



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe
Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation • Navajo Nation • Northern Arapaho Tribe
Oglala Sioux Tribe • Rosebud Sioux Tribe • Shoshone-Paiute Tribes of the Duck Valley Indian Reservation
Shoshone Bannock Tribes • Sisseton Wahpeton Oyate • Spokane Tribe • Ute Indian Tribe

COLT Supports the Oglala Sioux Tribe’s Motion to Compel Federal Law Enforcement Accountability, Compliance with Federal Court Order

January 2, 2024

Browning, MT - The Coalition of Large Tribes, an intertribal organization representing the interests of the more than 50 tribes with reservations of 100,000 acres or more, support the Oglala Sioux Tribe’s December 29, 2023 MOTION TO COMPEL COMPLIANCE WITH PRELIMINARY INJUNCTION OR, IN THE ALTERNATIVE, FOR AN ORDER TO SHOW CAUSE FOR CIVIL CONTEMPT, filed in the United States District Court for the District of South Dakota.

In May, United States District Judge Roberto Lange denied the U.S. Department of Justice’s Motion to Dismiss and granted in part the Oglala Sioux Tribe’s Motion for Preliminary Injunction against the United States. The Court ordered the federal defendants to “as soon as practicable, provide the Tribe with technical assistance so the Tribe may revise its law enforcement and criminal investigations contract proposals **with funding requests** that reflect ... what amount is necessary to satisfy United States’ treaty-based duty to the Tribe concerning protection and law enforcement support and cooperation.” (Emphasis added).

The Court specifically ordered the defendants to reassess (1) the government’s outdated population estimate for the Tribe’s service area on the Reservation; and (2) the use of the historical Bureau of Indian Affairs’ TPA (technical program assistance) funding level as the current baseline, given that these dollars have remained unchanged since 1999. Both of these factors result in chronic and increasingly dire underfunding. In issuing the partial preliminary injunction and ordering federal authorities to provide technical assistance to “refine the Tribe’s funding requests” consistent with the federal government’s Treaty obligations, Judge Lange warned that BIA-OJS could not act arbitrarily or capriciously “or otherwise in disregard of that duty.”

BIA has nonetheless refused to assist the Tribe with revising its funding requests along these lines, instead taking the position that the order does not direct the United States to revise its contract proposals with funding requests that would satisfy the Treaty. Again, more specifically, this means that BIA is still refusing to update its funding proposals in light of the Reservation’s considerable population growth. Nor has BIA corrected its continued reliance on a funding baseline that is 25 years old – in an era (unlike today) when OST and other Tribes were eligible for DOJ funding such as COPS grants.



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The same chronic underfunding persists throughout South Dakota and elsewhere. COLT is disappointed that despite the Judge Lange’s May 2023 order, the Department of the Interior and its Justice Department lawyers continue to defy Judge Lange’s order.

The federal government must provide an adequate level of law enforcement and public safety funding to Indian country. Having lost its motion to dismiss and not appealed it, the defendants should be held in contempt should they keep ignoring the Court’s order to ensure that the Tribe has the information it needs to request adequate funding and the federal government supports the tribes’ proposals.

COLT has repeatedly called attention to how bad DOJ is. [See COLT Supports Federal Law Enforcement Accountability in Indian Country | Coalition of Large Tribes](#); [Opinion: DOJ Spouts Outdated Colonialist Arguments in Face of Treaty Obligations \(Media Share\) | Coalition of Large Tribes](#); [‘Callous disrespect for tribal treaty rights’: Tribes blast government attorney for U.S. Supreme Court argument \(Media Share\) | Coalition of Large Tribes](#); [COLT Calls for Action After U.S. Department of Justice Argues to U.S. Supreme Court That the Navajo Nation’s Treaty Reserved Water Rights Are Basically Meaningless | Coalition of Large Tribes](#); [Speaking at the United Nations, Chairman Weatherwax Calls on the U.S. to respect Indigenous Peoples’ Human Rights on Reservations | Coalition of Large Tribes](#). But to date, the Biden-Harris Administration continues to let DOJ frolic with anti-Indian positions that are totally inconsistent with the good work the rest of the Administration is doing in Indian Country.

Vice Chairman King said, “What President Star Comes Out said about Pine Ridge can be said of virtually every COLT Member Tribe’s large land base reservations. President Star Comes Out’s strong [State Of Emergency](#) is a very powerful statement, and reminding everyone that the devastating elements just aren’t factored in the federal budget formulation process—cartels, fentanyl, distance, weather, ‘cost’ of living, plus so many other factors just aren’t factored in. In fact, it’s like we’re playing DOI/TIBC/BIA’s *Press Your Luck* show, and the game is loaded with a bunch of damn WHAMMY squares. DOJ ignoring a federal court order is just the latest example.”

Chairman Weatherwax agreed, “The United States must honor its Treaty and Trust obligations and provide adequate funding for law enforcement. The reality we face—a handful of officers patrolling areas the size of the states of Delaware or West Virginia—at any given time is shocking to people who don’t live on Indian reservations. The Biden-Harris Administration promised to do better.¹ We’re not seeing it and we’re calling it out.”

¹ [Biden-Harris Plan for Tribal Nations | Joe Biden for President: Official Campaign Website \(gitpa.org\)](#).



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While COLT realizes that Interior and Justice face a delicate balancing act, because Congress alone can appropriate funds, they are not doing the most basic things Judge Lange ordered them to do many months ago. Essentially the Court has ordering BIA-OJS to propose a substantive minimum funding level consistent with treaty/statutory obligations, rather than simply follow its own flawed procedures that invariably result in chronic underfunding.

Officials from all three branches of government have an independent duty to honor the Constitution and Treaties of the United States. COLT's view is that BIA-OJS should assist the Oglala Sioux Tribe in proposing a total funding package that addresses the Tribe's public safety needs.

COLT Executive Director OJ Semans summed it up: "BIA-OJS has told the Tribal Interior Budget Council full funding for Indian Country law enforcement requires a minimum of \$2.4 billion dollars annually. We are orders of magnitude away from meeting that mark. If DOJ and DOI would just comply with the Court's order, facilitating Congressional understanding of what full funding is required to meet the Oglala Sioux Tribe's Treaty-reserved law enforcement needs, and Congress nonetheless objects during oversight, then at least the shortfall in appropriations would be known and Senators could and likely would act to remedy the situation in future federal budgets."

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