



COLORADO RIVER INDIAN TRIBES LAW ENFORCEMENT SERVICES

WRITTEN TESTIMONY-INDIAN LAW AND ORDER COMMISSION

On behalf of the Indian Tribes and Nations of Arizona, we welcome you, Honorable Members of the Indian Law and Order Commission, for this critical hearing concerning Indian Country. We also thank the Commission in affording the Indian Tribes and Nations the opportunity to present our concerns and recommendations for the "disparity" that continues with the Criminal Justice system in Indian Country today. Lastly, we would like to thank the Inter-Tribal Council of Arizona and my counter-parts, the Arizona Tribal Chiefs of Police, for the vote of confidence they made in nominating and selecting us, who are present at this table this morning, to speak on their behalf. This is a great honor and responsibility which we do not take lightly.

For your information, my name is Hon. Richard M. Armstrong, Chief of Police, Colorado River Indian Tribes – Law Enforcement Services, located at Parker, Arizona. I am 4/4 blood Mohave, enrolled with the Colorado River Indian Tribes, of the *Quineth Clan* or "fruit of the prickly pear cactus".

In March 2012, I will be celebrating my 40th year in Law Enforcement Services, all in Indian Country. Beginning as a Jailor and Police Officer for the Tribes, Police Officer, Criminal Investigator, Agency Special Officer, Director of Police Services, Area District Commander and Special Agent In Charge. I retired from the Bureau of Indian Affairs, Office of Law Enforcement Services after 30 years of service.

Since my retirement, I have served as the Chief Magistrate for the Fort Mojave Tribal Court, having successfully completed the National Judicial College, Reno, Nevada, for certification as a Judge; hence, the "Honorable" salutation I carry on my name. I also served a 4-year term as a Tribal Council member for the Colorado River Indian Tribes, where I currently remain as the Chief of Police.

The Colorado River Indian Tribes Reservation was created in 1865 by the Federal government and is situated along the Colorado River whose boundaries encompass both Arizona and California, which makes the Tribes a partial 280 Reservation.

The Reservation is composed of approximately 297,089 acres and is the home of four Tribes: the Mohave, Chemehuevi, Hopi and Navajo with a current Tribal enrollment of approximately 3,900 members.

The primary economic activity for the Reservation is agricultural, wherein the Tribes operate a 10,000 acre farm growing cotton and alfalfa as the main crops. There is an additional 90,000 acres of farm land that is leased to farmers for agricultural farming.

However, in recent years the Tribes have diversified to include a Tribal Hardware Store, shopping malls that include a Wal-Mart, Sand and Gravel and Airport. Since opening the Blue-Water Resort and Casino, emphasis has turned toward tourism and recreational activities on the river. This includes two (2) major off-road races, the Parker "250" and Parker "425" sanctioned by Best in the Desert Racing Association. The Colorado River Indian Tribes is the largest employer in La Paz County, State of Arizona, directly and indirectly providing thousands of quality jobs in the region.

The incorporated Town of Parker, Arizona, is located within the exterior boundaries of the Reservation comprising of 1 square mile including a "check boarded" area, which made for some "jurisdictional" complexities but was resolved in Federal District Court a couple decades prior. Now all criminal and civil calls for services are handled by the Tribes Law Enforcement Services Office when it involves Tribal members or other Native American members.

On the California side, the Reservation encompasses both San Bernardino and Riverside Counties. In San Bernardino County, the Big River Community is lands leased specific to non-Indians for the construction of stick or modular homes and/or business development. Many of the homes located on riverfront property are listed in the \$1 million dollar range and includes several businesses.

On the Southern portion of the California side, the Reservation extends into Riverside County and has been the subject of property litigation for the past decade or longer and was partially resolved in June 2011 by the U.S. District Court of Appeals for the Ninth District. This resulted in the eviction of several corporations that refused to recognize the riverside property occupied and leased for housing, as property of the Tribes and refused to pay annual rental fee for the lands.

The Tribes Law Enforcement Services Office was able to conduct Court service and physically evict and confiscate property belonging to the corporations with the cooperation, assistance and support of the Riverside County Sheriff's Office.

This gained national notoriety as it alluded to the perception that the non-Indians were not provided or afforded "due process" by the Tribes. But more importantly, it reflected the Colorado River Indian Tribes assertion of "concurrent jurisdiction" within a 280 jurisdiction.

The Tribes Law Enforcement Services Office has evolved from a Police Department to a public service agency that has the capacity for a 30-man police force, a criminal investigations component that consists of general crimes, drug enforcement and SORNA (sex offender registration and child abuse prevention). The Tribes has air-support (helicopter), canines, mobile command center, motorcycle traffic enforcement, off-road enforcement and in 2012 expand into commercial motor vehicle enforcement; we have the I-10 corridor which crosses the Reservation on our southern boundary.

We also have a communications department that is 24/7 that has direct contact with all of the agencies within our jurisdiction, as well as, having direct access to the National Crime Information Center (NCIC) and Arizona Crime Information Center (ACIC) for running criminal history information. The communications department was renovated and equipment upgraded in 2011 to include a new CAD system for data and statistical information essential for the annual Uniform Crime Report reporting.

In addition, the Tribes have a Detention component that consists of the Adult and Juvenile Detention Centers. The Tribes operate a 40-bed Adult Detention and are in the final stages of renovation on a 16-bed Juvenile Temporary Holding Center. In November, 2011, the Tribes broke ground to build a brand-new 40 bed two-story Juvenile Detention Center comprising of approximately 19,000 square feet at the cost of \$7 million.

The Tribes also have a Tribal Court and Justice system that includes Adult, Juvenile, Civil, Probations and Appellate Court. Criminal complaints are prosecuted by the Tribal Prosecutor's Office with the defendants afforded legal defense by the Public Defender's Office. Both the Tribal Prosecutor and Public Defenders' Office are law trained bar-certified and licensed attorneys.

In December 2011, I was fortunate to attend the “Interdepartmental Tribal Justice, Safety, and Wellness Session #14” held at the Hyatt Regency Tamaya Hotel, Santa Ana Pueblo, New Mexico, which emphasized *justice, safety, and wellness* issues. Just as fortunate, I sat in on the Indian Law and Order Commission (ILOC) Field Hearing held at the hotel and listened to the presenters on December 14, 2011.

I heard the “*Historical Perspective*” provided by Mr. Sam Deloria, American Indian Graduate Center, and the “*Workload of Tribal Justice*” that was prevalent in 1990 and continues today. Primarily the lack of “*funding*” for all areas of the Criminal Justice system and the Government’s Indian Policy of continual setting of “boiler-plate” policy for all Tribes without comparison of the service population and the mind-set that “*one size fits all*”.

I believe that this statement by Mr. Deloria holds true and history has proven that past practices does NOT work. Indian Tribes and Nations are separate and “distinct” sovereigns that are different as night and day. Their culture, language, traditions, and resources are different as well. The same can be said about their government and infrastructure, we are all at different stages of development and can’t and should not be compared to one another. As such the funding formula for the various Indian Tribes and Nations will be greatly varied and will depend largely on their Criminal Justice infrastructure and sustainability.

Another interesting point Mr. Deloria raised concerned giving the Indian Tribes and Nations “Tribal Felony Jurisdiction” as outlined in the Tribal Law and Order Act of 2011. He made reference to the U. S. Supreme Court’s Policy of the 1970’s concerning Tribal Court actions and the concern of the Supreme Court about the rights and due process of non-Indians afforded by the Tribal Courts. Mr. Deloria cautioned that if this is allowed, it will “force a show-down with the Supreme Court”.

Again, I think this statement by Mr. Deloria holds true and you can look at the current disparity in Federal funding of the Tribal Courts versus Law Enforcement and Corrections. There is a tremendous gap in the funding that is available to Law Enforcement and Corrections compared to the Tribal Courts. How do we fix this “funding gap”?

How do we expect our Tribal Courts to assume Tribal Felony Jurisdiction when the Bureau of Indian Affairs barely provides minimal funding support? Not to mention the burden it would place on Tribal Corrections to hold and house prisoners for three (3) or more years. Would you consider this program purposely set-up for failure?

Regarding Public Law 280, Mr. Deloria stated, "When Feds come in to make it right, they mess it up". He emphasized that Indian Tribes must work cooperatively with State and local law enforcement agencies. When the Federal government gets involved it isolates the Tribal jurisdiction and places it in the "spotlight".

In dealing with the enforcement of the Tribal eviction notices for non-Indian "trespassers" in California, in particular, Riverside County, we, Colorado River Indian Tribes, concur from experience that Tribes have to take the initiative to bridge the gap to create partnerships and inter-agency cooperation. Granted, it may not be an easy task, but someone has to come to the table and initiate discussion. Currently, we are fortunate to have sound communication and cooperative support from the Riverside Sheriff's Office, so much so that the Sheriff felt it important to establish a Tribal Liaison Department.

I also heard the presentation by Dave Menard, Jeremy Peters and Bernie Stevens on Juvenile Detention Centers in Indian Country. And the statement, "If you build it, you will fill it", and "it is outrageously expensive for juvenile detention".

As presented earlier, at Colorado River Indian Tribes, we are in process of opening a Temporary Juvenile Holding Facility and are in the process of building a 40-bed Juvenile Detention Center. Our Transition Committee has worked with the Department of Justice Contractors on all the aspects of building and operations. Based upon our needs survey we are going to need approximately \$2.8 million for operations and maintenance of the facility when it is completed.

Since 2008, we have worked on completion of the budget and submitted all of our anticipated funding needs for the project, which was submitted to the Bureau of Indian Affairs for inclusion into their budget request to Congress for the 2012 Budget.

However, the U.S. Department of the Interior News Release, dated February 14, 2011, entitled, Indian Affairs Fiscal year 2012 Budget Request Reflects President's Commitment to Fiscal Discipline While Strengthening Tribal Nations. It goes on to read that, *"President Obama's proposed fiscal year 2012 budget request for Indian Affairs, which includes the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), is \$2.5 billion—a \$118.9 million decrease from the FY 2010 enacted/FYFKY 2011 Continuing Resolution (CR) levels"*.

"Included in the reduction are the elimination of a one-time increase in 2010 to forward fund tribal colleges (\$50 million) and the completion of Public Safety and Justice Construction projects (\$47 million)". What does this mean for the Indian Tribes and Nations in the future, will we be expected, "to do more with less"? Will we get the full funding that is required for the operation and maintenance of our new Juvenile Detention Center? We really don't know considering the current financial state of the United States and the world, but we remain "optimistic".

Lastly, I heard the presentation made by the Honorable Judge John Romero, Lilly Yamamoto, Cheriena Ben, Candida Hunter, and the Honorable Judge Lorrie Miner, regarding the overall Juvenile Justice System and Alternatives to Incarceration. They referred to "taking the child out—changing the child, but when you return the child to the same environment that has not changed, the process is repeated". But also mentioned that "Policing in Indian Country is Adequate", however, "it is our Juvenile Detention Centers that remain inadequate", which is universal for Indian Country. Finally, "the impression that things are getting better, but nothing has changed"!

With the Colorado River Indian Tribes Criminal Justice System the comment made is so true. In reviewing our BIA 638 contracts for Law Enforcement and Detention Services the BIA provides approximately \$800,000 for Law Enforcement and \$300,000 for Detention. To augment the actual program needs, the Tribes allocate \$1.7 million for Law Enforcement and \$700,000 for Detention – doubling the actual contract amounts to meet the actual program needs.

Our current funding situation is probably no different than most or all of the Indian Tribes and Nations in the United States experienced today. Beginning in 2003/2004 the BIA begins annual program cuts of approximately 5% "across the board" to include BIA 638 contracts, this the result of Federal budget cuts.

This continued for approximately 5 years and has made a substantial impact on Tribal programs to the point most of the Tribes have not recovered. If not for the Department of Justice COPS program, I would venture to say that most of Indian Country Law Enforcement programs would be non-existent today.

In concluding my testimony today, I would like say that the Indian Law and Order Commission and Indian Tribes and Nations have a daunting task ahead. I don't say difficult, because we already have a road-map that show all of the bumps and pot-holes that we already encountered in our past history. We know what will not work and know what will work, so let's apply it.

I also say "we" because we must proceed together as "partners" toward a commonality that we all agree upon. We may not all get their together, but if we are able to experience success then we can turn around and pick-up the stragglers left behind and afford them the opportunity for success.

As we sit here today, with all of the Arizona Tribal Chiefs of Police in support of our testimony today, including State, County, and local agencies, we must also include and encourage our Tribal Leaders to be in the fore-front of this effort. Our Tribal Leaders and Tribes need to be in the "driver's seat", not the Federal Government or the National Congress of American Indians.

Lastly, we are coming to the end of the Iraqi War and for the first time in American History, Congress is reducing the National Defense budget and the National Budget is in a deficit. We must keep in mind that if we go before Congress asking for additional monies for Indian programs that we must have a viable plan and monitoring process in place for each Tribal program to ensure program goals and objectives are present, annual program review for compliance, and accountability for the funding provided. In short, we must take a SMART approach to ensuring success with our Criminal Justice Programs in Indian Country.

I thank you for the opportunity to speak on behalf of the Arizona Indian Tribes and Nations.

Respectfully,

Hon. Richard M. Armstrong