

TESTIMONY
OF
LEANDER “RUSS” MCDONALD

Before the
House Natural Resources Committee
Subcommittee on Indian and Alaska Native Affairs

Tuesday, June 24, 2014, at 2:00 p.m.

1334 Longworth House Office Building

*Oversight Hearing on Child Protection and the Justice System on the
Spirit Lake Indian Reservation*

I would like to begin by thanking Don Young and distinguished members of the House Natural Resources Committee for the opportunity to let you know about progress being made to strengthen the Child Welfare System (CSW) on the Spirit Lake Indian Reservation. Our children are our top priority, and we appreciate your support in making sure they have access to the same services, programs, and opportunities to succeed as any other American child.

My name is Leander “Russ” McDonald, Chairman of the Spirit Lake Tribe (SLT), located in northeastern North Dakota. The Spirit Lake Reservation was established by the Treaty of 1867 and currently consists of more than 250,000 acres of land. We have just over 7,200 enrolled members with more than 4,000 of these people residing on the Reservation. Spirit Lake Tribe, like many other tribes, has long suffered from chronic underfunding of programs and services. Issues of poverty and unemployment, loss of land, lack of housing, lack of primary and preventive health, and inadequate law enforcement and judicial services have led to many intergenerational challenges, such as disproportionately high rates of suicide and other child welfare needs.

Many of these challenges have negatively impacted our Reservation and children, and are a result of the federal government’s failure to meet its trust responsibility to our Nation. We have experienced tragic child losses as a result of the lack of capacity and we continue to struggle to meet the child protection needs of our community. Over the past two years, our Tribe has been

highlighted in the media due to child protection issues and has struggled to recruit and retain child welfare and social workers as a result.

On October 1, 2012, the SLT retroceded a Public Law 93-638 Child Protection Services (CPS) program back to the Bureau of Indian Affairs (BIA) due to the inability of the Tribe to address serious deficiencies identified in a detailed corrective action plan issued by the BIA in April, 2012. Limited budgets, difficulties retaining qualified professionals, and lack of placement options for children in crisis are among the factors that have contributed to the issues that we **continue** to face within our community.

I recognize the fact that the Tribe was slow to respond to scrutiny in the past; however, I have made CPS a priority since being sworn into office as Chairman in September of 2013. From then until the present, a tremendous amount of time and effort by Spirit Lake Social Services (SLSS) and my office have been dedicated to collaborating with federal, state, county, tribal, and foundation partners (Appendix A: Partners) to address immediate needs and take a proactive approach to building the necessary infrastructure through strategic planning to keep our children safe.

As Chairman, I have come to realize the complexity of this issue and the need for our law enforcement, child protection services, tribal court, and tribal social services to communicate and work together to create an exemplary system. All of the areas have been historically underfunded at approximately 60% of need resulting in a lack of capacity, inadequate services, system distrust, and gaps in the system. We struggle to provide the most basic services, but we have achieved milestones in a positive direction. I believe that given the proper resources we could build a good system for our Nation.

I am here today to report to you regarding the planning and implementation of a multifaceted approach to addressing these issues. This intensive process has resulted in a number of achievements from this collaboration, such as a revised Title IV-E transfer protocol, establishment of the Spirit Lake Social Services Coalition, and completion of several assessments and reports. The assessment results from the Administration of Children and Families (ACF) and Office of Justice Services (OJS) will also be used in part to help develop a map on how children's needs will be addressed when entering the social services system. Casey Family Programs has been very supportive by being present and providing critical linkages to resources that have enhanced the overall collaborative. This work will culminate with a meeting

being sponsored and facilitated by the Casey Family Programs at Spirit Lake on July 7-9, 2014. SLSS is also receiving technical assistance from Native American Training Institute for the development of a five year plan.

Law Enforcement

A trained and adequately staffed law enforcement department is critical as the front lines for the determent of child abuse and safe communities. The ratio for our area is 2.8 law enforcement officers per 1,000 people. We have approximately 5,000 residing on our Reservation; therefore, we should be staffed at fourteen officers. We have eight officers assigned to our area with two officers per shift patrolling this large geographical and isolated rural area, even during the high crime days of Wednesday and Thursday. Just the presence of an adequate police force has been shown to deter crime. Law enforcement officers trained in documenting child abuse are also necessary to the larger picture of child safety.

Child Protection Services (CPS) and Tribal Social Services

Currently, we have only nine licensed foster care homes on the reservation and a thirty-one child caseload for SLSS and an additional eleven children ready for transfer from CPS. The Child Welfare League of America recommends twelve cases per social worker. At this conservative estimate of forty-two, our current need for social workers/case managers is 3.5 full time equivalents (FTE). We are currently funded for two, and both of these positions have not been filled. Funding to increase case manager staffing and funding for a full time equivalent (FTE) for a foster home recruitment specialist position at \$75,000, for salary and fringe, would greatly assist in increasing foster homes on the Reservation.

SLSS currently uses hard copy for all files, which has previously delayed the placement of children due to the necessary sharing of files among agencies. We are in need of an electronic database system that is estimated to cost approximately \$300,000 to purchase and \$12,000 a year to maintain and operate. Staff training would also be necessary and is estimated to be an additional \$10,000. The system and training would allow us to more quickly place children in safe environments relieving unnecessary delays. Every state relies on some sort of electronic database system. This disparity between what is available to states in comparison to tribes demonstrates a part of our frustration.

Lastly, we ask for immediate assistance to help address urgent welfare needs by providing staffing of social workers and other behavioral health providers through 6-12 month deployments through the Department of Health and Human Services and the Commissioned Corps of the U.S. Public Health Service. Short-term, this would stabilize our system and address the immediate need. Long-term, this would give us the necessary time to develop a strategy to recruit and retain the necessary professionals.

We need a larger building to house all of the child welfare services, including child protection. We also need two program vehicles, security for our current building, community education, and continued training for staff. Negative attention from the press has made recruitment of providers and foster care homes especially difficult. We need help from a PR team to generate positive media coverage in an effort to correct public opinion on the current condition of the Reservation. While the community faces many challenges, we also have many strengths that should be similarly highlighted in the media and would go a long way in helping our community recruit and retain providers and promote hope.

The Tribal Court

Third and possibly most essentially, we are currently implementing recommendations from our court assessment that are designed to improve and enhance access to our court and representation of those involved in court proceedings. The tribal court is the guardian of our sovereignty and the way through which the tribe helps parties in dispute, families in distress and children in need. All stakeholders rely on the tribal court for this solemn responsibility. Recommendations from the assessment regarding representation and the development of institutional infrastructure are receiving immediate attention. For example, the Tribe has secured immediate funding from the Office of Tribal Justice to hire a juvenile court presenting attorney, a guardian ad litem for minor children, and a juvenile court public defender to represent families and juveniles in court proceedings.

The Tribe has also secured funding and is in the process of securing technical assistance to develop court infrastructure – including a judicial bench book, attorney desk book and a clerk’s manual – that will help institutionalize the processes of the court. Lastly, a review and update of the Spirit Lake Law and Order Code is necessary to not only ensure child protection, but also the prosecution of those involved in substance abuse. The majority of child welfare

cases and sexual offender cases can be either traced back to drug and/or alcohol abuse or the influence of intoxicating substances of the offender.

In Dakota, children are called Wakanheza, which translates to sacred being. They are considered sacred as they are recognized as newly coming from the Creator. This perspective guides us as individuals, tribal leaders, and elected officials to do everything within our power to develop legislation that fosters their protection and welfare. We need support in solving our problems. All of our requests would allow the Tribe to implement our plans for improvement of the child welfare and justice systems and effectively protect the children from harm.

Thank you again for holding this hearing and granting me the opportunity to advocate for the children of Spirit Lake Indian Reservation. I hope this represents an effort by Congress to understand the current position of the Tribe and support the furtherance of our progress to heal a broken system. I am calling on Congress to be accountable for concrete solutions to our problems. The time for placing blame on the Tribe has passed. We are not the same reservation that we were in 2012. We have a plan. Now we need the means to make it happen.

Mitakuye Owasin (All My Relatives).

Appendix A: Partners

Federal Partners

Administration of Children and Families (ACF)

Administration on Native Americans (ANA)

Bureau of Indian Affairs (BIA)

Department of Justice (DOJ)

Office of Justice Services (OJS)

National Resource Center for Child Protection Services (NRCCPS)

State Partners

North Dakota Indian Affairs Commission (NDIAC)

North Dakota Department of Human Services (NDDHS)

Benson and Ramsey County Social Services

Area law enforcement

Area schools

Judicial representatives

Health services

Non-Profit and Foundational Partners

Casey Family Programs

Native American Training Institute (NATI)

Center for Native American Youth; and others