

Red Cliff Band of Lake Superior Chippewa

Richard A. Peterson, Tribal Chairman

FY 20 Testimony to House Appropriations Committee on Interior, Environment and Related Agencies

Department of Interior, Bureau of Indian Affairs, Office of Justice Services – Base Public Safety and Justice Funding, Criminal Investigations and Police Services

A requested increase of \$500,000 to fund tribal law enforcement activities by the Red Cliff Police Department.

Appendix 1-7 of the FY 20 BIA Greenbook shows a total allocation of Base Public Safety and Justice Funding to District 7 of \$6,062,413. Of which, 25% goes to Bureau Offices. The remaining \$4,568,617 is distributed to 12 Tribes. The Red Cliff Band of Lake Superior Chippewa (LE Office 114) received \$160,579 or 3.5% or 2.6% of the total District 7 funding. The 11 other Tribes in D7 received an average of \$400,731.

The other sources of base funding for the Red Cliff P.D. are two funds received by the State of Wisconsin; Tribal Law Enforcement & County-Tribal Law Enforcement. State funds supporting tribal law enforcement activities at Red Cliff have declined over a five-year period (Figure 1). The actual 2020 Tribal Law Enforcement allocation is \$74,523 and County-Tribal is \$48,895. Total \$123,418; \$8980 or 9.3% **less than** 2015.

Base funds for Red Cliff Law Enforcement have declined 9.3% since 2015 levels.

Under current funding levels, Red Cliff is **unable to conform to 25 CFR §12.34**, which states **tribal officers must be paid at least the same salary as a Bureau of Indian Affairs officer** performing the same duties. This was revealed as a compliance issue during P.L. 93-638 contract monitoring report (Contract No A17AV00233).

An Overstretched Tribal Police Force

The current staffing level of Red Cliff PD is 4 full-time patrol officers, 1 part-time patrol officer, 1 investigator, and 1 chief of police. This staffing level provided 20 hours of a day in-jurisdiction police coverage, 7 days of the week 365 days of the year along with 24 hour on-call response. Red Cliff Police Department handles all its own investigations, seeking assistance in complex investigations from state and federal sources if needed.

2020 Report Info

Data from calendar year 2019 shows that Red Cliff PD responded to **2,040 calls of service** during 2019, Red Cliff P.D. made **175 criminal referrals** to the District Attorney and **149 arrests**. During the calendar year of 2019 the following municipal jurisdictions in Bayfield County had

arrests numbers and calls of service as follows: Bayfield PD 19 and 1,405, Washburn PD 36 and 2,001, Iron River PD 22 and 1,704. By contrast the combined total of officers staffed by these agencies equal **12 full time** officers effecting a commulative of **77 arrests**. *The projected FY20 base funding of \$284,616 (\$161,198 BIA; \$123,418 State of WI) will support 3 tribal officers to manage this workload and Red Cliff will not be able to comply with 25 CFR §12.34 at this funding level.*

2020 Funding base is: BIA \$161,198 plus State of WI (2) \$123,418 = \$284,616

Equipment: After not being approved for yearly funding requests for new police vehicles to replace our aging ones, and being denied year end funding specifically for this request multiple times, Red Cliff submitted a request to Forest County Potawatami Tribe in Wisconsin who generously donated \$60,000 for the purchase of 2 new police vehicles. The fact that we had to reach out to another tribe for items that are BIA obligations is a travesty.

Accomplishments

Despite anemic funding levels, Red Cliff Police Department continues to follow community orientated policing strategies and strives to improve the trust and relations with the population we serve. Red Cliff Police Department has established strong working relationships with State entities such as Dept. of Justice Division of Criminal Investigations (DCI) and with Federal agencies such as FBI and DEA. In August of 2017 Red Cliff PD initiated and conducted an investigation of methamphetamine trafficking and conspiracy to distribute within the boundaries of the Reservation and the surrounding communities. The investigation had the assistance from DCI, USPS and DEA. The proactive interdiction of the conspiracy ring had a phenomenal impact on the availability of methamphetamine in our community. This case was a direct example of law enforcement collaborating, sharing resources and having a common goal and ultimately achieving it. The said case came to fruition in May of 2018 with four (4) adults charged with federal indictments- two (2) were Red Cliff community members. All four (4) entered guilty pleas and are awaiting sentencing in Western District court, Madison, WI in the year 2019. ***In June of 2019 the sentencing concluded and delivered a total combined 35 years of incarceration in a federal prison for the 4 charged suspects.***

As previously stated, the increase in police staffing for the year of 2019 has proved to enhance community trust in law enforcement. The public has shared their feelings of increased sense of security and safety. The ability to have adequate police presence a routine and regular basis instills a foundation for the tribal members to start positive relations with their public safety officials. Red Cliff Police department's community policing efforts are reflected in the general pleasant day to day atmosphere on the Reservation.

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Tribal Road Maintenance Needs Report

Summary of the Current Tribal Roads Equipment and Road Conditions

Red Cliff has had between 7 and 8 feet of snow to date in the 2019/2020 snow season with the heaviest snow months to come. The average annual snowfall for the Bayfield Peninsula is 99 inches or just over 8 feet per year, with much of the local accumulation due to “lake effect” snow given the proximity and location of the peninsula within Lake Superior. Red Cliff’s current snow removal equipment has surpassed its useful life expectancy and is unable to adequately maintain the 46 miles of federally owned roads on the reservation. This equipment failure means critical services such as police and emergency medical services are often unable to expeditiously provide emergency services during winter months due to unmaintained roads. During a recent snowstorm, an ambulance was stuck on an unplowed road for over 2 hours until pickup truck plows could clear the road for them.

The Red Cliff Band of Lake Superior Chippewa has reached a critical impasse in its ability to effectively maintain BIA roads within reservation boundaries. This is due to the practice of deferring maintenance due to the lack of funding provided in self-determination contracts with the Bureau of Indian Affairs. All reasonable attempts have been made to secure additional funding to meet the needs of the program including U.S. and Wisconsin Departments of Transportation, Housing and Urban Development and BIA programs that would have provided new equipment and a maintenance facility.

For years, due to ongoing inadequate funding, Red Cliff has been performing costly repairs on their aging equipment, most of which was purchased in used condition or donated to the tribe. This “band Aid” method of trying to keep our roads equipment in usable condition is unsustainable and increasingly adds to this crisis yearly. Our efforts of submitting TIGER and BUILD grants to help properly fund transportation needs have resulted in them being denied, despite highly rated applications.

Red Cliff participated in a recent conference call with Howard Hill from the Office of the U.S. Secretary of Transportation or OST. The purpose of this meeting was to receive feedback from the 2017 TIGER application and address any concerns that we may have. In this debrief, Mr. Hill indicated that our application rated highly among all application and that officially it rated number one among Tribal applications. In his personal view he rated our application number one nationally among all applications.

Their concerns with the application was that we were requesting the same amount for construction and equipment as in the previous applications and that we should address the cost of inflation in our application this year. Our request this year was \$6.2 million up from \$3.9 million in previous years and included the cost of inflation and an additional piece of equipment in the form of a tracked excavator to aid in the maintenance of drainage facilities. Awards were announced early in December but unfortunately Red Cliff’s application was not funded. If there

is a 2019 round of funding I will once again contact Mr. Hill for a debrief on our application and re-submit an application for funding.

Federal funding for roadway maintenance has been deferred for decades, with allocations falling far short of meeting the basic requirements to maintain safe roads. The maintenance funding needs are determined and based on 'Level of Service' and 'Roadway Surface Type', by cost per mile. Due to federal budget constraints however, approximately only 16% of the transportation facility maintenance costs needs are funded. The remainder of the costs to maintain the roads, as calculated by BIA, is 'deferred' maintenance cost; and the average deferred maintenance costs equal 84% or in Red Cliff's case a total of five and three quarters of a million dollars over the past 20 years.

This is based on the attached unit cost per mile document which indicates a level of funding required to maintain federal roads at just under \$350,000 annually compared to the historic contracted amount of \$61,000 annually. The amount Red Cliff has provided to supplement the road maintenance program since 2005 has averaged around \$250,000 annually.

The Red Cliff Band of Lake Superior Chippewa strongly believe that by submitting a budget based on the FY19 base funding that there will neither be a development of their economy nor the ability to accept the responsibility and accountability to the beneficiaries under the contract and that continued contracting at this level of funding would be irresponsible.

Excluding State Highway 13, the total mileage of the roadways on the Red Cliff Band reservation, as listed in the NTTFI (National Tribal Transportation Facility Inventory-BIA), is 46 centerline miles (or 92 lane miles). The current conditions 'Level of Service', for these roadways based on the NTTFI inventory, is indexed as follows:

- 21.9 miles (47%) have a Level of Service of '5-Failing'
- 6.8 miles (15%) have a Level of Service of '4-Poor'
- 9.6 miles (21%) have a Level of Service of '3-Fair'
- 6.5 miles (14%) have a Level of Service rating of '2-Good'
- 1.2 miles (3%) have a Level of Service rating of '1-Excellent'

Based on the American Association of State Highway and Transportation Officials' "Present Serviceability Index" (PSI), more than 80% of the roadways on Red Cliff Band Tribal lands rank as unacceptable. The roadway surface types range from paved asphalt surfaces, to unimproved earth roads. Based on the NTTFI inventory, the Roadway Surface Types are as follows:

- 3.8 miles (8%) are paved
- 8.7 miles (19%) are paved at 2 inches or less
- 30.1 miles (64%) are gravel roads
- 3.4 miles (9%) are unimproved earth