser with his family. That is because the people know we have no jails.

Another sad incident, and this is included in the written statement, a young boy was arrested for attacking his brother. After a short hour in jail, he was let out. A week later he was arrested for attacking his sibling again. He was again released after a short time in jail. The third time he was arrested was for stabbing his mother. This is because we cannot detain these individuals and we have no facilities.

Criminal incidents and recidivism are high on the reservation, all due to the factors I have described. Criminals are allowed to return to their community without incarceration. We cannot incarcerate criminals without putting them at significant physical and health risk. In many instances, the tribal court is a revolving door for our criminals. Criminals and their victims have a complete disregard for our criminal justice system. Communities across the reservation and neighboring towns are at risk. Public safety officers are at risk.

From all statistics and reports we are receiving, Navajo crime rates will continue to increase unless we address this problem now. We need sufficient funds to replace and build seven new facilities. These facilities must include sufficient personnel and equipment to manage a growing epidemic of criminal activities on the reservation.

Yes; we need your help now. Just to bring our detention facilities up to the national standard will require \$140 million from Navajo. This is just to cover the basic need for facilities. This does not even include services that can be provided in the jails.

Members of this distinguished Committee on Indian Affairs and the U.S. Senate, I urge you to help us correct years of neglect and underfunding and help us to secure our communities. I have provided you with a written statements and recommendations on behalf of Navajo and I am available for any questions.

Thank you.

[Prepared statement of Ms. MacDonald-Lonetree appears in appendix.]

The CHAIRMAN. Thank you.

Did I hear the numbers right? To me, they were just absolutely astounding, but 33,000 arrests per year?

Ms. MACDONALD-LONETREE. Yes.

The CHAIRMAN. And you only have 103 beds?

Ms. MACDONALD-LONETREE. At the maximum, and like I said, some of them close off and on, so we can sometimes have 50 to 70 beds available.

The CHAIRMAN. I see.

So with that kind of arrest rate and that few places to put them, you mentioned the word "revolving door." It must be a revolving door in the police departments when they are arrested, too. They keep them for a while and then just turn them back out. Is that what happens?

Ms. MACDONALD-LONETREE. That is correct. And also, in the attachment that I gave you, inmates are often held in back of the police cars or panels for hours because there is no place for them.

The CHAIRMAN. Because there is no place for them. So if they get arrested, sometimes is it correct to assume that they get turned right back out on the street before they even come to trial?

Ms. MACDONALD-LONETREE. That is true, because the officers, as a matter of fact, on Navajo say they are very frustrated. Before the ink dries on the report, the person they arrested is out.

The CHAIRMAN. So then that leads to the question you probably have a repeat offender program for a repeat offender problem of people that are being arrested for the same thing over and over. You mentioned the young man that beat his brother up and then ended up stabbing his mother.

Ms. MACDONALD-LONETREE. Absolutely. That is what also causes the violent crime, because they know there is no law and order on Navajo.

The CHAIRMAN. Senator Inouye.

Senator INOUE. I have just one question. I realize that on a matter of this magnitude, you cannot point fingers and say the Administration is at fault or the Congress is at fault or Indian country. I think all of us have our share of fault. But I am looking over your prepared statement and it says the following: "In February 2002, DOI estimated that the deferred maintenance backlog was between \$8.1 billion and \$11.4 billion." I have been on this committee now for nearly 30 years and I have been chairman at times or vice chairman. But I must confess that I have never heard figures of this magnitude. There is some disconnect in the information. But I thank you very much for your testimony.

Ms. MACDONALD-LONETREE. Thank you.

The CHAIRMAN. Thank you.

Now we will proceed with President Martin.

**STATEMENT OF DARRELL MARTIN, PRESIDENT, FORT
BELKNAP INDIAN COMMUNITY COUNCIL**

Mr. MARTIN. Thank you, Mr. Chairman, Mr. Vice Chairman, members of the committee. I want to thank you for giving me the opportunity to testify on this important issue.

I speak on behalf of the Gros Ventre and Assiniboine Tribes of Fort Belknap. I serve as the president on the tribal council. Fort Belknap is located in north-central Montana, about 200 miles north of Billings, which is the largest city in Montana.

The tribal headquarters is also 350 miles from Great Falls, which is the only city that has a certified juvenile detention facility. Adult detention facilities at Fort Belknap is a single jail providing adult detention facilities for over 5,000 enrolled members. We only have eight beds in that one facility. The jails are reviewed and deemed defunct and can no longer be housing inmates for no longer than 72 hours.

Inmates in need of transport will have to be transported for 1 hour because we have no room to house them in our own facility, or they will be shipped to Fort Peck Reservation that is at least a 3-hour drive from Fort Belknap. We asked for reconstruction money and did not receive any money to reconstruct this deplorable situation on Fort Belknap. In 35 years, we have only renovated the current facility.

The cost of transportation has been significant. It has often required overtime by our police officers to shuttle prisoners back and forth on drives that are often 6 hours round trip in good weather. In winters, with long and often bitter cold, and poor weather trips, can delay a trip up to 10 hours for a round trip to transport a prisoner or a juvenile to Great Falls.

The families of detainees that have to visit their families to Great Falls or Billings have to travel long distances in cold weather. They have no money to travel these long distances to visit their families that are incarcerated, because we have no facility in Fort Belknap to house them.

Juvenile detention facilities, we have never had a juvenile detention facility on our reservation. For several years, we have contracted for placement in Blaine County youth detention facility about 25 miles away. However, this facility will close shortly. It does not meet State standards. It has not provided counseling or treatment for the youth detention. I want to put on the record, too, there is no mental health help for these individuals as well.

Limited funding has exhausted the youth, and they have to be detained on Fort Belknap in the same environment as adults. There is limited funding for counseling and treatment for youth and their families. Many families simply do not have the resources to travel to Great Falls and visit their children.

For nearly 6 months of the year, traveling such distances is simply dangerous because of the cold weather and difficult roads. We need a solution at Fort Belknap to detain youth locally, provide timely return to the youth to make a difference in their lives; to encourage them to go on.

I want to thank the committee for listening to our testimony today. We ask the committee to please help provide funding for jail and detention facilities. I want to thank the committee. Thank you.

[Prepared statement of Mr. Martin appears in appendix.]

The CHAIRMAN. Thank you for your testimony. In listening to all of your testimony, I just mentioned to staff, my gosh, the numbers sound like something you would find in Iraq, not the United States. They are just deplorable.

Go ahead, our last person who will testify is Fred Guardipee.

STATEMENT OF FRED GUARDIPEE, COUNCIL MEMBER, CHAIRMAN OF HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE, BLACKFEET TRIBAL BUSINESS COUNCIL

Mr. GUARDIPEE. Good morning, Mr. Chairman. I want to thank the Chairman, Vice Chairman and members of the committee. My name is Fred Guardipee. I am a member of the Blackfeet Tribal Business Council for the Blackfeet Tribe in Browning, MT. We are in the northwestern part of the State. I am also the chairman of the Blackfeet Tribal Council Business Law and Order Committee.

I want to talk about the detention facilities on the Blackfeet Nation. Our reservation jail was built back in 1970, as were most of the facilities we were discussing this morning. It was built to hold 35 prisoners. At the time I was working there as a law enforcement officer, it was probably one of the most modern facilities in that area.

However, today that facility has deteriorated. In 1995, the Blackfeet Nation was operating the facility. It was then under a 638-contract that the BIA took over the operations of that facility. Then the tribe operated it in conjunction with the Bureau under a 638-contract until 2002, on a resumption of the BIA law enforcement services.

However, that facility now, it has become a problem. It is unsanitary. There is no ventilation. The heating system does not work, the showers. It was made to hold 35 prisoners, but as many as 250 prisoners have been held in there at one time. They are sleeping on floors. They have very little bathroom facilities. Consequently, they are urinating and defecating on the floors. When you enter the facility, that smell stays with you. It stays with your clothing when you leave. I worked in that building for a number of years.

The plumbing system is inadequate. It does not work. We have had shut downs of our water. Our water system that is used to provide drinking water is not drinkable. It is very bad. We have had to utilize the bottled water system for years, for our prisoners.

On the Blackfeet Nation, we have around 15,000 tribal members enrolled. We have about 10,000 living on the reservation. We are bordered on the north by the Canadian border and on the west by Glacier National Park. Those 10,000 members are there year-round residents. However, during the summer months that population increases to over 2 million people passing through our Blackfeet Nation.

We hold tribal, State and Federal prisoners, from murderers to vagrants in our facility. Yet it is not adequate. It is not safe. There is a danger to our staff. Our staff have been assaulted and seriously injured in this facility over the years.

The suicide rate, the attempt rate, it is almost one attempt daily, and we have had over the past 5 years at least five successful suicides or deaths in our facility.

We have brought this to the attention of the BIA. I have myself personally on many occasions, the conditions of this facility, asking for renovations. They do bring paint. In a couple of instances, we painted the place and found out the paint was not suitable. It was contaminated and we had to scrape the whole thing back out and start over again.

The ventilation system is so bad that there is no fresh air coming into the facility in the summertime. There was no control over the heat. The heat runs consistently. The furnace is full blast. There is no cool air coming in there.

So if it is 90 degrees outside, it is probably 110 degrees inside those facilities. These inmates are being held from 6 hours to one year in that facility, due to the nature of the crimes. We have every major crime on our reservation, unfortunately. With the drugs, the meth operations, we have ongoing operations on the Blackfoot Nation.

We also have the manufacturing of drugs, and drugs being transported from the Canadian side, passing through unprotected border stations that are not patrolled by the Border Patrol or anyone else. We have about five entrances from Canada, where they are unprotected. The Canadian individuals have keys to the gates. They enter our Nation without any supervision at all. They just come through, open the gate and go, and lock it back up and come into our Nation, into the United States, and they are not asked by anyone or stopped by any Federal agency to check whatever they are bringing in.

Just recently, we had what we call the mad cow. We had livestock entering our Nation through those unprotected border stations. We have chemicals that are banned in the United States that are being brought down through our Nation on these unprotected stations on our border.

But yet we receive no homeland security funding, or very minimal. We have asked for additional patrol officers. We have asked the Border Patrol, the Customs to increase their patrols. Officers were sent into our area, but they are not specifically working the Blackfoot Nation. We have about 80 miles of border there with Canada that is unprotected.

On the west, we have the Glacier National Park. We have three entrances for tourists and other folks. Employees enter, and a lot of things are brought into our Nation, drugs and individuals that are hiding from law enforcement are found in our Nation, in our forests. Several of these people have been caught hiding out in our forests up there.

Over the years, this facility has been very underfunded. We have asked many times to beef up the staff, the Blackfoot Tribe. We have about a \$5-million budget that we are called upon to serve the Blackfoot Nation of almost 10,000 people that live there. We were operating under 638 contracts that when they were originally written were for about \$4.5 million, but were never funded beyond \$1.2 million for law enforcement services for the Blackfoot Nation.

Presently, the Bureau took over operations, an emergency re-assumption in 2000. The conditions have not changed. The law enforcement services are still inadequate. We have seven communities that are not being served by law enforcement. We are now

in a process, and have been for a while, to augment those law enforcement officers with tribal officers funded under the COPS program.

However, that funding is now reaching the stage where those funds are running out, and there is no money available for the Indian nation, the Blackfeet Nation in particular, to hire these officers who we hired over the years that were trained by us or trained at the Indian Police Academy. We need additional dollars.

Our recommendation is that the committee take a serious look at what is going on in our Indian Nations. We had Mr. Anderson come out to Montana. However, he only visited two reservations. We would like to have seen him visit the rest of the Indian Nations. There are seven reservations in the State of Montana. Only two were visited. I think he needs to look at all of them.

I do not know if you have seen the movie that was done by a former BIA officer. That movie clearly illustrates the condition of the Blackfeet facility. I do not have that movie with me today, but I think it is available. We will make that available or leave it as part of our record that does show the condition of the Blackfeet facility.

We are recommending funding for all Indian Nations, but in particular the Blackfeet Nation. To look at our facility right now, we are proposing, we have set aside land. We look at a facility that would cost around \$45 million right now to combine our services. We have a little different philosophy than other nations in that we like to look at one-stop shopping. We want all of our facilities in one area, so our people do not have to run all over the villages to find this service or that service. They come to one place and all their needs are met, the courts, the social services, the detention facilities, adult and juvenile.

We do want to thank the BIA. Over the past two years they have funded, limited funding on a juvenile facility. However, that facility was also built back in 1970 and is in bad need of renovations. The foundations are starting to crack. It is made to hold at least 24 children, and we have instituted a program there to look at rehabilitation. As a Nation, we have turned a ranch over to these children, to their supervisors, for the rehabilitation of those children. That seems to be working very well at this point. That facility also is in bad need of funding. It is going to need to be replaced here very soon.

One of our goals was to improve that facility, to contract with other tribes who are in need of places to have their juveniles taken care of.

Again, I just want to urge the committee to take a serious look at all the Indian Nations, but in particular the Blackfeet Nation in Montana, as well as our neighbor the Assiniboine, who is here testifying today. The great need is of replacement of facilities. I heard testimony earlier that they are looking at renovation and operations. To date, those have only been cosmetic. You throw paint down. You do not do anything with the basic infrastructure there. They need to be torn down and replaced. They are unsafe. They are unsanitary. They are inhumane to the people that have to be in those facilities for a long time.

Thank you.

The CHAIRMAN. Thank you, Mr. Guardipee.

I have a couple of questions. I might mention, though, Secretary Anderson has stayed around to hear your testimony. I am sure this emphasizes the magnitude of the problems. With 240 Alaskan villages and roughly 300 reservations nationwide, and him only being in office 6 months, give him a little time. He has been on the road almost constantly trying to visit reservations. I think he is doing his very best to do that.

Let me ask, particularly since we have two tribes from Montana, I mentioned earlier the question of regional facilities. Would you think in Montana that that would work, to have a regional correctional facility in Montana so all the tribes could use it?

Mr. MARTIN. I do not know if it will work because every tribe has their different ways of rehabilitation through spiritual or through medical. Plus, you have to put in the cost of transportation. Where is it going to be? The nearest McDonald's for us is 91 miles; or the nearest jail for our children is 150 miles. So every reservation, and there are seven reservations in Montana, where are you going to put it where one tribe can be equally driven. Then you are going to look at overtime for your police officers because there is not enough money for police officers, and there is a shortage of police officers.

So I really do not think that would work. In my own opinion, just for the budgetary problems that each tribe has individually.

The CHAIRMAN. Let me ask something else then. The Southern Utes have testified that they got tired of waiting for Federal funding and so they finally built a new facility with tax-exempt bonding. Is that correct, Chairman Richards?

Mr. RICHARDS. That is correct.

The CHAIRMAN. Have the other tribes, the Navajos or your tribe, thought of doing that?

Mr. GUARDIPEE. Yes; we are in the process of doing that, Mr. Chairman. We are exploring that, working with financial institutions within our area.

On the first question you asked, Mr. Chairman, we have a little different philosophy in that we need to improve the facilities on Indian Nations themselves. I agree with Mr. Martin. However, there is a regional facility that is being discussed in the State of Montana for holding juveniles, rather than adults. We are looking at that proposal and it is being discussed by the Montana-Wyoming tribal leaders council, to look at maybe possibly three juvenile regional facilities, because there are none, basically, outside of Blackfeet, that these people can utilize. We discussed that about 1 month ago at our meeting in Billings, that we would like to look at that proposal for the juveniles.

The CHAIRMAN. There is some kind of a facility in Sheridan, WY that a lot of Wyoming and Montana tribal members go to. I think it is a hospital, though. Is that just an alcohol recovery program or are there detention programs there, too?

Mr. GUARDIPEE. What I know, Mr. Chairman, is that it is an alcohol and drug recovery program at this point. They do not necessarily hold detention.

The CHAIRMAN. Ms. MacDonald-Lonetree, what do you think about bonding as a mechanism for building facilities?

Ms. MACDONALD-LONETREE. The Navajo Nation has been exploring other options for our detention facilities. But one thing is paramount, and that is that our program, as Ms. Juan-Saunders had mentioned earlier, is 638. We do have a 638-contract. We have been severely underfunded through that contract to even maintain what we have.

So as we look at options, one of them is a bond option that the Navajo Nation is exploring, and that has yet to even come before the full Navajo Nation Council for approval. But from the Division of Public Safety for Navajo, we are exploring other options for funding, but we would like to work with our trustee, the BIA, to find out how we might be able to get or reorganize some of the funding that they have there to meet our needs on Navajo. Thank you.

The CHAIRMAN. Thank you.

Senator Inouye, did you have further questions?

Senator INOUE. All I can say is, once again this has been the most depressing hearing I have participated in. I can assure you that we will do our very best.

My only regret is that our colleagues are not here. They should have heard this.

The CHAIRMAN. I think so, too. The numbers you expressed are something, as one of the panelists mentioned, are like a third world country. It is hard to believe that those problems could actually exist in a country that can fly to the moon or provide miracle drugs worldwide for people who are in poor health, or things of that nature. It is just phenomenal numbers.

But as with the other panels, I would request if you have some specific suggestions about what we might frame up. I understand that the lack of resources, that is, money, is always a problem and will probably continue to be, with a very fast birth rate in Indian country, but there might be something we can do that is concrete and advantageous to tribes. If you would maybe submit some suggestions to staff, I certainly would appreciate it.

Thank you again. We will keep the record open for two weeks for any additional comments from our panelists or anybody in the audience, and we may submit some questions in writing to have you answer.

Thank you. This hearing is adjourned.

[Whereupon, at 11:45 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Good morning and welcome. This morning the committee is conducting an oversight hearing on "Issues and Problems Related to Conditions of Tribal Detention Facilities".

Several weeks back this matter was splashed across the pages of major newspapers—such as USA Today—across the country. The articles discussed the ongoing Federal probe into tribal prison deaths that, as we now know, has revealed instances of inmate abuse, prison mismanagement, neglect, escapes, deaths, attempted suicides, inhumane conditions, overcrowding, as well as safety issues, staffing shortages, inmate access to weapons and poor prisoner monitoring and supervision.

In fact, one story reported that the lack of prison monitoring resulted in the tragic death of a 16-year-old girl in Oregon.

This situation is inexcusable and should not be happening.

In April 2004, the Inspector General of the Department of the Interior issued an interim report on the dire conditions and operations of these facilities. In its report, the Inspector General discussed the many problems associated with these detention facilities and made four recommendations to be implemented immediately to prevent further life-threatening situations.

The Inspector General's report does not place the physical condition or operation of these facilities in a good light and justifies immediate action.

In order to determine exactly what is happening and what we can do about it, this morning the committee will hear from witnesses from Federal agencies and Indian tribes to share their thoughts and experiences with us.

I thank all the witnesses for appearing today and I look forward to hearing their testimony as well as any recommendations they may have to improve this situation.

PREPARED STATEMENT OF HON. TOM DASCHLE, U.S. SENATOR FROM SOUTH DAKOTA

Good morning, Mr. Chairman, Mr. Vice Chairman, and members of the committee. As many of you know, USA Today recently reported that Federal investigators have uncovered evidence of abuse, neglect, and inhumane conditions in Native American prisons and jails. This troubling report suggests that the conditions in Indian detention facilities are not improving, and, in fact, appear to be getting worse. It is my hope that this hearing will help to shed additional light on these allegations, and lead to solutions to improve conditions in facilities across Indian country.

According to recent statistics, from the Department of Justice report on Indian jails and prisons, there are 70 detention facilities in Indian country, supervising approximately 2,100 inmates. Many of these facilities are in an appalling state of disrepair, and face problems that range from overcrowding and understaffing to sheer neglect and abuse.

According to the most recent statistics from the Department of Justice, over one-half of all detention facilities in Indian country were operating at 100-percent capacity in 2002, and 19 were operating at 150-percent or higher capacity. Of those 19, three are located in my State of South Dakota: Rosebud's Medicine Root Detention Center, operating at 250-percent capacity; Crow Creek's Fort Thompson Jail, operating at 242-percent capacity; and the Pine Ridge Correctional Facility, which is operating at a staggering 400 percent of its capacity.

Inmates in South Dakota's BIA facilities are housed in dilapidated buildings and are forced to endure extraordinarily harsh conditions. Even though the Lower Brule-tribal detention facility was condemned by the BIA in 1987, it was still being used to house inmates as recently as 2 years ago. Because the new facility is still under construction, Lower Brule prisoners are sent 13 miles away, across the Missouri River, to the Crow Creek facility in Fort Thompson. Because there aren't enough BIA officers to transport them back to Lower Brule, detainees released from Crow Creek are often forced to make the return trip to Lower Brule on foot. It is shocking that this is allowed to happen in South Dakota, which routinely experiences harsh winters and sub zero temperatures. Moreover, the Fort Thompson facility is in equally bad shape. One person serves as both police dispatcher and detention officer in a facility that houses up to 30 prisoners.

These conditions have a devastating impact on prisoners. Nationally, between July 1, 2001, and June 30, 2002, 282 inmates in tribal jails attempted suicide, up from 169 the previous year. In the last 5 years, the number of admissions rose 32 percent, and the annual number of attempted suicides more than doubled from 133 to 282. On Crow Creek, which encompasses most of one of the most impoverished counties in the United States and experiences inordinate suicide rates among its general population, several suicides have occurred in the local jail.

Even more troubling, inadequate detention facilities pose a serious threat to the surrounding communities. With a limited number of officers responsible for large inmate populations, the risk of prisoner violence—against both prison staff and, in the event of an escape, local citizens is much greater. Moreover, the culture of neglect and abuse found in many of our Indian jails is indicative of broader trends within the communities. The Crow Creek jail doubles as a suicide watch center for troubled teens, since there is nowhere else in the community to take them. Several Emergency Medical Technicians [EMTs] and law enforcement personnel have either resigned, or are on the brink of resigning, due to the stress of the situation. Law enforcement officials are at a loss about how to address this disturbing pattern, and are overwhelmed by the feelings of hopelessness that accompany it.

Clearly, the impact that overcrowding, dilapidated conditions, and neglect is having on inmates in these facilities, as well as local communities, is reaching a critical mass—both in South Dakota and across the Nation—and we must act now to reverse the trend. While addressing the problems that exist in jails and prisons clearly isn't the whole answer, such an approach will meet a critical need in Indian country, and will represent an important step toward increasing public safety and reducing incidences of abuse and neglect.

We can start by increasing funding for BIA facilities. Unfortunately, this Administration has demonstrated a complete unwillingness to give Indian detention facilities the resources they need, and has actually reduced funding for jails and prisons in Indian country. It wasn't always so bad. Under the Clinton Administration, then-Attorney General Janet Reno created the Department of Justice-Department of Interior Indian Law Enforcement initiative with the objective of creating an effective way to address law enforcement, facilities, juvenile justice, and rehabilitation efforts in Indian country. Although funding for these programs—which increased under the Clinton Administration and was consistent until the fiscal year 2002 appropriations cycle—was not enough to meet all of Indian country's needs, the initiative represented an unprecedented step toward addressing some of these problems.

Unfortunately, the current Administration, while budgeting hundreds of millions of dollars for Federal prison construction, has proposed eliminating the tribal facility program for the second year in a row. While Congress appropriated \$35 million per year for construction of BIA detention facilities between 2000 and 2002, we appropriated only \$2 million in fiscal year 2004. Now, with an even tighter budget to work with, the outlook for this year is especially bleak, and conditions at BIA facilities are likely to get even worse.

For too long, we have neglected our obligations to Native Americans. We are seeing the effects of that neglect in South Dakota. These are once again examples of the abrogation of the trust responsibility by the Federal Government to the tribes and its people.

We need to do a better job funding Indian detention centers, and we need to do more to address public safety, tribal courts, and rehabilitation efforts. We cannot

ask tribes to choose between funding crisis intervention and law enforcement. We cannot force tribes to make the choice between funding education and after-school programs for their children, and repairing cracked walls and inoperable surveillance cameras in their jails.

While national rates are the lowest in years, crime on Indian lands continues to rise. Particularly disturbing is the violent nature of this crime; violence against women, juvenile and gang crime, and child abuse remain serious problems. The Bureau of Justice Statistics reports that American Indians experience the highest crime victimization rates in the Nation—almost twice the national average.

Mr. Chairman, the issues we are discussing today are of critical importance. If this were happening in any other part of the country, it would be met with public outrage and swift Government action. However, in Indian country, it is met with silence and reduced funding. For the safety of our Indian people and the well-being of their communities, we must take action.

I look forward to working with this committee, and other relevant committees, to address these important issues.

PREPARED STATEMENT OF EARL E. DEVANEY, INSPECTOR GENERAL, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. Chairman and members of the committee, I want to thank you for the opportunity to address the committee this morning concerning the state of detention facilities in Indian country.

In September 2003, my office began an assessment of Indian country detention facilities. I initiated this assessment following a conversation with the Chair of the Attorney General's Advisory Committee on Indian country, U.S. Attorney for the District of Minnesota, Thomas Heffelfinger, who had expressed his general concerns to me about the overcrowding and poor conditions of Indian country jails. I then discovered that these same concerns had been articulated for years by the Department of Justice in numerous reports. My office had also been receiving unofficial reports of appalling conditions at the detention facilities in Indian country. With all this information, I felt compelled to address these concerns immediately.

We selected a team of seasoned investigators and auditors to visit a predetermined number of facilities and collect information about their management and operation. Our focus was on whether the funds designated for Indian country detention facilities were being properly expended and whether these facilities were safe and secure.

I would like to point out that we began our assessment well before the confirmation of the present Assistant Secretary for Indian Affairs, and prior to any of the recent media disclosures of allegations made by a former BIA law enforcement official. While we have completed all our planned site visits, we have not finished our analysis of the funding issues or BIA's management of the Detention Program. However, given the committee's interest in this issue, I will gladly summarize our findings, thus far, and share with the committee the same concerns I shared with Secretary Norton in April of this year when I gave her an interim report on the deplorable conditions we were finding at some of these facilities. Thus, my report to her then and to you today, focuses primarily on deaths, attempted suicides, escapes of inmates and officer safety issues. While we have visited only 27 of the 74 detention facilities in Indian country, we assume that similar incidents have occurred at other detention facilities. Therefore, we believe it is imperative that BIA takes immediate action to alleviate these potentially life-threatening situations at all Indian detention facilities.

Under the Indian Law Enforcement Reform Act of 1990, BIA is required to provide law enforcement services on reservations. In addition, under the Indian Self-Determination Act, BIA provides funding to tribes for detention services. Of the 74 detention facilities in Indian country, 20 are operated by BIA's Office of Law Enforcement Services [OLES], 46 receive BIA funding for detention services under Public Law 96-638, and 8 are operated by tribes. Of the 74 facilities, 28 house adult inmates, 11 house juveniles, and 35 house a combination of both adults and juveniles.

For many years the BIA detention program has been characterized as drastically understaffed, underfunded, and poorly managed. BIA's Director of Law Enforcement has oversight authority for BIA-operated and 638-contract detention facilities. Until very recently the Director oversaw these facilities through six district commanders and with a three person detention staff at OLES Headquarters.

In most of the facilities we have visited, basic jail administration procedures are not followed and many detention managers and their staff have not received profes-

sional, certified training in detention procedures. In fact, BIA OLES officials admitted to us that none of their detention facilities "come close" to meeting BIA's standards for operation, which derive from nationally recognized detention standards. BIA's detention program is riddled with problems and, in our opinion, is a national disgrace with many facilities having conditions comparable to those found in third-world countries. Unfortunately, BIA appears to have had a "laissez-faire" attitude in regard to these horrific conditions at its detention facilities.

Based on our visits, we discovered that serious incidents are not always communicated up the chain of command. Our review of the Serious Incident Log maintained by the OLES detention program and a similar log kept by the OLES internal affairs unit revealed that many of the incidents we identified occurring within the last 3 years were not contained in these logs. In fact, during this 3-year timeframe we found close to 500 serious incidents—including deaths, suicide attempts, and escapes that were either undocumented or not reported to the BIA/OLES.

The following are some examples of the serious situations we have identified so far in our assessment.

Deaths and Suicides: We learned of 10 deaths from the facilities we visited. Five of these deaths were suicides and five were non-suicides. Inexplicably, only five of these deaths had been reported to OLES. Among those deaths reported to OLES is the recent death of a 16-year-old student who died while in a detention cell at the Chemawa Indian School in Oregon. BIA operates the boarding school which has a detention facility. This case is under active investigation by my office in conjunction with the U.S. Attorney in Portland, OR.

In March 2003, a 15-year-old inmate hanged herself at the BIA-operated Zuni Adult and Juvenile Detention Facility in New Mexico. According to the facility director, correctional officers at the time were "off-line for approximately 30 minutes," handling other duties, and were not properly overseeing the cell population.

Similarly, at the BIA-operated Hopi Adult and Juvenile Facility in Arizona, an intoxicated inmate died of asphyxiation in 2003. According to the Acting Lead Correctional Officer, this occurred because the two officers on duty were "more interested in cleaning up the office" than observing inmates.

Attempted Suicides: Based on our findings, suicide attempts appear to be a regular occurrence at many of these facilities. At the BIA-run Northern Cheyenne Detention Facility in Montana there have been an alarming 41 suicide attempts within the last 3 years. Only two of those incidents were actually reported to the OLES.

At many of the facilities, we found multiple suicide attempts made by the same inmate. For example, during 2001, an individual detained at the Shiprock facility in New Mexico attempted to hang himself seven times using articles of clothing or towels left in the cell. The correction officer's response was quite elementary—if the inmate tried to hang himself with his socks, they took his socks away; if he tried to hang himself with his towel, they took the towel away—until finally the inmate was left in his cell without any clothing.

Prisoner Escapes: For the most part, the correctional officers at these facilities convey stories of prisoner escapes with an air of casual inevitability. In fact, our impression is one of collective acceptance. In our interviews, correctional officers who discussed escapes also told us that it is simply not possible to prevent inmates from escaping. Since the majority of these facilities often function with only a single officer on duty, officers explained that they simply cannot "keep an eye" on everyone. In addition, we found that some facilities do not notify local law enforcement of prisoner escapes. This is not only disconcerting, it is irresponsible to allow escaped prisoners to travel freely in a community and surrounding areas while the local law enforcement authorities have no information about their escapes.

Physically rundown and deplorably maintained, many of the facilities provide ample opportunity for escape. At one facility, the chain-link fence surrounding the outdoor recreation yard was held together and locked by a set of handcuffs because the inmates had learned the combination to the cipher lock on the gate. While many of the recreation yards at these facilities are fenced-in and crowned with barbed wire, there seems to be a universal acceptance among the correctional officers that if inmates want to climb over the fence and escape, they will.

From weakened and deteriorating locks on cell doors to broken windows in inmate dormitories, the interior of many of these facilities is in extremely poor condition and therefore does nothing to deter prisoners who set out to escape. For example, the wire-meshed windows in many of the cells at the White Buffalo Youth Detention Center in Montana are loosely encased in a crumbling wall and, with the application of some pressure, can be easily removed from their housing. According to the acting director at the detention center, these "removable windows" have, in the past, provided a vehicle of escape for a number of detained youths.

Perhaps even more disturbing than the actual circumstances and frequency of inmate escapes at these facilities are the lack of response and importance placed on these incidents by those working at the facilities, both correctional officers and facility directors, alike. At the Shiprock Adult detention facility in New Mexico, one officer chuckled in response to our question about escapes, and said, "Oh yeah, they happen." She then said that a prisoner had escaped from her in June 2003, on foot and in ankle-shackles while she was ushering a line of prisoners from the facility to the courthouse across the courtyard. Since she was the only officer on duty at the time, she said that she could not pursue the fleeing inmate and leave the other prisoners unattended. The officer told us that to the best of her knowledge that prisoner had not yet been apprehended.

Officer Safety: One of the most common problems we found while visiting these facilities is lack of staffing. In many cases, having only one correctional officer on duty per shift is not unusual; it is common practice.

At Mescalero in New Mexico, a female correctional officer was working alone when she was confronted at knife-point by a former inmate who entered the facility through an unlocked door. Tragedy was averted when the officer locked herself into a detention cell. An inmate at the jail convinced the intruder to leave the officer alone, while a second inmate summoned the police.

The San Carlos facility in Arizona has only four correctional officers on staff to operate what they feel is an overcrowded facility. To address this situation, the facility has placed a 24-hour, 7-day-a-week "lockdown" on inmates. Although lockdown is not unusual as a short-term solution for an acute problem in a detention facility, it could lead to an unsafe and dangerous environment long-term. At San Carlos, a detention officer on duty has no one for back up if a medical emergency or conduct problem arises. When an officer is working alone, he or she must either wait for assistance or act independently, both of which risk placing themselves or inmates in a potentially life-threatening situation.

At the Blackfeet facility in Montana, staff told us there is never more than one correctional officer on duty. Furthermore, twice a week, the officer on duty also functions as the facility cook to prepare inmates' meals, leaving the facility unsupervised during meal preparation time. At this same facility, one of the dispatchers said that her husband, a correctional officer at the facility, had been working alone and was attacked by an inmate. According to the dispatcher, the sound of the other inmates banging on doors was the only thing that alerted her to the incident and prevented a potential fatality. Unfortunately, this incident does not appear to be an exceptional case; the BIA district commander told us, "Every officer here has been assaulted."

Aside from a lack of officers on staff, the current officers at these facilities are, for the most part, poorly trained. This lack of training not only hinders the officers' ability to properly document incidents and follow standard procedures, but also leaves the officers unprepared to prevent physical harm that may be targeted against them or against inmates. In fact, one district commander stated, "We've never received any training on how to operate a detention facility." When asked if his facility followed BIA standards, the commander quipped, "Most BIA standards can't be met, so why even try?"

In addition to officer safety, the safety of the inmates themselves must be considered. Officers who are improperly trained or who have not undergone thorough background investigations may become a liability. Recently, a correctional officer working at the White Buffalo Youth Detention Center in Montana was convicted of raping a 17-year-old female inmate while transporting her from the facility to receive medical treatment.

During my discussion with the Secretary in April, I made a number of recommendations to her including instituting new reporting protocols and the prompt investigation by BIA of any serious incident such as those I have cited today. I was pleased by her immediate response to my briefing. Following our meeting, she tasked Associate Deputy Secretary James Cason along with Assistant Secretary David Anderson to begin addressing the concerns I raised. To assist them in this effort, she also made a request to DOJ for an experienced corrections professional from the Bureau of Prisons to be detailed to BIA. That person is now on board and I detect a new sense of urgency about these concerns at BIA.

Our final report, which we hope to have finished at the end of the summer, will provide the Department with additional findings and recommendations regarding funding, detention standards and policies, detention facility maintenance, health care and social services at the detention facilities, and training and hiring practices of detention personnel.

The responsibility for the conditions and failings we have found at Indian detention facilities can not be attributed to any particular individual or Administration.

Some of these problems are decades old. Thus, the solutions will not be easy to achieve and may take considerable time, effort and funding. However, nothing less than a Herculean effort to turn these conditions around would be morally acceptable.

PREPARED STATEMENT OF DARREL MARTIN, PRESIDENT, FORT BELKNAP INDIAN COMMUNITY COUNCIL OF THE GROS VENTRE AND ASSINIBOINE TRIBES, FORT BELKNAP AGENCY, MT

Greetings from the Gros Ventre and Assiniboiné Tribes of the Fort Belknap Indian Community, Montana. On behalf of the tribal government of the tribes, I thank you for the opportunity to provide testimony to this committee on the important topic of tribal detention facilities.

I am an enrolled member of the Gros Ventre Tribe, and serve our tribal council as the tribal president. The Fort Belknap Indian Reservation is located in North Central Montana, approximately 200 miles north of Billings, the largest city in Montana. Fort Belknap Agency, the location of tribal headquarters, lies about 150 miles northeast of Great Falls, MT, the closest city with a certified juvenile detention facility.

Adult Detention Facilities. At Fort Belknap, a single tribal jail provides adult detention facilities to over 5,000 enrolled members. The jail was recently reviewed, was determined deficient and can no longer house inmates for more than 72 hours. Inmates needing to be detained are housed at the Blaine County jail, a 1-hour drive from some of our reservation communities, or at facilities on the Fort Peck Reservation, at least a 3-hour drive from Fort Belknap Agency.

Our jail, reconstructed from other facilities about 35 years ago, is located at Fort Belknap Agency in the northern part of our Reservation. It was condemned 10 years ago, as not meeting jail standards. It was rehabilitated less than 10 years ago, only to be redetermined as deficient in the last 6 months.

Our police department has had to transport prisoners on a regular basis to other facilities. The cost of transportation has been significant, as it often requires overtime for officers to shuttle prisoners back and forth on a drive that can be 6 hours round trip in good weather. Our winters are long and often bitterly cold. In poor weather, trips can be delayed or extended to as long as 10 hours, round trip.

The lack of a local jail has caused logistical difficulties for our tribal court. The transportation of prisoners to other jails has continued to cause budget difficulties for our police department. Paying for offsite detention has similarly caused budget difficulties for our police department. The lack of a local jail has affected detention decisions by both our police department and tribal court judges. Because of the difficulties in detaining individuals, it happens that people are released who should be detained. This causes risks to the community.

The families of detainees are often unable to travel the distances required to visit family members. Counseling alternatives available on reservation are seldom available at distant locations.

In the last 35 years, we have watched as every other tribe in Montana has had a new jail facility built. We don't begrudge such facilities. Other tribes certainly have needed jails. But Fort Belknap has equally needed a facility, and has only been able to secure moneys to rehabilitate starkly inadequate buildings. Those short term fixes have not worked. We need a long-term solution.

We can fully appreciate that money is hard to come by right now. Nevertheless, basic law enforcement and the ability to detain people who break the law is the most basic of governmental functions. We urgently call on Congress to help us in this effort.

Juvenile Detention Facilities. We have never had a juvenile detention facility on our reservation. For several years, we have contracted to place youth in the Blaine County youth detention facility, about 25 miles away. However, this facility will close shortly, as it does not meet state standards. It has not provided counseling and treatment to youths detained.

The closest certified facility is located in Great Falls, MT, approximately 150 miles from Fort Belknap Agency, and nearly 200 miles from the southern communities on our reservation. These distances are simply unworkable in providing adequate services to youth and their parents.

Limited funding exists to detain youths. Limited funding exists to provide counseling and treatment to youth and their families. Many families simply don't have the resources to travel to Great Falls to visit their children. For nearly 6 months of each year, traveling such distances is simply dangerous, because of cold weather and difficult roads.

We need a solution at Fort Belknap to detain youth locally. Providing timely, routine consequences to youth can make a difference in their lives. We urgently call on Congress to help us in this effort also. Thank you for your willingness to address these important concerns.

PREPARED STATEMENT OF JOHN YELLOW BIRD STEELE, PRESIDENT, OGLALA SIOUX
TRIBE, PINE RIDGE, SD

The Oglala Sioux Reservation is over 2 million acres in size and has a population of approximately 50,000. We currently have three detention facilities, one of which is a juvenile facility. Our facilities are tribally operated under a Pub. Law 93-638 contract.

The adult detention centers in Kyle and Pine Ridge contain 24 and 22 beds, respectively. The Pine Ridge Correctional Facility is currently staffed by nine correctional officers, one lead officer, one facility administrator and two cooks. We house both male and female inmates with an average daily occupancy rate of 33 inmates per day, therefore overcrowding is a constant problem. This is particularly true on the first of every month throughout the year, when 100 arrests a day occur. The overcrowding often forces us to allow offenders to go free. We are drastically underfunded which, in addition to causing overcrowding, has burdened us with inadequate facilities and problems which arise from being understaffed. Our juvenile facility is understaffed due to lack of adequate funding and our inmate to staff ratio at the Kyle Correctional facility is 35 to 1. These problems have translated into our inability to properly secure the facilities and the inmates.

Our facilities are inadequate. Because the volume of inmates is greater than the maximum capacity of the facilities, the buildings have deteriorated so that they are in disrepair and suitable for condemnation. At the adult facilities we are unable to provide adequate drinking water or bathroom facilities. Since we do not have sufficient shower facilities, we must move inmates from cell to cell to provide them access to a working shower. This is both time-consuming and poses security threats particularly in regard to officers' safety. Additionally, we have facility maintenance deficiencies such as our ventilation system which breaks down often, particularly in the summer months, so we are forced to use fans in the cell doorways. This too has affected our ability to maintain a secure environment. At the Pine Ridge Correctional Facility, we are plagued with inadequate lighting, no sprinkler system, and no exercise or outdoor areas for the inmates.

Inadequate facilities and under-staffing have led to a number of escapes. From January 1, 2004 to May 31, 2004, 30 individuals have been charged with escape from the Pine Ridge Correctional Facility. These escapes have occurred both inside the facility due to a lack of a secure perimeter fence and inoperable gate, and outside the facility during the transportation of inmates to court or to obtain health care. Any one of these inadequacies alone is cause for concern, and yet we must deal with all of them on a daily basis.

Equally distressing is our inability to provide onsite rehabilitation services such as alcoholics anonymous, counseling, and traditional ceremonies. Since alcohol is illegal on the reservation, we have a high number of prisoners who are arrested for intoxication, but no way to provide treatment.

To address these problems, the Oglala Sioux Tribe participates in the "Circle Project," a Department of Justice Demonstration Program for enhancing tribal criminal justice programs. The Circle Project is designed to introduce a multi-disciplinary approach to unique and long-standing problems of high alcohol-related crime rates on Reservations such as Pine Ridge. As part of the Circle Project, the tribe has enhanced its community policing program and improved the administration of its Public Safety Department. It has also designed and is receiving construction funds from Department of Justice (DOJ) for a multi-disciplinary direct-supervision corrections facility on the reservation. The new facility shall combine in-patient alcohol counseling with detentions, for the first time. It will be for sentenced individuals only. Since the new facility is not a holding facility, it will not alleviate the overcrowding in our current facilities. Therefore, overcrowding will continue to be a problem and we will be forced to transport/relocate inmates to other detention facilities in other States thereby increasing our costs associated with housing and transportation. Additionally, we are forced to use new facility transition money to supplement existing facilities. Without this source of funding we would be forced to cut much-needed current detention staff.

While construction efforts progress, our growing concern is the lack of funds for the facility's operation. The state-of-the-art facility cannot be left to sit empty or to run inefficiently. An estimated \$2,176,395.00 is needed for detention operations and

facilities maintenance. This funding would flow through the BIA's Office of Law Enforcement Services and Office of Facilities Management and Construction budgets. The BIA supports our estimated costs and has requested an increase in their appropriations for these purposes.

We also need funding for the operation of the detoxification aspect of the facility. Our immediate need is the hiring of a Detox/Treatment Director to develop facility operating standards; the estimated cost is \$124,265.00. We also need overall detox/treatment operating funds to cover staff (including the aforementioned Director) and program costs; the estimated annual cost totals \$1,602,227.00. For efficient and continuous operation, this funding must be recurring each year, not grant based, and could be earmarked in the SAMHSA budget.

We urge Congress to look at the need for overall increases in the national budget for these issues. We are in a crisis situation. Tribes submit their unmet needs each year, but they are only addressed in a piecemeal manner. Long-term change is needed in the area of Indian Detention Facilities and increased funding is a necessary first step in meeting our specific needs, of course, but also in the overall national budget for detention center funding. We look forward to working with Congress to address these important issues.

STATEMENT
OF
DAVID W. ANDERSON
ASSISTANT SECRETARY – INDIAN AFFAIRS
U.S. DEPARTMENT OF THE INTERIOR
AT THE HEARING
Before the
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON THE
INDIAN TRIBAL DETENTION FACILITIES
June 23, 2004

Good morning, Mr. Chairman and Members of the Committee. I am David Anderson, Assistant Secretary – Indian Affairs. Thank you for inviting me to speak with you today about the Administration's vision to improve the Bureau of Indian Affairs' (BIA) detention center program. Recent events have highlighted the need to continue to implement improvement, in addition to those changes already under way. The ultimate goal is to improve the delivery of services to tribes and individuals who are serviced by BIA owned and funded detention facilities.

Until the 1960's, jail construction on Indian lands was very limited. Department of Justice Law Enforcement Administration Assistance grants were provided for construction of jails in Indian country. Many of these facilities, now forty years old, are still in operation today. Older detention centers present many challenges, such as ongoing maintenance and needed improvements to these aging, high-use facilities.

There are seventy-four confinement facilities, detention centers, jails, and other facilities – to be referred to in this testimony as "detention centers" – operated by tribal authorities or the Bureau of Indian Affairs in Indian Country. Thirty-nine facilities are BIA owned. Nineteen facilities are BIA operated. Three of these detention centers do not house inmates and are used for Law Enforcement offices. The remaining thirty-five detention centers are owned and operated by tribes, either independently or through P.L. 93-638 contracts or self-governance compacts. All of the Indian detention facilities are designed for short-term detention and have difficulties accommodating long-term sentences.

In February 2004, when I became Assistant Secretary – Indian Affairs, I was briefed on Indian country detention programs and the ongoing challenges related to the physical conditions and management structure. At this briefing I immediately determined that critical improvements were needed, in addition to those that were already underway. Since February, the BIA has taken immediate and proactive steps to identify the deficiencies at the detention centers and to take appropriate action.

Within forty-eight hours of my February briefing, I assigned key personnel to be responsible for identifying and addressing detention center issues. Thirty-nine of the BIA owned detention centers were inspected for operational, health, and safety concerns by March 10, 2004. The twenty worst detention centers that are owned by the BIA were also inspected for structural, plumbing, electrical and environmental concerns by March 10, 2004. The remaining nineteen were inspected for structural, plumbing, electrical and environmental concerns by June 1, 2004. Inspections were completed in compliance with BIA handbooks that are based upon national standards such as American Correctional Association Standards, uniform building codes, National Fire Life - Safety codes, and all pertinent environmental standards.

The thirty-nine BIA owned detention centers were inspected to determine necessary repairs, whether minor or major. All needed repairs are entered into the BIA's Facility Management Information System for tracking of project completion and full financial accountability. Facilities staff members were instructed to immediately make low cost repairs.

This year, 2004, we have dedicated a total of about \$6.4 million to address the normal annual facilities operations as well as facilities, safety and environmental deficiencies concerns. Approximately \$4 million of this amount will be used for repair of the deficiency items and the balance will be used for operational costs such as utilities and staffing. About 84% of this funding has already been distributed to the detention centers for completion of the identified repairs and normal annual operating expenses. In addition, about 40% of the immediate repairs have been completed.

The Office of Facilities Management and Construction and the Office of Law Enforcement Services have already begun corrective actions to reduce threats of harm to life and property. These actions include: (1) closing unsafe facilities; (2) revising the procedures for reporting and reviewing serious incidents; (3) inspecting Indian Country detention centers for compliance with national law enforcement, facility, safety and environmental standards; (4) initiating capital improvements to correct imminently hazardous or mission critical deficiencies; (5) identifying funds to address immediate shortfalls in law enforcement staffing and operations for BIA-funded facilities; and (6) standardizing detention facility inspections.

In 2003, the BIA developed and implemented a strategy for improving the corrections program. As part of this strategy, a Detention Specialist Position was created at the law enforcement central office to provide assistance to staff for its implementation. I have made this issue a priority. Within the past four months, I have taken critical steps to continue to improve the detention program management system. I have further assigned a person within the Office of Facilities Management and Construction to work only on oversight of detention center projects. I have directed the hiring of District Detention Specialists for the purpose of providing improved on-site assistance for Indian communities.

I have also directed the BIA to enter into partnerships with outside entities in order to improve the overall management of the Indian Country detention and corrections program. One such partnership is with the Bureau of Prisons. The Bureau of Prisons will evaluate the Indian Country detention and corrections program. This summer, within a four to five week period, representatives from the Bureau of Prisons will visit both BIA and tribal detention centers.

In the near future, a multi-disciplinary Federal-Tribal workgroup, which will include representatives from the Bureau of Prisons, will develop a performance-based management model to respond to the needs of Indian country. This model will also incorporate measurable outcome-based performance goals that will improve the management of misdemeanor populations in Indian country detention centers. Additionally, we envision the model will put into practice nationally-recognized standards and institutionalized systems of control to ensure compliance with program standards and promote best practices.

We are also working closely with the Department of Justice to implement vital Indian Country law enforcement best practices. For example, twenty new detention centers, funded by Department of Justice grants, have been constructed in Indian country and we have developed plans to adequately staff, operate and maintain these new facilities.

The BIA plans to work with tribes to find solutions to the long-term challenges of providing safe conditions at Indian country detention centers. The Office of Law Enforcement Services is working cooperatively with tribes and tribal law enforcement to: reduce overcrowding, place juveniles in appropriate facilities, develop uniform management standards, and gather detention statistics. These efforts are already underway. Based on our success thus far, I am optimistic about our ongoing and future improvements in Indian Country detention centers.

This concludes my prepared statement. I will be happy to answer any questions you may have.



Department of Justice

STATEMENT

OF

TRACY HENKE
DEPUTY ASSOCIATE ATTORNEY GENERAL

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

CONCERNING

INDIAN TRIBAL DETENTION FACILITIES

PRESENTED ON

JUNE 23, 2004

Mr. Chairman, Mr. Vice-Chairman Inouye, and members of the Committee, my name is Tracy Henke and I serve as the Deputy Associate Attorney General for the Department of Justice. Thank you for the opportunity to discuss the Department's limited role with tribal detention facilities.

Today, thirty-three states contain approximately 300 Indian land areas or reservations. Jurisdiction over crimes in Indian country depends on several factors, including the identity of the victim and the offender, the severity of the crime, and where the crime was committed.

There are two groups of Indian offenders who may be in federal custody. First, there are prisoners who have committed an offense under federal law. Often, these offenses fall under 18 U.S.C. § 1152 and § 1153. Section 1153, known as the Major Crimes Act, gives the federal government jurisdiction to prosecute certain enumerated serious offenses, such as murder, manslaughter, rape, aggravated assault, and child sexual abuse, when they are committed by Indians in Indian country (Tribes also have concurrent jurisdiction to prosecute Major Crimes, although tribes are limited by statute to imposing one-year prison sentences and \$5,000 fines). Section 1152, known as the Indian Country Crimes Act, gives the federal government exclusive jurisdiction to prosecute all crimes committed by non-Indians against Indian victims. Section 1152 also grants the Federal Government jurisdiction to prosecute minor crimes by Indians against non-Indians, although that jurisdiction is shared with tribes. Offenders in this category are under the jurisdiction of the Bureau of Prisons (BOP), and not in Indian tribal facilities.

The second group are prisoners who have committed offenses under tribal law. Indian prisoners in this group are under the jurisdiction of the tribe whose law has been violated. As part of their inherent sovereignty, Indian tribes have jurisdiction to prosecute all crimes committed under tribal law by Indians in Indian country. These prisoners are generally in facilities operated by the Bureau of Indian Affairs (BIA) or the tribal government. Currently, of the 74 facilities in Indian country, 39 are owned by the BIA. Of the thirty-nine BIA facilities, 19 are operated by BIA and the operations of the remaining 20 are contracted out. The remaining 35 facilities are owned and operated by tribal governments under PL 93-638 contracts.

The Department of Justice's involvement with Indian country detention facilities is generally limited to our Correctional Facilities on Tribal Lands Program. This program, authorized by Section 20109, Subtitle A of Title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. Section 13701 et seq.) provides funds to American Indian and Alaska Native tribes to construct correctional facilities on tribal lands for the incarceration of offenders subject to tribal jurisdiction. Corrections facility is defined as a residential facility that houses adult or juvenile offenders accused or adjudicated of a crime.

Specifically, the Department of Justice has administered tribal correctional facility grants totaling \$19,453,000 in FY 2001; \$35,191,000 in FY 2002; \$4,967,000 in FY 2003; and \$1,895,000 in FY 2004. It is important to understand that these grants are statutorily limited to "brick and mortar" construction costs only. Grantees are responsible for fully supporting, operating, and maintaining these correctional facilities.

Since the inception and funding of the program, the Department of Justice has provided funding to 23 tribes for jail construction. Of these 23 facilities, 8 facilities are exclusively juvenile, 12 are combined adult/juvenile, and 3 are exclusively adult. All 23 tribes are actively implementing design or construction initiatives. Some have added beds to existing facilities, but most involve new construction. Proposed facilities range in size from 8 to 68 beds.

In addition to the Correctional Facilities on Tribal Lands Program, the Department's Bureau of Justice Statistics (BJS) compiles statistics relating to detention facilities in Indian country. In November 2003, the BJS published "Jails in Indian Country, 2002," the most recent survey of adult and juvenile detention centers in Indian country. Data for the BJS bulletin was obtained by mailed questionnaires accompanied by follow-up phone calls and facsimiles. In total, 68 of the facilities in Indian country responded. For the Committee's review, copies of the BJS bulletin, "Jails in Indian Country, 2002," as well as the BJS questionnaire sent to the detention facilities have been provided. It is important to note that while the BJS bulletin contains statistical information about Indian detention facilities, it does not gather information regarding conditions in the jails.

As the Administration, through BIA, works to improve Indian detention facilities, the Department of Justice will continue to assist as we are able. Most recently, an experienced administrator from the Department's Bureau of Prisons was detailed to the BIA to assist in the development of strategies to improve the delivery of detention services in Indian country. The Department of Justice looks forward to his opportunity to work with the Department of Interior to address this issue.

Mr. Chairman, Attorney General Ashcroft has pledged to honor our Federal trust responsibility and to work with sovereign Indian Nations on a government-to-government basis. The Attorney General and the entire Justice Department will honor this commitment and continue to assist tribal justice systems in their effort to promote safe communities. We also recognize that the most effective solutions to the problems facing tribes comes from the tribes themselves, and that our role is to help them develop and implement their own law enforcement, detention, and criminal justice strategies.

I welcome the opportunity to answer any questions you or members of the committee may have.

**Bureau of Justice Statistics
Bulletin**

November 2003, NCJ 198997

Jails in Indian Country, 2002By Todd D. Minton
BJS Statistician

On June 28, 2002, a total of 70 jails, confinement facilities, detention centers, and other correctional facilities were supervising 2,080 persons in Indian country, up 2% from the previous year. At midyear 2001, 2,030 persons were under the supervision of jails in Indian country.

Indian country facilities held 2,006 inmates at midyear 2002, up from 1,912 at midyear 2001. Jail authorities also supervised 74 offenders under community supervision programs. New admissions to jail increased from 9,897 in June 2001 to 11,822 in June 2002, a 22% increase.

The 70 facilities had a rated capacity to hold 2,177 persons, up 4% since 2001. On June 28, 2002, the jails were operating at 92% of capacity, up from 91% at midyear 2001. On an average day in June 2002, the jails were operating at 79% of capacity. On their peak day in June 2002, the 70 jails were operating at 126% of capacity, unchanged from 2001. The number of inmates on the peak day in June has increased 19% since 1998.

At midyear 2002 more than a third of the offenders were held for a violent offense, 15% specifically for domestic violence. Eleven percent of all offenders (226) were being held for DWI/DUI.

These data are based on the 2002 Survey of Jails in Indian Country (SJIC). The survey includes all jails, confinement facilities, detention centers, and other correctional facilities located in Indian country and operated by tribal authorities or the Bureau of Indian Affairs (BIA), U.S. Department of the Interior.

Highlights**At midyear 2002 jails in Indian country supervised 2,080 persons**

	Number of inmates, midyear		Percent change
	2002	2001	
Total	2,080	2,030	2%
In custody	2,006	1,912	5%
Adult	1,699	1,600	6
Juvenile	307	312	-2
Community supervision	74	118	-37%
Admissions, June 1-30	11,822	9,697	22%

• On June 28, 2002, Indian country facilities held 1,699 adults and 307 juveniles. In the 12 months ending June 28, 2002, the number of inmates in custody increased 5%.

• In a 1-month period, June 2002, facilities in Indian country admitted 11,822 inmates, a 22% increase from June 2001.

70 facilities were operating in Indian country, with the capacity to hold 2,177 persons on June 28, 2002

	2002	2001	2000	1998
Number of inmates				
Midyear	2,006	1,912	1,775	1,479
ADP*	1,653	/	/	/
Peak day in June	2,737	2,650	2,441	2,300
Rated capacity	2,177	2,101	2,078	1,945
Percent of capacity occupied*				
Midyear	92%	91%	80%	76%
ADP	75	/	/	/
Peak day in June	126	126	118	119

/ Not collected

*Average daily population is the number of inmates confined in June, divided by 30.

*Number of inmates in custody divided by rated capacity.

*2002 percent occupied excludes 2 facilities that did not report their average daily population.

• On June 28, 2002, jails in Indian country were operating at 92% of capacity. On an average day in June 2002, the jails were operating at 79% of capacity. On their peak day in June 2002, jails were operating at 126% of capacity.

• Since 1998, the number of inmates in custody at midyear has increased by 36%, and rated capacity has increased 12%.

699 persons incarcerated on June 28, 2002, for a violent offense

	Inmates at midyear 2002	Percent
	Number	
Type of offense		
Domestic violence	291	15%
Other violent	408	23%
Violation of protective or restraining order	28	1%
DWIDU*	226	11%
Drug law violation	120	6%

*Includes driving while intoxicated and driving while under the influence of drugs or alcohol.

• 35% of inmates were being held for a violent offense, 15% for a domestic violence offense.

• 11% were confined for a DWIDU offense, a 25% increase since midyear 2001. Drug offenses decreased 3% from midyear 2001 (130).

Revised 3/5/04, th

Tribes retain jurisdiction over many crimes by American Indians and Alaska Natives in Indian country

Thirty-three States contain approximately 300 Indian land areas or reservations. Generally the local governing authority on Indian lands is a tribal government or council. Jurisdiction over crimes in Indian country depends on several factors, including the identity of the victim and the offender, the severity of the crime, and where the crime was committed. (See box below.) Tribal authority to sentence offenders is limited to 1 year of imprisonment and a \$5,000 fine or both (25 U.S.C. § 1302(f)).

City or county jails held 3 times as many American Indians as jails in Indian country. (*American Indians* in this report includes Alaska Natives.) At midyear 2002 local jails held an estimated 8,000 American Indians, some of whom may have been adjudicated by a tribal criminal justice system and housed in jails under contract with tribal governments. Overall, State, Federal, local, and tribal authorities were supervising 47,724 American Indians. Most were under community supervision (25,479).

A total of 22,245 American Indians were in custody at midyear 2002, most of whom were held in State prison (12,924).

Criminal jurisdiction in Indian country

Tribal jurisdiction

• Crimes committed by Indians in Indian country. Sentences are limited to 1 year and a \$5,000 fine per offense or both. 25 U.S.C. § 1302(f)

Federal jurisdiction

• 14 crimes under the Major Crimes Act of 1885. 18 U.S.C. § 1153

State jurisdiction

• All crimes on tribal lands specified under Public Law 280. 18 U.S.C. § 1162

Note: Criminal jurisdiction in Indian country depends on several factors, including the identity of the defendant, victim, type of offense, and where the crime was committed.

Number of American Indians and Alaska Natives

Total	47,724
In custody, midyear 2002	22,245
Local jails*	8,000
Jails in Indian country	2,006
State prisons	12,924
Federal prisons	1,315
Under community supervision	25,479
State/Federal, 12/31/01	20,577
Probation	4,626
Parole	74
Indian country, midyear 2002	74

*Estimated from the Annual Survey of Jails, 2002

On July 1, 2002, 2,752,158 American Indians and Alaska Natives lived in the United States (U.S. Census Bureau, National Populations Estimates, table NA-EST2002-ASRO-04). American Indians account for under 1% of the U.S. resident population and around 1% of those in custody of jails or prisons.

At midyear 2002 the rate of incarceration in prison and jail for American Indians was about 15% higher than the overall national rate. Federal and State prison and jail authorities held 808 American Indians per 100,000 Indians, compared to 702 persons of all races per 100,000 U.S. residents.

Indian country jail population rose 5% between July 2001 and June 2002

At midyear 2002 jails in Indian country supervised 2,080 persons, up from 2,030 in 2001. Nearly all (2,006) were held in jails, with an additional 74 persons being supervised in the community (table 1). The number of inmates in custody increased 5% from the previous year, when 1,912 inmates were being housed.

Persons under community supervision decreased 37% (74 in 2002 down from 118 in 2001).

Type of supervision	Number of persons	
	2002	2001
Total	74	118
Electronic monitoring	0	1
Home detention	3	0
Community service	7	39
Day reporting	8	21
Weekend program	55	52
Other	1	5

Overall, the number of persons held in Indian country jails fluctuated between June 2001 and June 2002 (figure 1). Although the population increased during the 12 months, June of each year was among the months with the largest custody counts. In 2002 the smallest jail inmate population occurred in February — based on 62 jails and excluding 8 facilities unable to report complete data.

88% of confined inmates held for misdemeanors

On June 28, 2002, jails in Indian country held 1,120 convicted offenders and 857 inmates who were unconvicted or awaiting trial. Fifty-seven percent of those jailed in 2002 were convicted, down from 81% at midyear 2000 and 75% in 1999.

At midyear 2002, 1,725 inmates were being held for a misdemeanor, down from 1,738 at midyear 2001. One hundred seven inmates were in jail for a felony, a 5% decrease from 2001. Five inmates were being held for the Bureau of Immigration and Customs Enforcement, formerly the Immigration and Naturalization Service, for deportation, and 169 for other reasons, including protective custody, detoxification, public intoxication, status offenses, and pending charges.

Table 1. Indian country jail inmate characteristics, midyear 2001-2002

	Number of persons	
	2002	2001
Total	2,080	2,030
In custody	2,006	1,912
Adult	1,699	1,800
Male	1,399	1,368
Female	300	234
Juvenile	307	312
Male	219	212
Female	88	100
Convicted	1,120	1,062
Unconvicted	857	836
Felony	107	113
Misdemeanor	1,725	1,738
Other	174	61
Violent offense	699	7
DWI/DUI	226	181
Drug law violation	126	130
Under community supervision	74	118

Note: Omsah Tribal Police Department did not report conviction status in 2002 (Not collected in 2001).

Revised 3/5/04, th

35% of inmates held for violent offenses; 15% for domestic violence

At midyear 2002, 699 inmates (35% of all inmates) were being held for a violent offense. Of these, 291 (15% of all inmates) were confined for domestic violence. Overall, 11% of inmates at midyear 2002 were confined for driving while intoxicated or driving under the influence of alcohol or drugs, up from 9% in 2001. Approximately 8% of inmates (126) were being held for a drug law violation, down from 7% (130) in 2001.

At midyear 2002 Indian country jails held 1,699 adults, 82% males and 18% females. Juveniles (persons under age 18) accounted for 15% of the total custody population. More than 71%

of juveniles were males; 29% were females. At midyear 2002, 11 juveniles were being held as adults, down from 22 at midyear 2001.

Between June 1 and June 30, 2002, 11,822 persons were admitted to jails in Indian country, a 22% increase over the same period in 2001. Since 1998, new admissions have increased 32%.

Time period	Number of persons			
	2002	2001	2000	1998
June 1- June 30				
New admissions	11,822	9,597	7,151	8,942
July 1-June 30				
Deaths	7	2	2	7
Suicides	3	2	1	3
Other causes	4	0	1	4
Attempted suicides	262	169	151	133

282 suicide attempts and 7 deaths reported during the 12 months ending June 30, 2002

Seven deaths were reported by jail authorities between July 1, 2001, and June 30, 2002. Three inmates committed suicide. During the 12-month period, 282 inmates attempted suicide, up from 169 in 2001. In the last 5 years, the number of admissions rose 32%, and the annual number of attempted suicides more than doubled (from 133 to 262); however, the number of completed suicides remained unchanged (3 in 1998 and 3 in 2002.)

The 10 largest jails held 39% of inmates in Indian country

On June 28, 2002, the 10 largest jails in Indian country housed 790 inmates (table 2). Combined, the 10 facilities had a rated capacity to hold 843 inmates, or 30% of the total rated capacity of all facilities in Indian country. Seventy-nine percent (621) of the inmates in the 10 largest jails were confined in 7 facilities in Arizona.

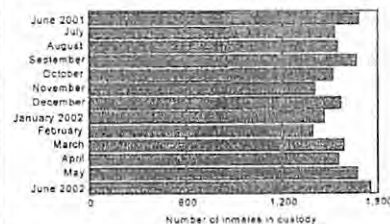
Gila River Department of Corrections and Rehabilitation and Tohono O'odham Detention Center each held over 100 inmates. Pine Ridge Correctional Facility in South Dakota which held 168 inmates at midyear 2001, held 55 at midyear 2002.

On June 28, 2002, the number of inmates at Tohono O'odham Detention Center was 3 times its operating capacity. Gila River Department of Corrections and Rehabilitation was operating below its rated capacity (61%) (appendix table 1, page 6).

56% of jails housed fewer than 25 inmates

Thirty-nine jails in Indian country housed fewer than 25 inmates on June 28, 2002. Nineteen facilities reported fewer than 10 inmates. Twenty facilities held 10 to 24 inmates, 17 facilities held 25 to 49, and 14 facilities held 50 or more inmates. Two facilities each held 100 or more inmates, down from 4 facilities at midyear 2001.

Midyear 2001-02, the inmate population of Indian country jails varied 26% from a low in February to a high in June



Note: Eight jails could not provide complete data

Figure 1

Table 2. Ten largest jails in Indian country, June 28, 2002

Jail facility	Custody population	Rated capacity	Percent of capacity occupied
Total	790	843	123%
Gila River Department of Corrections and Rehabilitation (AZ)	168	152	104%
Tohono O'odham Detention Center (AZ)	101	34	297%
Hopi Rehabilitation Center (AZ)	85	96	89%
Navajo Department of Corrections-Window Rock (AZ)	84	51	165%
San Carlos Jail (AZ)	72	48	150%
Gila River Juvenile Detention and Rehabilitation Center (AZ)	61	100	61%
White Mountain Apache Police Department (AZ)	80	46	130%
Warm Springs Detention Center (OR)	58	44	132%
Standing Rock Law Enforcement Center (ND)	55	50	112%
Pine Ridge Correctional Facility (SD)	55	22	250%

Revised 3/5/04, th

Indian country jails operated at 126% of capacity on peak day in June 2002

Combined, the 70 facilities had a rated capacity to hold 2,177 persons, a 4% increase from the previous year. Jails in Indian country were operating at 92% of capacity on June 28, 2002, up from 91% at midyear 2001. On their peak day in June 2002, jails were holding 2,737 inmates, and operating at 126% of capacity. Since 1998 the number of inmates has increased by 19% on their peak day in June, while capacity has increased by 12%.

	2002	2001	2000	1998
Number of inmates				
Midyear	2,006	1,912	1,775	1,479
Peak day in June	2,737	2,656	2,441	2,308
Rated capacity	2,177	2,101	2,076	1,945
Percent of capacity occupied*				
Midyear	92%	91%	80%	70%
Peak day in June	126	125	118	119

*Number of inmates in custody divided by rated capacity.

Most inmates in Indian country jails were held in units occupied by more than one person. At midyear 2002, 75% of all inmates were held in cells

designed for multiple occupants; 10% were double bunked in single cells; 2% were housed in areas not originally intended for confinement, and 2% were in holding areas or "drunk tanks." Ten percent of all inmates were housed in single cells or rooms.

Forty-two facilities were operating above 100% of capacity in June 2002, up from 40 the previous year (appendix table 1, page 6). Nineteen jails were operating at over 150% of capacity on their peak day in June 2002, down from 21 in 2001 (table 3). Arizona (5) had the most facilities above 150% of capacity, followed by Montana (3), New Mexico (3), South Dakota (3), Michigan (1), Minnesota (1), North Dakota (1), Oregon (1), and Wyoming (1). At least 15 jails each year have operated above 150% of capacity on their most crowded day in June since introducing the survey in 1998.

The Crow Police Department in Montana reported the highest occupancy rate on their peak day in June (429%), up from 257% in 2001. It housed 60 inmates on the peak day in June 2002, with a rated capacity to hold 14 inmates. Four other facilities reported operating at over 300%:

Fort Berthold Agency in North Dakota (400%), Pine Ridge Correctional Facility in South Dakota (400%), Lac View Desert Police Department in Michigan (375%), and Tohono O'odham Detention Center in Arizona (350%).

Since 1998 four facilities have operated above 150% each year: Crow Police Department, Fort Berthold Agency, Pine Ridge Correctional Facility, and Tohono O'odham Detention Center.

Small facilities reported the highest occupancy rates

Nine facilities with a rated capacity to hold fewer than 10 inmates reported the highest occupancy rates (179%) on their peak day in June 2002. Occupancy was 156% of capacity in jails rated to hold 10 to 24 inmates, 130% in jails rated to hold 25 to 49, and 101% of capacity for those rated to hold 50 or more inmates.

Capacity of facility	Number of jails	Percent of capacity occupied on peak day in June 2002
Total	70	126%
Fewer than 10 inmates	9	179
10 to 24	20	156
25 to 49	24	130
50 or more	11	101

7 facilities under court order or consent decree, the fewest since 1998

Seven jails were under multiple court orders or consent decrees to limit the number of inmates they can house and for conditions of inmate confinement. Six facilities were ordered to detain inmates in a humane condition: Wind River Police Department and Navajo Department of Corrections in Chinle, Tuba City, Window Rock, Crownpoint, and Shiprock. The Navajo Department of Corrections in Chinle and Tuba City were also ordered to hold inmates only temporarily. The Pascua Yaqui Law Enforcement Center was ordered to separate adults and juveniles by sight and sound.

Table 3. Jails in Indian country operating above 150% of capacity on the peak day during June 2002

Facilities operating above capacity	Peak population in June	Rated capacity	Percent of capacity occupied
Total, 19 facilities	1,092	476	229%
Crow Police Department (MT)	60	14	429%
Fort Berthold Agency (ND)	32	8	400
Pine Ridge Correctional Facility (SD)	88	22	400
Lac View Desert Police Department (MI)	15	4	375
Tohono O'odham Detention Center (AZ)	119	34	350
Medicine Root Detention Center (SD)	60	24	250
Fort Thompson Jail (SD)	29	12	242%
Red Lake Law Enforcement Services (MN)	53	22	241
Northern Cheyenne Police Department (MT)	44	19	232
Navajo Department of Corrections-Crownpoint (NM)	31	14	221
Warm Springs Detention Center (OR)	95	44	213
Taos Tribal Detention Center (NM)	17	8	213
Navajo Department of Corrections-Window Rock (AZ)	102	51	200%
San Carlos Jail (AZ)	95	48	198
Navajo Department of Corrections-Kayenta (AZ)	19	10	190
Wind River Police Department (WY)	40	20	185
Blackfeet Police Department (MT)	72	45	160
White Mountain Apache Police Department (AZ)	73	46	158
Navajo Department of Corrections-Shiprock (NM)	39	25	156

Revised 3/5/04, th

Four facilities completed construction since July 1, 2001

Among all facilities, 67 reported the year in which the original construction was completed. The original year of construction ranged from 1929, at the Fort Hall Police Department in Idaho, to 2001 at four facilities. Chinle Youth Corrections in Arizona, Fort Mohave Tribal Police Department in Arizona, Lac View Desert Police Department in Michigan, and the Rocky Boy Police Department in Montana. Overall at midyear 2002, jails in Indian country had an average age of 22 years.

Since the time of original construction, 40 facilities have received major renovations. Twenty-five facilities were renovated between 1982 and 1999. Fifteen facilities were renovated after 1999: 2 in 2000, 6 in 2001, and 7 in 2002.

Jails employed more than 2,100 persons at midyear 2002

Indian country jails employed 2,115 persons on June 28, 2002, including payroll, nonpayroll, and contract staff (table 4). Over 33% (711) of all employees were jail operations staff (correctional officers and other staff who spend more than 50% of their time supervising inmates). Jails in Indian country also employed 208 administrative employees, 288 technical or professional staff, and 168 clerical, maintenance, or food service staff. In addition 737 employees (35%) were classified as field operations staff, including patrol officers and other staff who spend more than 50% of their time in the field.

At midyear 2002 there were approximately 2.5 inmates for every jail operations employee, down from 2.8 at midyear 1998. In 1999, when the last national jail census was conducted, the U.S. average among all local jails was 4.0 inmates per correctional officer. Small jails holding 50 or fewer inmates held an average of 2.0 inmates per correctional officer.

Table 4. Staff characteristics of jails in Indian country, June 28, 2002

Staff characteristics	Number of personnel
Total	2,115
Male	1,302
Female	813
Payroll*	2,008
Nonpayroll	57
Contract†	50
Functions	
Administrative	208
Jail operations‡	711
Field operations§	737
Technical/professional	288
Clerical/maintenance¶	
Food service	168
Other	3
Number of inmates per jail operations staff**	2.5

Note: Data were not reported for San Carlos Jail and the Navajo Department of Corrections in Window Rock and Shiprock.

*Includes tribal and BIA direct funded staff (538 contract and self-governance).

†Includes staff paid through private service contracts.

‡Includes patrol officers and other staff who spend more than 50% of their time in the field.

§The number of inmates in custody on June 28, 2002, divided by the number of jail operations staff.

Jails hired 448 new payroll staff between July 2001 and June 2002

During the 12-month period ending June 30, 2002, jail administrators hired a total of 448 new payroll staff, including persons rehired or recalled from layoff. The Walter Minor Law Enforcement Center (adult and juvenile, combined) hired the most new staff (79), followed by Warm Springs Detention Center (22) and White Buffalo Youth Detention Center (20). Five facilities reported no new hires during the period.

At midyear 2002 Indian country jails reported 233 staff vacancies. White Mountain Apache Police Department (24) and Gila River Department of Corrections and Rehabilitation (19) reported the largest number of vacancies. A total of 21 of the 67 facilities reporting data had no staff vacancies at the end of June 2002.

Methodology

"Indian country" is a statutory term that includes the following: all lands within an Indian reservation, dependent Indian communities, and Indian trust allotments (18 U.S.C. § 1151). Courts interpret § 1151 to include all lands held in trust for tribes or their members. See *United States v. Roberts*, 185 F.3d 1125 (10th Cir. 1999). Tribal authority to imprison Indian offenders is limited to 1 year per offense by statute (25 U.S.C. § 1302).

Tribal law enforcement agencies act as first responders to both felony and misdemeanor crimes. For most of Indian country, the Federal Government provides felony law enforcement concerning crimes by or against Indians. Certain areas of Indian country are under Public Law 83-280, as amended. P.L. 280 conferred jurisdiction on certain States over "Indian country" and suspended enforcement of the Major Crimes Act (18 U.S.C. § 1153) and the General Crimes Act (18 U.S.C. § 1152) in those areas. Indian tribes retain concurrent jurisdiction to enforce laws in Indian country where P.L. 280 applies.

The Bureau of Justice Statistics (BJS) conducted the Survey of Jails in Indian Country (SJIC) to describe all adult and juvenile jail facilities and detention centers in Indian country. For purposes of this report, Indian country includes reservations, pueblos, rancherias, and other appropriate areas (18 U.S.C. § 1151). The reference date for the most recent survey is June 28, 2002.

The SJIC was initiated in 1998 as a component of the Annual Survey of Jails (ASJ). The ASJ is conducted in each of the years between the Census of Jails. The 2002 ASJ consisted of a sample survey of 826 local jail jurisdictions, a survey of the Nation's 50 multi-jurisdictional facilities, and a survey of the 70 facilities in Indian country. (For sampling information see *Prison and Jails Inmates at Midyear 2002*, BJS Bulletin, April 2003, <www.ojp.usdoj.gov/bjs/abstract/pjm02.htm>.)

Revised 3/5/04, th

Appendix table 1. Inmates, rated capacity, and percent of capacity occupied in jails in Indian country, June 2002							
State and facility	Number of inmates				Percent of capacity ^a		
	Inmates in custody ^a	ADP ^a	Peak population in June ^a	Rated capacity ^a	Population on June 28 as a percent of capacity	ADP as a percent of capacity	Peak population in June as a percent of capacity
Total:	2,008	1,853	2,737	2,177	92%	79%	126%
Alaska							
Metlakatla Police Department	0	2	6	10	0%	20%	60%
Arizona							
Chiricahua Youth Corrections	13	12	17	27	48%	44%	63%
Colorado River Indian Tribes Detention Center	30	32	41	36	83	89	114
Fort Mohave Tribal Police Department	2	1	2	3	67	33	67
Gila River Department of Corrections and Rehabilitation	158	135	158	152	104	89	104
Gila River Juvenile Detention and Rehabilitation Center	81	84	71	100	81	64	71
Hopi Rehabilitation Center	85	75	90	96	89	78	94
Navajo Department of Corrections-Chinle	34	26	34	31	110	84	110
Navajo Department of Corrections-Haystack	12	9	18	10	120	90	180
Navajo Department of Corrections-Tuba City	51	50	63	66	77	76	96
Navajo Department of Corrections-Window Rock	84	7	102	51	165	7	200
Pascua Yaqui Law Enforcement Center	0	2	5	4	0	50	125
Peach Springs Detention Center	60	30	59	45	111	67	131
Salt River Department of Corrections	51	52	65	56	91	93	116
San Carlos Jail	72	65	95	48	150	135	198
Suzie Jail	7	1	7	12	58	8	58
Tohono O'odham Detention Center	101	107	119	34	297	315	360
Tohono O'odham Juvenile Detention Center	15	12	18	22	68	55	82
Western Navajo Juvenile Services	26	22	26	36	72	61	72
White Mountain Apache Police Department	60	71	73	48	130	154	159
Colorado							
Southern Ute Detention Center	40	30	47	48	83%	63%	98%
Ute Mountain Ute Agency	16	22	43	54	30	41	80
Idaho							
Fort Hall Police Department	17	33	29	25	68%	132%	116%
Michigan							
Lac Vieux Desert Police Department	6	2	15	4	150%	50%	375%
Minnesota							
Red Lake Law Enforcement Services	38	36	53	22	173%	164%	241%
Mississippi							
Chocoma Police Department	28	25	31	40	70%	63%	78%
Montana							
Blackfeet Police Department	20	26	72	45	44%	58%	160%
Crow Police Department	14	6	60	14	100	43	429
Flathead Tribal Police Department	14	15	14	20	70	75	70
Fort Belknap Police Department	5	10	11	8	63	125	138
Fort Peck Indian Youth Services Center	13	12	16	16	81	75	100
Fort Peck Assiniboine and Sioux Tribes Dept. of Corrections	18	20	32	22	73	91	146
Northern Cheyenne Police Department	29	25	44	19	153	132	232
Rocky Boy Police Department	7	4	13	15	47	27	87
White Buffalo Youth Detention Center	6	5	13	24	25	21	54
Nebraska							
Omaha Tribal Police Department	29	13	34	32	91%	41%	106%
Nevada							
Owyhee Detention Facility	13	12	17	27	48%	44%	63%

Revised 3/5/04, th

Appendix table 1. Continued

State and facility	Number of inmates				Percent of capacity ^a		
	Inmates in custody ^b	ADP ^c	Peak population in June ^d	Rated capacity ^e	Population on June 28 as a percent of capacity	ADP as a percent of capacity	Peak population in June as a percent of capacity
New Mexico							
Jicarilla Police Department	20	19	29	48	63%	41%	63%
Laguna Tribal Detention Facility	22	17	24	22	100	77	109
Mescalero Adult Detention Center	21	18	30	24	88	75	125
Navajo Department of Corrections-Crowpoint	18	21	31	14	136	150	221
Navajo Department of Corrections-Shprock	39	1	39	25	156	1	156
Navajo Department of Corrections-Tohatchi Juvenile	3	7	10	14	21	50	71
Ramah Navajo Police Department	5	7	14	10	50	70	140
Taos Tribal Detention Center	17	14	17	8	213	175	213
Zuni Police Department	20	32	50	34	59	94	147
North Dakota							
Fort Berthold Agency	22	23	32	8	275%	288%	400%
Fort Totten Municipal Center	26	8	30	34	77	18	88
Standing Rock Law Enforcement Center	56	50	62	50	112	100	124
Turtle Mountain Law Enforcement Center	22	25	39	30	73	83	130
Oklahoma							
Ponca Tribal Police Department	4	1	6	5	80%	20%	120%
Sac and Fox Nation Juvenile Detention Facility	36	33	39	60	60	55	65
Oregon							
Warm Springs Detention Center	58	13	96	44	132%	30%	218%
South Dakota							
Fort Thompson Jail	14	8	29	12	117%	67%	242%
Kiyuska O'Tiel Reintegration Center	9	8	23	32	28	25	72
Medicine Root Detention Center	43	17	60	24	179	71	250
Pine Ridge Correctional Facility	55	37	68	22	250	168	400
Rosebud Sioux Tribe Law Enforcement	34	23	49	68	50	34	72
Sisseton-Wahpeton Sioux Tribal Law Enforcement	22	22	32	22	100	100	146
Walter Miner Law Enforcement Center-Juvenile	3	4	11	10	30	40	110
Walter Miner Law Enforcement Center-Adult	32	21	45	45	71	47	100
Utah							
Uintah-Ouray Detention Center	7	11	18	22	32%	50%	82%
Washington							
Chukchi Tribal Police Department	5	4	8	8	63%	50%	75%
Makah Police Department	8	10	12	13	62	77	92
Puyallup Tribal Detention Facility	4	4	6	8	50	50	75
Quinalt Nation Police Department	8	8	16	12	50	67	133
Wellpinit BIA Law Enforcement Center	5	9	13	10	50	90	130
Yakama Police Department	47	49	67	50	94	98	134
Wisconsin							
Menominee Tribal Jail	52	44	52	45	116%	98%	116%
Wyoming							
Wind River Police Department	38	24	48	26	146%	92%	185%

Note: Data for the Navajo Department of Corrections in Window Rock and Shprock are based on custody population on June 29, 2001.

Not reported.

^aAdults and juveniles confined in jail facilities.^bAverage daily population is the number of inmates confined in June, divided by 30.^cPeak population is any day in June during which the custody population of a facility was the largest.^dRated capacity is the maximum number of beds or inmates assigned by a rating official to a facility. Excludes temporary holding areas.^ePopulation as a percent of capacity occupied is calculated by dividing the population count of a facility by its rated capacity and multiplying by 100.

Revised 3/5/04, th

Appendix table 2. Adults and juveniles in the custody of jails in Indian country, by gender and conviction status, June 28, 2002

State and facility	Number of inmates in custody							
	Age of offender						Conviction status	
	Adult			Juvenile (under age 18)				
Total	Male	Female	Total	Male	Female	Convicted*	Unconvicted	
Total	1,699	1,399	300	307	219	88	1,120	657
Alaska								
Metlakatla Police Department	0	0	0	0	0	0	0	0
Arizona								
Chino Youth Corrections	0	0	0	13	12	1	12	1
Colorado River Indian Tribes Detention Center	24	17	7	6	3	3	11	19
Fort Mohave Tribal Police Department	1	1	0	1	1	0	0	2
Gila River Department of Corrections and Rehabilitation	157	133	24	1	1	0	129	29
Gila River Juvenile Detention and Rehabilitation Center	0	0	0	61	45	16	38	23
Hopi Rehabilitation Center	76	58	18	9	6	3	56	29
Navajo Department of Corrections-Chinle	34	28	6	0	0	0	20	14
Navajo Department of Corrections-Kayenta	12	9	3	0	0	0	2	10
Navajo Department of Corrections-Tuba City	51	43	8	0	0	0	22	29
Navajo Department of Corrections-Window Rock	64	53	1	0	0	0	26	56
Pasqua Yaqui Law Enforcement Center	0	0	0	0	0	0	0	0
Peach Springs Detention Center	46	33	13	4	3	1	23	27
Salt River Department of Corrections	32	29	3	19	13	6	15	36
San Carlos Jail	71	57	14	1	1	0	56	16
Supai Jail	6	5	1	1	1	0	0	7
Tohono O'odham Detention Center	101	87	14	0	0	0	74	27
Tohono O'odham Juvenile Detention Center	0	0	0	15	12	3	8	7
Western Navajo Juvenile Services	0	0	0	28	22	4	23	3
White Mountain Apache Police Department	47	35	12	13	8	5	43	17
Colorado								
Southern Ute Detention Center	40	36	4	0	0	0	30	10
Ute Mountain Ute Agency	16	16	0	0	0	0	12	4
Idaho								
Fort Hall Police Department	13	9	4	4	1	3	12	5
Michigan								
Lac View Desert Police Department	5	5	0	1	0	1	0	6
Minnesota								
Red Lake Law Enforcement Services	31	25	3	7	5	2	2	36
Mississippi								
Choctaw Police Department	25	22	3	3	3	0	24	4
Montana								
Blackfoot Police Department	20	15	5	0	0	0	20	0
Crow Police Department	14	12	2	0	0	0	14	0
Flathead Tribal Police Department	14	11	3	0	0	0	11	3
Fort Belknap Police Department	5	4	1	0	0	0	0	5
Fort Peck Indian Youth Services Center	0	0	0	13	7	6	5	8
Fort Peck Assiniboine and Sioux Tribes Dept. of Corrections	16	14	2	0	0	0	12	4
Northern Cheyenne Police Department	28	17	11	1	1	0	21	8
Rocky Boy Police Department	7	6	1	0	0	0	0	7
White Buffalo Youth Detention Center	0	0	0	6	2	4	6	0
Nebraska								
Omaha Tribal Police Department	29	20	9	0	0	0	1	1
Nevada								
Owyhee Detention Facility	13	12	1	0	0	0	12	1

Revised 3/5/04, th

Appendix table 2. Continued								
State and facility	Number of inmates in custody						Conviction status	
	Age of offender			Age of offender				
	Total	Adult	Female	Juvenile (under age 18)	Total	Male	Female	Convicted*
New Mexico								
Jicarilla Police Department	27	20	7	2	1	1	20	9
Laguna Tribal Detention Facility	22	15	4	0	0	0	15	4
Mescalero Adult Detention Center	21	15	5	0	0	0	15	3
Navajo Department of Corrections-Crownpoint	19	15	1	0	0	0	14	5
Navajo Department of Corrections-Shiprock	39	35	4	0	0	0	0	39
Navajo Department of Corrections-Tohatchi Juvenile Center	0	0	0	3	3	0	0	3
Ramah Navajo Police Department	5	5	0	0	0	0	3	2
Taos Tribal Detention Center	17	14	3	0	0	0	8	9
Zuni Police Department	18	15	0	2	1	1	17	3
North Dakota								
Fort Berthold Agency	22	13	9	0	0	0	17	5
Fort Totten Municipal Center	25	21	4	1	1	0	10	15
Standing Rock Law Enforcement Center	49	40	9	7	4	3	40	15
Turtle Mountain Law Enforcement Center	20	19	1	2	1	1	10	12
Oklahoma								
Ponca Tribal Police Department	4	4	0	0	0	0	3	1
Sec and Fox Nation Juvenile Detention Facility	0	0	0	36	26	10	0	36
Oregon								
Warm Springs Detention Center	42	33	9	16	9	7	55	3
South Dakota								
Fort Thompson Jail	14	10	4	0	0	0	0	14
Kiyuska O'Ttoi Reintegration Center	5	3	2	4	2	2	6	3
Medicine Root Detention Center	43	37	6	0	0	0	0	43
Pine Ridge Correctional Facility	55	44	11	0	0	0	0	55
Rosebud Sioux Tribe Law Enforcement	32	22	10	2	1	1	4	30
Sisseton-Wahpeton Sioux Tribal Law Enforcement Center	22	15	4	0	0	0	14	8
Walter Miner Law Enforcement Center-Juvenile	0	0	0	3	2	1	3	0
Walter Miner Law Enforcement Center-Adult	32	25	7	0	0	0	3	29
Utah								
Uintah-Ouray Detention Center	7	5	2	0	0	0	4	3
Washington								
Chehalis Tribal Police Department	5	5	0	0	0	0	4	1
Makah Police Department	8	7	1	0	0	0	8	2
Puyallup Tribal Detention Facility	4	4	0	0	0	0	4	0
Quinaltup Nation Police Department	6	5	1	0	0	0	3	3
Wetpina BIA Law Enforcement Center	5	4	1	0	0	0	5	0
Yakama Police Department	30	26	4	17	14	3	45	1
Wisconsin								
Menominee Tribal Jail	52	39	13	0	0	0	28	24
Wyoming								
Wind River Police Department	31	26	5	7	7	0	16	22
Note: Data for the Navajo Department of Corrections in Window Rock and Shiprock are based on custody population on June 29, 2001.								
*Not reported.								
*Includes probation and parole violators with no new sentence.								

Revised 3/5/04. th

Appendix table 3. Inmates in jails in Indian country, by seriousness of offense and type of offense, June 28, 2002								
State and facility	Inmates in custody	Number of inmates in custody						
		Seriousness of offense			Type of offense			
		Felony	Misdemeanor	Other ^a	Domestic violence	Other violent	DWI/DUI ^b	Drug offense
Total	2,006	107	1,725	174	291	408	226	128
Alaska								
Metlakatla Police Department	0	0	0	0	0	0	0	0
Arizona								
Chino Youth Corrections	13	0	13	0	3	1	1	1
Colorado River Indian Tribes Detention Center	30	4	26	0	8	1	3	0
Fort Mohave Tribal Police Department	2	0	2	0	0	1	0	0
Gila River Department of Corrections and Rehabilitation	158	0	158	0	30	110	18	0
Gila River Juvenile Detention and Rehabilitation Center	51	0	51	0	22	38	0	1
Hopi Rehabilitation Center	85	0	85	0	13	0	0	0
Navajo Department of Corrections-Chino	34	20	14	0	10	13	5	0
Navajo Department of Corrections-Kayenta	12	0	12	0	2	2	0	2
Navajo Department of Corrections-Tuba City	51	0	51	0	7	14	7	0
Navajo Department of Corrections-Window Rock	84	0	84	0	0	0	3	0
Pascua Yaqui Law Enforcement Center	0	0	0	0	0	0	0	0
Peach Springs Detention Center	50	2	48	0	8	28	6	4
Salt River Department of Corrections	51	0	51	0	8	6	2	6
San Carlos Jail	72	29	43	0	37	17	9	2
Supai Jail	7	0	7	0	0	1	0	1
Tohono O'odham Detention Center	101	0	101	0	11	39	5	9
Tohono O'odham Juvenile Detention Center	15	8	7	0	10	5	0	0
Western Navajo Juvenile Services	26	0	3	23	1	8	0	17
White Mountain Apache Police Department	80	0	80	0	8	5	5	0
Colorado								
Southern Ute Detention Center	40	0	35	5	10	10	13	7
Ute Mountain Ute Agency	16	0	16	0	4	5	0	0
Idaho								
Fort Hall Police Department	17	1	16	0	0	0	8	0
Michigan								
Lac View Desert Police Department	6	0	6	0	0	0	3	3
Minnesota								
Red Lake Law Enforcement Services	38	9	29	0	27	0	0	10
Mississippi								
Choctaw Police Department	28	0	28	0	7	5	8	0
Montana								
Blackfeet Police Department	20	0	20	0	1	1	3	0
Crow Police Department	14	0	14	0	1	0	1	0
Flathead Tribal Police Department	14	0	14	0	2	0	4	1
Fort Belknap Police Department	5	0	5	0	0	0	0	0
Fort Peck Indian Youth Services Center	13	3	10	0	0	1	0	0
Fort Peck Assiniboine and Sioux Tribes Dept. of Corrections	16	6	10	0	0	6	2	0
Northern Cheyenne Police Department	29	0	29	0	4	0	4	2
Rocky Boy Police Department	7	0	7	0	1	0	0	0
White Buffalo Youth Detention Center	6	0	6	0	0	0	0	0
Nebraska								
Omaha Tribal Police Department	29	3	26	0	0	8	8	0
Nevada								
Owyhee Detention Facility	13	0	13	0	3	1	1	1

Revised 3/5/04, th

Appendix table 3. Continued								
State and facility	Inmates in custody	Number of inmates in custody						
		Seriousness of offense			Type of offense			
		Felony	Misdemeanor	Other*	Domestic violence	Other violent	DWI/DUI†	Drug offense
New Mexico								
Jicarilla Police Department	29	0	27	2	2	1	3	0
Laguna Tribal Detention Facility	22	0	22	0	4	4	14	0
Mescalero Adult Detention Center	21	0	21	0	2	0	3	0
Navajo Department of Corrections-Crownpoint	19	3	16	0	3	14	2	0
Navajo Department of Corrections-Shiprock	39	0	39	0	0	0	3	0
Navajo Department of Corrections-Tohatchi Juvenile	3	0	3	0	0	3	0	0
Ramah Navajo Police Department	5	0	5	0	1	3	1	0
Taos Tribal Detention Center	17	1	16	0	0	0	3	14
Zuni Police Department	20	0	20	0	0	12	3	0
North Dakota								
Fort Berthold Agency	22	0	22	0	4	7	5	2
Fort Totten Municipal Center	26	0	26	0	4	2	2	0
Standing Rock Law Enforcement Center	56	0	49	7	8	3	25	6
Turtle Mountain Law Enforcement Center	22	0	22	0	3	1	5	3
Oklahoma								
Ponca Tribal Police Department	4	0	4	0	1	0	3	0
Sac and Fox Nation Juvenile Detention Facility	36	1	11	24	0	1	0	17
Oregon								
Warm Springs Detention Center	58	0	44	14	1	4	0	1
South Dakota								
Fort Thompson Jail	14	0	11	3	5	0	3	0
Kiyuska Ojibpi Reintegration Center	9	6	3	0	0	0	0	0
Medicine Root Detention Center	43	0	11	32	1	2	2	0
Pine Ridge Correctional Facility	55	0	8	47	0	2	3	0
Rosebud Sioux Tribe Law Enforcement	34	2	32	0	1	1	2	0
Sisseton-Wahpeton Sioux Tribal Law Enforcement Center	22	0	22	0	4	0	7	2
Walter Miner Law Enforcement Center-Juvenile	3	0	3	0	0	0	0	0
W M L E	32	0	23	9	2	0	3	0
Utah								
Uintah-Ouray Detention Center	7	0	7	0	1	0	1	0
Washington								
Chehalis Tribal Police Department	5	2	3	0	1	2	1	1
Makah Police Department	8	5	3	0	0	1	1	5
Puyallup Tribal Detention Facility	4	0	4	0	1	0	2	1
Quinalt Nation Police Department	6	4	2	0	0	0	0	3
Wetpint BIA Law Enforcement Center	5	0	5	0	3	1	0	0
Yakama Police Department	47	0	45	2	1	2	0	1
Wisconsin								
Monominee Tribal Jail	52	1	51	0	10	5	9	1
Wyoming								
Wind River Police Department	38	0	38	0	1	13	5	0

Note: Data for the Navajo Department of Corrections in Window Rock and Shiprock are based on custody population on June 29, 2001.

Not reported.

*Other includes 5 inmates being held for the Bureau of Immigration and Customs Enforcement, formerly the Immigration and Naturalization Service, for deportation, and 169 for other reasons, including protective custody, detoxification, public intoxication, status offenses, and pending charges.

†Includes driving while intoxicated and driving while under the influence of drugs or alcohol.

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

Washington, DC 20531



PRESORTED STANDARD
POSTAGE & FEES PAID
00185
Permit No. G-91

Official Business
Penalty for Private Use \$300

In 1998 the Office of Law Enforcement Services, Bureau of Indian Affairs (BIA), U.S. Department of the Interior, provided a complete list of 74 Indian country jail facilities. The list included detention centers, jails, and other correctional facilities, operated by tribal authorities or the BIA. Since 1998, 3 facilities were added, 3 were closed, 2 facilities were abandoned, 2 were combined into 1 facility, and 1 was determined not to be a jail facility,

resulting in 70 surveyed facilities. The facilities are in 19 States and are affiliated with 55 tribes.

Data were obtained by mailed questionnaires. Through follow-up phone calls and facsimiles, 68 of 70 facilities responded. Data for the Navajo Department of Corrections in Window Rock and Shiprock are from June 29, 2001.

This report in portable document format and in ASCII, its tables, survey questionnaire, and related statistical data are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/>

Get immediate e-mail notification of BJS releases from JUSTSTATS. Subscribe at <<http://www.ojp.usdoj.gov/bjs/juststats.htm>>.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Lawrence A. Greenfeld is the director.

BJS Bulletins present the first release of findings from permanent data collection programs.

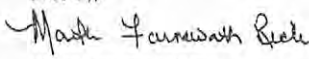
Todd D. Minton collected and processed the data and wrote this report under the supervision of Allen J. Beck.

Norena Henry, Director, American Indian and Alaska Native Desk, Office of Justice Programs, and the Office of Tribal Justice, U.S. Department of Justice, reviewed the report. Daniel Billings provided statistical review and verification. Tom Hester edited the report, and Jayne Robinson provided the final production.

November 2003, NCJ 188997

REPORT PERIOD COVERED:
January 1, 1995 through December 31, 1996

OMB No. 1121-0078: Approval Expires 12/31/97

<p>FORM NPS-1 (10-11-84)</p> <p>U.S. DEPARTMENT OF COMMERCE BUREAU OF THE CENSUS ACTING AS COLLECTING AGENCY FOR THE BUREAU OF JUSTICE STATISTICS U.S. DEPARTMENT OF JUSTICE</p> <p>SUMMARY OF SENTENCED POPULATION MOVEMENT</p> <p>National Prisoner Statistics 1995</p>	<p>Public reporting burden for this collection of information is estimated to average 6.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to the Director, Bureau of Justice Statistics, Washington, DC 20531, and to the Public Use Reports Project, 1121-0078, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.</p> <p>(Please correct any error in name, address, and ZIP Code)</p>		
<p>FROM THE DIRECTOR BUREAU OF THE CENSUS</p> <p>Thank you for your continued support of the program that collects information on the inmates of prisons in each state, the District of Columbia, and the Federal Bureau of Prisons. Your support along with that of the other jurisdictions is essential for the Bureau of Justice Statistics (BJS) to prepare this important data series. The Bureau of the Census collects these data under the authority of Title 42, United States Code, Section 3732, to provide annual summary measures of movement into and out of the Nation's correctional systems.</p> <p>The report form concerns inmates with maximum sentences greater than 1 year who moved into or out of the jurisdiction of your state during January 1, 1995 through December 31, 1995. The figures provided on the enclosed sheet are from the NPS-1 your state submitted for 1994. Please complete and return the form by March 29, 1996 to expedite timely publication of these data.</p> <p>In the past, a major problem for national correctional studies has been the inability to collect comparable data from all states because of differing definitions and reporting procedures. We have developed a set of definitions to try to overcome this problem. If you are unable to use our definitions when completing this NPS-1 form, please let us know the specific differences so we can inform the users of these data.</p> <p>Your participation in this endeavor is voluntary, and there are no penalties for refusing to supply the information. The information requested, however, is very useful to the BJS, the Congress, the states, and others involved in the formulation of national, state, and local justice policy and decision making. It is important to collect comparable information from each state in order to fulfill this purpose.</p> <p>If after reading the instructions on pages 5 and 6, you still need help in completing the form, please call Gertrude Odom on 1-800-221-1829.</p> <p>Again, thank you for your cooperation.</p> <p>Sincerely,</p> <p></p> <p>Martha Farnsworth Riche</p> <p>Enclosure</p>			
<p>PLEASE READ INSTRUCTIONS ON PAGES 5 AND 6 BEFORE COMPLETING THIS FORM</p> <table border="1"> <tr> <td data-bbox="423 1613 730 1717"> <p>RETURN COMPLETED FORM TO</p> </td> <td data-bbox="730 1613 1151 1717"> <p>BUREAU OF THE CENSUS Attn: Demographic Surveys Division Washington, DC 20233-0001 FAX No. 301-457-3929</p> </td> </tr> </table>		<p>RETURN COMPLETED FORM TO</p>	<p>BUREAU OF THE CENSUS Attn: Demographic Surveys Division Washington, DC 20233-0001 FAX No. 301-457-3929</p>
<p>RETURN COMPLETED FORM TO</p>	<p>BUREAU OF THE CENSUS Attn: Demographic Surveys Division Washington, DC 20233-0001 FAX No. 301-457-3929</p>		

FOR PROCESSING USE ONLY		YEAR	STATE FIPS CODE	Telephone	
Respondent name and title				Area code	Number
Item description				Inmates with over 1 year maximum sentence	
				MALE	FEMALE
				1994	1995
1. Jurisdiction population on January 1					
2. Admissions					
a. New court commitments					
b. Parole violators with new sentences					
c. Other conditional release violators with new sentences					
d. Parole violators only, no new sentences					
e. Other conditional release violators only, no new sentences					
f. Transfers from other jurisdictions					
g. AWOL returns, with or without new sentences					
h. Escapee returns, with or without new sentences					
i. Returns from appeal/bond					
j. Other admissions - Specify in "NOTES"					
k. TOTAL ADMISSIONS Sum of items 2a-2j					
3. Total inmates handled - Sum of item 1 and 2k					
4. Releases					
Unconditional					
a. Expirations of sentence					
b. Commutations					
c. Other unconditional releases - Specify in "NOTES"					
Conditional					
d. Probations					
e. Supervised mandatory releases					
f. Paroles					
g. Other conditional releases - Specify in "NOTES"					
Death					
h. Executions					
i. Illnesses/natural causes (Exclude AIDS, report in 4j)					
j. Acquired immune deficiency syndrome (AIDS) The immediate cause of death in AIDS mortalities may be Pneumocystis Carinii Pneumonia, Kaposi's Sarcoma, or other diseases related to HIV infection					
k. Suicides					
l. Accidental injury to self					
m. Death caused by another person					
n. Other deaths - Specify in "NOTES"					
Other					
o. AWOLs					
p. Escapes from confinement					
q. Transfers to other jurisdictions					
r. Releases to appeal/bond					
s. Other releases - Specify in "NOTES"					
t. TOTAL RELEASES Sum of items 4a-4s					

Item description		MALE		FEMALE	
		1994	1995	1994	1995
5. Jurisdiction population Dec. 31	a. Inmates with over 1 year maximum sentence - Item 3 minus item 4t				
	b. Inmates with a year or less maximum sentence				
	c. Unsented inmates - Enumerate only those in your State's correctional jurisdiction. Otherwise, report in item 6c.				
	d. TOTAL inmate population - Sum of items 5a, b, and c				
6. Custody population Dec. 31	a. Inmates with over 1 year maximum sentence				
	b. Inmates with a year or less maximum sentence				
	c. Unsented inmates				
	d. TOTAL inmate population - Sum of items 6a, b, and c				
7. State prison crowding Dec. 31	a. Number of state inmates housed in facilities operated by a county or other local authority on December 31 solely to ease prison crowding If any entry in item 7a for 1995 is not "0" or "NA," please answer item 7b.				
	b. Are these inmates included in item 5d, jurisdiction total? If "NO," explain in the "NOTES."	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
	c. Number of your State's inmates housed in other states or federal facilities on December 31 solely to ease prison crowding. Specify State or Federal.				
	d. Are these inmates included in item 5d, jurisdiction total? If "NO," explain in the "NOTES."	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

NOTES

FOR PROCESSING USE ONLY		YEAR	STATE FIPS CODE	MALE		FEMALE	
Item description Of those enumerated in item 5d, jurisdiction, please specify race counts.		1994	1995	1994	1995	1994	1995
8. Racial composition Dec. 31	a. TOTAL - Transcribe from item 5d						
	b. Race	(1) White					
		(2) Black					
		(3) American Indian or Alaskan native					
		(4) Asian or Pacific Islander					
		(5) Other - Specify in "NOTES"					
		(6) Not known					
Item description Of those enumerated in item 5d, jurisdiction, please specify ethnic counts.		MALE		FEMALE			
9. Ethnic composition Dec. 31	a. TOTAL - Transcribe from item 5d						
	b. Ethnicity	(1) Hispanic					
		(2) Not Hispanic					
		(3) Not known					
10. HIV testing, Jan. 1- Dec. 31, 1995	a. During 1995 were any inmates tested for the antibody to the Human Immune Deficiency Virus (HIV) that causes AIDS?		1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No - Skip to item 11				
	b. Which inmates were tested during 1995? Mark (X) all that apply.		1 <input type="checkbox"/> All incoming inmates 2 <input type="checkbox"/> All inmates currently in custody 3 <input type="checkbox"/> All inmates at time of release 4 <input type="checkbox"/> Certain inmates (Complete item 10c)				
	c. Who were the certain inmates tested? Mark (X) all that apply.		1 <input type="checkbox"/> High-risk groups - Specify _____ 2 <input type="checkbox"/> Upon inmate request 3 <input type="checkbox"/> Upon clinical indication of need 4 <input type="checkbox"/> Upon involvement in incident 5 <input type="checkbox"/> Random sample 6 <input type="checkbox"/> Other - Specify _____				
Item description Of those enumerated in item 6d, custody, specify number of HIV infection/AIDS cases.		TOTAL	MALE	FEMALE			
11. HIV infection/ AIDS cases in custody on Dec. 31, 1995	a. Inmates who were asymptomatic HIV positive						
	b. Inmates with lesser forms of symptomatic HIV disease						
	c. Inmates with confirmed AIDS						
	d. Total number of inmates who were HIV positive or confirmed AIDS cases (Sum of items 11a, b, and c)						
NOTES							

GENERAL INSTRUCTIONS

In this report, please provide summary movement counts and other counts as specified, of your prison population for January 1 through December 31, 1995.

Because the NPS-1 is an effort to collect comparable data from all states, we urge that you try to adhere to the concepts, definitions, and instructions provided on pages 5 and 6. However, if after reviewing the concepts, definitions, and instructions, you are not able to report an item using our guidelines, please inform us using the following procedure. Enter "NA" (Not applicable) if by law or regulation your State cannot have the type of inmates described by the item. Enter "0" (Zero), if your State can have such inmates but did not have any during 1995. Enter "NR" (Not Reported) in the item, if your State had the type of inmates described by the item but you cannot determine the number of such inmates your State had in 1995. If you cannot determine the number of inmates separately by item, report the combined count in one of the items, enter "NR" in the remaining items and specify in the closest "NOTES" space all of the items represented by the combined count. Please do not leave any item blank unless required to do so by specific instructions.

1. JURISDICTION POPULATION ON JANUARY 1

The jurisdiction population on January 1, 1995 (Item 1) should equal the number of inmates with over 1 year maximum sentence on December 31, 1994 (Item 5a). Revise Item 5a for 1994 only if you must.

POPULATION MOVEMENT, ITEMS 2-4

In items 2-4, you are asked to summarize by category, the movements of all adults and youthful offenders adjudicated through the adult court and sentenced to a maximum of at least one year and one day and admitted to or released from the jurisdiction of your State prison system. That is, report the movement of all inmates for whom your State government had the legal authority and responsibility for enforcing their prison sentence in 1995 even though they were housed in other states, county or city jails, halfway houses, or federal facilities. Do not report the admission or release of inmates your State was merely housing for other states. Do not report the admission or release of inmates with a sentence of a year or less. Do not report the admission or release of any unsentenced inmates, such as pretrial detainees, inmates under the legal jurisdiction of the county, those being held in protective custody, and pre-sentence and diagnostic evaluators.

2. ADMISSIONS

Do not report returns from short-term movements (less than 30 days) where the State has retained jurisdiction, such as from a court session, work study, or mercy furlough.

- a. **New court commitments** - Include all inmates who were admitted with all new sentences, that is, these inmates were not readmitted for any sentences. This category includes probation violators entering prison for the first time on the probated offenses. Do not include parole violators with new sentences as new court commitments.
- b. **Parole violators with new sentences** - Include all parolees returned with new sentences.
- c. **Other conditional release violators with new sentences** - Include all conditional release violators (other than parole violators) returned with new sentences, for example, returns from shock probation, supervised mandatory release, etc.
- d. **Parole violators only, no new sentences** - Include all parolees returned only for formal revocations of parole which were not accompanied by new sentences. If the parolee was not formally revoked, that is, the parolee was held only temporarily pending a hearing, no admission occurred for NPS purposes.
- e. **Other conditional release violators only, no new sentences** - Include all conditional release violators (other than parole violators) returned only for formal revocations of conditional release which were not accompanied by new sentences. If the conditional release was not formally revoked, that is, the conditional release violator was held only temporarily pending a hearing, no admission occurred for NPS purposes.
- f. **Transfers from other jurisdictions** - Include all inmates transferred from another jurisdiction to the jurisdiction of your State to continue sentences already in force. Do not report the admission if your State does not acquire jurisdiction. Do not report movements from prison to prison within your State.

g. **AWOL returns, with or without new sentences** - Include all returns from AWOL. AWOL is defined as failure to return from authorized temporary absences such as work furlough, study release, mercy furlough, or other authorized temporary absence.

h. **Escapee returns, with or without new sentences** - Include all returns from escape. Escape is defined as unlawful departure from a state correctional facility or from the custody of state correctional personnel.

i. **Returns from appeal/bond** - Include all inmates reinstated to correctional jurisdiction from long-term jurisdictional absences on appeal or bond. Do not report returns from short-term movements (that is, less than 30 days) to court (that is, where the state retained jurisdiction).

j. **Other admissions** - Include all other admissions not covered by the above categories. Please specify the nature of these admissions in the "NOTES."

3. TOTAL INMATES HANDLED

This entry should equal the jurisdiction on January 1 (Item 1) plus all admissions (Items 2a-2k).

4. RELEASES

Do not report short-term movements (less than 30 days) where the State has retained jurisdiction, such as to court, to work, study or mercy furloughs.

Unconditional - An unconditional release occurs only if the released inmate cannot be reimprisoned for any sentence for which he was in prison.

a. **Expirations of sentence** - Include all inmates whose maximum court sentences minus credits have been served.

b. **Commutations** - Include all inmates whose maximum sentences have been changed (lowered) to time served to allow immediate unconditional release.

c. **Other unconditional releases** - Include all other unconditional releases not covered by the above categories. Please specify the nature of these releases in the "NOTES."

Conditional - A conditional release occurs if the released inmate, upon violating the conditions of his release can be imprisoned again for any of the sentences for which he was in prison.

d. **Probations** - Include all inmates who have been placed under probation supervision and conditionally released. Include all shock probation releases.

e. **Supervised mandatory releases** - Include all inmates who must, by law, be conditionally released. This type of release may also be called mandatory conditional release.

f. **Paroles** - Include all inmates conditionally released to parole. Enter only releases officially entitled "parole."

g. **Other conditional releases** - Include all other conditional releases not covered by the above categories. Please specify the nature of these releases in the "NOTES."

INSTRUCTIONS - Continued

4. RELEASES - Continued

Death

h. Executions - Self-explanatory.

i. **Illnesses/natural causes** - Do not include death from AIDS in this category. Report in 4j.

j. **Acquired Immune Deficiency Syndrome (AIDS)** - the immediate cause of death in AIDS mortalities may be Pneumocystis Carinii Pneumonia, Kaposi's Sarcoma, or other diseases related to HIV infection.

k. **Suicides** - Self-explanatory

l. **Accidental injury to self** - Include all inmates who accidentally caused their own deaths (for example, a fall from a ladder, mishandling electrical equipment).

m. **Death caused by another person** - Include all inmates whose death was caused accidentally or intentionally by another inmate or prison personnel.

n. **Other deaths** - Include all other deaths not covered by the above categories. Please specify the nature of these deaths in the "NOTES."

o. **AWOLs** - Include all failures to return from an authorized temporary absence such as work furlough, study release, mercy furlough, or other authorized temporary absence.

p. **Escapes from confinement** - Include all inmates who were transferred from your State's custody to the custody of state correctional personnel.

q. **Transfers to other jurisdictions** - Include all inmates who were transferred from your State's jurisdiction to another jurisdiction to continue sentences already in force. Do not report the release if your State does not relinquish jurisdiction. Do not report movements from prison to prison within your State.

r. **Releases to appeal/bond** - Include all inmates released from correctional jurisdiction to long-term jurisdictional absences on appeal or bond. Do not report short-term movements (that is, less than 30 days) to court where the state correctional system retains jurisdiction.

s. **Other releases** - Include all other releases not covered by the above categories. Please specify the nature of these releases in the "NOTES."

5. JURISDICTION POPULATION DECEMBER 31

Include all inmates under your State's jurisdiction on December 31, regardless of the location of the inmates. Do not include other jurisdictions' inmates (for example, other states' inmates, pre-trial detainees) merely housed in your prisons.

6. CUSTODY POPULATION DECEMBER 31

Include all inmates in your State's custody, that is, include inmates your State is housing for other states, or federal or local authorities as well as your own inmates who are physically located in your State facilities on December 31. Do not include your State inmates housed outside your State prison facilities.

7. PRISON CROWDING DECEMBER 31

a. Provide a count of all inmates that are under the jurisdiction of your State but were housed in facilities operated by county or local authorities on December 31 specifically because there was no room for them in state correctional facilities.

b. The inmates counted in 7a should be included in the jurisdiction population, item 5d. Mark item 7b to indicate whether they were included. If you mark "No", explain in the "NOTES."

c. Provide a count of all inmates under the jurisdiction of your State who were housed in another State or in a Federal prison on December 31 specifically because there was no room for them in state correctional facilities. Enter the name of each state in which the inmates were housed and the number held in each state or by the Federal system.

d. The inmates counted in item 7c should be included in the jurisdiction population, item 5d. Mark item 7d to indicate whether they were included. If you mark "No", explain in the "NOTES."

8. RACE

(1) **White** - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

(2) **Black** - A person having origins in any of the black racial groups of Africa.

(3) **American Indian or Alaskan Native** - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(4) **Asian or Pacific Islander** - A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.

(5) **Other** - Any other race not covered by the above categories. Please specify the other races in the "NOTES."

(6) **Not known** - Any inmate whose race is unknown should be included here.

9. ETHNIC ORIGIN

(1) **Hispanic** - A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

(2) **Not Hispanic** - A person not covered by the above category.

(3) **Not known** - Any one whose ethnic origin is unknown should be included here.

10. HIV TESTING

a. Mark "Yes" if any inmates in your custody during calendar year 1995 were tested for the antibody to the Human Immune Deficiency Virus (HIV) that causes AIDS.

b. If "Yes" marked in item 10a, mark one, all or any combination of the categories in item 10b to specify the type(s) of inmates who were tested. For example, all incoming inmates and all inmates who requested it may have been tested in 1995. You would mark categories 1 and 4. If category 4, "certain inmates," is marked, complete item 10c.

c. Mark as many categories as necessary to describe the particular kinds of inmates who were tested in 1995. If some of the inmates tested are not described by the listed categories, mark category 6 and write a description of these inmates.

11. HIV INFECTION/AIDS CASES in custody population

HIV Infection - A person is identified as infected with HIV when a sequence of tests, starting with repeated enzyme immuno assays (EIA) and including a Western blot or similar, more specific assay, are repeatedly reactive.

a. **Asymptomatic HIV positive** - Include all inmates who have tested positive for the HIV antibody but who have no HIV-related symptoms.

b. **Lesser forms of symptomatic HIV disease** - Include all inmates who have symptoms associated with HIV infection but are not confirmed AIDS cases.

c. **Confirmed AIDS cases** - In the presence of laboratory evidence of HIV infection, regardless of the presence of other causes of immune deficiency, a person diagnosed with an indicator disease, such as Pneumocystis Carinii Pneumonia, Kaposi's Sarcoma, or other diseases related to HIV infection, should be classified as a confirmed AIDS case. Include all inmates who are immune suppressed and have life threatening infections, due to AIDS indicator diseases.

d. **Total HIV Infection/AIDS Cases** - This is the sum of 11a, 11b, and 11c.

TESTIMONY OF
THE HONORABLE VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
THE TOHONO O'ODHAM NATION (AZ)
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS
HEARING ON INDIAN DETENTION FACILITIES

June 23, 2004

Mr. Chairman, and Members of the Committee, I am Vivian Juan-Saunders, Chairwoman of the Tohono O'odham Nation in Arizona. Thank you for the opportunity to present testimony on the detention facility and related needs on the Tohono O'odham Nation.

In 1961, the Bureau of Indian Affairs built the Tohono O'odham Nation Adult Detention facility, in Sells, Arizona, to hold a capacity of 34 inmates. The BIA owns the facility, and through P.L. 93-638 contracting, the Nation operates the facility.

For many years, the detention facility on the Nation has had the unfortunate distinction of being one of the most overcrowded jails in Indian country. According to the 2001 and 2002 reports issued by the Bureau of Justice Statistics in the U.S. Department of Justice, our average daily inmate population ranges from 110 to 115 resulting in a 300 to 350% over-capacity rate. Last year, we had an average daily inmate population of 93-95 males and 16-19 females. In response to the growing female inmate population, we moved the female inmates into a male housing unit, which, resulted in additional crowding in the male housing unit. Recently, we have experienced

Testimony of the Tohono O'odham Nation
Senate Committee on Indian Affairs
June 23, 2004

an additional increase in the female average daily population of 22-25 and had to dedicate another male housing unit for the female inmates.

In 1987, the BIA renovated the facility by reorganizing the interior spacing. The renovation did not increase the inmate capacity. The BIA has not performed any improvements since then.

It costs approximately \$3.44 million to operate the adult detention facility on an annual basis. The BIA provides about one-third of the funding or approximately \$1.14 million. The Nation uses tribal funds to pay for two-thirds of the operations, or approximately \$2.3 million. Our juvenile corrections program is separate from the Adult facility and is operated through our Tribal Courts. The Nation expends tribal funds to support the juvenile corrections programs with little to no support from the BIA.

Our Adult Detention Facility has a staff of 40 people and is headed by a professional Corrections Administrator, who served 25 years in a similar capacity for neighboring Pima County Sheriff's Department. The rest of the staff consists of:

- 27 Correctional Officers
- 5 Sergeants
- 2 Corrections Specialists
- 4 Cooks
- 1 Lieutenant

Testimony of the Tohono O'odham Nation
Senate Committee on Indian Affairs
June 23, 2004

Five of these positions – 3 correctional officers, one sergeant, and one Lieutenant - are currently frozen due to funding limitations.

Our facility adheres to established policies and procedures in accordance with standard corrections facility operations. We have ongoing staff development and training practices. We implemented a classification system that includes assessing an inmate's psychological background, reviewing past offenses and determining incidence of mental illness and other relevant factors to establish the appropriate placement and treatment of the inmate. The Corrections Staff attends the Indian Police Academy for basic Corrections training and participates in a structured in-service Field Training Officer (FTO) program. From our experience, we know that proper and ongoing training is a key factor in effective jail management. We continue to support on-going, in-service training of 28-40 hours a year for the staff.

The facility is operated under a philosophy of treating inmates with respect and dignity. Consistent with the goals of public safety and public service, we emphasize providing humane incarceration that includes providing services to help change behavioral patterns. We want these individuals to become law-abiding citizens upon being released. Relying strictly on tribal funds, our Tribal Social Services professionals and community volunteers provide an array of services at the facility, such as:

- HIV Education

Testimony of the Tohono O'odham Nation
Senate Committee on Indian Affairs
June 23, 2004

- Alcoholics Anonymous
- One-on-One counseling w/psychiatric services
- Women's Group
- Bible Study
- Parenting Classes
- Sweat Lodge Ceremonies
- Physical Fitness – TOPS Program (Take Off Pounds Sensibly)
- Various Church programs and services
- Contact Visitation
- Arts and Crafts
- Community Services
- Smudging
- Traditional Medicine

All of our programs are conducted and available for both male and female inmates. One sergeant is specifically assigned to oversee these programs. In total, approximately 1200 hours a year, or 100 hours a month are dedicated to inmate programs, again with no federal funding support. We have had no major injuries or deaths reported during the five and a half-year tenure of the current Corrections Administrator. An occasional finger jam from playing basketball or a twisted ankle are common types of injuries that occur. There have also been a few minor injuries over the years due to an inmate fights, but again, not on a regular basis.

A recent report issued by the Inspector General in the Department of the Interior gave our Adult Detention facility a "fair" rating, on a scale of excellent to good, to fair, to poor. While we are stretching our resources as far as possible, the facility continues to suffer from extreme over-capacity and lack of capital improvements such as:

Testimony of the Tohono O'odham Nation
Senate Committee on Indian Affairs
June 23, 2004

- Upgrading the ventilation system
- Replacing the showers
- Replacing the old generator
- Improving the lighting system
- Upgrading the life safety and fire system
- Eliminating mold

In addition, we need additional medical and psychiatric support services. We are experiencing a high incidence of inmates with mental and emotional illnesses who require specialized medical treatment. Generally speaking, the facility cannot handle these needs, and of course, finding adequate space is a daily challenge. In the wake of the *USA Today* articles on the condition of jails in Indian Country, we were told by local BIA officials, that additional resources have been identified to address deficient jail conditions. However, we have not been provided any further specifics regarding what types of resources or how much additional funding will be available for our facility.

I am happy to report that we are in the design development stage for a new Minimum Security facility that will be constructed with funding from the Department of Justice. This new facility will be designed for 52 beds for both adults and juveniles. The facility is intended to house sentenced offenders under a direct supervision approach, which is an inmate management style to manage and supervise minimum-security inmates.

Testimony of the Tohono O'odham Nation
Senate Committee on Indian Affairs
June 23, 2004

We believe this new facility will provide part of the solution to address our needs. We also need a maximum-security facility to address the more serious violent crimes, sexual offenses, and the high incidence of gang activities that is occurring on our Reservation.

Another related problem that must be addressed is lack of prosecution by the United States Attorney's Office for the District of Arizona, for serious felony level offenses. For example, we have had people in custody for murder that served less than two years in our jail and walk free with no federal prosecution. We believe that additional federal resources must be provided to address this serious problem. In Arizona, a specialized Indian Country Crime unit should be created in the Arizona District U.S. Attorney's office with federal prosecutors assigned to work exclusively with the tribal police and prosecutors. Without appropriately prosecuting violent crimes in Indian Country, the elevated crime rates will continue to rise and repeat offenders will continue to go unpunished.

Also within the Department of Justice, sufficient funding for tribal detention facilities must be included in its annual budget process. Within the BIA, sufficient funds must be budgeted for operations of these facilities.

Both of the federal agencies must consult with affected Tribal Governments and undertake a strategic and comprehensive planning effort to implement reform of the Tribal Corrections

Testimony of the Tohono O'odham Nation
Senate Committee on Indian Affairs
June 23, 2004

program. The BIA should budget for a separate line item for corrections programs, including staffing, equipment, operation and maintenance of the facilities. Along those lines, proper respect and recognition must be afforded to the corrections programs as a profession that requires sufficient staff with the appropriate wages, professional development and training incentives to attract and retain these professionals.

The dire conditions of jails in Indian Country have been ignored for too long. Unfortunately, it sometimes takes a tragedy to bring attention to these needs. Fortunately, we have not reached that level on the Tohono O'odham Nation. Based on our experiences, Corrections in Indian country needs immediate attention.

In closing, I want to thank the Chairman and the Committee for holding this important hearing and listening to our experiences and recommendations. I would be happy to answer any questions.



**Navajo Nation Statement
To the
U.S. Senate Committee on Indian Affairs 108th Congress
Committee Oversight Hearing on
Indian Tribal Detention Facilities
June 23, 2004**

Mr. Chairman, Mr. Inouye and members of the Committee, thank you for the opportunity to provide the Navajo Nation's statement on Indian Tribal Detention Facilities. The Navajo Nation personally thanks the Committee for its support of Indian detention facilities and for funding adult and youth detention facilities in Indian country. The Navajo people directly benefit from the support the Committee has given to Indian detention facilities.

For the record, my name is Hope MacDonald-LoneTree. I am an elected Navajo leader and serve as the Chairperson to the Public Safety Committee of the Navajo Nation Council. In addition, I've been appointed by the Speaker of the Navajo Nation Council to serve as the Navajo Nation tribal leader representative to the joint Bureau of Indian Affairs/Tribal Budget Advisory Council's Workgroup on Indian Law Enforcement, a national workgroup assembled to advocating Indian law enforcement budgetary needs.

Today's hearing marks an historic meeting for Indian governments, as it involves the participation of Indian leader's comment and offer recommendations on federal-Indian policy on Indian detention facilities. As we will present and have been a participant to, the funding of Indian detention facilities construction success reaches as far as the willingness of the Bureau of Indian Affairs promotes detention facility parity in Indian country. And as the Nation with the largest population on the largest Indian reservation, certainly we bring various unique sets of geographical, demographical and intergovernmental features that require significant congressional awareness and leadership.

For the Navajo Nation, new facility construction and facility maintenance and repair funding is a paramount issue. This is because of several factors and trends that have been longstanding, unresolved and now to a significant degree, recent. First, the Navajo Nation rests in between three separate state jurisdictions and is a major commercial corridor to the southwestern portion of the United States. In addition, major homeland security efforts underway by the Bureau of Indian Affairs' Office of Law Enforcement Services (OLES) and the Navajo Nation of sharing criminal data between the three state jurisdictions, and numerous surrounding counties and a host of surrounding Indian law enforcement agencies point toward increased incarceration trends in our immediate future. These agreements, while it pursues to confront and subdue criminal activity through the use of technology, adds a whole new set of criminal population into our already over-populated capacity and dilapidated facilities much of which were built in late 1950's and early 1960's.

Most certainly, we welcome homeland security efforts and the application of technology to curb criminal activity on the Navajo Nation. We, like the Committee, understand that there is a strong relationship between the rate of criminal activity and the budgetary resources applied. We've seen the outcome of this relationship, when Congress appropriated funding for the Community Oriented Policing (COPS) grants program. Prior unreported criminal incidences became reported incidences

due to additional funding for law enforcement personnel. Yet, increased incidence reporting and correspondingly their arrests and convictions, did not naturally convert to their incarcerations. Our dilemma was that we did not have the facility capacity or the funding for detention center personnel to incarcerate convicted individuals over the course of their sentences.

Further, since 1992, our courts recognized the conditions of our facilities that it mandated our detention facilities to comply with the provisions set forth pursuant within the *Silver v. Pah* Consent Decree. The consent decree's goal is to ensure that incarcerated inmates are free from any structural, physical safety and health hazards while incarcerated within Navajo Nation operated detention facilities. Unfortunately, continual findings of non-compliance incidences continue to plague any attempts to meet the court-ordered standards over a sustained period of time. And failure to comply with court-ordered mandates has resulted in facility closures and allowing convicted criminals to return back to our their communities. Recently, the Tohatchi, New Mexico youth detention facility was closed in October 2003, to repair the fire alarm system and to date is still closed due to insufficient funding to pay for repairs.

Because convicted criminals are allowed back into their communities, criminal incident recidivism rates are certain to increase. We are faced with criminals who have total disregard for our criminal justice system, because their government cannot incarcerate them without putting them at significant physical and health risk. It is a customary occurrence in our criminal justice system that upon a conviction being rendered, almost immediately the convicted criminal is let go moments, not days or weeks later, minutes rather. And it would be within a month, even a week, the same released criminal is processed through for conviction and only to be let go without serving the conviction.

These unresolved and longstanding issues have put our communities and our officers at immense risk. Our effort to make our communities safe is a battle we cannot win if criminals cannot serve their sentences at detention facilities deemed unsafe. On March 16, 2003, the U.S. Attorney's Office in Flagstaff, Arizona stated that violent crime on the Navajo Nation was six times higher than the national average. Imagine that in mainstream America, where neighborhood children and families do not feel safe in their communities, where businesses would not want to invest and where criminal activity festers new generations of criminal individuals. Imagine, in America, where an arresting law enforcement officers risk their life, limb and family, when a released convicted criminal wants nothing more than to get back at the arresting officer and knows that their crime will go unpunished. It is our opinion, that the U.S. Attorney's statement validates our understanding that crime if unpunished, will raise or continually stay at high levels, similar to what the Navajo Nation has been experiencing. And certainly our crime rate will continue to rise due to our rising on-reservation population, insufficient economic opportunities and the inadequate federal policy on criminal abatement on Indian lands.

How else is America's largest populated Indian reservation ever to turn around its rate of crime? How else is our criminal justice system ever to adequately partner with other jurisdictions, when all we do is release our criminals back into our communities?

We are certain we can make significant contributions not only to our jurisdiction, but also to those of surrounding jurisdictions as well. We have learned that other jurisdiction's criminal justice

system can be put under significant amount of strain simply because of the Navajo Nation's systemic problem of being unable to sentence its convicted criminals. Our Nation must be provided the opportunity to administer a criminal justice system the way it was meant to be carried out and as it is carried-out in a lot of places in America.

The Navajo Nation does not see any distinct resolution to our unique problem. We have witnessed that in the Fiscal Year 2005 President's budget is now the third consecutive year where no new detention facility construction funding is requested. We have also noted that within the FY2003 President's budget request, eleven (11) detention center facility lists (as approved by Congress) were scheduled to be funded. The following table reported in the FY2003 President's budget request lists the eleven remaining facilities, by ranked order:

Table 1. Unfunded Detention Facility Priority List

Rank	Tribe/Reservation
7.	Salt River Pima
8.	Colville Confederated Tribes
9.	Navajo—Crownpoint, NM
10.	Navajo-Kayenta, AZ
11.	Navajo-Shiprock, NM
12.	Mississippi Band of Choctaw Indians
13.	Tohono O'odham
14.	Confederated Tribes of the Umatilla Indians
15.	Eight Northern Pueblo
16.	San Carlos Apache Tribe
17.	Three Affiliated Tribes of Ft. Berthold

As the Committee can see, the Navajo Nation would have been scheduled for three detention facility construction projects after FY2003, according to the priority listing approved by Congress. In contrast, OLES' "Draft Strategic Plan," dated April 1, 2004, while it does not recommend a facility construction priority listing, the plan does categorize BIA and Tribal detention facilities into three categories: poor, fair and good. Only the Kayenta, Arizona project was reported. The Crownpoint and Shiprock projects were not reported. OLES' draft plan also provides facility "regional" construction funding estimates at \$18 million for each year starting in FY2007 through FY2010. The plan does not distinguish if tribes or OLES' own facilities are planned for facility construction funding.

Inconsistencies between the Congressional approved priority listing and OLES' draft plans draw concerns for the Navajo Nation. Another citation noteworthy to the Committee is the Department of Interior's (DOI) Office of Inspector General and an Independent Auditor report on "Top Management Challenges" The report consistently states that the BIA has not corrected its facilities maintenance backlog reporting. This finding is again cited in the recent Independent Audit Report, dated November 28, 2003.

In February 2002, DOI estimated that the deferred maintenance backlog was between \$8.1 billion and \$11.4 billion. The maintenance needs for the National Park Service (NPS) and the Bureau of Indian Affairs (BIA) facilities alone account for over 85 percent of the DOI-wide

deferred maintenance backlog. DOI's February 2002 report stated that the repair and maintenance on these assets have been postponed for years due to budgetary constraints and that the deterioration of facilities adversely impact public health and safety, reduce employee morale and productivity, and increases the need for costly repairs or early replacement of structures and equipment.

Mr. Chairman and members of the Committee, the Navajo Nation does not agree with the OLES' draft strategic plans of addressing the Indian detention facilities construction funding estimates, because they were not considered as a part of or referenced to the 2003 Audit Report. If there are any corrective action plans, tribes like the Navajo Nation have not been informed.

In a December 2001 report (No. 2002-I-0008), OIG outlined a comprehensive approach to maintenance management within DOI. The report stated that DOI needs to implement a comprehensive maintenance management system to effectively plan, prioritize, conduct, and track the condition and maintenance of facilities within all bureaus. Also, DOI needs to provide long-term leadership to keep money available to address the long-standing issues of deferred maintenance.

In FY2003, the DOI reported it lacked consistent, reliable, and complete information to plan, budget, and account for resources dedicated to maintenance and construction activities. DOI planned to identify and implement a comprehensive maintenance management system with an appropriate linkage to the accounting system; conduct comprehensive condition assessments; make determinations to repair, replace, or relocate facilities; develop a five-year Deferred Maintenance Plan and Capital Improvement Plan; repair and/or replace facilities to good condition, and reduce deferred maintenance to established goals by FY2005.

While the DOI plan has made demonstrable strides in developing a framework to address Indian detention facilities management issues, Indian detention facility maintenance and construction in DOI remains an enormous challenge.

The Navajo Nation extends to the Committee our recommendations directed specifically as policy measures, aimed at addressing the National Indian Detention Facilities crisis, that:

- A. the Committee direct OLES, BIA and the Department to jointly work with the Department of Justice on Submitting FY2006 and FY2007 Facility Construction Funding Needs and Budget Strategy back to the Committee, to the House Interior on Appropriations Subcommittee and oversight committee for the Department of Justice;
- B. the Committee direct OLES, BIA and the Department to jointly work with the Department of Justice on Submitting FY2006 Facility Construction Funding Needs and Budget Strategy as a part of the Department's FY2006 Budget Request Submission to the Office of Management and Budget;
- C. the Committee monitors the OLES recommendations to revise OLES' Strategic Plans, specifically as it pertains to constructions of detention facilities located on Indian lands; and

D. the Committee directs OLES to coordinate Regional/District Tribal Consultation on the office's recommended revision(s) to its' Strategic Plans, specifically as it relates to Indian Detention Facilities;

Thank you for the opportunity to convey our concerns and we respectfully request an opportunity to work with the Committee regarding this issue.

APPENDIX II

Contract Support Costs (CSC). The FY 2005 President's budget requests \$133,314,000 for CSC, \$334,000 or .25% decrease from FY 2004 enacted level. The Administration has consistently not funded CSC at 100%. Rather, this now-Congressional sanctioned impasse has produced nothing more than capping CSC at 89% since FY 2003.

The Navajo Nation strongly urges the Administration to restore 100% CSC funding for tribes in FY 2005, and to consider restoring CSC funding not received for FY's 1999-2004 as a special appropriation.

FY 2003 Estimated Carry-Over. The President's FY2005 budget requests a one-time \$5,400,000 reduction as a result anticipated carry-over from FY 2003. The Administration must note that the FY 2003 Interior bill was signed into law until and that disbursement to tribes and the BIA was not made fully available until late March 2003, causing all BIA operations to expend their appropriated funds within approximately 75% of the fiscal year remaining.

The Navajo Nation requests the Administration to add any FY2006 anticipated carry-over reduction and all future carry-over reductions be added to ISDA funding base for ISDA programs.

Restore Full 638 Pay Cost Funding. The Administration must restore full 638 Pay Cost funding for tribes. Tribes count on the cost of living pay increase, which is similar to what the Administration and Congress provide for federal employees each year. Due to the Administration's budget decision, tribes like the Navajo Nation received only 30% of their pay cost adjustment in FY 2004, 15% in FY 2003 and 75% in FY2002. The shortfall of 638 Pay Cost funding for these years have caused ISDA programs to absorb the cost by reducing operations and direct services to ISDA clients.

The Navajo Nation strongly urges the Administration to restore 100% 638 Pay Cost funding for tribes in FY 2005 and FY2006, and to consider restoring 638 Pay Cost funding not received for FY's 2002-2004 as a special appropriation.

Provide Training to Tribes of Base Line Data for Budgets and Performance. Since FY 2002, Indian tribes have been left out of the discussions regarding the implementation of the Administration's Management Agenda. Our ISDA programs have been left to defend for themselves when the Program Assessment and Rating Tool (PART) assessment were being administered in FY 2003 and as more are scheduled in FY 2004 and FY 2005. And all the while, the Office of Management and Budget continues to rate Bureau and Tribal-operated programs with yellow on progress and red on status, linking budget decisions to performance measures and cost management information to improve budget performance integration.

We request the BIA to establish high-level coordination with Tribes on their reporting requirements and with their method of processing tribal financial and performance accomplishment reports for purposes of developing the annual budget. By that token, we request new funding be provided to the BIA and Tribe's ISDA programs for training on the various report requirements and requests the Performance Assessment Rating Tool demands.

**Navajo Nation
Detention Facility Incidences
Fatalities and Criminal Incidences**

January 2002, Kayenta District:

On two different occasions within one month two inmates were released due to lack of jail space. The released individuals never made it home, one was found frozen along side of the highway, and the other was found dead in remote area. Cause of death: exposure.

1993, Crownpoint District:

Juvenile arrested on three different occasions. Due to lack of long term juvenile facilities individual released to parents each time. The first arrest was made due to his disorderly conduct and being beyond control of parents. The second arrest was for assaulting a female sibling and the third for stabbing his mother.

Dilkon Substation:

The Dilkon substation is located at least 75 miles in any direction to the nearest detention facility district. Dilkon has a severe shortage on officers and do not have sufficient vehicles to transport inmates without jeopardizing the safety of the community. Inmates are held in the back of police panels when jail spaces are at beyond their capacity.

Window Rock District:

Continuous male inmate overcrowding and there no separate jail space for women inmates. Most female inmates are held in one-room "high-risk inmate" isolation areas just to separate them from male inmates. Recently, in 2004, a female was raped when there were no more isolation rooms available and the female inmate was held in the same area with the male inmates. This is under currently investigation.

August 2003, Chinle District:

Young Navajo male committed suicide within detention facility. He was placed in isolation because of his violent behavior and being of severe physical threat to officers and self and therefore was classified as "high risk". Although security cameras are placed in the cells, the officer on duty could not visually determine a suicide incidence occurred, as the inmate positioned himself as if he was standing against the cell bars looking out the jail cell.

Crownpoint District:

Recurring domestic violence, aggravated assault, and property damage continuously charged to a male resident. District facility is unable to have the individual serve his sentence(s) due to consent decree on the district's jail conditions. Upon numerous arrests and release of individual, the Navajo Nation and surrounding nearby law enforcement jurisdiction advised the victim (wife) to relocate off the reservation.

Testimony of
Howard D. Richards, Sr., Chairman
Southern Ute Indian Tribe

Mr. Chairman, thank you for the invitation to testify today. I am Howard D. Richards, Sr., Chairman of the Southern Ute Indian Tribe.

I am here today to tell you about our Tribe's success in building and operating its own detention center. You've heard about the problems and deplorable conditions at many Indian country detention centers and before building our own center we experienced some of those problems. Because of the poor physical condition of the previous tribal jail that was built and maintained by the BIA, tribal members were being transferred to neighboring county facilities for incarceration. The Tribal Council recognized that housing Indian inmates in this type of facility could have a negative cultural effect on the inmates. The problem was that county jails could not provide the programs necessary to address the cultural and social issues faced by Indian offenders. For example, we know that alcohol abuse is high within the Indian population and many crimes committed on reservations are alcohol or drug related. It was important to us, therefore, that our inmates have access to rehabilitative programs during incarceration. After several years of trying, we realized that continuing to try to obtain federal funding for a new facility was futile given the lack of available funding and the long waiting list.

In response to this situation, the Tribal Council took several actions to establish a successful and positive detention program on the Southern Ute Indian Reservation. First, we built a new detention center. In 1999, the Tribe used tax-exempt bond financing to build a \$9 million state of the art tribal justice center. The center includes a fifty-five bed, 18,000 square foot detention facility. The Tribal Court, police department, and wildlife enforcement division are all located in our justice building, as well as administrative offices for our division of gaming and justice and regulatory department.

Second, we made a decision to pay for the operation of the detention center ourselves without any federal funding. We still have a 638 law and order contract with the BIA which funds our police department but it does not include funding for the detention center. We decided not to obtain federal funding for the detention center so that we could control the operation of the center. We believe that rehabilitation rather than warehousing should be emphasized in detention operations and we wanted the ability to establish rehabilitation programs without being subject to the BIA regulations.

The Tribe's cost of operating the center is partially offset by money received from other jurisdictions who contract with the Tribe to house their inmates at our center on a space available basis. We currently have seventeen intergovernmental agreements to provide jail services to other governmental entities. The other governments with whom we have

Testimony of Howard D. Richards, Sr., Chairman
Southern Ute Indian Tribe – June 23, 2004
Page 2

agreements include two federal agencies (INS and the U.S. Marshal's Service); several northern New Mexico pueblos; two Colorado counties; and one New Mexico county. Those other governmental entities need a secure and legally sufficient detention center to house their inmates either because of overcrowding at their facilities or because they do not have access to any other facility. Under our agreements, the other governments pay for the transportation of their inmates to and from our facility and pay a per day fee for each inmate we house. In this way, we are able to maintain an occupancy rate of about eighty percent (80%). As an example of the great need for secure and legally sufficient detention services throughout Indian country, we even have an agreement with a California tribe. All long term inmates housed under these agreements may participate in our rehabilitation programs and are subject to the same work requirements as all other inmates. The Tribe screens contract inmates to ensure compatibility with the other inmates being detained.

Third, we separated detention services from the police department. Many jails are operated by law enforcement officers and not professional corrections officers. What we found is that police officers often have neither the desire nor the training necessary to be effective corrections officers. Also, when detention is included in the police department's budget, detention usually does not receive adequate funding. At Southern Ute, therefore, our detention center now has an administrative staff and budget that is separate from our police department.

The separation of our detention services function from our police department has enabled us to hire correctional professionals. We found that in jails that are operated by a police department, duty in the jail is either a punishment for police officers who are being disciplined or is the "training ground" for first year police officers. It is our desire to have detention specialists operate our detention center - professionals who desire to be and take pride in being corrections officers. In our experience, the positive attitudes of our detention facility staff has a positive effect on the attitudes of the inmates. In order to promote professionalism in our detention staff, we encourage and provide funding for training.

Fourth, instead of BIA standards for detention facilities, we adopted American Correctional Association Standards/American Jail Association Standards as our Tribe's detention standards and created a tribal detention policy manual that is updated annually. Those standards exceed the standards of the BIA in most instances. One of our policies is to provide an inmate policy manual to every inmate upon their arrival. It clearly spells out all expectations and consequences.

Finally, we made a commitment in the operation of our detention center to provide opportunities for positive change and inmate self-improvement. This is done by offering a wide range of meaningful therapeutic and educational programs. Presently, thirteen different

Testimony of Howard D. Richards, Sr., Chairman
Southern Ute Indian Tribe – June 23, 2004
Page 3

programs are offered at our detention center including AA (Alcohol Anonymous), anger management classes, general educational development (GED) and other continuing education classes. These programs build self esteem. We have seen positive changes in people as a result of these programs. In addition to therapeutic and educational programs, our detention center policy is to require all inmates to work. This too, has positive self esteem benefits. We do not want to simply lock-up and warehouse our inmates. It is our desire that when they leave incarceration, inmates will be better prepared to be productive citizens. For your information, I have attached a list of the programs and classes we offer at the detention center, a copy of the daily schedule of programs and classes, and the May report on participation in the programs and classes.

Based on our experience, we have several recommendations for the improvement of Indian tribal detention facilities. The first and most obvious recommendation is to allocate enough money to build and maintain facilities that are secure and legally sufficient. Second, tribes need to have more flexibility for involvement in the management of federally-funded tribal detention centers so the programs tribes desire for inmates can be provided. Third, detention centers must have good operating policies and procedures. Fourth, Indian country detention centers should be staffed by professional, career-minded correctional staff - not police officers. And perhaps most importantly, detention should be recognized as a separate function from the police function. This autonomy enables detention to hire a professional corrections staff and to receive its own separate funding.

Mr. Chairman, in closing, we regard our detention center to be a success and a model for other detention centers not because it is financially self sufficient, but because of the quality of the facilities and the manner in which the facility is operated. We know that few tribes can afford to build and operate their own detention facility without federal financial assistance. We also know that not everyone shares our philosophy regarding the importance of providing rehabilitation programs for inmates. It is our hope, however, that the actions we have taken might provide some ideas and inspiration in your efforts to improve conditions at Indian tribal detention facilities.

SOUTHERN UTE TRIBAL DETENTION CENTER**PROGRAM INFORMATION**

The Southern Ute Tribal Detention Center has a contract with Peaceful Spirits, which is a rehabilitation center and the Ignacio Adult Learning Center. They are able to provide counseling. Some of the classes that Peaceful Spirits provides are:

NATIVE AMERICAN INDIAN AWARENESS

This class offers the inmate a view on Native American Indian history, the present and the past. The instructor who is Native American speaks on the issues of dealing with alcohol problems that may exist within the Native American Indian Community. He deals with the positive along with the negative outlooks. In addition, establishing and focusing on the positive image which is to progress and have pride, as a Native American Indian.

DRUG AND ALCOHOL

Drug and Alcohol counseling discusses issues that concern the negative effects of alcohol and drugs. The inmates are able to give and received feedback from counselor and each other.

AA (ALCOHOLICS ANONYMOUS)

Local AA members who volunteer conduct this meeting. The discussions involve alcoholism and focusing on solutions to sobriety.

WHITE BISON AA 12 STEP PROGRAM

Local White Bison volunteer conduct this meeting. This program was developed from the 12 step alcohol program and it has been modified to the Native American Indian religion. This program is conducted at a different time then AA Meeting so inmates can attend both.

EDUCATION

This program offers basic skills such as reading, writing, math and basic computer. A certified teacher comes to the Detention Center four days a week for three hours each day.

GENERAL EDUCATION DEVELOPMENT (GED)

The inmate can study for his/her GED and have the opportunity to take the test. Testing is conducted every other month.

COMPUTER CLASS

This is a basic computer class that allows inmates to work on typing tutorial software.

ART CLASS

Certified art instructor conducts this class. Class is conducted four days a month for and each inmate can attend for two hours.

LIFE SKILLS

A Native American woman volunteers to assist inmate by listening to their problems. Her focus is to help them to understand and develop self-esteem and self-respect. Her education background in family violence and alcohol and drug abuse helps inmates to discuss issues involving family problems consisting in abuse. This class allows inmates to discuss their problems and hopefully finding a different perspective on life.

ANGER MANAGEMENT & DOMESTIC VIOLENCE

This class focuses on anger management in a group discussion atmosphere. Inmates will discuss issues involving family violence, which stems from their anger. The key concept is to establish a way for the inmates to deal with their aggression without hurting themselves or others.

LIBRARY

A library is available to all inmates on a weekly basis. This gives the inmates something to do while they are in their cells. Magazines and Books or furnished.

RELIGION

Catholic Mass is conducted once a week for Catholic inmates. A volunteer Deacon from the Catholic Church conducts the service.

Protestant Church is also conducted once a week and all inmates are allowed to attend. The volunteer Chaplin conducts these services.

Volunteer ladies conduct a Ladies Bible Study on a weekly basis.

NATIVE AMERICAN CHURCH

We build a Sweat Lodge in the outdoor recreation area and allow inmates to participate in sweats. Native American medicine men and women volunteers conduct these services. These services are conducted on the weekend. The Tribe provides the wood for the sweats.



Southern Ute Tribal Detention Center

May Program Monthly Report

17 Inmates studied for GED test.

Sweat conducted on May 16, 2004 for Native American Female Inmates

Sweat conducted by Everett Burch on May 23, 2004 for Native American male inmates in A & B Pods.

30 Inmates enrolled and attended AA Meeting

27 Inmates enrolled and attended AA Meeting (White Bison)

17 Inmates enrolled and attended Education Classes

26 Inmates enrolled and attended Drug and Alcohol Classes

19 Inmates enrolled Anger Management and Domestic Violence Classes. Did not have Anger Management Classes this month due to loss of funding from Tribal Court. Judge Newton is still working on get this reinstated with SUDC sharing the cost of the instructor.

27 inmates enrolled and attended Native American Awareness Classes.

GED testing is scheduled for June 19, 2004.

Two Church Services are conducted each week on Wednesdays and Sundays.

Catholic Mass reinstated on Friday afternoons (2 Masses per week)

Sgt. Leon Kelley, Programs Coordinator
Southern Ute Tribal Detention Center

CC:
Detention Director, Herb Marchner
Admin. Sgt. Ronalynn Tiznado



PROGRAMS

Monday	Tuesday	Wednesday	Thursday	Friday	Sunday
GED 8:15 -9:15 a.m. E dorm	EDUCATION 8:15 -9:15 a.m. E dorm	GED 8:15 -9:15 a.m. E dorm	EDUCATION 8:15 -9:15 a.m. B dorm	NATIVE AMERICAN A/B pod 8:30-10:00	Church ALL PODS
GED 9:15-10:15 a.m. A-POD	EDUCATION 9:15-10:15 a.m. D dorm	GED 9:15-10:15 a.m. D dorm	EDUCATION 9:15-10:15 a.m. D dorm	CHURCH 1:00-2:00 PM E/D DORMS	
GED 10:15-11:15 a.m. D-Dorm	EDUCATION 10:15-11:15 a.m. B pod	GED 10:15-11:15 a.m. A pod	EDUCATION 10:15-11:15 a.m. B pod	CHURCH 2:00-3:00 PM A/B POD	
Library E-Dorm	DRUG/ALCOH OI 1:00-3:00 A/D POD	EDUCATION ENROLLMENT 1:00 PM Native American D/E DORM 3:00-4:30 CHURCH (LADIES) 1:00 - 2:00 PM Library A-POD	EDUCATION TESTING 1:00 pm DRUG AND ALCOHOL D/E DORM 2:00- 4:00 PM Library B-POD		
	Library D-Dorm J4 GROUP 1 6:00-7:00 p.m. A/B PODS J4 GROUP 2 7:00-8:00 p.m. D/E Dorms	White Bison AA Group 1 6:00-7:00 PM A/B PODS White Bison AA Group 2 7:00-8:00 PM D/E Dorms			

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 7, 2004.

Hon. DANIEL K. INOUE,
Vice Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to provide the responses to the questions submitted following the June 23, 2004, Committee on Indian Affairs oversight hearing on Indian Tribal Detention Facilities.

Should you have any questions, please contact my office at (202) 208-7693.

Sincerely,

JANE LYDER, *Legislative Counsel.*

Spirit Lake Tribal Detention Facility

I have been contacted by Valentino White, Sr., Chairman of the Spirit Lake Nation, in my State of North Dakota about the possible closure of its detention facility at Fort Totten. My understanding from the Chairman is that the tribe was not consulted by the Bureau of Indian Affairs before a decision was made to place the facility on the closure list. Like the Chairman, I am concerned about the possible closure of this facility and strongly urge you to keep this facility open.

Question 1: Can you please tell me what the current status of the Fort Totten detention facility is? Has the Bureau of Indian Affairs engaged in government-to-government consultation with the Spirit Lake Nation on its possible closure? Will you commit to keeping the facility open?

Answer: The Fort Totten detention facility is currently open. The Bureau of Indian Affairs (BIA) has not engaged in consultation with the tribe on closure of the facility since there is no official closure plan.

We cannot make any commitments to keep any of the detention facilities open. Decisions will be based on the BIA's ability to ensure the safety and welfare of inmates and staff. If a building cannot be renovated to meet the minimum standards and codes, the result will be closure. However, we will commit to consulting with the tribes affected prior to moving forward with a closure plan.

Mississippi Sioux Tribes Judgment Fund Distribution Act

On an unrelated note, I want to shift gears and raise an issue on the Mississippi Sioux Tribes Judgment Fund Distribution Act. In 1998, Congress amended the 1972 Mississippi Sioux Tribes Judgment Fund Distribution Act to reallocate a portion of the undistributed fund to the Spirit Lake Tribe, the Sisseton-Wahpeton Sioux Tribe and the Fort Peck Sisseton-Wahpeton Sioux Council. The reallocation was conditioned on the 1998 Act surviving any challenge to its constitutionality.

Following enactment, the constitutionality of the reallocation was challenged in two lawsuits. The first, *LeBeau v. United States*, ended on October 15, 2002, when a final judgment sustaining the constitutionality of the reallocation was entered. An appeal was filed but was subsequently dismissed on July 8, 2003, thereby ending this litigation. The constitutionality of the reallocation was also sustained in the second suit, *Loudner v. United States*. The final judgment on this issue was entered on February 25, 2004, and was not appealed. Accordingly, the three tribes have a right to payment of the funds reallocated to them in the 1998 Act.

After the appeal deadline expired in the *Loudner* case on April 26, 2004, the tribes' legal counsel was informed by the Department of Justice that payment could not be made to the tribes until the court lifts an injunction entered in the *Loudner* case, some years ago barring payment of any of the undistributed fund without permission of the court. At the end of April, the Department of Justice requested permission from Interior to file a motion to lift the injunction. I am informed that on May 18, 2004, the Associate Solicitor for Indian Affairs recommended that this permission be granted. To date, no action has been taken on this recommendation.

Question 2: Since there is no longer any legal impediment, except the injunction, to the payment of the tribes and since this payment is now statutorily mandated, and since, I am informed, the lifting of the injunction is not controversial and is expected to be granted without objection by the court or the parties. I would like to know why, for nearly 60 days, the Department has not responded to the Department of Justice's request and I would like to know when this response will occur.

Answer: On August 2, 2004, the Department of the Interior advised the Department of Justice that it had no objections to the Court lifting the injunction, so long as the rights of the lineal descendants, who share the bulk of this fund, are protected. On September 9, 2004, the Court lifted the injunction. The BIA will process the payment accordingly.