

**TESTIMONY OF LEROY SHINGOITEWA
CHAIRMAN
THE HOPI TRIBE**

**TESTIMONY
BEFORE THE
HOUSE INTERIOR APPROPRIATIONS COMMITTEE**

APRIL 25, 2013

Good morning, Chairman Simpson, Ranking Member McCollum and members of the Committee. Thank you for the opportunity to testify regarding several issues of the highest priority for the Hopi Tribe. Today I'd like to talk to you about funding for two of our top priorities, education and law enforcement. In particular regard to law enforcement issues, we'd like to discuss our request for increased funding levels for Department of Justice and Bureau of Indian Affairs funding for implementation of the Tribal Law and Order Act, our own Hopi Code and Violence Against Women Act, as well as our challenges with law enforcement on the Hopi Reservation.

LAW ENFORCEMENT CHALLENGES ON THE HOPI RESERVATION

The Hopi Reservation consists of over 1.5 million acres in northeastern Arizona. Our reservation is unique because it is completely landlocked within another Indian reservation, the Navajo Reservation. The Hopi Tribe is made up of over 13,000 enrolled citizens. Hopi is a direct service tribe and does not operate gaming.

A public safety crisis exists on the Hopi Reservation, because our Hopi Justice system is broken.

The root of our problems is the insufficient space to house inmates at the Hopi Detention Center. This affects every aspect of our justice system and taxes all of our resources, resulting in a never-ending cycle of shuffling detainees in and out of the system.

The Hopi Tribal Council realizes that real change must start within, and is taking every action possible to improve this situation. We have embraced the Tribal Law and Order Act by enacting the Hopi Code. We will also change our tribal law so that we can enforce the new provisions of the Violence Against Women Act.

But we cannot do this alone. We need your help to ensure that federal programs are fully-funded to support tribal efforts.

THE HOPI DETENTION CENTER

The Hopi Detention Center is the BIA-owned detention center that serves our community. Prior to 2004, our facility housed both minors and adults. In that year, the Bureau of Indian Affairs, Office of Inspector General issued the report entitled "Neither Safe Nor Secure: An assessment

of Indian Country Detention Facilities”. The report stated in its background section, “Early in our assessment, it became abundantly clear that some of the facilities we visited were egregiously unsafe, unsanitary and a hazard to both inmates and staff alike.”

The Hopi Detention Center was prohibited from housing minors in the facility as a result of the 2004 report. Since 2004, when the Hopi authorities arrests a juvenile, the youth must be transported to a facility in Holbrook, AZ, *over an hour and half drive away from the reservation*. More serious juvenile offender must be taken to Colorado or New Mexico, even further drive. This takes officers off the streets and detention center personnel away from the detention facility, which is already understaffed. It forces officers to hold juveniles in their squad cars until they transport them to an acceptable facility.

The Hopi Detention Center continues to house adult offenders and is rated for a capacity of 68 prisoners. It always exceeds that limit, and regularly holds more than 100 inmates. Because the space is always overcrowded, inmates are constantly released before their sentences are up to make way for new inmates just starting their sentences or for dangerous inmates who cannot be released because they are a danger to the community.

This lack of sufficient detention space heavily burdens our criminal justice system. The overcrowding means that our police do not arrest criminal offenders because they simply do not have the space to hold them.

On top of this, we have been informed that the Hopi Facility will be required to accept prisoners from outside of the Hopi Reservation beginning in FY 2014, during what the BIA Office of Law Enforcement Services is terming “Phase II” of the Sequestration. The idea that we could accept even more inmates from outside the reservation is ludicrous.

Even though the BIA has responsibility for providing law enforcement services on the Hopi Indian Reservation, they have not taken any action to correct the deficiencies at the Hopi Detention Center. As a result, the Hopi Tribe is proactively seeking funding to build a new detention center which meets current health and safety standards, and which is capable of serving both adults and juveniles.

The Hopi Tribe has developed a conceptual design, model for the proposed Hopi Justice Center with the estimated costs of \$34,933,339. We are doing what we can to find funding for this facility from numerous sources, and have applied for grants to assist in the development and construction of a new facility. We are also seeking to partner with the U.S. Government pursuant to the Tribal Law and Order Act to develop a Comprehensive Community Justice Plan (CCJP) to govern the development and operation of a new detention facility. We strongly believe the federal government should be our partner in this endeavor.

We are asking this subcommittee to: 1. increase (or at the very least hold level) the funding of tribal law enforcement services; 2. direct the Bureau of Indian Affairs to conduct an assessment of the Hopi Detention Center and make a recommendation to this Committee regarding whether it needs to be replaced.

THE TRIBAL LAW AND ORDER ACT, THE HOPI CODE, THE VIOLENCE AGAINST WOMEN ACT AND THEIR ENFORCEMENT

The Tribal Law and Order Act of 2010 (“TLOA”) was a huge step forward for Indian Country, providing for tribes to exercise expanded authority to prosecute crimes on their reservations, particularly with regard to expanded sentencing authority for crimes prosecuted by the tribe in tribal court. Additionally, it expanded the authority of tribal police officers to make arrests for all crimes committed on the reservation.

As mandated by the TLOA, the United States Attorney’s Office of the District of Arizona established the Special Assistant U.S. Attorney Program (“SAUSA”). Our Chief Prosecutor, Jill Engel, is cross designated as a SAUSA, allowing her to initiate federal criminal charges in the United States District Court when she encounters cases on Hopi that in her judgment are better addressed by federal prosecution. This is a beneficial step in finding justice for victims on Hopi, but there are cases which are declined for federal prosecution or are better served in tribal court under the enhanced sentencing of the Tribal Law and Order Act.

To take advantage of expanded authorities of the TLOA, a tribe must guarantee the constitutional rights of accused offenders, including the right to counsel for indigent defendants.

Although there were no federal funds available to implement the provisions of the Tribal Law and Order Act, particularly with regard to provision of counsel, the Hopi Tribe felt strongly that it needed to exercise the expanded authority granted by TLOA.

We began working quickly to amend our law and order code, the Hopi Code, to provide the framework for exercising this expanded authority and adopted these changes on August 28, 2012. They became effective thirty days later. We were the first tribe in the United States to change our laws so that we could exercise the authority provided by the Tribal Law and Order Act.

Additionally, Hopi Tribe is currently in the process of making the necessary adjustments to the Hopi Code to provide for the exercise of the expanded authority granted by the Violence Against Women Act Reauthorization, which was signed into law on March 7 of this year.

We did this without any promise of assistance from the federal government because it is so important to us to guarantee the safety of our people. Even though we are a poor tribe, without many resources, we feel this is our top priority. We determined that we must sacrifice to pay to protect our villages and tribal members for these expanded authorities, even if federal assistance wasn’t readily available.

Still, the exercise of this authority costs a great deal of money, and we are recommending and requesting that the committee increase the funding available to tribes for programs that are enhanced using the expanded prosecution and sentencing authority authorized by the Tribal Law and Order Act and the Violence Against Women Act Reauthorization of 2013.

EDUCATION ISSUES

One other of the most critical issues facing the Hopi people is the need for a stable educational system, including both stable and reliable educational facilities.

The construction of a consolidated Third Mesa elementary school to replace the Hopi Day School and Hotevilla/Bacavi Community School is absolutely necessary to ensure the safety of our students. These two schools currently serve students from four Hopi Villages.

In 2006, the Bureau of Indian Education Facilities Management (BIE) issued a determination that both school buildings were in poor condition. The BIE stated the school buildings were deemed unsafe and did not and could not meet current building codes.

Based on the BIE report, the Tribal Council passed Resolution No. H-090-2006 which supported the replacement of the Hopi Day School and the Hotevilla-Bacavi Community School facilities with a new school complex for the Third Mesa area.

In 2009, Representative Trent Franks introduced legislation, H.R. 1122, which would have directed the Secretary of the Interior to construct a new school at Third Mesa. The proposed legislation never made it out of the House Subcommittee on Early Childhood, Elementary, and Secondary Education.

Now at Hopi, we are faced with a new educational crisis. The BIE has recently informed us that they are implementing proposed cuts of approximately \$1,000,000.00, to four schools on the Hopi Reservation; Hopi Day School, Hotevilla-Bacavi Community School, Moencopi Day School and Hopi Jr./Sr. High School. The Hopi Jr./Sr. High School alone will suffer an approximate cut of \$500,000.00. Our education system cannot sustain these cuts. These budget cuts will severely affect the quality of education and teacher retention at all four schools.

We are requesting that BIA be directed to replace the Hopi Day School and the Hotevilla-Bacavi Community School and those funds be made available for their construction. Additionally, we are seeking restoration of funding for our schools operating on the Hopi reservation that BIE has cut.

CONCLUSION

The Hopi Tribe faces so many challenges. Although we are not a wealthy tribe, we value our community, its history and traditional values. We strive to provide for our people and are not afraid of the hard work ahead of us.

We know what our needs are and will invest everything we have to meet those needs. But we need your help, and the increased resources you can provide to help us improve our tribal justice system and to replace our dilapidated schools will directly and substantially improve the everyday life of our citizens.

Thank you for this opportunity to testify today. I would be happy to answer any questions you have, or provide additional documentation if you need it.