

JANUARY 2018 REGULAR SESSION CROW TRIBAL LEGISLATURE

LR No. 18-02

Introduced by Brandon Good Luck

Mighty Few District

A Legislative Resolution Titled:

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE CALLING UPON
FEDERAL EXECUTIVE LEADERSHIP TO IMMEDIATELY TAKE ALL NECESSARY
AND PROPER ACTIONS TO IMPROVE FEDERAL LAW ENFORCEMENT ON THE
CROW INDIAN RESERVATION**

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 Tribal Constitution and federal laws for the governance of the Crow Tribe;

WHEREAS, pursuant to Article I of the 1868 Fort Laramie Treaty with the United States of America, the "Bad Men Clause" of the Treaty provides that if bad men among the whites or among other people, (including any illegal citizens or aliens from other countries) subject to the authority of the United States, shall commit any wrong upon the person or property of the Crow Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also guarantees restitution to the injured person for any losses sustained and, further, if bad men among the Crow Tribe shall commit a wrong or depredation upon the person or property of any other person subject to the authority of the United States and at peace therewith, the Crow Tribe solemnly agrees to deliver up the wrongdoer to the United States, to be tried and punished according to federal law;

WHEREAS, Article I of the 1868 Fort Laramie Treaty further provides that the President of the United States, upon receiving advice from the Commissioner of Indian Affairs, shall prescribe such rules and regulations for ascertaining damages under the Bad Men Clause provisions of the Treaty, as in the President's judgment may be proper;

WHEREAS, pursuant to Article II of the Constitution of the United States, the executive power of the federal government is vested in the President of the United States, who has the duty to take care that the laws be faithfully executed;

WHEREAS, as of 1977 the position of Commissioner of Indian Affairs has been replaced by the Assistant Secretary of the Interior for Indian Affairs, who acts under the authority of the Secretary of the Interior and the President of the United States;

WHEREAS, pursuant to the 1990 Indian Law Enforcement Reform Act, codified at Title 25, Chapter 30 of the United States Code, the Secretary of the Interior, acting through the Bureau of Indian Affairs Office of Justice Service, has the responsibility to provide the Interior Department's law enforcement services in Indian Country;

WHEREAS, the Secretary of the Interior, by and through the Bureau of Indian Affairs Office of Justice Services, has the authority under prior Crow tribal resolutions to enforce the criminal provisions of the Crow Law and Order Code, and has concurrent authority with the United States Attorney General, by and through the Federal Bureau of Investigation, to investigate major crimes on the Crow Indian Reservation, pursuant to the 1990 Indian Law Enforcement Reform Act and the 1993 memorandum of understanding between the United States Attorney General and Secretary of the Interior;

WHEREAS, the Legislature, in the October 2009 Quarterly Legislative Session, adopted Crow Legislative Bill No. CLB 2009-09, which added Title 8F to the Crow Law and Order Code, established a Tribal Department of Public Safety and provided in the legislative findings that the Bureau of Indian Affairs does not staff the Crow Agency unit with sufficient officers to ensure the safety and welfare of all the citizens and residents of the Crow Indian Reservation and the high volume of incidents requiring law enforcement attention, combined with limited resources and shortage of personnel in the general law enforcement agency on the Crow Reservation have all contributed to the growth of drug distribution and drug abuse on the Reservation;

WHEREAS, as of the January 2018 Quarterly Legislative Session, Crow Legislative Bill No. CLB 2009-09 has not been implemented or enforced by the Crow Tribal Executive Branch of Government and the Bureau of Indian Affairs remains the principal law enforcement agency with daily patrol and law enforcement responsibilities on the Crow Indian Reservation;

WHEREAS, in the Tribal Law and Order Act of 2010, the United States Congress and President of the United States recognized the distinct legal, treaty, and trust obligations to provide for the public safety of Indian country and acknowledged that sexual and domestic violence against women in Indian Country has reached epidemic levels, and that less than 3,000 tribal and federal law enforcement officers patrol more than 56 million acres of Indian country nationwide, which Congress found reflects less than half of the law enforcement presence in comparable rural communities nationwide and that the complicated jurisdictional scheme that exists in Indian country has a significant negative impact on the ability to provide public safety to Indian communities, which has been increasingly exploited by criminals and requires a high degree of commitment and cooperation among tribal, federal, and state law enforcement officials;

WHEREAS, the Legislature, in the July 2016 Quarterly Legislative Session, adopted Legislation Resolution No. LR 2016-06, which called upon Montana's Congressional Delegation to take all necessary and proper actions the law enforcement functions of the Bureau of Indian Affairs on the Crow Indian Reservation;

WHEREAS, no action has been taken by Montana's Congressional Delegation to hold the Bureau of Indian Affairs Office of Justice Services accountable to the law and the Crow Tribe;

WHEREAS, the Bureau of Indian Affairs Office of Justice Services has continued to fail in their duties and responsibilities under federal law to dutifully enforce the Crow Criminal Code, has failed to adequately staff the Crow Indian Reservation with qualified law enforcement officers, has failed to dutifully adhere to a key mandate of the 2010 Tribal Law and Order Act, which requires the BIA to recognize and adhere to tribal and state court subpoenas, has not provided adequate training to law enforcement officers in order to ensure basic officer competency in applying for search warrants and understanding tribal criminal law, has failed to organize any interagency drug crime enforcement task force for the Crow Reservation, has refused to give proper respect to proceedings of the Crow Tribal Court, including but not limited to transporting inmates to court hearings as ordered by Tribal Judges, has denied access to agency inmate rosters to law enforcement and prosecutors, has refused to station a resident officer in service to the Pryor community, has denied the availability of officers to serve as witnesses in state felony prosecutions and has generally failed in nearly every respect needed to restore a sense of law and order on the Crow Reservation, in violation of federal law and the 1868 Fort Laramie Treaty;

WHEREAS, the stated purposes of Congress in passing the Tribal Law and Order Act of 2010, as set forth in Section 202(b)(1)-(6) of the Act, have been unduly frustrated through extraordinary resistance from the Bureau of Indian Affairs Office of Justice Services; and

WHEREAS, the level of crime and sense of lawlessness on the Crow Indian Reservation and the failures of the Bureau of Indian Affairs Office of Justice Services are absolutely unacceptable and until such time as the Crow Tribal Government assumes greater responsibility for the enforcement of Crow tribal law and the assurance of public safety on the Crow Reservation through a fully funded and fully functional tribal law enforcement agency, the Legislature seeks to call upon the highest levels of the federal executive to take immediate actions in order to carry out their authorities and duties to the Crow Tribe and all residents and visitors to the Crow Reservation.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CROW TRIBAL LEGISLATIVE BRANCH OF GOVERNMENT IN REGULAR SESSION:

Section 1. Call to President of the United States to Require That All Federal Laws and Treaties Be Fully Enforced on the Crow Indian Reservation.

The Crow Tribal Legislature makes special and specific request to the President, with respect to his constitutional and other legal authority, to immediately require all agencies and departments of the United States to dutifully ensure that all federal laws and treaties relating to crime reduction and public safety be fully enforced on the Crow Indian Reservation. The President should immediately assign the Task Force on Crime Reduction and Public Safety established by

Executive Order on February 9, 2017 to investigate and oversee the functions of the federal government with respect to the Crow Reservation. The President should also review the rules and regulations previously adopted, if any, which are intended to implement the provisions of Article I of the 1868 Fort Laramie Treaty relating to the treaty right to restitution for damages caused by criminal conduct injuring Crow tribal members on the Crow Reservation, and such other executive branch rules and regulations as may be relevant to the assurance of crime reduction and public safety on the Reservation.

Section 2. Call to Secretary of the Interior to Hold Accountable the Bureau of Indian Affairs Office of Justice Services.

The Crow Tribal Legislature makes special and specific request to the Secretary of the Interior, with respect to his federal statutory and other legal authority, to immediately require the Bureau of Indian Affairs Office of Justice Services to dutifully ensure that all federal laws and treaties relating to crime reduction and public safety be fully enforced on the Crow Indian Reservation, including active efforts to garner financial support and resources from the federal government to Indian Country including the Crow Nation. The Secretary should immediately coordinate with the United States Attorney General to investigate and oversee the functions of the Bureau of Indian Affairs Office of Justice Services with respect to the Crow Reservation. The Secretary should also review all rules and regulations previously adopted which are intended to implement the provisions of federal statutory law relevant to the Department of the Interior's law enforcement responsibility on the Crow Reservation.

Section 3. Call to the United States Attorney General and Montana United States District Attorney to Ensure Dutiful Enforcement of Federal Laws and Treaties on the Crow Indian Reservation.

The Crow Tribal Legislature makes special and specific request to the United States Attorney General and Montana United States Attorney, with respect to their federal statutory and other legal authority, to immediately ensure proactive direction and guidance to all federal law enforcement agencies with criminal investigative and enforcement authority on the Crow Indian Reservation. The Montana United States Attorney should take all necessary and proper actions to immediately assemble an interagency drug crime enforcement task force with the highest prioritization made to aggressively combat methamphetamine use and trafficking, and to seek maximum punishment for methamphetamine distribution convictions. The Montana United States Attorney should immediately review Montana's Indian Country Operational Plan and all other relevant policies to ensure the Bureau of Indian Affairs Office of Justice Services, and all other federal law enforcement agencies, are proactively engaged in crime reduction and public safety for the Crow Indian Reservation, and in full and active enforcement of all relevant federal laws and treaties.

The United States Attorney General should require major review and revision of the United States Attorney's Manual in order to provide specific policies and guidelines for each Indian country enclave in the United States, including the Crow Reservation, in order to ensure the proper respect and recognition to the individual sovereign and legal status of Indian tribes is made by local federal officers.

Section 4. Branch Officers to Certify Delivery to Appropriate Federal Officers.

The Branch Officers of the Crow Tribal Legislature shall ensure that a certified copy of this Tribal Resolution be at once delivered to the President of the United States, United States Attorney General, Secretary of the Interior, and the Montana United States District Attorney.

Section 5. Notice to Montana's Congressional Delegation.

The Branch Officers of the Crow Tribal Legislature shall ensure that a certified copy of this Tribal Resolution be at once delivered to the United States Senator Steve Daines, United States Senator Jon Tester and to Congressman Greg Gianforte.

Section 6. Notice to Crow Tribal Executive Branch Officials.

The Branch Officers of the Crow Tribal Legislature shall ensure that a certified copy of this Tribal Resolution be at once delivered to the Executive Officers of the Crow Tribe, along with the Crow Tribal Attorney General/Crow Tribal Prosecutor.

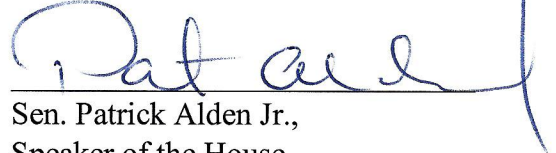
Section 7. Effective Date.

This Tribal Resolution shall take effect immediately upon being duly adopted by the Crow Tribal Legislature.

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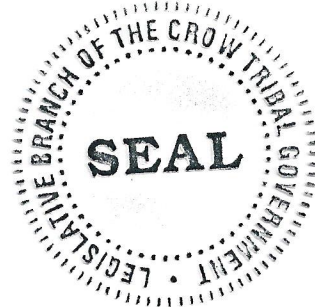
CERTIFICATION

I hereby certify that this Legislative Resolution Titled, **A RESOLUTION OF THE CROW TRIBAL LEGISLATURE CALLING UPON FEDERAL EXECUTIVE LEADERSHIP TO IMMEDIATELY TAKE ALL NECESSARY AND PROPER ACTIONS TO IMPROVE FEDERAL LAW ENFORCEMENT ON THE CROW INDIAN RESERVATION** was duly enacted by the Crow Tribal Legislature with a vote of 14 in favor, 0 opposed, and 0 abstaining and that a quorum was present on this 16th day of January, 2018.


Sen. Patrick Alden Jr.,
Speaker of the House
Crow Tribal Legislature

ATTEST:


Sen. Lawrence DeCrane
Secretary of the House
Crow Tribal Legislature



LR: A RESOLUTION OF THE CROW TRIBAL LEGISLATURE CALLING UPON FEDERAL EXECUTIVE LEADERSHIP TO IMMEDIATELY TAKE ALL NECESSARY AND PROPER ACTIONS TO IMPROVE FEDERAL LAW ENFORCEMENT ON THE CROW INDIAN RESERVATION

Bill or Resolution: LR18-02 **Introduced by:** Sen. Brandon Good Luck **Date of Vote:** 1/16/2018
Number

REPRESENTATIVE:	Yes	No	Abstained
M. White Clay	X		
D. Spotted	X		
F. White Clay	X		
L. Hogan, III	X		
B. Brown	X		
S. Real Bird	X		
V. Nomee			
T. Yellowtail	X		
T. Gros Ventre			
M. Not Afraid	X		
P. Spotted Horse, Sr.	X		
J. Domontiney			
B. Hugs			
N. Old Crow, Jr.	X		
B. Good Luck	X		
H. Stone, Jr.	X		
L. DeCrane, <i>Secretary of the House</i>	X		
P. Alden, Jr., <i>Speaker of the House</i>	X		
Total:	14	0	0


Result of Vote:

Passed

Not Passed

Tabled

Veto-Override

 1-17-18
 Senator Pat Alden, Jr. Date
 Speaker of the House

 1-17-18
 Senator Lawrence DeCrane Date
 Secretary of the House