

Testimony
of
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House Committee on Natural Resources
Subcommittee on American Indian and Alaska Native Affairs
On
“Child Protection and the Justice System on the Spirit Lake Indian Reservation”

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Chairman Young, Ranking Member Hanabusa, and Members of the Subcommittee, my name is Michael Black and I am the Director of the Bureau of Indian Affairs (BIA). Thank you for the opportunity to present testimony for the Department of the Interior (Department) on “Child Protection and the Justice System on the Spirit Lake Indian Reservation.”

It is important to focus on Spirit Lake because it is an example of the serious challenges that many Indian reservations are facing. Throughout the country, protection of children is a top priority for federal, state, tribal, and local governments. In a time of limited resources, however, challenges remain in Indian country and in many states. Sequestration inflicted additional challenges on Indian country in FY2013 – cutting over \$6.2 million from BIA Human Services and \$17 million from BIA Public Safety and Justice. Sequestration cuts for social services alone were the equivalent of eliminating 15 social services workers at tribal and BIA operated programs. As sequestration took back millions of dollars from these areas, the Spirit Lake Tribe retroceded social services to the BIA.

The FY 2014 Budget passed by Congress restores many of the cuts inflicted by sequestration, with BIA Human Services funding at FY 2012 levels and BIA Public Safety and Justice receiving an increase of \$3.7 million over FY 2012 levels. Despite restoring some of those cuts, resources remain constrained, making it difficult to meet all of our needs in Indian country.

For that reason, the President’s FY 2015 Budget includes critical increases for both BIA Human Services and BIA Public Safety and Justice. To support Native American families and communities, the 2015 budget proposes the Tiwahe Initiative, with an increase of \$11.6 million in social services and job training programs to address the interrelated problems of child and family welfare, poverty, violence, and substance abuse in tribal communities. Tiwahe is the Lakota word for “family.” Through this initiative, social services and job training programs will be integrated and expanded to provide culturally appropriate programs to assist and empower families and individuals through economic opportunity, health promotion, family stability, and strengthened communities. Funding the Tiwahe Initiative is vital to addressing the significant challenges faced by children on the Spirit Lake Reservation and elsewhere in Indian country. We urge Congress to take this request seriously.

To promote public safety and tribal community resilience, the 2015 budget request also includes resources to build on BIA Law Enforcement's recent successes in reducing violent crime. A pilot program will be implemented to lower repeat incarceration rates in tribally operated jails on three reservations – Red Lake in Minnesota, Ute Mountain in Colorado and Duck Valley in Nevada – with a new Priority Goal to lower repeat incarcerations by a total of 3 percent by September 30, 2015. The Alternatives to Incarceration Strategy will seek to address underlying causes of repeat offenses, such as substance abuse and lack of adequate access to social service support, through intergovernmental and interagency partnerships. The critical needs of Indian country are evident both at Spirit Lake and elsewhere. The Department calls upon this Committee to fully support the President's Budget on these critical issues so that tribal communities have the necessary tools to protect Indian children.

Significant Efforts to Support Improvements at Spirit Lake

The Spirit Lake Indian Tribe (Tribe) faces significant challenges in restoring a stable and well-functioning social services program. The BIA stands shoulder-to-shoulder with the Tribe as it attempts to meet these significant challenges. To the Tribe's credit, the leadership at Spirit Lake has been aggressive in seeking guidance in reforming its programs. For example, it has sought assistance from Casey Family Programs and the Administration for Children and Families (ACF) at the Department of Health and Human Services (HHS).

In seeking improvements, the tribal leadership has not shied away from scrutiny. In addition to formal or informal program reviews and support by Casey Family Programs and ACF in recent weeks and months, the Tribe has obtained an extensive on-the-ground review of its policing programs by the BIA Office of Justice Services (BIA OJS). It has also undergone an extensive BIA tribal court assessment in the last several months, and is working with the BIA OJS, Division of Tribal Justice Support, to prioritize specific needs for training and technical assistance for all court personnel.

Though addressing programmatic challenges will take time, the leadership at Spirit Lake has embraced the need for improvements and has sought assistance in many corners. Such effort provides confidence that the Tribe is a good partner and that there is a strong will to address the problems at the tribal level.

Background of Spirit Lake Social Services Program

Prior to October 1, 2012, the Spirit Lake Sioux Tribe operated the Social Services programs under a P.L. 93-638 contract with the federal government. Beginning in August of 2011, the Tribe operated the programs under a Corrective Action Plan (CAP), which required the Tribe to address activities that were identified in its yearly contract review as required under the P.L. 93-638 contracting requirements. Leading up to October 1, 2012, the Tribe had a year to complete the CAP in order to maintain operation of the Social Services programs under its P.L. 93-638 contract. The BIA monitored the Tribe's Social Services programs and provided it with technical assistance to assist the Tribe with maintaining these programs. Despite these efforts, tribal social services continued to experience areas of poor performance. With likely incompleteness of the CAP, the Tribe chose to retrocede those P.L. 93-638 contracted Social

Services programs to BIA. The Tribe retained operation of the 477, Welfare Assistance, and ICWA programs.

Since October 1, 2012, the BIA has had responsibility for the Social Services programs once contracted by the Tribe. The Tribe also operates a Title IV-E program funded by ACF through the State of North Dakota with a tribal-state agreement for foster care placements. The children placed under the IV-E North Dakota State agreement are not subject to BIA supervision since care, control, and custody lie with the Tribe and the Tribe is responsible for oversight on those foster care placements. The BIA foster care program actively works to transfer children to services under the Tribe's IV-E agreement with the State of North Dakota, provided the children meet the criteria for the Tribe's IV-E program.

As of June 11, 2014, there are 26 children in foster homes, 63 children in relative care, and 8 in other placements, such as group homes, treatment, etc. It is important to note that there are a total of 97 children that are in the care, control, and custody of the BIA. Regardless of the nature of the placements, the BIA Social Services Program works closely with the Tribe and its Tribal Court to ensure care and custody of the children is properly addressed in every case.

Immediately after the retrocession on October 1, 2012, the BIA Social Services Program took the following actions:

- Detailed 12 Social Workers to the Tribe to assist at different periods of the transition during the first 30 days of operation after retrocession.
- Established a new office, including work space for staff, set up for computers, telephone lines, phones, fax machines, and on-call cell phones.
- Advertised six positions for the BIA Social Services program.
- Collaborated with the Spirit Lake Sioux Tribal Court to establish care and control of children in custody, identify the children in placement, and obtain court records.
- Partnered with the Tribe to develop a protocol for Title IV-E and IV-B (Family Preservation) to assist with establishing an agreement between the two programs regarding transferring of cases.
- Inventoried stored case files to determine files needing to be archived and files related to active cases.
- Collaborated with the Federal Bureau of Investigation, Red River Advocacy Center, and BIA OJS to complete forensic interviews.
- Attended meetings with the Spirit Lake Tribal Council in order to network services.
- Worked with the Department of Justice to complete fingerprinting for children, aged 14 and older, that the BIA would have care and control over and all adults living in the home with them.

The continuing work of the BIA Social Services Program includes:

- Providing child protection, child welfare assistance, case management, emergency assistance, burial assistance, and family and community services, as well as supervising Individual Indian Money (IIM) accounts;

- Receiving, reviewing, and investigating reports of alleged child abuse and/or neglect;
- Maintaining and managing current and active case files for 97 children, as well as coordinating services for children and families, making referrals, conducting permanency planning, and supervising visits;
- Participating in child protection and multi-disciplinary teams and hosting team meetings to review on a regular basis child abuse and neglect cases;
- Hiring two additional in-house social services personnel and working to recruit and hire four more; and
- Rotating 19 social workers from other BIA agencies to the Fort Totten Agency at various intervals since October 1, 2012, to provide support and expertise during the tribal program's transition to BIA management.

The continuing work of the BIA OJS includes:

- Working with the BIA Fort Totten Agency and federal law enforcement (U.S. Attorney's Office and Federal Bureau of Investigations in North Dakota) on child safety and protection at Spirit Lake;
- Training BIA social services staff in the use of mobile fingerprinting units and assisting with the fingerprinting of foster parents;
- Investigating allegations of child abuse and neglect at Spirit Lake;
- Continuing to work with the Federal Bureau of Investigation and the U.S. Attorney's Office in North Dakota on all active Spirit Lake cases; and
- Providing tribal court tribal advocacy training for tribal judges, public defenders and prosecutors on cases dealing with sexual assault of children.

BIA OJS, Division of Tribal Justice Support (TJS), also conducted a comprehensive tribal court assessment for the Spirit Lake Nation's Tribal Court. The assessment resulted in recommendations to assist with Tribal Court staffing, Tribal Code development, and Tribal Court Training. In addition, BIA OJS/TJS provided:

- Immediate funding to the Spirit Lake Nation to assist with staffing needs within the Tribal Court: positions have been funded to assist in Child Welfare matters in the Tribal Court: a) Family Services Indian Child Welfare Presenter, b) Guardian Ad Litem (2 GAL Positions), c) Juvenile Public Defender.
- A Tribal Court Bench Book; and Desk Book for Practicing Lawyers and funding for Code development.
- Funding for a Child Protection Title IV/E training opportunity for the Tribe's juvenile tribal court judge.

Staffing for Social Services and Law Enforcement at the Spirit Lake Sioux Tribe

Hiring permanent staff at Spirit Lake has proven to be a challenge for BIA for several reasons. Similar to many states across the country, both our BIA programs in this region and the state of North Dakota report a shortage of qualified social worker applicants. We have seen this repeatedly in hiring certifications with no applicants at all or unsuitable applicants. We have

increased our efforts at Spirit Lake by offering bonuses and expanding outreach to non-Indian candidates. Despite these efforts, we have experienced instances where the best candidate was selected, only to have the individual later withdraw or fail to satisfy the background check.

Another challenge has been the lack of available housing in the area. Finally, unsubstantiated allegations and publicity regarding the Spirit Lake Reservation, even with the significant improvements that have been made since retrocession, have significantly hindered permanent hiring. As a result, the BIA continues to detail staff to cover the advertised positions at Spirit Lake. Given all the factors noted above, the Department is pursuing contracting options to provide longer term stability until the program is permanently staffed.

When fully staffed, the BIA Social Service program at Spirit Lake includes six permanent positions. These six positions are as follows:

1 - Supervisory Social Worker: Manages all program element operations and supervises social services staff; assists with investigations and case management, as needed; assists on call as needed; acts as liaison to other federal, state, county and tribal agencies and partners.

3 - Child Welfare Specialists: Two of these positions are focused on child protection/abuse and neglect investigations; and one of these positions is focused on case management for monitoring and services such as home visits for foster care and relative placements and safety plans.

1 - Social Services Representative: Tracks and screens new abuse and neglect reports; coordinates court activities, home visits and other assistance as needed.

1 - Social Services Assistant: Assists with all phone and walk-in traffic, filing, and all other administrative tasks.

Presently, the Supervisory Social Worker has been selected with a reporting date of June 30, 2014, and two of the Child Welfare Specialist positions are advertised.

Currently, there are 14 sworn law enforcement positions at the BIA Fort Totten Agency. These 14 positions include the Chief of Police and 2 Special Agent Investigator positions. There is one vacant police officer position. The Tribe has one certified officer hired for a tribal police officer position. There is a second tribal officer position, which is vacant. These two tribal police officer positions will support the BIA staff at Spirit Lake. The BIA Fort Totten Agency has also received a full time experienced Law Enforcement Assistant to provide administrative support.

The BIA OJS conducted an initiative to assist the BIA Fort Totten Agency with identifying and correcting mandatory BIA-OJS handbook compliance deficiencies, as well as program leadership and first line supervision mentoring. This initiative was led by the BIA OJS Assistant Director, along with supervisors and agents from other agencies. Evidence, Police Reports, case load, scheduling and communications issues were of primary concern. Training in these areas was provided along with best practice recommendations.

Regular weekly meetings were established between the local BIA OJS management and the Tribal Chairman to discuss program activities as well as to ensure that communication is improved and pending investigations are briefed regularly. A BIA OJS Special Agent has been

assigned to monitor/work child abuse and child sexual assault cases for the BIA Fort Totten area. He has direct contact with Social Services three to five times per week. There are currently six open “960 Reports for Child Abuse and Child Sexual Abuse”: three of these are FBI cases and three are BIA cases.

Process and Performance Improvements

Since retrocession, the BIA has adopted a number of significant procedures and resource partnerships that not only ensure safety and protection of children, but also engage the community in family preservation activities designed to reduce instances of abuse. In addition, the efforts at Spirit Lake also allowed program and BIA staff to filter through some of the unsubstantiated cases through improving mandatory reporting methodologies in coordination with other key partners such as the medical facilities and school systems. The mandatory reporter methodologies alone have resulted in a 40% drop in child abuse and neglect reports. The methodologies have also resulted in reports with information which facilitates a more rapid and thorough investigation strategy. For the past few months, the number of referrals has maintained even levels of approximately 50-80 per month.

BIA protocols have been established for all key social services processes. Staff detailed to Spirit Lake either know or are trained on the proper protocols for investigations, case management, foster care, and all other key social services processes. This standardization has led to more consistent and thorough processing and results across the board. Most importantly, both foster care placements and abuse and neglect reports are documented and tracked through a concise system. Training has been coordinated and completed internally and through other state and Federal Agency partners to improve services at Spirit Lake.

Currently, the Social Services program operates under a 12-week set of detail assignments, which establishes coverage for all vacant positions. The number of detailees to Spirit Lake is reduced as permanent hiring for vacant positions take place. The BIA will continue to aggressively pursue hiring for these vacant positions until all positions are filled.

The BIA also has other highlights of the positive improvements and efforts at Spirit Lake, which include:

- The BIA Social Services program continues to collaborate with the Federal Bureau of Investigation, Red River Advocacy Center, and BIA OJS to complete forensic interviews for children who report instances of mental, physical, or sexual abuse.
- The BIA staff has worked on encoding data and uploading documentation for cases into the Financial Assistance and Case Management System (FASS-CMS) that is utilized by all BIA Social Services programs for thorough tracking.
- The BIA staff is performing 24-hour per day on-call Child Protective Services as of October 1, 2012, and has partnered with BIA OJS, Office of Law Enforcement Services to assist with investigations of referrals of allegations of child abuse and/or neglect.
- Since November 1, 2012, the Social Services program has assumed the responsibility of leading bi-weekly Child Protection Team (CPT) meetings, which allow multiple local

agencies to staff particular cases to best coordinate physical and mental health services for children in the BIA's care and custody. The members of this team are: BIA Social Services, Spirit Lake Tribal Social Services, Ramsey and Benson County Social Services staff, school district staff, Indian Health Service staff, and local counseling and family services providers. The meetings are usually held the 1st and 3rd Thursday of every month. All members of this team sign confidentiality statements.

- Since November 1, 2012, the Social Services staff participates in the Multi-Disciplinary Team (MDT) meetings coordinated through the Department of Justice's U.S. Attorney's office to address those cases which are the subject of criminal investigation and prosecution in either federal or tribal court. Members of this team consist of: BIA Social Services, FBI, U.S. Attorney, Spirit Lake Tribal Social Services, the Tribal prosecutor, BIA OJS, Office of Law Enforcement Services, Spirit Lake Tribal Victim's Assistance program, and Red River Advocacy (an organization conducting forensic interviews of children). The next meeting is not yet scheduled, but meetings will likely be every 4-6 weeks depending on the volume of forensic interviews. All members of this team sign confidentiality agreements.
- On November 30, 2012, the BIA Great Plains Regional Office, Human Services, BIA Fort Totten Agency Social Services, Spirit Lake Tribal Social Services, and the University of North Dakota's Children and Family Services Training Center co-presented mandatory reporter training to the Spirit Lake community. The BIA also recently offered a refresher course in mandatory reporting and processes for filing a thorough abuse and neglect report at Candeska Cikana (Little Hoop) Community College on April 29, 2014.
- Since June 2012, the Social Services Coalition (SSC) meets approximately once a month to communicate and collaborate on providing effective delivery of social service-related programs. Members of this coalition include all local state, county, federal, and tribal social service entities; representatives from state district, tribal, and federal courts; Law Enforcement; the Victim's Assistance program; the Tribal Council; and area leaders. The SSC works on interagency services coordination and communication, inter-agency community events like Child and Family Wellness Fairs, and other community issues related to social services, as they arise.
- On January 8, 2013, the BIA Great Plains Region and BIA OJS provided fingerprint training to Tribal and BIA Social Services staff at the BIA Fort Totten Agency. The Agency has received three mobile fingerprinting units that the social services staff has begun to use for in-home fingerprinting of adults in foster and relative placement homes.
- On March 12, 2013, a Child and Family Wellness Fair was held in Fort Totten, North Dakota, where resource providers shared information with the Tribe's community members on topics such as domestic violence prevention and services.
- The BIA has been participating in the Tribe's five year strategic planning process in May and June 2014 for receipt of Title IV-B funding to offer a variety of child and family services. The plan has widespread stakeholder buy-in and all service providers will benefit from expanded family services available in the community. The Native American Training Institute from Bismarck, North Dakota is facilitating the planning and application process.

Conclusion

Thank you again for the opportunity to testify on the issue of “Child Protection and the Justice System on the Spirit Lake Indian Reservation.” The Department is committed to doing its part to ensure the safety and protection of children at the Spirit Lake Sioux Tribe. I would be glad to answer any questions the Subcommittee may have.