

**INDIAN LAW AND ORDER COMMISSION FIELD HEARINGS
SANTA ANA PUEBLO, NM
DECEMBER 14, 2011**

WRITTEN STATEMENT

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Chairman Eid and Members of the Indian Law and Order Commission: Thank you for the opportunity to appear before you today. I am Lorrie Miner. I serve as the Acting Chief Judge for the Lower Brule Sioux Tribe in Lower Brule, South Dakota. I have served as a judge in Indian Country for the past 11 years. Lower Brule Sioux Tribal Chairman Michael B. Jandreau hopes that my testimony today can lead to the production of resources that will allow Tribes to address the needs on the reservations.

Tribal Courts face the daily challenges of law and order in their communities. Community members and tribal courts are the front line, if you will, when dealing with the jurisdictional challenges and limitations imposed by Supreme Court decisions and Congressional action or inaction. Federal Indian law is conflicting, confusing, and complex, but I see the faces of federal Indian law in effect. I see Native women and girls as victims of rapes and sexual assault with the case declined for federal prosecution; yet the tribal prosecutor will face the same evidentiary challenges without the resources to build the case. I see Native youth in and out of the system as Tribes do not have the resources for substance abuse treatment or behavioral health services. I see young Native American adults in and out of the system as Tribes do not have the resources for employment, housing, substance abuse or behavioral health treatment...they recycle through tribal, state or federal systems. I see the suicide attempt...a young person who has lost hope. We are ravaged by drugs and alcohol including prescription drug abuse, and now synthetic drugs. Tribal members LIVE federal Indian law. Federal Indian Law

is not just academic; it is real people, their families, their relatives and their community. We must never lose sight of them.

Lower Brule faces a community safety nightmare. For at least the past 2 ½ years, Lower Brule has not had a police chief. The criminal investigator was also the acting police chief or a police chief would be “detailed” to Lower Brule. That is, assigned to Lower Brule from another BIA police department.

The BIA also staffs the police department with detail officers. Lower Brule currently has only two full-time officers. Our police force includes one, two or three detailed officers; again, officers detailed to Lower Brule to serve several weeks to several months. Detailed officers and/or a detailed police chief do not know Lower Brule’s laws or the people. They are ineffective in serving warrants, as they do not know the community members. Detailed officers are not available when a case goes to trial as they are back at their police departments or even detailed somewhere else. Several domestic violence cases have been dismissed due to unavailability of the arresting officer---a detailed police officer.

The BIA ignores pleas to get a police chief or police officers hired. It is interesting to note that BIA law enforcement positions at Lower Brule are not advertised on USA Jobs. How can positions be filled if there is not notice of vacancy and an application process. The BIA’s failure to respond is appalling. There is no excuse for lack of police officers. We simply ask that the BIA do its job: get officers hired at Lower Brule.

Lower Brule has a five-year old, tribally owned detention facility, designed to house up to 52 adults and 24 juveniles. It was not until July 2011 that the juvenile detention side was opened, as the BIA would not staff the correctional facility; yet the BIA pays to rent the facility. Lower Brule youth were transported several hundred miles away; thus preventing any delivery of services such as substance abuse counseling, behavioral health counseling, education or ability for family involvement and contact.

Now the facility (both adult and juvenile) is still inadequately staffed by the BIA. LBST Court has daily bond hearings. When the clerk or I call corrections to bring prisoners over for court, the frequent response is “corrections is short-staffed and has

only two officers on duty; we will try to get them over for court.” I have resorted to using my probation officer to get inmates for court. Two people on staff for an adult AND juvenile facility? Inadequate staffing.

I have had other conversations with corrections to confirm overnight arrests, Corrections is not sure whom they have in custody. How can a jail not know who is in their cells? Inadequate staffing.

A female juvenile was detained on a Wednesday. It was not until the following Friday morning when her mother called the court about her daughter being detained that I was made aware of a juvenile in custody. Sure enough, a phone call from the court to corrections confirmed the young woman was in the juvenile facility. Again, how can a detention center not know when a juvenile is in custody? Inadequate staffing.

My question to you is how can the BIA *not* find staff for a tribal correctional facility when unemployment rates in Indian Country are astronomical. The BIA does not look within tribal communities and see the potential. Tribal colleges can be providing correctional officer training. BIA background checks often prevent people from even applying, let alone get hired. Would a “look back” period such as 5 or 10 years for misdemeanor offenses allow that 35-year-old tribal member a chance for employment, realizing his youthful mistakes do not forever define or limit his future.

A key aspect of an alternative to corrections is treatment. Yet the BIA has cut residential placement funds. Residential placement funds pay the educational component when a juvenile is placed in an out-of-home residential treatment facility; Title 19 covers the treatment costs. Without residential placement funds, a tribal court judge is unable to access services that a young person requires. The BIA’s failure to fund residential placement puts those children at risk for continued delinquent behavior, suicide attempts or suicide, victims or perpetrators of violence within the home or community, truancy, substance abuse. Failure to provide services for the youth *now* will result in adult criminal behavior, unemployment, attempted suicides or suicide, being victims or perpetrators of violence within the home or community, substance abuse and the overall loss of human potential. That loss of human potential is not just the

individual, but also the loss to the family and Tribe. The BIA's failure to fund residential placement today will result in substantial costs in the future.

Tribal communities need access to behavioral health professionals to provide mental health evaluations, individual counseling and family counseling. Too often, there are individuals with co-occurring disorders of substance abuse and mental health issues such as depression, post-traumatic stress disorder or anxiety. Alcohol and other drug programs work diligently providing outpatient treatment or arranging in-patient treatment; aftercare is available. But if we are not addressing the underlying mental health issue, we fail the person, their family and the community.

LBST has **one** qualified mental health professional available. One mental health professional is not enough to address the court-ordered juvenile and adult evaluations, and to then provide the recommended counseling or services. One mental health professional is not enough to respond to the suicide attempts and arrange further treatment once the person is medically stabilized. One mental health professional is not enough to address grief or trauma for domestic violence, rape or sexual assault. One mental health professional is not enough to work with families in crisis. Tribes need funding to provide the support services to effectively address the challenges of the community.

There needs to be direct and consistent funding of tribal courts to ensure due process, fairness, justice and community safety. The BIA has historically underfunded tribal courts. For example, LBST Tribal Court's baseline budget for 638 funding is \$184,000. To adequately fill positions and operate the court it takes approximately \$430,000. Tribal courts are left to rely upon grants to fund essential positions such as prosecutors, probation officers, judges, clerks and public defenders. These positions are vital to operating a legal system. Tribal courts are put in the position of making do, or "duct taping" together a legal system. 638 funds do not allow us to fill these positions, to purchase supplies, to upgrade equipment, or even allow for a vehicle for the probation officers. My probation officers use their own vehicle, at their own expense. Would that be tolerated anywhere else; I dare say not.

If a tribal court is awarded a grant or grants, you are then inundated with numerous reports: DC-TAT and STRAT-PAK, BJA Performance Evaluation, in addition to the semi-annual narratives and financial reports. I spend hours on these reports, hours that should be directed to my judicial duties. Why cannot one report be developed? Further, grants frequently have mandatory travel for training. Why did I have to send a team of four to Phoenix for STRAT-PAK training; yes, training on how to complete a report. Grant funded mandatory travel for training should be training determined by the tribal court judge for the needs specific to his or her court.

There is need for halfway houses in Indian Country for those individuals released from either state or federal custody. It defies common sense to have halfway houses far away from tribal communities. Halfway houses offer re-entry programming, yet the re-entry is into a community that is not home nor will be home upon release. Re-entry programs for Native Americans must be within Indian Country for successful transition to home. Such halfway houses should offer culturally appropriate treatment, activities and family involvement. An inmate's future success requires family support.

Lower Brule recently implemented a youth / young adults work program. Young people will have part-time employment through tribal programs during the winter months. This project is an effort to enhance self-esteem and self-worth, improve work ethics, and cultivate employment opportunities.

Lower Brule Sioux Tribal Court is making strides with truancy reduction as a long-term goal of delinquency reduction. In February 2010, LBST Council passed a new truancy code. The court and Lower Brule School District developed a strong working relationship to reduce truancy and other delinquent behaviors within the school. As of December 1, 2011, elementary school attendance is at 95%, a two-percent increase from last year; we have 35 elementary students with perfect attendance. At the middle school/high school, school attendance is almost 94% (93.85%). Middle school/high school attendance reflect an almost 10% increase from the 2008-09 school year. This truancy reduction effort shows how Tribes are the best suited to find solutions for community challenges.

LBST Court encourages community service in lieu of fines and inmates earn good time on their sentences. The tribal manager has encouraged programs to contact probation when needing extra help. Several defendants have achieved employment arising from their community service efforts. Inmates are also able to attend sweat lodge ceremony and traditional song classes held during the week. Inmates have shared how much this means to them and how it is changing their thinking.

One new project with female juveniles on probation is a Talking Circle. We just began this effort in November. I had four young women attempt suicide and knew I needed to try something different. The Talking Circle is a forum to address issues such as self-respect, respect for others, date rape, sexual assault, domestic violence, teenage pregnancy (prevention, realities); suicide, education, careers, grief, love, relationship issues, bullying...any and every issue that is a concern to the young women. A talking circle provides a place to share, to ask for help, to give help and hope to self and others. I intend to find resources so the young women can meet after school or on a Saturday to learn about cooking and nutrition; have elder women teach them beading, quilting or quillwork or to just share stories and time with the young women. From their first Talking Circle, the young women decided they want a safe house and to start a Women's Society. We hope to take initial steps with a Women's Society in 2012. The safe house is a bigger issue. They want a place to go when there is drinking or fighting at home and to get away from it. They ask for a place where they can watch TV, get something to eat, and have an alcohol and drug free environment. These young women are not asking for iPods or X-boxes or cell phones. They just want to be safe. How can we provide that most basic human need. How can we *not* provide that most basic human need.

Again, thank you for this opportunity to make a difference.