



# NATIONAL CONGRESS OF AMERICAN INDIANS

## Testimony to the House Appropriations Committee Subcommittee on Commerce, Justice, Science and Related Agencies

April 28, 2017

On behalf of the National Congress of American Indians (NCAI), this testimony addresses important programs in the Department of Justice and Department of Commerce. Specifically, NCAI requests:

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Program	NCAI FY 2018 Request
<b>DOJ:</b> Tribal Allocation from OJP	Allocate 10 percent of all discretionary Office of Justice Programs (OJP) programs to Indian tribes.
<b>DOJ:</b> Tribal Allocation from Crime Victims Fund	Create a 5 percent allocation for tribal governments.
<b>DOJ:</b> Tribal Youth Program under the Juvenile Accountability Block Grants program	\$25,000,000
<b>DOJ:</b> Tribal Civil and Criminal Legal Assistance (TCCLA) Grant Program	\$3,000,000
<b>DOJ:</b> Community Oriented Policing Services (COPS) Tribal Law Enforcement	\$52,000,000
<b>DOJ:</b> Tribal programs under the Violence Against Women Act (VAWA)	Fully fund all VAWA-authorized programs, including \$5 million for the Tribal Jurisdiction program.
<b>DOJ:</b> Indian Country Sexual Assault Clearinghouse	\$500,000
<b>Commerce:</b> Minority Business Development Agency	\$35,000,000 and a set-aside to re-establish NABECs within MBDA.
<b>Commerce:</b> Office of Native American Affairs	\$1,250,000
<b>Commerce:</b> Pacific Coastal Salmon Recovery Fund	\$65,000,000
<b>Commerce:</b> Salmon Management Activities	\$38,200,000

NCAI is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian and Alaska Native tribes, NCAI serves the broad interests of tribal governments across the nation. As Congress considers the FY 2018 budget and beyond, leaders of tribal nations call on decision-makers to ensure that the promises made to Indian Country are honored in the federal budget.

Annual funding decisions by Congress are an expression of our nation's moral priorities. Numerous treaties, statutes, and court decisions have created a fundamental contract between tribal nations and the United States: tribes ceded millions of acres of land that made the United States what it is today, and in return tribes have the right of continued self-government and the right to exist as distinct peoples on their own lands. And for its part, the United States has assumed a trust responsibility to protect these rights and to fulfill its solemn commitments to Indian tribes and their members.

Part of this trust responsibility includes basic governmental services in Indian Country, funding for which is appropriated in the discretionary portion of the federal budget. Tribal governments exist to protect and preserve their unique cultures, identities, and natural

environments for posterity. As governments, tribes must deliver a wide range of critical services, such as education, workforce development, and first-responder and public safety services, to their citizens. The federal budget for tribal governmental services reflects the extent to which the United States honors its promises to Indian people.

### **Department of Justice**

The public safety problems that continue to plague tribal communities are the result of decades of gross underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and the historic, abject failure by the federal government to fulfill its public safety obligations on American Indian and Alaska Native lands. Crime rates in tribal communities are among the highest in the nation and American Indians and Alaska Natives experience rates of violent crime that are 2.5 times the national average. Residents and visitors on tribal lands deserve the safety and security that is taken for granted outside of Indian Country.

Congress has taken historic steps in recent years with the passage of the Tribal Law and Order Act in 2010 and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), both of which begin to address some of the structural barriers to public safety in tribal communities. For the promise of these laws to be fully realized, however, these laws must be fully implemented, which requires sufficient resources for tribal justice systems. Increased and streamlined funding in the following program areas will have a huge impact on safety in tribal communities for tribal citizens, residents, and visitors to tribal lands.

**Include tribal governments in disbursements from the Crime Victims Fund (a mandatory account).** The Crime Victims Fund is the federal government's primary funding source for providing services to victims of crime. Unlike state and territorial governments, who receive an annual formula distribution from the CVF, Indian tribes are only able to access CVF funds via pass-through grants at the discretion of the states or by competing for very limited resources administered by the Department of Justice. This system leaves a significant unmet need in most tribal communities—communities where crime victimization rates far exceed the national average. In FY16, appropriators set overall disbursements from the Crime Victims Fund at \$3 billion, the highest level ever and more than triple what they were in FY 2014. Despite this increase in overall funding, Congress failed to ensure that any of these funds would reach tribal communities. While the appropriations process for FY 2017 has not yet concluded, appropriators sought to remedy the unconscionable exclusion of tribal governments from the CVF, and both the Senate and House appropriations bills that were approved by the respective Appropriations Committees included a 5% allocation for tribal governments. We urge appropriators to keep disbursements from the CVF at the increased level and to direct an amount equal to 5% of overall CFV disbursements to tribal governments.

**Create a streamlined tribal allocation across Office of Justice Programs (OJP) programs.** For several years the Administration has proposed bill language that would streamline and consolidate OJP tribal programs by allocating 7 percent from all discretionary OJP programs to address Indian country public safety and tribal criminal justice needs. In past years, both the House and Senate CJS Subcommittees have supported this request, but it has never been enacted. One of the biggest shortcomings of DOJ tribal public safety funding is that it is administered as competitive funding. In order to obtain this funding, tribes – on behalf of their tribal justice systems – must compete against each other under priorities and guidelines established by DOJ. As a result, tribes are forced to develop projects that align with changing DOJ priorities and cannot count on funding continuing

beyond the current grant period. Indian Country has too many stories of successful programs disappearing at the end of a two or three year grant cycle. A streamlined OJP tribal allocation would significantly improve the efficiency and effectiveness of the federal funding process by which tribes receive resources to establish tribal courts; assist in developing detention facilities; provide legal assistance; develop and maintain juvenile delinquency prevention programs; and provide substance abuse prevention programs. Further, the tribal allocation would give tribes the flexibility to develop a detailed strategy on how best to spend those resources.

**If Congress declines to adopt the flexible allocation across OJP programs, restore FY 2010 levels of \$25 million in funding for the Tribal Youth Program under the Juvenile Accountability Block Grants program.** Although Native children comprise only 2.2 percent of the overall youth population, they are arrested at a rate of more than two-to-three times that of other ethnic groups. According to a recent DOJ report, “[s]ubstance abuse, depression, and gang involvement fuel a vast majority of the offenses for which American Indian juveniles are disproportionately confined.” Funding for the Tribal Youth Program has decreased significantly in recent years and should be restored to its FY 2010 level of \$25 million.

**Fund the Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance (TCCLA) grant program at a level of \$3 million.** The Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106-559) authorized DOJ to award grants to non-profit entities, such as the 25 Indian Legal Services programs connected with the Legal Services Corporation (LSC), to provide civil and criminal legal assistance to both tribal governments and their justice systems and to individual indigent tribal citizens. In addition to individual representation, Indian Legal Services programs are currently assisting more than 160 tribes and/or tribal judicial systems.

**Increase funding of tribal law enforcement programs under DOJ’s Community Oriented Policing Services (COPS) Grants to \$52 million.** Since the creation of the COPS Office, more than 2,000 grants totaling more than \$400 million have been awarded to tribal nations to hire more than 1,700 new or redeployed law enforcement officers. It has also helped tribes to obtain necessary law enforcement training, equipment, vehicles, and technology. Through its Tribal Resources Grant Program and Tribal Methamphetamine Program and historical programs and funding initiatives such as the Tribal Hiring Renewal Grant Program (THRGP), Tribal Mental Health and Community Safety Initiative, and the Tribal Court Pilot Program, the COPS Office has taken a proactive approach toward addressing the needs of tribal nations and has become one of the primary resources available to tribal law enforcement agencies attempting to develop and maintain a fundamental policing infrastructure and upgrade outdated equipment. Yet, there is still a tremendous unmet need within tribal justice systems for more COPS funding.

The COPS Office has acknowledged that due to limited resources, it has not been able to adequately fund tribal justice systems, particularly in the area of hiring/retaining tribal law enforcement officers. In a report released in December 2010, the COPS Office described its practice of intermittent funding as “problematic,” especially “when referring to hiring of officers.” Indian Country urges Congress to significantly increase funding for tribal law enforcement programs under the COPS program.

**Fully fund the programs authorized in the Violence Against Women Act (VAWA), including the funds authorized for tribal implementation of VAWA special domestic violence criminal jurisdiction.** It is estimated over 85% of American Indian and Alaska Native women will

experience violent victimization in their lifetimes. No area of need is more pressing or compelling than the plight of American Indian and Alaska Native women and children fleeing physical and sexual violence. OVW provides funding to tribal governments to address violence against women in their communities. OVW's largest source of funding for tribal governments is the Grants to Tribal Governments Program, which is funded via statutory allocations from other OVW programs. Fully-funding these OVW programs results in full funding for the Grants to Tribal Governments Program.

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act (VAWA 2013) which recognizes and affirms the inherent sovereign authority of Indian tribes to exercise Special Domestic Violence Criminal Jurisdiction (SDVCJ) over all persons—Indian and non-Indian—who commit crimes of dating violence, domestic violence, and violations of protection orders within Indian country. The bill authorized \$5 million per year for 5 years for tribes to implement the new VAWA provisions and otherwise strengthen tribal justice systems. In FY16, \$2.5 million was appropriated for this program. The tribes who have been exercising the jurisdiction report that the costs of implementing the new law have been higher than expected. We urge Congress to appropriate the full amount authorized for VAWA implementation purposes so that more communities are able to take advantage of this lifesaving law.

### **U.S. Commission on Civil Rights**

NCAI supports the ongoing funding for the U.S. Commission on Civil Rights (Commission) in FY 2018. The Commission plays an important role in protecting and advancing the civil rights of American Indians and all people throughout the United States.

Defending the civil rights of American Indians/Alaska Natives remains a high priority as many forms of discrimination, personal as well as structural, continue to take place far too often. Due to our small population size and rural locations, the American Indian/Alaska Native population faces data quality and data availability obstacles. With often limited data, tribal nations continue to suffer what we consider a quiet crisis of unmet needs; the Commission has investigated and documented many disparities in ways that assist tribal leaders and policy-makers to develop solutions and target needs in Indian Country. NCAI encourages continued funding at least at the current level to enable the Commission to conduct investigations, hold hearings and execute its responsibilities to the best of its abilities. These funds represent a small amount of money in the face of serious violations that stand to undermine the very freedoms and principles upon which our nation has been built.

### **Department of Commerce**

**Provide \$35 million for the Minority Business Development Agency (MBDA).** Established by Executive Order in 1971, the Minority Business Development Agency (MBDA) was created to support minority business development centers to provide business consulting and financing services. Initial funding for the MBDA was set at \$63 million but this budget has since decreased over 50 percent and the FY 2016 MBDA budget approved \$32 million. Funding the MBDA at \$35 million will assist tribes in obtaining vital business consulting, financing services, and procurement of technical assistance. Furthermore, Congress and the MBDA should establish a set-aside sufficient to reestablish Native American Business Enterprise Centers (NABECs) at each of its MBDA Business Centers (MBCs). These funds are critically important due to the service gap created by the elimination NABECs in 2011, which consolidated its cooperative assistance grants to MBCs. MBDA must be able to sustain and expand support for Native American businesses to develop stronger private sector capabilities and contribute to the national economy. MBDA should

also continue to support efforts to pursue federal contracts, direct efforts to track minority business data, and collaborate with the Office of Native American Business Development.

**Fund the Office of Native American Affairs (ONNA) at a minimum of \$1.25 million as part of the Commerce Department Management Budget.** The establishment of the Office of Native American Business Development (ONABD) was codified by the enactment of the Native American Business Development, Trade Promotion and Tourism Act of 2000, Public Law 106-464 (the 2000 Act). However since its establishment, ONABD has relied on base resources from the Minority Business Development Agency (MBDA) to coordinate federal programs for financial and technical assistance to increase business, expand trade, and support economic development on tribal lands. In its FY 2016 budget request submitted to Congress MBDA noted the absence of appropriations to support ONABD since it was created by the 2000 Act, and also the lack of appropriation to implement other aspects of PL 106 -464 and the Indian Tribal Regulatory Reform and Business Development Act of 2000. In order to carry out its mission, ONABD must receive adequate and sustained support to implement Indian policy initiatives and expand Native American business development initiatives both domestically and internationally. Funding made available through Commerce's Departmental Management budget would help ONAA's efforts, particularly given the reduced focus of MBDA on specific Native American business assistance. Supported ONABD functions would include serving as the economic development lead on Native American programs within the Department, coordination with other cabinet departments and agencies; conducting outreach to tribes, tribal enterprises and Native businesses; and business and financial management training.

**Fund the Pacific Coastal Salmon Recovery Fund (PCSRF) at \$65,000,000**

The Pacific Coastal Salmon Recovery Fund is a true partnership between the federal government, states, localities, Tribes and private citizens that directly supports jobs and provides economic benefits to the communities throughout the region. Under PCSRF, the National Marine Fisheries Service provides competitive funding to the states of California, Oregon, Washington, Alaska, Idaho, and Nevada, and tribes of the Pacific Coast region. NOAA Fisheries Service, states, tribes and local project managers have developed an integrated approach to track progress, measure performance, and ensure accountability. In the Columbia River, the largest salmon producing river in the world, this program has treated and protected 1,638 stream miles and made 408 stream miles accessible to Salmon. NCAI requests the Committee maintain funding for the PCSRF at \$65 million for FY18.

**Provide \$38.2 million for Salmon Management Activities**

NCAI requests the Committee provide \$38,200,000 for Salmon Management Activities for NOAA Fisheries, 11.6 million of which is for the implementation of the Pacific Salmon Treaty. This program has brought the Chinook salmon back from near extinction. Between 1986-1992 the yearly average was 328 adult Chinook in the Columbia River compared to 2013 when 21,000 adult Chinook were counted. NOAA Fisheries estimates that Salmon Management Activities supports 870 jobs.

**Conclusion**

Thank you for your consideration of this testimony. For more information, please contact Virginia Davis, Senior Policy Advisor, at [vdavis@ncai.org](mailto:vdavis@ncai.org), Amber Ebarb, NCAI Budget and Policy Analyst, at [aebarb@ncai.org](mailto:aebarb@ncai.org) or Maria Givens, Legislative Associate, at [mgivens@ncai.org](mailto:mgivens@ncai.org).