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## Trent Shores

United States Attorney of Northern District of Oklahoma



The Honorable Trent Shores was sworn in as United States Attorney for the Northern District of Oklahoma on September 22, 2017. As the United States Attorney, Mr. Shores is the chief federal law enforcement officer responsible for all federal criminal prosecutions and civil litigation involving the United States in the Northern District of Oklahoma, an area covering eleven counties and including thirteen federally recognized Indian tribes. He leads a staff of more than fifty-five attorneys and support personnel to accomplish this mission.

On November 13, 2017, Attorney General Jeff Sessions appointed Mr. Shores to the Attorney General's Advisory Committee, a select group of United States Attorneys who provide advice and counsel directly to the Attorney General on matters of policy, procedure, and management. Mr. Shores was also appointed as Chair of the Native American Issues Subcommittee, a group of United States Attorneys charged with the developing and guiding national policy for Indian Country justice. Mr. Shores also serves as on the Tribal Issues Advisory Group, an *ad hoc* advisory group to the United States Sentencing Commission, as well as a member of the Attorney General's Management, People, and Performance Subcommittee and the Victim and Community Issues Working Group. In March 2019, he was selected as Co-chair of the Presidential Task Force on Protecting Native American Children in the Indian Health Services System, and in November 2019, Mr. Shores was appointed as a member of the Presidential Task Force on Murdered and Missing American Indians and Alaska Natives.

His leadership and vision have earned Mr. Shores recognition from the *Tulsa World* as one of 2018's People to Watch and by the *Tulsa Business and Legal News* as a 2015 Man of Distinction.

Prior to his appointment as United States Attorney, Mr. Shores served as an Assistant United States Attorney in the Northern District of Oklahoma from 2007 through 2017. He prosecuted human trafficking and child exploitation crimes, international organized crime, and public corruption. He also served as the National Security Cyber Specialist and worked closely with the Joint Terrorism Task Force to investigate and prosecute cybercrimes and domestic terrorism.

In 2015, Mr. Shores served as Oklahoma First Assistant Attorney General. As a top advisor to Oklahoma's Attorney General, Mr. Shores championed public safety measures to reduce violent crime, fought public corruption, and protected the interests of the State of Oklahoma and its citizens.

Previously, Mr. Shores served as the Deputy Director of the Department of Justice's Office of Tribal Justice in Washington, D.C., where he addressed a diverse array of criminal and civil legal issues facing Native Americans and Alaska Natives. He represented the United States at the United Nations and Organization of American States, where he negotiated declarations pertaining to the rights of indigenous peoples and advocated for the recognition of basic human rights for indigenous people worldwide. Before joining the Department of Justice, Mr. Shores served in the administration of Oklahoma Governor Frank Keating.

Mr. Shores graduated with a degree in political science from Vanderbilt University and received his Juris Doctor from the University of Oklahoma. He is a graduate of Leadership Tulsa Class 56. Mr. Shores is a citizen of the Choctaw Nation of Oklahoma and resides in Tulsa, Oklahoma, with his wife, Caitlin, and their two sons.

**Statement of R. Trent Shores**  
**United States Attorney, Northern District of Oklahoma**  
**U.S. Department of Justice**  
**Before the President's Commission on Law Enforcement and the Administration of Justice**

Chairman Keith, Vice Chair Sullivan, and Members of the Commission,

Thank you for the opportunity to testify today about law enforcement and the administration of justice in Indian Country. It is truly an honor to be here, not only as a United States Attorney, but also as a citizen of the Choctaw Nation of Oklahoma.

First, please know that my testimony today was shaped by my experiences over the past 18 years working with law enforcement officers, justice officials, and tribal leaders to address public safety challenges in Indian Country. I began my legal career at the Justice Department's Office of Tribal Justice where I worked on a variety of criminal and civil law issues impacting individual Native Americans and federally recognized tribes, including state-tribal cross-deputation agreements, domestic violence intervention, and juvenile justice. Then, I served for more than a decade as a career federal prosecutor and tribal liaison in northern and eastern Oklahoma, where I had even more direct experience with the very real public safety challenges in Indian Country. I worked side by side with the Cherokee Nation Marshals Service, the Muscogee (Creek) Lighthorse, the Osage Tribal Police, the Bureau of Indian Affairs Office of Justice Services, and many others to investigate and prosecute violent crimes in Indian Country. Sadly, many of the public safety challenges in Indian Country that I saw early in my career persist today, especially violence against women and children and violence driven by substance abuse. I do not think these challenges are insurmountable, but I do believe we must collectively take action to address them – federal, state, and tribal partners working through collaborative law enforcement models to achieve a common mission to protect and serve our communities.

Today, I am honored to serve as the Chair of the Native American Issues Subcommittee, which is the oldest subcommittee of the Attorney General's Advisory Committee and is vital to the department's mission in Indian Country to build and sustain safe and secure communities for future generations. The NAIS is currently made up of 52 U.S. Attorneys from across the United States whose Districts contain Indian Country or one or more federally recognized tribes. The NAIS focuses exclusively on Indian Country issues, both criminal and civil, and is responsible for making policy recommendations to the Attorney General of the United States regarding public safety and legal issues that affect tribal communities. To that end, this NAIS has continued the tradition of those who came before us by working diligently to develop public safety solutions for Indian Country.

We reviewed and considered the Department of Justice's various approaches to improving public safety in Indian Country. We found that public safety challenges persisted despite the considerable effort and resources the department has committed to upholding the federal trust responsibility. To address those challenges, the Subcommittee identified four priority areas to improve public safety in Indian country: (1) Violent Crime; (2) Drug Trafficking and Substance Abuse; (3) Law Enforcement Resources; (4) White Collar Crimes.

The NAIS recommended specific policies to address each priority. The Attorney General's Advisory Committee unanimously adopted and supported these recommended policies. Department of Justice personnel already are pursuing and implementing some of those policies.

NAIS and the Department have worked quickly because the problem is urgent. Year after year, I have seen violent crime and substance abuse continue to occur at higher rates in Indian country than anywhere else in the United States. This is. In order to improve public safety for Native Americans, we must take swift and bold action, and we must do so in partnership with tribal leaders and law enforcement officials who know their local community best. When comparing Indian country to similarly situated rural communities, it is clear that there are

not enough police officers nor victim resources to adequately cover the needs of Indian Country. In my experience, police officers are vital to deterring crime, helping victims, and maintaining rule of law. Unless and until the Bureau of Indian Affairs and tribal police departments are more fully staffed, public safety challenges will persist. Additionally, we need better law enforcement training that will provide necessary techniques and resources to officers that respond to all crimes in Indian country, including cases of domestic violence and missing or murdered indigenous people.

There is no one-size-fits-all solution problems in Indian country. In the United States, there are 574 federally recognized Tribes. Each Tribe is unique in its governmental structure, cultural heritage, and law enforcement needs. Any solution must fit the local conditions of the tribe and include collaboration between tribal, state, and federal agencies.

Take my District as an example. There are 39 federally recognized tribes in Oklahoma, and 14 of those are in the Northern District. We have large tribes like the Cherokee Nation and Muscogee (Creek) Nation and smaller tribes such as the Pawnee, Miami, and Delaware Tribes. Each of these tribes have unique public safety needs and varied resources to address them. My team of Assistant United States Attorneys prosecutes a diverse array of violent crimes and encounters complex jurisdictional situations that require multijurisdictional cooperation between federal, state, and tribal entities to pursue justice for many victims. Based on my experience, I believe collaborative law enforcement models work best, especially for resource-challenged police departments in rural areas and in Indian Country.

Of course, collaborative law enforcement requires individuals on the ground to collaborate. This is not always the case throughout Indian country. There is occasional friction between some state and local officials with tribal officials. This friction sometimes harkens back to historical injustices. Other times, the friction is the result of more recent relational failures. That being said, it has been my experience in Oklahoma that when the men and women of law enforcement sit down in a room together – be they tribal, local, or state officers – they find a common bond born out of a common mission. Regardless of whom they work for, each and every member of the law enforcement joins because they believe selfless and courageous individuals must serve to keep their communities safe. Out of this common bond, comes productive partnerships. I know it is possible to forge great working relationship between tribal and local law enforcement where there previously had been none. The Cherokee Nation Marshals Service, for example, now has more than 60 cross deputation agreements with state and local law enforcement agencies in northeastern Oklahoma. And the Wyandotte Nation Tribal Police contracted with the small community of Wyandotte, Oklahoma to provide dispatch and law enforcement services to the non-Indian community. The Tulsa Police Department now cross-deputizes its officers with area tribes to ensure seamless policing if and when crimes implicate different jurisdictions. These are the epitome of collaborative law enforcement partnerships among tribal, state, and local law enforcement, and the result is more comprehensive and better resourced law enforcement services. Collaborative law enforcement models should be a common and model practice throughout Indian country.

### ***Indian Country Jurisdictional and Federal Law Enforcement Framework***

Obstacles facing law enforcement in Indian Country begin with the extremely complex jurisdictional framework. Tribes always retain criminal jurisdiction over Indians within their lands. In the majority of Indian country jurisdiction the Federal government also exercises criminal jurisdiction over serious felonies. In some states, such as Alaska and California, Public Law 83-280 transfers Federal Indian country criminal jurisdiction to the state. In addition, there are unique stand-alone statutes that provide for jurisdiction over Indian country by the state and federal governments. Many of my esteemed panelists speaking here today come from jurisdictions in which the state has criminal jurisdiction in Indian county, and they are better positioned to describe criminal jurisdiction in a PL 280 state. For the remainder of my testimony, I want to focus on the most common Indian Country jurisdictional scheme that involves the federal government serving as the primary violent crime

prosecutor. The United States Attorney is the chief federal law enforcement officer in his or her district. The U.S. Attorneys' Offices with Indian country in their districts play a primary role in the Justice Department's interactions with tribes. U.S. Attorneys' Offices often are the central point of contact when federal involvement on reservations is necessary, from investigations to prosecutions to providing services to victims. Every U.S. Attorney's Office in a district that includes Indian country or a federally-recognized tribe has at least one Tribal Liaison and some districts have more than one. Along with the requirement that each relevant office appoint a Tribal Liaison, the U.S. Attorneys are required to hold annual consultations with tribes in their districts. In order to assist the U.S. Attorney's Offices and the NAIS, as well as to serve as a liaison to other department components, the Executive Office for U.S. Attorneys (EOUSA) formally established the position of Native American Issues Coordinator. The primary responsibility for the investigation of federal crimes committed in Indian Country in states not covered by PL 83-280 (for instance, South Dakota, North Dakota, and Arizona) lies with the Federal Bureau of Investigation (FBI) and the Department of Interior, Bureau of Indian Affairs, Office of Justice Services (BIA OJS). These agencies have investigative responsibility for most felony crimes committed on approximately 200 Indian reservations. Currently, there are approximately 140 FBI Special Agents and 142 BIA Agents working in Indian Country—about 1.4 agent per reservation. These agents often serve as one of a very small number of federal agents investigating crimes on multiple reservations that are commonly separated by great distances. This reality means that federal agents depend on tribal law enforcement to serve as first responders and assist in the investigation of crime occurring in Indian Country.

### ***Need for Enhanced Law Enforcement Resources***

Law Enforcement resources are scarce in Indian Country. This very real lack of resources has led to tragic outcomes and complications for victims seeking justice. These types of cases and situations are all too common in Indian Country. We must improve our federal efforts to meet the needs of officers handling these difficult cases. We must give them the resources necessary to investigate and prosecute criminals while also helping them give a voice to victims.

The most important need to address crime in Indian country is boots on the ground. Federal law enforcement agencies lack the agents necessary to address the needs of tribal communities. Their tribal law enforcement counterparts are also too few in number, especially when stacked against comparable non-Indian communities. Public safety in Indian Country would be significantly enhanced by having local law enforcement staffed at levels comparable to similarly situated communities off-reservation. The Indian Country staffing issues facing FBI and BIA-OJS lead to regular personnel changes, which negatively impact criminal investigations and prosecutions. BIA-OJS law enforcement and funds for tribal law enforcement are insufficient, and the problem is amplified by severe recruiting and retention challenges that, especially for BIA, leave their force well below the appropriated level. Communication challenges between the FBI, BIA-OJS, and tribal law enforcement can exacerbate these and other problems. Funding streams, employee screening, incentives, and other alternatives must be considered and administered effectively to enhance federal investigative and prosecutorial capacity in Indian Country.

Following President Trump's example, the NAIS supports bold ideas, and we need bold ideas to meet the daunting needs of Indian country. From day one of his Administration, President Trump has championed the improvement of resources, public health, and public safety in rural America, including Indian Country. He has demonstrated a willingness to make bold moves that correct historical inefficiencies or bureaucratic disorganization that frustrate the delivery of a core government service to the public. As such, the NAIS looked at the Department of Justice's and Department of Interior Bureau of Indian Affairs' public safety roles in Indian Country. While some of the ideas are still being formed, I would appreciate the opportunity to get your thoughts when we move to the Q and A portion of the panel.

## *Improvements to Training are Essential*

Indian Country presents unique challenges for all law enforcement working with tribal communities. Federal law enforcement must investigate crimes in Indian Country, such as felony assaults, that few who work in the agency outside of Indian Country ever investigate. They must deal with the complex jurisdictional framework discussed above. They also need to understand the cultures of the particular tribes with whom they work before entering and working with tribal communities.

To address this problem, the FBI and BIA OJS developed a joint training course that is held in Artesia, New Mexico. This training is jointly taught by FBI and BIA “mentors” and includes instruction in forensic evidence collection and preparatory instruction on investigations common to Indian country, such as domestic violence, child abuse, violent crimes, and drug trafficking. This course is held several times each year. Although this is an excellent initiative, we still see difficulties in getting FBI agents new to Indian country into this training before they begin their service in Indian country. Often, these agents work in Indian Country for three years only to transfer to another office. Insufficient training and a shifting personnel assignments lead to a breakdown in tribal and federal relationships and can negatively impact investigation and prosecutions.

The problem is more acute among tribal officers. When it comes to training for tribal law enforcement, the need in Indian country is great and constant. There is very little room for specialization when it comes to working violent crime on reservations and personnel turnover is typically high. First responders have to be skilled at crime identification, rendering first aid, evidence collection, conducting trauma informed victim interviews, eliciting pertinent information from witnesses and interrogating the suspect. These skills must be employed in every type of crime from misdemeanor trespass to the most heinous of rapes and murders. Frequently, the first responder is the first and only law enforcement official at the scene doing his or her best to manage community members frequently gathered, to safeguard the integrity of the crime scene and to conduct a preliminary investigation. All of this is against the background of the complicated criminal jurisdictional matrix found in Indian country where multiple jurisdictions may have the legal authority to investigate and prosecute the same offense.

Training provides these first responders, and also prosecutors, advocates, court staff and medical workers, the essential tools needed to safely and competently do their jobs. Ever since the passage of the Tribal Law and Order Act, the Department has worked hard to improve the training available to Indian country officers and agents. The Department believes that ensuring access to quality training is a necessary element to bolstering tribal autonomy. In July 2010, EOUSA launched the National Indian Country Training Initiative (NICTI) to ensure that federal prosecutors and agents, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. Importantly, the Department covers the costs of travel and lodging for tribal attendees at classes sponsored by the NICTI. This allows many tribal criminal justice officials to receive cutting-edge training from national experts at no cost to the student or tribe.

But that training requires resources. With the resources it has, the Department has trained tens of thousands of criminal justice and social service personnel working in Indian country, many of which traveled to the National Advocacy Center in Columbia, SC, for training. These students represent more than 300 different tribes, USAOs, and federal, state, and tribal organizations serving Indian country. But despite that success, the NICTI and other training efforts in Indian Country have never received adequate resources. With additional resources dedicated to training law enforcement in Indian country, we could reach even more criminal justice and social service professionals working in and with tribal communities. We could take more training out into the field, making it easier for busy AUSAs, federal law enforcement, and tribal personnel located west of the Mississippi to attend these critical trainings. Resources for Department sponsored training is one important area that this Commission should consider.

### ***Better Data is Vital for Improved Resource Allocation***

At the same time, we know that we must use the resources we have more efficiently. For that, we need data. We have taken steps in the right direction. For example, Department attorneys now tag cases as Indian country cases in our internal case management system. DOJ investigative and prosecution information is reported to Congress and the public each year. But despite these steps, problems persist. One of the biggest issues we face is that tribes are not required to provide all crime data to the federal government. Currently, tribes are only required to report information to BIA-OJS that is included in the FBI's Uniform Crime Report, which does not include many crimes of interest, such as domestic violence violations. Without this data, it is very challenging to check whether the Department is using its resources efficiently while addressing tribal public safety needs in individual locations. In addition, the Department developed the Tribal Access Program, which gives Tribes access to national crime databases and provides the ability for Tribes to enter protection orders and to utilize other important functions in these systems. The Commission should consider ways to foster improvements in law enforcement data collection and sharing needed to enhance justice for Native American and Alaska Natives.

The issues of missing and murdered indigenous people exemplifies the need for additional data. President Trump signed Executive Order 13898 on November 26, 2019, forming the two-year Presidential Task Force on Missing and Murdered American Indians and Alaskan Natives, of which I am a member. The Task Force, also known as Operation Lady Justice, focuses on enhancing the operation of the criminal justice system and addressing the legitimate concerns of American Indian and Alaska Native communities regarding missing and murdered people. The work of the Task Force is concentrated on meeting with tribal leaders and communities, improving the response by law enforcement, communities and systems, reviewing research and data collection, and developing an outreach campaign. It has become very apparent to the Task Force that some data about missing indigenous persons is incomplete and not up to date, and needs to be better utilized to ensure that all missing indigenous persons are being looked for. It is extremely difficult to develop a cure for a problem when its scope is unknown. The United States must continue to lead by example to promote and protect the inherent rights of indigenous people. We must work with our tribal and state partners to combat violence against Native Americans and Alaskan Natives by collecting better data to address their specific needs.

### ***Call to Action***

I have only touched the surface of the many obstacles law enforcement must overcome in Indian Country. The Department has made great strides to enhance public safety in tribal communities, but we have a long way to go. We recognize that our goal of lasting public safety in Indian Country is largely dependent on our commitment to empowering tribal governments and partnering with them to carry out tribal solutions for challenges facing their communities. Additionally, we must improve coordination and collaboration at the federal, tribal, and state levels. Thank you for your work on this Commission and your dedication to improving public safety in Indian country and rural communities. I have no doubt that the policies and solutions you develop will hold the Department to the highest standards and will place law enforcement in Indian country in a prime position to better protect the communities these brave men and women serve. Thank you again for the chance to provide testimony today and I look forward to our panel discussion. I am happy to answer any questions.



## Matthew J. Rourke

Chief of Police for the Saint Regis Mohawk Tribal Police



Matthew J. “Matt” Rourke is Chief of Police for the Saint Regis Mohawk Tribal Police, where he has devoted his law enforcement career for the last 22 years. He takes great pride in serving and protecting his own Mohawk community of Akwesasne.

Since his entry as a Tribal patrol officer in 1998, Matt Rourke continued to rise in rank to Corporal in 2004. In 2007, he was promoted to Detective/Sergeant, the first in the history of the Saint Regis Mohawk Tribal Police. He became Acting Chief in 2014, and after a national search, was named Chief of Police in 2015.

The 35-member SRMT Police Department handles some 7,000 service calls annually. It is a respected partner to multiple U.S. and Canadian law enforcement agencies that serve the Northern border region. Matt Rourke’s experience and leadership of investigative teams has led to the resolution of several high-profile cases, including missing persons, narcotics cases, and homicide on the St. Regis Mohawk Indian Reservation.

The Tribal police department under Matt Rourke’s leadership strives toward victim- and family-centered response. It cooperates with the Saint Regis Mohawk Tribe’s Healing to Wellness Court, provides three School Resource Officers, and participates in several community preventive efforts that positively impact youth and elders.

Matt Rourke is a lifelong resident of Akwesasne. He and wife Sandy have two children.

### Education

New York State DCJS Zone 9 Training Academy

B.S., Criminal Justice, SUNY Brockport

A.S., Criminal Justice, Herkimer College

### Credentials

Cross Customs Designation, Homeland Security Investigations (Title 19) Special Law Enforcement Credentials (SLEC), Bureau of Indian Affairs International Border Enforcement Team (IBET)

Franklin County Task Force

St. Lawrence County Task Force

### Recognition

2018 Employee Enrichment Award, Member of Unified Incident Command

# Written Testimony

**Matthew J. Rourke**  
**Chief of Police**  
**Saint Regis Mohawk Tribal Police**

Commission Topics:

1. Recruitment and Retention
2. Grants and Funding
3. Border/Jurisdictional Related Issues

## **Introduction**

The Akwesasne Mohawk territory is located along the U.S.-Canada border in Northern New York State. Approximately 30 square miles in size, the reservation sits at the confluence of the Saint Lawrence, St. Regis and Racquette Rivers. It is directly adjacent to the Akwesasne reserve, with lands and waterways extending into Ontario and Quebec, Canada. The Saint Regis Mohawk Tribe (SRMT) is the duly elected and recognized government on the southern, or U.S., portion of the federally recognized Indian community.

The Mohawk people of Akwesasne have a strong cultural identity, and consider both “sides” of the territory one community. This unique location has contributed directly to our community’s complexity and influence.

The Saint Regis Mohawk Tribal Police Department (SRMT PD) currently has a 35-member staff, including a Patrol Lieutenant who oversees 25 patrol officers. We employ a K-9 Officer, a Professional Standards Officer, three School Resource Officers, and a Community Resource Officer. Our Investigative Lieutenant oversees a unit with specialized training in intelligence gathering, sexual assaults, crimes against children, forensic interviewing, and narcotics investigations. The SRMT PD employs a Marine unit and a Mobile Command Bus. Six communication officers direct dispatch and 911 referral calls. This exceptional group of officers handles approximately 7,000 service calls annually.

## **Recruitment and Retention**

The workforce of the SRMT PD is 95 percent Native American. The complex web of laws and jurisdictions around Akwesasne, combined with our efforts to strengthen community oriented policing, make it essential that our officers and detectives come from the community they serve. I believe this is just one of our success stories.

We face a number of recruitment challenges. One example is the Federal background check conducted by the Bureau of Indian Affairs. It is common for recruits who are Akwesasne community members to face challenges during the

background investigation because they may have been born in Canada or on the Canadian portion of the community.

As a remedy, SRMT PD has educated our law enforcement partners about the Jay Treaty of 1794 and its recognition of the right of Canadian Indians to move freely and work across the border. This has been a successful strategy, increasing our candidate pool to include all of Akwesasne and other Native Canadian communities.

Retention of officers is another challenge. Our Tribal police department is presently unable to offer a pension. Officers are offered a 401(k). Lack of a defined benefit pension plan has made recruitment difficult, and has resulted in the departure of officers pursuing better benefits elsewhere.

Burnout among police officers has a negative impact on any department. This has been our experience as well. Combined with the lack of a pension, most Tribal officers reluctantly stay on active duty well past a plateau or burnout, undermining the effectiveness of both the officer and the department.

Lastly, the SRMT PD has policing authority under the Bureau of Indian Affairs and New York State but does not reap the benefits of either's pension program.

**Recommendations:**

1. Fully fund a defined benefit pension plan for Tribal police officers by including Tribal Police Departments in the BIA retirement benefit pool.
2. Provide additional direct payroll support to Tribal Police Departments through federal fiscal awards to offer higher wages to officers.
3. Increase tax incentives for Tribal police officers to contribute to their 401(k) plans.

**Grants and Funding**

The SRMT PD was awarded a DOJ CTAS grant in 2018. It served as recognition of our department's dedication and commitment to community safety, and helped enhance our effectiveness at providing adequate, professional and modern policing.

However, the SRMT PD confronts many barriers to federal grants and other funding.

SRMT PD is an eligible recipient of federal awards. However, we do not meet the threshold for certain criteria, such as violent crime rates, to effectively compete for needed grants.

The federal grants we have received often provide only short-term support for payroll expenses. The Tribe must consider whether it is able to continue the employment of officers paid by that grant when its funding runs out. This was

difficult when the economy was strong. The COVID-19 pandemic has had a devastating impact on our Tribal economy, forcing the reduction of many Tribal programs and services. This puts into question the long-term viability of our police force.

Another restrictive source of funding is Homeland Security's Operation Stonegarden (OPSG). Only specific, border-related duties are considered allowable expenses within the grant. With the international border running directly through our territory, much of our activity can be considered border-related.

Lastly, the SRMT PD is in dire need of adequate facilities. Our department has outgrown the 30-year-old former retail space that it shares with the Tribal Court. We do not meet the criteria for any grants that support construction of a public safety building. The Tribe has limited resources and is presently unable to fund the construction of a modern, safe, BIA-compliant facility.

**Recommendations:**

1. Reduce grant retention cost requirements for Tribal recipients.
2. Increase funding flexibility for Stonegarden grant recipients.
3. Include provisions for Tribal justice facilities in future infrastructure or other law enforcement legislation.

**Jurisdiction/Border-Related Issues**

Among our successes is the distinction of being the only Tribal law enforcement agency to have a cross-deputization agreement with New York State.

The geographic location of our Mohawk territory poses several unique jurisdictional situations. The SRMT PD is a respected professional organization that coordinates with multiple U.S. and Canadian government agencies, including Akwesasne Mohawk Police Service, our counterparts serving the northern portion of the territory.

Our coordinating agencies include the New York State Police, the U.S. Attorney for the Northern District of New York, FBI, DEA, U.S. Border Patrol, DHS, ATF, U.S. Customs and Border Protection, Border Enforcement Security Task Force, Ontario Provincial Police, Canada Border Services Agency, and RCMP. All county, state and provincial agencies whose jurisdiction or service area includes Akwesasne are considered partners as well.

Governor Cuomo in 2017 signed Senate Bill 4276 permanently expanding the jurisdiction of the SRMT PD pursuant to Indian Law S114. The bill recognizes the authority of the Tribal Police in an area that has always been recognized as belonging to the community of Akwesasne. The SRMT PD is the only Tribal law enforcement agency in New York State to gain this authority.

At the western edge of Akwesasne, a U.S. Port of Entry crosses over our territorial land and waters. Approximately 1 million cars utilize this port of entry annually. About 75 percent of this traffic enters our territory (either tribal

members or patrons of our community businesses and casino). The SRMT PD has built a strong relationship with the Port Director, resulting in the inclusion of the Mohawk language in its signage and increased cultural sensitivity training to better understand the impact that the imposed border has on the people of Akwesasne.

The St. Lawrence Seaway Locks and the New York Power Authority are high-profile areas located adjacent to our territory. Our active Marine Unit would be utilized to assist in the event of a terrorist attack or natural disaster.

The SRMT PD is a partner of many successful programs and initiatives. The establishment of the Akwesasne Child Advocacy Center is one example. The victim-centered facility within our Tribal Social Services Division is utilized by many local law enforcement agencies. In 2019, a member of our SRMT PD staff testified before the Congressional Bipartisan Task Force to End Sexual Violence. The SRMT Tribal Police department participates in International Association of Chiefs of Police (IACP) panels to discuss community policing and border-related issues.

**Recommendations:**

1. Recognize our expertise of the lands, waters and people of our territory. The SRMT Tribal Police must be empowered to provide the first line of defense.
2. Mandate training on Native American cultural sensitivity and Tribal jurisdiction.
3. Respect mutual aid agreements between agencies whose jurisdiction includes the St. Regis Mohawk Indian Reservation and our community of Akwesasne.
4. Maintain open communication between governments and law enforcement agencies.

**Conclusion**

The SRMT Tribal Police Department proudly serves the Akwesasne community, and has worked hard over many decades to become a respected professional law enforcement organization. Further development can be made in the areas of increasing officer retention, increasing grant and funding, and increasing outside agencies' understanding of the culture, complexity and influence of the Akwesasne community.

Nia:wen kowa | Thank you very much for this opportunity

## Richard C. Blake

Chief Judge, Hoopa Valley Tribal Court



Chief Judge of the Hoopa Valley Tribe since July 2002 and retired from the Hoopa bench after 17 years on July 1, 2018. Judge Blake is also a proud member of the Hoopa Valley Tribe. Judge Blake is the Chief Judge for the Redding Rancheria Tribal Court, Tolowa Dee-ni' Nation and an Appellate Judge for the Cow Creek Tribe located in Southern Oregon.

Judge Blake is the President of the Board of the National American Indian Court Judges Association, having served on the board for the past 12-years. Judge Blake is the Region 2 representative representing courts in California, Nevada and Hawaii.

Judge Blake is the founder of the Northern California Tribal Court Coalition, which currently has a membership of six northern California Tribal Courts including Hoopa, Yurok, Tolowa Dee-Ni Nation, Trinidad Rancheria, Bear River and Karuk Tribes.

Judge Blake was also appointed as Co-Chair of the California Tribal State Forum. His vision resulting in the development of the Forum now immortalized by California Rules of the Judicial Council. Judge Blake remains involved in the California Tribal State Forum but currently sits as member of the California Federal-Tribal Forum.

Judge Blake has dedicated himself to working with tribal and state law enforcement agencies on issues surrounding domestic violence, traffic, Human Trafficking and worked closely with National DEC (Drug endangered children). The development of relationships with law enforcement, prosecutors, and probation and service providers has provided for safer communities.

Also a current member of the National Council of Juvenile & Family Court Judges, Judge Blake sits on committees within that organization and was named the 2016 "Innovator of the Year" by "NCJFCJ" being honored in July 2016. Judge Blake also serves as faculty in the areas of Domestic Violence and Domestic Sex Trafficking.

Judge Blake has been instrumental in facilitating forum meetings between tribes and states across the nation under the lead of Casey Family Programs, National Council of Juvenile and Family Court Judges and NAICJA.

## **Written Testimony**

**Richard C. Blake, Chief Judge**

**Redding Rancheria Tribal Court**

**Tolowa Dee-ni' Nation Tribal Court**

**Cow Creek Appellate Court**

**National American Indian Court Judges Association /President**

Honorable Commission Members,

It is an honor to have this to speak to you about justice issues in Indian Country. Your commitment to this task is commendable and as a member of a tribal community I am hopeful this information will provide the President and Attorney General with valuable information.

In 2018, I retired from the bench at the Hoopa Valley Tribe, located in Northern California, but remained as Chief Judge of other tribal court systems. My commitment to working towards justice with tribal, state and federal partners is on-going. Over the past 18 plus-years I have worked with various organizations related to law enforcement. Additionally, I have served as President of the National American Indian Court Judges Association, the only tribal judicial organization, established in 1969.

I have dedicated to on-going working relationships between the tribal court systems and law enforcement agencies, tribal, county, state or federal agencies. As Chief Judge I was able to see several areas of concerns that created safety concerns for tribal communities. My belief of building relationships with partner agencies would allow for cross training events and providing the opportunity for development of protocols.

In making certain that my commitment to the court remained intact, in 2003 I issued a domestic violence order of protection following hearing. Later the same evening I had a knock at my door and found the victim, bloodied with the order of protection in her hand. She informed me that the local deputy sheriff would not enforce my domestic violence. I was informed "it does not look like a

protection order.” As I stood there staring at the bloodied victim, with the bloodied order in her hand, knowing that her trust in the justice system was forever tainted. I realized that there was a serious disconnect between two systems that were designed for the protection of the community and we all failed. With a copy of the tribal protection order in hand I approached county law enforcement to understand why any sworn officer would deny protection. Refusal to enforce a tribal court protection order is quite common across the country and a frequent topic at tribal judicial roundtables. Each time the enforcement of a protection order occurs it puts a victim at risk of harm or even death, or the victims lack of confidence in the justice/law enforcement system. The outcome of this horrific event resulted in the development of the California Tribal State Forum, a working and established body at the California Judicial Council. With several factors resulting in staff turnover this may continue to be an issue unless a curriculum with protocol is not developed.

Working in prosecution prior to my election to the bench in 2002, I have worked with law enforcement, whether police, probation, parole in various capacities. In 2002 I began working closely with tribal law enforcement. My late brother, Edward Guyer, worked in Administration for Hoopa Tribal Police and ultimately was appointed Chief of Police. I maintained working relationships with all tribal law enforcement. I understood the struggles that tribal law enforcement agencies endured. In a Public Law 280 State, the need for cooperation with local law enforcement and the need for cross deputization agreements. Despite being POST trained officers, under California Penal Code § 830, tribal police officers are not mentioned. Community and tribal members typically have little to no respect for law enforcement as the appearance that tribal police officers are “security officers” only.

As President of the National American Indian Court Judges Association I have had the opportunity to visit many tribal communities. At an event in Kodiak, AK, I was told that following an attack “ a victim laid in the snow for over 48-hours until the troopers could respond.” Local tribal law enforcement was only able to secure the scene until “law enforcement” arrived. This certainly is something that I am certain the commission is aware occurs due to remoteness and lack of law enforcement in the State of Alaska. Yet it was alarming to know that village members endure this as normal procedures.



A visit to the White Earth Nation Public Safety in Minnesota revealed a very robust and active police department that maintains culture and tradition in their operations. Despite the use of their sovereignty, White Earth Public Safety was able to collaborate with county and state law enforcement and provide law enforcement services to all community members, tribal or not. A tribal law enforcement agency committed to maintaining the sovereignty of the White Earth people, but maintaining the law enforcement principles of the state of Minnesota.

The purpose of my testimony is as a Tribal Court Judge, who transitioned from a state court system, tribal law enforcement agencies continuously struggle with development, training and most importantly recognition as true law enforcement officers. In the State of California, a simple modification to 830 P.C. would give recognition to tribal police officers, who complete the same training, as police officers in other agencies. This amendment to 830 P.C. would give balance and legitimacy to tribal law enforcement officers.

The tribes, including my tribe, the Hoopa Valley Tribe, in my region are located in very remote and rural regions, and tribal law enforcement agencies at times are the only agency able to respond to a crisis, as evidenced in the example in Alaska. Providing tribal law enforcement agencies with funding to develop tribal agencies within the guidelines of tribal law and customs ensure that community members are provided protection. I am certain law enforcement agencies are brotherhoods across the various disciplines, tasked with making certain the community is safe, and this is the ultimate goals of tribal police agencies, as well as partner agencies.

My testimony is intended to represent tribal law enforcement agencies across the nation. The need for trainings, equipment, construction and expanded specialized trainings will provide tribal law enforcement the tools necessary to protect and serve the tribal communities across this nation.

Thank you for this opportunity and thank you for your commitment to this issue.

## Bill Denke

Chief of Police, Sycuan Tribal Police Department



Bill has served the Sycuan Band of the Kumeyaay Nation as Chief of Police for the past 15 years. He has served as a subject matter expert for California's Commission on Peace Officer Standards and Training in developing new training curriculums, "Policing Indian Lands" and "Responding to Domestic Violence and Sexual Assault Calls on Tribal Lands". Bill was appointed to the National Indian Law and Order Commission's Advisory Committee in 2012. He is the current chairman of the Indian Country Section of the International Association of Chiefs of Police (IACP), and a member of IACP's Board of Directors. Bill is also the chairman of the California Tribal Police Chiefs' Association. In 2014, he was appointed by the director of the FBI to the FBI's Criminal Justice Information Systems (CJIS) Advisory Policy Board and also chairs that board's tribal task force. Locally, Bill serves on the board of directors for Crime Stoppers San Diego. He received his formal law enforcement training at the San Diego Regional Law Enforcement Training Center and executive training at the Federal Law Enforcement Training Center.



## **President's Commission on Law Enforcement and the Administration of Justice**

**May 21, 2020**

### **Testimony from William (Bill) Denke II**

#### **Chief of Police, Sycuan Tribal Police Department**

I have been the police chief for the Sycuan Tribal Police Department for the past 15 years, with more than 26 years of total service. I am currently the chairman of the IACP Indian Country Law Enforcement Section and chairman of the California Tribal Police Chiefs' Association. I am truly honored to have the opportunity to provide testimony to the distinguished members of this commission on behalf of the Sycuan Band of the Kumeyaay Nation's police department.

For background purposes, California is one of six mandatory Public Law 280 states. For those not familiar with PL 280, in essence, it is the federal law, authorized in 1953, that not only reduced the federal government's jurisdiction, but also extinguished exclusive tribal jurisdiction over many types of crimes—applying state and tribal concurrent jurisdiction in its place. It is safe to say the effects of this law have had a profound negative impact on tribes' ability to establish robust justice systems. This includes law enforcement in California. This impact is still very visible today, as very few tribes in California have the ability to provide comprehensive policing services to their communities.

Tribal police departments' two most difficult challenges have been finding solutions that allow tribal police officers to enforce state laws on their reservations, and also for tribal officers to be able to access local, state, and federal criminal justice information systems. Most of these challenges were brought on by the fact that tribal law enforcement officers are not recognized by state law. Fortunately for Sycuan, with good-faith collaboration among many local, state, and federal partners, the Sycuan Tribal Police Department has found some solutions to these two issues in the past 10 years and is now able to provide those comprehensive policing services that Sycuan's community so deserves.

This did not come easily though. The first solution involved accessing criminal justice information systems. In 2010, Sycuan was one of a small number of tribes selected for a US DOJ pilot project that allowed direct access to FBI's CJIS systems, primarily NCIC along with access to the National Law Enforcement Telecommunications System (NLETS). This program later evolved into the now successful Tribal Access Program (TAP). Although the pilot program was an enormous benefit to the police department, there was still a need for access to local and state criminal justice information. In 2014, a solution was found after much coordinated collaboration with the San Diego County Sheriff's Department, the California Attorney General's Office and the Bureau of Indian Affairs. Since 2014, not only has the police department regularly queried all these systems to provide better public safety and solve investigations, it just as importantly has

inputted thousands of its own records for other agencies to query because, as we well know, crime does not recognize tribal boundaries.

It is very important to note that the authorization to access local and state systems was predicated off the federal law enforcement status of Sycuan's police officers. That status is pursuant to a deputation agreement with the BIA's Office of Justice Services. The deputation agreement in turn allowed for Sycuan's police officers to be commissioned as special deputy officers of the BIA after meeting the conditions set forth in the agreement.

Further, it is the federal law enforcement status that led to an agreement with the San Diego County Sheriff's Department to allow Sycuan's police officers to enforce state laws. This agreement is actually pursuant to a state law which allows a county sheriff to grant federal officers with the appropriate state training, the ability to enforce state laws on federal properties, lands, or enclaves. The agreement with the sheriff also allows the Sycuan Tribal Police Department to book its arrestees into county jail at no charge and have full access to the sheriff's crime and forensics laboratory. At the same time this agreement was being put into place, the police department entered into a memorandum of understanding with the San Diego County District Attorney's office to allow the police department to file its cases for prosecution directly to the district attorney's office.

Taking into account the aforementioned problems and the work-around solutions to partially resolve them, there are two recommendations I would like to make to the commission; all could have a positive impact on tribal law enforcement programs throughout the country. The first recommendation is in regard to supporting the DOJ's Tribal Access Program (TAP). The DOJ established TAP to create a single direct source by which tribal law enforcement agencies could access national crime information systems. It is a way for tribal law enforcement agencies to obtain access when they cannot access through the more traditional method of their state's CJIS System Agency. An example of not being able to access it is here in California. Although Sycuan's police officers are now authorized because of their federal officer status, other staff such as dispatchers and crime analysts are not. They have to rely on TAP to access information that is vital to officers and public safety.

TAP goes beyond just access to NCIC and NLETS. It actually allows for data exchange between comprehensive FBI CJIS systems and provides the hardware and software to provide the bi-directional flow of information. These systems include: the National Data Exchange (N-DEx), National Instant Background Check System (NICS), Law Enforcement Portal (LEEP), and Next Generation Identification. To date, approximately 90 tribes are participating in the program. This number does not reflect those tribes that were part of the pilot project in 2010 or BIA agencies.

With one success after another published by DOJ, it is imperative that this program continue beyond the foreseen future. The one thing that really concerns me though is that the program is not directly funded. It is only indirectly funded through different DOJ agencies, such as the COPS Office; the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking; and the Office for Victims of Crime. **I therefore recommend that Congress allocate sufficient, predictable and dedicated funding for the Tribal Access Program to improve public safety needs within Indian Country. Congress should also establish a specific budget line item for the Tribal Access Program that is independent of appropriations to other Department of Justice agencies.**

My other recommendation is regarding an issue that continually arises when tribal law enforcement agencies attempt to negotiate deputation agreements with local or state agencies. That issue is liability! This complex issue has been a so-called deal killer many times in the past when tribes have tried entering into these types of agreements with local agencies nationally. Many times tribes are expected to waive their sovereign immunity and pay for very expensive insurance premiums in order to get over this hurdle – a move that not only leaves the tribes exposed, but also officers in their individual capacities. The liability issue does not only come into play when trying to negotiate deputation agreements, but also with the recruitment and retention of qualified police officers. I have witnessed this firsthand within my own department.

Interestingly, language within Sycuan’s deputation agreement with the BIA Office of Justice Services, which is a model agreement published by the BIA, may offer some hope for resolve – at least when it comes to tribal law enforcement officers who are deputized by the BIA through the BIA’s Special Law Enforcement Commission (SLEC) process. Pursuant to the current model deputation agreements entered into between the BIA-OJS and tribes, tribal officers who have been issued SLECs are deemed employees of the Department of Interior for the purposes of the Federal Torts Claim Act (FTCA) while carrying out those laws applicable in Indian Country as described in Section 3.A and Appendix A. However, such officers are not deemed federal employees under 25 USC 2804(f)(1), or for the purposes of the FTCA with respect to the enforcement of any other law except those applicable in Indian Country, as described in Section 3.A and Appendix A. In addition, it is my understanding that BIA law enforcement personnel may be covered by the FTCA while enforcing other jurisdictions’ laws pursuant to agreements between the respective jurisdictions and while on tribal lands.

To digress for just a bit, the BIA has the authority to issue SLECs to local and state law enforcement officers for the purpose of enforcement of applicable federal laws on tribal reservations. It is important to note though: This would only apply on reservations where the tribes agreed to the issuance of such commissions to local and state officers.

Taking into account that there is already FTCA coverage for tribal, local, and state law enforcement officers for the enforcement of specific federal laws, I strongly recommend: **the Department of Interior, in consultation with the Department of Justice, should look into defining Federal Tort Claims Act (FTCA) protection for BIA-OJS commissioned law enforcement officers similar to that of BIA-OJS employed law enforcement officers.** Further, and more specifically, I recommend: **the Department of Interior, in consultation with the Department of Justice, should consider striking the model deputation agreement language that puts conditions on FTCA protection for law enforcement officers holding Special Law Enforcement Commissions (SLECs) and in its place state, “tribal officers who have been issued SLECs are deemed federal employees for the purposes of the FTCA while carrying out those laws applicable in Indian Country.”**

Realizing you have what some might think is an insurmountable task ahead of you, I respectfully request that you consider my recommendations. In addition, I request that you consider the important recommendations coming out of the Rural and Tribal Working Group in the coming weeks ahead. Although the working group’s recommendations have not been formally made yet, there is one recommendation being considered I would like to highlight just a bit. Even though it comes with a steep price tag, this recommendation would undoubtedly increase public safety across the board in Indian Country.

Every year since the Tribal Law and Order Act was signed into law in 2010, the BIA's Office of Justice Services has completed its Report to Congress on Spending, Staffing, and Estimated Costs for Public Safety and Justice Programs in Indian Country. After a quick review of this report, it is more than clear there are significant unmet needs for Indian Country's public safety. It is important to note that this report also reflects those needs for tribes in Public Law 280 states, including Alaska, which historically has received little to no funding from the BIA for public safety needs. With that being said, I strongly recommend that Congress fund Indian Country public safety programs at the level reflected on the BIA's annual report.

In closing I want to thank all of you for the opportunity to provide this testimony and more importantly, for all of the selfless time you have put into this project in an effort to produce an impactful comprehensive report to the Attorney General and the President of the United States.

**Respectfully,**

**William (Bill) Denke II**