



THE ASSOCIATE DEPUTY SECRETARY OF THE INTERIOR
WASHINGTON

JUL 03 2008

The Honorable Byron L. Dorgan
Chairman, Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I understand you have included the Bureau of Indian Affairs and Tribal Jails Report prepared by Shubnum Strategic Management Applications in the public record for the June 19, 2008, hearing on law and order in Indian Country. As our June 17, 2008, letter to you transmitting the report stated, this report is not endorsed by the Department of the Interior, including the Bureau of Indian Affairs. We therefore request that this letter be included in the record as well.

The Department provided the report to you at your request. However, we asked that the report be held for Committee use and not be made public because we believe there are serious problems with the report. There are statements made throughout the report that are not supported by fact. We share your concern regarding the state of detention centers in Indian Country, but we believe releasing erroneous information confuses rather than informs the public.

The contractor misconstrued even the simplest of facts. For instance, the report at page 137 mentions that tribes contract with the BIA for "key programs and services, such as the Indian Health Service." As you are aware, IHS is a program under the Department of Health and Human Services, not the Department of the Interior. Further, population numbers are often in conflict without explanation. In addition, the predicted population growth rate for the various law enforcement programs ranges from 4.5 to 7.5 percent a year. This seems excessively high and is not substantiated by any analysis trend.

An earlier draft of the report stated that "[A]lcohol and drug abuse are the basis for between 95% to 100% of the reasons for detention." That finding was questioned. It now reads, "Most detainees are incarcerated as a result of violent crimes that have increased in the past few years." It is difficult to explain the vast difference between these two statements. Neither of them is substantiated by the crime statistics reported in Appendix H-6.

The report makes far-reaching conclusions insufficiently supported by data. Page 10 of the report contends that 90 percent or more of the existing justice facilities that are older than 5 years need to be replaced. It is hard to believe that these facilities do not have life spans longer than 5 years. The report states that facilities that have more than one critical

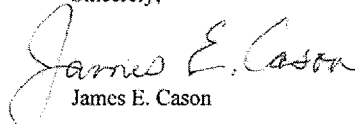
deficiency should be decommissioned "sooner rather than later." There is no explanation as to why these deficiencies cannot be remedied without replacing the facility.

The authors rely on anecdotal comments from inmates. For example, one inmate said "[T]he facility does not provide sufficient food." No objective metric is used to determine what is or is not sufficient food. Similarly, the report states that when prisoners ask for outdoor time "the detention officer threatens them that he can give them one hour of outdoor time . . ." (p. 44) Section 55.115 of title 28 of the Code of Federal Regulations includes the Bureau of Prison's regulations with regard to outdoor exercise which is one hour daily of outside recreation, weather permitting. This regulation is not difficult for anyone with a computer to find. However, the report implies that a one hour outdoor period is highly unusual.

The report does not provide a comprehensive inventory of the deferred maintenance and repair needs for the 38 facilities the contractor visited. There are 84 tribal facilities in total. The Appendix that purports to include the deferred repairs and maintenance costs of the inventoried facilities does not include many of the 38 visited sites, such as: seven of the Navajo sites; two in the Northwest Region; two in the Southwest Region; one in the Rocky Mountain Region; and, one in the Western Region. The table does, however, include data for 17 sites not visited.

These are just a few of the reasons why we believe the report confuses this issue, and why we asked that it not be given credibility by placing it, unchallenged, in the public record. The Department's FY 2008 enacted budget included a \$23.7 million increase for the Safe Indian Communities initiative. The FY 2009 budget builds on that initiative and proposes a further increase, thereby providing a total of \$231.1 million in FY 2009 for justice and social programs to provide assistance to Indian Country. The Department recognizes the growing epidemic facing Indian Country from organized crime and drug cartels. We look forward to working with the Committee on the needs of Indian Country, including the needs related to tribal detention facilities.

Sincerely,



James E. Cason

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