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NEWS

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

For Immediate Release

Contact: Thomas W. Sweeney

(202) 208-2535

February 6, 1998

**BIA AWARDS \$9-MILLION DETENTION CENTER CONSTRUCTION CONTRACT TO
UTE MOUNTAIN UTE TRIBE IN COLORADO**

A \$9.1-million contract has been awarded by the Bureau of Indian Affairs to the Ute Mountain Ute Tribe for a much-needed adult and juvenile detention center that will be constructed by the tribe's Weeminuche Construction Authority.

"We are gratified and thankful that the tribe's critical need for this facility is finally being met," said Assistant Secretary for Indian Affairs Kevin Gover. "I thank Sen. Ben Nighthorse Campbell (R-CO) for his longstanding support for this project and also thank the chairmen of the Interior Appropriations Committees, Sen. Slade Gorton (R-WA) and Rep. Ralph Regula (R-OH), for their assistance."

The new Ute Mountain Ute Adult and Juvenile Detention Center will consist of a 12-bed juvenile detention center and a 38-bed adult detention center on the Ute Mountain Ute Reservation in Montezuma County, CO. Construction funds for the center are being transferred by the BIA to the tribe's construction authority through a Public Law 638 contract. Construction will be completed in approximately 18 months.

The new facility is, in part, the result of a recent Federal Court Consent Decree requiring the BIA to immediately address the operations and facility conditions of the existing detention center.

The day-to-day responsibility for providing police and detention services to the Ute Mountain Ute Reservation was transferred on January 1 from the BIA agency superintendent to the BIA's Office of Law Enforcement Services (OLES). The OLES is working closely with the U.S. Attorney, District of Colorado; the Indian Health Service; the Department of the Interior Regional Solicitor; and the Federal Court to address the current detention center's deficiencies and to provide quality detention services.

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U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
For Immediate Release
February 25, 1998

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NEEDIEST INDIAN FAMILIES TO BENEFIT FROM REVISED BIA HOUSING IMPROVEMENT PROGRAM PROCEDURES

The Bureau of Indian Affairs' Housing Improvement Program (HIP), which provides a safety net for needy American Indian families who do not qualify for assistance from other housing programs, is streamlining its procedures to ensure that those with greatest need will receive safe, sound, and sanitary housing more quickly.

"We look forward to enacting these new procedures because they will speed the delivery of decent housing to the neediest tribal members," said Assistant Secretary for Indian Affairs Kevin Gover.

The new rules will be published in the Federal Register on March 2 and will become effective 30 days after publication. The BIA has revised the procedures governing the Housing Improvement Program to clarify and simplify the conditions and terms for providing housing assistance and to allow additional flexibility in administering the program. The HIP focuses on the repair and renovation of existing substandard housing. Other Federally sponsored programs, such as those sponsored by the Department of Housing and Urban Development, are responsible for most new housing construction in Indian Country. Approximately 85 percent of the tribes with active Housing Improvement Programs operate them through Self-Determination agreements or Self-Governance compacts.

Significant changes to the procedures include:

- Reducing the annual income levels for eligible program applicants to focus program services on the most needy families who cannot qualify for other housing resources.
- Eliminating one program service, the down-payment assistance category, to refocus the program on repairs and renovations that result in safe, sound, and sanitary homes.
- Increasing from \$20,000 to \$35,000 the amount of funds that can be expended to renovate an existing home.
- Allowing for regional differences in construction and labor costs.



NEWS

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

For Immediate Release Contact: Thomas W. Sweeney

March 10, 1998 (202) 219-4150

INTERIOR DEPARTMENT DEFENDS TRIBAL SELF-DETERMINATION

Interior Department representatives today strongly defended the rights of American Indian tribes to tribal self-determination. "Centuries of tribal rights of self-government and self-determination should under no circumstance be abridged based on mere anecdotal evidence," said Interior Department Associate Solicitor for Indian Affairs Derril Jordan today during a Senate Committee on Indian Affairs hearing on Tribal Sovereign Immunity.

Jordan cautioned that hasty action should not be taken to limit long-held Tribal Sovereign Immunity based on anecdotal evidence provided by a few people. "Arguments alleging bias against non-tribal litigants in tribal courts are based on anecdotal evidence that is often inconclusive or not probative." He explained that the Office of the Solicitor, Division of Indian Affairs, is not aware of any problems surrounding the longstanding doctrine of Sovereign Immunity, but has consistently been informed of serious problems in Indian Country as have members of the Committee. "This Committee is keenly aware of the conditions that exist on most reservations. Tribal infrastructure for roads, community water and sewer services, and other amenities that most non-Indian communities take for granted are either absent or woefully inadequate." Jordan advised Committee members that abridgement of Sovereign Immunity can only make matters worse on reservations. He added that it will certainly lead to frivolous lawsuits resulting in bankruptcy and the end of tribal self-government as well as prolific overburdening of the Federal District Courts.

Tribes are faced with enormous problems, and not enough resources, Jordan said. "Health conditions are generally poor, and suicide, alcoholism, and unemployment rates on most reservations are far above those of the rest of the country. Whatever the source of tribal revenues, the needs of the overwhelming number of tribal communities far exceed the available financial resources." Jordan cautioned that the receipt and use of Federal funds could be diverted from providing for the needs of tribal peoples to supporting litigation costs run up by frivolous lawsuits. "There is no documented need for Congress to waive unilaterally Tribal Sovereign Immunity. Such a sweeping curtailment of tribal sovereignty would be reminiscent of the Termination Era."

Assistant Secretary for Indian Affairs Kevin Gover said today that any problems between States and Tribes can be resolved through the government-to-government negotiation process. "The best way to resolve conflicts between governments is to sit down together and find a solution. Government-to-government negotiations are the proven and just way to resolve conflicts." More than 200 agreements between Tribes and States have been negotiated and are in effect concerning taxation and other issues.

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STATEMENT OF DERRIL B. JORDAN
ASSOCIATE SOLICITOR, DIVISION OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
CONCERNING TRIBAL SOVEREIGN IMMUNITY

MARCH 11, 1998

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on the principle of tribal sovereign immunity and the important role it plays in helping to preserve tribal governments as viable members of the family of sovereigns recognized by the Constitution and federal law.

The United States has recognized the sovereignty of Indian tribes from the very beginning of the Republic. There are presently over 500 federally acknowledged tribes within the borders of the United States. Congress recently expressly affirmed the sovereign status of tribes in the 1994 "Federally Recognized Indian Tribe List Act," stating, "the United States has a trust responsibility to recognized Indian tribes . . . and recognizes the sovereignty of those tribes." In the Act, Congress validated the authority of the Secretary of the Interior to maintain a list of acknowledged tribes. In publishing this list, the Secretary has consistently indicated that listed tribes possess "...immunities and privileges...by virtue of their government-to-government relationship with the United States..." 60 Fed. Reg. 9250, 9251 (1995); 25 C.F.R. § 83.2 (1996). Regardless of their size, whether in terms of members or territory, or the form of their organization, all federally recognized tribes enjoy the same basic responsibilities, powers, limitations and obligations.

As Senator Inouye noted in his comments during the Committee's hearing on this same issue in September of 1996, one of the attributes of sovereignty is immunity from suit if a tribe has not consented to the action. Senator Inouye further noted that Alexander Hamilton acknowledged this basic attribute of sovereignty in Federalist No. 81. Moreover, case law supports tribal sovereignty, as well. (See Santa Clara Pueblo v. Martinez, 436 U.S. 49, 58 (1978) "Indian tribes have long been recognized as possessing the common-law immunity from suit traditionally enjoyed by sovereign powers," citing Turner v. United States, 248 U.S. 354, 358 (1919) and United States v. United States Fidelity & Guaranty Co., 309 U.S. 506, 512-513 (1940), and others.) In American Indian Agriculture Credit Consortium v. Standing Rock Sioux Tribe, 780 F.2d 1374, 1378 (1985), the Eighth Circuit noted, "Indian tribes enjoy immunity because they are sovereigns predating the Constitution" (citations omitted). (See also Puyallup Tribe v. Washington Game Dep't, 433 U.S. 165, 172-73 (1977)). Most recently, the Supreme Court in Oklahoma Tax Comm'n v. Potawatomi Tribe, 498 U.S. 505 (1991), stated:

A doctrine of Indian tribal sovereign immunity was originally enunciated by this Court and has been reaffirmed in a number of cases. . . . Congress has consistently reiterated its approval of the immunity doctrine [in Acts which] reflect Congress' desire to promote the "goal of Indian self-government, including its 'overriding goal' of encouraging tribal self-sufficiency and economic development." 498 U.S. at 510 (citations omitted).

The Supreme Court concluded that, "Under these circumstances, we are not disposed to modify the long-established principle of tribal sovereign immunity." Id. Thus, Indian tribal sovereign immunity retains its full vitality.

The question now is whether Congress should act in a way that would eliminate or diminish the vitality that tribal sovereign immunity has long enjoyed in Congress and before the various courts of our Nation. The Administration's answer to that question is no.

Although we are aware of no comprehensive study detailing the degree to which federal and state governments and tribes have waived their sovereign immunity, we believe it is likely that recent proposals to abrogate tribal sovereign immunity have been based on the erroneous assumption that tribal governments are the only governments in our country that exercise the full scope of their immunity. We believe this assumption is erroneous because it underestimates the frequency with which federal and state governments raise sovereign immunity as a defense to lawsuits, while at the same time overestimating the frequency and nature of instances in which tribal sovereign immunity is invoked. Tribes frequently waive their immunity through tribal codes and statutes, water rights agreements, business contracts, insurance riders and economic development-oriented subordinate entities. Moreover, even if a comprehensive review of sovereign immunity was undertaken which showed differences in the frequency and nature of the exercise of this right by federal and state governments as compared to tribes, such a showing would not provide a sufficient basis for unilaterally eliminating tribal sovereign immunity. In order to understand more fully why tribes exercise sovereign immunity, one must understand the environment within which tribal governments exist and operate.

Tribal sovereign immunity serves an important purpose in protecting and promoting Indian tribal self-government. The Supreme Court has recognized that "the common-law sovereign immunity possessed by the tribe is a necessary corollary to Indian sovereignty and self-government" (citations omitted). Three Affiliated Tribes v. Wold Engineering, 476 U.S. 877, 890 (1986). Similarly, in Oklahoma Tax Comm'n v. Citizen Band Potawatomi of Oklahoma, 498 U.S. at 510, the Court explained that Congress "has consistently reiterated its approval of the immunity doctrine," reflecting its desire to promote its "goal of Indian self-government, including its 'over-riding goal' of encouraging sufficiency and economic development" (citations omitted). Moreover, as the court noted in Martinez, 436 U.S. at 64-65, a finding that Congress waived tribal immunity in federal courts "would also impose serious financial burdens on already 'financially' disadvantaged tribes" (citation omitted).

The lower federal courts have recognized this principle as well. In American Indian Agricultural Credit Consortium v. Standing Rock Sioux Tribe, 780 F. 2d 1374, 1378 (8th Cir. 1985), the court pointed out that "immunity is thought necessary to promote the federal policies of tribal self-determination, economic development and cultural autonomy." In Maryland Casualty Co. V. Citizens Nat'l Bank of West Hollywood, 361 F.2d 517, 521-22 (5th Cir. 1966), the court found that tribal sovereign immunity is necessary to protect tribal assets from claims and judgments that would soon deplete tribal resources.

Tribal courts have also recognized the importance of sovereign immunity. (See Rowland v. Hoopa Valley Tribe, 21 Indian L. Rep. 6087, 6088 (Hoopa Valley Ct. App., Sept. 29, 1992) "[t]he purpose of sovereign immunity is to preserve the autonomous political existence of the tribes and tribal assets"; and Guardipee v. Confederated Tribes of the Grand Ronde Community of Oregon, 19 Indian L. Rep. 6111 (Gr. Ronde Tr. Ct., 1992) citing Maryland Casualty Co. "tribal sovereign immunity is necessary to preserve and protect tribal assets from claims and judgments that would soon deplete tribal resources").

In Puerto Rico Aqueduct & Sewer Authority v. Metcalf & Eddy, Inc., 506 U.S. 139, 113, S. Ct. 684, 687 (1993), the Court recognized that one of the primary benefits of sovereign immunity is the right not to be sued, including the right to avoid the costs and general consequences associated with discovery and trial. The need to avoid such costs is just as important to tribal governments as it is to the federal government and states. Given the tenuous financial condition of most tribal governments, it is likely much more important to tribes.

This Committee is keenly aware of the conditions that exist on most reservations. Tribal infrastructures for roads, community water and sewer services and other amenities that most non-Indian communities take for granted are either absent or woefully inadequate. Health conditions are generally poor, and suicide, alcoholism and unemployment rates on most reservations are far above those in the rest of our Nation. Whatever the source of tribal revenues, the needs of the overwhelming number of tribal communities far exceed the available financial resources. Moreover, tribal governments do not have the same ability to raise revenue as the federal government or the states. Given the disparity between needs and resources, it is unreasonable for Congress to expect that the tribal exercise of sovereign immunity will be similar to or coextensive with the exercise of sovereign immunity by federal or state governments. As the case law cited in this testimony acknowledges, tribal sovereign immunity is an important corollary to tribal self-government. Without sovereign immunity, the assets of many tribal governments would soon be depleted to the point where meaningful self-government would be untenable.

In any discussion of tribal sovereign immunity in which the exercise of this right is compared to that of states it is important to note that states are afforded the opportunity to waive their own immunity in accordance with their own limited terms. While Congress has abrogated states' sovereign immunity in certain limited circumstances, by contrast, Congress has in recent years considered unilaterally providing broad, unlimited waivers of tribal sovereign immunity in the courts of other sovereigns, principally federal and state courts. Proponents of these measures argue that tribal courts are biased against non-tribal litigants. Arguments alleging bias against non-tribal litigants in tribal courts are usually based on anecdotal evidence which is often inconclusive or not probative. Another argument often used to support waiving tribal immunity is that tribes can then be sued in state and federal courts, the only forum believed to be neutral. This argument fails to consider that state courts, in particular, may be biased against tribes. Congress has historically recognized that states should not have judicial authority over Indian tribes. The phenomenon of inhospitable and unfair treatment of Indians by states is not new, as the Supreme Court noted over a hundred years ago when it stated, "[Tribes] owe no allegiance to the States and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies." United States v. Kagama, 118 U.S. 375, 384 (1886).

While tribes have been somewhat more willing to have their disputes resolved in federal courts than in state courts, the resolution of civil disputes arising on the reservation often requires the application and interpretation of tribal laws, customs and traditions. Often federal courts are not well suited to interpret tribal laws. (Cf. Martinez, 436 U.S. at 71, wherein the Supreme Court recognized that resolution of many civil disputes arising under 25 U.S.C. §1302 of the Indian Civil Rights Act will depend upon questions of tribal tradition and custom which tribal forums are likely to be better able to evaluate than federal courts.)

With regard to tax disputes between tribes and states, the Administration believes that it is inappropriate for Congress to waive tribal sovereign immunity at a time when the Supreme Court has been confirming the sovereign immunity of states in suits brought by tribes. (See Idaho v. Coeur d'Alene Tribe of Idaho, ___ U.S. ___, 117 S. Ct. 2028 (1997). Tribe's claim against Idaho officials alleging ownership of bed, banks and submerged lands of all navigable waterways within boundaries of the Reservation, including Lake Coeur d'Alene, did not fall under Ex parte Young exception and was therefore barred by the Eleventh Amendment; (Seminole Tribe of Florida v. Florida, 517 U.S. ___, 116 S. Ct. 1416 (1996). Congress lacks authority under the Indian Commerce Clause of the United States Constitution to waive Eleventh Amendment immunity of States with regard to suits brought by Tribes under the Indian Gaming Regulatory Act; and (Blatchford v. Native Village of Noatak, 501 U.S. 775 (1991). 28 U.S.C. §1362 granting jurisdiction to federal district courts to hear "all civil actions brought by any Indian tribe" does not constitute a waiver of Alaska's Eleventh Amendment immunity to suit.)

It would be fundamentally unfair to expose tribes to suits by state governments when tribes are unable to sue states. Currently both tribes and states are immune to suit. This mutual immunity to

suit encourages tribes and states to deal with each other as sovereigns and often results in government-to-government negotiations between tribes and states on tax and other issues of mutual concern. Neither party has the upper hand in such negotiations. Rather, each sovereign must respect the views and needs of the other and both must work toward mutually satisfactory accommodations on important issues. Waiving tribal sovereign immunity would effectively remove the incentive of states to deal with tribes as fellow sovereigns.

Widespread disagreement exists among officials within state governmental officials exists as to whether it is necessary to waive tribal sovereign immunity in order to resolve tribal/state disputes. In a letter dated September 10, 1997, Governor Gary Locke of Washington expressed his concerns to Senator Slade Gorton concerning Sections 118 and 120 of the Department of the Interior's Fiscal 1998 Appropriations Bill, (H.R. 2107). If enacted, Section 118 would have effected a waiver of tribal sovereign immunity upon receipt of TPA funds and Section 120 would have provided for means testing of tribal TPA allocations. Governor Locke stated in his letter that, in his view, those provisions would "undoubtedly weaken the political, social and economic infrastructure needed to ensure healthy, stable tribal communities." He concluded by stating that he believed that the provisions "would negatively impact all of Washington's citizens, as well as tribes and communities throughout the country." Similarly, the attorneys general of eight states, in a letter to President Clinton dated September 3, 1997 regarding Sections 118 and 120 of H.R. 2107, stated that those provisions "would drive a wedge into the heart of the doctrine of tribal sovereignty which has protected native cultures and native rights and has served as the foundation of Indian self-government in this country."

Regarding contractual disputes, the Administration's view is that there is no need for Congress to waive tribal sovereign immunity. A non-Indian party entering into a contractual relationship with an Indian tribe has the opportunity to negotiate and bargain for a waiver of immunity from the tribe or the subordinate entity that will enter into the contract for the tribe. There are many federal, tribal and state court cases recognizing and applying the doctrine of tribal sovereign immunity. Any party seeking to do business with a tribe has ample notice of the doctrine and ample opportunity to negotiate a waiver to protect its interests. The concept of *caveat emptor* should prevail in these circumstances.

We direct to Committee's attention to the 1991 Report of the United States Commission on Civil Rights. After extensive hearings, the Commission rejected the call for a waiver of tribal sovereign immunity and instead recommended that before waiving tribal immunity, "Congress should afford tribal forums the opportunity to operate with adequate resources, training and funding, and guidance, something that they have lacked since the inception of the ICRA."

In conclusion, it is the Administration's view that there is no documented need for Congress to waive unilaterally tribal sovereign immunity. Such a sweeping curtailment of tribal sovereignty would be reminiscent of the Termination Era.

I am pleased to have had the opportunity to present the views of the Department of the Interior on this subject and I will be happy to answer questions of the Committee.

BUREAU OF INDIAN AFFAIRS

For Immediate Release Contact: Thomas W. Sweeney

March 19, 1998 (202) 219-4150

**ASSISTANT SECRETARY FOR INDIAN AFFAIRS KEVIN GOVER DELIVERS
UNIVERSITY OF SOUTH DAKOTA LAW SCHOOL SPEECH ON "INDIAN WARRIORS
THEN AND NOW"; URGES RESPONSIBLE AND RESPONSIVE TRIBAL
GOVERNMENTS**

Assistant Secretary for Indian Affairs Kevin Gover spoke Thursday, March 19, about critical American Indian issues and his vision for Tribal America during a University of South Dakota School of Law symposium on "Indian Nations on the Eve of 21st Century: Sovereignty, Self-Government, Water Rights, Land Rights." The speech was taped by C-SPAN for later broadcast.

Gover was nominated by President Clinton for the Assistant Secretary's position and was sworn in on November 12, 1997. He leads the 10,700-employee Bureau of Indian Affairs and serves as the Clinton Administration's senior Indian Affairs official.

"I am urging the Tribes to recapture their warrior traditions and define the meaning of the warrior tradition in today's complex world," Gover said. "A warrior is not defined by violence and hostility, but by the commitment and sacrifice that transcends all personal interest." Gover also explored the theme of "Indian Warriors Then and Now" as it relates to the challenging work of tribal leaders, Indian lawyers, and others who work on behalf of 554 federally recognized tribal nations. His speech included a discussion of the devastating Indian Country problems that include alcohol and drug abuse, youth suicides, and joblessness. Gover emphasized that today's "warriors" must use their considerable skills and experience in creating tribal solutions to these troubling problems, while also strengthening responsible and responsive tribal governments.

"Over the past 30 years we have seen a dramatic rise in the acknowledgment of the Tribal power of self-government. That power is under attack, and some of those attacks are given credence when a tribe exercises its power irresponsibly," he said. "The great leaders and great warriors of the past thought less about the power of leadership and more about the responsibility of leadership. This is a tradition we have to learn to follow."

Gover also discussed the changing direction and improvement of the Bureau of Indian Affairs and the many challenges that face it and tribal nations as the new century approaches.

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U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

For Immediate Release

Contact: Thomas W.Sweeney (202) 219-4150

March 23, 1998

GOVER THANKS OKLAHOMA INDIAN ORGANIZATIONS FOR FOCUS ON YOUTH

Assistant Secretary for Indian Affairs Kevin Gover today thanked Oklahoma Indian organizations and tribal leaders for their receptivity and attention to the message he delivered on Indian youth issues during his visit to the state last week. "I am exceedingly grateful that my message on attacking the causes of alcohol and drug abuse among Indian youth was warmly received everywhere I traveled in Oklahoma," Gover said.

During his March 21 University of Oklahoma Indian Law and Policy Symposium speech, Gover stressed to tribal leaders and others that combating the devastating youth problems of alcohol and drug abuse and teen suicide must come first and foremost in Indian Country. "Nothing else matters until we can find tribal solutions to end these terrible problems. We must provide the leadership and vision to guide Indian youth back to constructive and fulfilling lives." Gover thanked the University of Oklahoma School of Law and the American Indian Law Review for the opportunity to deliver this message.

Indian youth and education was the theme of Gover's March 20 visit to the Bureau of Indian Affairs Riverside Indian School in Anadarko. Gover met with students, aged eight to 17, and toured the Riverside campus with them. "It's obvious they are fond of their school and its administration," he said. "It speaks volumes for the work that is being done there." Gover also attended a March 20 Oklahomans for Indian Opportunity (OIO) reception in Norman. His parents, Maggie and Bill Gover, were active members of OIO. Thirty-one tribes were represented at the event. "I was especially impressed with the emphasis OIO placed on our youth themes," said Gover. "We particularly enjoyed the performances given by Indian youth groups that use traditional tribal practices and values in carrying out their pledge to lead drug- and alcohol-free lifestyles." Indian dances and songs were performed by the Comanche Youth Dance Group, the Comanche Nation Pre-School Language Program, and the United National Indian Tribal Youth (UNITY).

Gover also thanked the Pawnee Nation for hosting a March 22 event that brought together the region's tribal leadership.

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which are located north of Santa Fe, where litigation has been pending since 1966.

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U.S. DEPARTMENT OF THE INTERIOR

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For Immediate Release

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May 14, 1998

ACCESS NATIVE AMERICA NET DAY CONNECTS 28 SCHOOLS TO THE INTERNET

Twenty-eight Bureau of Indian Affairs schools in four states will officially become on-ramps to the information superhighway this Saturday, May 16, 1998. Access Native America Net Day will officially move Indian schools in Arizona, New Mexico, South Dakota, and Mississippi on-line and provide the students of these schools with access to the Internet through the Department of the Interior's network.

Celebrations are planned at all the schools with major event sites located at one school in each state. The Cottonwood School in Chinle, Arizona, will serve as the event site for the Navajo Nation; Jemez Pueblo Day School will serve New Mexico; Little Wound School in Kyle, South Dakota, will serve the Oglala Lakota Nation on the Pine Ridge Reservation; and the Red Water School in Carthage, Mississippi, will serve the Mississippi Choctaw Nation. Events will include cultural performances by students, presentations from members of the Net Day Planning Team, and an on-line event from the four schools. A show-and-tell of the web sites created by the students at all of the newly connected schools will be featured.

Many of the schools served by the Bureau of Indian Affairs are located in rural, impoverished areas where access to telephone lines and computers is limited by distance, poverty, and a lack of service that most Americans take for granted. "This is why it is so important we provide the technology of the 21st century to these children," said Kevin Gover, Assistant Secretary for Indian Affairs. "Our children do not have the same opportunities to take field trips to museums, zoos, or libraries. The Internet, and projects like Access Native America Net Day, bring the museums, the zoos, and libraries to Indian children."

Access to the Internet for students in Indian schools will broaden their horizons with instant links to all of the information on the Internet while also serving a strong social purpose. From the Internet, they will be able to communicate with other Indian children who may be experiencing similar problems. Peter Camp, an education specialist in the Office of Indian Education Programs and a Net Day coordinator, explains the importance of the Internet on isolated reservations: "If our kids are to participate in society they have to have the technology. Its absolutely critical. Indian children often are gripped by the feeling of isolation, that they are the only Indians left. With the creation of web pages and links between the schools, the kids are learning more about other Indian children, and gaining a new sense of hope. There is a definite lack of coverage of modern Indian issues, and this can help our kids know they are not alone," said Camp.

Access Native America Net Day is a public-private collaboration between the Bureau of Indian Affairs and corporate and foundation sponsors including Intel, Microsoft, Toshiba, UPS, Los Alamos National Laboratories, and foundations like the Annenberg Rural Challenge, and the One 2 One Indigenous Learning Center. Through the cooperation of these entities and the participation of programs such as Students Recycling Used Technology, the computers and training for their use were provided for the students involved in Net Day activities.

Through the cooperation and generosity of these corporate and foundation sponsors more than a million dollars in hardware and software has been donated. Through the StRUT program, students at the Santa Fe Indian School, with the guidance and training supplied by the Los Alamos National Laboratories and Intel, built computers used by the Access Native America Net Day program. To help the newly networked schools maximize their connections Microsoft Corp. donated software and training resources to the Access Native America Net Day schools. Each school received FrontPage' 98, Microsoft's Web site creation and management tool: Internet solutions for K-12 CD, a comprehensive set of industry-leading tools and resources designed to enhance school and classroom Internet connections, training guides, including In and Out of the Classroom with FrontPage' 98, self-guided lessons to make it easy to use FrontPage as a classroom tool; and Microsoft's full Academic Training Pack, which contains training materials for educators that cover a range of technology solutions for schools. In addition through its work with StRUT Microsoft is providing Windows 95 and Microsoft Office 97 for the schools.

"Microsoft's support of Native American Net Day is part of our continuing effort to build a global Connected Learning Community, where all students have access to technology and the tools that support learning today and for a lifetime," said Kathryn Yates, director of Microsoft K-12 programs. "We are pleased to be a part of the community that is helping connect the students in these rural Native American schools to the vast resources of the Internet."

"Access Native America Net Day is already a success, but it is only a first step," said Assistant Secretary Gover. "The goal of the Bureau of Indian Affairs is to connect all 185 BIA operated schools to the Internet by the year 2000. Work on Net Day 99 begins next Monday. Our children are the national treasures of the Tribes, and the Internet is too important to their future for them to be left behind."

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U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

For Immediate Release

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June 9, 1998

ASSISTANT SECRETARY KEVIN GOVER ASKS TRIBES TO RAISE THEIR VOICES OVER YELLOWSTONE BISON CONTROVERSY

Bison and the American Indian people have a symbiotic relationship that needs to be honored and respected. After a visit to the Ft. Belknap Indian reservation in Montana, Assistant Secretary Kevin Gover is encouraging American Indians everywhere to let their voices be heard in determining the outcome of the current controversy over the management of the bison herd in Yellowstone National Park.

At the request of the InterTribal Bison Cooperative, a BIA-sponsored program working to restore buffalo to Tribal lands, and the Assiniboine and Gros Ventre Tribes of the Ft. Belknap reservation, Gover toured the Tribes' bison-restoration and prairie-conservation project and came away impressed. "It is amazing how the restoration of the buffalo to native lands has impacted this Tribe and the other Tribes that have undertaken similar efforts," said Gover. The restoration of the buffalo to American Indian lands has been a great success for the Bureau of Indian Affairs and the InterTribal Bison Cooperative. Many American Indians believe that when the buffalo is returned to its rightful healthy place among the Tribes, that the Tribes will also rise again to health: spiritually, economically and physically. "Most people do not fully understand that the spiritual connection between the Tribes and this majestic animal is more than symbolic," stated Gover, "We are seeing a rebirth of spirit and pride among the Tribes and it is not coincidental that this is coming with the return of the bison to Tribal lands."

The ITBC has been engaged with the Department of the Interior, the Department of Agriculture, and the State of Montana in the current crisis over the bison herd at Yellowstone National Park. Two winters ago, the State of Montana killed nearly one-third of the Yellowstone bison herd when they left the park in search of winter forage. This slaughter was extremely offensive to American Indians, and ITBC has been working to ensure a slaughter like this can never happen again. So far, the Tribes have not been allowed a place at the table while this issue is being decided. The Departments of the Interior and Agriculture, and the State of Montana recently released an Environmental Impact Statement concerning the management of the Yellowstone herd, and the period for public comment allows American Indians the opportunity for their voices to be heard.

Gover encouraged all Tribal members to raise their voices during the public comment period. "The Tribes deserve a place at the table when this issue is decided," stated Gover, "I will do everything I can to protect our brothers the buffalo, but it will take all of our voices to make a difference." Gover stated that the bison need to be treated like wild animals and allowed to roam, but if the parties involved will not agree to natural ranging of the bison, that the Tribes should be involved in the

solution. "For centuries, the bison provided for our people, now it is our turn. The American Indian is the natural guardian of the bison."

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U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

For Immediate Release

July 23, 1998

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**President's Indian budget for Law Enforcement and Safe Schools Cut
by Senate Interior Appropriations Committee by over \$140 million**

After several hearings about the need for more police on Tribal lands and the severe need for school construction and repair funds in Indian Country, the Senate Subcommittee on Interior Appropriations cut the President Clinton's request to fund the needs of the American Indian people for law enforcement and school construction by more than \$140 million.

Assistant Secretary for Indian Affairs Kevin Gover was disappointed to learn that, after the concern expressed by many members of the Congress, the subcommittee made these drastic cuts in the President's budget request for the Bureau of Indian Affairs. "We presented a very clear picture of the need for more law enforcement personnel, and the necessity of new and safe schools for Indian children. While many members agreed that these were a priority, the Interior Appropriations Subcommittee did not choose to budget the money in these areas." Gover also said "American Indian communities have less than one-fourth of the police protection of comparable-sized communities. The safety of these Tribal communities is at stake, but we cannot provide more police officers without more money."

"Budget time is a difficult time, and hard decisions need to be made," said Gover. "The Administration hoped the Committee shared our interest in finding solutions to the problems of inadequate law enforcement and crumbling schools on the reservations. We were hopeful that the Tribes would receive the funding necessary to create solutions to these very serious problems." "The reservation schools are old, and there are many of these schools that are literally dangerous to our students. The President's budget was calculated to provide enough money to begin to solve the problem. The Subcommittee seemed to share in the need to fund this construction process, but it did not show up in the bill."

-BIA-



NEWS

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
For Immediate Release
June 30, 1998

Contact: Rex Hackler
(202) 208-6087

INDIAN COUNTRY LAW ENFORCEMENT FACT SHEET

Hoskie Gene, Jr. - Navajo Nation Police Officer killed in the line of duty

In January of 1996, during the early morning hours, Hoskie Gene Jr. was on duty on the Navajo Reservation. He was en route home when he was dispatched to investigate a felony burglary in progress at the Bryant Trading Post in Shonto, about 45 miles northeast of Tuba City, AZ. He was the only officer on duty.

He encountered two suspicious characters a short distance from the Trading Post. That was the last radio dispatch and Navajo Nation police heard of Hoskie Gene, Jr.

A back-up unit, which arrived about one-half hour later found Hoskie Gene, Jr. dead, left on the side of a deserted highway. He had been strangled and beaten with his flashlight. They later found his car wrecked, and left in a ditch, his service revolver and radio had been stolen.

Two males, one adult and one juvenile were later captured and confessed to killing Hoskie Gene, Jr. They said they choked him with a belt, and beat him with a flashlight. They confessed that Hoskie Gene, Jr. pleaded for his life, but they killed him anyway.

Hoskie Gene, Jr. was an 11-year veteran of the Navajo Nation police force on the Navajo Reservation. He was 35 years old, and the father of 5 children. He worked the night shift, because the pay was better than working days, and he needed the money.

-MORE-

Law Enforcement

Memorandum

JAN 11 1996

To: Deputy Commissioner Indian Affairs
THEODORE R. QUASULA
From: Chief, Division of Law Enforcement Services
Subject: Law Enforcement Shortage

Yesterday I attended funeral services for Police Officer Hoskie Gene, Navajo Nation, who was murdered early Saturday morning by two suspects when he responded to a felony burglary call near Kayenta, Arizona. Naturally, the services were extremely sad and tearful, especially for Officer Gene's children. Hundreds turned out to pay their respects in the tiny isolated community of Pinon.

I have thought long about why this senseless death occurred. I have concluded this tragedy could have been avoided if Officer Gene were not alone, miles from the nearest backup, on a vast isolated part of the reservation. He was enroute home after putting in a long shift when he was dispatched to investigate a felony burglary of a trading post. He was the only officer on duty. He responded and encountered two suspects who were afoot. Officer Gene was subsequently beaten, strangled and left to die on the road. His police unit and weapon were stolen by the suspects.

One could say that Officer Gene should have waited for a backup or, considering his own safety, just drove away and not taken any police action. Other Federal, state, county, or city police routinely wait for assistance before approaching suspected felons. Indian police, on the other hand, simply do not have adequate resources and must take some action-often alone. This is very dangerous.

My point is that this tragedy would not have occurred if Officer Gene had a partner or if there were other police officers nearby to assist. The chances for survival increase tremendously with two-person units!

The Navajo Nation police, as elsewhere in Indian country, do not possess resources other agencies take for granted. Most likely, there is no 24-hour police coverage by one officer, much less two-person units. That's just the way it is in Indian country.

Funding is so inadequate that it is the norm for officers to work alone with little police equipment. Most police units are too old with excessive mileage of 100,000 to 150,000 miles. Two-way radio communication equipment is outdated and there are many "deadspots", areas where there is no communication at all between

an officer and dispatch. Many officers still carry six-shot revolvers while the rest of the police world has switched to semi-automatic weapons to keep up with the criminal's firepower. Most officers do not have bulletproof vests and patrol unprotected. Some have resorted to buying their own vests, knowing the increasing danger in Indian country. I won't belabor the point by restating the condition of our run-down jails, some of which have been ordered closed by the courts.

A positive aspect is the dedication and desire by our police officers to provide services and protection for the people in Indian country. Another positive is our training program, although we cannot meet all of the training needs on a timely basis. For example, the waiting list for basic training is more than one year long.

In short, Indian police are greatly outnumbered by offenders who are better equipped. Indian policing is only reactive. We do not have the manpower to be proactive with crime prevention programs, particularly those involving the youth.

In my more than 20 years of service with BIA law enforcement the issue of inadequate funding has resurfaced every fiscal year. While tribal leaders have repeatedly voiced strong support for law enforcement, little has been reflected with regard to funding. Tribes voiced their concern during the Interior/Justice Listening Conference. While Justice has provided some one-time grants to tribes, the Interior/BIA is facing drastic cuts.

There is no doubt that criminal justice systems on Indian lands will continue to suffer as a result of funding cuts. How can the already inadequate funding level for law enforcement be further reduced without greater suffering? Our funding level will be less than the inadequate level we started with!

It is my sincere desire that some day we may focus on providing law enforcement services with adequate resources rather than the yearly ritual of justifying our existence. Citizens in Indian country deserve better protection as do our dedicated law enforcement officers. It is my fear that more officers will be endangered or suffer the same fate as Officer Hoskie Gene.

surname/chrono/hold
TQUASULA/trq/1-11-96/d:hoskie
file: 100-07 E

Rob Williams- Northern Cheyenne Police Officer attacked with chainsaws

Last month, Officer Rob Williams was on patrol on the Northern Cheyenne Reservation. Northern Cheyenne is a large reservation, and like many of the western Tribes, characterized by vast amounts of undeveloped area. He responded to a call about a disturbance at a residence on the reservation. Upon his arrival, he found the perpetrator and several friends and they become belligerent. First, they threatened Williams verbally, then they began making physical threats. Finally, the situation escalated and two men picked up chainsaws, started them up and moved toward Officer Williams. Williams drew his service handgun and kept the men at bay until he could get to his squad car. He tried to call for backup, but the area where he was located is in one of the many "dead zones" on the reservation. There is no radio tower close enough to pick up the signal. Williams got into his car and retreated just far enough to call for backup. When backup arrived Williams and the other officer arrested the perpetrators after a short confrontation, this time, without chainsaws.

Havasupai- Bottom of the Grand Canyon

This location is a one man show. Just in the past three months, the lone BIA officer assigned to Supai has been physically assaulted five times. There have been threats on his life. For example, several weeks ago, when Officer Oliver Homer responded to a disturbance call, when he approached the house, he was attacked by two individuals. He managed to quickly subdue one of the individuals, but the other individual fled. This officer was truly on his own. The closest backup would have had to come by foot or mule from the top of the canyon, 1 to 2 hours away. The BIA does not have a helicopter and cannot always afford the cost to rent one. He was truly on his own, if he had not been able to subdue the attacker, then he could have been in exactly the same deadly situation as Hoskie Gene, Jr.

Goshute Reservation, Utah

Another one-man tribal police force. The lone officer, J.R. Fields works 14-16 hours per day. He said he has not a real vacation in the past 8 years since he started working alone on the 112,000 acre reservation. Officer Fields said even on his days, at nights and during holidays, citizens come to him for help. Since he is the only law enforcement on the reservation he responds frequently to calls from the mountainous back country about poaching and criminal trespass. Officer Fields said he was shot at in October 1995 when he was patrolling the mountains during deer season. Now, he lets citizens of the community know of his whereabouts when he goes into the back country.

-MORE-

Even if he did have radio communication he would still be in a unsafe situation, because the closest backup is from a county sheriff's deputy 120 miles away. The result is that laws can only be enforced if the officer is willing to risk his life on every call. There simply is no backup assistance on which to depend.

Ute Mountain Ute Reservation—Colorado and Utah

Last month in southern Colorado a City of Cortez police officer was shot and killed with high-powered automatic weapons before he could even get out of his patrol car. Later on, another officer was shot by the suspects. Three suspects have since been identified. Two of the suspects, which are being labeled survivalists are still on the loose.

On the day of the shooting the BIA had detailed extra officers to the Ute Mountain Ute Reservation to assist with policing an annual tribal ceremony. The BIA officers learned of the shootings since they occurred only several miles from the reservation. Immediately BIA police contacted state and county police and offered to help man roadblocks. Local authorities welcomed the BIA since they needed all the law enforcement assistance they could muster.

Reality set in quickly for the BIA police. Less than half had bullet proof vests and other safety equipment. Only half of the officers had shotguns and there were no high powered rifles. They did not have off-road vehicles or night vision equipment. Nonetheless, they worked side by side with state, county, city and other federal law enforcement officers to find the cop killers.

Today, the cop killers are still on the loose and the BIA police are still undermanned and without proper equipment.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

JULY 23, 1998

CONTACT: Thomas W. Sweeney (202) 219-4150

ABROGATING THE FEDERAL INDIAN OBLIGATION

VIEWPOINT BY ASSISTANT SECRETARY FOR INDIAN AFFAIRS KEVIN GOVER

During this year of a heralded federal-budget surplus, the House and Senate Interior Appropriations Committees have refused to fund initiatives proposed by President Clinton to create safe schools for Indian children and to help beleaguered Indian Country law enforcement agencies cope with an alarming rise in crime.

While both of these critical proposals were greeted with widespread support during Senate Indian Affairs Committee hearings held in recent months, the dollars that Indian communities desperately need simply were not allocated. Because of a historic lack of funding, many of 185 Bureau of Indian Affairs schools throughout Indian Country are crumbling and literally pose health and safety threats to our children and teachers. These BIA schools constitute one of only two federal school systems; the other system serves the children of military families stationed abroad. Congress simply is not meeting its federal obligation to Indian children by failing to provide safe schools for them.

A backlog of school safety deficiencies that totals \$160 million affects the life safety of our students and teachers. A 1997 federal General Accounting Office report concluded that, compared to other schools in America, BIA schools are "generally in poorer physical condition, have more unsatisfactory environmental factors, and lack key facilities for educational reform." For example, the Navajo Reservation's 62 year-old Seba Dalkai School now will not be replaced; students there will continue to use a non-air conditioned dorm room as their library and will continue to do without a gym, science labs, and art and music facilities. Students at the Eufaula Boarding School in Oklahoma now have no hope of a safe building with fire alarms and sprinklers, and will continue to be exposed to respiratory and allergy problems caused by the school's air circulation problems. No child should have to spend each school day in such wretched facilities.

Equally unacceptable is the decision not to fund President Clinton's initiative to provide Indian Country law enforcement agencies with sufficient officers, equipment, and other basic needs. While the national crime rate has been reduced, Indian Country is experiencing an alarming rise in murders, domestic violence, and other crimes. Each day BIA and tribal officers put their lives on the line in an atmosphere of growing violent crime exacerbated by the presence of gangs. The lack of backup officers leads to tragic situations such as the 1996 murder of Hoskie Gene, Jr., a Navajo tribal policeman and father of five teenagers. While questioning two robbery suspects, he was strangled and beaten to death with his flashlight.

Indian law enforcement receives only a fraction of the funding received by other rural law enforcement agencies. The results of this funding failure are, in a word, deadly. Again, Congress is not meeting the federal obligation to Indian Tribes and peoples. Without President Clinton's requested funding, Indian law enforcement will continue to be a critical problem for Indian communities and for the officers who serve them.

Within the Bureau of Indian Affairs, its administrative overhead for law enforcement and all other programs is less than 10 percent. More than 90 percent of the BIA's operating budget is delivered directly to reservation communities, either through tribal governments or by the direct delivery of services by the BIA. By any federal or private industry standard, we are distributing federal dollars with an extremely low overhead. Yet the failure to fund the Presidential initiatives causes untenable reductions in the number of police officers, the elimination of background checks for education personnel, and the elimination of the BIA law enforcement special investigation unit on child abuse.

As integral members of the American family of governments, American Indian and Alaska Native Tribes should not be singled out for their limited successes in strengthening their governments and communities through economic development. By any measure, American Indians are at the bottom of our nation's socioeconomic ladder. As Tribes continue to move forward and recover from centuries of adversity, they deserve this nation's respect and the fulfillment of its sacred and legal obligations to American Indians.

TALKING POINTS

DOI/DOJ LAW ENFORCEMENT IMPLEMENTATION

- ❑ **The Problem.** The FBI reports that the nationwide violent crime rate in 1996 dropped 16 percent below 1992 levels, and murders are down 20 percent. Sadly, for the 1.4 million Indian citizens who live on or near reservations, which totals to a land base of approximately 56 million acres, life has become much more violent during the same period. Some reservations have murder rates that far exceed cities like New Orleans and our nation's capitol. At the same time, available law enforcement resources in Indian Country actually have been reduced over the last few years with acute shortages in law enforcement manpower and detention facilities for both adults and juveniles.

- ❑ **Federal Responsibility.** Today, Federal law enforcement is the only protection for victims of violent felonies in most of Indian Country. The basic responsibility for public safety rests with the Federal Government. In general, this responsibility derives from the unique trust relationship between Federal and Tribal governments, as well as specific statutory provisions such as those that mandate exclusive Federal jurisdiction for "major crimes", including murder, rape, robbery, and child abuse. Moreover, the 1994 Crime Act has expanded Federal criminal jurisdiction in Indian Country in such areas as guns, violent juveniles, drugs, and domestic violence.

- ❑ **The Process.** On August 25, 1997, the President directed Attorney General Janet Reno and the Secretary of the Interior Bruce Babbitt to analyze law enforcement problems on Indian lands and suggest ways for improving public safety and criminal justice in Indian Country. An experienced, interdepartmental Executive Committee composed of Tribal leaders and Federal agency staff was formed to analyze the problems and make recommendations. After hosting a series of consultations with the Tribes, the Executive Committee determined that organizational changes and an infusion of additional resources were critical to long-term improvements in law enforcement services. In a letter to the President on January, 20, 1998, both Cabinet members endorsed a proposal by the Executive Committee to consolidate the three major law enforcement programs (criminal investigations, uniformed police, and detention services) under the line and budgetary authority of the BIA's Office of Law Enforcement Services (OLES), with technical, training and other assistance from DOJ.

- ❑ **A Preliminary Implementation Plan.** In recognition of our Federal trust responsibility, DOI and DOJ have formed an interdepartmental group to develop a comprehensive plan to guide implementation of better law enforcement services. This plan will include a new organizational structure for OLES that is responsive to its new responsibilities; identify the issues and problems likely to be encountered during implementation of this plan, as well as appropriate solutions; refine cost estimates by category and time during the four-year phase-in period; identify appropriate manpower needs for the actual implementation; identify the need for (but not draft) legislation necessary for implementation; and, develop a plan that

encourages Tribal participation in the process.

☐ **Presidential Budget Request.**

DOJ: The Justice Department is seeking \$157 million in new and redirected funds in the FY 1999 budget. This is part of a joint \$182 million initiative with the DOI to consolidate the three major law enforcement programs under the line and budgetary authority of OLES. If the Congress grants this request, \$52 million would be used to fund grants to construct and repair juvenile and adult correctional facilities on Indian lands; \$54 million would fund more Tribal law enforcement officers; \$11.5 million would be spent on 30 FBI agents, 31 victim/witness coordinators and 26 Federal prosecutors; \$10 million would be used to help strengthen Tribal courts; \$10 million would go to drug testing, treatment and sanctions to fight substance abuse in Indian Country; and \$20 million would be dedicated to prevention and intervention programs for at-risk Tribal juveniles.

DOI: As part of the joint \$182 million initiative with the DOJ, DOI is seeking \$25 million for law enforcement as a distinct line item within the Interior budget. This budget request seeks to address some of the most glaring deficiencies in Indian Country law enforcement. BIA plans to break the \$25 million down into three primary categories for funding: (1) criminal investigators, uniform police, radio dispatchers, and detention staff; (2) training and related needs such as police vehicles and related emergency equipment; and, (3) costs to consolidate all three major law enforcement programs.

- ☐ **DOJ Responsibilities.** The FBI will continue its role of investigating major crimes and other offenses in Indian Country. Additional Federal prosecutors will help handle the increased caseload. Also, DOJ will expand direct assistance through law enforcement grant programs.
- ☐ **DOI Responsibilities.** The BIA will continue to provide law enforcement services to existing areas of Indian Country, concentrating on improving delivery of services through hiring additional law enforcement personnel, providing additional training and technical assistance, replacing antiquated law enforcement vehicles, and restructuring line authority through a more experienced, professionally trained chain of command.
- ☐ **DOI Line Authority.** The BIA will restructure its chain of command to consolidate all three law enforcement components (criminal investigations, uniform officers, and detention services) under OLES. This will allow experienced, professionally trained law enforcement officers to be in charge of other law enforcement officers in the chain of command as well as having one central point of communication and coordination for law enforcement services throughout Indian Country.
- ☐ **Contracting/Compacting.** In 1974, the Congress passed, and the President signed into law, the Indian Self-Determination and Education Assistance Act (*P.L. 93-638*). As amended,

this law allows Tribes to enter into contracts for services in Indian Country that the BIA and certain other Federal agencies perform on Indian lands. Today, the majority of Tribes have contracted all or part of their law enforcement programs, and all funds related to the contracted activity are provided to the Tribe. BIA currently spends two thirds of its budget on contracting/compacting funding which can be shifted among needs as determined by the Tribes. The practice of contracting/compacting services must be preserved because it is central to Tribal self-determination. [NOTE: Should programs be transferred to DOJ, additional legislation would be required for DOJ to provide the authority to contract or compact with Tribes.]

- **TPA Accounts**. For the core of BIA funding to Tribes, the BIA utilizes the Tribal Priority Allocations (TPA) budget activity, which has 44 programs ranging from law enforcement to agriculture to welfare assistance. TPA provides the Tribes the ability to determine not only which programs will be funded, but also at what funding level (within appropriations). Tribes determine the levels based on their unique needs and circumstances. TPA is an important tool for the BIA in accomplishing its self-determination commitment to Tribes. Yet, the process also leads to a competitive nature in determining funding levels for each of the 44 programs under TPA; hence, limited funding levels for programs such as Law Enforcement are based on the competitive needs of a Tribe rather than on a professional law enforcement assessment of relative needs and priorities. Due to changing priorities such as emergency situations, funds at times are redirected from Law Enforcement needs to respond to other priorities. To ensure that Law Enforcement needs are met to the extent possible on a long-term basis, BIA will make OLES responsible for the distribution of funds, taking the funds out of the competitive process. Current Tribal funding bases for the law enforcement program will not be adversely affected by this change in distribution authority. This modification will bring budget and line authority together without directly removing funds from the TPA.

Condition of BIA School Facilities

The President has two school systems that are Federally operated.

The BIA school system is the only domestic school system administered by the Federal Government for the benefit of Indian children.

The school system educates more than 52,000 children in 185 schools, in 23 states, and on 63 Indian reservations. The enrollment is increasing at 3% each year and will continue to do so for the foreseeable future.

The BIA education facilities program is comprised of 18 million square feet, 2300 separate buildings.

Two thirds of all education buildings are over 30 years old; 26% of these buildings are over 50 years old; and 2% are over 100 years old. These schools are badly in need of significant repair or replacement.

The BIA's backlog includes \$160 million in safety deficiencies which may affect life safety and occupational health of facilities occupants such as students & teachers.

Over 40% of all Bureau students attend at least one class daily in portable classrooms, which were initially intended only as a temporary fix until permanent buildings were constructed.

The GAO Report regarding conditions of BIA funded schools issued December 1997 found that compared to other schools, the BIA schools:

- (1) "are generally in poorer physical condition,
- (2) have more unsatisfactory environmental factors,
- (3) more often lack key facilities requirements for educational reform, and
- (4) are less able to support computer and communications technology."

The President's FY 1999 Budget reflects the Administration's initiative regarding education, and the necessity to afford Indian students an environment where they are sheltered from the concerns of health and safety issues at their schools and can realize their full potential. Without the \$32.2 million increase above the FY 1998 level, the BIA will be unable to initiate a five year construction plan to adequately address the deteriorating conditions which students and teachers face.

The BIA's Backlog of Code and Standard deficiencies for school related facilities exceeded \$695 million in January 1998. This figure does not include replacement of existing facilities. The BIA estimates school replacement costs to be \$1 billion. The Federal Government budget approved in FY 1998 for \$54.3 million will address only approximately 5% of the actual need.

If conditions at some schools are not corrected, students and teachers may be at significant risk which may result in school closures or significant financial liability to the Federal Government.

BIA schools must rely exclusively on the Federal appropriations process for all construction, operation and maintenance costs, while public schools have access to other funding.

LAW ENFORCEMENT

Senate Subcommittee Action:

- (1) No increase for the Presidential Initiative; (2) transfer of TPA Law Enforcement program line to Special; and,
- (3) elimination of Non-Recurring Programs, Central Office and Area Office law enforcement program line items.

BIA position:

- This is a Presidential Initiative in which the President directed both the Secretary of the Interior and the Attorney General to take actions to improve law enforcement in Indian Country. This is a high priority of the Administration.
- Basic responsibility for law enforcement on Indian lands rests with the Federal Government, mainly the BIA on Indian lands.
- It is essential that funds be provided to hire additional trained and equipped law enforcement manpower in Indian Country for the 1.4 million residents. Currently, Indian Country has twice the reported crime rate for violent crimes as compared to crime reported elsewhere in the United States and fewer than half as many law enforcement officers per capita. Indian Country land base covers an estimated 56 million acres. Crime on Indian lands does not stop at the border; surrounding local communities and States suffer the consequences of inadequate law enforcement when crime spills across the "line" and they must deal with offenders.
- Existing manpower shortage is expected to grow as the DOJ's COPS program funding (which pays Tribal officers' salaries under the program) begins to expire and Tribal law enforcement programs do not have the required resources to keep personnel on the payroll.
- The 1-year backlog for training for law enforcement personnel would increase (includes training requests for officers hired under DOJ's COPS program).
- Tribes oppose the transfer of law enforcement funds out of TPA.

[If there is a transfer, the total FY 1998 amount should be \$93,395,408:]

FY 1998 TPA Enacted Amounts:	Law Enforcement	73,563,000
	Other, Public Safety/Justice	911,567
	CTGP (Law Enf)	9,243,297
	Self Gov Compacts (Law Enf)	<u>9,677,544</u>
	TOTAL	93,395,408

- Complete the transfer of Non-Recurring Programs-Special Law Enforcement (\$584,000), Central Office Operations (\$2,921,000) and Area Office Operations (\$568,000) law enforcement to Special Programs and Pooled Overhead (total = \$4,073,000). Without the complete internal transfer of \$4,073,000 to Special, the effect would be:

- ▼ Elimination of fingerprint checks for Tribes and education personnel.
- ▼ Elimination of the Internal Affairs unit which investigates actions of Tribal/ BIA law enforcement personnel.
- ▼ Elimination of the BIA's ability to address growing gang problem in Indian Country.
- ▼ Elimination of the BIA's ability to respond to national emergencies in Indian Country (i.e, Oklahoma Cherokee situation).
- ▼ Elimination of the Special Investigation Unit and its focus on child abuse investigations.
- ▼ Elimination of line authority at the Central Office and Area Office levels of management.
- ▼ Elimination of Criminal Investigators at the Central Office and Area Office levels which provide support to Tribes in addition providing Area/Agency services.
- ▼ Elimination of the BIA's toll-free child abuse reporting hotline (over 1K calls annually).
- ▼ Elimination of criminal history background checks on individuals involved in Indian gaming operations.

- ▼ Elimination of specialized detention expertise and oversight.
- ▼ Elimination of case reviews on a nationwide basis.
- ▼ Elimination of technical assistance on alcohol and substance abuse prevention programs.
- ▼ Elimination of BIA investigations of Federal Part I crimes (i.e., homicides, child abuse, arson, rape); many Tribal law enforcement officers do not have the training or resources to conduct such investigations.
- ▼ Elimination of BIA participation with the FBI in conducting Federal criminal investigations on Indian lands.
- ▼ Elimination of matching funds for police equipment and vehicles to Tribal LE programs.
- ▼ Reduction of Force at the Central Office and Area Office levels of management; total employees =30; average cost of RIF is \$36K; total cost is estimated at \$1.1 million.

B.I.A. PRESS RELEASE

**Bureau of Indian Affairs
FOR IMMEDIATE RELEASE**

**August 5, 1998
Contact: Rex Hackler 202/208-6087**

Gover Attacks Lack of Jobs and Opportunities for American Indians

In an address to the *Building Economic Self-Determination in Indian Communities* conference today, Assistant Secretary for Indian Affairs Kevin Gover attacked the lack of jobs and opportunities on Indian reservations, and pointed out some of the major barriers to economic development on the reservation. "Unemployment on Indian reservations is 49%*. Nearly half of our people are not working, because there are not enough jobs, and not nearly enough opportunity in Indian country. What would happen if half of America were unemployed? During the Great Depression, the answer was to put America back to work through the Works Progress Administration. But instead of a WPA program to provide Indian jobs, we see only shortsighted rhetoric attacking the Tribes and their right to govern themselves.

There are many impediments to progress on the reservation, not the least of which are the attempts by the States to tax and regulate all activities on Indian lands. "States and localities regularly say that they are putting money into Indian country and not getting anything in return, but nothing could be further from the truth. States contribute less than \$226 million in direct assistance to the Tribes. American Indians living on the reservations spend \$3.1 billion off the reservations, Tribal governments spend \$1.2 billion on goods and services and reservation based businesses spend \$4.4 billion off the reservation." This amounts to \$8.7 billion dollars being pumped into State economies directly from American Indians. "This amount is generated with almost half of American Indians unemployed. We can double these figures if we are successful in creating jobs and economic opportunity for American Indians."

State and local taxation, and attempts by Congress to diminish Tribal sovereignty also are dangerous impediments to creating more opportunities for American Indians. "The Tribes are at once being told by the Federal government to pull themselves up by the bootstraps, while at the same time being deprived of the ability to use tax and regulatory policy as economic development tools," stated Gover, "This is not right, and should not be encouraged. There is a theory that every dollar going to an American Indian falls into a black hole, never to be heard from again, this unfortunately is a ridiculous but widespread concept."

Gover pledged the resources of the Bureau of Indian Affairs to create \$500 million of new jobs and opportunities for American Indians over the next five years. "We are going to aggressively move forward to create new jobs, streamlining loan processes, and offering technical assistance to Tribes and individual American Indians interested in creating new businesses on the reservation."



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

B.I.A. PRESS RELEASE

**Bureau of Indian Affairs
FOR IMMEDIATE RELEASE**

**August 26, 1998
Contact: Rex Hackler 202/208-6087**

B.I.A. Emergency Funds To Benefit Alaska Natives

An emergency created by a historic lack of salmon in the Bristol Bay area of Alaska has created the need for emergency funding from the Bureau of Indian Affairs. Assistant Secretary for Indian Affairs, Kevin Gover announced today the Bureau of Indian Affairs would immediately release \$206,000 to be used for emergency assistance to the hundreds of Native Alaskans dependent on the salmon harvest in the Bristol Bay area.

“Emergencies come in many forms, they are not just hurricanes and tornadoes,” Gover stated, “The salmon harvest in Bristol Bay has been the smallest in 20 years, and this will lead to suffering among the Native Alaskans, as surely as if a hurricane had hit the area.” Many Native Alaskans depend on the salmon catch as their only source of income, and as the primary means of feeding their families through the Alaska winter. This year’s poor harvest means that without some assistance, many Alaska Natives may go hungry this winter. “This is only a small amount of assistance, but it can be used immediately by the Native Alaskans for emergency food, shelter and clothing. We tend to see disasters and emergencies in the terms of storms that blow in and destroy, but the lack of salmon in the nets of Native Alaskans will create emergency conditions in the months to come if we do not act now. The lack of fish in this year’s catch is a true disaster even though it is not as dramatic as the destruction of a storm.”

This year’s dismal catch, worth less than one third of an average annual catch, has created hardship for Alaska Natives dependent on the salmon. Last year’s catch was also below projections, and the accumulated debt of two substandard years is causing many Native Alaskans to look at a winter without enough food, fuel oil, or clothing to face the winter ahead. “The amount of money here is simply not enough”, stated Gover, “But by quick delivery and distribution, possibly we can help see the Native Alaskans through until more relief funds can be found.”

suit encourages tribes and states to deal with each other as sovereigns and often results in government-to-government negotiations between tribes and states on tax and other issues of mutual concern. Neither party has the upper hand in such negotiations. Rather, each sovereign must respect the views and needs of the other and both must work toward mutually satisfactory accommodations on important issues. Waiving tribal sovereign immunity would effectively remove the incentive of states to deal with tribes as fellow sovereigns.

Widespread disagreement exists among officials within state governmental officials exists as to whether it is necessary to waive tribal sovereign immunity in order to resolve tribal/state disputes. In a letter dated September 10, 1997, Governor Gary Locke of Washington expressed his concerns to Senator Slade Gorton concerning Sections 118 and 120 of the Department of the Interior's Fiscal 1998 Appropriations Bill, (H.R. 2107). If enacted, Section 118 would have effected a waiver of tribal sovereign immunity upon receipt of TPA funds and Section 120 would have provided for means testing of tribal TPA allocations. Governor Locke stated in his letter that, in his view, those provisions would "undoubtedly weaken the political, social and economic infrastructure needed to ensure healthy, stable tribal communities." He concluded by stating that he believed that the provisions "would negatively impact all of Washington's citizens, as well as tribes and communities throughout the country." Similarly, the attorneys general of eight states, in a letter to President Clinton dated September 3, 1997 regarding Sections 118 and 120 of H.R. 2107, stated that those provisions "would drive a wedge into the heart of the doctrine of tribal sovereignty which has protected native cultures and native rights and has served as the foundation of Indian self-government in this country."

Regarding contractual disputes, the Administration's view is that there is no need for Congress to waive tribal sovereign immunity. A non-Indian party entering into a contractual relationship with an Indian tribe has the opportunity to negotiate and bargain for a waiver of immunity from the tribe or the subordinate entity that will enter into the contract for the tribe. There are many federal, tribal and state court cases recognizing and applying the doctrine of tribal sovereign immunity. Any party seeking to do business with a tribe has ample notice of the doctrine and ample opportunity to negotiate a waiver to protect its interests. The concept of *caveat emptor* should prevail in these circumstances.

We direct to Committee's attention to the 1991 Report of the United States Commission on Civil Rights. After extensive hearings, the Commission rejected the call for a waiver of tribal sovereign immunity and instead recommended that before waiving tribal immunity, "Congress should afford tribal forums the opportunity to operate with adequate resources, training and funding, and guidance, something that they have lacked since the inception of the ICRA."

In conclusion, it is the Administration's view that there is no documented need for Congress to waive unilaterally tribal sovereign immunity. Such a sweeping curtailment of tribal sovereignty would be reminiscent of the Termination Era.

I am pleased to have had the opportunity to present the views of the Department of the Interior on this subject and I will be happy to answer questions of the Committee.