

# **METHAMPHETAMINE ENFORCEMENT IN INDIAN COUNTRY: CHALLENGES AND SOLUTIONS**

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Methamphetamine (meth), a highly addictive stimulant, is the most prevalent synthetic drug manufactured in America.<sup>1</sup> Although domestic manufacturing of methamphetamine has dropped significantly in the past four years (5,910 methamphetamine lab incidents in 2007, down from 17,170 in 2004)<sup>2</sup>, methamphetamine availability has increased due to importation into the U.S. by Mexican Organized Drug Trafficking Organizations (DTOs).<sup>3</sup> Indeed, Mexican DTOs are the most serious organized crime threat facing the U.S. today.<sup>4</sup>

The meth problem in America is well documented<sup>5</sup> and it has become the primary drug of abuse in many communities across the country. In a recent (2005) survey of 500 counties by the National Association of Counties (NACo), 58 percent of the counties reported that meth was their greatest drug problem.<sup>6</sup> Regionally, meth was rated as the number one drug problem by 76 percent of the counties in the Southwest, 75 percent in the Northwest, 67 percent in the Upper Midwest, 57 percent in the Lower Midwest, 26 percent in the Southeast, but only 4 percent of the counties in the Northeast.<sup>7</sup> The 2006 version of the survey reported that crimes related to meth continue to grow and meth-related arrests continue to represent a high proportion of crimes that require incarceration.<sup>8</sup>

## **The Meth Problem in Indian Country**

The national picture does not adequately describe the issues of meth abuse, manufacture, and trafficking in Indian Country. Data collected from the 2005 National Survey on Drug Use and Health indicates that the percent of meth use among American Indians or Alaska Natives is over double that of whites (1.7 percent vs. 0.7 percent)<sup>9</sup> and other sources indicate that methamphetamine mentioned by American Indians at the time of hospital admission increased over 60 percent between 2002 and 2006.<sup>10</sup>

Testifying before the U.S. Senate Committee on Indian Affairs, Robert McSwain, Deputy Director of the Indian Health Service, referred to the meth problem in Indian Country as a crisis for individuals, families, communities, agencies, and governments.<sup>11</sup> Jefferson Keel, First Vice President, National Congress of American Indians, testifying before the same committee, stated that the Navajo Nation “has experienced more than a 100 percent increase in methamphetamine use in the last five years and the FBI estimates that up to 40 percent of violent crime on the reservation involve methamphetamine.”<sup>12</sup> A recent survey conducted by the Bureau of Indian Affairs, Office of Law Enforcement Services, indicated that 74 percent of Indian Country law enforcement agencies identified methamphetamine as their greatest drug threat and that 90 percent of tribal police needed additional drug investigation training.<sup>13</sup>

Some of the major problems contributing to the spread of meth trafficking in Indian country are the size and isolation of many reservations, and jurisdictional issues related to law enforcement on Tribal lands. There are 562 federally recognized Indian tribes in the United States, living on 281 reservations within 34 different states. Of the 562 federally recognized tribes, more than 330 live in the contiguous 48 States. The U.S. Census Bureau estimates an Indian population of about 2,786,652 (including Alaska Natives), or 0.9 percent of the estimated U.S. population in 2003.<sup>14</sup> Federally recognized tribes are spread across 56 million acres in the contiguous 48 States and millions of additional acres in Alaska. Sixty-one of these reservations are within 50 miles of either the Canadian or Mexican border. Many reservations are larger than some states. For example, the Cheyenne River Reservation in South Dakota is about the size of Connecticut.<sup>15</sup>

More than 200 police departments operate in Indian Country, serving an even larger number of tribal communities. These departments range in size from only 2 or 3 officers to more than 200 officers. The communities they serve are as small as the Grand Canyon-based Havasupai Tribe (with a population of only 600) and as large as the Navajo Nation (with a population of more than 250,000 and a land area larger than the

State of West Virginia).<sup>16</sup> There are only 2,380 Bureau of Indian Affairs and tribal uniformed officers available to serve an estimated 1.4 million Indians covering over 56 million acres of tribal lands in the lower 48 states.<sup>17</sup> The ratio of law enforcement personnel to residents on reservations is much lower than the rest of the United States. Indian police agencies rarely have more than one officer on duty at any time, and their officers often work without adequate backup. According to the National Native American Law Enforcement Association, the ratio is less than 2 officers per 1,000 residents. For example, the Pine Ridge Indian Reservation in South Dakota has only 88 officers for 41,000 residents on 2.1 million acres.<sup>18</sup>

Also contributing to the problem of methamphetamine enforcement on Indian reservations is the fact that conducting investigations is more difficult because Indian family members who may be witnesses are pressured not to cooperate with law enforcement. Indians who deal in illegal drugs on reservations are very aware of and very distrustful of non-Indians. This makes undercover enforcement much more challenging. Wiretaps conducted on a reservation may not be as effective as elsewhere because telephone use may be greatly limited.<sup>19</sup>

Mexican and Native American drug traffickers have taken advantage of the lack of law enforcement resources and isolation of Tribal communities and now control most of the retail drug sales on reservations. Two examples are illustrative of the problem facing law enforcement today. One reservation, the Wind River Reservation in Wyoming, was specifically targeted by Mexican DTOs. As a result, the community saw a tremendous increase in drug-related crime, with criminal drug possession charges increasing 353 percent and child abuse increased 85 percent.<sup>20</sup> The Tohono O'Odham Indian Reservation in Arizona is believed to be a primary corridor for movement of illegal drugs into the U.S. by Mexican Drug Trafficking Organizations. The reservation, which shares approximately 70 miles of border with Mexico, is the second largest reservation in the United States.<sup>21</sup>

At the same time, methamphetamine labs are contaminating Indian homes, lands, and water supplies. Tribal Housing Authorities are currently dealing with homes

contaminated with toxic waste and chemical residue from methamphetamine labs. These illicit labs are affecting the health of law enforcement, tribal hazmat personnel, housing authorities, public works employees, child endangerment workers and other personnel who enter affected homes unprepared and untrained.<sup>22</sup>

## **Promising Practices**

### ***Background***

Before presenting examples of what is working, a short discussion of how police departments in Indian Country are organized is necessary. Police departments in Indian Country are most commonly organized via the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638). This law allows tribes to establish their own police departments by contracting with the Bureau of Indian Affairs (BIA). Thus, "638ed" departments are administered by tribes under contract with the BIA's Division of Law Enforcement Services. Typically, a 638 contract establishes the police department's organizational framework and performance standards and provides basic funding for the police function. Officers and nonsworn staff of these departments are tribal employees.

Departments administered by the BIA are the second most common type of police department in Indian Country and staff in these departments are Federal employees. For many years, patrol officers were under the line authority of the local BIA superintendent (each reservation has a BIA superintendent who oversees all or most of the BIA functions on that reservation), and criminal investigators were under the line authority of the BIA's Division of Law Enforcement Services. Recent changes have placed line authority for patrol under the BIA's Division of Law Enforcement Services as well.<sup>23</sup>

### ***What's Working***

Public safety and criminal justice on Indian reservations are better served when Indian tribes play a central role in these functions. Most of the successes of law enforcement (including methamphetamine enforcement) in Indian country have involved careful cooperation and coordination between law enforcement agencies of different

sovereigns. Even informal cooperation can be highly effective in improving public safety. Lack of cooperation undermines public safety.<sup>24</sup>

Recently, several tribes and law enforcement agencies have begun taking steps to reduce the threat of methamphetamine. The Red Lake Chippewa of Minnesota passed a comprehensive criminal code that addresses precursor chemicals and carries the maximum penalties as the Federal statutes--\$5,000 fine and a year in jail. The Flandreau Santee Sioux Tribe, whose reservation is within the city of Flandreau, South Dakota, entered into a joint powers agreement with the city. The result of this agreement was the formation of a single police department that delivers law enforcement services to the city and all the tribes trust lands. The department is governed by a Public Safety Commission composed of both city and tribal representatives. The tribe recently won an Excellence in Government award from the Harvard University Kennedy School of Government for this groundbreaking effort.

In 2004, the Chickasaw Nation formed its own law enforcement agency, the Lighthouse Police Department, and took over law enforcement duties from the BIA. The department now includes 22 sworn officers and has jurisdiction over the tribe's thirteen-county area in Oklahoma. Recently, the Lighthouse Police Department participated in a drug task force that included with DEA, the Oklahoma Bureau of Narcotics and Dangerous Drugs, the Oklahoma Highway Patrol, the Bureau of Indian Affairs, and the Bureau of Alcohol, Tobacco, and Firearms. The task force seized over 15 pounds of methamphetamine and confiscated 49 weapons and \$161,000 in cash. Over 50 people were arrested in this cooperative effort.<sup>25</sup>

The Northern Arapaho and Eastern Shoshone Tribes' Wind River Indian Reservation in Wyoming became the target of family-run group of organized drug traffickers based on the reservation. In response to this threat, the BIA's Office of Law Enforcement Services (OLES), which provides police protection for the reservation, formed an inter-jurisdictional task force consisting of OLES, DEA, Wyoming Division of Criminal Investigation, and the Fremont County (WY) Sheriff's Office. The

investigation resulted in 25 arrests and seizure of drugs and weapons, including an assault rifle.

### **Special Law Enforcement Commissions—an Important Resource**

An important and perhaps overlooked resource for investigating meth in Indian Country is the role of Special Law Enforcement Commissions (SLECs) granted by BIA to tribal and local law enforcement officers. SLECs serve a vital law enforcement purpose while at the same time supporting the sovereignty of tribes. They allow tribal and local law enforcement officers to enforce Federal law, investigate Federal crimes, and protect the rights people in Indian Country, especially against crimes conducted by non-Indians against Indians.<sup>26</sup> In order for a local law enforcement agency whose jurisdiction overlaps a reservation to receive SLECs for its officers, it must first obtain the concurrence of the tribe. Once concurrence has been received, the agency must make application to the BIA. After BIA grants the agency's application, the requesting agency must then submit SLEC applications for individual officers. Applications from each individual officer are reviewed by BIA to ensure the officer meets the training and employment requirements. Sample SLEC officer qualifications are:

- Must be a graduate of the state police academy and have attended the 2 ½ day Indian Country jurisdiction course;
- Must be a full-time law enforcement officer;
- Must pass and FBI criminal history check
- Must have firearms certification

Examples of laws that officers may enforce after being granted SLECs are: Federal drug crimes, such as possession, manufacturing, and distribution of controlled substances; firearms offenses; theft from casinos; embezzlement and theft from tribal government, and cross-boundary domestic violence.

There are numerous benefits of SLECs for local law enforcement agencies: (1) They grant authority for tribal police and county sheriffs to enforce Federal crimes committed on reservations; (2) they bring Federal law enforcement authority to reservations with limited BIA/FBI presence; and (3) they enhance inter-jurisdictional cooperation among tribal and local law enforcement agencies.<sup>27</sup>

## **Summary**

The challenges of methamphetamine abuse and enforcement in Indian Country seem almost overwhelming at first glance. High rates of methamphetamine abuse, coupled with targeting of Indian reservations by organized drug traffickers, lack of resources and manpower, and a confusing array of laws and jurisdictional issues all serve to compound the problem. However, progress is being made. Tribal and local law enforcement agencies, the BIA, and other Federal agencies are discovering that cooperation and collaboration represent a way to leverage resources to attack the threat of methamphetamine. Cooperative, inter-jurisdictional law enforcement efforts are the only way that Federal, tribal, and state law enforcement agencies will be able to effectively combat methamphetamine in Indian Country. Cooperative agreements and memoranda of understanding among law enforcement agencies are especially important to improve public safety efforts in reducing the threat posed to Indian communities by methamphetamine.

## ENDNOTES

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- <sup>3</sup> <http://www.usdoj.gov/ndic/pubs21/21137/meth.htm#Strategic>, accessed 12/26/06.
- <sup>4</sup> <http://www.usdoj.gov/ndic/pubs31/31379/31379p.pdf>, piii, accessed 1/12/09.
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- <sup>13</sup> Mead, op.cit.
- <sup>14</sup> *Public Law 280 and Law Enforcement in Indian Country-Research Priorities*, Research in Brief, National Institute of Justice, U.S. Department of Justice, December 2005, <http://www.ncjrs.gov/pdffiles1/nij/209839.pdf>, accessed 1/05/07.
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- <sup>18</sup> Mead, op.cit.
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- <sup>20</sup> Mead, op.cit.
- <sup>21</sup> Mead, op.cit.
- <sup>22</sup> Keel, op.cit.
- <sup>23</sup> *Tribal law Enforcement Facts*, op.cit.
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