

**Statement of  
Kevin Gover, Assistant Secretary - Indian Affairs,  
Department of the Interior  
before the  
Senate Committee on Indian Affairs  
Oversight Hearing on the Bureau of Indian Affairs  
Capacity and Mission  
April 28, 1999**

Good morning, Mr. Chairman and members of the Committee. I appear before you today to provide you with an overview of the status of the Bureau of Indian Affairs' (BIA) capabilities, several changes we are making at the BIA, and my thoughts on the BIA's evolving mission and my expectations for its relationship with Indian people.

## **I. HISTORY**

The BIA was established in March 1824 within the War Department. In the last two centuries, the Congress has passed more Federal laws dealing with Indian Tribes and Alaska Natives than any other group of people in the United States. While the Snyder Act, the Indian Self-Determination and Education Assistance Act of 1975, and the Indian Education Amendments of 1978 provide the primary budgetary authorities for the BIA's activities, numerous statutes, court decisions, treaties and other authorities (including those passed in the early 1800s regulating trade with Indians) continue to guide the BIA's mission, operations, and administration. The diversity of these mandates frequently requires the BIA to balance the inherent conflicts and problems created by more than 200 years of shifting and evolving federal Indian policy.

All federal agencies face competing demands, but few have faced the conflicting demands placed on the BIA. When the Office of Indian Affairs was formed in the War Department in 1824, the federal policy towards Indian Tribes was to relocate them from their ancestral lands to clear the way for white expansion into those lands, to "protect" the Indians from encroachment by the Americans. Within two decades, federal policy took a radically different direction, turning to treaty-making, treaty-breaking, and warfare with the Tribes as the country's westward expansion continued. The Office of Indian Affairs led the way in giving the solemn guarantee of the United States to the Tribes that Tribal homelands would be protected for all time, only to renege on that commitment over and over and enforcing the breach of those promises by force of arms.

When the Tribes finally were defeated militarily, it was the BIA that provided for their needs as they attempted to adapt to the restrictions of reservation life. The BIA suppressed their religions, punished real or perceived transgressions by withholding rations and other provisions, and provided schools and missions intent on replacing cultural values learned over millennia with the cultural values of the whites. It was in this era that the stereotype of the crooked Indian agent, who sold treaty goods on the black market for his own profit while giving the Indians inferior goods, was all too real.

The promise of permanent homelands did not last long, and by the turn of the twentieth century, the BIA was busily allotting lands to individual Indians and selling "excess" lands to non-Indian settlers,

destroying traditional institutions of Tribal governance, and ripping children from their families that they might be sent to boarding schools to learn the language, culture, values, habits, and industries of white Americans. BIA was charged by Congress with the duty of protecting allotted Indians from sharp dealing and outright theft of their lands, a duty breached more often than honored with the implied and express approval of the Congress. Ninety million acres of land left Indian ownership in less than forty years, and the Indians were left destitute. Allotment left a legacy of impoverishment that remains the inheritance of Indian communities today.

With the New Deal era came another wild swing in Indian policy: the Indian Reorganization Act. Once again, the BIA charged forward to implement a new policy with which the institution had no previous experience. Indian agents accustomed to dictating to Tribal leaders suddenly were expected to defer to Tribal governments, even to help re-create the institutions of Tribal government they had only a few years earlier been instructed to destroy.

In less than two decades, Congress reversed course again. The BIA was set to work identifying Tribes as to which the federal trust responsibility should be terminated. The BIA dutifully prepared lists of Tribes for termination, an aptly-named policy designed to destroy Tribal communities under the guise of “freeing” them from federal “domination.” No thought was given to whether the Tribes wanted this; confident in its ability to know what was best for the Indians, the United States abandoned these communities.

Only two more decades passed before we entered the current policy era of Self-Determination and, more recently, Self-Governance. Like the reorganization policy, the Self-Determination policy is built on the notion that the Indian people themselves, through their Tribal governing bodies, are best to determine what is best for them. This is clearly the correct policy, and though the BIA has been successful in implementing the policy, there remain institutional barriers to its complete implementation.

The history of the BIA, then, reflects the historic shifting of federal policy towards the Tribes. All three branches of government must bear the blame for the disgraceful and tragic history of our country’s dealings with the Tribes, and the BIA must bear the primary burden. The BIA carries the baggage of every failed policy initiative, every racist assumption about Indian people, and every naive assistance program ever developed for the Tribes. Given this history, none should wonder why the relationship between the Tribes and the BIA is described as a “love-hate” relationship.

Two extremely important lessons can be drawn from this review of federal Indian policy: first, each time the United States has attempted to withdraw from the government-to-government relationship with the Tribes--a relationship established in the earliest days of our national existence--it has produced catastrophic harm to Indian communities. Second, every time we fail to honor the wishes of Tribal governments in formulating policy or, worse yet, to dismantle these institutions, matters are made worse.

These dual realities present a perpetual challenge, implying as they do both federal power to carry out

the responsibilities it has assumed and the Tribe's power to govern themselves as they see fit. This inherent conflict between the trust responsibility (and power) of the United States and Tribal sovereign powers must be acknowledged in all our discussions of federal Indian policy, but it need not be debilitating. The Federal-Tribal relationship should be dynamic and sufficiently flexible to meet the needs and respect the capabilities of each of the 558 Tribal governments with which we deal.

After all of this history, the BIA's most basic responsibilities are its trust obligations and facilitating Tribal self-determination. However, while the protection of trust resources is our most fundamental responsibility, Tribes struggling to meet the basic needs of their communities must compete for the same limited resources the BIA uses to protect trust resources. The BIA's success relies on judiciously balancing these competing mandates.

## **II. CURRENT CAPABILITIES**

Today, the BIA provides services directly, or through Self-Determination contract, grant and compact agreements with Tribes, to more than 1.2 million American Indians and Alaska Natives of 558 federally recognized Tribes in 32 states. The scope of BIA programs is extensive and covers virtually the entire range of state and local government services. In addition, the BIA administers more than 43 million acres of Tribally-owned land, more than 11 million acres of individually owned land held in trust status, and 443,000 acres of Federally owned land. BIA's programs are funded and operated in a highly decentralized manner with 90 percent of all appropriations expended at the local level, an increasing amount of which are operated by Tribes and Tribal organizations under contracts or self-governance compacts.

While the BIA's role has changed significantly during the past two decades with the implementation of Tribal self-determination, Indian Tribes still look to the BIA for a broad spectrum of critical and complex programs. Among these are an education system for an estimated 53,000 elementary and secondary students; 26 BIA-funded Tribally controlled community colleges; law enforcement and detention services on more than 200 reservations; social service programs for children, families, the elderly, and the disabled; management of forest, mineral, fishery and farmland resources; the maintenance of more than 25,000 miles of roads on rural and isolated reservations; economic development programs in the most depressed areas in the U.S.; the development and implementation of legislated land and water claim settlements; the replacement and repair of schools and detention centers; and the repair of structural deficiencies on high hazard dams.

In the last twenty years, BIA funding in nominal dollars has increased nearly 70 percent. However, in dollars adjusted for inflation, BIA funding has fallen over 22 percent. While the downward trend in real funding spans many years, the most significant reduction came in FY 1996, when the BIA funding dropped \$160 million. The percent reduction in real terms was nearly 12 percent in one year. Not until the FY 1999 appropriations was the BIA funding returned to the same level as FY 1995 level in nominal dollars, but in real terms, the funding is still 10 percent below FY 1995.

There is a prevailing myth that most of BIA funding goes to BIA administration costs, with some

claiming that as much as 90 percent of BIA funds go to “the bureaucracy”. This is simply not correct. BIA’s FY 1998 financial statement, audited by the Inspector General, shows that 54.6 percent of all funds obligated in our Operation of Indian Programs and Construction accounts go directly to the Tribes under Public Law 93-638 contracts or compacts, and Public Law 100-297 grants. The other accounts for loan guarantees, a land consolidation pilot, and land and water settlements have even higher proportions moving directly to individual Indians and Tribes. The remainder goes to Tribal communities in the form of services provided directly by BIA personnel.

In our FY 1999 appropriations, if you assume that all of the activities of the Area and Central Offices are administration, the amount spent on administration is only 10 percent. So when people claim that 90 percent of all funding goes to the BIA bureaucracy and 10 percent to the Tribes, they have their proportions reversed.

The BIA is unique in the Department of the Interior in a number of ways. In the FY 2000 President’s Budget, BIA is projecting that well over two-thirds of its funding will go to contracts, compacts, and grants (including commercial contracts, primarily with Indian businesses). For DOI’s land management bureaus, the level of contracts and grants range from 15 to 20 percent of their total funding. While for most of the Department’s bureaus half to two-thirds of their funding go to personnel related costs, BIA will spend only 23 percent for personnel and benefits in FY 2000. BIA spends significantly more than any other bureau on benefits to former employees because of the continual process of laying off Federal employees as Tribes take over programs. But in nearly every other purchase category (such as travel, transportation, rent, communications and supplies), BIA spends a smaller percentage of its funding than other bureaus in DOI.

Our reliance on contracting is reflected in the reduction of our work force. In 1981, the BIA had 16,868 FTEs. This year, we have 9,563 FTEs, and we project that in 2005 that number will drop by at least 600. The best way to reduce the number of BIA personnel is to increase BIA funding, thereby encouraging more Tribal contracting.

### **III. CHALLENGES**

Shortly after I took office, I began working with the BIA Central Office Directors and the Area Directors, asking them about the condition of the BIA and the changes they believed needed to be made. After a great deal of discussion and thought, a vision of the BIA and how it should work in the future began to emerge.

Currently, the BIA is delivering 90 percent of its resources directly to Tribal communities through Public Law 93-638 contracts, self-governance compacts, and direct services. This number is something to be proud of, and the BIA employees are doing a good job. Due to the implementation of the Self-Determination and Self-Governance policy, within the next 10 or 15 years, the BIA will be mostly out of the business of providing direct services to Tribal communities. Virtually all services provided to reservation residents will be provided by the Tribes themselves with funds appropriated through BIA.

If BIA's presence in Indian country is going to be so severely diminished, we must ask what is the future of the BIA. I am confident that the BIA will remain a vibrant and necessary part of federal Indian policy far into the future if it can prepare itself now for the demands it will encounter in the new century. Five things must be done to prepare the BIA for the 21<sup>st</sup> century.

## **A. FUNDING**

First, we must have adequate funding for Tribal programmatic needs. The primary obstacle to universal Tribal contracting and compacting for service programs is a shortage of money. For the self-determination and self-governance policies to fully succeed, necessary resources must be provided through appropriations. Ironically, the more money the BIA receives, the smaller the number of Federal employees it will employ, because if we receive adequate resources to operate programs, the Tribes will take over more and more of these functions.

## **B. TRUST MANAGEMENT**

Second, the BIA must be redesigned to carry out efficiently and effectively its responsibility to protect and enhance Tribal trust resources. That is why we are implementing the Secretary's Trust Management Improvement Project (TMIP). This project, agreed upon by the Secretary, the Special Trustee, and the BIA, will overhaul all key aspects of our trust management system. The result will be a state of the art computerized information system that will allow Tribes and the Department to effectively manage Indian trust resources.

The Trust Management Improvement Project requires an enormous amount of staff time to accomplish. The BIA holds major responsibilities for the Trust Asset and Accounting Management Systems (TAAMS) project, the review of our current policies and procedures for evaluating appraisals; the redesign of the system of Indian probates; and the clean-up and redesign of our trust records management functions.

### 1. TAAMS

TAAMS alone involves more than 200 BIA staff. The system will include an asset management system with the following functions: title office, land and lease management, and accounts receivable. The objective of the TAAMS automation effort is to acquire and implement a standardized, commercial-off-the shelf general trust asset management system and replace the integrated records management system (IRMS) and the land records information system (LRIS), thereby providing a standardized, integrated data base capability and eliminate redundant entry of resource management data.

### 2. APPRAISALS

The appraisals portion of the TMIP fulfills the Federal Government's trust responsibility to protect and preserve Indian trust land and resources. This sub-project includes an assessment of the present BIA appraisal program's policies and procedures, workloads, staff qualifications, and adherence to Uniform Standards of Professional Appraisal Practices. This program assessment will ensure

compliance with universal appraisal standards and assist in eliminating appraisal backlogs and developing corrective action plans, where needed.

### 3. INDIAN PROBATES

We are also involved in the Department of the Interior's Probate Reinvention Lab, which is reviewing the existing probate process, beginning with our Aberdeen and Anadarko Area Offices. In addition, the probate backlog planning group and the appraisal program planning group will finalize viable solutions to reduce processing delays.

### 4. TRUST RECORDS MANAGEMENT

Another part of the TMIP includes Indian trust records management, storage, access, control and disposition. The activities involved within this effort are varied, with emphasis on: (1) providing an oversight authority to provide day-to-day Federal Records Act, Federal Privacy Act, and Freedom of Information Act support to Central Office, Area Offices and Agencies; (2) "swat team" visits to every area office and agency during a three-year period to clean up any existing records retirement backlog; (3) development of a plan for potentially hazardous impacts to records, including electronic records, and establishment and maintenance of viable vital records programs; (4) training for all levels of management and administrative staff in basic records management, privacy, and FOIA requirements and practices; (5) compliance with National Archives and Records Administration requirements for scheduling office automation electronic source documents for preserving electronic office automation records in electronic format where appropriate; (6) creation of an Indian trust desk guide in a convenient and attractive format incorporating the history, laws, various processes, and (7) comprehensive record keeping requirements for the program; and document imaging.

There is much work to be done, and in order to succeed, we need legislation authorizing settlement of Tribal claims without litigation for the mismanagement of trust funds, and legislation to address the continuing problem of fractionated interests. Without the enactment of legislation addressing fractionated interests, the systems reforms will be severely hindered. If Congress will do its part, we can do ours, and between us we can resolve a problem that has festered for decades.

## **C. ACCOUNTABILITY**

### 1. BIA ACCOUNTABILITY

The BIA, of course, must be accountable to Congress, the Department, and the Tribes for its management and administration of appropriated funds. We have initiated a systematic management review of all BIA accounting and administrative operations. When this process is completed, we will bring forward our proposal for reorganizing BIA management and administration. Let me make clear we are not talking about restructuring BIA service programs, only BIA's administration of its internal affairs in matters of accounting, property management, records management, personnel, and the like.

The BIA falls under several federal laws and regulations concerning the administrative systems and financial management system compliance. These include the Chief Financial Officers Act of 1990; Debt Collection Improvement Act of 1996; Credit Reform Act of 1990; the Prompt Payment Act;

and the Federal Financial Management Improvement Act. I am sorry to report that the BIA is failing to meet its obligations under these laws. Because of this failure, the BIA will not receive an unqualified audit opinion for FY 1998.

I see several reasons for this failure. First and foremost, because the BIA is a human services agency, and because human need in Indian country is so vast, BIA managers probably believe that internal controls and administrative processes are unimportant when compared to Tribal services, and administration has taken a backseat. Second, the FY 1995 appropriations law prompted the 1996 reduction-in-force (RIF) and had a devastating effect on the BIA. During this time period the BIA lost 1,200 people through the RIFs and buy-outs of employees.

Nevertheless, our administrative performance is not acceptable. I am appointing senior managers to head up work groups on each material weakness identified in our 1998 audit. Each work group will prepare an action plan to resolve the material weakness for the consideration of Deputy Commissioner Hilda Manuel, Assistant Secretary for Policy, Management and Budget John Berry, and me. Our objective will be to obtain an unqualified audit opinion no later than FY 2000.

In addition, on March 19, 1999, I issued a memorandum to the BIA Directors to alert them that the National Academy of Public Administration (NAPA) would be visiting BIA sites to obtain a first-hand view of the BIA's managerial and administrative services. I have asked NAPA to study the BIA's managerial approaches, practices, and processes as well as administrative services with the goal of identifying and recommending comprehensive remedies for longstanding problems in the BIA's internal management. I am confident that this study will result in findings and recommendations that will improve the long-term quality, efficiency and cost effectiveness of the BIA's administrative management.

## 2. TRIBAL ACCOUNTABILITY

On a closely related issue, we must also be able to say that Tribal contractors are using federal funds in an efficient and lawful way. This means we will insist that Tribes meet the fundamental obligations of users of federal funds in such areas as compliance with single audit requirements, use of federal excess property to carry out federal contract programs, and the investment of advance funds. Fairly or not, when one Tribe fails to meet its obligations in this regard, all Tribes suffer.

### Improving Compliance with the Single Audit Act

The BIA awards about \$700 million annually in contracts and grants to Indian Tribes and Indian organizations. The Tribes are required to submit audited financial statements and reports on internal controls and compliance with all relevant laws and regulations to the BIA. While the majority of Tribes regularly submit the required reports, when I took office about 140 Tribes who were seriously delinquent in submitting audits. These Tribes were contacted last August and notified that the BIA would impose sanctions unless the delinquent audits were submitted.

In January, those Tribes that remained out of compliance were placed on monthly drawdowns. As of last week, all but 48 Tribes had met the requirements we established last August. Almost 60

percent of those still out of compliance are small villages in Alaska or rancherias in California. Our next step will be to consider non-emergency program reassumptions for continued failure to comply with the statutory requirements.

It seems to me that cases like this don't have many shades of gray: a Tribe either has or has not submitted the required audit. Yet, the statute places on the Secretary the burden of proving that the Tribe has not submitted the audit. For fiscal years beginning on or after July 1, 1998, the Single Audit Act stipulates that audits are to be submitted within nine months of the end of a grantee's fiscal year. While we would not support an automatic cut off of BIA funds at the end of this nine month period, it would seem reasonable that the Committee consider amending the Self-Determination legislation to prohibit additional awards if we have not received the audits within, say, 18 months following the end of the Tribe's fiscal year. We do not believe we should have to go through a hearing and appeal process in this type of situation.

#### Repayment of Mis-Spent Federal Funds

As you know, there are enormous needs in Indian Country. In an effort to provide additional help, Congress has authorized us to provide lump sum payments of awards to Tribes and schools and has also allowed full Tribal discretion on spending the interest earned on these advance payments. In some cases, the extra cash on hand for BIA programs has resulted in Tribes using these funds for non-Federal purposes. This matter first came to light with Self-Governance Tribes, probably because those Tribes were the first to receive all of their money in one payment. Initially, some of the Self-Governance Tribes maintained that the Self-Governance statute allowed them to use BIA funds for any purpose they deemed appropriate. That matter was put to rest by a memorandum from the Associate Solicitor for Indian Affairs issued a year ago last February. Some Tribes took the position that they were only required to "repay themselves" for misapplication of Federal funds, because the Self-Governance legislation failed to reference that portion of the 638 statute which requires repayment to the Secretary. Congress last year amended the Self-Governance Act, which now requires that Self-Governance Tribes also repay the Government for any amounts they use for purposes other than those included within the terms of the compact and annual funding agreements. We are working with our field staff to assist them in informing the Tribes and Tribal organizations of the limitations on their authority to spend and to invest advance funds in order to ensure that Congress' purpose in authorizing such advances is fulfilled.

#### Strengthening the Government-to-government Relationship

There is one last matter in this area that I would like to mention. Current statutes for both School Grants and Self-Determination awards require the BIA to make awards to Tribal organizations if the organization obtains a resolution from the Tribal government. Once the organization has such a resolution, the laws give Tribal organizations the same standing as Indian Tribes in terms of management and administration of BIA-funded programs. Thus, Congressional policy makes little distinction between an intertribal fish commission or a local school board and an Indian nation. This places the BIA in the middle of Tribal affairs as federal officials negotiate the awards with the Tribal organization rather than with the Tribe, and the Tribal organization must answer to the federal official rather than to the Tribe with respect to its management of federal programs and expenditure

of federal funds.

It would be more appropriate to place the responsibility and authority with the Tribal government to oversee the activities of Tribal organizations. In the case of either school grants or Self-Determination contracts, the Tribal government could issue sub-grants or subcontracts to the Tribal organizations or schools. Such an arrangement would reinforce the responsibility of the organization to the Tribe and similarly it would make the Tribe more accountable for the operations of those organizations sanctioned by the Tribe. As an added benefit, the Federal administrative responsibilities would be substantially reduced.

We would encourage you to consider federal self-determination policies in terms of our relationship to Indian Tribal governments. We believe that the Tribal governmental structure would be strengthened by requiring that Tribal governments be the applicants, rather than allowing Tribal organizations to stand on virtually an equal footing in their dealings with the BIA.

#### **D. Policy Development and Coordination**

The BIA must assume a stronger role in coordinating federal Executive Branch policy towards the Tribes. The Clinton Administration has worked hard to open up all departments of the government to Tribal leaders, but we can still improve greatly in ensuring consistent federal agency acknowledgment of their agencies' responsibilities to Tribal governments. That is why Secretary Babbitt and the White House Domestic Policy Council established the Working Group on American Indians and Alaska Natives. The Working Group is chaired by the Secretary and meets quarterly to coordinate the activities of the various departments and agencies having responsibilities to the Tribes.

The BIA should be the information clearinghouse and source of expertise on any matter of Indian policy, with the exception of Indian health and housing. In addition to serving as trustee, the BIA has been the historic key link to Indian Tribal governments for 175 years and therefore has the most institutional knowledge on Indian related activities, with the exception of Indian health and housing issues. Currently, we are aware that the following agencies have recently adopted or soon will adopt an Indian consultation policy: the Department of Defense, the Department of Energy, the Department of Justice, the Department of Housing and Urban Development (HUD), the Environmental Protection Agency, and the Department of Agriculture. We will continue to cooperate with other Federal Agencies on issues that Tribal leaders have brought forward to have us take more involvement in and open new avenues for change. One such issue is mortgage lending and HUD's and Treasury's joint effort to establish "one-stop shopping" for home lending. Another is the joint Justice/Interior effort to address the law enforcement crisis in Indian Country.

All of these agencies have responsibilities to Tribes. None of them, however, have the responsibility for the numbers and diversity of programs as the BIA and the Interior Department. As Trustee for Indian lands, the BIA will continue to be needed for its experience and the expertise of its staff in working with Tribal governments.

## **E. Scientific Expertise**

Finally, the BIA must redefine its service mission. Ultimately, the Tribes will be responsible for virtually all service programs for reservation residents. The role that is left for the BIA to play is technical support to Tribal contractors. For example, not every Tribe needs or can afford full time hydrologists, engineers, archeologists, and other scientists to support their programs. The BIA can and should take the responsibility for making such scientific expertise available to the Tribes.

## **IV. CHALLENGES**

The hardest part of this job is seeing so much that needs to be done, and knowing there simply aren't enough resources to do it all. If Indian people continue to rely on the federal government, there will never be enough time, manpower, or money to make all the things happen that need to happen in Indian country. Indian people have a lot to share with America and the world. Our culture, our traditions, and our sense of being a part of the natural world instead of controlling it are lessons the rest of this country and the world must learn. We need jobs. We need physically, emotionally, and spiritually healthy citizens. Here are just a few of the challenges we must overcome.

### A. Economic Development

Another change we have made is within our economic development program. On Indian lands across the country, there are rampant social problems directly related to the lack of opportunities. Research shows that when business and economic development come to a reservation, amazing things happen. The social problems that Tribes have been struggling with start to diminish as the employment rate and opportunities for Indians increases. The Tribes themselves will lead the way in the effort to bring businesses and opportunities to Indian country, but the BIA also has an important role to play. Our Guaranteed Loan Program can assist in providing capital for much needed job creating businesses that otherwise may never be established. Our technical resources will be channeled into the most cost-effective projects, and the BIA staff will continue to work with Tribal leadership to identify and eliminate internal barriers to sound business practices.

It seems that when Tribes do move forward and try to improve the lives of their people they are met with opposition from every possible source. We are now moving forward to tear down the barriers at the BIA, and move quickly on economic development projects. The BIA has created a Credit Committee that meets monthly to consider every completed application within 30 days. We have also developed a CD-ROM training program and Internet tools to help prospective guaranteed loan applicants develop business plans, fully outline the responsibilities and requirements of participating in the program, and help prepare the application.

On August 6, 1998, the Administration held the first ever White House Conference on Indian Economic Development. At this conference, President Clinton directed the Department of the Interior, the Department of Commerce, and the Small Business Administration to develop, in consultation with other interested parties, including tribal governments, a strategic plan for coordinating existing Federal economic development initiatives for Native American and Alaska

Native communities. On December 17, 1998, these agencies presented a report to the President. This report noted that one of the most important factors for successful economic development in Indian country is the ability to access information and assistance. DOI continues to work with these and other Federal agencies to better coordinate economic development assistance in Indian country.

We also have the Public Law 102-477 (477) program. The 477 law authorizes a unique federal program, that allows Tribes to receive funding for training and employment programs from 3 different agencies and 12 different programs through the BIA in one lump sum. The 477 program has substantially reduced reporting requirements and administrative procedures, allowing Tribes to shift administrative costs into actual program dollars. We are committed to at least 44 new grantees in the next five years so that employment and training opportunities can be expanded. We estimate that this expansion can result in 5,000 new job opportunities for Indian people.

Currently, forty-nine percent of the Indian population is not working. Without jobs, programs for home loans and the welfare-to-work movement are stalled before they start. None of us should be content until there is a job for anyone who wants to work on the reservation.

#### B. LAW ENFORCEMENT

We are facing a crisis of major proportions with law enforcement in Indian country. The Departments of Justice and Interior produced a joint study and report on Indian country law enforcement, and its findings were frightening and all too real for Indian country. Our communities are receiving only one-fourth of the resources for law enforcement as are received by comparable sized rural communities, as BIA has fewer officers per resident. Far too many of our police are going out alone. In the last year, three Tribal and BIA officers have lost their lives in the line of duty.

The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Statistics issued a document in February of this year entitled American Indians and Crime. The report says that the rate of violent victimization of Indians is well above that of other U.S. racial or ethnic subgroups and is more than twice as high as the national average. The rates of violence in every age group are higher among American Indians than for all races. Almost one-third of all American Indian victims of violence are between the age of 18 and 24.

Twenty million dollars were added to the BIA law enforcement budget for FY 1999. These dollars allow us to put more police officers on the reservations, give them new cars and equipment, and provide more training. But this money alone is still not enough. We have a good partner in the Department of Justice, and we have come back to Congress this year to request an additional twenty million dollars for more police officers, because Indian communities deserve to be just as safe as the rest of America.

#### C. EDUCATION

Indian children are getting good classroom instruction at the BIA-funded schools. Test scores for all grades and subjects are up, schools are being wired to the Internet, and our children are working extremely hard. The students at these schools are learning and preparing well to be leaders for future

generations. With all of these good things happening, I'm sorry to report that the BIA schools are literally falling down around them. BIA schools are older, in worse condition, and pose more safety risks than inner city schools. We are putting new roofs on and adding portable classrooms to schools we should be tearing down and building anew. Our children are receiving a 21<sup>st</sup> century education in 19<sup>th</sup> century buildings. It's not right, it's not fair and our children deserve better. For this reason, we have requested \$108 million for school construction in our FY 2000 budget. For the first time, the Administration has proposed a mechanism to leverage private funds to repair or rebuild their schools. Of the \$108 million requested, \$30 million is sought to bring about this leveraging.

Currently, the Deferred Maintenance Backlog of Deficiencies for 28 million square feet of 3,600 education/administrative and 3,700 housing structures and associated infrastructure managed by the BIA is \$962 million. An automated deficiency listing by structure has been used to manage the construction, improvement and repair projects for nearly 20 years. To improve the BIA's ability to manage and report deferred maintenance needs in the future, the current automated system is being modernized and the backlog of deficiencies for all structures is being field validated.

Over half of the existing structures are 30 years old, while 20 percent are over 50 years old. Student enrollment has increased 16 percent over the last nine years resulting in more adverse impacts on buildings. In the last 9 years the funding levels for operations and maintenance have increased a total of 16.6 percent while just the additional new inventory additions have increased plant size by a total of 21.1 percent. Excluding inflationary cost increases, the already 50 percent underfunded maintenance program has fallen behind another 4.5 percent for the same time period. We continue to lose ground.

#### SAFETY OF DAMS

The BIA is responsible for 116 high or significant hazard dams. The Safety of Dams (SOD) Program funds are requested by the BIA, and appropriated by Congress, based on the need to repair, rehabilitate, and modify those dams with verified deficiencies where if current operations continue, loss of life and/or property due to catastrophic failure could result.

The total deferred construction necessary to complete the repairs on all BIA dams is estimated at \$484 million. This information was provided recently to the Department as part of the five year deferred maintenance initiative by the Assistant Secretary - Policy, Management, and Budget. Each year, approximately \$80 million of corrective action activities are ready for funding.

Up through FY 1997 the BIA received \$18 million for the SOD program. In FY 1998, the BIA SOD program received a \$2 million increase to \$20 million in funding, and \$20 million was also received in the FY 1999 appropriations. At current levels, it will take almost 25 years to complete the necessary dam repairs. A funding level of \$30 million which would reduce the completion time to just over 10 years.

#### IRRIGATION PROGRAMS

The BIA has been constructing, operating, and maintaining Indian irrigation projects and systems

since the mid 1800s starting with the Colorado River Indian Irrigation Project in 1867. Originally, the program was administered through the Indian Irrigation Service (IIS). The IIS provided centralized program direction, oversight, and monitoring, including irrigation construction, coordination with other Federal agencies (i.e., Bureau of Reclamation), and direct supervision of the operation and maintenance of all Indian irrigation.

There are over one hundred Indian irrigation projects and systems. Eighteen are supported by statute. Approximately \$9 million are provided in recurring appropriated funds to supplement some of the projects and systems for water storage, and other costs as directed by court actions, treaties, or other legal mandates. The combined irrigation and power program generates approximately \$65 million in revenues from water and power users.

The deferred rehabilitation construction backlog to rehabilitate the projects to present day operating standards and provide efficient delivery of irrigation water was recently estimated at \$1.5 billion. Because Congress has long considered irrigation a low priority, construction funds have not been requested by the BIA since 1983.

The BIA is taking pro-active steps to work with the irrigation Tribes towards contracting or compacting of the projects. Some of the Tribes have expressed their desire to take over the projects on their respective reservations, but are reluctant due to the deteriorated condition of these facilities. A more direct relationship with the irrigation Tribes through a consolidated management structure will provide an opportunity to implement consistent policy and procedures in working with the Tribes to accomplish this.

## V. CONCLUSION

That is my report to you on where we are and where we are headed. My hope is that, when the next administration assumes office, it will inherit an agency with a clear direction and a unified purpose, an agency with a strong and deep alliance with the communities it serves, an agency prepared to meet the challenges of the new century.

Let me close on a personal note. When I was first being considered for this position, many close friends told me I should not do it because there is no way to do this job without disappointing many friends. That has proven to be true. In fact, the hardest part of this job is on those occasions when I am unable to grant a request from a Tribal leader. Believe me, I take no pleasure in saying no. Hopefully, I only say no when I have no choice, or when the larger interests of Tribal governments nationwide require that outcome. Like you, I have had to make some tough decisions, and we are not always right. Many people say that this job is the toughest job in Indian country. But I have never believed that, because I know that being a Tribal Leader is more difficult. When I make a difficult decision, even if I am certain I am right, I get to go home and think about the problem. When a Tribal leader makes a tough decision, even if she's certain she is right, she goes into her community and lives the problem. I close therefore by expressing my profound respect for the Tribal leaders of Indian America and the work that they do.

Mr. Chairman, I would be pleased to respond to any questions the Committee may have.