



**Testimony of the Chairman Herman Dillon
Senate Committee on Indian Affairs
Oversight Hearing on Law Enforcement in Indian Country
June 21, 2007**

I would like to thank the Committee for asking me to testify today on behalf of the Puyallup Tribe about law enforcement needs in Indian country. The Tribe was pleased to have Chairman Dorgan visit the Puyallup Reservation recently to see some of our needs firsthand. I would also especially like to thank Senator Cantwell for inviting us. As the Senator from Washington, she is all too familiar with the gang and drug problems we are facing. She understands that these problems affect all of us – Indians and non-Indians alike – and that we – tribes, states and the federal government – must cooperate in order to find solutions. I thank her for working with us to do this.

I. Law Enforcement in Indian Country

The need for basic law enforcement resources across Indian country is severe. In 1997, the Department of Justice estimated that at least 2000 additional officers were needed just to meet minimum safety standards.¹ This need has become even more pressing in recent years because of increased methamphetamine use, production and trafficking on reservations. Police officers working on reservations frequently patrol alone because of personnel shortages. Understandably, newly-trained and veteran officers often leave to take jobs that require less of a risk to their personal safety, exacerbating officer shortages. Equipment needs are equally significant. It is a vicious cycle – lack of funding for even the most basic elements of a law enforcement program is part of what contributes to the perception that reservations are “lawless” places. This perception is what makes our communities attractive to drug dealers, which in turn increases the need for federal resources.

And law enforcement in Indian country is much more than police. Tribes also operate court systems, detention facilities, drug treatment services and other alternatives to detention. Many tribes have invested in preventative programs, such as youth centers, youth activity programs and drug education. As governments, we recognize our responsibility for fostering positive change and rehabilitation, even in our jails. More often than not, the inmates are people from our community who will be returning to the community when they are released, so we have a particular incentive to help them pursue positive changes. Otherwise, we will be stuck in a cycle of arresting and locking up our own people.

¹ U.S. Dep’t of Justice, *Report of the Executive Committee for Indian Country Law Enforcement Improvements: Final Report to the Attorney General and the Secretary of the Interior* (October 31, 1997).

II. Puyallup Tribal Law Enforcement

The Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. Our 18,061-acre reservation encompasses most of the City of Tacoma, but the area is a “checkerboard” of tribal land, Indian-owned fee land, and non-Indian owned fee land. Our reservation land includes parts of six different municipalities (Tacoma, Fife, Milton, Puyallup, Edgewood and Federal Way). The Puyallup Tribe also provides services for 3,680 tribal members and over 24,000 additional Native Americans from over 345 Tribes and Alaska Native villages in our service area.² We share law enforcement authority with both the state/local and federal governments. Because so many governments are involved, because of the checkerboard nature of our land, and because the reservation touches many different local jurisdictions, the answer to which government has jurisdiction over a specific crime depends on who the defendant is, whether the land is trust land, and which local jurisdiction the land is in.

Washington is a Public Law 280 state, which means the state exercises some jurisdiction in Indian country, but the state’s jurisdiction is limited to a few specific subject areas.³ In addition to those specific areas, the state has jurisdiction over crimes committed by Indian people on non-trust land, and jurisdiction over all crimes committed by non-Indians on the Reservation. Of course, this does not mean that the Tribe has no law enforcement authority. PL-280 did not strip tribes of their inherent jurisdiction, so the Tribe shares authority with the state over Indian people who commit crimes on non-trust land and over Indian people on trust land in the subject areas described above. The Tribe also continues to exercise broad criminal jurisdiction – exclusive of the state – over Indian people on trust land. Finally, the federal government has responsibility for law enforcement on the reservation, particularly over major crimes committed by Indian people.

The Puyallup Nation Law Enforcement Division currently has 24 commissioned officers and three vacant positions. These officers are charged with the service and protection of the Puyallup Reservation seven days a week, twenty-four hours a day. Our officers are also responsible for enforcing tribal hunting and fishing laws in our “usual and accustomed” fishing areas off the reservation. For tribes in the Northwest and other areas with treaty-protected off-reservation hunting and fishing rights, enforcement of tribal hunting and fishing codes consumes an enormous amount of tribal law enforcement resources.

² The City of Tacoma has the sixth highest percentage among U.S. cities of American Indians and Alaska Natives, 3.6% of the total population.

³ In 1957, the Washington elected to assume jurisdiction over Indian country within the state pursuant to the voluntary provision of Public Law 280. 25 U.S.C. § 1231. Washington assumed criminal and civil jurisdiction only over eight specific subject areas – compulsory school attendance, juvenile delinquency, public assistance, domestic relations, mental illness, adoption, dependent children and certain motor vehicle offenses. Wash. Rev. Code § 37.12.010. It exercises more extensive jurisdiction over some reservations pursuant to tribal consent, *see* Wash. Rev. Code § 37.12.021, but Puyallup is not one of those tribes.

We also have a tribal court and an adult detention facility. We have an agreement with the county to house our juveniles in the county juvenile facility. Our tribal court has full criminal jurisdiction over Indian people, although under the Indian Civil Rights Act our court can only sentence people to up to one year in jail and/or up to a \$5,000 fine. The Puyallup tribal court regularly handles minor drug sales and possession cases, some shootings, and other incidents. The United States Attorney has jurisdiction over serious crimes committed by Indians on the Reservation but, as I describe below, federal enforcement is very limited in practice. Instead, when more serious incidents occur, tribal prosecutors sometimes elect to have the county prosecute tribal members so that longer sentences can be imposed.

We operate our law enforcement department and our detention program pursuant to a self-determination contract with the BIA. Puyallup has also received COPS grant funding for several years. This funding has been very important to our law enforcement program, especially for purchasing new and updated equipment. However, the Committee should understand how little money tribes actually receive from federal sources. Contract funding covers the salary for one police officer and one detention officer. COPS funding helps us with equipment costs. But the other 26 police officer positions and nine detention officer positions are funded by the Tribe.

III. Gangs on the Puyallup Reservation

We have 28 active gangs on the Puyallup Reservation. A few of these gangs are Native gangs, others are national gangs with Native members, and still others are non-Native gangs that operate on or near the Reservation. Many members are teenagers, but we have seen gang members as young as eight years old. These gangs are involved in drug trafficking, weapons sales, and turf wars. I-5, which runs from Mexico through San Diego and up the coast all the way to Canada, runs through the Puyallup Reservation and is known as a drug corridor. We regularly encounter methamphetamine, crack cocaine and Oxycontin. Pierce County is also home to at least 31 meth labs – the highest in the state. We have drive-by shootings on a weekly basis.

Between December 2005 and March 1, 2006, we had a particularly brutal spell, with 15 drive-by shootings on the Reservation. Two of our tribal members were killed. One of them, Joseph Dillon, was not even involved in gangs. He was a graduate of our tribal high school. Just before Christmas, members of the East Side Pirus, a non-Native gang from the East Side of Tacoma, fired several shots through the side of Joe's mother's house. The shooters were probably after Joe's cousin, Donald George-Oya. Donald, who dropped out of high school after 10th grade, was affiliated with a gang called the Native Gangster Crips. NGC was involved in a gang war with the Pirus, and the drive-by was an act of revenge. But, as is the case in many drive-by shootings, the shooters just aimed blindly into the house where they thought Donald lived and fired. One shot hit Joe by mistake, killing him. At Joe's funeral, the police arrested his younger brother, Dale Oya, in connection with an earlier shooting. Then, just weeks later, the Pirus found Donald riding his bike and fired 29 rounds into his body. In a matter of weeks, this family lost three of its young men to gang warfare.

The escalating violence is just a symptom of a gang problem that now goes back three generations in our community, and we are worried about what this means for our youth in the future. Nearly half of Puyallup tribal members are 17 years old or younger, and one-third of them are under 10 years old. As they grow up, our children are facing many of the risk factors that we know can lead to gang involvement, such as poverty (73% of students at our tribal school qualify for free or reduced lunch), lack of education (the dropout rate for Native students in Washington state is consistently twice that of all students), and family instability (the number of dependency, guardianship and family services cases at Puyallup more than doubled between 2000 and 2006).⁴

The Puyallup Tribe has responded to the gang problem. We established a Gang Task Force about four years ago comprised of the Tribal Police Department, representatives from various Tribal Services Divisions and community members. The Gang Task Force developed a working definition of a street gang and a four-pronged approach to gang prevention activities: (1) enforcement, (2) intelligence, (3) education, and (4) and physical-mental health. We believe this fourth prong is often overlooked in other communities, and our police work closely with our family and social services departments to ensure that we address problems like substance abuse among our members.

The Tribe also pays each year to send its officers to receive specialized gang training from the National Gang Crime Research Center. In fact, Puyallup officers have recently become presenters at these conferences, drawing on our experience to assist other jurisdictions and partnering with the NGCRC to focus more on the needs of tribal communities. Of course, such a major law enforcement undertaking will require more officers, additional and continued training, specialized equipment, and better detention facilities for adults and juveniles. Right now, our police department could use an additional 3-4 officers dedicated to gang issues, so that the informal gang operations unit can focus on intelligence and tracking. We are doing what we can, but we cannot afford to be shortchanged in law enforcement resources.

IV. Cooperation with State Law Enforcement

The Tribe works closely with state and local law enforcement authorities. We recognize that in this day and age, such inter-jurisdictional cooperation is essential. We are fortunate to have a good working relationship with the state, county and city agencies. We have had intergovernmental agreements with Pierce County and the City of Tacoma for many years, and we recently entered into one with the City of Fife. Our tribal police officers are cross-deputized, so that we can arrest people under city or county jurisdiction, then turn them over to the local authorities to be processed. Working together with the state is especially important for us because much of the crime in our community is perpetrated by non-Indian people. Of all arrests made by Puyallup Tribal

⁴ In a report on youth gangs in Indian country, the Office of Juvenile Justice and Delinquency Prevention found that social problems in the community were the greatest contributor to growing gang problems on reservations. Major, et al., *Youth Gangs in Indian Country* (OJJDP Bulletin, March 2004), at 11.

Police, over three-fourths are of non-Indian people. Arrests of non-Indian people by tribal police increased 15% between 2004 and 2006, while the number of arrests of Native people decreased.

We are thankful that last summer, the Tacoma Police Department established a gang response unit. They also have an officer specifically assigned to tribal issues. The Puyallup Tribal Police Department now meets monthly with the Tacoma Police to share information. This kind of information-sharing is essential for gang work because the gangs would use any lack of communication between police departments to their advantage. We have also begun to work cooperatively on “gang emphasis patrols,” in which officers saturate an area known to have a lot of gang activity. Through these patrols, we have already apprehended two of our three most wanted criminals and confiscated a number of handguns.

In July 2006, Senator Cantwell convened a roundtable discussion with tribal and local law enforcement agencies in order to discuss resources and solutions. What they found was that the Puyallup Tribe had the most highly-developed gang response strategies of any of the departments operating in the area. Our officers were often the first to come into contact with gang members for low-level offenses. They are also often the first responders to major gang-related crimes. Even more importantly, many of our officers are members of the tribal community, so they are familiar with young gang members and their families. This familiarity helps our officers to be able to do more prevention and intervention work, and it also helps with information-gathering. Our local law enforcement agencies understand this, so we have been able to forge a good working relationship in which the jurisdictions assist each other in order to provide the best possible law enforcement services.

V. Cooperation with Federal Law Enforcement Agencies

Legally, the federal government still has jurisdiction and law enforcement responsibility on the Puyallup Reservation under the Major Crimes Act. In addition, many of the gang and drug crimes we are experiencing would be federal offenses whether or not they were committed on an Indian reservation. The gangs that are active on the Reservation are mostly national gangs, including Crips, Bloods and several major Asian and Hispanic gangs. Drug dealers come through the Reservation as they transport drugs across state lines on I-5, also a federal crime. In particular, we depend on federal assistance when a major crime is committed by an Indian person because, although our jurisdiction is exclusive of the state’s, we do not always have all the resources to investigate or the jurisdiction to impose long sentences.

Unfortunately, we get very little help from federal government. In practice, the tribal police have to request federal assistance each time a serious case arises. We recently had a rape occur on trust land, and our primary suspect was an Indian person. We asked the FBI to investigate, but got no response initially. Tribal police had to do almost all of the investigative work. When we had still heard nothing from the FBI, we prepared to prosecute the suspect in tribal court, despite our limited jurisdiction. The FBI

finally responded after the suspect had been in jail for 50 days – just one week before the deadline for a speedy trial. At that point, their role was limited to reviewing and reporting on the investigation already conducted by tribal police.

In another instance, a shooting occurred on trust property, and we were unable to get a response from federal officials. This put the Tribe in a difficult position in terms of investigating the crime because we do not have a Crime Scene Investigation unit. Fortunately, we were able to borrow the City of Tacoma's unit in order to perform the investigation. This example is emblematic of the level of basic law enforcement assistance we generally get from the federal government. Even though the federal government retains jurisdiction in name, it is the state that we rely on in practice to support our efforts.

A major area of concern for the Puyallup Tribe is the ability of tribes to work cooperatively with federal law enforcement agencies. This includes the BIA, but also the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Drug Enforcement Administration (DEA). We are also concerned that federal crime legislation, especially laws relating to gangs and drugs, should be developed in consultation with tribal governments. If tribes are made active partners in law enforcement efforts, and if we can access funding and assistance on at least the same level as other governments, our police departments and courts will be much better equipped to prevent these crimes and to go after these criminals.

VI. Funding

The Puyallup Tribe is in great need of a new detention center. Until 2001, the Puyallup Tribe operated a regional detention facility, providing detention services to many surrounding tribes on a contract basis. Due to damages from the February 2001 Nisqually earthquake, we have had to relocate to modular/temporary facilities, which were not built to any federal/state or tribal health or construction standards. The modular units are far from secure, though. Since the relocation to modular facilities, the Tribe's ability to effectively and safely incarcerate detainees has been compromised due to the condition of the temporary detention facilities. Last year, an inmate housed in one of the modular units cut a hole in the floor and escaped.

In an effort to protect the safety and welfare of the Native community the Puyallup Tribe has initiated the planning and development of a Justice Center to be located on the reservation. The Justice Center will provide necessary facilities for the delivery of law enforcement and judicial services including a Tribal Court, Court Clerk, Prosecution, Probation, Public Defender and Law Enforcement services, including Police Headquarters and a 32-bed Adult Detention facility. The Tribe has set aside tribal land for the new facility, but we have been unable to get financial assistance for even the planning stages of our new facility.

Of course, we understand that money is tight. Every year, we come to Washington along with other tribal leaders to testify before the House Appropriations

Committee on funding needs for Indian country. For at least the past three years, law enforcement has been one of the most – if not the most – acute area of need. We have heard many other tribal leaders testify that they are in desperate need of funding for police and detention. The deplorable conditions existing in Indian Detention facilities are documented in the September 2004 report issued by the U.S. Department of Interior Inspector General’s Office.⁵ What is most frustrating, though, is being shuttled back and forth between various governmental offices.

We have approached both the BIA and the DOJ, but funding from both Departments has been at record low levels for the past several years. The agencies simply throw up their hands and tell us there is no more money to construct detention facilities. This year, an increase was proposed for yet another “Initiative” to improve Indian country law enforcement, but the Administration apparently decided to balance this cut by eliminating funding for all tribal justice programs – including courts, detention and intervention programs – within the DOJ. It is extremely difficult to chase scarce funding between two federal agencies which seem to have very little communication with each other, and both of which avoid responsibility by pointing to the other one. We do not believe these agencies – particularly the BIA – should be permitted to abdicate their trust responsibility for Indian issues in this way.

VII. Conclusion

We are very grateful to the Committee for turning its focus to the issue of law enforcement in Indian country. Effectively fighting crime in Indian country requires navigating a complex and shifting set of jurisdictional rules. It means cooperating with state, local and federal law enforcement agencies. It also means weaving together a patchwork of available sources of funding to create a stable funding base. As you move forward with your investigation, we encourage you to look at the following specific areas of concern:

- Limited tribal jurisdiction over serious crimes;
- Allocation of responsibility between the BIA and the DOJ for Indian country law enforcement issues;
- Barriers to cooperation between tribes and federal law enforcement agencies;
- Lack of stable funding for tribal police, courts and detention;
- Lack of funding for related services, such as gang prevention, youth intervention services, recreation, mental health and substance abuse treatment – services that are also essential to reducing crime.

⁵ Office of Inspector General, U.S. Department of the Interior, *Neither Safe Nor Secure: An Assessment of Indian Detention Facilities*, Report No. 2004-I-0056 (September 2004).