

TESTIMONY OF DAN EDDY, JR.
TRIBAL CHAIRMAN, COLORADO RIVER INDIAN TRIBES

BEFORE THE SENATE INDIAN AFFAIRS COMMITTEE

MONDAY, MARCH 17, 2008

SALT RIVER MARICOPA INDIAN COMMUNITY

SCOTTSDALE, AZ

INTRODUCTION

Mr. Chairmen, Members of the Committee, Senator Kyl and guests. I want to thank you for this opportunity to appear before your committee today to discuss law enforcement issues in Indian Country. I am Dan Eddy, Jr., Chairman of the Colorado River Indian Tribal Council and today I will highlight some of the law enforcement problems that we face on our reservation today. I can assure you that our problems are not unlike many others in Indian Country. This is an issue of increasing importance to all of us and we are grateful that the Committee has dedicated this time and these resources to advance the discussion of our concerns and needs.

The Colorado River Indian Tribes (“CRIT”) is facing the same dilemma as many Indian tribes across the nation with its Tribal Justice System where it is severely under-funded by the federal government. The BIA funds approximately 30% of the cost needed to operate law enforcement and detention programs and CRIT is left with the burden to absorb the rest of the costs. CRIT Uniformed Police and Adult Detention Programs are severely under-funded and CRIT has repeatedly objected to the shortfall in funding.

Further, even though CRIT has retroceded its P.L. 93-638 Contract for Juvenile Detention, the BIA has not fulfilled its obligations by failing to transport CRIT juvenile offenders in a timely manner. The most alarming of these incidents was when a Minor was not transported back to the reservation until thirteen (13) days after her scheduled release time. To-date, CRIT is holding five (5) juveniles that are awaiting transport from the BIA. The longest stay period has been over three (3) months for one of these juvenile offenders. CRIT is now forced to release these juvenile offenders because the Temporary Holding Facility is not appropriate for long-term detention. Not surprisingly, juvenile recidivism on the reservation is very high. Further, CRIT was reimbursed only \$250,000 out of the \$680,000 owed by the BIA in April, 2007. To date, eleven (11) months later, CRIT has not seen any additional payment.

CRIT's three (3) programs (Juvenile Detention, Adult Detention, and Uniformed Police) will be discussed below in detail.

I. JUVENILE DETENTION

In May of 2004, the BIA removed all CRIT juveniles from the CRIT Juvenile Detention Facility on the reservation. The reason that the juveniles were removed was because the youth facility was connected to the adult detention facility and did not meet the Department of Justice requirements for sight and sound separation between the adult and juvenile detainees.

CRIT juveniles are now housed at the Gila County Juvenile Detention Center in Globe, Arizona, five (5) hours or 250 miles away from the reservation. However, the National Institute of Corrections has a regulation that mandates that no individual subject to incarceration under the Federal system and Federal guidelines can be incarcerated at a facility more than 200 miles from his/her home. The BIA is currently violating this regulation.

Unfortunately, the many families of these juveniles are unable to physically visit with the detainees. Even a trip to Globe is unattainable for those families with little to no income and no means of transportation.

With our present situation, it is very difficult to deliver mental health and substance abuse services to the juvenile detainees in Globe; therefore, CRIT juveniles are not receiving any of these much needed services. If these juveniles were on or closer to the Reservation, CRIT Behavior Health Services and the Alcohol and Substance Abuse Program as well as the Juvenile Probation Department, would be able to adequately serve these children.

Having the BIA assume this transporting duty has lead to another grave problem- CRIT juveniles were not being transported back to the reservation in a timely manner pursuant to CRIT court orders for release or hearings. The most alarming of these incidents was the non compliance of transport by the BIA on a Release Order issued by CRIT Juvenile Court; the Minor was not transported back to the reservation until thirteen (13) days after her scheduled release time. The transport of these juveniles occurred only after a formal letter from the CRIT Chairman was sent to the BIA Supervisory Corrections Officer in Phoenix.

Further, until they are transported to Globe, CRIT juveniles are being held at CRIT Temporary Holding Facility, which under its current condition, is only appropriate to hold juveniles on a temporary basis. However, since the BIA cannot locate available facilities to take juvenile offenders, these children remain at CRIT Temporary Holding Facility up to several months. To-date, CRIT is holding five (5) juveniles that are awaiting transport from the BIA. The longest stay period has been over three (3) months by one of these juvenile offenders. Initially, the BIA picked up these children within forty-eight (48) hours of a transport order. CRIT is now forced to release these juvenile offenders because the Temporary Holding Facility is not appropriate for long-term detention. Not surprisingly, juvenile recidivism on the reservation is very high.

To make matters worse, CRIT expended approximately \$680,000 of its own funds from 2005-2007 in the performance of BIA transport duties alone for these juvenile offenders, without factoring in management and housing costs

when BIA fails to relocate them to an appropriate detention center; these additional costs are approximately another \$250,000 conservatively. After a long and exhaustive engagement with the BIA, which went all the way up to the Director of Law Enforcement, CRIT has been reimbursed only \$250,000 out of the \$680,000 owed as of April, 2007. To date, eleven (11) months later, CRIT has not seen any additional payment.

Currently, CRIT Juvenile Detention Program costs the Tribes approximately \$240,000 annually.

II. ADULT DETENTION

The BIA's proposed base-funding for the P.L. 93-638 Contract for Adult Detention is \$270,000 for the 2008 fiscal year. The total projected program cost is approximately \$760,000 each fiscal year. Since the beginning of 2007, the Tribe has complained about the shortfall in funding. The projected BIA funding only covers approximately 36% of the cost to operate this program; CRIT absorbs 64% of the cost.

In 2007, as a result of the shortfall, CRIT Tribal Council took action not to re-contract the adult detention program. In late April, in reliance on a promise of additional funding from the BIA, the Tribal Council took action to extend the 2006 Adult Detention P.L. 93-638 Contract to June 30, 2007. This extension was made in reliance on the following additional funds being made available to CRIT: (1) an increase in funding by \$180,000 and (2) the restoration of approximately \$30,000 in 10% hold-back funds. These funds were to carry the program to the end of the federal fiscal year on September 30, 2007.

In June, the BIA asked the Tribe to extend the 2006 Adult Detention P.L. 93-638 Contract to December 31, 2007. CRIT asked the BIA to retract the request, as it was our understanding the additional funding the BIA agreed to provide was only intended to carry the program to the end of the federal fiscal year (September 30) not the end of the calendar year (December 31). However, BIA did not retract the letter and the Tribal Council Chairman agreed to extend the 2006 P.L. 93-638 Contract to December 31, 2007.

III. LAW ENFORCEMENT

The BIA's proposed base-funding for the P.L. 93-638 Contract for Uniformed Police (Law Enforcement) for the 2008 fiscal year is \$673,000. The total projected program cost is approximately \$2,115,000 annually. Thus, the BIA funding only covers approximately 32% of the total cost and CRIT absorbs 68% of the cost.

CRIT has been very conservative with the Uniformed Police budget due to the extreme shortfall in funding. Unfortunately, our conservative spending puts our Police Department at a disadvantage because neighboring cities pay at a more competitive rate with a more competitive benefit package. Hence, CRIT's turnover rate for Uniformed Police is alarmingly high, around 50% between 2006 and 2007.

As a consequence of the high turn over rate, CRIT Officers are placed in a compromising position where they work long hours to compensate for the lack of adequate staffing. This leads to both physical and mental health issues for the Officers and safety issues for the Reservation.

CONCLUSION

It is evident from that the BIA is failing in its fiduciary and other legal obligations to CRIT. The shortfall in law enforcement and detention funding is exposing CRIT to very serious foundational problems such as a lack of safety and order on the Reservation. Moreover, even when the BIA assumes the responsibility such as the holding of juvenile detainees, it even fails to do so. Additionally, CRIT needs to be reimbursed by the BIA for the outstanding balance of approximately \$500,000 for the costs of services provided. To-date, eleven (11) months later, CRIT has not heard a word from the BIA regarding this amount owed.