

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

CRIMINAL JUSTICE COMMITTEE

Wednesday and Thursday, March 11-12, 1998
Elmer Davis Memorial Hall, West of Belcourt, and
Third Floor Meeting Room, Spirit Lake Casino and Resort,
South of Devils Lake, North Dakota

Representative Merle Boucher, Chairman, called the meeting to order at 10:15 a.m. on Wednesday, March 11, 1998.

Members present: Representatives Merle Boucher, Duane L. DeKrey, G. Jane Gunter, Kim Koppelman, Paul Murphy, Bill Oban, Sally Sandvig, Laurel Thoreson, John M. Warner; Senators Les J. LaFountain, Donna L. Nalewaja, Darlene Watne

Members absent: Representatives Kathy Hawken, Dale L. Henegar, Al Soukup; Senators Marv Mutzenberger, Wayne Stenehjem, Steven W. Tomac

Others present: See Appendix A

It was moved by Senator Nalewaja, seconded by Senator Watne, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

TURTLE MOUNTAIN INDIAN RESERVATION

Tour

The committee toured the Turtle Mountain Indian Reservation. The tour was a narrated, driving tour. A copy of a list of the sites visited with corresponding narration is on file in the Legislative Council office.

Juvenile Justice Issues

At the request of Chairman Boucher, Ms. Viola LaFountain, Superintendent, Turtle Mountain Community Schools, provided information to the committee. She said there was a strong sense of family and community on the reservation when she was a child. She said children today need their family and community to offer them encouragement and support. She said she has been on the Community Concern for Our Youth Committee for the last three years. She said up to 200 people have attended the committee's meetings. She said the committee has no operating budget. She said the committee has changed tribal legislation by supporting the enactment of a

curfew ordinance, a tobacco ordinance, and a zero tolerance for alcohol ordinance. She said the committee publishes a pamphlet of all the resources on the reservation and has distributed them to the families on the reservation.

Ms. LaFountain said 76 students dropped out of school last year and 102 students have dropped out of school this year. She said the Turtle Mountain Community High School population has increased from 560 to 600 students in the last year. She said the building is built for 450 students.

In response to a question from Representative Boucher, Ms. LaFountain said there are long waiting lists for off-reservation placements. She said some children are turned away because they have no insurance. She said children who are placed in off-reservation treatment come back to the same situation that was the cause of their treatment. She said most treatment of juveniles requires the treatment of the parents. She said the second time a child violates the curfew ordinance, charges are brought against the parent as well as the child.

In response to a question from Senator Nalewaja, Ms. LaFountain said a case management system that would allow a parent to go to one place and work with all service providers, especially for signing for the release of information, would provide a better continuum of care.

In response to a question from Senator Nalewaja, Ms. LaFountain said there have been plans discussed for creating a juvenile detention center. She said the buildings at San Haven have been considered as an option for a detention center. If there is only one detention center for American Indian children in this state, she said, it should be on the Turtle Mountain Indian Reservation. She said the tribe would receive more money from the Bureau of Indian Affairs if the tribe treated children on the reservation, instead of placing the child off the reservation.

In response to a question from Representative Warner, Ms. LaFountain said absenteeism in school increases with the age of the students. She said there is a 94 to 95 percent attendance level at the elementary school. If young students begin a pattern of being absent from school, she said, the pattern will increase in frequency as they get older.

In response to a question from Senator Watne, Ms. LaFountain said the dropout rate has increased from 14 percent last year to 17 percent this year. She said there is no data on what happens to dropouts. She said she sometimes encourages dropouts to enter the Job Corps Program. She said she wants dropouts to succeed on some level.

In response to a question from Senator Nalewaja, Ms. LaFountain said the school has a good program for fetal alcohol effect and fetal alcohol syndrome screening. She said there has been research and screening in kindergarten for the last four or five years. She said children with fetal alcohol effect and fetal alcohol syndrome end up in special needs classes.

In response to a question from Senator Nalewaja, Ms. LaFountain said police officers have conducted the DARE program, a drug and alcohol abuse awareness program, in the schools. She said this program has helped the police in developing a positive relationship with the youth.

In response to a question from Representative Thoreson, Ms. LaFountain said she is working on creating an alternative school with a consortium. She said there is afterschool treatment at the high school and at Dunseith for credit-deficient students. She said there are correspondence classes that students may take under the tutelage of a teacher from 3:00 to 5:00 p.m. She said more than 10 students graduated last year because of this program. She said each child learns in that child's own way and any individualization of school programming is good for at-risk children.

At the request of Chairman Boucher, Mr. Frank Bercier, diversified occupations program, Turtle Mountain Community High School, presented information to the committee. He said he works with 23 students and tries to place these students in part-time work. He said he runs an incentive program that pays students to be in the school system. He said he received \$4,000 from the Division of Juvenile Services to help 14 children. He said the Children's Services Coordinating Committee gave him \$4,000 per quarter to continue the program through this year. He said gangs and drugs are learned activities from off-

reservation treatment, in particular, at Pierre, South Dakota.

In response to a question from Senator LaFountain, Mr. Bercier said he is going to use the 23 students to build a garden and give the produce to the retirement home.

Senator LaFountain said one student at the Youth Correctional Center costs between \$35,000 and \$40,000. He said this program aids 23 children for less than the cost of one child going to the Youth Correctional Center.

In response to a question from Senator Watne, Mr. Bercier said the program is aimed at children who are going to drop out of school. He said the program gets these children to stay in trade classes and teaches them the employment skills they will need to obtain a job.

In response to a question from Representative Thoreson, Mr. Bercier said the children take their traditional courses while in the diversified occupations program and remain in their normal school classes.

Mr. Bercier said it is difficult for the tribe and the Bureau of Indian Affairs to put children to work because of insurance issues.

Senator Watne said temporary insurance is offered through the state Workers Compensation Bureau.

At the request of Chairman Boucher, Mr. Pat Geary, Human Relations Counselor, Division of Juvenile Services, presented information to the committee. He said he is an enrolled member of the Turtle Mountain Chippewa Tribe. He said he has 25 to 35 children in his caseload and 90 percent of his caseload comes from the reservation. He said 75 to 85 percent of these children are removed from the home. He said these are children caught at the end of their youth. He said more needs to be done to focus interest on young children. He said there needs to be a place in the community for children to stay. He said one place children may stay is the Little Shell Home for youth.

At the request of Chairman Boucher, Mr. David A. Poitra, Jr., a student, presented information to the committee. He said children need to stay on the reservation for treatment so they can remain tied to the community. He said aftercare on the reservation is an important component of treatment.

In response to a question from Representative Boucher, Mr. Poitra said he started his life of crime at a very early age.

In response to a question from Senator Nalewaja, Mr. Poitra said he will start college in the fall.

At the request of Chairman Boucher, Ms. Marilyn Laducer, Day Treatment Center, Turtle Mountain Community High School, presented information to the committee. She said when children who are in need of a 24-hour facility are not placed in a 24-hour facility, they end up on the streets. She said they cannot be placed in school because they are too dangerous.

In response to a question from Senator Watne, Ms. Laducer said the tribe needs to have an on-reservation facility for the placement of certain juveniles.

In response to a question from Senator Nalewaja, Ms. Laducer said foster care is offered through Indian Child Welfare. She said the involvement of parents in the day treatment program is a key to the successful treatment of children in that program.

Representative Boucher said, the day treatment program produces a socially positive end result and is fiscally responsible as well. He said a day treatment center needs three staff members to work with an ideal range of 10 to 12 children. He said the local day treatment center has had 20 to 24 juveniles. He said it takes approximately \$110,000 annually to fund the day treatment program. He said this compares well fiscally with placement at the Youth Correctional Center and out-of-state treatment.

At the request of Chairman Boucher, Mr. Jesse Malaterre, a student, presented information to the committee. He said the day treatment program has helped him. He said he would have dropped out of school if it had not been for the day treatment program.

At the request of Chairman Boucher, Ms. Monica Peltier, a student, presented information to the committee. She said she went to treatment in Minot and found it hard to be away from her home community. She said more children would receive treatment if they did not have to leave the community. She said the program in Minot helped her with her problems; however, the program did not help others in the community to which she returned after the treatment.

In response to a question from Representative Thoreson, Ms. Peltier said she wanted to drop out because she thought that no one cared about her. She said she wanted to live on her own without having to listen to anyone. She said she wanted to have fun and use drugs and alcohol.

In response to a question from Senator Nalewaja, Ms. Peltier said she helped convince a friend to complete her general equivalency diploma. She said she told her not to give up on her education. She said she used her own life as an example of success in counseling her friend.

At the request of Chairman Boucher, Mr. Coty Peach, a student, presented information to the committee. He said he was in the day treatment program. He said the program offers help with schoolwork without making the student feel stupid.

At the request of Chairman Boucher, Ms. Rebecca Albertson, Juvenile Prosecutor, Tribal Judicial Branch, presented information to the committee. She said there are few facilities to place a child for treatment and the facilities in this state usually have a waiting list. She said these areas include the State Hospital at Jamestown, Unimed, and the Youth Correctional Center.

In response to a question from Representative Boucher, Ms. Albertson said there is not a problem with jurisdictional issues. She said waiting lists and costs are the problem.

In response to a question from Representative Murphy, Ms. Albertson said she does not recommend traditional Indian sentencing. She said traditional Indian culture is left to be developed by the child's family.

In response to a question from Representative Warner, Ms. Albertson said a 24-hour facility at Belcourt would require a minimum of 30 beds.

In response to a question from Senator Watne, Ms. Albertson said the tribe has not passed the same laws as the state did in 1995 S.L., ch. 124.

In response to a question from Representative Thoreson, Ms. Albertson said children think they will not be placed in jail. She said the tribe needs services and facilities to provide meaningful punishment and treatment.

In response to a question from Senator Nalewaja, Ms. Albertson said there are many activities for children in the school system. She said the tribal council provides summer activities for the youth. She said the dunking for dads program resulted in massive participation. She said the tribe loses up to \$12,000 for schooling when a child moves out of the district.

In response to a question from Representative Murphy, Ms. Albertson said it is difficult to monitor people sentenced to community service. She said many offenders do not do their community service because they know they will not be caught.

In response to a question from Senator LaFountain, Ms. Albertson said welfare reform will present new challenges to the tribe.

In response to a question from Senator LaFountain, Ms. Albertson said court system resources are stretched to the limit. She said there are many repeat offenders. She said probation resources are stretched to the limit as well.

At the request of Chairman Boucher, Ms. Yvette Falcon, Chief Clerk of Court, Tribal Court, presented information to the committee. She said there were 369 juvenile arraignments last year. She said in 1997 there were 416 driving while under the influence cases. She said this year there have been 296 driving while under the influence cases. She said the tribe with the highest population of inmates at the State Penitentiary is the Turtle Mountain Chippewa Tribe. She provided a handout which contained the Turtle Mountain curfew ordinance, zero alcohol tolerance ordinance, and statistics on the tribal court's workload by type of case. A copy of the handout is on file in the Legislative Council office.

At the request of Chairman Boucher, Mr. Dennis DeCoteau, Principal, Dunseith Day School, and Vice Chairman of the Tribal Judicial Board, presented information to the committee. He said the tribe would like a residential treatment facility. He said a local facility would take advantage of community and parental supports. He said the tribe needs a juvenile judge. He said the court is overloaded and cannot handle referrals from the school. He said he is in favor of a juvenile detention center.

In response to a question from Representative Thoreson, Mr. DeCoteau said the tribe has the authority to impose a sales tax. He said a tax on tobacco and liquor has been proposed in the past.

In response to a question from Senator Watne, Ms. LaFountain said the tribe is studying whether to operate its own welfare system. She said some land on the reservation is subject to property tax. She said the tribe imposes a tax for the Tribal Employment Rights Office.

In response to a question from Senator Nalewaja, Mr. DeCoteau said there have been problems in the past with child support collection because there was no section in the tribal code which related to child support enforcement.

In response to a question from Representative Boucher, Mr. DeCoteau said there are code sections for determining paternity and collection and enforcement of child support which are comparable with state and federal statutes.

In response to a question from Senator LaFountain, Mr. DeCoteau said the key to preventing children from entering the juvenile justice system is parental involvement. He said it is also important that children stay in school. He said the problems with juveniles probably will increase because the population of juveniles on the reservation is increasing.

Representative Boucher said there has been a rapid growth in the corrections budget. He said society is demanding that the Legislative

Assembly pass tougher sentences for crime. He said this is why there has been the growth. He said prevention of crime is important as a societal and a fiscal matter.

In response to a question from Representative Boucher, Mr. DeCoteau said the home school liaison coordinator is a person who works to get parents involved with school activities.

In response to a question from Senator Nalewaja, Mr. DeCoteau said he did not know if there were juvenile detention centers in other states for American Indian children.

At the request of Chairman Boucher, Mr. Terry Jerome, Licensed Addiction Counselor, Turtle Mountain High School, presented information to the committee. He said the greatest natural resources are the children and the elders. He said the tribal community is losing control of the children. He said the tribe needs a facility for the children. In 1995 through 1996, he said, there were 55 high school students in trouble with alcohol, 32 with drugs, and 12 with inhalants. He said these numbers are only inclusive of incidents that occurred within the high school. He said the tribe is going to begin a teen court program. He said the tribe has a comprehensive health center. He said the tribe looks at traditional activities as treatment and not as punishment. He said a detention center could treat drug and alcohol addiction in a manner that is tailored to American Indian children.

Senator Watne said solving problems through a detention center is acting too late. She said there should be a solution that is offered before problems get so bad as to require 24-hour detention. She said strong families and communities are the solution.

In response to a question from Senator Nalewaja, Mr. Jerome said although suicide is not a major problem on the Turtle Mountain Reservation, drugs and alcohol precipitate suicide.

In response to a question from Representative Boucher, Mr. Jerome said he pays sales tax when he travels off the reservation. He said he pays gas tax and federal income tax.

Representative Boucher said American Indians pay taxes and have a right to claim state funding.

Representative Boucher said there is funding in the federal crime bill for a detention center. He said the funds may only be used for bricks and mortar and there is no funding available for programs.

At the request of Chairman Boucher, Ms. Mary Lou Davis, North Dakota Job Service, presented information to the committee. She said she supports a residential treatment center. She said Job Corps has a zero tolerance policy for drugs

and alcohol. She said she would like to work with children who test positive for drugs and alcohol; however, she is unable to do so because of zero tolerance.

In response to a question from Senator LaFountain, Ms. Davis said treatment must include mental, emotional, fiscal, and spiritual healing. She said the federal government does not allow what is needed to treat all of these areas.

At the request of Chairman Boucher, Mr. Don Bruce presented information to the committee. He said the Belcourt community has many services. He said these services include Indian Health Service, social services, courts, and alcohol programs.

At the request of Chairman Boucher, Ms. Heather Hall, a social worker for the day treatment program at the high school, presented information to the committee. She said troubled children need parental involvement in their treatment. She said troubled children should not be placed outside the community. She said a dysfunctional family does not heal with an out-of-community placement. She said within the Turtle Mountain community extended family is important.

In response to a question from Representative Thoreson, Ms. Hall said in most cases children must be located physically near their families for treatment to work. She said out-of-community placement only provides temporary treatment of the child.

In response to a question from Senator Watne, Ms. Hall said parents might not know how to ask for help or how to get better. She said educating parents is important.

In response to a question from Senator LaFountain, Ms. Hall said the court system is overcrowded and unable to monitor treatment within the tribal community.

In response to a question from Senator LaFountain, Ms. Hall said a 24-hour facility placed on the reservation would help with containing repeat offenders, thereby lessening the burden on the court system. She said this would allow for treatment of at-risk juveniles.

In response to a question from Senator Watne, Ms. Hall said children are a priority in the community; however, there are not adequate resources to address all the problems with the youth.

In response to a question from Representative Murphy, Ms. Hall said there were 12,000 tribal members on the Turtle Mountain Reservation in 1996. She said over 50 percent were under the age of 18 years.

At the request of Chairman Boucher, Mr. Gene LaFromboise, Rolette County Alternative Education, provided information to the committee. He said there needs to be a focus on at-risk youth, including dropouts. He said there is a correlation between dropouts and delinquency. He said the day treatment program in Belcourt for grades 4 through 8 started in 1990. He said the day treatment program is state-funded. He said there is a cultural component in the day treatment program which includes a tribal elder providing instruction two times a week for two hours a week. He said a treatment center would be a good idea because it would ease juveniles who return from an out-of-community placement back into the community.

In response to a question from Representative Boucher, Mr. LaFromboise said of the \$110,000 annual budget for the day treatment program, \$44,000 comes from the state. He said local schools pay the remainder. He said four schools receive services from the day treatment program.

At the request of Chairman Boucher, Ms. Barbara Poitra, Chairperson, Tribal Judicial Board, provided information to the committee. She provided handouts on the tribal youth services program, law enforcement statistics on the youth alcohol program, and on community planning for children and family services on the Turtle Mountain Reservation. A copy of her handouts is on file in the Legislative Council office. She said restorative justice is an option for juvenile delinquents. She said raising or creating taxes on the reservation would be political suicide. She said the Sacred Child Project provides a wraparound process of providing services which focuses on the positive attributes of the treated individual. She said the Turtle Mountain Reservation is the best reservation for the placement of a treatment center.

In response to a question from Representative Warner, Ms. Poitra said tribal judges are not required to have a law degree. She said tribal judges are elected. She said tribal judges must be an enrolled tribal member for a year before being eligible to be a judge.

In response to a question from Senator Watne, Ms. Poitra said the court is funded through the Bureau of Indian Affairs.

At the request of Chairman Boucher, Mr. Paul Dauphinais, Turtle Mountain Special Education, provided information to the committee. He said he does assessments for special education placements. He said there is a rising population of special education students. He said Kids Count statistics are not inclusive of the tribes. He said there is a lack of a continuum of services. He said

this requires a higher frequency of inpatient treatment and inpatient treatment is becoming harder to find in this state.

In response to a question from Representative Boucher, Mr. Dauphinais said there is a fragmented delivery system. He said people are not sure who is to do what. He said separate funding of programs makes the programs insular. He said he sees people who are not Medicaid-eligible and who do not have insurance.

In response to a question from Senator Nalewaja, Mr. Dauphinais said there is no group home on the reservation. He said children are sent to state facilities for fetal alcohol syndrome and if they are severely mentally handicapped. He said the fetal alcohol syndrome population is growing.

In response to a question from Representative Thoreson, Mr. Dauphinais said there has been rapid growth in the last 10 years in the educational disability population. He said more children are experiencing more problems that are more serious. He said a treatment center should not be a receptacle, but should provide more intensive services earlier in a child's life.

In response to a question from Senator LaFountain, Mr. Dauphinais said the problem with services on the reservation is that there is a separation between them. He said a detention center would provide all services under one roof. He said these intensive services could be offered with family involvement.

Senator LaFountain said treatment of juveniles sometimes requires the separation of that juvenile from the juvenile's family.

In response to a question from Representative Sandvig, Mr. Dauphinais said the Head Start program and Even Start program have a positive impact on the lives of special education students early in their lives.

In response to a question from Senator Watne, Mr. Dauphinais said fifth graders on the reservation compared to fourth graders on national standardized reading tests.

At the request of Chairman Boucher, Mr. Dale Brien, Chairperson, Child Protection Team, presented information to the committee. Between October 1995 and September 1996, he said, there were 378 neglect reports, 128 physical abuse reports, and 29 sexual abuse reports. He said 208 of these cases involved substance abuse. He said 89 of the cases were substantiated, 98 were unsubstantiated, 80 referred, and 15 went to tribal court. He said no action was taken on 253 of the reports. He said an extra investigator has been hired for the child abuse and neglect unit. He said the tribe now has two investigators.

In response to a question from Senator Nalewaja, Mr. Brien said the tribe is trying to connect to the state sex offender registration information system.

At the request of Chairman Boucher, Mr. Duane Gourneau, Mental Health Specialist, Quentin Burdick Medical Center, Indian Health Service, presented information to the committee. He said felony crimes are directed through the federal courts. He said he is frightened by the idea of a detention center, especially in cases where there is a lack of continuum of services. He said the tribal community needs to do a lot for itself. He said the state may not be able to do much to help the tribe. He said the community needs to listen to the children. He said the children say they want to stay with their families. He said the community needs to work with the children rather than do something to the children. In 1997, he said, there were 144 children in foster care in Rolette County. He said 138 of these children were American Indian. He said the tribe should have a limited residential treatment center and not a detention center. He said the day treatment program is working well. He said suicide rates vary from reservation to reservation. He said 38 percent of all American Indians live off the reservation.

In response to a question from Senator Nalewaja, Mr. Gourneau said a child must be removed from the family when there is imminent risk or danger to the child.

In response to a question from Representative Sandvig, Mr. Gourneau said the North Dakota State University Extension Service has been very active in this county in providing programs for the youth.

At the request of Chairman Boucher, Mr. Kelly Brunelle, Law Enforcement Officer, presented information to the committee. He said the community needs a rehabilitation center, not a detention center. He said the children who are falling through the cracks are raising themselves. He said any 24-hour facility must be family-friendly. He said it is difficult to enforce the curfew ordinance and the zero tolerance ordinance. He said law enforcement receives many reports; however, the maximum amount of law enforcement officers on duty at one time is six--from the hours from 10:00 p.m. to 2:00 a.m. on Friday and Saturday nights.

In response to a question from Representative Murphy, Mr. Brunelle said there is no community support for coming forward and testifying for or against a defendant. He said people do not want to get involved.

In response to a question from Senator Nalewaja, Mr. Brunelle said the State Crime Lab is used and there are timely results.

At the request of Chairman Boucher, Ms. Geraldine Azure, Tribal Probation Officer, provided information to the committee. She said the number of delinquent children is rising. She said the seriousness of offenses is becoming greater.

In response to a question from Senator LaFountain, Ms. Azure said last year there were 260 cases in juvenile court. She said she tracks 130 juveniles.

In response to a question from Representative Murphy, Ms. Azure said there is gang involvement on the reservation, but it is difficult to track and to include in statistics.

In response to a question from Senator Nalewaja, Ms. Azure said the school has a policy that requires the expulsion of a student until the end of the school year for fighting. She said some students involve themselves in fights so they do not have to go to school.

At the request of Chairman Boucher, Mr. Warren Anderson, Licensed Addiction Counselor, presented information to the committee. He said when children are sent away for treatment, the families do not grow as the child grows. He said many juveniles suffer from the guard your heart syndrome. He said the guard your heart syndrome occurs because most everyone who provides services on the reservation leaves only after a few years. He said local staffing of programs would help alleviate the guard your heart syndrome.

At the request of Chairman Boucher, Ms. Patty Allery, Youth Alcohol and Drug Program, presented information to the committee. She said her caseload involves 212 adolescents. She said there are five to seven referrals for drug and alcohol treatment on a typical Monday. She said she is the only person in her office. She said there is a six-week wait to get into treatment in Minot. She said the tribe needs a detention and treatment center. She said a 12-year-old had to stay in jail for six weeks because there was no place for him to go for treatment.

In response to a question from Senator LaFountain, Ms. Allery said focusing drug and alcohol treatment on juveniles and not providing any for adults may be a better use of resources.

In response to a question from Senator Nalewaja, Ms. Allery said there are tough penalties for alcohol violations; however, the laws are not enforced and the courts do not impose them.

In response to a question from Representative Thoreson, Ms. Allery said there used to be dances

for the youth. She said children do not stay at the dances because they cannot drink and smoke.

At the request of Chairman Boucher, Ms. Cleo Monette, Indian Health Service, presented information to the committee. She said the tribe has good programs with good people staffing the programs. She said the high number of people in need of treatment are what impede success.

Representative Boucher said there is a heavy concentration of people on the Turtle Mountain Reservation. Ms. Monette said every community has a problem with teenagers driving around town. She said the problem is intensified here because we only have one major road and a large concentration of teenagers.

BILL DRAFT REQUIRING SCHOOL SERVICES FOR EXPELLED AND SUSPENDED STUDENTS

At the request of Chairman Boucher, committee counsel presented a bill draft that provides for the provision of educational services for suspended and expelled students. He also provided handouts requested at the previous meeting. These handouts included a copy of the *Gumbo Gazette* from the Sioux YMCA in Dupree, South Dakota, statistics divided by race for placements into the Youth Correctional Center, and responses to Mr. Davis's testimony. A copy of these handouts is on file in the Legislative Council office.

Chairman Boucher recessed the meeting at 5:10 p.m. and reconvened the meeting at 9:00 a.m. at the Spirit Lake Casino and Resort.

FORT TOTTEN INDIAN RESERVATION

At the request of Chairman Boucher, Chief Judge Douglas Longie, Tribal Court, presented information to the committee. He said off-reservation treatment facilities at nearby Devils Lake are much nicer than the facilities on the reservation. He said American Indians do not receive the same treatment as other people because of prejudice.

At the request of Chairman Boucher, Judge Ron Lohnes, Tribal Court, presented information to the committee. He said many of the children who are placed in treatment are placed off the reservation. He said his desire is to keep children in the community. He said the tribe lacks funds to create facilities in the community. He said a group home would be the most useful facility that could be built in this community. He said a community facility would aid in facilitating positive relationships between children and their family members.

In response to a question from Senator Watne, Mr. Lohnes said he sees less family involvement with children than in the past. He said he tries to make the family of a child more responsible by bringing them to court with the child.

In response to a question from Representative Boucher, Mr. Lohnes said about half of the families are resistant to involvement in a child's after-care and treatment. He said he has placed a mother in jail with her child as a means of encouraging accountability and responsibility. He said the typical caseload in juvenile tribal court is 40 to 60 juveniles per month. He said the facilities and programming for adults is lacking as much as it is for juveniles.

In response to a question from Senator LaFountain, Mr. Lohnes said the reason the services offered in the Devils Lake area are not sufficient is because there is no 24-hour detention facility for juveniles. He said travel is required to Minot, Grand Forks, Fargo, Bismarck, or Sisseton for detention facilities.

In response to a question from Senator Nalewaja, Mr. Lohnes said the penalty for purchasing alcohol for a juvenile is a \$360 fine with up to 60 days' imprisonment.

In response to a question from Senator LaFountain, Mr. Lohnes said the Fort Totten Indian Reservation is a dry reservation.

In response to a question from Representative Boucher, Mr. Lohnes said there is a lack of available programs in Devils Lake. He said there was family counseling in Devils Lake in the past. He said access to services in Devils Lake is not inhibited by matters of protocol.

In response to a question from Senator Watne, Mr. Lohnes said alcohol is a factor in over 80 percent of juvenile delinquency.

In response to a question from Representative Sandvig, Mr. Lohnes said an American Indian child who is counseled by an American Indian counselor has a better chance for successful treatment.

In response to a question from Representative Warner, Mr. Lohnes said there were 143 minor in possession cases last year. He said juveniles are incarcerated for multiple status offenses.

At the request of Chairman Boucher, Mr. Billy Dean Cavanaugh, Probation Officer, Tribal Court, presented information to the committee. He said the tribal jail has four beds for juvenile males and four beds for juvenile females. He said there were 625 juvenile cases last year. He said the tribe has no place to contain the most serious of juvenile offenders. He said there is no aftercare treatment on the reservation. He said he is in favor of a

group home that would provide aftercare treatment.

In response to a question from Representative Boucher, Mr. Cavanaugh said his position was recently recreated, and statistical information on juvenile crime is being compiled by the University of North Dakota.

In response to a question from Representative Thoreson, Mr. Cavanaugh said most of the problem children are in school. He said attendance has risen from 82 percent at the beginning of this school year to approximately 92 percent around Christmas time. He said schools work closely with treatment facilities so that a juvenile does not get behind in the juvenile's schoolwork.

In response to a question from Representative Boucher, Mr. Cavanaugh said the tribe has an ordinance that each child must stay in school until the age of 18 years. He said compliance is enforced by the school keeping records on attendance and notifying the court of suspicious absences. If a child 14 years of age or under is not validly away from school, he said, charges are brought against the parents. He said a child 15 years or older is treated as an unruly child and placed on probation.

In response to a question from Senator Nalewaja, Mr. Cavanaugh said schools are not testing for fetal alcohol syndrome or fetal alcohol effect. He said the schools send children with behavioral problems to the court system. He said schools have referred to him children who could not read.

In response to a question from Senator LaFountain, Mr. Cavanaugh said there are approximately 4,500 enrolled members, of whom 2,000 are under the age of 18 years, and unemployment is about 72 percent. He said three-quarters of the enrolled members live on the reservation. He said American Indians are over-represented at the State Penitentiary and the Youth Correctional Center because of alcohol problems, abuse, and the lack of parenting skills. He said facilities operated by white people cannot relate to American Indian children. He said the tribe does not have a contract with the Youth Correctional Center and is working with the Youth Correctional Center for a contract.

In response to a question from Representative Boucher, Mr. Cavanaugh said off-reservation treatment is not culturally sensitive to the American Indian youth. He said tribal youth would feel more comfortable obtaining treatment on the reservation.

In response to a question from Representative Boucher, Mr. Cavanaugh said there are some educational programs for the prevention of teenage pregnancy on the reservation.

At the request of Chairman Boucher, Mr. Larry Thiele, Youth Aftercare Program, answered questions for the committee. In response to a question from Representative Boucher, Mr. Thiele said off-reservation treatment at Chief Gall's program at Sisseton costs approximately \$6,750 per child and treatment at Unimed costs approximately \$17,553. He said it is difficult to find treatment and when treatment is found it is hard to find an opening for a child. He said the tribe runs out of options with some children. He said the youth aftercare program had 48 children in it in 1997. He said 80 percent of the cost for off-reservation treatment is paid by medical assistance.

In response to a question from Representative Boucher, Mr. Thiele said children who are not Medicaid-eligible and who do not have insurance are usually referred to the State Human Services in Devils Lake. He said these individuals must pay on a sliding fee scale. He said Human Services in Devils Lake has offered outpatient group treatment but has canceled the treatment due to lack of participation. He said the Human Services requires at least 10 in a group. He said there is a long wait before 10 juveniles are available for group treatment.

In response to a question from Senator Nalewaja, Mr. Cavanaugh said some individuals have positive memories of boarding school. He said boarding school results in the youth not learning parenting skills.

In response to a question from Representative Murphy, Mr. Cavanaugh said a group home is important to address the problems of juveniles already in the system. He said parenting skills classes would address the needs of the children in the future. He said the tribe sometimes uses the jail instead of a treatment facility.

At the request of Chairman Boucher, Mr. Doug Sevigny, Director, Sacred Child Project, responded to questions. In response to a question from Representative Boucher, Mr. Sevigny said the tribe has received an abstinence education grant to implement programs to prevent teenage pregnancy. He said the number of single-parent homes is growing and it is a significant number of the homes on the reservation. He said the tribe receives funds based upon population; however, the tribe seems to have a larger than average problem with teenage pregnancy.

In response to a question from Senator LaFountain, Mr. Sevigny said the grant for abstinence education is \$4,000. He said additional funding is needed to adequately address the problem of teenage pregnancy.

In response to a question from Senator Watne, Mr. Sevigny said \$200,000 from casino profits

went to the recreational center. He said these funds give children positive activities in the community.

At the request of Chairman Boucher, Mr. Dean Gushwa, Adult Prosecutor, Tribal Court, presented information to the committee. He said the problems on the reservation are systemic and are caused by a lack of jobs. He said the main reason for the problems is prejudice. He said high unemployment results in not enough money, which results in stress, which results in societal problems. He said tribal agencies do find treatment for those in need; however, treatment only works for a short period of time, then the stresses build again. He said this results in a general lack of hope. He said the children on the reservation are in need of positive role models.

In response to a question from Representative Koppelman, Mr. Gushwa said most employment on the reservation comes from governmental entities. He said banks will not loan money to people to start small businesses on the reservation. He said one reason unemployment is high on the reservation is no one will be able to buy the products produced by a small business. He said this reasoning perpetuates the unemployment. He said he would like to see proceeds from the casino used as seed money for local businesses. He said any state effort that would make the reservation more appealing to business would be appreciated.

Representative Boucher said on the Turtle Mountain Reservation there are over 100 Indian-owned businesses.

In response to a question from Representative Warner, Mr. Gushwa said the Uniform Commercial Code has been adopted by the Spirit Lake Tribe. He said the only difference is that you need consent for the self-help repossession of goods.

In response to a question from Senator Watne, Mr. Gushwa said American Indians on the reservation are trying to improve the reservation so they may live and work on their land. He said a great number of Indians on the reservation do work in Devils Lake.

In response to a question from Representative Thoreson, Mr. Gushwa said the stereotype that American Indians do not have the same work ethic as the white community is a myth. He said he has seen American Indians on work release and they work as hard as any group of people and are punctual. He said the main barrier to consistent on-reservation work is the lack of adequate transportation.

In response to a question from Representative DeKrey, Mr. Gushwa said there is a movement toward cultural reawakening on the reservation.

Senator Nalewaja said the reasons for the lack of business investment on the reservation are prejudice, concern with litigation, sovereignty issues, and a stable work environment. She said the media only reports about bad things that happen on the reservation.

Mr. Gushwa said the media does not report the needs of the people on the reservation. He said the media only reports bad crimes committed by American Indians.

In response to a question from Representative Boucher, Mr. Gushwa said one of the reasons for the high proportion of American Indians at the Youth Correctional Center and the State Penitentiary may be that American Indian culture expects a high level of honor and honesty. He said this may result in American Indian offenders not using attorneys or plea bargains, choosing instead to plead guilty. He said the tribe needs money for a public defender. He said the tribal law library has not been updated in the last two years because of the lack of funds.

In response to a question from Senator Nalewaja, Mr. Gushwa said the reason he is a white man working on the reservation is because he worked with legal aid in law school which gave him legal experience with tribal law. He said he liked the work and when a job opened with the tribe, he took the job.

At the request of Chairman Boucher, Mr. Vern Lambert, Director, Tribal Social Services, presented information to the committee. He said he is in support of a tribal treatment center. He said unemployment percentages are figured by the Bureau of Indian Affairs and are based upon individuals ages 18 to 65 years who do not have a full-time job. He said most states do not include people on welfare, Social Security, or unemployment in unemployment statistics. He said the tribe would have more unemployment if it used the state method. He said Tribal Social Services has placed 12 children in nontribal facilities at a cost of \$120,000 per year. He said the closest group home is in Belcourt. He said parents and the tribe are not involved when a child is placed off the reservation. He said most treatment programs have a family day or week; however, many families cannot make these events because of transportation problems. He said his budget is \$800,000, but he needs approximately \$1.2 million. He said his mother did not think that boarding schools were a negative thing. He said her parents sent her to boarding school because she needed an education. He said parental involvement is needed in boarding schools if there are to be boarding schools.

In response to a question from Representative Thoreson, Mr. Lambert said his source of income is from the Bureau of Indian Affairs. He said he received some supplemental grants for the amount of approximately \$60,000.

In response to a question from Senator LaFountain, Mr. Lambert said when the family is the problem, an on-reservation American Indian child is usually placed in foster care.

Senator LaFountain said the boarding school model is based on the military. He said the object of the boarding schools was to take people away from their community.

In response to a question from Senator LaFountain, Mr. Lambert said the tribe has discussed the option of a boarding school. He said mainstreaming American Indian children into the dominant American culture is not a popular idea.

In response to a question from Representative Murphy, Mr. Lambert said there are parenting skills programs; however, parents do not take advantage of these programs.

In response to a question from Senator Nalewaja, Mr. Lambert said there is a problem with on-reservation gangs. He said gangs have strict rules that are enforced and gangs offer children the discipline that families should offer to their children.

Senator Watne said children need to have sense of pride, challenges, goals, rules, and discipline. Representative Oban said children need hope and love as well.

At the request of Chairman Boucher, Mr. Kevin Dauphinais, Tribal Social Services, presented information to the committee. He said the tribe does not want to imprison youth but wants community-based programs for the youth. He said there is no group home on the reservation. He said state facilities do not select American Indian children for treatment programs. He said state facilities want to obtain numbers that show that the programs they administer are a success. He said state facilities do not accept children with the most problems. He said 100 percent of the societal problems are alcohol-related. He said a group of doctors studied on-reservation suicides and said they were caused by the stress caused by the flooding lake. He said he thought that the suicides were the result of sexual abuse. He said there has not been a contract for placements with the Youth Correctional Center for the last four years. He said Tribal Social Services is responsible for placements. He said group homes, e.g., Little Shell, Charles Hall, and Lake Oahe, are used by the tribe area. He said these group homes are usually full or they deny treatment.

In response to a question from Senator LaFountain, Mr. Dauphinais said he came back to the reservation after his graduation from college because he wanted to help his people.

In response to a question from Senator Nalewaja, Mr. Dauphinais said he was raised by his grandmother, who was very poor but had very strong values.

At the request of Chairman Boucher, Ms. Deborah Painte, Evaluator, Sacred Child Project, and Ms. Susan Paulson, Director, Sacred Child Project, presented information to the committee. Ms. Painte said the Sacred Child Project is a solution to placing children out of the home and community. She said she will suggest legislative changes to the committee at a future date. Ms. Paulson said the Sacred Child Project is working through the tribal children's services coordinating committees to tailor a system of care for American Indian children. She said the program is designed to develop wraparound services. She said the Sacred Child Project uses existing service providers to address the needs of a child through a process that crosses over the different systems of service provision.

Ms. Painte said tribes have been looking at an alternative facility that is not solely for detention. She said the wraparound process would prevent the need for children going to 24-hour facilities. She said boarding schools destroyed the natural supports in the community. She said these supports included values and families. She said the children gained an education but lost a nurturing environment.

Ms. Paulson said the wraparound process is a creative solution that is better than detention. She said the Sacred Child Project has received a \$5 million grant for five years. She said only three tribes in the country have been funded for the Sacred Child Project. She said there is collaboration within this state. She said no child should be institutionalized for over three months. She said many programs solve the adults' problems and do not address the children's problems. She said the program provides a system of care by having different agencies work together. She said usually every service provider has a duplicative plan for the same child. She said the wrap-around process brings everyone together at the same table. She said the process works on a strength model by asking the child: What do you want? She said most people do not want much. She said the program is a partnership with the family. She said the program works with family resources. She said the program uses family beliefs and strengths.

Ms. Painte said family members may be used for mentoring. She said mentoring has a great positive effect. She said the program focuses on the strengths in the family, not the negatives. She said the grant will provide \$200,000 per year at five sites throughout the state. She said she is training the community and service providers. She said this project should work because everyone wants the same thing--the child to be better. She said this program brings all of the service providers together to look at the needs of the client and to individualize treatment with the strengths of all involved. She said changing Medicaid regulations to allow flexibility by service providers in doing their jobs is needed. She provided handouts to the committee on the Sacred Child Project. A copy of these handouts is on file in the Legislative Council office.

In response to a question from Representative Oban, Ms. Painte said she is gathering baseline figures for the evaluation of the Sacred Child Project.

In response to a question from Senator Watne, Ms. Painte said the Turtle Mountain Indian Reservation has the most children and services in the smallest area of all the reservations in the state. She said the Turtle Mountain Indian Reservation provides more comprehensive services because the reservation has the numbers to support the services.

In response to a question from Senator LaFountain, Ms. Painte said the toolchest legislation allows flexibility for counties to work with tribes. She said state involvement with the youth alcohol and drug program is a great aid to the tribes.

At the request of Chairman Boucher, Mr. Doug Sevigny, Coordinator, Tribal Children's Service Coordinating Committee, presented information to the committee. He said the committee works with 30 entities and operates under a five-year plan. He said the committee was instrumental in development the victims of crime advocacy program and the Sacred Child Project. He said the committee's budget was cut last year.

At the request of Chairman Boucher, Ms. Marsha Blueshield, Spirit Lake Rural Health, presented information to the committee. She provided a handout, a copy of which is on file in the Legislative Council office. She said the handout is an organized report of the problems and solutions to the problems on the reservation as described by the youth on the reservation.

Ms. Blueshield said there are 2,700 people on the reservation who are 18 years and under. She said the enrollment at the Four Winds School is

600 plus. She said the handout provided a five-point plan, which includes:

1. The creation of opportunities for all community members to have a voice and participate in designing and building a healthy community.
2. A youth development program.
3. The development of a comprehensive Spirit Lake healing accord.
4. The development of a community lifelong learning plan.
5. The gathering together of the spiritual and cultural circles and communities.

At the request of Chairman Boucher, Mr. Thiele presented information to the committee. He said when he applied for jobs in Devils Lake he was discouraged from applying in four of five places. He said there is a strong work ethic on the reservation. He said difficulties with transportation are the main cause of American Indians not being punctual. He said during his misspent youth, every time he had a public defender the public defender told him to plead guilty. He said mental health issues underly alcohol and drug problems. He said mental health usually is not covered by insurance. He said it takes a long period of time to build trust between service providers and clients on the reservation. He said the tribe cannot enforce its no alcohol policy on non-Indian visitors to the casino. He said he likes the wrap-around services idea. He said the tribe needs a facility to place children who have no family involvement so that the tribe may integrate these children back into the community. He said there are gangs at the Standing Rock Indian Reservation, but there does not appear to be much gang influence in Fort Yates. He said most of the gangs are in Cannon Ball. He said the difference between the two places is that Fort Yates has employment. He said jobs are what make the difference in whether gangs take hold of a community.

In response to a question from Representative Oban, Mr. Thiele said the discouragement he sensed in applying for jobs off the reservation came from the attitude and looks of the employers. He said some said they had already hired someone else. He said some said to give them his name and address and they would send him an application.

In response to a question from Representative Boucher, Mr. Thiele said the tribe provided insurance to its workers. He said the workers must pay for insurance for family members.

In response to a question from Representative Warner, Mr. Thiele said the children's health insurance program includes American Indians.

He said that the welfare American Indians receive if they do not work is equivalent to a \$10 per hour job. He said most jobs for American Indians are for less than \$10 per hour.

CRIMINAL AND JUVENILE JUSTICE ISSUES

At the request of Chairman Boucher, District Court Judge Lee Christofferson presented information to the committee. He said the Keys to Innervision program has a parent component. He said the parent component is available in only two places in the state. In October 1996, he said, there were 164 American Indians at the Penitentiary and Missouri River Correctional Center. He said this means the percentage of the "prison" population which is American Indian is 22 percent. On February 5, 1998, he said, the percentage had dropped to 21 percent. He said requiring educational services for expelled and suspended students is a good idea. He said under federal law official special education students who are expelled have to be educated by the schools. He said the relationship between tribal and state courts has improved. He said the problem between the different courts involves offenders playing one court against the other. He said state courts recognize tribal court orders.

Judge Christofferson said he had five recommendations for legislative change:

1. Notification under the sex offender registration statute does not present enough information to the public. More direction needs to be given to local law enforcement as to whether and how to disseminate information on sex offenders.
2. More inmates should be sentenced to local law enforcement centers. If an inmate stays in a jail, the county pays for the incarceration. If an inmate is transferred to the State Penitentiary, the state pays for the incarceration. Sentencing a criminal to a jail "punishes" the county. Sentencing an inmate to the State Penitentiary creates a negative effect on the outcome of the inmate. A local sentence allows a person to keep that person's job, stay with that person's family, and continue with treatment and services already being used in the community. The state should fund county jails.
3. The dollar value amounts for theft crimes should be increased to keep up with inflation. The amounts are too low.
4. There are procedural problems with the law that makes it a Class C felony for the fifth driving while under the influence

offense in a seven-year period. The first four offenses must be verified. Municipal courts are not courts of record and verification is difficult. Municipal courts should be required to be courts of record for driving while under the influence offenses.

5. There are problems with North Dakota Century Code Section 27-20-52.1. The statute creates problems as to which school to notify and requires notification even if there is an appeal. There is a question as to who should be punished for nonregistration--the parent or the child.

Judge Christofferson said the Sacred Child Project is a worthy program. He said it is difficult to get different agencies to work together. He said there are turf battles between different agencies. He said the Legislative Assembly should tie funding to cooperation to ensure that the Sacred Child Project is a success.

In response to a question from Representative Warner, Judge Christofferson said there are 15 to 20 Department of Corrections and Rehabilitation inmates being housed in jails. He said local offenders could be sentenced to those 15 to 20 spaces instead of being sentenced to state facilities and then returned to a jail somewhere in the state.

In response to a question from Representative Thoreson, Judge Christofferson said he uses community service and has a community service coordinator that administers community service and restitution. He said he uses community service in approximately half the sentences. He said he can convert fines and costs to community service when an offender has no money. He said community service allows judges to use the offender to give something back to the community. He said American Indians tend to be quiet and that makes it difficult to get information when sentencing them.

In response to a question from Representative Murphy, Judge Christofferson said in some cases juveniles learn about gangs by being sent to larger institutions.

In response to a question from Senator Watne, Judge Christofferson said the public should be educated as to how to get information on people on the sex offender and crimes against children registration list. He said there may be a need for a more detailed description of the crime on the list. He said the information should be made more public. He said the youth offender data base should allow for a stay during appeal. He

said he is not sure if the statute is protecting students from other students.

In response to a question from Representative Koppelman, Judge Christofferson said local law enforcement in Devils Lake does not disclose information about sex offenders or people who commit crimes against children. He said one solution may be for a law to mandate the publication of a local list and to mandate local law enforcement to alert the public of the list.

In response to a question from Senator LaFountain, Judge Christofferson said the district court at Devils Lake covers a three-county area and one-third of juvenile cases involve American Indian children. He said there are no statistics on informal adjudication. He said the numbers increase for American Indian juveniles as the seriousness of offenses increases.

At the request of Chairman Boucher, Ms. Jo Christensen, Coordinator, Grand Forks Public School District, presented information on the projected continuum of services for students at risk in the Grand Forks Public School District. The services include family-focused early intervention, elementary day treatment, middle school day treatment, the Success Academy, senior high day treatment, and diversified occupations. She provided a handout that was the basis for her testimony. A copy of the handout is attached as Appendix B.

In response to a question from Representative Thoreson, Ms. Christensen said there is not a disproportionate number of single parent families in the programs.

In response to a question from Senator Watne, Ms. Christensen said the family-focused early intervention program is for at-risk children to five years of age.

In response to a question from Representative Thoreson, Ms. Christensen said the Success Academy has included children who have been suspended multiple times. She said the program devises a way for these children to get caught up in their schoolwork. She said there are agreements with all of the schools to have teachers come to the Success Academy and teach different time periods. She said the student has the teacher help design the student's education.

In response to a question from Representative Oban, Ms. Christensen said the Grand Forks public school system continues to provide services to suspended and expelled students if they are special education students. She said once a student is expelled, the student cannot come onto school property. She said mediation has allowed children with weapons violations to come to school.

In response to a question from Representative DeKrey, Ms. Christensen said older students are used as mentors. She said the Chamber of Commerce and service groups are used as mentors from the community.

In response to a question from Representative Thoreson, Ms. Christensen said the Success Academy is different from an alternative school because there cannot be an alternative school for a person under the age of 16 years. She said a student under the age of 16 years must have a teacher of record. She said this is not an alternative but an attempt to remediate the student back into the normal school population.

In response to a question from Representative Oban, Ms. Christensen said the program will include disabled students if they do not need specialized instruction programs.

In response to a question from Senator LaFountain, Ms. Christensen said the flooding did not cause many problems with the juveniles right after the flooding. She said as time passes stress levels will build up in families and problems will arise. She said the budget for diversified occupations consists of \$40,000 for salaries. She said during this year there have been 141 employment contracts.

Ms. Christensen said the state could replicate all of these programs throughout the state.

At the request of Chairman Boucher, Mr. Al Lick, Director, Division of Juvenile Services, responded to questions.

In response to a question from Representative Oban, Mr. Lick said the family-focused early intervention program was in the RAND study. He said it offers good prevention; however, the effects of the program take 10 to 12 years to appear. He said Grand Forks is the only school district with these programs at these levels. He said these programs can be replicated throughout the state. He said the impetus to replicate these programs

has to come from a grassroots effort. He said there will be data on how well these programs work.

In response to a question from Representative DeKrey, Mr. Lick said there may be federal money for a treatment center for Indian tribes in the last federal crime bill. He said at one time there were meetings throughout the state at the different reservations and an application for funding for two or three years for a treatment center had been almost completed. He said at no time had anyone from the state said that state funding was possible.

At the request of Chairman Boucher, Ms. Janell Regimbal, Vice President of Youth Services, Lutheran Social Services of North Dakota, presented information on promising early intervention strategies. A copy of her testimony is attached at Appendix C. She said the discovering and integrating voluntary effective resolutions together program, early intervention tracking, and the Stay in School Project offered promising early intervention strategies.

In response to a question from Senator LaFountain, Ms. Regimbal said Red River High School has seven or eight class periods with one or two open periods per child.

Mr. Lick said the federal juvenile crime bill will provide \$1.5 million to the state. He said 80 percent of this money is mandated to be spent on punitive items.

Chairman Boucher adjourned the meeting at 5:10 p.m.

Timothy J. Dawson
Committee Counsel

ATTACH:3