

Fort Belknap Indian Community



Fort Belknap Agency
656 Agency Main Street
Harlem, Montana 59526-9455
PH: (406) 353-2205
FAX: Council - (406) 353-4541
FAX: Departments - (406) 353-2797

Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and
to represent the Assiniboiné and the Gros Ventre
Tribes of the Fort Belknap Indian Reservation)

Fort Belknap Indian Community Testimony on Fiscal Year 2024 Appropriations

House Committee on Appropriations Subcommittee on Interior, Environment and Related Agencies

March 8, 2023

Chair Simpson, Ranking Member Pingree, and Members of the Subcommittee on Interior, Environment, and Related Agencies, thank you for the opportunity to testify on the Fiscal Year (FY) 2024 priorities of the Fort Belknap Indian Community (FBIC). After more than a century of chronic underfunding, the United States must fulfill its treaty and trust obligations and properly fund Indian programs and services. When we ceded vast lands and resources and agreed to a reserved permanent homeland in north central Montana, the United States committed to provide services and programs while also protecting our homelands.

These commitments seem long forgotten. We are forced to make due with underfunded Federal programs, protect our own lands and resources, and seek creative solutions to support our infrastructure. Meanwhile the State of Montana continues to challenge and attack us. Just recently, the members of the Montana legislature attempted to pass a resolution that would request the U.S. Congress to review alternatives to the reservation system.

It is time for the United States to make good on its commitments to FBIC and Indian Country generally. This testimony focuses on some of the most basic needs that were promised to us. Congress must increase base funding for Indian programs and services, and improve funding allocations and formulas, for Indian programs across the board.

Chronic Underfunding of Indian Programs and Services Must End

The chronic underfunding of Bureau of Indian Affairs (BIA) programs and services has dramatic consequences for tribal members and our communities. While Federal funding has increased in the last few years, much of it related to recovering from the COVID-19 pandemic, significant increases are needed to make up for decades of under funding. The Federal government spends significantly more providing aid to foreign countries than the first people of the United States.

Infrastructure on our Reservation has been left behind. Many of our members are forced to live in nearby towns or rural areas and drive to the Reservation for work and governmental services. The unemployment rate on the Reservation is high (30%) and the median household income (\$42,222) is far lower than the State's median household income (\$60,560). We lack

resource rich trust assets like oil and gas, or income-producing enterprises such as casinos. Agriculture drives our economy, but due to the western drought conditions our agricultural efforts suffered. Our Tribe relies on Federal funding and we urge that this Subcommittee provide significant increases in base funding for Indian programs and services.

In contrast, the Federal government provides significant aid to foreign countries. According to a Congressional Research Service report from January 10, 2022, the U.S. spent approximately \$48.18 billion on foreign aid in FY 2019. This is more than 10 times the Federal funding provided for all Indian programs and services which in recent years was below \$4 billion. The Federal government has a trust and treaty obligation to FBIC and other tribal nations, but does not provide the funding we need for basic services.

Funding for Law Enforcement is Critically Needed

The chronic underfunding of BIA law enforcement impacts every part of our day-to-day lives. The patrol and detention officers our community relies on to respond in times of emergency are overworked, stressed, and underpaid. Officers spend long hours on the road patrolling an area about the size of the State of Rhode Island and often work without backup to keep our large land base Reservation safe. Further exacerbating staffing issues, we have difficulty recruiting and retaining officers.

We strongly urge the Subcommittee to take action to substantially increase BIA base funding for law enforcement programs within BIA's Office of Justice Services (BIA-OJS) – we requested at least \$5.194 million per year for our new 3-year contract with BIA-OJS. Under current funding levels, we are routinely forced to juggle budget items to address unmet needs and make up the lack of BIA funding. We need more Federal funding to help secure our community and Reservation. Members of our community deserve to live safe and secure in our homelands.

In some cases, the only reason we have been able to continue administering law enforcement is if we are successful in obtaining a one-time competitive grant from the Department of Justice (DOJ). The uncertainty of securing this competitive grant hinders our ability to budget for our law enforcement needs. DOJ competitive grant funding should be transferred back to BIA-OJS and used to provide adequate base funding for law enforcement services. Our law enforcement officers are frontline employees and the safety of our community deserves the Subcommittee's full support.

Under current funding we have six patrol officers. We need at least 12 patrol officers. Currently, our law enforcement administrators are doing double duty as patrol officers. This impacts their ability to manage law enforcement, conduct background checks, process bills and purchase orders. Patrolling a large reservation also takes a toll on our patrol cars, our Reservation is approximately 675,000 acres, the size of a small state, including rough terrain and poor road conditions on our large Reservation. Currently, each officer has a patrol vehicle.

Our Reservation is rural, but our officers are busy. Our officers must respond to numerous emergency calls and make many arrests annually to protect and serve our homelands. Addressing drug-related crimes and providing effective treatment adds another dimension to the law

enforcement services we need to provide for the health and safety of our community. As mentioned, our officers are stretched thin on a regular day. During special and cultural events throughout the year, officers must increase their availability to serve by covering seatbelt and sobriety checkpoints while also responding to calls for service.

Even without all of these pressures, our officers are already overworked and underpaid. Our BIA contract provides some of the lowest officer pay in Montana, making recruitment and retention even more difficult. As a result, our officers are stretched thin, and we experience frequent turnover. It takes about a year between the background check process and basic police officer training. These police officers are here for about one to two years before leaving for higher paying jobs. With more funding, we could offer comparable wages, increase our retention rate, and ultimately lower the costs associated with training new officers. This would also improve law enforcement services with more experienced and knowledgeable officers in the field.

At the minimum, Congress should provide a Cost-of-Living Adjustment (COLA) for BIA law enforcement base funding. Under other 638 contracts, such as Indian Health Services, Congress authorizes yearly COLA increases. A COLA increase for our officers would provide some financial relief and help provide them with the living wages they deserve. The last time Congress authorized an increase in BIA base funding was FY 2020, when FBIC law enforcement got a \$1,000 increase moving our base budget from \$1.299 million to \$1.3 million.

We strongly urge the Subcommittee to significantly increase base funding for law enforcement services, authorize a COLA for law enforcement staff so that we can adequately protect and serve our communities.

BIA Tribal Court Programs Also Need Funding Increases

Base funding for BIA tribal court programs also needs a significant increase. Under 25 U.S.C. § 3611, BIA is required to provide training, technical support, and funding to all tribal courts. BIA provides funding through Tribal Priority Allocations for tribes that exercise self-determination contracts to operate judicial services on behalf of the Federal government. For FBIC, the base funding provided by BIA has been consistently low for years. Increasing Federal funding will ensure that BIA can fulfill its requirement to provide training, technical support, and funding.

We have several positions that are critical to the program that have been funded through one-time funding, but have never been included in base funding. These positions include a Guardian Ad Litem, Law Trained Public Defender, and Bailiff/Security Guard, Associate Judge, and Court Clerks. We received \$336,000, but need \$850,000 to fund our tribal court.

The lack of BIA funding provided for tribal courts prevents us from implementing the very laws Congress has passed to keep our Reservation safe. Even worse, the U.S. Supreme Court's recent ruling in *Oklahoma v. Castro Huerta* threatens the already scarce Federal funding because states lack budgets to take on new law enforcement responsibilities and will ask for Federal funding to patrol reservations pursuant to this decision. We already have difficulties enforcing the Violence Against Women Act and the Tribal Law and Order Act due to inadequate funding.

It is time for Congress and the Subcommittee to finally provide the funding increases necessary to keep tribal courts running effectively and provide basic justice services in tribal communities. The Subcommittee must also urge the rest of Congress to fix the *Castro Huerta* decision to protect already scarce Federal funding for law enforcement services by amending 18 U.S.C. § 1152 to clarify that state prosecutorial jurisdiction is preempted in Indian country.

Substantial Funding for Indian Water Rights Settlements is Needed

In 1908, we went to court to fight for our water rights on the Milk River in *Winters vs. United States*. In this case, the U.S. Supreme Court held that the creation of our Reservation included the water rights necessary for us to make a homeland. This case provides the basis for all tribes to protect and quantify their water rights. However, we have been forced to litigate our water rights, spend decades in negotiations, and seek Congressional legislation to affirm our water rights and provide the funding and infrastructure.

Settling more than a century of neglect for our water rights and infrastructure requires substantial funding, but settlements also include protections for existing water users, avoids litigation and upholds the United States' treaty and trust responsibilities. Without settlement, enforcing our senior water rights would adversely impact most other current state-based water users. The Subcommittee must provide adequate funding to implement settlements as agreed to in Congressional legislation. In our case, funding will be used to rehabilitate a federal Indian irrigation project and develop water infrastructure. Indian water settlement funding is infrastructure funding—and our very existence as a peoples requires that we have water to develop and use for our permanent homeland.

Private Attorneys' Fees Funding

An essential part of settling Indian water rights is the modest amount of Federal funding provided for the BIA Private Attorneys Fees Funding Program under 25 C.F.R. Part 89. We urge the Subcommittee to continue to fund this program. This program provides financial assistance so that tribes can employ legal counsel to defend their tribal trust resources. In many cases, DOJ cannot fulfill its job as our trustee and assert our Indian water rights. Instead, DOJ sits on the other side of the table negotiating against us. In these cases, the United States must continue to fulfill its treaty and trust obligations and provide adequate funding so that tribes can retain private attorneys that will represent our interests.

Conclusion

Thank you for this opportunity to provide written testimony on Fort Belknap Indian Community's FY 2024 funding priorities. We ask that the Subcommittee take bold steps to correct the chronic underfunding of Indian programs including the lack of funding for BIA law enforcement. Our patrol officers are frontline employees that work to serve and protect our communities with little assistance from the Federal government. The least Congress and the Subcommittee can do is provide them with the staffing levels, salaries, and equipment these officers deserve. The United States must finally fulfill its treaty and trust responsibilities to the Fort Belknap Indian Community.