



STATE OF SOUTH DAKOTA
OFFICE OF THE GOVERNOR

KRISTI NOEM | GOVERNOR

March 26, 2024

The Honorable Merrick Garland
Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Deb Haaland
Secretary, Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

The Honorable Gene Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street NW
Washington, D.C. 20548

Dear Attorney General Garland, Secretary Haaland, and Comptroller General Dodaro,

Law enforcement in Indian Country is failing to meet basic safety needs. For years, the level of actual funding drastically underestimates the true breadth of the challenges of Indian Country, made worse by the failed border policies of the Biden Administration and exacerbated by the presence of drug cartel operations on South Dakota tribal reservations.

For example, the Oglala Sioux Tribe (OST) took 165,799 emergency calls in FY2023 – those calls were spread across only 33 officers and eight criminal investigators covering 3.1 million acres. OST President Frank Star Comes Out testified before the U.S. Senate Committee on Indian Affairs on December 20, 2023:

“The State of South Dakota lacks criminal jurisdiction over Indian Country crimes; thus, in reality, the sole provider of law enforcement services to the Oglala Sioux Tribe is the federal government. We believe this federal neglect has resulted in the cartel moving on to our reservation, an increase in overdoses, and a proliferation of guns on our school properties.”

As the U.S. Senate Committee on Indian Affairs heard just last week during a listening session, this is not only a South Dakota problem. Other tribal leaders across the nation have spoken out about non-native drug dealers (i.e. drug cartels) openly operating on their reservations due to the large open areas and very little law enforcement. We know these drugs are coming across our open southern border, but we need a better understanding of how to prioritize tribal funding to combat these transnational criminal organizations. Recently, I wrote to the Committee to take action. Following suit, South Dakota's Senators demanded information from U.S. Government Accountability Office (GAO) to explain the Bureau of Indian Affairs' (BIA) budgetary practices, especially the funding formula for officers, and review BIA's response to public safety emergencies and the rising violent and drug crimes in Indian Country.

It is the duty of the federal government to provide sufficient resources to ensure prompt investigation of all crimes and arrest all offenders who violate federal and tribal law. This obligation is met by sufficient funding for an adequate number of law enforcement officers employed to maintain law and order within the boundaries of each reservation. OST has been asking the federal government for help for years and had to file multiple lawsuits. Something quite concerning that happened last week is that Rosebud Sioux Tribe closed its emergency management office due to lack of resources to maintain it. It is unacceptable to shut down basic needs of a community. This must be remedied.

On the other hand, stimulus funding to the reservations hit historic highs. The American Rescue Plan Act of 2021 is the largest investment of resources into Indian Country and tribal communities in U.S. history. The Coronavirus State and Local Fiscal Recovery Funds also provided \$20B in funding for tribal governments with a substantial infusion of resources. These are one-time stimulus funds, highly regulated, and limited in use. While the crime rates and drugs are also as high as ever, it is important for public interest to understand how these monies have or have not made a difference in tribal communities.

To understand the true need, I am calling for the Biden Administration to conduct public and comprehensive single audits of all federal funds that have been given to South Dakota's nine Native American tribes. The OMB Circular A-133 audit or single audit is an organization-wide financial statement and federal awards' audit of a non-federal entity that expends \$750,000 or more in federal funds in one year. An audit provides assurance that adequate internal controls are in place and the recipient complies with program requirements to continue their eligibility to receive grants, direct payments, and even loans. If single audits of these tribes have been regularly occurring, it is not transparent as single audits are not publicly available. I encourage members of the U.S. House Subcommittee on Indian and Insular Affairs and U.S. Senate Committee on Indian Affairs to demand a review of each single audit, inquire as to why an audit is not complete, and report on how each tribe is managing audit findings to improve eligibility for federal programs.

I also echo the request of South Dakota's Senators to the GAO for information on tribal law enforcement funding and its correlation with surges in crime on reservations.

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South Dakota has no criminal jurisdiction in Indian Country but has stepped up and wants to continue to support as desired by our tribal partners. Dozens of times, the State has offered establishing law enforcement Memorandums of Understanding with tribes to enhance community safety.

Law enforcement plays a crucial role in addressing high crime rates and drug issues, but so is stable housing for tribal members. During our recent state legislative session, we made federal ARPA funds available to tribes for building infrastructure to create safe communities for tribal members. As with any other public expenditure, the State is subject to a publicly available audit to ensure funds the State made available to tribes were used on proper and qualifying projects. This appears to be a double standard.

Additionally, South Dakota wants to support ongoing legal action by OST seeking increased federal law enforcement assistance. It is clear that the federal government is not meeting its legal obligations, shifting the burden onto tribes and states to manage the collateral fall out. However, it is prudent to support a lawsuit or pleas for additional appropriations by having a comprehensive understanding of the underlying issues, including whether any significant deficiency findings exist that prevent certain funding sources from being available to a tribe.

When tribal leadership, including at the district level, acts with transparency, invites financial scrutiny, and shows it met all the federal requirements, then it becomes even more evident that the remedy for addressing high crime and drug cartel presence must be the federal government's failure to provide law and order. Ensuring each tribal government has funded all it can by the means available makes a clear point that more resources are necessary to bring safety to our communities and our people.

I stand ready to advocate for more public safety dollars and have even shown a willingness to use state resources to fill the gap that the Bureau of Indian Affairs has left. But there must be accountability and transparency to further these efforts.

Sincerely,



Kristi Noem
Governor of South Dakota

CC:

U.S. House Subcommittee on Indian and Insular Affairs

U.S. Senate Committee on Indian Affairs

Inspector General Mark Lee Greenblatt, Department of the Interior

CFO Dylan Erickson, Bureau of Indian Affairs

Senator John Thune

Senator Mike Rounds

Representative Dusty Johnson