

## **JULY 2016 CROW TRIBAL LEGISLATURE**

### **LR No. 16-06**

Introduced by Senator Paul Hill and Senator Shawn Real Bird  
Center Lodge District

A Legislative Resolution Titled:

### **A RESOLUTION OF THE CROW TRIBAL LEGISLATURE TO CALL UPON MONTANA'S CONGRESSIONAL DELEGATION TO TAKE ALL NECESSARY AND PROPER MEASURES TO INVESTIGATE THE BUREAU OF INDIAN AFFAIRS/OFFICE OF JUSTICE SERVICES LAW ENFORCEMENT SERVICES**

Legislative Findings:

**WHEREAS**, the Crow Tribal Legislature (hereinafter "Legislature") has the power and duty under Article V, Section 2 of the Crow Tribal Constitution to promulgate and adopt resolutions in accordance with the Constitution and federal laws for the governance of the Crow Tribe; and

**WHEREAS**, Article 1 of the 1868 Fort Laramie Treaty between the United States of America and the Crow Tribe of Indians contains language which provides that "...If bad men among the whites or among other people, subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also re-imburse the injured person for the loss sustained;" and

**WHEREAS**, in 2010 Congress amended the Indian Law Enforcement Reform Act and the resulting federal law, contained at Title 25, United States Code Section 2802 expressly provides that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians:

(a) Responsibility of Secretary

The Secretary, acting through the Bureau, shall be responsible for providing, or for assisting in the provision of, law enforcement services in Indian country as provided in this chapter.

(b) Office of Justice Services there is established in the Bureau an office, to be known as the "Office of Justice Services", that, under the supervision of the Secretary, or an individual designated by the Secretary, shall be responsible for—

- (1) carrying out the law enforcement functions of the Secretary in Indian country,  
and
- (2) implementing the provisions of this section.

(c) Additional responsibilities of Division Subject to the provisions of this chapter and other applicable Federal or tribal laws, the responsibilities of the Office of Justice Services in Indian country shall include—

- (1) the enforcement of Federal law and, with the consent of the Indian tribe, tribal law;
- (2) in cooperation with appropriate Federal and tribal law enforcement agencies, the investigation of offenses against criminal laws of the United States;
- (3) the protection of life and property;
- (4) the development of methods and expertise to resolve conflicts and solve crimes;
- (5) the provision of criminal justice remedial actions, correctional and detention services, and rehabilitation;
- (6) the reduction of recidivism and adverse social effects;
- (7) the development of preventive and outreach programs which will enhance the public conception of law enforcement responsibilities through training and development of needed public service skills;
- (8) the assessment and evaluation of program accomplishments in reducing crime;
- (9) the development and provision of law enforcement training and technical assistance, including training to properly interview victims of domestic and sexual violence and to collect, preserve, and present evidence to Federal and tribal prosecutors to increase the conviction rate for domestic and sexual violence offenses for purposes of addressing and preventing domestic and sexual violent offenses;
- (10) the development and provision of dispatch and emergency and E-911 services;
- (11) communicating with tribal leaders, tribal community and victims' advocates, tribal justice officials, indigent defense representatives, and residents of Indian country on a regular basis regarding public safety and justice concerns facing tribal communities;
- (12) conducting meaningful and timely consultation with tribal leaders and tribal justice officials in the development of regulatory policies and other actions that affect public safety and justice in Indian country;
- (13) providing technical assistance and training to tribal law enforcement officials to gain access and input authority to utilize the National Criminal Information Center and other national crime information databases pursuant to section 534 of title 28;
- (14) in coordination with the Attorney General pursuant to subsection (g) of section 3732 of title 42, collecting, analyzing, and reporting data regarding Indian country crimes on an annual basis;
- (15) on an annual basis, sharing with the Department of Justice all relevant crime data, including Uniform Crime Reports, that the Office of Justice Services prepares and receives from tribal law enforcement agencies on a tribe-by-tribe basis to ensure that individual tribal governments providing data are eligible for programs offered by the Department of Justice;
- (16) submitting to the appropriate committees of Congress, for each fiscal year, a detailed spending report regarding tribal public safety and justice programs that

includes—

(A)

(i) the number of full-time employees of the Bureau and tribal governments who serve as—

(I) criminal investigators;

(II) uniform police;

(III) police and emergency dispatchers;

(IV) detention officers;

(V) executive personnel, including special agents in charge, and directors and deputies of various offices in the Office of Justice Services; and

(VI) tribal court judges, prosecutors, public defenders, appointed defense counsel, or related staff; and

(ii) the amount of appropriations obligated for each category described in clause

(i) for each fiscal year;

(B) a list of amounts dedicated to law enforcement and corrections, vehicles, related transportation costs, equipment, inmate transportation costs, inmate transfer costs, replacement, improvement, and repair of facilities, personnel transfers, detainees and costs related to their details, emergency events, public safety and justice communications and technology costs, and tribal court personnel, facilities, indigent defense, and related program costs;

(C) a list of the unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies, the replacement and repair needs of tribal and Bureau corrections facilities, needs for tribal police and court facilities, and public safety and emergency communications and technology needs; and

(D) the formula, priority list or other methodology used to determine the method of disbursement of funds for the public safety and justice programs administered by the Office of Justice Services;

(17) submitting to the appropriate committees of Congress, for each fiscal year, a report summarizing the technical assistance, training, and other support provided to tribal law enforcement and corrections agencies that operate relevant programs pursuant to self-determination contracts or self-governance compacts with the Secretary; and

(18) promulgating regulations to carry out this chapter, and routinely reviewing and updating, as necessary, the regulations contained in subchapter B of title 25, Code of Federal Regulations (or successor regulations).

**WHEREAS,** The Bureau of Indian Affairs was established in 1824 to serve the Nation by providing services, directly or through contracts, grants or compacts, to several million American Indians and Alaska Natives, who are members of 561 Federally recognized Indian Tribes; and

**WHEREAS,** The Bureau of Indian Affairs has centralized its law enforcement, corrections and tribal court programs within one program management are titled Office of Justice Services (OJS)

Branch of Criminal Investigations; establishment, responsibilities, regulations, personnel, etc.

(1) The Secretary shall establish within the Office of Justice Services a separate Branch of Criminal Investigations which, under such inter-agency agreement as may be reached between the Secretary and appropriate agencies or officials of the Department of Justice and subject to such guidelines as may be adopted by relevant United States attorneys, shall be responsible for the investigation, and presentation for prosecution, of cases involving violations of sections 1152 and 1153 of title 18 within Indian country.

(2) The Branch of Criminal Investigations shall not be primarily responsible for the routine law enforcement and police operations of the Bureau in Indian country.

(3) The Secretary shall prescribe regulations which shall establish a procedure for active cooperation and consultation of the criminal investigative employees of the Bureau assigned to an Indian reservation with the governmental and law enforcement officials of the Indian tribe located on such reservation.

(4)

(i) Criminal investigative personnel of the Branch shall be subject only to the supervision and direction of law enforcement personnel of the Branch or of the Office of Justice Services. Such personnel shall not be subject to the supervision of the Bureau of Indian Affairs Agency Superintendent or Bureau of Indian Affairs Area Office Director. Nothing in this paragraph is intended to prohibit cooperation, coordination, or consultation, as appropriate, with nonlaw enforcement Bureau of Indian Affairs personnel at the agency or area levels, or prohibit or restrict the right of a tribe to contract the investigative program under the authority of Public Law 93-638 [25 U.S.C. 450 et seq.] or to maintain its own criminal investigative operations.

(ii) At the end of one year following the date of establishment of the separate Branch of Criminal Investigations, any tribe may, by resolution of the governing body of the tribe, request the Secretary to reestablish line authority through the Agency Superintendent or Bureau of Indian Affairs Area Office Director. In the absence of good cause to the contrary, the Secretary, upon receipt of such resolution, shall reestablish the line authority as requested by the tribe.;  
and

**WHEREAS**, the Crow Tribe currently does not have a detention facility to house inmates, 25 U.S.C. 2802 provides Long-term plan for tribal detention programs not later than 1 year after July 29, 2010, the Secretary, acting through the Bureau, in coordination with the Department of Justice and in consultation with tribal leaders, tribal courts, tribal law enforcement officers, and tribal corrections officials, shall submit to Congress a long-term plan to address incarceration in Indian country, including—

(1) a description of proposed activities for—

(A) the construction, operation, and maintenance of juvenile (in accordance with section 2453(a)(3) of this title [2] and adult detention facilities (including regional facilities) in Indian country;

(B) contracting with State and local detention centers, upon approval of affected tribal governments; and

(C) alternatives to incarceration, developed in cooperation with tribal court systems;

(2) an assessment and consideration of the construction of Federal detention facilities in Indian country; and

(3) any other alternatives as the Secretary, in coordination with the Attorney General and in consultation with Indian tribes, determines to be necessary.; and

**WHEREAS**, the United States has a clear and absolute legal responsibility and treaty obligation to provide full and adequate law enforcement services to the Crow Tribe; and

**WHEREAS**, the mission statement for Bureau of Indian Affairs services states “the mission of the Office of Justice Services is to serve Indian country communities by protecting life, safety and property; promoting and maintaining order; preventing crime; and enforcing the law” and the vision of Bureau of Indian Affairs is also “Professional law enforcement services, effective partnerships, quality technical assistance, creative problem solving and innovative policing in Indian country”; and

**WHEREAS**, Montana U.S. Senator Jon Tester is the vice-chair of the U.S. Senate Committee on Indian Affairs, Montana U.S. House Representative Ryan Zinke has shown interest in issues facing Montana’s tribes, and Montana U.S. Senator Steve Daines serves on the U.S. Senate Subcommittee on Indian and Alaskan Native Affairs; and

**WHEREAS**, it is essential and in the best interests of the Crow Tribe to ensure fully functional law enforcement services on the Crow Reservation which meets the standards set out by federal law and treaty until such time as the Tribe may fully contract and assume the delivery of law enforcement to its membership, and it is vital that the representatives of the Crow Tribe in the Congress ensure that all problems are investigated, identified, and a corrective plan of action immediately implemented.

**NOW, THEREFORE, BE IT RESOLVED BY THE CROW TRIBAL  
LEGISLATURE IN REGULAR SESSION:**

That U.S. Senator Jon Tester, U.S. Congressman Ryan Zinke, and Senator Steve Daines are each and together called upon to immediately take all necessary and proper measures to ensure that the appropriate committees and officers of the Senate and House of Representatives be implored to at once conduct a full investigation of lack of services, and all other OJS administered programs and/or facilities on the Crow Indian Reservation or which intend to serve Crow tribal members.

**BE IT FURTHER RESOLVED:**

If any member of Montana's Congressional Delegation, in receipt of this tribal resolution, chooses not to take meaningful action in furtherance thereof, that such decision be communicated in writing to the Legislature as soon as practical.

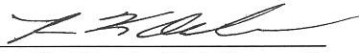
**BE IT FINALLY RESOLVED:**

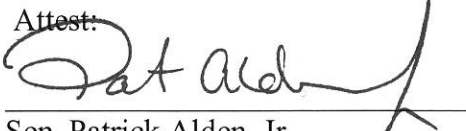
This tribal resolution shall take effect immediately upon becoming duly adopted by the Legislature. A certified copy shall immediately be provided to Montana's Congressional Delegation.

[Remainder of page left blank intentionally]

**CERTIFICATION**

I hereby certify that this Legislative Resolution titled **A RESOLUTION OF THE CROW TRIBAL LEGISLATURE TO CALL UPON MONTANA'S CONGRESSIONAL DELEGATION TO TAKE ALL NECESSARY AND PROPER MEASURES TO INVESTIGATE THE BUREAU OF INDIAN AFFAIRS/OFFICE OF JUSTICE SERVICES LAW ENFORCEMENT SERVICES** was duly adopted by the Crow Tribal Legislature with a vote of 13 in favor, 0 opposed, and 0 abstained and that a quorum was present on the 19<sup>th</sup> day of **July, 2016**.

  
Sen. R. Knute Old Crow, Sr.  
Speaker of the House  
Crow Tribal Legislature

Attest:  
  
Sen. Patrick Alden, Jr.  
Secretary  
Crow Tribal Legislature





**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE TO CALL UPON MONTAN'S CONGRESSIONAL  
DELEGATION TO TAKE ALL NECESSARY AND PROPER MEASURES TO INVESTIGATE THE BUREAU OF  
INDIAN AFFAIRS/OFFICE OF JUSTICE SYSTEMS LAW ENFORCEMENT SERVICES**

**Bill or Resolution:** LR16-06 **Introduced by:** Sen. P. Hill & Sen. S. Real Bird **Date of Vote:** 7/19/2016  
**Number**

<u><b>Representative:</b></u>	<b>Yes</b>	<b>No</b>	<b>Abstained</b>
G. Three Irons	<u>    X    </u>	<u>          </u>	<u>          </u>
B. Rogers	<u>    X    </u>	<u>          </u>	<u>          </u>
F. White Clay	<u>          </u>	<u>          </u>	<u>          </u>
P. Hill	<u>    X    </u>	<u>          </u>	<u>          </u>
E. Birdinground	<u>    X    </u>	<u>          </u>	<u>          </u>
S. Real Bird	<u>    X    </u>	<u>          </u>	<u>          </u>
V. Nomee	<u>          </u>	<u>          </u>	<u>          </u>
T. Gros Ventre	<u>    X    </u>	<u>          </u>	<u>          </u>
V. Crooked Arm	<u>    X    </u>	<u>          </u>	<u>          </u>
P. Spotted Horse, Sr.	<u>          </u>	<u>          </u>	<u>          </u>
L. DeCrane	<u>    X    </u>	<u>          </u>	<u>          </u>
C. Goes Ahead	<u>    X    </u>	<u>          </u>	<u>          </u>
B. Hugs	<u>          </u>	<u>          </u>	<u>          </u>
G. Real Bird, Jr.	<u>          </u>	<u>          </u>	<u>          </u>
B. Good Luck	<u>    X    </u>	<u>          </u>	<u>          </u>
H. Male Bear, Jr.	<u>    X    </u>	<u>          </u>	<u>          </u>
P. Alden, Jr. <i>Secretary of the House</i>	<u>    X    </u>	<u>          </u>	<u>          </u>
R. Old Crow, Sr. <i>Speaker of the House</i>	<u>    X    </u>	<u>          </u>	<u>          </u>
<b>Totals:</b>	<u>    13    </u>	<u>      0      </u>	<u>      0      </u>

Result of Vote:

**Passed**

**Not Passed**

**Tabled**

**Veto-Override**



Senator R. Knute Old Crow, Sr.  
Speaker of the House

7-19-16  
Date



Senator Patrick Alden, Jr.  
Secretary of the House

Date

7-28-16