MEMORANDUM

To: Twin Buttes School Board

From: Thomas M. Disselhorst, Attorney at Law, ND Bar No. 3294

Date: May 14, 2018

Subject: Criminal jurisdiction as it relates to Twin Buttes School District housing policies

Background:

In reviewing the quarters policies relating to potential criminal incidents that might occur within the housing provided by Twin Buttes School District, I realized that guidance is needed regarding jurisdictional issues that might arise. The precise question is which law enforcement agency should be called if an incident relating to the housing becomes criminal in nature?

Guidance

Generally, Twin Buttes School Board and the Twin Buttes School District have followed state law in relation to the School District since the School District receives substantial state funds for its operation.

However, the housing situation is different. Housing is not normally provided by state school districts, and the housing the Twin Buttes School provides is located on land held in trust for the Tribe by the United States. There is no state policy or law regarding school district housing, because state school districts normally do not provide housing.

So which criminal authority do you call if a criminal incident arises within the housing provided by the School District? Without elaborating as to why, the following table applies:

1. If it is a non-Indian that is acting, or has, acted in an alleged criminal manner, call the Sheriff’s office for Dunn County, EXCEPT if it is a domestic relations situation where the non-Indian is the perpetrator AND the victim is a Native American, call the Tribal police (whether or not the Tribal police are BIA officers).
2. If it is a Native American that is acting, or has acted in an alleged criminal manner, call the Tribal police. Whether or not the crime is a Major Crime that will be prosecuted in Federal court under Federal law will be determined by the facts of the case as determined by Tribal police officials and the office of the U.S. Attorney for North Dakota. This is true regardless of whether the alleged victim is Native American or non-Native American.

3. If it is an emergency, and an ongoing criminal act is occurring (such as in a domestic relations case), call whoever is available or able to come as quickly as possible!!! Act in a manner to save lives and property. The jurisdictional issues can usually be sorted out later. Do not worry who is acting in a criminal manner; Native American or otherwise.