

**TESTIMONY  
OF  
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INDIAN AFFAIRS  
TO THE  
SENATE COMMITTEE ON INDIAN AFFAIRS  
ON  
TRIBAL COURTS AND THE ADMINISTRATION OF JUSTICE IN INDIAN  
COUNTRY**

**JULY 24, 2008**

Mr. Chairman and Members of the Committee, I am pleased to provide testimony for the Department of the Interior, regarding Tribal Courts and concepts aimed toward improving and addressing Tribal Courts and the Administration of Justice in Indian Country.

The Bureau of Indian Affairs (BIA) has a service population of about 1.6 million American Indians and Alaska Natives who belong to 562 federally recognized tribes. Nationwide, there are over 200 tribal courts, but not all receive funding from the BIA. There are currently 156 tribal courts and Code of Federal Regulations (CFR) court that are funded by the BIA through a budget line item known as Tribal Priority Allocation (TPA) funds. In fiscal year 2008 Congress enacted \$14.3 million for Tribal Courts of which \$2.5 million was a Congressional increase over the President's Budget request.

A majority of tribal courts' operating budgets are funded with tribal funds and various grants from other agencies, such as the Department of Justice (DOJ). The BIA funds that are provided are administered through P.L. 93-638 contracts or self governance compacts. The BIA funds provided support both criminal and civil court systems, and in some areas, the BIA funding supports inter-tribal appellate court systems. The BIA does not fund tribal courts that fall within P.L. 83-280 States.

The Division of Tribal Justice Support (DTJS) is the office that oversees tribal and CFR courts funded by the BIA. The DTJS is located within the Office of Justice Services (OJS). Prior to 2006 the BIA dedicated one employee, on a part-time basis, to work with tribal courts within the Division of Tribal Services in the BIA. In 2006, this function of oversight of tribal and CFR courts that receive BIA funding was moved to the OJS and re-designated the Division of Tribal Justice Support and two full-time staff began developing the program. Currently the Division consists of five staff members dedicated to providing technical support, funding, and training to the tribal and CFR court systems, nationwide.

The DTJS has completed over 40 tribal court reviews in an attempt to ascertain tribal court needs and tribal judicial trends. The reviews are conducted by independent contractors who assess the operations and administrative activities of the courts. The needs and trends may include how sentencing may apply based on the offense, current and backlogged case loads, types of crimes, etc. These court reviews were used in large part to assist the BIA to distribute over \$2.4 million to tribal and CFR courts in fiscal year 2008 over and above tribal court base funding. These funds are used to cover everything from staffing to purchasing fire proof cabinets for storage of case files to supplying new computers and installing new software. The tribal courts are allowed maximum flexibility in the allocation of these funds.

These reviews of tribal courts also provide recommendations, such as developing policies to account for and administer fines or ways to amend tribal constitutions to provide for separation of powers, to the tribal court judges, court administrators, and tribal councils on how court operations might be improved or adjusted to insure fair and impartial treatment of those appearing before the court. However, as extensions of sovereign tribal government, the tribal courts are free to follow or not follow the Bureau's recommendations. The Courts of Indian Offenses (CFR Courts) are less free to discard any recommendations since they are actually an extension of the BIA.

Over the last two years the DTJS has developed a close working relationship with the DOJ in an attempt to collaborate with DOJ programs that also provide funds and support to tribal court systems. As the DTJS provides training and funding to the tribes, the DTJS will continue to work closely with the DOJ to minimize duplication of services while maximizing support activities to the tribal court systems through supplemental and joint initiatives.

Currently, the DTJS is in discussions with the National Judicial College in Reno, Nevada to explore the possibility of developing and executing more on-site training for tribal judges and tribal court staff. Two of the main areas that tribal courts consistently seek assistance in is training for tribal judges and staff, and technical assistance in developing judicial administrative systems.

Finally, the DTJS is working on developing a process to acquire data on tribal court activities such as the extent of and types of case loads, types of sentences, types of repeat offenses, etc. While some of these data are currently collected under P.L. 93-638 contracts at the local level, such information needs to be stored in one location to be analyzed and studied. Acquiring such data on a consistent basis and subjecting it to close analysis would assist the DTJS, the BIA and tribal courts in developing long range planning to better address tribal court needs and to track developing trends. The DTJS is committed to helping tribal and CFR court systems maintain and advance the administration of justice in Indian country.

Mr. Chairman and members of the Committee, I thank you for providing the Department of Interior's Bureau of Indian Affairs the opportunity to comment on the issues related to Tribal Courts in Indian Country. We will continue to work closely with the Committee

and your staff, tribal leaders, and our Federal partners. I will be happy to answer any further questions you may have.