



U.S. Commission on Civil Rights:
*Broken Promises: Continuing Federal Funding
Shortfall for Native Americans*

2019 Tribal Self-Governance Consultation Conference
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About the Commission

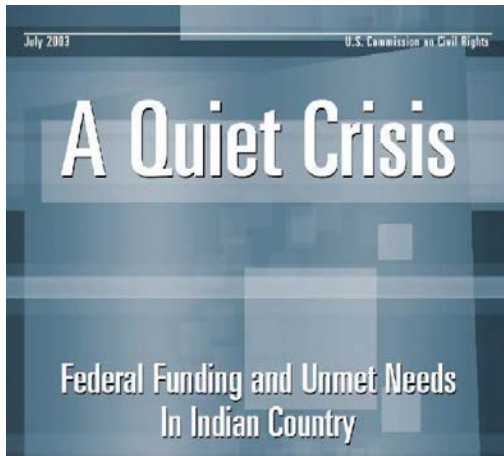
- The Commission is an independent, bipartisan federal agency
- The United States Commission on Civil Rights is composed of eight Commissioners: four appointed by the President and four by Congress.
- Not more than four members shall at any one time be of the same political party.
- Investigate civil rights violations and access to justice issues and make recommendations to the President and Congress

State Advisory Committees

The State Advisory Committees (SAC) are composed of citizen volunteers familiar with local and state civil rights issues, broadly diverse and represent a variety of backgrounds, skills, experiences and perspectives.

- Opportunities in the next 12 months:
 - Kentucky, Oregon, South Carolina, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, South Dakota, Wisconsin, Maryland, Washington, West Virginia, and Wyoming

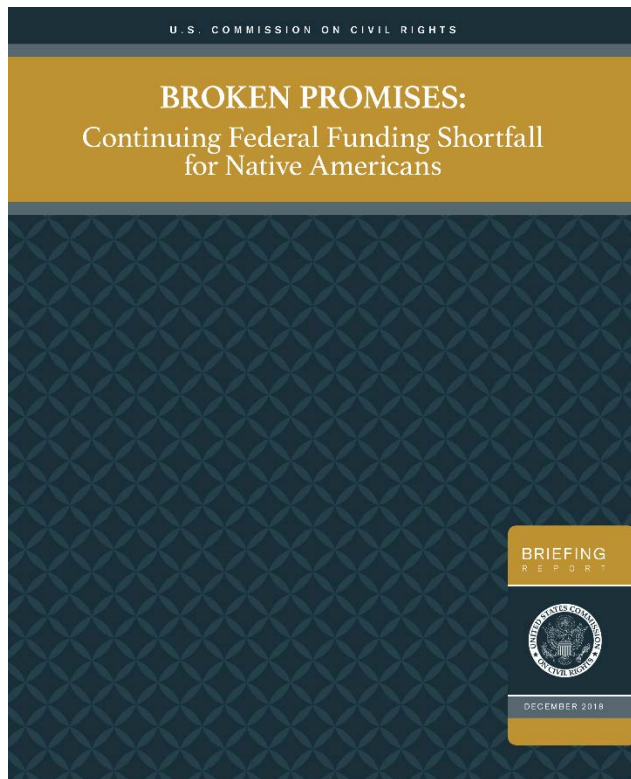
Updating “A Quiet Crisis” (2003)



South Dakota Advisory Committee
Briefing at Pine Ridge

- 2003 Findings:
 - “[F]unding for services critical to Native Americans—including health care, law enforcement, and education—is disproportionately lower than funding for services to other populations.”
 - Funding shortfall violates trust relationship and perpetuates civil rights crisis in Indian Country
- 2015 Bipartisan Congressional request to update
- 2016 Briefing and Staff Research
- SAC Briefings and Commissioner visits to
 - Eastern Shoshone and the Northern Arapaho Tribes at the Wind River Reservation in Wyoming
 - Quinault Reservation in Washington State
 - Standing Rock Indian Reservation and Camp Site in North Dakota
 - Pine Ridge Reservation in South Dakota

Major Themes



- Special Trust Relationship
 - Criminal Justice and Public Safety
 - Health Care
 - Education
 - Housing
 - Economic Development (New)
- Tribal Sovereignty
- Self-Determination/Self-Sufficiency
 - Infrastructure

Major Findings

- As in 2003, the federal government continues to fail to carry out its promises and trust obligations
- The federal government continues to provide inadequate assistance to support the interconnected needs of Native Americans such as local infrastructure, self-governance, housing, education, health, and economic development.
- Major underfunded programs include
 - DOJ and BIA public safety and justice programs
 - Indian Health Service (IHS) health care, behavioral health, urban Indian health, and water sanitation programs
 - DOI programs such as Bureau of Indian Education programs and BIA real estate services and forest, wildlife, and road maintenance programs
 - HUD programs that help meet the housing needs of Native Americans and Native Hawaiians.

Major Findings

- Even when federal funding for Native American programs has increased, these funding levels have not kept pace with declines in real spending power, let alone fulfilled the trust obligations to which the federal government has committed itself for Native Americans.
- The end result is that Native Americans face significant inequities among major criminal and public safety, health, education, housing, and economic measures compared to the rest of the nation and non-Native people.

Major Findings

- Unequal treatment of tribal governments and lack of full recognition of their sovereign status by state and federal governments also diminish tribal self-determination and negatively impact criminal justice, health, education, housing and economic outcomes for Native Americans.
- Examples
 - IHS budgets do not receive advance appropriations while other federal health care programs such as the VA do
 - Tribal authority to prosecute crimes remain limited (see next slides)

Focus: Insufficient Funding for Public Safety

- The federal government has a trust responsibility to provide for public safety in Indian Country.
- Although overall funding for public safety in Indian Country has increased, it does not come close to meeting the public safety needs in Indian Country or the needs to police and protect natural resources. In 2017, the BIA estimated it funded only 21 percent of law enforcement, 49 percent of detention center, and 3 percent of tribal court needs.
- Indian Country law enforcement agencies have less officers per capita than law enforcement agencies nationwide, leaving residents of Indian Country less safe and subject to higher rates of crime.

Focus: Lack of Funding for Public Safety

- The Tribal Law and Order Act of 2010 gives tribal governments new authority to issue longer prison sentences. The Act requires tribal governments that choose to exercise that new authority to implement due process protections for criminal defendants, such as providing defense attorneys for indigent defendants at the expense of the tribal government.
- However, Congress has not appropriated sufficient funding for most tribes to implement this new authority.
- President Trump's FY2019 budget proposed to end funding for the Tiwahe Initiative, a program that has succeeded in reducing violent crime by 56% over three years in four Native American communities.

Major Recommendations

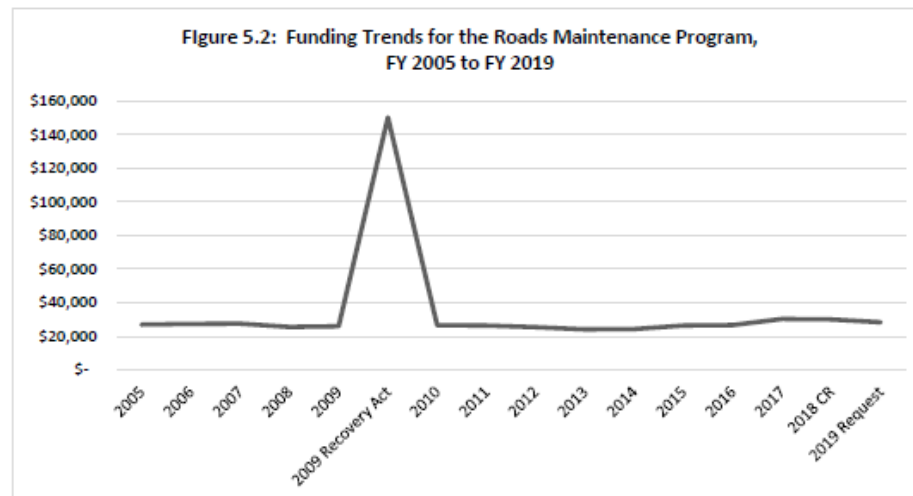
- “The United States expects all nations to live up to their treaty obligations and it should live up to its own.”
- Congress should pass a spending package to fully address unmet needs in Indian Country, targeting the most critical needs for immediate investment:
 - Funding should address the funding necessary for the buildout of unmet essential utilities and core infrastructure needs in Indian Country such as electricity, water, telecommunications, and roads.

Major Recommendations

- Congress should provide steady, equitable, and non-discretionary funding directly to tribal nations.
- Promoting Tribal Sovereignty
 - Sufficient funds to tribal law enforcement agencies, courts, and detention facilities
 - Sufficient funds to allow BIE to bring all BIE schools up to minimum standards of habitability for their students and to attract, recruit, and retain teachers to come to and continue teaching in BIE schools
 - Congress should provide direct, long-term funding to tribes, analogous to the mandatory funding Congress provides to support Medicare, Social Security, and Medicaid, avoiding pass-through of funds via state

Recommendations: Infrastructure & Economic Development

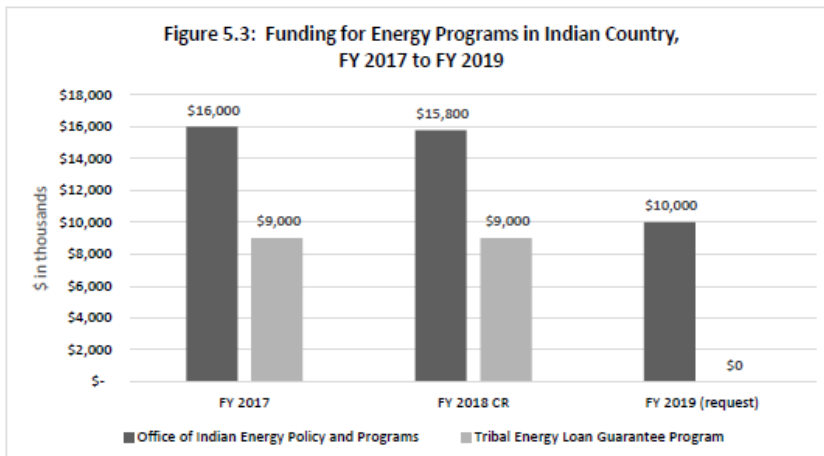
- Finding: The federal government has failed to honor its trust responsibility to promote Native American self-determination via its support of economic development in Indian country.
 - Recommendation: Increased funding for BIA programs such as real estate trust services, forestry and wildlife programs, tribal resilience, and road maintenance programs.



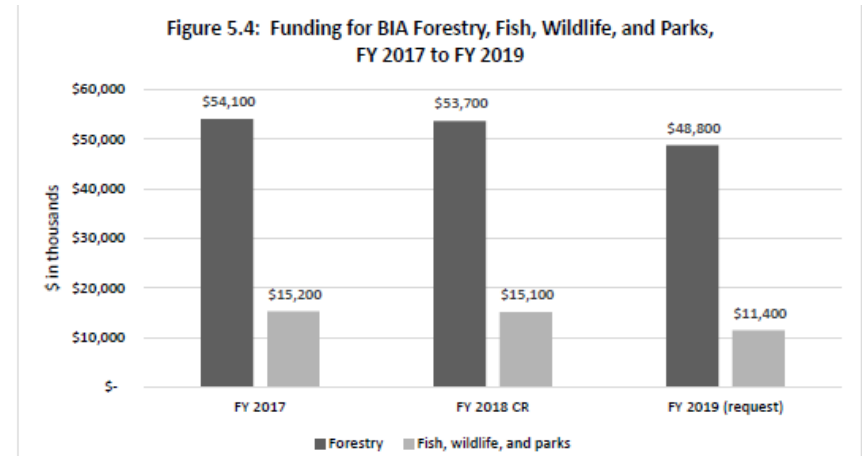
Source: U.S. U.S. Department of the Interior, Bureau of Indian Affairs, Budget in Brief 2006–2019

Recommendations: Economic Development

- Sufficient funding to BIA, USDA, and Department of Energy programs to provide tribes with sufficient funding and technical assistance to allow tribes to exercise self-reliance and self-determination in the protection, management, and development of their natural, agricultural, and energy resources.



Source: U.S. Department of Energy, FY 2019 Congressional Budget Request, March 2018, pp. 10–11, https://www.energy.gov/sites/prod/files/2018/03/F49/DOE-FY2019-Budget-in-Brief_0.pdf



Source: U.S. Department of the Interior, *Fiscal Year 2019: The Interior Budget in Brief*, February 2018, p. BH-87, https://edit.doi.gov/sites/doi.gov/files/uploads/2019_highlights_book.pdf

Recommendations: Access to Capital

- Consistent, non-discretionary funding to tribal governments to create parity between tribal governments and other governments by allowing tribal governments to leverage federal funding.
- Congress should make available to tribes programs such as the New Market Tax Credit program, the CDFI Bond Guarantee Program, and the Low-Income Tax Credit Program, which are designed for the purpose of leveraging and attracting capital to public projects and represent billions in potential investment.

Recommendations: Infrastructure and Working with Tribal Governments



Commissioners and staff visit Standing Rock to observe civil rights conditions on the ground, December 2016.

- The federal government should provide more consistent, transparent, and deferential consultation with tribal governments and strive to reach mutually agreed solutions when working with tribes on infrastructure planning and the use and development of natural resource that occurs on or affects tribal lands and communities.
- For example, during the development of the Dakota Access Pipeline the federal government should take in the health, spiritual, and cultural concerns of Native Americans and issue a decision that is consistent with those concerns.

Revisiting Native Hawaiian Sovereignty

U.S. Commission on Civil Rights now supports federal recognition of Native Hawaiians

By [Sophie Cocke](#) | December 20, 2018 Updated December 20, 2018 2:42pm



- **Recommendation**: Congress should pass legislation to provide a process for the reorganization of a Native Hawaiian governing entity and to confirm the special political and legal relationship between the United States and such Native Hawaiian governing entity

Reactions and Updates

AP

Report: US fails in funding obligation to Native Americans

Report: US fails in funding obligation to Native Americans

By FELICIA FONSECA December 20, 2018

- Then Rep.-Elect Deb Haaland (D-NM):
 - “We cannot allow this crisis to continue. I call on my colleagues in Congress to join me to pass a spending package to directly and immediately address critical unmet needs in Indian Country to ensure Native Americans get the full equity we’ve been fighting for.”
 - Focus on missing and murdered indigenous women, citing the report’s finding of “systemic underfunding of tribal law enforcement and criminal justice systems.”

Going Native: Government Shutdown Exacerbates Broken Promises to Tribes

The shutdown has turned the Bureau of Indian Affairs into a virtual ghost town.



Thank you!

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