

**Tribal Interior Budget Council  
November 8-9, 2016  
Washington Plaza, Washington, DC**

**Contents**

Update from Tribal Caucus .....	2
2017 Budget Status.....	6
Budget Subcommittee Update .....	9
OMB Update .....	11
Budget Overview .....	11
OMB Crosscut .....	12
Transportation .....	16
Questions.....	18
Day II, November 9, 2016 .....	21
BIE Presentation .....	21
Public Safety Update.....	23
DOJ.....	23
BIA Public Safety Funding .....	25
Land Buy Bank Program .....	29
Roads Presentation.....	31
Tiwahe Initiative .....	34
Strategic Plan .....	39
FY 2018 and FY 2019 .....	39
Old Business.....	40
New Business .....	40

**Invocation**, Jefferson Keel

**Roll Call**

Approval of the agenda

Approval of July minutes

Midwest made motion to approve, seconded by Pacific Region. Minutes are approved.

**Opening Remarks**

**Larry Roberts, Acting Assistant Secretary:** Staffing updates: Mike Black will stay on as a senior advisor role and will be helping us out. Bruce Loudermilk has agreed to serve as the new Director of BIA. We have a new Director of BIE as well, Tony Dearman. After the election, vacancies could sit open for months and so it was important for us to make sure that senior career leadership is in place so that Indian Affairs doesn't skip a beat in their service to Indian Country. Our agenda tries to reflect the concerns that a number of tribal leaders around the table have expressed which is to focus more on budgets and numbers and how to advance budgets in Indian Country and less about readouts, about policy matters. On the agenda we have Anna Naimark who's back at OMB and Aaron Ray. We hope to

have a conversation based on their input on how to really build on Indian Affairs budgets across the administration rather in addition to just focusing on Interior's budget.

The Secretarial Order on cooperative management relates to a number of different agencies within the department working cooperatively with tribes to manage federal lands that are important to tribes across the country. The goal of that Secretarial Order is that we have a number of different requests in process. That gives room for the agencies to keep working with tribes and for those areas where it may not be as far along, this Secretarial Order provides tribes with the footing they need to start to build on those conversations with the regions themselves.

Two other issues: One is land into trust and restoring tribal homelands. We're at the 540,000 acres of land into trust over the course of this administration. While we don't have a single acre of land into trust yet in Alaska during this administration, we're working on it.

The other issue is Standing Rock and the consultations that we're having across Indian Country on infrastructure. On Standing Rock specifically, DOJ, Department of Interior, and Army Corp issued a joint statement in early September of this year. We are getting into the months period so I would say that I'm hopeful that the agencies will continue to move forward and engage with Indian Country on Standing Rock. I hope that we have some news in the short term but I don't know what that news will be or how quickly it will get out there.

The DOJ, Interior and Army Corp are continuing to work on the issues surrounding the Dakota Access Pipeline. I also wanted to just share with everyone in the room that if you haven't been able yet to attend a consultation on infrastructure, I would encourage you and the tribes in your regions to engage in these consultations that are upcoming.

Upcoming consultations include Maine, Minnesota at Shakopee, Rapid City, and then a nationwide teleconference. All of these, the teleconference as well as the in person consultations will be transcribed and it's an opportunity for us to hear directly from tribal leadership how the federal government across all of the different agencies can do a better job of siting these infrastructure projects moving forward. I'm not aware of any interagency consultations of this magnitude being held in recent times. We have DOJ, Army Corp, Interior and then a host of other departments that are attending these consultations. I would encourage you all, if you can, to attend one of them or to submit comments. Our goal is to have something by the end of this administration that reports on the consultations and sets a pathway forward on how we can do better on these issues.

This is my last TIBC meeting with you all and I just want to say thank you, that it's been an honor to not only serve in this position but to work with all of you, whether it's through TIBC or on a day to day basis on the issues to advance Indian Country. We so appreciate all of the input that we receive at the TIBC meetings. It helps us tremendously in the budget formulation process. I appreciate our work together so thank you.

### **Update from Tribal Caucus**

**Ron Allen:** Regarding the caucus this morning, everybody is anxious for the results of the election. Regardless of who the new leadership is for the administration and the Congress, we do not want to lose ground. We've worked hard with this administration over the last eight years to accomplish a lot of

successes and yet we still have a lot more concerns, challenges and so forth to keep advancing our agenda forward to serve Indian Country well.

On legislation, there are bills that will be considered possibly in the lame duck session. We want support from the Administration for: Tribal Labor Sovereignty Act; the Self-Governance Title IV Amendment; the ACA Employer Mandate; VOCA funding to help us with regard to law enforcement. There are bills going through the House Natural Resources Committee. The Tribal Caucus talked about how the Administration can collaborate with the tribes in terms of developing positive relationships about their obligations to Indian Country and advancing our self-determination and self-sufficiency agendas.

There are a number of issues that were discussed. Standing Rock, and as a result of that, this whole federal permitting process and consultation has become a big issue. We need Interior to chime in with us to make sure that we're included in that process, that that government-to-government consultation process is going to be a part of that process. The notion of an Office of Native American Programs in OMB is something that we want you to be supportive of. We appreciate the hard work of the examiners but we want somebody to do the crosswalk of different programs that affect our interests. The White House Native American Council is something that we want to continue.

Key appointments will be important to us in all these different positions and not just the traditional Indian positions but other positions for which we have qualified Indians.

A high level advisory council for DOI is something that we've raised in this forum. TIBC complicated and it reviews lots of detail but it's not the same as in HHS for example or DOJ and now Treasury where you have an advisory council that is advising the Secretary. TIBC is not at the Secretarial level. We encourage consideration of a establishing an advisory council that would meet regularly with the Secretary similar to STAC at HHS.

On the 2017 budget, we don't know if we will get a CR, a mini omnibus, an omnibus, or other. Tribes are advocating for the increases in FY 2017. We had an OMB meeting on October 24<sup>th</sup> and we discussed a lot of issues—the permitting process, water rights concerns, the budget process itself in terms of how we can improve transparency and communication between the tribal leadership and OMB, the \$20 billion that is said to go to Indian Country, and the One Stop Tribal Support initiative that Interior has been promoting so that tribes can better access those resources as well.

On the public safety agenda, we appreciated OJS providing better details to our subcommittee regarding how funding works and the methodology that is used for any new resources or how prioritization takes place. But we have a larger concern over how we can collaborate with DOJ whether it's the COPS program or any other resources that are intended to stabilize and strengthen the tribes' capacity to provide better quality public safety as well as more effective judicial systems for our respective communities and our governmental legal infrastructure. We're looking for a needs analysis of the \$2 billion or so that OJS come up with regard to the deficiency. We also want to make sure that PL280 states and tribes, that they are also served. We also want to discuss the ability and authority that exists today with the federal system to transfer resources from one agency or department to another, such as the COPS programs over at DOJ, could that not be transferred over into the DOI BIA in our contracts or compacts, so that they can be better coordinated with greater flexibility similar to the 477 programs.

On roads, we have received reports on what the deficiency of roads and how we're losing ground. We will have a presentation to discuss.

On data management, we're coming up with a report and a cross section. We had a good meeting with the different representatives of Interior and Census wasn't there but we need a better handle on all the different agencies that have different data that gives you a better sense of the profile of Indian Country so that we can have all the reports that can be collated, or be accessed in some sort of a clearinghouse. Mel Gilchrist gave us a good report on the strategic plan. On the data management subcommittee, we've worked for some time now in trying to amend it and make it more inclusive, provide direction. We have a proposal that we want to float today and maybe we can get approval to get it signed off on tomorrow as a charter. George has a copy of it and we discussed it in the committee itself. We're very supportive of the proposed nine million that you've been advocating for Census. We know that that \$9 million would be helpful and so one of the things that came up in the data committee was that if that does happen, we want to be engaged with you and with the Census regarding what additional information are you going to ask for and reach out in their particular process.

The budget subcommittee reviewed the proposed third party assessment of TIBC. We collectively decided that this proposal by this contractor is a good idea. There is a proposed phase one that we approved; phase two idea is a good idea, but we decided to get the report back from phase one and then see if we need phase two. We like where Kepner-Tregoe is going and we think the phase two more comprehensive implementation of their analysis would be helpful for us and try to improve this overall process, but we will decide that later.

The last issue is Trust Resources and the staffing capacity within Interior. We get concerned when we have examples in the Northwest and Great Lakes where there's a program called SSHIAP, which helps tribes protect their trust resources and treaty resources and they lose people, new staff come in but don't know the program. They may not understand why it's important and then tribes lose ground and lose the priority in importance. We don't want to lose the institutional historical knowledge about these programs, these different commitments that are throughout the overall budget process.

**Sam Thomas:** I'd like to thank you and Mr. Washburn for making land into trust in Alaska happen. One of the biggest issues in what I heard at the Alaska Federation of Natives was climate change resilience; it's an ongoing issue not only in the Arctic but probably throughout the country. Other than that Chairman Allen covered everything. On road maintenance you might be able to assist us with, such as the ERFO, Emergency Relief Funds on federal lands, and then there's the FEMA component where we could go out and do various trainings out in Indian Country in different parts of the regions instead of the tribes having to go to the training in other parts of the country.

**Mark Azure:** I just wanted to make some comments about Standing Rock. At Fort Belknap there's a lot of concern; we have a great audience here of tribal leaders that can in one sense carry the message home on where the BIA stands, where the Secretary stands, and what's the way forward. Everyone should go to Standing rock and get a sense of the change in Indian Country and how that's going to change policy. I've made the trip over there a couple times in support. It's ironic that it's Native American Month here in this country and yet the way our people are being dealt with is an injustice to say the least.

**Ron Allen:** One of the things that is a good thing from the Standing Rock event is it put our agenda in the forefront of America. It's hitting the media—the broadcast media, the print media. We're getting attention. It's not just a Standing Rock issue, it's an Indian Country issue and so what's the message? The permitting process, it's about respect for our governments so any action of the federal government that

affects tribes' rights, tribes' interests, needs to be inclusive of tribes. This is similar to the San Carlos Apache situation, the desecration of their sacred sites in Arizona. We really should leverage this traction to the interest of all the tribes. I've never seen anything in Indian Country come from the four directions to support a tribe like this.

**Larry Roberts:** One of the things that I would again stress is that the consultations are about prospectively what we can do better. Maybe it's administrative work that we can do better, maybe it requires legislation, and maybe it's a combination. With regard to Standing Rock specifically, there's not a whole lot I can say right at this point. The Department of Interior sent a letter very early on in March of this year expressing its views to the Army Corp and we are continuing to work with both of those agencies. I do get the social media feeds that everyone else gets in terms of how people are being treated by local law enforcement and I can share with this group that the Department of Justice is also aware of that.

**Question:** One more comment is from Chairman Frazier from Cheyenne River who isn't here. His concern is would BIA take jurisdiction of the land where the big camp is at?

**Larry Roberts:** The short answer is I don't think so because we can't change jurisdiction. We don't have jurisdiction outside of Indian Country and that's just the laws that we're operating under.

Darren Cruzan and his team have done a fantastic job at Standing Rock and while there are no law enforcement issues at Standing Rock, his team have been engaged with state, local, and federal law enforcement.

Chairman Archambault has reached out to us to partition some land that Standing Rock owns on Standing Rock so that the camp that you're mentioning can move to Standing Rock. We expedited that partition. Regional Director Tim LaPointe signed it last Friday so people can start moving to that land that Standing Rock has set aside for the winter and obviously we will be able to provide services to that land.

**Jackie Pata:** It is so important for tribal participation to happen at these consultations. We shared with the tribal caucus a summary of some of the recommendations but it's really critical that by the time we get to the end of these consultations, we have some solid recommendations. I'll be glad to give people further information. The Chairman agrees that for all the suffering that they've experienced at Standing Rock, some good that will come for Indian Country is that we should get early recognition in the permitting process. That would be at least one thing that's achieved and so we want to make sure that we accomplish that task.

**Matt Vogel:** One of the clear messages from tribal leadership is that the decision makers need to be at the table for any consultation on Indian Country because our decision makers are there. It was a request from Chairman Frazier at that consultation that if they put their name on that paper and they mean to have a true consultation with tribes, they need to show up and be there and listen to us. If it wasn't for those people at the camp, the ones suffering, the ones laying down everything that they have for something greater than themselves, we wouldn't be talking about this today. So I think their sacrifices outweigh any sacrifice of any of those people that sign that paper.

**Larry Roberts:** Either I or Tracy Toulou or Jo Ellyn Darcy have been at every consultation. I physically can't be at all of them. For example the one in Maine, I am not going to be at but someone above me in

the Secretary's office at the Department of Interior will be at that. I think Tracy Toulou was at the session, Mike in Albuquerque, in Billings. Our intent is that we will have the signatories, at least one of those signatories, at each of those consultations; for example I will be at Rapid City. I don't think I'm going to be at Minneapolis but we are trying to get the highest levels of engagement at every single one of those because I know tribal leaders are covering different ones as well. I know Chairman Frazier made the Albuquerque one but wasn't able to make the Seattle one so I know that everyone's trying. But you're right, high level engagement is important and the transcripts that come out of those are very important as well. So I will commit that we will continue to have high level engagement at each one of these consultations.

**Ron Allen:** We need some actions here by the TIBC committee. So the subcommittee on the budget, I reported out that they recommended that we contract and engage with this company called Kepner-Tregoe who made a proposal to us. There was three different phases to it. They recommended that we go forward with option one. Interior is well aware of it and in support of it so we need a motion to approve moving forward on option one of that proposal. And the whole idea was do option one, come back and then we'll consider option two after their first report.? Chris?

**Chris McGeshik: Motion made to pursue to third party assessment with Kepner-Tregoe. Seconded. Motion carried.**

**Ron Allen:** Also our recommendation was to retain the subcommittee for Public Safety and Justice. We want to make sure the Interior is agreeable with regard to it. If we get new monies or if we engage with DOJ or if we get the VOCA monies recommendations with regard to how we can continue to improve those programs. The tribes and Interior both concur that we will continue the Public Safety Subcommittee.

**Sam Thomas:** Darren, I sent an email regards to the funding methodology out of OJS funds in relationship to the 280 states. Is it going to take a statutory amendment to the language in order for that to happen or is this something that could happen internally?

**Darren Cruzan:** We'll cover that. We covered it yesterday. We spent about four hours yesterday talking about these kind of things. We'll cover that tomorrow. It's a funding issue for us.

**Ron Allen:** We received a formal notice from the Cheyenne River Sioux that Nancy Green Roberson is sitting in for Harold Frazier.

### **2017 Budget Status**

**Larry Roberts:** Congress hasn't been entirely clear in terms of whether they're going to move forward with a continuing resolution or whether they're going to pass an omnibus when they return. George Bearpaw and his team put together this one pager that highlights the increases to the '17 budget so that when you are with your delegations that you can continue to be aware of where the President has suggested increases as well as where the increases are in the House and Senate in terms of where they are in their budget processes.

**George Bearpaw:** The handout that you have explains everything as to where we are with the '17 budget. It gives a breakdown of the different increases and it also gives some information on the continuing resolution as it stands right now through December the 9<sup>th</sup>. Also at the bottom it highlights

the congressional action from the House and the Senate. There's been no movement at all with the '17 budget.

Let me also mention that part of the information that you have on the CR also mentions the across the board reduction. We did get across the board reduction which was added into our distribution for the continuing resolution. It was 4.96 percent. So you'll see that in the information that you have.

**Russell Begay:** Navajo Nation is still supporting the Bears Ears initiative. The chairman of the resource committee is always on the opposite side of a lot of things that we want to see happen in Indian Country including the tribal recognition, the whole discussion on Congress having a say over recognition of tribal groups, giving them federal recognition and at the same time some other issues that seem to come out of that committee.

So we need to take steps to counter some of those because we think that it's really counterproductive to the advancement that's been made including support for uranium mining in the Grand Canyon. There's also the Tribal Energy Act, giving authority to Navajo Nation specifically to take control of its own natural resources which up to now we've not had authority over that. We sent a couple of letters and we want to see a commissioner in place before he leaves office and so we're asking that that work commence if it not already. We need to complete that and satisfy the commitment that was made by the federal government when they removed 20,000 plus Navajo people off their traditional homeland and put them onto land that they set aside for them.

**Ron Allen:** A number of our self-governance tribes have already started receiving their draws for the first continuing resolution and I was wondering where we are with the status at least for the self-determination contracts.

**Larry Roberts:** My understanding is that we are working on getting the money, will get out to the regions tomorrow and that the regions will work, as they always do, to get it out directly to the tribes and so our hope is that it's by the end of this week if not sooner. But my understanding is that it's going to the regions either later today or tomorrow.

**Sam Thomas:** There is a question on the reduction of 477 programs in the state of Alaska. I will the read the letter. It says, 'As a tribal leader, I have an obligation to ensure that our people receive the support they need which is why the sudden reduction in funding for 477 employability and general assistance program greatly concerns me. While I'm aware of the current funding climate and the federal government's obligation to provide our nation with a balanced budget, the Bureau of Indian Affairs failed to timely or adequately notify tribal governments of the funding reduction. As a result, it is the most vulnerable of our tribal citizens who will suffer unless the funding can be at least partially restored. In late July, tribal governments received a two sentence email in regard to general assistance funding. The email stated that the programs are getting paid 80 percent. Tribes may want to call to find out their final distribution figure. Only the email subject line revealed 80 percent of what the national formula. In fact it's a substantial decrease from the previous year's funding formula which met 91 percent of the national need. While tribes questioned whether email was even an appropriate method of communication for the message of the magnitude, at the very least the email should have clearly communicated the message. It did not. A brief message lacking detail and urgency resulted in the tribes not having actual notice of the funding formula and reduced the amount of money our programs would receive. But not only is the email inadequate, it's untimely. First the continuing resolution that funds the remainder of the fiscal year was signed into law last December. Why does it take the BIA six months to figure out the equitability funding will only meet 80 percent of the need. Second, the email was unclear.

They were not aware of the funding reduction until received the Department of Interior Self-Governance Compliance Funding Agreement authority to obligate a month later and notice to discrepancies in the funding status report. As a result, with over four months left in the fiscal year including the back to school and holiday season, our most vulnerable tribal citizens are having services dramatically reduced.' I'm going to submit this letter for the record.

**Larry Roberts:** I'd like to see if we could sit down and get more detail on this because my understanding is that Congress didn't provide the funding, it's not that we've cut the funding but that Congress has caps that they did not lift on 477.

**Hankie Ortiz:** The issue really isn't with regard to 477, it's with welfare assistance and it only affects 477 because some tribes have included welfare assistance as part of their 477 agreement and so the 477 agreement is just a kind of way of bundling funds and allowing funds from other agencies to come through the Bureau of Indian Affairs and go out to tribes. The real issue has to do with the welfare assistance distribution methodology and that's a formula driven funding stream that is based on need; it's based on the information that tribes give us and the way the distribution formula works was described in a letter from the Assistant Secretary, a 'dear tribal leader' letter that went out in November. There was an explanation of the distribution methodology and that was explained how the process works. When we get an appropriation, we make a 75 percent across the board distribution and then if tribes still need additional funding we calculate what that need is going to be based on what they think their needs are going to be for the end of the year and that's plugged into the formula and then there's a distribution made across the board to bring all of the tribes up. And this year, unfortunately, the need was so great for welfare assistance because welfare assistance is a fund that covers a lot of different issues. It covers child protection funds, burial assistance, emergency assistance, adult protection. All of that comes out of welfare assistance and so the costs actually increased this year and it was based on caring for children. The needs of children that we're caring for significantly increased; while we got the same amount of money, the need was increased so much that what was actually distributed only met about 80 percent of that additional need. So that's why we were at 80 percent.

We're not going to know exactly how far we're going to bring tribes up until we do that final distribution and that's done at the last part of the year, which is why there's a late notification. And I realize that. Last year we were able to provide 92 or 93 percent for across the board for all of the tribes on welfare assistance and this year it came out to about 80 percent, which is significantly less, something we didn't anticipate and certainly the tribes I don't think could anticipate that great increased need.

That's the first time it's been so low. It hasn't met the need any year and as you all know, because TIBC has put that at the top of your priority list year after year, welfare assistance is identified in the top five of the most important needs across Indian Country and we appreciate that but the need is actually never being met. For it to be so low like it was in FY16, that was unusual. And so we should probably have communicated that maybe in another 'dear tribal leader' letter but we didn't and we were just following the methodology. That's certainly something we can do in the future. I'm hoping that we're not going to be suffering like that in the future with such a low amount of funding to meet the need but that's where we are and we'll have to see where the need falls this year. And the way the formula works is that it's all distributed, the 75 percent, and then sometimes that's enough for tribes to get them at 100 percent but other places that's not nearly enough. And so we try to treat all tribes equitably and fairly underneath that methodology.

**Sam Thomas:** Thanks for the update. My point is these are for people that have need and great need and they're vulnerable for not having the funds they need to actually survive. We advocate for additional funds for this program on an ongoing basis and then we have this program be slashed by 20 percent.

**Larry Roberts:** The other problem with welfare assistance funding is that it's capped. So once we made that distribution of that 80 percent, it was capped under the appropriations law so we could not, even if we had additional funding somewhere else, we could not by law put it toward welfare assistance. So that was another challenge that we had and that's a big issue.

**Jackie Pata:** When you're experiencing this type of unmet need, that's a good time to document the impact of these challenges because that's helpful for your testimonies, it's helpful for you to send letters to Congress. Those are the kinds of things that they need to hear to be able to make change happen and sometimes we don't document it at the spot and we really should do that right then; I know that some of the clients really emotionally had difficulties and it's important to really document that to the best of your ability and let Congress know.

### **Budget Subcommittee Update**

**Ron Allen:** This is about how we're going about reaching out to the different regions to get the priorities from the different regions. This year we're using a different technique, one that USET and Alaska used, very similar to that model.

**George Bearpaw:** The discussion that you just had about the unmet obligation fits into this report. We had an all-day meeting yesterday with the budget subcommittee. We briefed them on the actual tool itself. It's a very good tool. It will be something that we can use in the future. I first of all want to give credit to Jeannine and her staff. They've been working hard to try to come up with a mechanism that we can use. I know this has been discussed for the last two years about actually looking at unmet needs of the tribes and the regions and we've tried different things. We've gotten limited responses from the different regions because they really didn't know how to address their unmet needs or unmet obligations and I think this tool is really going to help the regions in their budget formulation process. We're starting out with FY19 with this new approach and we will be using the model that the Alaska and Pacific Northwest has used for the last couple years to get their budget information. In the future we will be working with the IT folks and other inside resources to try to come up with a true electronic mechanism to come up with the unmet obligations information as well as the information for the budget formulation for each of the regions.

**Kitcki Carroll:** I want to acknowledge the work of Jeannine and her team to respond to the many conversations that we've had about the shortcomings of previous budget processes. I think what they've produced is progress towards what we're talking about. It's not perfect. We know some of the things that need to be tweaked and some of the edges that need to be massaged but it's going in the right direction. However, the point that we talked about in caucus this morning is specific to the fiscal year '19 budget process. What's happening on a parallel track is the third party contractor coming in to assess the process as it exists right now. That would mean the fiscal year '19 process as being implemented right now. The assessment will be about that, the recommendations will come back about that and that will either say, 'Yes, this is progress from what you guys had before and I would continue down this road and strengthen these areas and sharpen these areas,' or it might be a full, 'Do away with

it and here's what our recommendations are.' But for those of you who have not had the opportunity to take a look at the tool, one of the enhancements is that it's a web-based type environment.

This model offers the option to save this and to pass it around at the tribal level so that your social services director can enter the social services component of that question and then pass it on to education – really useful. That was one of the criticisms in our region when we did our survey about the difficulty in getting everybody to touch it that needed to touch it. One of the other things was getting to an unmet needs, unfunded obligations answer; we're finally going to be able to answer that question in the same way that we answer it on the IHS side.

This model will allow us to be able to give a number with specificity on unmet obligations. I want to express our appreciation for the work that you guys have done because there clearly was some tremendous work put into putting forward this. The key for us now at the regional level is making sure that our staff understands the tool. With this type of option I don't see why you would not be able to secure 100 percent completion rate.

**Ron Allen:** George, you told us that you're putting together an initial draft of the standards and metrics that we would measure each program so that we have a consistency of unmet need, is that correct? So we will need to review that list and make sure that we are all on the same page with what those metrics are because that message has to be consistent from region to region.

**Kitcki Carroll:** We had conversations for developing the average cost needed for our programs as a way of calculating costs via a back door method to arrive at an unfunded obligation figure. They looked up averages but they went even a bit further to regionalize that. There is also work to estimate at the regional level the necessary FTEs for certain amounts of acreage or for this population base or whatever to get closer to a number that's based in some fact. So I know they used various congressional reports, department reports, all these sorts of things to be able to uncover some of this information. So it's not complete but it definitely is advancing towards where we are trying to arrive.

**Russell Begaye:** We had proposed back about a year ago in the budget discussion that out of the five priorities of the BIA, that each region, in this case Navajo region, would determine where to allocate those monies within the subcategories. In those subcategories, for instance, public safety is one of the five priorities at the BIA, we would determine what our critical needs are within those subcategories working with our regional director rather than at the DC level. It would be similar to a block grant for each of the five and then we at our region would determine how to allocate those within each of those five priorities and that's what we're asking.

**Jeannine Brooks:** You have a handout of the overall formulation process because we keep asking people to give us feedback on how to improve. This is a copy of the total budget formulation process, which outlines Central Office responsibilities, regional responsibilities and the survey so that you'll at least understand the entire process, in addition to your own piece of it. You also have a hard version of the survey. This is the electronic tool that you actually will see when you log on so you can see what it's made up of just so you can get a look at it. And you can see all the calculations are actually in the unfunded obligation portion for everyone to go by.

**Buster Atteberry:** There's an issue; the BIA's removed federal tort claims coverage for cooperative agreements that reimburse tribal costs for wildland fire management and emergency incident management activities where BIA has formally sponsored a tribal workforce for the purpose of wildland

fire management. These decisions have serious implications on tribal programs and we need to have consultation on those. Tribes are exposed to enormous risks, the ability to maintain tribal fire programs at the scale or for the purpose that could be considered as being responsive to the true needs of tribal community is not being able as per 25USC450 and 450A. We've done a lot of work in developing a program that reduces fuels that will eliminate the devastating fires that we have and that is in the process now. And we train many different agencies. Forest Service comes in, Fish and Wildlife, a lot of different agencies come in and we do that training. So this is important. So I don't really need a response in this. I've showed this to our regional BIA director Amy Dutschke.

## **OMB Update**

### **Budget Overview**

**Anna Naimark:** It's always an honor to be here. It's very humbling to present to tribal leaders. We have been asked to talk to you all about the Native American crosscut. There's always a lot of questions about where that money is, what it looks like so we wanted to go a little depth on a couple of the topics, as well as provide an overview of the budget process. And then we'll have a chance to do some question and answer.

I work in the Interior branch at OMB and cover the Indian Affairs portfolio with my colleague Aaron Ray. Brian Jacob is in the Transportation branch. Aaron and Brian will talk about roads, both DOT and DOI. Julie Dingley is from our Justice branch and covers the Tribal Justice portfolio so we'll be talking a bit about Public Safety and touch a bit on HHS as well.

I wanted to talk about how the budget process works because there's a lot of constraints that we're working under. Tribes are also working under many budgetary constraints, but we will start with a 10,000 foot view. Budgeting in the federal government is an incredibly complex process and entails a number of sub processes and thousands of employees doing lots of work. We work with BIA, the DOI head office, OMB and across the government, but the most important piece of the budget process is Congress. Congress actually make the decisions at the end of the day. The agencies start working on their next budget early in the spring and they each have their own internal processes and then they pass along their budget requests to OMB in the fall and we have an iterative process where we go back and forth and we work on how we balance priorities and fit within targets that we get.

We know there are a lot of needs in Indian Country, and those needs are not just met in Department of the Interior. They're met in EPA, in DOJ, and there are also other priorities. We work internally to balance that. Especially in the Interior branch, we look very much at the work that TIBC does and the prioritization that TIBC does. We know you're working on changing that process but TIBC is something that we take very seriously.

Once the President submits the budget to Congress, the first Monday in February, the House and Senate budget committees who in, if we were operating in a normal world, would each direct a budget resolution which would then go into budget conference and then there would be a budget resolution and that budget resolution would have a 302(a) allocation. That sets the total amount for the appropriations committees to spend. So the President's budget, the executive branch, proposes a budget, but then Congress decides what to spend. While we're working on our budget process, we always have to keep that in mind. Then the appropriations committees decide how to divide that funding amongst the 12 subcommittees. These are called 302(b) allocations.

The 302(a) and 302(b) allocations are really important processes because they constrain the whole larger process. Once you have those sub allocations, that's what each of the subcommittees can work from.

Once the subcommittees have their allocations, they propose a bill that ultimately must pass both chambers of Congress. Considering politics, that doesn't happen until later in the process. It should happen by October 1<sup>st</sup>. It usually doesn't happen. So instead we get to continuing resolutions and then they usually work toward one big bill, an omnibus bill. Important to note here is the Budget Control Act of 2011, which set caps on discretionary spending through 2021, and so the BCA sets the 302(a) allocation. We have these caps that we have to meet unless there is a budget deal cut in which those caps are raised.

These are the constraints of the larger budget picture. You are working on 2019. We're in a unique year because of transition and so 2018 will come out in a couple of phases and it won't be the same process. The congressional justification, or the Green Book, that the Bureau of Indian Affairs sends over to Congress, it's not going to be out the first Monday or first Tuesday in February like it usually is. That'll be a later process because of the presidential transition. And all of these processes inform each other and they're real politics on the Hill in terms of the money between these sub allocations and as an allocation as a whole. That is the framing to move in to the Native American crosscut and to talk about what sort of funding for individual Native Americans and for tribes looks like across the government.

#### OMB Crosscut

**Aaron Ray:** I'm an examiner in the Interior branch at OMB. Anna and I share the Indian Affairs portfolio. We know the Native American crosscut is something that tribes are very interested in, and it's something that we get questions about. We want to talk about the goals of the crosscut, the process that we go through to produce it, and what some of the limitations are as a tool and what some of the opportunities are.

This is a summary of the FY17 Native American crosscut. The Obama administration has been producing these since 2009 and this is just showing at the department level spending in FY14, '15 and '16 and in the '17 President's budget. You can see a gradual increase in funding. The crosscuts are posted online. It is posted every year on DOI's website and so you can find it there including past years, if you're interested, to find more detail than what I just showed.

I want to talk about the purpose of the crosscut. To produce the cross cut, OMB asks agencies to provide data on federal funding that benefits or is related to Native American, American Indian and Alaska Natives tribes, communities and individuals. It's important to understand what data shows up in this crosscut. There are two real goals of the crosscut: transparency and then to improve decision-making.

*The first goal is transparency.* We want this information to be public so that tribes and other interested individuals understand how much funding is being directed to programs that benefit Native Americans. The Obama administration has other crosscuts that are made public in a similar vein, for example, on research and development spending across the government. So the first goal is just one of transparency. We want you to be able to see what funding is being spent on programs that benefit Native Americans.

*The second goal is to improve decision-making.* Having this information can help us in the budget formulation process, it can help Congress when they're thinking about funding levels, it can help you when you're thinking about priorities so we do think that this is useful from that perspective.

*Process:* In terms of the process, I'm going to talk about what worked in FY17. FY18 is a little bit different. We're not in the FY18 budget process at this time of year as we normally would be because of the transition. The FY18 budget is being written by the next administration so this whole process is a little bit different in a transition year. But in a normal year, OMB would ask agencies to report funding in the fall about the same time they're submitting their budget requests to us. Agencies submit funding of programs that benefit or are related to Native American, American Indian and Alaska Native tribes, communities and individuals. They submit the funding in millions of current year dollars and they're submitting funding that's budget authority. It's not how much money they actually spent, it's the budget authority that they have. In the winter, agencies are asked to update the crosscut to reflect decisions that were made in the formulation of the budget process so that what we release in the spring shows the final FY17 President's budget and it's posted on DOI's website. OMB's role is to review what agencies submit to us.

*Limitations:* There are some limitations. First, agencies are asked to report all funding of programs that benefit or are related to tribes. That does not mean that they're reporting funding that is available to tribes in the form of grants or contracts or compacts. There's a very important distinction. So for example, Department of Education funding in FY17 included \$3.7 billion in indirect support funding. That's essentially student loans. That's money that's available to individual Native Americans but it's not money that would be passed through to tribes as part of a grant or a compact or in a grant program. So it's important to understand that not all of the money that shows up in the crosscut is money that could be taken on by tribes at some point, just because of the way it's designed.

The second limitation is it doesn't necessarily capture all of the funding that's available to tribes. So as tribes are eligible for many grant programs that are open to states, localities, etc., that may not show up in the crosscut because it's not specific tribal funding. It's funding that's available as grants and lots of different entities can apply, including tribes. So this is not all of the money that's available but it's also not all money that's available directly to tribes. Those are two important things to keep in mind.

OMB's role is to collect this information and we try to understand it as best that we can but the agencies are the experts about their programs and so we're happy to answer as many questions as we have, we're also happy to connect you to agencies if you have more detailed questions that we can't answer.

The last thing I want to mention is despite the limitations of the crosscut, there are real opportunities that I mentioned in terms of using this information to inform decision-making. In the last budget, OMB asked agencies to coordinate their funding around six Native youth priority areas because improving lives of Native youth has been a priority for this administration. That kind of coordination, where we get agencies to think about what are our goals and how do we achieve them together, is something that the crosscut can help inform in other issue areas in the future.

**Anna Naimark:** As mentioned, the crosscut doesn't necessarily get to every single piece of funding that's out there and every single piece of that funding doesn't necessarily get to tribes.

This is Department of Justice, Department of the Interior and Health and Human Services. And again, when we looked at Public Safety, we wanted to take sort of a more comprehensive approach and so this list is not exhaustive but it also includes things like violence prevention and some of the funds that go for victim services because we know when tribes are often looking at public safety programs, they're looking at police, courts, detention facilities, services for victims and their families, services for those who've been in detention as well as preventative services. With efforts like Tiwahe you see that this is

the area we're going more towards rather than having these things be siloed. And we could be even more inclusive. Like Tiwahe has some job training, more welfare, social services but we wanted to cut it off and try and make it sort of things that are really directly related to public safety funding. So this is just a bit of an overview of different pieces.

I'm happy to provide you a copy of this table. We're not going to be providing the whole slide show. OMB has a challenging clearance process here and we're cleared to talk to TIBC but not necessarily distribute the whole presentation. I'm happy to get you this table though because everything here is publicly available anyway but we do have a bit of a limitation on that.

<b>DEPARTMENT OF JUSTICE</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017 Budget</b>
Bureau of Prisons	119	121	123
Environment and Natural Resources Division	11	12	13
Criminal Division	1	0.7	0.7
Civil Division	0	0.3	0.3
U.S. Attorneys	22	20	20
Office of Tribal Justice	1	1	2
Federal Bureau of Investigation	35	31	31
Office on Violence Against Women	47	53	56
Community Oriented Policing Services	33	30	38
Office of Justice Programs	48	40	136
Community Relations (CRS)	0.2	0.2	0.3
<b>TOTAL, JUSTICE</b>	<b>317</b>	<b>309</b>	<b>420</b>
<b>DEPARTMENT OF THE INTERIOR</b>			
Criminal Investigations and Police Services	193	198	198
Detention/Corrections	94	95	97
Inspections/Internal Affairs	3	3	3
Tribal Law Enforcement & Special Init	8	11	11
Indian Police Academy	5	5	5
Law Enforcement Program Management	6	6	6
Facilities Maintenance	13	13	13
Tribal Justice Support	5	16	8
Tribal Courts (TPA)	23	28	31
Fire Protection (TPA)	1	1	1
Juvenile Detention Education	0	1	1
Total, Public Safety and Justice Construction	11	11	11
<b>TOTAL, DOI</b>	<b>364</b>	<b>389</b>	<b>385</b>
<b>HEALTH AND HUMAN SERVICES</b>			
Promoting Safe and Stable Families (Courts)	1	1	4
Family Violence Prevention and Services Act Prog	14	15	16
Domestic Violence Prevention Initiative	8	N/A	12
<b>TOTAL, HHS</b>	<b>23</b>	<b>16</b>	<b>32</b>
<b>TOTAL</b>	<b>704</b>	<b>714</b>	<b>837</b>

This is FY15, this is FY16 and this is the FY17 Pres budget and you'll see here for HHS they've requested some additional funding for court support. Julie will be talking a bit more about DOJ. For DOI, we had a really big increase for 2016 and you'll see it's leveled off here for 2017.

The majority of the funding is going towards actual operations and it's going towards tribes or to BIA law enforcement. We have things like the Indian Police Academy which helps train police officers. Facilities maintenance; obviously there's a lot of law enforcement facilities out there. In FY16 there was newly reconstituted funding of \$500,000 for education in juvenile detention facilities. There is detentions and corrections. We have a little bit in fire protection and in tribal courts.

HHS should also be included if you're taking a more holistic look at public safety and looking at violence prevention. They have some violence prevention programs. IHS provides grants \$7.6 million over five years grant cycle and then they didn't have a grant cycle in FY16 because they do one grant cycle for five years, then they do another grant cycle for five years. So they had a grant cycle in the 2017 President's budget that they increased four million dollars for almost \$12 million in grants to tribes. That's almost double and so they could do almost double the amount of grants if Congress appropriates that. Also included at HHS are different things like elder violence, intimate partner violence and other domestic violence prevention. Key to addressing our public safety needs is also addressing violence prevention. The Family Violence Prevention and Services Act Program provides shelter and support for victims of violence—domestic violence, family violence, dating violence and their dependents. So in 2016 that was \$14.5 million and that is based on a formula.

We're talking about formulas and grants and sometimes set asides, sometimes TPA funding: this highlights one of the other challenges that we have with the crosscut, which is that the funding is distributed in different ways. For USDA for example, there's a \$2.2 billion direct loan program that can be used really flexibly but only \$1.5 billion is used and none of that money is captured in the crosscut.

There's a real challenge in how we approach some of this funding and how we represent it in the crosscut. It's really difficult to disentangle it all, which is why when you've been asking us, 'where is the \$19 or \$20 billion,' it's always a bit of a difficult conversation to have. That's why we wanted to get more into the details when it comes to two specific programs.

Another thing that FVPSA supports is the National Indian Resource Center, which addresses violence against women. They fund a resource telephone line for women. That's a service that is targeted at Native American communities but isn't actually money that goes straight to tribes, so this amount is captured in the crosscut. You can see there's this tension between money that's going directly to tribes or money that's going to services that are for individual American Indians or Alaska Natives.

And on that point, you see some of the funds here. When there are contracts, like 638 contracts, sometimes those go back and forth so that's another challenge. How much of that funding is direct services and how much of that funding is going directly to tribes and so again it's another limitation of the crosscut. We have trouble saying exactly what is going to tribes because it's frankly a fluid number.

**Julie Dingley:** I cover the DOJ state and local grant portfolio, which includes grants to tribes. This presentation will provide you an overview of the DOJ programs. What's really striking about this graph is that you can see that Bureau of Prisons takes up almost 40 percent, which is about equal to the amount that goes out actually in grants.

This gets to Anna's point almost exactly, the difference between the services that are provided versus the dollars that are actually going to tribes. The remaining 20 percent is split between half FBI and the rest are litigation divisions. The jurisdictional issues on tribal lands are incredibly complex and vary from place to place. DOJ is tasked with a number of different laws that they have to enforce, including most

recently Tribal Law and Order Act and special domestic violence jurisdiction that was provided in VAWA 2013.

There are a number of things that DOJ is working through; that's why this breaks down in the way it does. Tribes are probably most familiar with this 40 percent that goes to grants. In FY2010, DOJ recognized the immense burden that applying to so many grants is for tribes, so they wanted to streamline it through the Coordinated Tribal Assistance Solicitation or the CTAS process which provides one application. CTAS allows one application for all of DOJ's tribal government specific grant programs. There are other grants that tribes are eligible for that are not included in CTAS but this at least is the one stop shop for that dedicated pot of funding. The benefit is also on the DOJ side. On the tribal side it's to reduce burden. On the DOJ side, it helps coordinate award decisions so that they know how much is going where and try to make everything make the most sense possible. These are bucketed in nine purpose areas and these are driven by the amounts of those originating pots of money. They do take into account the demand for those grants when they're putting in their budget submission to me, their request for the President's budget and then the request to the Congress. There's still much greater need than is met by the current grant levels and that's why in the '17 budget and actually the last couple of budgets, DOJ has proposed a seven percent set aside from all discretionary programs. So that would scale dollar for dollar with how much the rest of the discretionary grant pots scales.

**Anna Naimark:** The next part of this presentation is to go through examples of other public safety funding. We didn't address all of the public safety funding or all of the funding in general that's available to tribes in the crosscut or some of the funding. If we're talking about public safety, there are some programs that are ancillary to what we usually think about in terms of law enforcement, corrections and others. For instance, there is the USDA Rural Development Community Facilities Grant and Loans, \$2.2 billion in direct loans, with only \$1.5 billion used. These are loans specifically for the most rural communities that have the most poverty. There is also \$148 million in guaranteed loans, so if somebody wants to go to a private lender, USDA will help guarantee that. Then there is \$39 million in grants. This program can actually be used for police vehicles, firehouses, and ambulatory care facilities. It's a really flexible program, but because the Rural Development Community Facilities Program addresses all rural communities, it's not included in the crosscut and just one example of many examples of sort of funding streams that are available to tribes that could be better utilized.

HHS has a number of other programs. In 2017 they're launching the Strong Hearts Helpline in partnership between the National Domestic Violence Hotline and the National Indigenous Women's Resource Center. It's a crisis line for Alaska Native and American Indian women and girls who are facing domestic abuse. There's also programs that help in communities around foster care, which as we know can be an issue in the court system because of ICWA. There is \$11 million available in formula grants in Promoting Safe And Stable Families and then in foster care and permanency, they will do matching funds and that is uncapped entitlement so they will match as much as the tribe puts forward. Again, this is completely non-exhaustive of other areas that would contribute to public safety.

#### Transportation

**Aaron Ray:** Next is transportation. The bulk of the funding that's available to tribes for transportation does not come through DOI. It's a good place to highlight the importance of cross-government coordination in these kinds of programs.

I spent a few years living on the Navajo Nation in New Mexico and experienced the poor condition of tribal roads. DOI is also aware of how important roads are and it's been part of their strategic objectives

to improve the condition of roads that serve tribes. From the BIA perspective, BIA has maintenance responsibility for 29,000 miles of roads. That's 7,000 miles of paved roads, 4,500 miles of gravel roads and 17,000 miles of unimproved or earth surface roads. BIA also has maintenance responsibility for 914 bridges. Just within the BIA portfolio this is a significant issue and a significant effort. In order to address that within DOI, BIA has the road maintenance program. Since FY14 funding is about \$27 million that we asked for in the President's budget in FY17. The House and Senate funded about \$30 million so there are some increases likely to come there. BIA funding here is for maintenance of BIA owned roads and transportation facilities as well as bridge maintenance, snow and ice removal, emergency maintenance and ferry boat operations. Maintenance funds are allocated to the regions by formula and then sub-allocated to agencies or tribes after that.

The BIA owned piece of the transportation portfolio is only a small percentage. The National Tribal Transportation Facility Inventory shows ownership of existing roads. BIA only owns 20 percent of the roads that serve tribes. States and counties control most of the roads. This highlights the real importance of not only cross agency coordination within the federal government but cross government coordination with other levels of government to address this issue. In the crosscut is tribal funding within Department of Transportation and this is where the majority of the funds for roads that serve your communities come. BIA has a critical role in road maintenance but road construction funding is coming through DOT, which is reflected in the crosscut.

**Todd Brian Jacob:** I work in OMB in the transportation branch and I cover the Federal Highway Administration's budget. The FAST Act governs surface transportation policy and funding for fiscal year FY16 through '20. The FAST Act stands for Fixing America's Surface Transportation and is a five-year surface transportation bill. It's the first long-term transportation bill we've had in over a decade. It follows MAP 21 which was signed into law in June of 2012 and was originally a two year bill but was eventually extended five times until December of 2015 when the FAST Act was passed and signed into law. The FAST Act authorizes \$305 billion over five years for highway and motor vehicle safety, transit investments and hazardous material safety investments, passenger rail and a whole host of R&D and statistical programs. It also included \$70 billion in transfers from the general fund to the highway trust fund to keep the trust fund solvent at least through the duration of the FAST Act. From a policy perspective, the FAST Act really builds on some of the policy reforms that were first introduced in MAP 21 including an emphasis on improving project delivery, on establishing new freight programs.

Going into specific tribal programs, the Federal Highway Administration, under its federal lands program, has a tribal transportation program. The FAST Act introduced a new program, the Tribal Self-Governance Program. The FAST Act established this Tribal Self-Governance Program to provide qualified tribes with some more direct access and control over its federal highway and transit funding. The FAST Act requires that participating tribes must demonstrate three years of financial stability and financial capacity to manage funding. Qualified tribes may enter into agreements in compacts with DOT which are multi-year. And once in place, tribes will be able to plan, consolidate and receive its full share of federal funding directly from DOT.

DOT has initiated a negotiated rulemaking to work out the details of this program so that it can be set up in the near future. Now for the Federal Highway Administration's Tribal Transportation Program, it provides an annual average of \$485 million for projects that improve access to and within tribal lands. The program structure didn't change drastically under the FAST Act but it did lower administrative funding set asides for DOT and DOI and it also increased the set aside for tribal bridge projects. It also introduced new reporting requirements for any entity that carries out projects under the TPP. These

entities are required to provide specific project information to DOT including project name, project description, the current status of the project and an estimate of how many jobs the project will generate.

The TPP is the largest program within the Federal Highway Administration's Office of Federal Lands and the Federal Lands Highway Office and BIA jointly administer it in accordance to an interagency agreement. The federal share for projects under the program is 100 percent. There are statutorily prescribed set asides for safety projects, for planning efforts, for bridge projects and also for project management and oversight. Eligible activities include transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction and reconstruction of tribal transportation facilities. Funds are distributed to tribes based on statutorily prescribed formulas, which are based on tribal population, road mileage and average tribal share of formal tribal transportation allocation methodology formula. The Federal Transit Administration also has a tribal transportation program and the FAST Act reauthorized it over five years at \$35 million, \$30 million of which goes out to tribes by formula and another \$5 million, which goes out as competitive grants.

The eligible activities under this program include planning, construction, operating and maintenance activities and also acquisition of public transportation services. The FAST Act also authorized a new freight program that the department is calling Fast Lane. This is the department's first freight specific discretionary grant program and it is funded at an average of \$900 million per year and it can support projects that are over \$100 million, though there is a set aside for smaller projects as well. Eligible activities include any highway freight project that's of national or regional significance, any freight rail project or intermodal and port project and rail highway grate crossing projects as well. It has a broad eligibility in terms of applicants and includes states, tribes, localities and other federal land management agencies. There is a rural set aside of 25 percent and for projects below \$100 million. The program is managed by the Office of Secretary and specific projects are selected by the Secretary himself. Congress has 60 days to disapprove of any project that the Secretary does select. The first round of TIGER occurred in FY16 and during that round approximately \$760 million were awarded for 18 projects that are valued at over \$3.6 billion and it covered 16 different states. Seven of these projects are considered small projects. In other words, they're worth under \$100 million. The department recently just announced the facilitation for the FY17 round of Fast Lane. A NOFA was published on October 28<sup>th</sup> and DOT is requesting applications for \$850 million in grants.

Outside of the FAST Act, the department has, since the Recovery Act which was passed in 2009, a popular TIGER Discretion Grant Program and this is the department's truly multi-modal discretionary grant program. There have been eight rounds of TIGER since its inception in 2009 and it has awarded a combined \$5.1 billion to over 421 projects in all 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands and to tribal communities. 19 of these awards were for tribal projects totaling a little over \$101 million across all rounds of TIGER.

It is a competitive grant program similar to Fast Lane. We expect to have another round of TIGER but it's subject to appropriation since it's not included in the FAST Act. So assuming we get a full year bill, we expect to have another round of TIGER which will then be followed by a NOFA and solicitation of projects.

#### Questions

**Ron Allen:** We want to express our deep appreciation for the snapshot update on where are we with regard to these funds. We had asked about getting down into the weeds of the programs to see how effective they are and that's why we want to analyze it. So you say there's \$20 billion out there and X number of tribes are getting certain programs, Y number of tribes are getting other programs. A lot of those programs are grant programs so they are problematic for us. Whether it's DOJ programs or whether it's other programs that are out there, HHS, etc, if they are grants, we don't have resources to sustain whatever it is we're remedying. So on the one hand you get money for new roads but you don't get money to maintain the roads so they deteriorate.

For road maintenance, we get \$26 million. The inventory is getting worse. We want to make sure that if different tribes that are here or the ones that are not here, how do they go about getting in the game and can they even get in the game? Do they have the resources to be able to be competitive if it's a competitive grant proposal? So there's all those kinds of questions that we have and I think that what we need to do is stay in touch.

**Kitcki Carroll:** We understand you offer two things in terms of that crosscut. One, that there are dollars being accounted for and reflected that tribes necessarily aren't accessing. The other part though that you spoke to that's a little bit more troubling to me is additional dollars that aren't reflected in the crosscut which would lead somebody who maybe has anti-Indian interests additional ammunition to say tribes get even more than \$21 billion.

Part of the White House Council of Native American Affairs under Section 2 of the Executive Order it talks to establishment and within that particular section, the language that it says is, 'There is established the White House Council on the American Affairs shall improve coordination of federal programs and the use of resources available to tribal communities.' It's very specific. The crosscut is essential to that section.

We need a crosscut that shows dollars that are going to federal infrastructure for all the federal FTEs and resources that are needed to fulfill their trust responsibilities, what's the allocation for that; dollars allocated for direct service tribes and the resources that are going to provide services to them; 638 contracts and compacts; grants; and then available via loans.

It's not appropriate to include loans monies as part of this number nor grant monies necessarily. My last thought is, it's more of a question, in fiscal year '14 the U.S. spent \$35 billion on foreign aid spending. My understanding is that foreign aid spending comes from the discretionary side of the federal budget through the International Affairs slice of that pie. The Department of State though in December of last year issued a report on its findings about foreign aid spending and one of the things that it said is, 'The Department of State does not have a standard foreign assistance business process to capture foreign assistance activity from budget planning and allocation through obligation and disbursement in the department's multiple budget financial and program management systems.'

So basically what that report found is there's \$35 billion for foreign aid spending which basically isn't being reported on. Indian Country has numerous reporting requirements. I'm very interested in hearing at some point from OMB what their perspective on this comparison. Tribes are not being dealt with as an equal sovereign. We are not being dealt with as repayment on debt for all the resources that were exchanged. We are in a grant driven mentality.

**Anna Naimark:** One, I can't speak to the State Department funding but understand your frustration. There are some reporting that is required with that but I can't speak into much more detail on that. We

are here to communicate with all of you and hear feedback. It's really helpful and we're not going to accomplish this in one day or one month or one year, but if we can keep working together I think that we can keep moving the ball forward. This is our attempt to go into some of these details to move that ball. We've been given a lot of questions of where is this money and so we want to be really honest about our challenges in understanding this money. I hear your concern, and hope that this is a step forward and not a step backwards. That's our intent in being here.

**Aaron Ray:** Thank you for the comment and the suggestions. To your point about what you would like to see included in a crosscut, in general when we look at this each year, one of the things that we try to do is ask some of the questions that you're raising. We want to provide information that's of value and balance the value of that with the cost of information collection.

That's true anywhere that there is reporting. I appreciate that you're seeing the same thing where you're being asked to report information and that has cost for you to collect and report that information. When we're looking at the crosscut, we're trying to figure out what's the balance between providing the information that you need and that others need but also making it manageable for ourselves and for agencies. We think about those questions every year and try to figure out what can we provide to the points that you're raising about what would be useful to you and what you need.

To your point about the White House Council, this year there was coordination around Native youth initiatives, which came with an effort to develop metrics to assess the effectiveness of those investments and that's something that OMB has been involved in very heavily and something that we think the White House Council has been doing a good job developing. It's not perfect yet but that ability to assess how well are we investing federal resources and what is the return on those resources is something that we would like to see sort of across government.

With the WHCNA, we're never going to fully reach that goal until we have all the information; but when we're focused and OMB released budget guidance on coordinating around these areas because when we're focused on specific outcomes, we can get the right people in the room and start talking about these difficult questions. We are digging really deep into what is this funding, how does it interact with this other funding and how can we make it work better and how do we measure our own success.

**Ron Allen:** Following up on comparing foreign aid and what's required of them versus an example like what we're doing with self-governance. For years we would give exhaustive reports and it went nowhere. That's why our legislation for self-governance tribes eliminated those reports because they weren't being used. Then we come to the administration including OMB and asking for more resources, your answer to us is, 'We don't know what you're doing with the money.'

However, foreign aid spending doesn't require the same kind of reporting.

We don't mind reporting if it's useful. We have to figure out how is the federal government and OMB contributing to nation building. Nation building is a comprehensive agenda—our governmental capacity, our natural resource capacity, transportation, economic development, etc. It's good to know in the different programs whether it's Interior or whether it's USDA, do you have loan guarantee programs if we're borrowing money in order for us to become more self-reliant because we generate unrestricted revenues. That's a good thing and it should be an incentive. When we examine the \$20 billion, whatever the number actually is, compared to the need, the need is 10 times that. I don't know what the real number is but I could easily say it's 10 times that. The federal government will never come up with that

money so the federal government needs to be in a position to try to help us be more resourceful with what resources you do provide us and then give us more flexibility. That's why the second component of this conversation is the crosswalk between agencies or departments and you take the BIA and OJS with DOJ, take COPS monies. Just COPS alone, just that one program alone, you showed a big circle of a lot of programs in there and that is VOCA monies if we can get our hands on the VOCA monies. But moving those monies into one legal vehicle would help us do our job and then the question is, will that require excessive reporting requirements. So if I get X and I've got to spend a significant amount of Y in order to report, then the answer is I'm getting less, it's less effective at serving our communities.

**Question:** on whether loan dollars are included in the crosscut

**Anna Naimark:** It's not because it's a generally available program, it's not included in the crosscut. There is in the grant section, there's a set aside for tribal colleges. That part is included but that was the only piece of that almost \$3 billion that was included in the crosscut, nothing else is included.

**Aaron Ray:** We wanted to demonstrate today that not only is serving Indian Country a responsibility of all departments in the federal government, that's reflected by the fact that it's the responsibility of examiners across OMB. It's not just Anna and I and our work in the Interior branch. One of the things we wanted to highlight by having Julie and Brian here is that examiners across OMB working on their programs with their departments where you have interests have a lot of expertise here. And so to the extent that we can facilitate conversations between you and whether it's people in agencies or other folks within OMB who can be helpful in making these programs more effective, that's something that we want to do. We can't expect to answer all of your questions today but we really do want to continue the conversation and try to answer as many as possible.

## Day II, November 9, 2016

**Invocation** A.J. Not Afraid

**Ann Marie Bledsoe Downes:** Our goals and our objectives, they don't change, but our strategy might. I joined the administration in September of 2014 and felt that the 700 and some days that I would contribute might be some of the most important of my life. I feel like the next 70 perhaps are just as important as the first 700. We will continue to do everything we can in the upcoming days to get some of our things accomplished that we can and leave us in a good place. There is definitely a reassessment of our strategy from Indian Country. We are cautioned in the department very often that we can't say anything about the election. There's no election to influence right now so I will say this is that we are indeed in a different time and what comes next is a lot of uncertainty for sure. I'm reminded of just how resilient and how strong of a community we are and where we come from and that we have survived and endured many challenges and there may be a few coming our way but we can build on the progress we've made. I'm really hopeful about what we've done together thus far and it's solidifying us as a group together to be able to come together on strategy in how we navigate the upcoming next few years.

## BIE Presentation

**Ann Marie Bledsoe Downes:** I'm going to introduce Tony Dearman and he will introduce his associate deputy directors and some of the staff at BIE. We are in the middle of the reorganization and reform. We are staffing up the organization under the new structure and that is a slow and deliberative process.

It's not easy in the federal government to execute a hiring process let alone one on this size and this magnitude but we are making progress. Tony Dearman comes from BIE, from our schools, most recently as our associate deputy director so he knows BIE from the school level. He knows what it takes to change our organization into making it into the sort of customer service model that we want to make BIE into and so it's responsive to our schools and not an organization that is pushing down and putting pressure on our schools.

**Tony Dearman:** I started out working for my tribe, the Cherokee Nation of Oklahoma as a science teacher, became principal there in our tribally controlled school, saw an opportunity to take over at Riverside Indian School which is a Bureau operated off reservation boarding school. They were my kids. We had everything from the mental part, medical, clothing. From there I become the education line officer for Seattle, Washington, and I worked with the tribes of the Northwest. Went to Albuquerque. I've worked with the tribes in the southern pueblos, had 10 schools there. Went back to Riverside Indian School for a couple years and then saw the opportunity to advance to the associate deputy director.

Introductions: Jim Hastings is the Acting Associate Deputy Director for BIE. He's filling in my former role. Rosemary Marie Davis, the Associate Deputy Director for Tribally Controlled. Dr. Tamara Pfeifer is the Associate Deputy Director for Navajo. Dr. Jeff Handley, the Associate Deputy Director for Division of Performance and Accountability.

**Kee Allen Begay Jr.:** School housing is an issue with all of these tribally owned community schools, BIA schools. For example, some of my community members, my community schools housing is in great need. I'm wondering what your plan is to include, incorporate some form of funding to replace this housing or implement some form of housing plan; if we want to recruit a lot of qualified teachers, I think we need to accommodate them in housing on campus.

**Tony Dearman:** The housing part and the facilities part is based out BIA. Right now we're working on a teacher equity plan and one of the things that we found out is our quarters situation. We have a lot of need for quarters to attract teachers. It's really surfacing to the top as being one of the problems that we have in recruiting our teachers and retaining them. So the answer to that would be we know we've got to really set and establish the relationship between BIA and BIE to really address our problems with our quarters and our facilities.

**Rick Harrison:** One of my concerns and hopes is that you could work with the Department of Education and working more closely in helping the tribes that aren't eligible for BIE funding, for instance the ones in Alaska, and more specifically for operational funding and not just specific program funding.

**Sam Thomas:** We need to find resources to assist tribal communities and villages in Alaska. Under the No Child Left Behind Act we've seen a series of students leaving the villages, going to the hubs and then into the metropolitan areas where they felt that they failed themselves. So if we could keep them more at the village and more at the hub levels in school, makes more sense than having them living on the streets and having no opportunity to afford education.

**Buster Atteberry:** The Karuk Tribe, we have three locations which are geographically separated by probably 150 miles and we are a reservation-less tribe so my comment is the same. We would really like the Bureau of Education to take a look into the non-reservation tribes and the struggles that the Indian children go through there. I'm a former teacher. Probably 60 percent of our Native American students

choose alternative schools. The curriculum sometimes is not adequate for the vision for Native American students.

### **NIEA Update**

**Dimple Patel:** NIEA is the most inclusive based organization representing the needs of all Native students. NIEA would like to thank you for continuing to make education a priority as you consider budget priorities in general. I passed along our budget requests. We have made education construction along with language immersion programs a priority and we continue to make that a priority based on what our members have advocated for. And this document in general is a consolidated document with all National Indian Education organizations so American Indian Higher Education Consortium, the National Indian Head Start Association. All of those organizations have provided their priorities to us and we've consolidated it into one document. So these are really the education priorities for Indian Country. So if you have any questions about this document, please let us know. States and tribes have a lot more autonomy in educating their students and so we want to ensure that provisions like tribal consultation, meaningful engagement are implemented accurately and in a way that does right by tribal communities. So if you have any questions in regard to any of that, please let me know and thank you.

### **Public Safety Update**

**Darren Cruzan:** We do appreciate the fact that this public safety subcommittee has been created.

When we talk about Indian Country law enforcement, it's very blurred lines to us when you're talking about BIA versus tribal. We don't see it that way. It's really one effort that we have.

But it is good to have more people at the table whenever we're having these conversations about how money would be distributed throughout Indian Country. Certainly PL280 is part of the conversation. We appreciate the relationship that we have with the Department of Justice.

### **DOJ**

**Josh Ederheimer:** It was a little late night for us at DOJ. It's been kind of busy and there's a lot going on this morning. I bring you greetings from the Attorney General and from my boss, Tracy Toulou. I am the Senior Law Enforcement Advisor to the Office of Tribal Justice at Main Justice and am DOJ's point person for tribal law enforcement at the Justice Department. I'm a member of the SES but I'm a career SES so I will be here beyond January 20<sup>th</sup>. I am not a lawyer, even though I work at DOJ. I come from the Washington DC Police Department, 23 years there. I was an assistant chief of police and then I went to the COPS office. I was the principal deputy director or the number two of the COPS Office at DOJ. And then Attorney General Holder appointed me as the acting director for a year. But the White House brought in a new director and I thought that would be a good time to take a new assignment.

I have been at all of the discussions at DOJ about public safety and tribal law enforcement in particular. I'm talking at the highest policy levels and in operational levels. Two weeks ago I was out in Navajo Nation meeting with the leadership of the Navajo Public Safety, Navajo government and going out on patrol with the police chief out there. Seven months ago I did not know what a PL280 state was, I didn't know what a 638 tribe was, I didn't know there was a Bureau of Indian Affairs Office of Justice Services, I didn't know there was an FBI Indian Crimes Country Unit. In fact, I didn't know the FBI had that much jurisdiction in Indian Country. I didn't know there was an Indian Police Academy. To be honest with you, I didn't really understand what sovereignty was or a government-to-government relationship was, a

trust responsibility, the role of the U.S. Attorneys. I didn't realize we had reservations on the northern and southern borders playing such a big role in border security. I didn't know what a Special Law Enforcement Commission was and I never even heard of the National Indian Gaming Commission. Just to name a few. There's a huge gap and that hurts Indian Country Public Safety and Indian Country Law Enforcement.

DOJ needs to be better informed. It's important for tribal leadership and tribal law enforcement to be vocal and to get organized. I talked at COLT a few months ago, Coalition of Large Tribes, to the leadership and suggested that all the police chiefs get together from all the COLT tribes and we need to try to rally all of the tribal police department police chiefs together and get them all on the same page and connected better with non-tribal law enforcement.

At the COPS office I got to understand DOJ funding pretty well and how grants work. Even as acting director of the COPS office, I didn't truly appreciate the importance of the funding and how it's distributed to Indian Country. So in looking at the budget, the DOJ has combined its solicitation in CTAS.

DOJ has broken up Indian Country funding into purpose areas and I've heard from many tribal leaders and tribal police chiefs that they would like DOJ to be more flexible in its funding and involve tribal law enforcement more in the priority areas.

The budget outlook is uncertain. The big changes are that there was \$420 million in DOJ funding going to Indian Country but the truth is only about \$300 million of that is available because the rest goes to the Bureau of Prisons. About an \$88 million increase is proposed but we don't know how the money is going to line up. There is, for Indian Country, proposed \$23 million, \$20 million for public safety needs, \$15 million for tribal hiring, \$3 million for expanding the TAP program. That's information that tribes will get into National Criminal Justice Systems directly.

There are seven issues that come up frequently. 1) Across the board, it's resources. 2) Grant funding and how the grants are distributed, how they're regulated to Indian Country and as more of a desire to use it for tribal law enforcement. 3) Unique crime and disorder problems to Indian Country. They talked about relational policing, the distance sometimes, drugs. 4) They talked about this huge gap with non-tribal law enforcement and that goes along the line with commissioning tribal law enforcement officers. 5) A lack of cultural awareness of tribal culture and tribal law enforcement. The number of police involved shootings of Native Americans and civil rights issues related to Native Americans. I'm talking about police shootings like the one in Winslow or the one in Tacoma and also Pipeline. 6) There's cross deputization and that goes back to relationships with non-tribal law enforcement. 7) And then the last was technology and information sharing. And if I was going to add another one today it would be about training and professional development of tribal law enforcement officers.

**Ron Allen:** I'm also on the DOJ's Tribal Advisory Council. One of the things that we want to make sure that we engage with you both our TIBC and our subcommittee on justice and public safety is the importance of the collaboration between DOJ, its programs and primarily focusing on the COPS program but the other programs as well in terms of helping deal with the needs of the tribal public safety and justice systems. Transparency is an important agenda. It's hard to get the kind of information we're looking for from you so we have a better handle on what DOJ is doing or not doing. We need to continue to underscore that the COPS program is helpful but it is also harmful because if an infusion of funding is not long term. And so the competitive grant approach does not work. You can create some better certainty and consistency about public safety including our judicial systems as well.

**Darren Cruzan:** We are working to communicate what the true need is for public safety programs and what the issue is and what the methodology is to tribal leaders. Kevin Martin is our deputy associate director for Support Services, basically all things budget and then Jason Thompson who's the assistant director and David Little Wind who is the associate director for field operations will be able to answer any questions you might have.

BIA Public Safety Funding

**Kevin Martin:** We will be presenting at the 30,000-foot level. We don't go to the detail of tribe by tribe but we do look at like a geographic breakdown by an OJS district, which is roughly equivalent to the BIA regions in most cases.

In the Green Book, the annual President's budget request has appendices, many, and one of those is a breakdown of base funding allocations by location. Sometimes for the contracted programs or compacted programs it's tribe by tribe but for the direct service side, a lot of times it's by location.

So that funding breakdown is there for both the CI&P program and the corrections program. These are estimated amounts based on previous years actual enacted figures so you may not see dollar for dollar. The TPA programs are also in the appendix, and those numbers are printed before we receive our appropriations subject to congressional across the board rescissions. But you can see roughly the breakdown by location and by tribe there.

Criminal investigations and police services funds police officers, investigators, telecommunications, everything on the law enforcement side to run a program. Detention and corrections is also just a general summary of the items that are funded there and kind of the universe of the programs that we do fund out of that line and it covers the entire nation as well in terms of the programs that we do fund.

To understand how the funding flows through these two programs we have to look at the OJS funding increase methodology. It is an attempt to allocate appropriated increases in a more objective manner. It looks at objective criteria, sets up matrices and applies weighted averages but the key is that it utilizes objective criteria and it's described in the Green Book each year. As an example, there's land base, violent crime rates. This is an example for corrections so inmate intake is used as an objective criteria and that would be inmate intake figures from the previous year. Also, service population, Indian service population tends to be one of the most heavily weighted factors in every instance that we apply the methodology because these programs are people driven so that tends to be the most heavily weighted factor.

We use the funding methodology to determine how to allocate appropriated increases for these two programs, CI&P and detention. It's used to distribute one time funding, if we have any left at the end of the year, which we have not distributed since 2014. Every year since then has been getting tighter and tighter with inflation and so forth. It is not used to distribute existing base funding.

Like most other BIA programs, once a base funding level is determined for a program or a tribal program, it is fixed at that level. We can't legally reduce it except for when Congress reduces program funding. Here's language from a 2008 appropriation. It talks about an allocation method that finds the areas of highest need. We figure out a matrix to determine what quantifies need and then how do you evaluate the various locations and determine the greatest need. This is not the only year it was in. Congress included it in an earlier appropriation. In the early 2000s it was there and then since 2008 it's

been in one of the appropriations, usually it's in the report language. It's not there every year but in some of the bigger increase years you'll see it there.

We apply the methodology to the increase and then once it's base funding, it's distributed in a historical manner, same from year to year. I took all these increases and put them together and did a prorate scenario. If instead of the OJS funding methodology we had just allocated to all the programs we fund prorate, tribal and BIA, what would have resulted is a higher percentage of the cumulative increases going to these direct service programs than actually did. The difference is \$5 million so the direct service programs would have received \$5 million more under a prorate scenario than they did. Conversely, the tribally run programs would have received that \$5 million less. The funding methodology is not a way to circumvent prioritizing funding for tribally run programs. To look at the bigger picture of the funding methodology, we looked at what has it done over the past 17 years since the law enforcement program an out of TPA.

In '98 it was a TPA program, there was a presidential initiative tied to it in the year it was brought out and the next year it was brought out of TPA. Since then it's been called a Central Office program but that's just the way that the funding flows through our financial system. The line authority is now through OJS rather than through the BIA regional offices. But in the analysis we can look at the composition by program operator. Back in '99 when it first came out of TPA and those are the percentages.

CI&P and detention together were about \$104 million back in '99. Over the last 17 years they've gone up \$180 million so funding increase methodology has been applied to that \$180 million and there's also been some prorate. There was the law enforcement organization that preceded OJS that had control over the allocations. But they've added \$180 million; 17 years later the composition is not substantially different. You see a bigger change in operators going from 638 to self-governance. We've had a number of tribes over the last 17 years go into the self-governance mechanism of doing their BIA programs.

The sequester, a five percent sequester reduction that occurred in 2013, takes our cumulative increases for this period down substantially. If sequester did not happen, then where you see the top level of the graph in 2015 would have been \$15 million higher between the two programs.

The OJS funding methodology has determined the allocation of funding for that \$180 million in increases and there is not a substantial change in all of the regions except for Navajo. There's an obvious difference there. It was Navajo's decision on how much of their TPA base to allocate to law enforcement program. It's important also to note that the 2016 12 percent Navajo is still a considerable amount of money more than the 19 percent in 1999. In 1999 Navajo's law enforcement funding, including the corrections piece, was \$20 million and in current day it's \$30 million. Dollar wise it's a much larger number but as a percent of the whole it is different today, it is a lower percent of the whole than it was back in '99.

**Question:** it sounds like if the Public Law 280 states wanted to participate, we'd have to figure out what the language says to make modification to the language and get more money in the appropriations.

**Response:** It's not that we legally can't fund jurisdictions in PL280 for these two programs. It's an issue of priority in choosing to fund existing programs that where there is no other law enforcement option and until they get funded to a substantial enough percent of need, there would be some trigger point at which we would expand into PL280 jurisdictions. What that trigger point is in terms of percent of need

funded for the existing programs, that is something the Public Safety subgroup can help determine or recommend. But there wouldn't be any language in the appropriation required for us to fund programs in PL280 jurisdictions, by and large. Alaska's an exception because the lack of trust land there.

Now these are trends going back to 2006, which was the first year we started reporting the nationwide violent crime rate in terms of all of the programs, the 190 plus programs that are funded in our CI&P and detention budget. There are clear trends both for the Indian Country violent crime rate and the U.S. national violent crime rate. There's been a steady decline there too, although it's been more significant. CI&P is our most direct resource to impact violent crime. That pays for officers on the streets, criminal investigators, dispatchers. The high point for the CI&P budget was in 2010.

There was a decrease from the sequester. Although the nominal budget has seen increases, when inflation is taken into account, 2016 is four percent below 2010. So six years later, the most direct resource to impact violent crime is four percent below where it was in 2010. The reason to show that is if you notice in 2015 on the graph, there is an increase and it's really the first substantial increase that we've had over time.

As the resources are diminished by the sequester and then over time by inflation, violent crime has tended to push back up. However, in the early years, when there were big budget increases for 2008, 2009, 2010, there were double digit budget increases for public safety in terms of percentages. But then when the resources go flat in terms of budget, inflation takes a toll. The sequester had a significant impact as well.

If you go all the way back to 2000, you're talking about \$180 million in budget increases between this line, CI&P and detention. There were some big increases in '99, 2000 and in 2002 or 2001. And then in '08, '09 and '10, there were very substantial increases. And in '10, the President's budget requested an increase of \$25 million on its own and then Congress added another \$25 million on top of that, just for public safety programs. That's why 2010 tends to stand out. It was the last large budget increase for public safety.

In summary, the funding methodology and its impact on funding hasn't substantially changed in terms of program operators, 1999 versus today. It has not substantially changed the geographic allocation of funding over the last 17 years since it was in TPA. The way we allocate it geographically today is consistent with the way tribes allocated the funding. It aligns base funding increases with trends in population and violent crime. It has not favored direct service programs. It allocates all the appropriated increases in a manner that has allowed violent crime to continue to go down, for us to push violent crime down.

There are more tribes in mandatory and optional PL280 states receiving CI&P and detention funding in the self-governance realm than there are those that are outside of PL280 states. The way to analyze resources is, instead of number of tribes, by dollars.

There's only 14 percent of all that \$36 million in self-governance funding that goes to CI&P and detention that is being allocated to tribes in PL280 jurisdictions.

We follow the pattern essentially that was set for us by the tribes back in 1999 when it was in TPA. There were PL280 jurisdictions then that allocated a portion of their TPA funding into law enforcement.

Because of 638 law, we cannot reduce program funding for any reason other than a congressional reduction so we had to continue those funding streams. So those programs over the years have shared in some funding increases. It's gone from \$1.6 million and over the last 17 years it's grown to \$4.9 million. It's a smaller percentage of the whole but the dollar amount has grown.

Prior to OJS the allocations that were done were still driven by objective criteria, there were also some prorated increases given. In some cases the court ordered us to increase the base funding for particular tribes involved in litigation and BIA had no discretion whatsoever to do that. But these tribes in PL280 jurisdictions over the last 17 years, they have received some budget increases.

Special initiatives, for instance drug enforcement used to be under special initiatives but then through an internal transfer in the budget process, that funding was moved over to the CI&P line because it actually funds investigators, drug investigators so that was a more accurate place to put it.

The IMARS system is a department wide system for incident reporting and data collection. This is similar to the transition to FBMS in the financial realm. The transition to IMARS allows BIA to be on the same data platform as all the other law enforcement agencies within Interior.

The Recidivism Reduction Initiative, that's funded in special initiatives. We requested from the Congress a budget increase of \$4 million to implement this. Congress appropriated a \$3 million increase and the Recidivism Reduction Initiative so far has good results. As of the end of fiscal year 2016 across the multiple locations we're at a combined reduction of 38 percent, substantially above the 3 percent target. A million of that \$3 million goes directly to tribes and then the rest of it is used to execute the recidivism reduction efforts.

Indian Police Academy, any tribal personnel, public safety personnel can attend training free of charge at IPA. They have not only basic training but they have a multitude of advanced training and they will export training courses to various locations across country to reduce travel costs on occasion so that is also a possibility.

Tribal justice support: this is the office that does court assessments and their budget to hire staff and then contract court assessments is \$5.2 million. The law that authorizes the Office of Tribal Justice Support states very clearly that it is a non-federal entity that we must use to complete the court assessments. So that's why they're contracted out to vendors. Those court assessments and the deficiencies identified therein play a key role in a couple of things. When we get to the tribal courts TPA program, there's a small piece of tribal courts TPA funding that comes to OJS every year that we use to distribute in one-time funds to address those deficiencies identified in the court assessments and we'll get to that slide.

\$10 million was appropriated in 2016 for PL280 jurisdictions. There is a specific funding plan posted online.

Facilities O&M is a square footage driven distribution of funding. OJS does not actually distribute that funding.

Here are the three documents on our website. One is the Tribal Court Assessment flyer. Tribal court assessments are completed in the order in which the request is made to us. Here is our TLOA spending report. It details how we spent at the state level all of the public safety and justice funding for particular

years. This covers 2011 through 2013. Next report will have 2014 through 2015. It also identifies an estimated program cost if you were to fully fund all of law enforcement, detention and tribal courts. It does basically a nationwide estimate including PL280 states for what those fully functional programs would cost to serve all tribes. It also has the description of our funding methodology. And then the \$10 million tribal justice support PL280 funding plan is also there.

One of the things we found is that the pilot projects have been really successful at getting additional increases. Those are things OMB likes because we can attach successes to the stories. The recidivism effort is one example of that.

**Mark Azure:** The requirement for background checks before our candidates leave for the academy and at least in the Rocky Mountain Region; the difficulty of finding those individuals that believe they want to be a police officer and historically at Fort Belknap and other places in the Rocky Mountain Region we get those guys all the way up to the doorstep to the academy and then they back out for whatever reason. This is another obstacle that in the Rocky Mountain Region is going to slow this way down. It's something that we need to reconsider.

**Answer:** This is the one area where tribal and BIA is going to have some difference. We've worked with the Federal Law Enforcement Training Center. Tribal police officers who are going to the academy, the adjudicated background's going to be something we all want, law enforcement officers with clean backgrounds. But for the tribe to have a tribal officer have a driver's license check, make sure they've got a driver's license, no criminal history that would preclude them from carrying a weapon or passing their adjudicated background. Those officers, the tribal officers can go to the academy while their background's getting done. The problem with the BIA, there's a difference -- OPM requires us to have that done prior to coming on duty.

**Kee Allen Begay:** There was a request for the subcommittee to have a meeting at Artisia, at the training center. My recommendation to the subgroup and this body is to schedule that meeting. Also would like a report how the BIA and DOJ are in coordination in getting funding for law enforcement in Indian Country.

### **Land Buy Bank Program**

**John McClanahan:** I've got some of our 2016 status reports that we're passing out. We issued that last week. I want to highlight some of the accomplishments that are in the report, I want to talk about a couple of new areas that we're focused on moving forward, some policy shifts that'll I think be interesting for folks in the room and then finally I want to talk about next steps, what's coming and what we're doing with the overall fund and how we're going to be engaging Indian country on that. Here are the total payments that we've made to individuals so far. We've made in a short amount of time paying out more than half of the fund already--\$900 plus million to landowners at about 30 locations. This report's as of the end of the fiscal year. We've not sent out offers to 33 places but in a short amount of time we've got offers out to 30 places, \$2 billion in offers. 42 percent of all the landowners across the country have gotten the opportunity to participate in the program so we've really made a lot of progress in a short amount of time.

We have a total of \$1.9 billion through the Cobell settlement and \$1.55 billion of that is for paying the landowners directly who choose to consolidate interest. There's also some money for scholarships and to implement the program but the bulk of it's for the landowners

Crow is still at the top at \$130 million in payments to landowners. The response rates we're getting on average are almost 45 percent, meaning that 45 percent of the people that get an offer say yes. We've consolidated almost 1.7 million acres of land for tribes. So every time we send an offer out and somebody says yes, we're putting land into trust for tribes. The real important thing to note is that 11,000 tracts now have 50 plus percent ownership in the tribe, which really helps the ability to use those lands and strengthen tribal sovereignty.

Before the program went to Fort Belknap, you can see not too many green tracts but when we went to Fort Belknap we were able to appraise a lot of land and we had a great partnership with the tribe. They had a local outreach team that helped out and at the end of the day, 300 percent more surface tracts and B tracts meaning both surface and subsurface tracts are now in the hands of the Fort Belknap Indian Community. So that is some major, major progress that will last for a long time.

Crow is a good example. We got a tract for them for their water plant. It's 100 percent owned by the tribe now. Oglala Sioux at Pine Ridge has got land for housing that they're trying to put in place and a community center. At Squaxin Island they've protected their oyster beds way out on the Pacific Coast. Umatilla's got some lands for their cemetery.

The money that's coming in on these fractural interests that we've put into the hands of tribes is pretty substantial. \$9 million so far is going to tribes as income off of the land so that's money in the tribe's budgets that you can do whatever you want to with.

Also there is money to implement the program—for outreach, appraisals, the title work. For every \$100 we pay to a landowner we're using \$6.50 roughly for those kinds of costs. In the days ahead, the months, years ahead we might be able to plough some of that implementation portion into purchasing land. Tribes have really helped us out to be efficient.

The majority of the land we've acquired so far are trust interests but as we go to places in Oklahoma and elsewhere, there are these restricted fee interests and before we can bring those into trust, those restricted fee interests, we're doing an environmental transaction screening process. We worked with the department to put together a streamlined process for doing that and we've implemented it so far at Fort Hall and Osage and Bad River.

We talk about off reservation lands also known as public domain. Back in 2014 when we started the program, we heard from many tribes that they wanted us to include those off reservation lands and so we got input from tribes, which was generally to include those. So in this report we are now stating that we will include off reservation lands if there's a strong case of jurisdiction for the tribe. Everything we buy, there's got to be a tribe with jurisdiction to vest that title in. We also want to make sure that the off reservation lands fit within the overall factors we use to schedule implementation and then we have to have money which is a big question for us and that's what I'm going to get to next.

Our program is focused on land that's already held in trust or restricted status. So I know that there's a lot of land out there that tribes are interested in bringing into trust and that's been a big goal of the administration to get that in trust but our program is focused on what's already in trust or restricted status.

In November 2022 the settlement in the statute that confirmed says if there's any money left out of this \$1.9 billion, it goes back to the Treasury Department. We're not going to let that happen. We are predicting that we'll be able to use all of the money by that time.

What's the long term outlook for addressing fractionation? We're likely to use the \$1.9 billion but it's not going to be enough to buy all the fractional interest. When we're through that money in 2022, there's still going to be millions of acres of fractionated land.

We're flagging for the next administration and Congress that they ought to consider what to do for the long term given how important the lands are. Fractionation continues to grow every day.

Our big step for the spring is to consult with tribal leaders about the long term and we'll have to involve the next administration and Congress in that conversation but again, we think it's important to put this out there.

### **Roads Presentation**

**Leroy Gishi:** Will do two presentations today. They're updates on the road maintenance subcommittee that was established as part of TIBC in March of this year. Mr. Robert Frazier is our maintenance/safety engineer and Cindi Ptak is with the Federal Highway Administration. The subcommittee was established in March. Rapid City was the first opportunity where the subcommittee made recommendations to this group. There was approval by the council with four recommendations: 1) to elevate the road maintenance, the category, the subcategory to a budget activity status; 2) to establish a road maintenance emergency fund pool; 3) and then reporting cost for each maintenance activity in terms of gathering data for purposes of establishing more information and justification for what the council is looking for in terms of information that they can work off of to make budget recommendations and program implementation decisions; 4) deferred maintenance report and making it more visible in the process of the Green Book and budget documents.

First is to elevate the road maintenance as a program in the budget to a budget activity status. It is an administrative procedure and we had an opportunity to talk to the budget office as a follow up. It's not probable in terms of the administrative process to change a program like road maintenance into a budget category all on its own, primarily because the manner in which this is established takes on an administrative function and approval process and has sub activities which are generally funded individually and have a cost and a budget associated with it. For road maintenance, there are activities that are under road maintenance such as emergency maintenance, snow and ice removal, bridge maintenance, among others. This recommendation would be ineffective because of that process; it would limit the ability of tribes who are contracting the work to be able to have the flexibility of moving funds around within the road maintenance budget to do the things that they needed to.

But as an alternative to this, they recommend considering an infrastructure category which would give not only road maintenance but other activities which are in the budget process that are in other areas. Road Maintenance is under tribal government. Under natural resources are other infrastructure activities.

Emergency maintenance fund pools was the second recommendation. Tribes can end up spending the bulk of their funding associated with the program in the first and second quarter, which leaves tribes using their construction funding or general funds. They use their 25 percent. Not all of the programs that

are available for addressing emergencies and disasters like FEMA, the Emergency Relief for Federally Owned Roads are available because of the amount of funds that are made available, the number of events that occur on an annual basis which is extended to not only federal land management agencies but states.

There's usually a threshold associated with it. You have to have an event, there has to be a declaration, there has to be a certain amount of damage that occurs at that location. There's a matching fund requirement in some of the programs. All the funds we have are through the UI appropriations under tribal priority allocations. Tribes have the ability as well as the BIA agencies to adjust the use of those based on the activities that occur. They generally don't have the ability to establish a specific emergency disaster fund on their own in this account because of the amount of funding that goes into it. Annually in the BIA we've been able to establish a small amount, on the order of about \$220,000, that we retain for emergency disaster type of activities. If there's no need, it becomes carryover that goes into the budget for all of the contracts that the tribes have as well as the agencies.

A criteria needs to be established and a much more formal process. That's the recommendation that we're working with the subcommittee. The alternative to that is taking funds off the top from the very beginning to establish this pool whereas this doesn't impact the formula shares that are available on an annual basis. Essentially it allows a small amount to be used specifically for areas that do need it. On a few occasions we've had to utilize it for situations.

The third recommendation is a process of reporting data that's associated with the actual activities. We have on a national level two indexes that we report that are pretty much global across the board. One of them is deferred maintenance; the other one is the general condition of the roads in the BIA. This would allow us to be able to get data specifically at all locations that we're working with tribes on for the ability to report data on maintenance activities, specifically cost. And in doing that we would start to begin to develop a process to be able to report activities, cost, and maintenance. Can funds be used to leverage other funds available for the same purpose in the construction area?

The tribes in the Great Plains Region are working with the region office to begin developing the idea of a survey to be able to send out to tribes. Data reporting in this context has to be voluntary. If you're familiar with 638 contracting, this is not one of the activities that is required. We have an annual financial statement that comes out that we have available to us. Otherwise, reporting this kind of information has to be something that is gathered either through individual negotiations or in a forum like this where recommendations can be made and we have the tribal practitioners driving the process of requesting data through a survey process.

There may be other data that the tribes want to gather on their own to be able to manage their programs at that level. A consistent set of data is needed to make recommendations and to justify any changes that may occur.

The road maintenance fund has been at the same level for the past 20 plus years in and around \$24, \$25, \$26 million a year. We're starting to see some changes in that. This is part of the process that will have an impact on overall funding.

About 60 tribes have 85 percent of the roads that are out there. So getting a buy in in terms of those locations would be helpful in being able to establish a pretty consistent and representative database of the roads that are out there.

Some of the data suggestions that the work group members identified were: miles of road, what's being maintained by surface type, maintenance activity whether it's blading, whether it's earth gravel roads or paved roads, bridge maintenance, mowing.

The information on physical characteristics of the roads is in the inventory but not the condition of those and the expenditures on those particular roads. A report from the tribal and the other users on the data to supplement what's in the inventory to have a capability of identifying how we are utilizing the funds, at what location and what surface type, that type of activity. Those need to be connected.

Really critical is equipment maintenance and repair. The bulk of the equipment is in excess of 20 years old. We need to begin justifying that data that we currently are generating under the deferred maintenance process.

**Ron Allen:** Why couldn't this kind of information be electronically updated on a regular basis is, quarterly or annually.

**Leroy Gishi:** That's where you want this data to go. Each year that you have an update you want this data that's being requested through a survey that would populate that information because of the total miles of the 160,000 miles that are out there, there's only 29,000 that are associated with this specific information and data and tribes. They want to have data for tribal roads also. This is a way to then start encoding that information to the tribal road segments for developing a recurring database data of information associated with maintenance cost.

On the inventory side the maintaining of the inventory, the characteristics, length, width, when it was recently reconstructed, the surface condition index. Tribes update all that information, but that's on the Tribal Transportation Program side. The data tables do not address emergency maintenance, snow and ice removal, equipment usage. We could supplement the database with that on a voluntary process.

The last one is the deferred maintenance report. This is one of the other administrative type of changes that can occur. There's currently one sentence that talks about the condition of the roads in terms of the BIA perspective from road maintenance in the Green Book. We discussed with the budget office about including graphs of deferred maintenance by region, cost, and dollars associated.

**Ron Allen:** We had deferred road maintenance in the \$280 million or something like that. Do we have the actual roads and where those roads are in our inventory somewhere?

**Leroy Gishi:** Yes. That's for the data that's being reported. We have 220 plus locations where we are performing road maintenance activities either by the BIA or the tribe under a 638 contract. And of those 220 plus, there are only 55 locations where the Bureau is performing the work. When we develop our handbooks, we require those agencies to report that for the 55. But for the other 170 plus, we don't have that data because it's not one of the requirements that's in the contracting process and methodology. It's voluntary. We are not receiving a significant amount of data to be able to paint an image of the need from a road maintenance perspective. We want to enhance those numbers. There's a number of tribes who have systems out there. We're going to ask them to share with us what that is, how they utilize it, what the advantages are. It will have to come through this council as to what it is that the data needs to be to be able to report what recommendations can go forward.

**Ron Allen:** Does the inventory break down which roads are in what condition for BIA, tribal, and public roads that tribes maintain?

**Leroy Gishi:** The public authorities are state, county, and local governments, as much as tribes are public authorities in the BIA. We have those road miles in the inventory but from a maintenance perspective, from a condition index, that data is kept at every one of those locations, which is the county, municipality or a state. Gathering that data is difficult and inconsistent. It has no impact on the road maintenance budget. Data for individual use at the tribal locations is needed to know how much money you're spending if you're going to help out state and local governments with your Tribal Transportation Program funds for maintaining or reconstructing roads.

**Ron Allen:** In the Northwest, county roads to and from our reservation are low priority when it comes to maintaining those roads. It's a safety issue.

**Leo Gishi:** The tribes in the north in the Great Plains Region are looking at a proactive mechanism of requesting information. There will be something to report in March or thereafter regarding what they've done and what recommendations they have and what they've been able to gather from the tribes that they've had a chance to sit down and talk with.

**Rick Harrison:** Two regions do not receive road maintenance funding. What regions and why?

**Leroy Gishi:** The two regions in the road maintenance methodology are those roads that do not have BIA roads from trust lands and the responsibility of the Secretary for those roads. Those two regions are the Eastern Oklahoma Region and the State of Alaska. But they have access to Tribal Transportation Program funds, which they can use to maintain tribal roads. Local roads and county roads also need addressing, but at the discretion of the tribe.

[Break]

### **Tribal Caucus**

#### **Tiwahe Initiative**

Hankie Ortiz, Deputy Bureau Director for the Office of Indian Services for the Bureau of Indian Affairs

I'll be sharing some time on Tiwahe with Mirtha Beadle from SAMSA. She is one of our federal partners and we work together on the American Indian Alcohol and Substance Abuse Initiative and we are working on the Indian Healthcare Improvement Act and the Tribal Law and Order Act. We put one MOU to combine our responsibilities under that act and so we have several partners. In addition to SAMSA and BIA we also include in those activities BIE and Indian Health Service and the Department of Justice.

Tiwahe means family in the Lakota language. It was started as a five-year initiative. The first year of the initiative was 2015 so we've been through fiscal year '15 and fiscal year '16 and we are moving forward in fiscal year '17. Tiwahe is a coordinated service delivery approach that will allow the tribes that are participating to implement a plan and develop their own goals to meet the needs of the people that they serve. Phase 1 is planning and development. Phase 2 is service delivery and implementation. The first four tribes are in Phase 3, reporting and enhancement.

The overarching goals of Tiwahe are to improve the health, safety and well-being of families by implementing this coordinated system. Some of the goals that have been identified by the tribes participating are increased access to family and social services, creating alternatives to incarceration via solution based focused sentencing options, improving the links to appropriate prevention, intervention and treatment opportunities, improving case management services and improving the overall partnerships among all the local, tribal, county, state and federal providers.

In FY15, we started with a \$10 million appropriation targeting Tiwahe. \$5 million of that was targeted for social services, \$5 million for ICWA, \$550,000 for job placement and training. And the distributions varied among the tribes. The tribes that were participating in Tiwahe received a 50 percent increase in both social services and ICWA and then there was a prorated distribution of the job placement and training funding where they ended up getting a different amount because the amount that they had was a little bit different. The funding distribution ended up being \$33,000 for Ute Mountain Ute, \$93,500 for Spirit Lake, \$176,000 for Red Lake and \$247,000 for AVCP. After that funding was distributed, the remaining Tiwahe funding was provided as across the board funding for all tribes that had contracted or compacted for ICWA or social services. We provided those tribes a 21.54 percent increase in ICWA and an 8.07 percent increase in social services.

We also funded a family advocacy coordinator at each of the Tiwahe sites and that was something on top of the additional funding that they received. We had a kickoff meeting in July of 2015 and we talked to them about the funding that they were going to receive. And those tribes were selected for various reasons; we wanted small tribes and some larger tribes, some tribes that had already started doing something like this and some who hadn't. Some were in more rural areas and we wanted a diverse representation from across the country and we definitely wanted to identify some tribe or tribal organization in Alaska and so that's how we determined which tribes to invite into the initiative.

Association of Village Council Presidents in Alaska, Red Lake, Spirit Lake, Ute Mountain Ute; last year we invited two more tribes to participate in Tiwahe, Fort Belknap from Montana and Pascua Yaqui from Arizona. We also hired our National Tiwahe Coordinator, Mercedes Garcia. We launched the Center for Excellence in '16, which is a virtual online Center for Excellence. It includes best practices that have been identified, training opportunities for different purposes, a lot of social services tools.

We have requested for FY17 to add four more Tiwahe sites and we have six right now so we wanted to bring the total up to 10. That's in the budget proposal but we don't know if we're going to be able to do that or not.

So right now what we're talking about is building the future in FY17 and the modification of the tribal Tiwahe plans, goals and priorities are based on the new or ending funding streams and in consideration of the new federal revenue sources. The national coordinator has been facilitating projects and program development and sharing among the tribes the best practices.

For FY17 we've requested an additional \$18.4 million in annual funding to support these Tiwahe related programs and \$12.3 of that is for social services, to increase demonstration sites, to increase the number of social workers on the ground.

At Tiwahe sites and across the country, there's a great need for social workers, qualified social workers who can get out and work in the communities, who can hit the ground running and address all of the

many needs that we have out in Indian Country. \$1 million to supplement the evaluation and research contract: this is to address questions from Congress, from OMB, from other tribes about what the tribes are doing, how they are using the money, to show success. We have identified GPRA measures for each program but that's measured in silos. We are looking for the research and evaluation contract to evaluate this new system, this new rating of services to enhance the community. Tribes' plans are different and because their goals are different, we're going to have to go to the communities and see what they want to measure, what's important to them, what does success look like to the tribes. Then we'll scale up to the national level.

We've also requested an additional \$1.7 million in annual funding to support the Housing Improvement Program at the Tiwahe demonstration sites. Last year we wrote the regulations for HIP and when we rewrote them in a way that would enable families with small children to get into homes, to increase the opportunities for veterans to get into homes and to find ways to use HIP funding to leverage additional funding from other federal agencies that have a lot more money than we have in the BIA like HUD and like USDA. We're using BIA funds to leverage those funds. And we also made some changes to the regulations to increase the amount we were allowed to use to repair a home. We still need additional housing at these Tiwahe sites.

We also requested an additional \$3.4 million for ICWA and requested an additional one million dollars for job placement and training.

The Tiwahe FY17 goals. These are things we want to accomplish this year. We want to increase the amount of the demonstration sites to 10 or more and we want them to create models across Indian Country so that all tribes benefit from the Tiwahe implementation and from the lessons learned.

We want to host a Tiwahe conference just for the tribes. The agenda would address data and metrics. They also want to look at a client-tracking database. If we can keep track of data and pull aggregate data from different tribes, there's a lot we can do with a database; it can be expensive and licenses to use that database. Program information sharing and collaboration is extremely important to all of the Tiwahe tribes and they want to share that information with all of you on their own. They want to make anything that they're learning or that they're doing available to share with each other and with other tribes. We want to fully execute this research and development contract by developing common data collection platforms, assisting and identifying tribal goals and performance measures, identify best practices and evaluate effectiveness of the demonstration sites.

We would like to set a goal of semi-annually hosting this kind of meeting with all the Tiwahe tribes and the tribes have said that they want to take turns hosting because they want an opportunity to show off what they're doing to other tribes. We want to focus on domestic violence prevention and intervention services for victims and children. We received funding in FY15 to start up a domestic violence program in Indian Services. We never had that program, we really hadn't worked on domestic violence. We identified different sites to provide that funding to. We ended up distributing that funding to 26 different tribal sites across the country and to three federal positions at the BIA.

The majority of Tiwahe tribes report that domestic violence is second only to substance abuse related criminal offenses as the most charged criminal offenses in their tribal courts. There have been reports done on children exposed to violence and we all know the negative impacts. We've been working really closely with DOJ on the Violence Against Women Act activities so we already have a lot of these

partnerships in place but we're going to be expanding that to really focus on domestic violence this year and see if we can make a positive impact and positive changes.

All the Tiwahe sites that applied for coordinated tribal assistance solicitation awards were funded in FY2016; Fort Belknap received \$1,122,490, Pascua Yaqui got \$1,609,919 for justice systems and alcohol and substance abuse. The BJA is the Bureau of Justice Assistance, OJJDP is the Office of Juvenile Justice and Delinquency Prevention, OVW is the Office of Violence Against Women and OVC is the Office for Victims of Crime.

As examples, we will share about Red Lake and their Healing To Wellness Court, which is a new way of looking at the tribal court system and focusing on wellness. The tribe is actually braiding together their DOJ CTAS funding awards to support its Tiwahe plan and their goal is to reduce juvenile recidivism and the number of children in and out of home care. They're focusing on children. The tribe was awarded this funding to implement a juvenile family drug court and they did not write in a request for salary or a presiding judge for either court in its CTAS solicitation. The NTC and OJS court lead are working to fund a judge for these courts under the Tiwahe initiative. This one is going to be a model that other Tiwahe sites can use during the implementation phase.

Domestic violence is something that Spirit Lake has taken very seriously. They're looking at victims assistance and incorporating aspects of their Dakota culture into the treatment. They're focused on implementing programming that incorporates community connectiveness, to establish support systems for community members who suffer with overcoming substance abuse or leaving violent relationships, those kinds of issues that are related to domestic violence. Their ancillary goal is to increase domestic violence awareness and support and reduce the number of children removed due to domestic violence.

Pascua Yaqui is looking at community prosecution. They're focusing on the development of cultural programming as prevention programming to reduce criminal recidivism in child neglect cases. They said that community prosecution is founded on the idea that the prosecutors have a responsibility not only to prosecute cases but to solve public safety problems, to prevent crime, and to improve public confidence in the justice system. Rather than simply tallying cases or how many they've won or how many jail sentences they got, they're measuring the effect of their work on the neighborhood quality of life for the people, the community attitudes and the crime and it all goes to the heart of Tiwahe and the refocus on what's important and making sure that culture is part of that.

This year Red Lake and Fort Belknap are applying for participation in the Tribal Access Program with the Department of Justice. Pascua Yaqui has already been a part of this cohort and they agreed to lead other Tiwahe tribes as they undergo the application process.

ICWA was part of the initiative in '15. The tribes that are participating got money in '15 and they got that same amount of money in '16 and they will in '17. If they complete the initiative, that becomes part of their base funding or if the initiative ends for some reason, that would still be part of their base funding. But the Indian Child Welfare Act is a statute that identifies a lot of different authorities for tribes. One of them is to intervene in court cases, state court cases involving a child who is eligible to be enrolled in a federally recognized tribe. A child doesn't have to be enrolled, just eligible to be enrolled. We've been working really hard on writing new ICWA regulations. We just rolled those regulations out. They're in the federal register. We're also updating the guidelines. We already updated the guidelines recently but now we're updating the guidelines again to match the new regulations.

**Mirtha Beadle**, Director of the Office of Tribal Affairs and Policy at the Substance Abuse and Mental Health Services Administration

The Office of Tribal Affairs and Policy or OTAP, was established two years ago. The SAMHSA had an Office of Behavioral Health Equity that included activities for American Indians Alaska Natives. However, our administrator decided that because of the government-to-government relationship, the fact that we needed to address the high issues of behavioral health in tribal communities, she decided to create this office. No funding from Congress, she just decided to do it. Each of you should have two handouts. One is titled TLOA, Tiwahe and TBHA Collaboration and then there's a second handout called A SAMHSA Forecast.

OTAP is responsible for one specific section of the Tribal Law and Order Act that focuses on Indian alcohol and substance abuse. What the law says is that we have to establish a committee that is comprised of SAMHSA, IHS, BIE, BIA and the Department of Justice and the goal is to figure out how to bring all of our activities related to Indian Alcohol and Substance Abuse together so that we can be more effective in working with tribes.

Here are the three buckets I want to talk about. Two years ago, there was a Memorandum of Agreement for TLOA, there was a Memorandum of Agreement for the Indian Healthcare Improvement Act and they were both focused on Indian Alcohol and Substance Abuse. We combined the Memorandum of Agreement because they do the same thing. Our first task was really to bring together those activities. The activities were similar but also the agencies involved were similar. IHS, BIA, BIE invited SAMHSA, DOJ the same exact group that was meeting under TLOA. We have almost finished the process of bringing that together. We are more transparent and clear on coming together as federal agencies on alcohol and substance abuse.

The foundation was Indian Alcohol and Substance Abuse. We looked at how different activities in different places were doing similar things and how we can bring these pieces together. Through the Health Subgroup of the White House Council on Native American Affairs, we developed what's called a Trauma Initiative. This particular initiative was shared during the Tribal Nations Conference a few months ago and it has three different components. One component that all federal agencies can be a part of is to increase the awareness of tribal communities, the government to government relationship and all the work that's happening on behalf of tribes with federal agencies.

The second component is around partnering differently or collaborating differently. And the last one is around making sure the Feds have the information they need to do a better job in supporting you.

This collaboration is the handout that you have that's called TLOA, Tiwahe and TBHA. TLOA, Tiwahe and TBHA—and C for Collaboration, or "3TC." The focus here is on reducing alcohol and substance use. We do a lot of work around training law enforcement officers, developing tribal action plans but with all of those activities, the goal is to reduce alcohol and substance abuse. Tribal Behavioral Health Agenda that the goal is to promote well-being. All these pieces go together.

National Tribal Behavioral Health Agenda, TBHA: SAMHSA and IHS are working with the National Indian Health Board to develop the TBHA. We spent 18 months talking with tribes, tribal leaders, tribal representatives, around what was important. Five pieces. At the core of the issues are historical and inter-generational trauma. The second piece was around taking a social, ecological approach to addressing these issues. Number three, we were told prevention. The fourth piece was around infrastructure. We need to have behavioral health systems and services that work for communities.

Number five is around awareness. In some tribal communities, tribal leaders don't want to talk about suicide, they don't want to talk about death. But in other communities, they want to talk about it.

The goal is to roll this Tribal Behavioral Health Agenda out next month and we've already started implementation. I'm going to be working with NCAI. They have a piece in this Tribal Behavioral Health Agenda. A goal for the TBHA that NCAI is working on is building youth leaders, mentoring youth and supporting youth. We're working with the National Indian Health Board in making sure that tribes understand what this does for them. This is a tribal vision about how to address behavioral health in a broad way and we're working with NICUIH as well about how we apply this to urban communities.

What we're trying to do with 3TC is to be much more strategic, to be much more aligned and to do a better job of bringing these pieces together. Now, now all of these items have dollars attached to it but those programs that you see on the piece of paper, those programs can be influenced.

There are other programs that also can be influenced and so we really need your input about how we might be able to do some of this work. This White House Council on Native American Affairs Trauma Proposal includes this 3TC. It's not final. We need to make sure that you provide your input and once you do that, our goal is to roll this forward very quickly during this current year.

### **Strategic Plan**

**Jeannine Brooks:** On the strategic plan, we held listening sessions and received some comments. Through this process we realized that we are always going to be compartmentalized as far as Indian Affairs in the departmental plan; so to address this we're going to take a step back. Similar to 2005 we can do an in-house plan so that we can cover more of the issues that are important to Indian Country.

BIA is under one or two mission areas in the departmental plan. This way we can cover the whole gamut of what applies to Indian Country without all the complications of being held by their strict timelines. Eventually that will help create better product to roll up to the DOI plan. My performance team will be contacting the regions to figure out times. We envision this to be at least a two day session where we have a day or at least a half day of training so everybody learns the basics and understands the differences between strategic and output and input; the second day would be to do goal development and figuring out what are the external factors. We want tribal input, field input so that we are building what this should be from the ground up as opposed to the top down method that is usually used in developing a strategic plan.

This is specific to the BIA component of the strategic plan; there will be additional work for the overall Department of Interior, which includes BLM, BOR, Fish and Wildlife, and other agencies. This is on a parallel track. With a new administration coming onboard, they may have different priorities, different goals. We want to keep a watchful eye on how it's unfolding, if there's any different kinds of instructions with the new administration going into next year.

### **FY 2018 and FY 2019**

A.J. Not Afraid made a motion for a special TIBC session on February 16<sup>th</sup> in DC. Seconded. Motion carried.

**George Bearpaw:** There's nothing more we can report on '18 until we start hearing more as we get closer to the start of the new incoming administration.

### **Old Business**

**Amber Ebarb:** We have included in the booklet the action tracking going back for about a year. You can see three resolutions that we passed at the July meeting. The first one is related to incorporating larger level nation building and economic development measures and indicators in the strategic plan. We had discussion on the strategic plan this meeting and we are aware of that timeframe. The next one was slightly related to TBIC's scope of work but not directly and that was supporting legislation to exempt tribal governments from the Employer Share Responsibility Mandate. The third one was our resolution opposing decreases to BIA's budget and any appropriations bill. We have reviewed the roads maintenance recommendation that's written down here just for the record. The other actions: We are scheduled to go to the Twin Arrow Navajo Casino. We took formal action choosing that location for our July meeting. The two others are process kinds of recommendations that I included in the action tracking. One is on sending budget materials early to tribal representatives; there was a good improvement in sending out budget materials by email and having it ready to go at the beginning of the meeting. And the last two requests were for making sure OMB was here and appropriate DOJ staff to participate in these meetings when we're discussing those issues. That's the old business from July.

### **Education Subcommittee**

**Tara Mason:** In March we discussed the education subcommittee but I haven't seen or heard of any announcements on that. Volunteers include: Mervin, Arvin, John Yellowbird Steel, Harold Frazier.

AJ Not Afraid made a motion that Tara Mason chair the education subcommittee. Passed with no objections.

**Tara Mason:** Thank you and thank you for the nomination. I plan to review the minutes and talk to the other committee members to review our objectives and our goals.

### **New Business**

**Ron Allen:** The February meeting will review FY18 and then updates on what's going on with the next administration. The meeting will review the Administration's agenda and how it affects our interests with regard to our budget and the priorities of the tribes. March is gearing up for FY19.

**Sam Thomas:** We heard about the 477 cap. It might be beneficial to look at that cap and send it back to the budget subcommittee to see if there's a possibility of coming up with a legislative fix to that cap or ability to legislatively identify that cap as insufficient. To see what the action says and see if there's possible room for amendment or to maybe even remove that restriction if possible.

**Matt Vogel:** On behalf of Chairman Frazier, here is a letter focusing on the national permitting process. Chairman Frazier wanted to distribute that to the tribal leaders and just for your information if you find it helpful in drafting your comments for this upcoming consultation.

**Adjourned.**