

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION**

OGLALA SIOUX TRIBE)	
)	Civil Action No.
v.)	
)	
UNITED STATES OF AMERICA)	DECLARATION OF KEVIN KILLER
<i>et al.</i>)	
)	
)	
)	
)	

1. My name is Kevin Killer. I am a member of the Oglala Sioux Tribe and currently serve as that Tribe’s Tribal President.

2. I currently reside on the Pine Ridge Reservation in South Dakota.

3. In my oath of office, I swore to “promote, preserve and strength the general health and welfare of the Oglala Lakota Oyate”, and to “support and defend” the Tribe’s Constitution and the “human rights of other peoples” as recognized by among others the “1851” and “1868” Fort Laramie Treaties and declarations.”

4. Over the last five (5) years, the Oglala Sioux Tribe has faced ever more severe law enforcement problems on the Pine Ridge Indian Reservation. These have included, among others, increased sales and use of illegal drugs, a significant increase in on-Reservation gun violence, and a general rise in violent crime.

5. On January 28, 2022, I received two largely duplicate letters from Defendant Tino Lopez. One letter addressed the Tribe’s contract proposal related to

Criminal Investigations, Missing and Murdered Indigenous Persons, Drug Enforcement, and Internal Affairs (“CI Letter”). A true and correct copy of the CI Letter is attached hereto as Exhibit 1. The second addressed the Tribe’s contract proposal related to Law Enforcement and School Resource Officer (“LE Letter”). A true and correct copy of the LE Letter is attached hereto as Exhibit 2. Both letters advised the Tribe that our proposed contracts were “over the direct Secretarial amount funded under the previous contract (Contract No. A20AVOO269) amount from 2021.” Exhibits 1 and 2 at pg 1. The letters also advised the Tribe that our proposed contracts included a request to add a new programs (specifically a Missing and Murdered Indigenous Persons function, a Drug Enforcement function, Internal Affairs function, expanded criminal investigations program, and School Resource Officer) which the “BIA OJS does not have a contractible amount of funding that can be contracted by any one individual tribe” Ex. 1, pg. 2; Ex. 2, pg. 1.

6. Further, the January 28, 2022 letters, recommended, inter alia, five things: (1) change the contract periods from one to three years; (2) revise and re-submit proposed budgets that concur with the previous amount funded in FY 2021 and the FY 2022 contract extension; (3) re-submit a proposal which removes the Missing and Murdered function, the Drug Enforcement function, the Internal Affairs function, and the School Resource Officer function; (4) re-submit a proposal that incorporates the same provisions that exist today to carry out the Criminal Investigations and Law Enforcement functions. Exhibits 1 and 2. The CI Letter also asked the Tribe to explain why it was asking for \$25,000 under

the heading of Treatment/Client, which the BIA fully understood from past conversations with out Chief of Police was for stress and mental health counseling for those tribal officers who were willing to seek that professional help. Ex. 1, pg. 3.

7. The Oglala Sioux Tribal Council reviewed those requests, which it concluded were a violation of the BIA's P.L.93-638 "good faith" contract negotiations, and its Treaty and trust obligations, and decided not to provide the re-submittal or response the BIA had requested.
8. Instead, when the BIA contacted our Chief of Police by telephone, he was instructed to advise OJS District 1 and our Awarding Official of the Tribal Council's position, and I and other Members of the Oglala Sioux Tribal Council traveled to Washington, D.C. and met personally with Defendant Haaland; Senior White House Director of Tribal Affairs, Paa Wee Rivera; and Principle Deputy Assistant Secretary of Indian Affairs, Wizipan Garriott during the first week of March 2022. During all of those meetings we presented our recent crime statistics, advised Defendants of how the BIA OJS's underfunding was impacting the Tribe and its Tribal Members, and requested their help.
9. Despite these meetings, no real assistance was provided.
10. Instead, on March 30, 2022, I received the partial declinations letters reference in our Complaint, and the Oglala Sioux Tribal Council begin discussing its legal options.
11. On April 1, 2022, the Tribe accepted the contracts portions not declined and

advised that the Tribe was exploring its legal options on the partial declinations. A true and correct copy of my April 1, 2022 letter to Defendant Lopez is attached hereto as Exhibit 3. To date the BIA has still not released the funds under that portion of the contract that was not declined.

12. On April 13, 2022, I had delivered to Gina Douville, Superintendent of the Pine Ridge Agency, formal notice that the “United States is in flagrant violation of Articles 1 and 5 of the 1868 Treaty of Fort Laramie in that it has refused to engage in reasonable efforts to preserve the peace on the Pine Ridge Indian Reservation by assuring the property level of law enforcement and criminal investigations services required to protect the people and property of the Oglala Sioux Tribe and its members.” A true and correct copy of my April 13, 2022 notice is attached hereto as Exhibit 4.
13. The crime situation on the Pine Ridge Reservation became so serious that our Oglala Sioux Tribal Council was forced to declare a State of Emergency on the Pine Ridge Indian Reservation on May 20, 2022.
14. When Assistant Secretary Newland came to Pine Ridge in June of 2022 on other matters, and our Oglala Tribal Council chose to bring our Chief of Police to that meeting. We again stressed the serious nature of our law enforcement situation, presented out recent crime statistics and ask for his help.
15. I, and other members of the Tribal Council also met with Defendant Haaland the week of July 11, 2022, where we again asked for her assistance on our law enforcement situation and again, received great sympathy, but no additional

financial assistance.

16. I, and other Members of the Oglala Sioux Tribe, were brought up to believe that the United States has a treaty, trust and statutory obligation to protect the Oglala Sioux Tribe, our members and their property, and that providing adequate federally supported law enforcement services on our Reservation was a part of that federal obligation.
17. At the formal direction of the Oglala Sioux Tribal Council, on April 13, 2022, I sent the attached letter to Defendant Gina Douville, Superintendent of our Pine Ridge Agency, notifying her that both she and the Federal Government were in violation of Articles 1 and 5 of the 1868 Fort Laramie Treaty.
18. Our Oglala Sioux Tribal Council has reached this conclusion based upon, among others, the fact that despite our May 20, 2022 Emergency Declaration, and our in excess of 133,000 E-911 calls for police assistance in 2021, the Bureau of Indian Affairs has only provided the Oglala Sioux Tribe with sufficient resources to hire 33 police officers and 8 criminal investigators; hardly enough to address even the 522 gun-related calls and 1,463 domestic violence calls our tribal police received in 2021.
19. As the President of the Oglala Sioux Tribe, I can attest to the fact that any number of Oglala Sioux Tribal Members have come to our Tribal Council, or to individual members of our Tribal Council, to indicate that they, and their relatives and neighbors, are currently fearful of venturing out of their homes after dark. My Tribal Council has also been informed that many of our Tribal elders

are scared to drive into certain areas of our Reservation to visit friends and relatives, and that many of our Oglala Sioux tribal parents are becoming concerned about sending their children to our on-Reservation schools in the fall of 2022 because of the increased presence of drugs, and the increased potential of threats and violence on school property.

I hereby swear under penalty of perjury that the foregoing is true to the best of my belief and knowledge.

By:

A handwritten signature in black ink, appearing to read "Kevin Killer", is written over a solid black horizontal line. The signature is cursive and somewhat stylized.

Date: July 22, 2022

Kevin Killer, President
Oglala Sioux Tribe