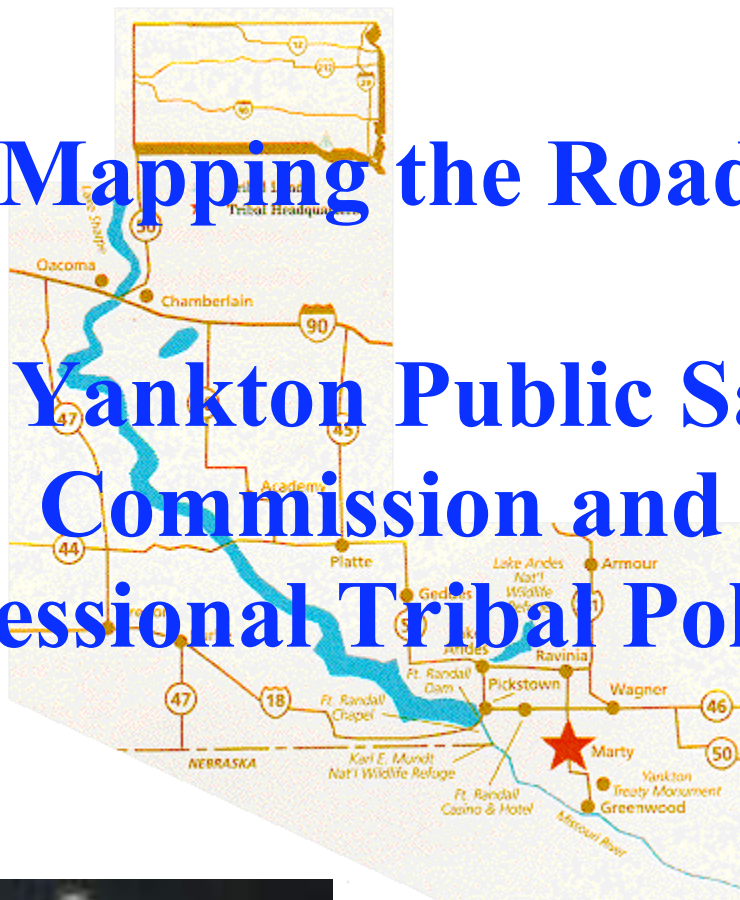


Mapping the Road

The Yankton Public Safety Commission and Professional Tribal Policing

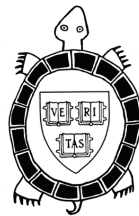


Mapping the Road: The Yankton Public Safety Commission and Professional Tribal Policing

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Executive Summary

The Yankton Sioux Tribe appointed 5 tribal members to sit on the Tribe's Public Safety Commission in January of 2004. The Commission is intended to exercise oversight of 5 tribal police officers that Yankton is contracting from the Bureau of Indian Affairs (BIA) as provided for under Public Law 93-638. The purpose and powers of the Commission have not yet been established, and this report is intended to assist in developing the Commission so that it plays a productive part in effective law enforcement for the Yankton community.

During my site visit, tribal members and BIA officials mentioned many goals, aspirations and concerns around the Yankton Tribe's move to assume responsibility for part of its own policing. One goal and concern that was repeated again and again was to maintain the officers' ability to work independently and professionally, to "keep politics out of it."

To keep politics out of policing, or any government activity, three conditions must be met:

**"Committees work well when everyone does their jobs."
-Yankton Tribal official**

1. The roles and responsibilities of every party are clearly defined
2. Those roles and responsibilities are known and understood
3. All parties are held accountable for carrying out their roles and responsibilities

The challenge for the Public Safety Commission is to ensure that the commissioners know their jobs, that they are the right jobs to fulfill the Tribe's goals, and that they have the resources to achieve them.





The four tasks in the diagram to the left are a roadmap of the process to create a Public Safety Commission that meets that challenge.

This report follows the road map, lays out the criteria for evaluating different ways of accomplishing the tasks, lists concrete steps to get the Commission started, and lists some helpful resources for

further guidance in shaping the Yankton police function as the Tribe moves toward its stated goal of assuming control of all law enforcement on its reservation.

“We’re more than capable of handling it.”
 -Yankton Business and Claims Committee member, on contracting the entire police department

Current Status of Yankton Law Enforcement

In April of 2004, the Yankton Sioux Tribe (“The Tribe”) submitted an application to contract 5 police officer positions from the Bureau of Indian Affairs (BIA) as provided for under Public Law 93-638. The Tribe had 5 tribal officers working within the BIA police department and paid for under a grant from the Community Oriented Policing Services (COPS) program, but the grant funding expired in January of 2004 and the officers were let go. The BIA has been unable to fill the resulting police vacancies, and the Yankton Sioux Tribe has moved to contract the 5 vacant positions and rehire the former tribal officers.

In preparation, the Yankton Sioux’s elected governing council, the Business and Claims Committee, appointed 5 tribal members to sit on the Public Safety Commission. Although there is a general consensus that the Commission will have some oversight over the tribal officers, the exact purpose and powers of the Commission have not yet been determined, and the Commissioners had not met as of March.

Features of the Mixed Yankton Police Department

- BIA management through BIA chief of police
- Tribal officers hired by and accountable to Yankton government
- Dispatch and detention function handled by Charles Mix County

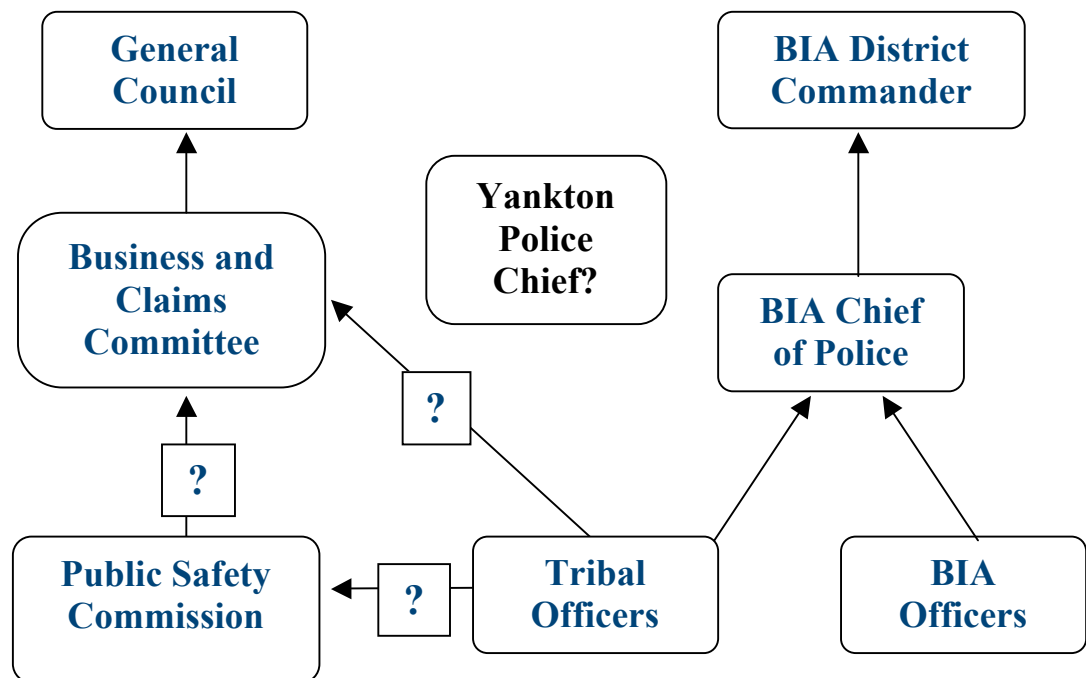
The Tribe’s Business and Claims Commission has stated its intention to move to contract the entirety of the law enforcement function from the BIA, but no concrete timetable has been set for this.

Both the BIA and the Tribe want law enforcement that is professional and independent. They hope that the Public Safety Commission will prevent the intrusion of tribal politics into the police, as has happened on the Pine Ridge and Rosebud Reservations. A Yankton Public Safety Commission existed in the past to exercise this function for the tribal officers employed under the COPS grant, but it eventually dissolved because it was unable to resolve

differences with the Business and Claims Committee about the scope of its authority.

Why might Yankton law enforcement be vulnerable to politicization?

Relationships between components of the Yankton law enforcement system are shown in the diagram below. Arrows indicate the direction of accountability.



The question marks indicated a relationship in which the responsibility of one entity to another has not been defined.

- The relationship between the Business and Claims Committee and the Public Safety Commission is undefined
- The relationship between the incoming tribal officers and both the Business and Claims Committee and the Public Safety Commission is undefined

This ambiguity invites politics into the policing process!

What does this imply for the Public Safety Commission?

The Public Safety Commission must have a clearly defined place in the Yankton law enforcement system.

Otherwise, it will inject more politics into Yankton Law enforcement, not less.

Other Important Players

BIA

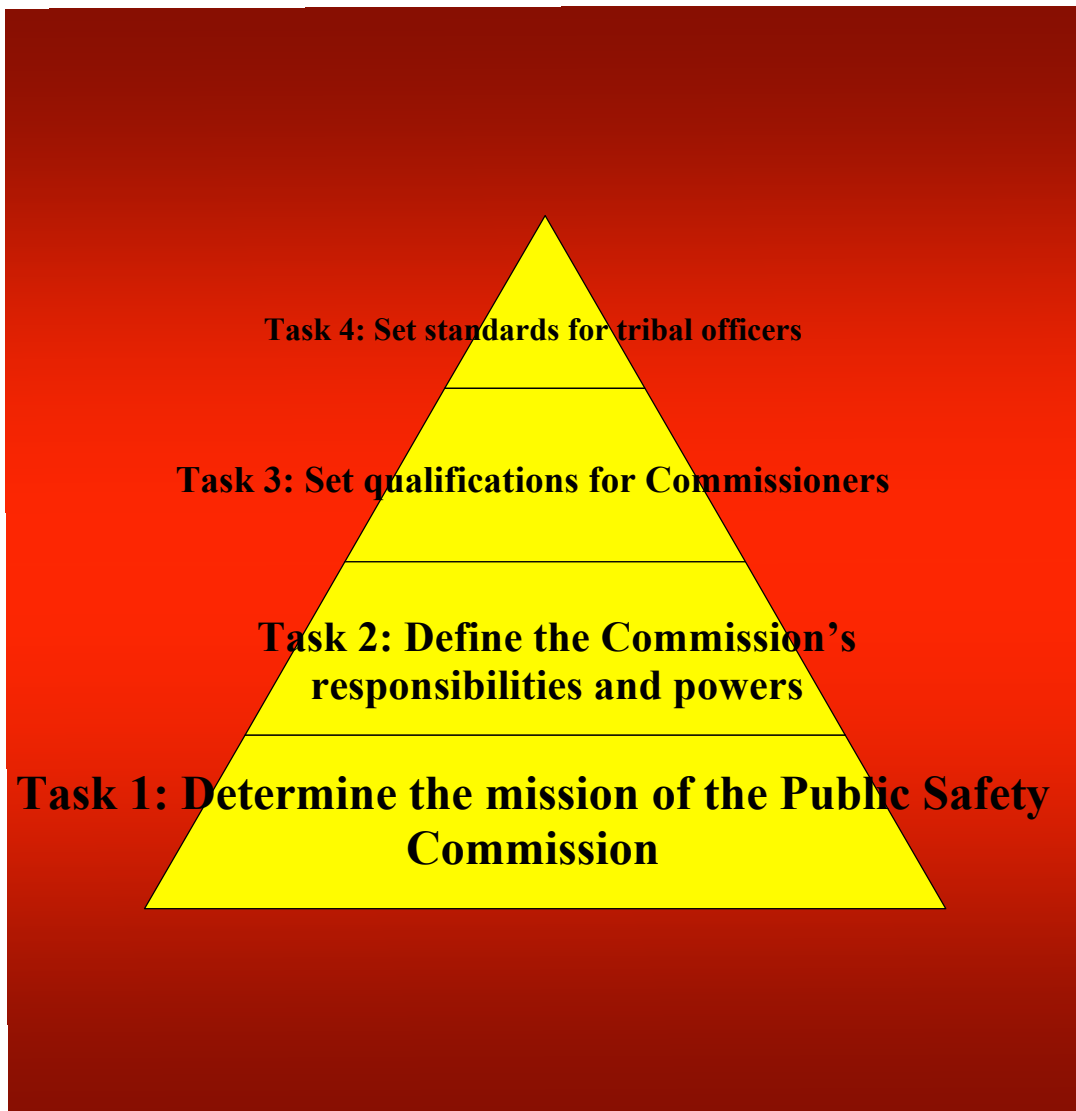
- BIA police chain of command is not accountable to Yankton
- This has been a source of dissatisfaction to the Tribe

Yankton Police Chief

- When the Tribe contracts the full police function, there will be a Yankton police chief
- The most successful tribal police departments have strong, independent police chiefs
- Space should be left for a strong Yankton police chief in the future

Mapping the Road: Tasks to Ensure Professional Policing

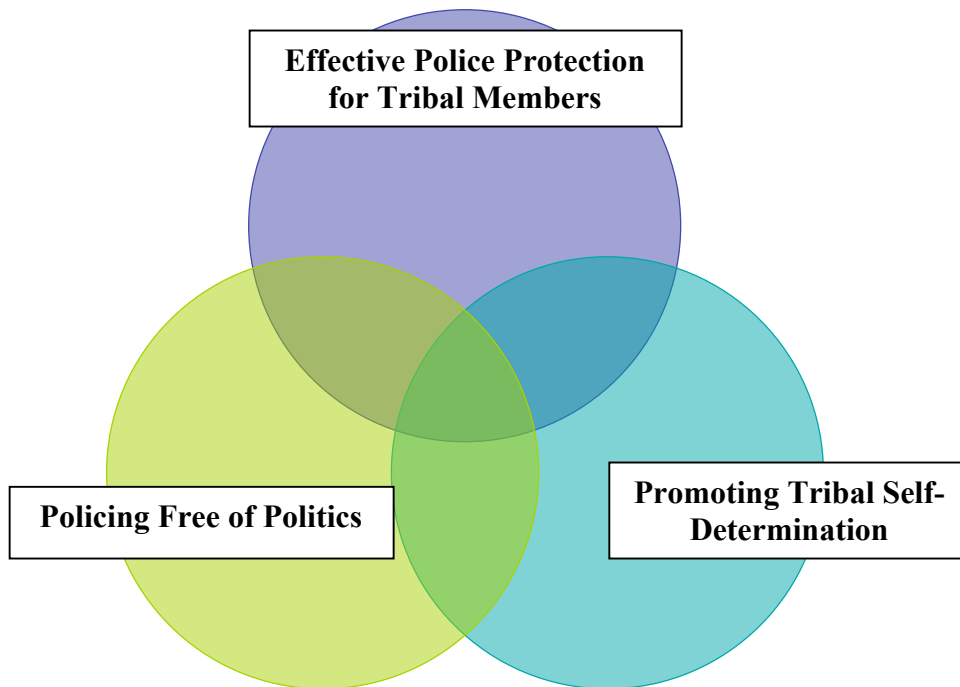
Creating a Public Safety Commission that upholds the independence and professionalism of the Yankton police involves carrying out 4 tasks. Establishing the Public Safety Commission's mission is the base, and sets the stage for the accomplishment of the other tasks.



Criteria for Evaluating Options

Members of the Yankton Sioux Tribe want their tribal law enforcement to work toward three goals:

Goals of Yankton Law Enforcement

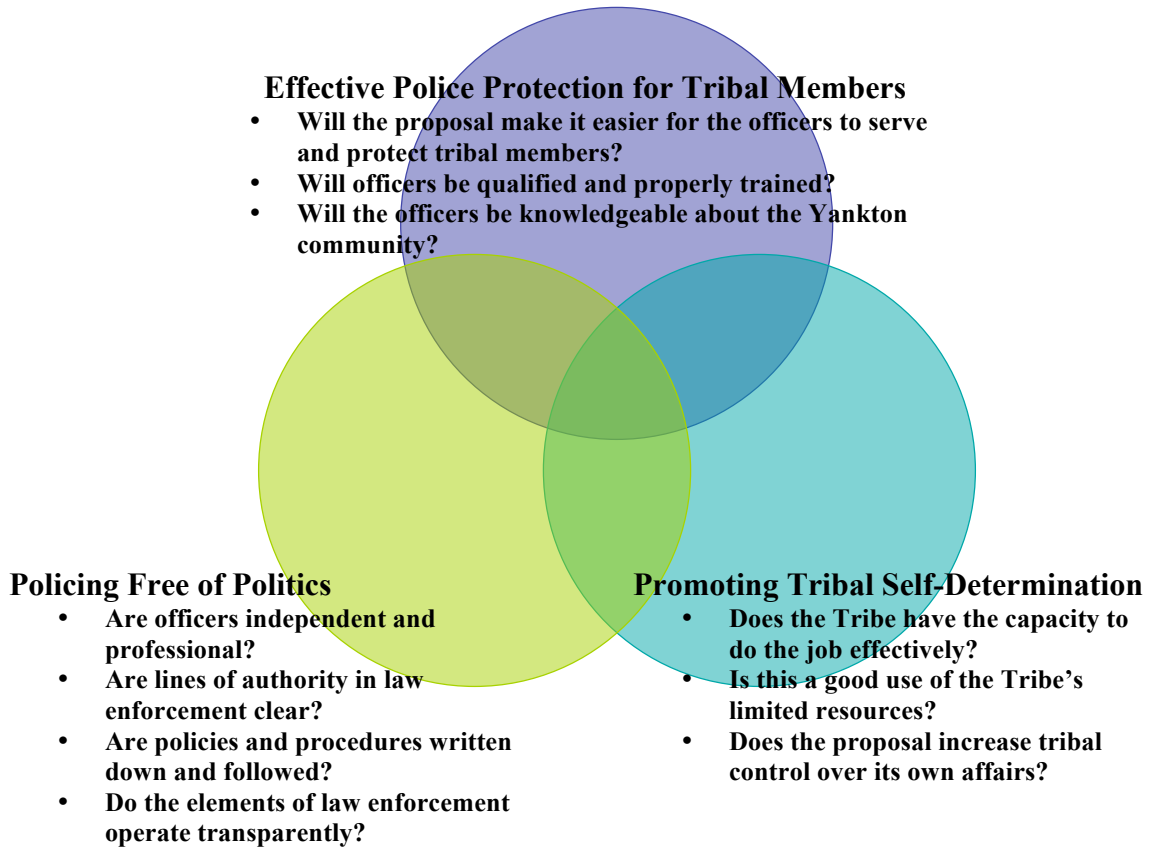


“The goal is to be self-sufficient”

The Yankton Sioux have been involved in an ongoing legal battle with the state of South Dakota over the extent of their on-reservation jurisdiction.

The Tribe considers having its own police to be a key element in protecting and expanding their sovereignty.

The options for accomplishing the road map tasks should be evaluated in relation to the goals of the Tribe. Each option should be thought about in terms of the answers to these questions:



Any arrangement that does not serve the Tribe's goals will ultimately fail, because it won't find support.

Mission of the Public Safety Commission

The original Yankton Public Safety Commission did not have a defined mission, and one has not been determined for the newly established Commission either.

Without a mission statement, there will be uncertainty about the job that the Commission exists to do. Commissioners, members of the Business and Claims Committee, tribal police and tribal members may have very different ideas about whether the Commission is fulfilling its duties, and political dissension will arise.



Ideas from the Business and Claims Committee about the mission of the Public Safety Commission

- Liaison for citizen complaints
- Understand and explain the Yankton law and order code
- Make recommendations to the Business and Claims Committee
- Create a code of ethics
- Keep track of records and complaints
- Build trust in law enforcement
- Act as a buffer between people and the Business and Claims Committee

A good mission statement has three attributes:

Articulation

A well-articulated mission statement is a clear, simple, long-range guide to what the Public Safety Commission's activity should be. It serves as an effective boundary for the Commission.

Operational

An operational mission statement is known to everyone who deals with the Public Safety Commission, and is a guide for evaluating which specific activities and commitments are appropriate for it to undertake.

Reinforced

A reinforced mission statement is reviewed regularly and used for planning, decision-making and evaluating whether the Commission's work is consistent with its purpose and criteria for success.

A mission statement based on the ideas about the purpose of the Public Safety Commission generated by the Business and Claims Commission and the

Tribe's goals for law enforcement might look like this:

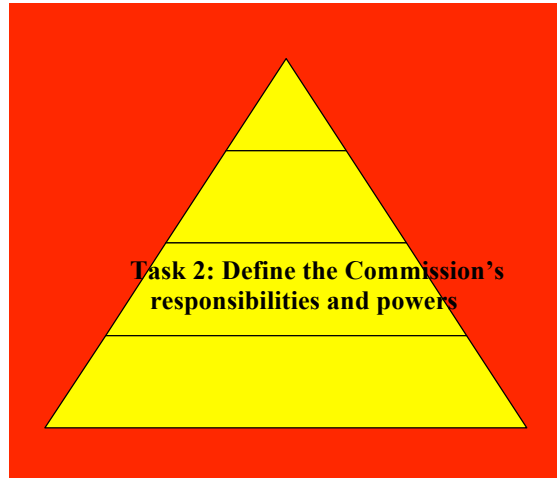
The mission of the Yankton Sioux Public Safety Commission is to promote professional and effective policing on the Yankton Sioux Reservation by advising the Business and Claims Committee on matters relating to law enforcement, and providing a forum for tribal members to express their concerns and complaints about tribal law enforcement. The Commission will work to build trust in tribal law enforcement by educating tribal members on the Tribe's law enforcement codes and practices, and by monitoring police adherence to standards of professional and ethical conduct.

Remember, a mission statement is only valuable if it is used.

Make sure to return to the mission and apply it to decisions about the activities of the Commission.

Responsibilities and Powers of the Public Safety Commission

Once the Public Safety Commission has a well-articulated and operational mission statement, it can be used to determine what the proper powers and responsibilities of the Public Safety Commission should be.



During my site visit to the Yankton Reservation, tribal officials and members suggested several possible responsibilities that the Public Safety Commission might take on. It might be possible for the Commission to do more than one of these things, but the more work the Commission takes on, the less time it will have to devote to each particular task.

➤ Civilian Complaint Board

Almost everyone agreed that this would be a function of the Commission. Tribal members could lodge formal complaints with against tribal officers with the Commission, which would then record, evaluate and act on them. This is the primary role that the previous Commission played.

“Tribal members often simply want their concerns to be heard.”
-former tribal Public Safety Commissioner

➤ Educate the Tribe on Law Enforcement

The Commission could work to increase member knowledge of the Tribe’s laws and law enforcement procedures.

➤ Oversee Detention Facility and/or courts

Several people mentioned the possibility of the Commission’s oversight extending beyond the police into the tribal court or the detention facility the Tribe is preparing to construct and operate.

- Liaison with BIA
The Commission might work to bring tribal concerns to the attention of the BIA police chain of command.

- Explore 638 Process
The Tribe might want to have the Commission investigate and strategize the Tribe’s efforts to contract its entire department.

How do these proposed roles fit with tribal law enforcement goals?

	Policing free of Politics	Promoting Tribal Self-Determination	Effective Police Protection for Tribal Members
Civilian Complaint Board	Complaint process must be formal, with good written records kept	Tribe has experience with this, it is well within their capabilities	Could promote public trust in the police if done well
Educate Tribe on Law Enforcement	Contributes to transparency in law enforcement	Better member knowledge of law enforcement helps, but who educates the Commissioners?	May promoted citizen-police cooperation
Oversee Detention Facility and Courts	Legal authority for this unclear; Commission oversight of courts would require constitutional change	This is a lot for one Commission to try and do effectively	Will divide Commission’s focus between police and other areas
BIA liaison	Seeks to establish some form of formal communication between BIA law enforcement and the Tribe	Could develop stronger Yankton role in partnership with BIA on law enforcement	Could help handle mixed-department management problems
Explore 638 Process	Neutral	Can plan strategically to ensure Tribe is prepared for full contracting; might add a lot of costs	Future effectiveness of Yankton police depends on careful planning of contracting

What powers should the Commission have to fulfill its mission?

- Should it have advisory powers, to guide the action of the Business and Claims Committee and a future Yankton police chief?
- Should it have the power to make binding decisions about Yankton law enforcement?
- Should it have the power to initiate investigations of matters pertaining to Yankton law enforcement?

	Policing free of Politics	Promoting Tribal Self-Determination	Effective Police Protection for Tribal Members
Advisory	Creates a buffer between the Business and Claims Commission and political pressure from members	This is the direction that most tribes with similar commissions have gone	Neutral
Decision-making	Disagreement on this power led to dissolution of previous Commission	Requires substantial tribal investment in the Commission	Consensus in Indian Country: Police most effective when police chief exercises this power
Investigatory	Opens door for politicization of the Commission	Requires substantial tribal investment in the Commission	Could paralyze policing if used too often

The last Yankton Public Safety Commission fell apart due to an inability to come to agreement with the Business and Claims Commission about the powers it should have.

Qualifications of the Public Safety Commission

The Business Council wants the Commission to set out any guidelines for qualifications a tribal member would have in order to sit on the Public Safety Commission.



The success of the Public Safety Commission in upholding professional policing on the Yankton Reservation, free of politics, depends heavily on the police officers recognizing the legitimacy of the Commission's oversight. During my site visit, I encountered considerable skepticism from former (a possibly future) Yankton police officers about the Commissioners being over them and reviewing their actions.

The more power the Commission is granted, the more important the qualifications of the Commissioners become.

A particular concern was raised about the presence on the Commission of individuals with police records.

The Tribe may want to set:

- Minimum qualifications to sit on the Commission (such as not having a criminal conviction) that can be used to screen applicants
- Knowledge and skills that can be addressed after appointment through training for the Commissioners

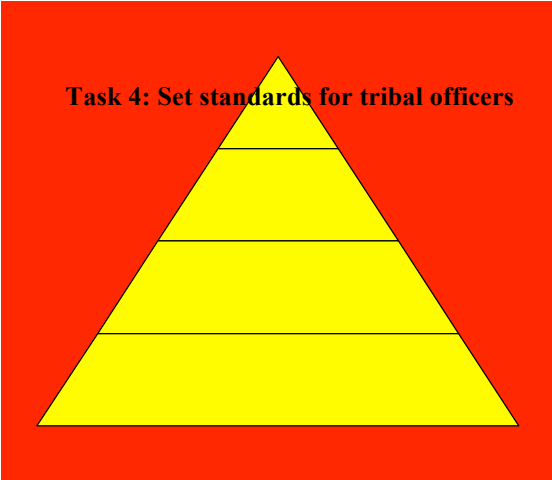
The Office of Justice Programs in the United States Department of Justice offers funds for training of Commissioners. In response to an inquiry about funding for training Yankton Public Safety Commissioners, I was told:

Before training commissioners, it is imperative to develop the base line information such as the policies and procedures for a commission/ commissioners. This will be used to train the Commissioners. What work has been done to complete the policies and procedures (or such) for this Commission? Has the tribe started on the development of the mission, goals, etc for the Commission? Defined the role of the Commissioners?

Yankton will have to answer these questions before training funding for Commissioners is available to them.

Standards for Tribal Police Officers

There is a consensus in the Yankton Sioux government that the mission of the Public Safety Commission includes holding tribal officers to standards of professional and ethical conduct.



If tribal officers are to work in a professional and independent manner, it is necessary for it to be clear what these standards are. The Tribe does not currently have any formal standards for police officer conduct. Without such standards, the perception, or the reality, could easily arise that officers are being disciplined or dismissed for political reasons, or protected from being disciplined or dismissed for political reasons.

The Tribe should designate already existing standards to hold officers accountable to, or create their own. The simplest existing standards to use would be the BIA's.

	Policing free of Politics	Protecting and Expanding Sovereignty	Effective Police Protection for Tribal Members
BIA standards	These rules are ready-made, and familiar to both tribal officers and members	Leaves the determination of what constitutes good policing to the BIA, not the Tribe	Good, professional standards
Tribal Standards	Tribal standards must be clear and transparently applied	Tribe determines what is appropriate policing for its members	Many effective tribal departments operate under tribal standards

The Bay Mills Indian Community's tribally-created standards for police officers is provided as an example in Appendix A.

Next Steps

The 4 tasks necessary to create a Public Safety Commission that upholds the independence and professionalism of the Yankton police can be carried out in three stages:



Who Does What

“Everything should be written.”
-Yankton tribal official

Laying the Foundation

Public Safety Commission

- Draft mission statement for the Commission
- Set up a meeting schedule and procedures for the meetings
- Create the written complaint forms to be used by members wishing to make a formal complaint
- Set up record-keeping system for Commission business

Business and Claims Committee

- Adopt an ordinance defining the mission, responsibilities and powers of the Public Safety Commission, and the minimum qualifications to sit as a Commissioner

- Adopt an ordinance on the hiring, discipline and dismissal standards for tribal officers
- Create a budget for the Public Safety Commission

BIA

- Monitor tribal progress on completing these tasks, providing advice as needed

Carrying out the Mission

Public Safety Commission

- Apply for training from the Office of Justice Programs
- Begin oversight activity defined in Commission ordinance
- Participate in training

Business and Claims Committee

- Put the ordinances adopted in the Laying the Foundation stage before the General Council for approval

BIA

- Designate representative to attend Public Safety Commission meetings to facilitate communication with BIA law enforcement chain of command

Moving toward Full Contracting

Public Safety Commission

- Draft adapted Commission procedures for dealing with an independent Yankton police department and police chief

Business and Claims Committee

- Designate a body to plan the process of fully contracting the law enforcement function from the BIA
- Act on any recommendations given regarding preparation to assume control of law enforcement

“We have to make sure we have people who know what they’re doing.”
-Yankton tribal official

BIA

- Identify and train potential candidates for Yankton chief of police
- Assist contracting planning body to outline benefits and costs of contracting

“There’s the potential for Yankton to be leaders in doing service for non-member law enforcement as well.”

-Yankton tribal official



Appendix A—Bay Mills Indian Community Tribal Officer Standards

Chapter IX

TRIBAL LAW ENFORCEMENT OFFICERS

901. LAW ENFORCEMENT OFFICER DEFINED. A law enforcement officer of the Bay Mills Indian Community is:
- A. Employed by the Tribe to enforce its general criminal and civil ordinances; or
 - B. Employed by the Tribe to enforce its conservation laws; or
 - C. Employed the United States, another Indian tribe, an intertribal organization, the State of Michigan, or a political subdivision of the State, and is authorized by the Tribe to enforce its laws.
902. QUALIFICATIONS. The Executive Council of the Tribal Council may appoint persons as tribal law enforcement officers. To be eligible for appointment, an officer shall possess the following qualifications:
- A. Be of sound physical and mental condition and evidence no use of controlled substances without a prescription issued therefor;
 - B. Have no conviction of a felony for which s/he has not received a pardon;
 - C. Be of legal age; and
 - D. Within one (1) year of appointment, successfully complete the approved Basic Police Training Course conducted at the Federal Police Academy or similar course substantially meeting or exceeding the level of training provided by said Academy.
903. DUTIES AND RESPONSIBILITIES. It is the duty and responsibility of each law enforcement officer to conduct him/herself as follows:

- A. To obey promptly all orders of the Tribal Court of the Bay Mills Indian Community;
- B. To lend assistance to fellow officers;
- C. To protect the general public and assist any person in need;
- D. To report and investigate all violations of any law coming to his/her notice or reported for attention;
- E. To arrest all persons observed violating the laws or committing offenses under tribal law;
- F. To carry a firearm while on active duty, for which the officer is qualified pursuant to 25 C.F.R. sec. 11.304(e);
- G. To inform him/herself of the laws, regulations and offenses applicable to the Reservation of the Bay Mills Indian Community and to the areas ceded under the Treaty of March 28, 1836 (7 Stat. 491);
- H. To prevent violations of the law and the committing of offenses under the ordinances of the Tribe or the laws of the United States;
- I. To abstain from the use of intoxicants and controlled substances while on active or on-call duty status;
- J. To refrain at all times, whether on or off-duty, from any utilization of a controlled substance without the requisite prescription therefore, and from engaging in any act which would bring discredit upon the Tribe's Law Enforcement Department and/or its branches and divisions;
- K. To refrain from the use of inappropriate language when representing the Tribe to the general public and to other law enforcement agencies;
- L. To use only necessary force in making an arrest, search or seizure;
- M. To promptly notify his/her commanding officer of all arrests made by him/her and to submit proper arrest records and investigative reports in accordance with established department procedures;

- N. To not willfully violate any laws of the United States or the State of Michigan, unless said provision is declared to be violative of treaty rights reserved to the Tribe or in conflict with tribal law;
 - O. To keep all equipment furnished in reasonable repair and order, and to ensure that none is used by any person not a law enforcement officer;
 - P. To maintain the minimum standards for law enforcement officers contained in 25 C.F.R. sec. 11.304 (g) and (h);
 - Q. To report to his/her commanding officer violations of these duties which s/he observes or of which s/he has knowledge; and
 - R. To comply at all times with the Law Enforcement code of Ethics.
904. DISMISSAL. The Executive Council may suspend or dismiss any tribal law enforcement officer for any noncompliance with the duties and requirements of Sec. 903, and/or neglect of duty.
905. CONTROL OF TREATMENT OF PRISONERS. Tribal law enforcement officers shall be responsible for the treatment and control of prisoners in their custody. Visible cuts, bruises, or other apparent injuries suffered by any person arrested shall be reported in writing to their commanding officers. Officers shall exert only such force as is necessary to overcome resistance to lawful arrest and to maintain proper custody of a prisoner.

Appendix B—Resources on Law Enforcement Structure

This is a short list of resources on law enforcement practice and management issues that might be of use to consult in defining the structure of the Yankton tribal police. Many of them also offer training that might be valuable to the Public Safety Commission.

Commission on Accreditation for Law Enforcement Agencies (CALEA)

The main accreditation organization for law enforcement agencies throughout the United States. Their accreditation standards are a useful guide for what is considered the norm for structure and management of law enforcement. The Gila River Police Department has just begun the accreditation process through CALEA.

10302 Eaton Place, Ste. 100
Fairfax, VA 22030
800-368-3757
calea@calea.org
www.calea.org

International Association of Chiefs of Police (IACP)

Offers training and other professional assistance to police departments of all sizes.

515 North Washington St.
Alexandria, VA 22314
703-836-6767 or 800-THE-IACP
www.theiacp.org

Office of Justice Programs, United States Department of Justice

OJP offers training and funding for training of various kinds. Could be a source of training for the Public Safety Commission. Contact Norena Henry regarding this, at henry@ojp.usdoj.gov, or 202-616-3205

Police Executive Research Forum (PERF)

Does research and offers training on a wide variety of policing issues.

www.policeforum.net

“Policing on American Indian Reservations”

This National Institute of Justice report is an excellent overview of issues in Indian policing and police departments. It is available electronically at

www.ojp.usdoj.gov/nij, or you can contact them at 800-851-3420.