

Administration for Children and Families (ACF)

Spirit Lake Tribal Social Services:

ACF Findings and Recommendations

6/18/2014

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BACKGROUND ON THE SPIRIT LAKE SOCIAL SERVICES PROGRAM

Introduction

In response to allegations of wide spread, unaddressed child abuse and neglect on the Spirit Lake Reservation that began as early as 2007, the Department of Health and Human Services' Administration for Children and Families (ACF) and the Bureau of Indian Affairs (BIA), two federal agencies that provide financial support and technical assistance for social services on the reservation¹, conducted a series of investigations and issued recommendations on how to address issues facing the tribal social services agency. However, child welfare practice under the authority of the Spirit Lake Tribal Social Service Agency (SLTSS) did not improve. In 2012, the Spirit Lake Tribe asked to voluntarily retrocede a number of social services programs to the Bureau of Indian Affairs. The retrocession became effective on October 1, 2012.

Even after retrocession, ACF continued to hear concerns about the safety and well-being of children at Spirit Lake from members of the Tribe and stakeholders in surrounding communities. One issue raised was that the delivery of child welfare services was fragmented and, as a result, left community members unclear about roles and responsibilities within child protection and child welfare services. In addition, statements have been made to ACF from some community members that children reported for abuse and neglect were placed and remain in unsafe conditions. In response to these ongoing concerns, representatives from ACF held on-site listening sessions at the Spirit Lake Reservation April 9-10, 2014. The purpose of these sessions was to gain a better understanding of the issues facing the Spirit Lake Tribe and to provide support and suggest improvements for the current child welfare system. The ultimate goal is that Spirit Lake Tribal Social Services will resume operations of all child welfare programs.

This report includes an overview of the current structure of Spirit Lake Tribal and BIA Social Services including a summary of roles and responsibilities for child welfare services at Spirit Lake; child welfare statistics and staffing levels; strengths of the existing system; and finally short and long term recommendations that are designed to provide a foundation and framework to support the practice improvement efforts with SLTSS.

Spirit Lake Tribe

The Spirit Lake Tribe Reservation was established by Treaty between the United States Government and the Sisseton Wahpeton Sioux Bands in 1867. The reservation is located in east-central North Dakota and covers approximately 405 square miles, primarily within the borders of Benson County. The reservation is also bordered by Eddy County to the south, Nelson County to the east and Ramsey County to the north. The Spirit Lake Tribe's Tribal Administration is located in Fort Totten, North Dakota and is the

¹ See Appendix A for an overview of funding sources.

hub of the reservation where most of the Tribe's services are located. The Spirit Lake Tribe consists of an enrollment population of approximately 7,180 members. Tribal Council is composed of six elected officials including four council members for each of the four districts within the reservation, a Tribal Chair and Secretary/Treasurer. Eligible voters participate in elections every 4 years with a primary in April and the general election in May.

Child Welfare Services – Current Roles and Responsibilities

Following the retrocession on October 1, 2012, child welfare services were divided between BIA and SLTSS. BIA assumed responsibility for activities that were, at the time of retrocession, funded with BIA funds, including child protective services (CPS) investigations and foster care services for children who are not eligible for title IV-E reimbursements (see Appendix A for more information on funding sources). SLTSS maintained responsibility for children who, at the time of retrocession, were in foster care and receiving federal reimbursement for a portion of their out-of-home costs through a title IV-E agreement with the state of North Dakota. They also maintained responsibility for activities related to enforcement of the Indian Child Welfare Act. See Table 1 for a breakdown of current roles and responsibilities.

Table 1: Current Roles and Responsibilities

Child Welfare Services	Bureau of Indian Affairs	Spirit Lake Tribal Social Services	Benson County, North Dakota
Receive allegations of child abuse and/or neglect	✓		
Investigations of child abuse and/or neglect allegations	✓		
Removal of child(ren) when necessary	✓		
Placement of child(ren)	✓		
Petitions court for abuse and/or neglect finding	✓		
Completes documentation for IV-E eligibility determination	✓		
Conducts IV-E assessment and determines eligibility			✓
Initiates case transfer process for IV-E eligible cases	✓		
Conducts ongoing monitoring of IV-E eligibility and case management requirements			✓
Tribal IV-E case management - development of case plan and ongoing management		✓	
Non IV-E case management- development of case plan and ongoing management	✓		
Indian Child Welfare Act (ICWA) implementation		✓	

Child Protective Services

Child Protective Services is a division within state, local, and tribal social services that, in most jurisdictions, is mandated by law to conduct an initial assessment or investigation of reports of child abuse and neglect. It also offers services to families and children where maltreatment has occurred or is likely to occur. Typically, CPS is the lead agency in coordinating the efforts of various community and Tribal agencies including health, substance abuse treatment, mental health, economic stability, and the courts working to protect children and to educate the community about the problems of child abuse and neglect. In most jurisdictions, case management for open child welfare cases, either in-home or out-of-home care, is provided by a different unit or staff members within the social service agency.

Following the voluntary retrocession, CPS referrals are now processed through the BIA. The BIA is the lead for CPS referrals and responds to allegations of abuse and/or neglect, conducts investigations, removes children when necessary, and places them in out-of-home care.

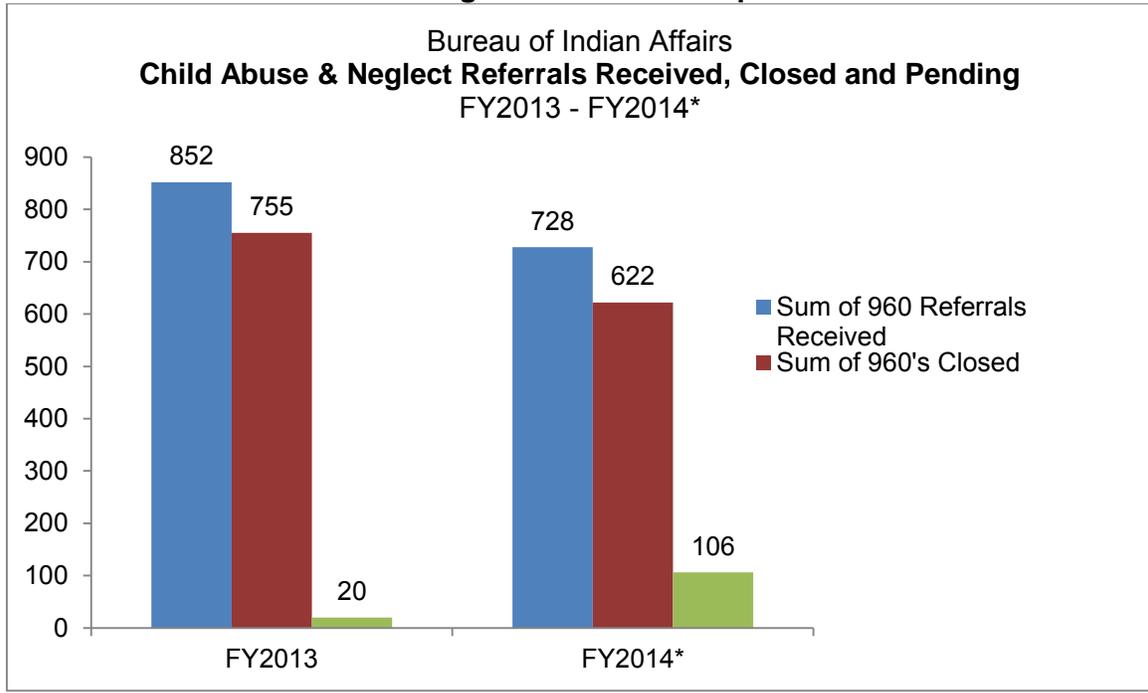
BIA social services responds to allegations of abuse and/or neglect using the state of North Dakota's reporting form and its three-tiered response system:

- Category A is *immediate danger*. Social services' anticipated response time is within 24 hours. BIA staff will fax all Category A referrals immediately to the Federal Bureau of Investigation (FBI) and tribal law enforcement.
- Category B is *foreseeable risk*. Social services' anticipated response time is 3-5 days.
- Category C is *lower level risk* such as truancy or children left at home alone for short periods. Social services' response time is within 14 days.

In Fiscal Year (FY) 2013, the first year that BIA provided CPS services, there were 852 official referrals alleging child abuse and neglect involving 1,515 children. This translates to a referral rate of 285.2 referrals per 1,000 children in the population. ***This referral rate is much higher than the FY 2012² national referral rate of 46.1 per 1,000 children.*** State rates vary widely from a low of 18.6 per 1,000 children to a high of 117.9 per 1,000.

² FY 2012 is the latest FY for which national data is available for comparison. The national rate has been relatively constant and we expect that FY2013 data is comparable.

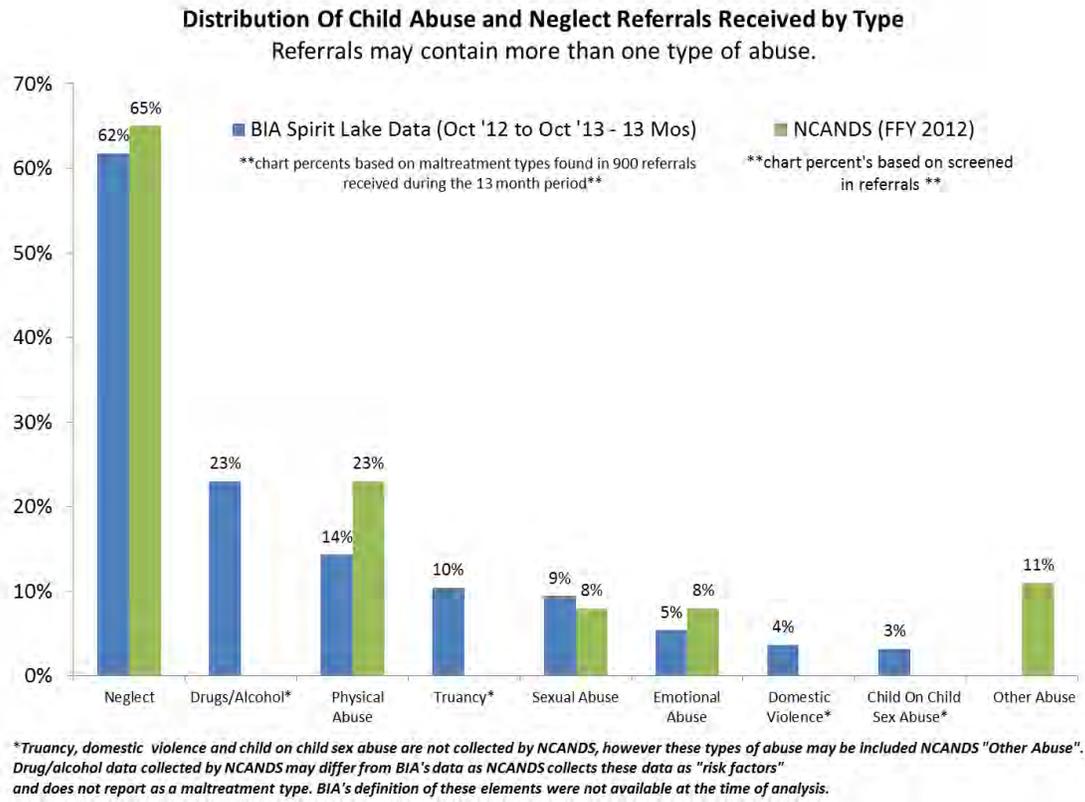
Chart 1: BIA Child Abuse and Neglect Referrals for Spirit Lake



The Bureau of Indian Affairs Child Welfare Data and the National Child Abuse and Neglect Data System (NCANDS) Data

Chart 2, found below, shows the percentages of child abuse and neglect referrals received by allegation type for Spirit Lake (from BIA data) and the nation (from NCANDS). A referral can include multiple allegations so the percentages may exceed 100%. The majority of the referrals made to the BIA included allegations of neglect (62%), followed by drug and/or alcohol abuse (23%). In instances of comparable maltreatment types (BIA to NCANDS data) the BIA percentages are relatively similar to those of the nation with the exception of physical abuse.

Chart 2: Child Abuse and Neglect Referrals Received by Type for Spirit Lake, from Bureau of Indian Affairs (BIA) and National Child Abuse and Neglect Data System (NCANDS)³



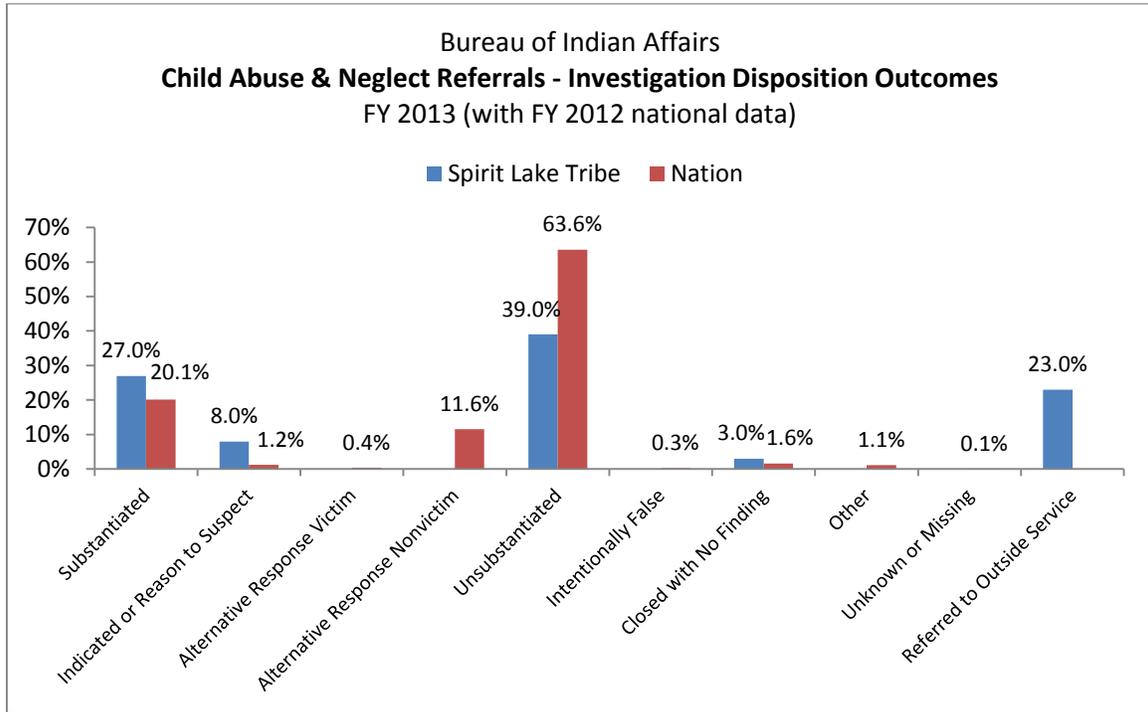
Of the 900 child abuse and neglect referrals received during the 13 month period (Oct '12 to Oct '13), 668 (74%) were screened-in and assigned to an investigation. The referrals that were not screened in and assigned to an investigation were: referred to case management; screened out due to collateral contacts not supporting the referral information; or the situation resolving without intervention.

Chart 3 below shows the percentage of referrals received, by disposition level, for the Spirit Lake Tribe (FY 2013, n=668) and the Nation (FY 2012)⁴.

³ Data from Chart 1 and 2 provided by ACF Region 8 and created from a table of BIA statistics for FY 2013 and FY 2014.

⁴ The dispositions provided by BIA are compared against comparable dispositions as reported in NCANDS, but the NCANDS data includes additional dispositions not provided by the BIA. A report-level disposition is an overall disposition assigned to a report, which can include multiple children with various child-level dispositions. For the national NCANDS data, the report-level disposition is computed based on the most severe child-level disposition among all children in the entire report, using Disposition Hierarchy rules established for NCANDS. For example, a report with both Substantiated and Indicated maltreatment dispositions would be assigned a Substantiated report disposition. It is not clear from the BIA data how the report-level dispositions for Spirit Lake Tribe were computed. The national data are from NCANDS child files submitted by 50 states, the District of Columbia, and Puerto Rico for FY 2012, which are the most current national data available.

Chart 3: BIA Child Abuse and Neglect Investigation Disposition Outcomes



Of the 668 referrals assigned for investigation, 181 were substantiated (27%). This represents a substantiation rate of 2.7 per 10 screened in referrals, which is similar to the national rate of 2 per 10 screened in referrals. The remaining dispositions included 258 unsubstantiated (63.6%), 55 indicated (8%) and 18 referrals administratively closed, which represents nearly 3%. Of the remaining, 156 reports (23%) were referred to outside service providers requesting agency assistance with the report. Agencies include BIA Criminal Investigation, FBI, Child Advocacy Center, Spirit Lake Tribal Social Services or BIA Case Management.

Out-of-Home/Foster Care Services

BIA and SLTSS share out-of-home care and case management responsibilities. The BIA removes children on the reservation who are believed to have been injured and/or at imminent risk of harm and who cannot be protected in their own homes. The majority of placements are made in the homes of other relatives who are willing to provide short term care and have been screened by BIA caseworkers. Within 30 days, the BIA social services conducts an assessment on all involuntary placements. Following the placement, an application for title IV-E eligibility is submitted to Benson County Social Services for review and certification to determine if the child is eligible for IV-E foster care payments. Title IV-E eligibility is based on a number of factors including the caregivers’ income, and judicial findings that removal is in the best interests of the child and that reasonable efforts were made by the agency to prevent removal.

If a child does not meet the eligibility requirements for title IV-E or if the child’s case is not transferred because the Tribe declines to transfer as has been the situation for the previous year, the BIA helps relatives apply for the Temporary Assistance for Needy Families (TANF) program or other financial assistance. For non-relative placements, the BIA provides families reimbursement for foster care at state rates. Regardless of placement type (i.e. relative care or non-relative foster care), the case remains open and in the care, control, and custody of BIA as determined by the tribal court.

If a child has to be placed into out-of-home care and the child is determined to be title IV-E eligible, the BIA typically will notify SLTSS and will initiate plans to begin the IV-E case transfer staffing from BIA to SLTSS. Nine cases have been transferred from BIA to SLTSS since retrocession. Beginning May 2013, the tribe has declined the transfer of any additional cases due to staffing limitations. To date, 11 children have been deemed title IV-E eligible but have not been transferred.

As of June 2014, as reflected in Table 2, there were 128 children reported in placement on the Spirit Lake Reservation. A total of 97 were in placement with the BIA: 86 were determined not eligible for title IV-E and 11 were deemed title IV-E eligible but had not been transferred to Spirit Lake TSS due to the tribe’s limited staff capacity. SLTSS had 31 children in placement.

Table 2: Current Child Placement Estimates⁵

Agency	Current Number of Children in Placement
Bureau of Indian Affairs	97 (<i>children not eligible or eligible but not receiving for IV-E</i>)
Spirit Lake Tribal Social Services	31
Total	128

**The placement data provided may be incomplete due to limitations in the current tracking systems; certain tracking functions are performed manually by various staff.*

As noted in Table 3 (below), SLTSS reported that as of June 2014 most of the 31 children in their custody lived in the Tribal licensed “affidavit” homes or foster homes. BIA shared that as of June 11, 2014, 97 children were in their custody, with 26 children in foster homes, 63 children in relative care, and 8 in other placements, including group homes and residential treatment facilities.*

⁵ Data received from Appendix E of Spirit Lake Tribal Social Services Briefing Binder and BIA.

Table 3: Placement Breakdown

Placement Options	Number of Children in SLTSS Placement as of June 2014	Number of Children in BIA Placement as of June 2014
Foster/Non-relative (Affidavit) Homes ⁶	10	26
Relative (Affidavit) Placements	5	63
Group Home	5	8*
PATH ⁷ Therapeutic Foster Homes	9	
PATH Relative Placement	2	
Total	31	97

Current Staffing of Spirit Lake Tribal Social Services and BIA Social Services

There is currently limited staffing capacity for both Spirit Lake Tribal Social Services and BIA Social Services. The Child Welfare League of America's recommended caseload standards are set at 12 active cases per month for investigative cases and 17 active families per caseworker for ongoing CPS cases. For family foster care services, the recommended caseload size is 12-15 cases per social worker. Limited workforce capacity may hinder timely investigations, follow up care, and case management.

Spirit Lake Tribal Social Services

As noted in Table 3, SLTSS had 31 children assigned to their care as of June of 2014. As of March 1, 2014, SLTSS staffing includes: (1) Acting Tribal Social Services Director; (2) a receptionist; and (3) the ICWA Director. The Tribal program is temporarily contracting for some case management services for children in foster care and for those who are title IV-E eligible.

BIA Social Services

As noted in Table 3, BIA Social Services had 97 children assigned to their case as of June of 2014. Following the retrocession of the social service programs, the BIA authorized six full-time positions for the Spirit Lake child welfare program. As of March 20, 2014, one full-time BIA Licensed Clinical Social Worker (LCSW), one support staff and one human service specialist are on the reservation at Spirit Lake. The Supervisory Social Worker has been selected with a start date of June 30, 2014. The BIA currently deploys licensed clinical social workers with specialized investigative experience for 30 day intervals. In addition, the BIA is providing administrative support staff to assist the

⁶ Affidavit homes are foster homes licensed by the Tribe. Although the Tribe requires that they meet licensing standards, including a criminal background check, North Dakota does not recognize foster homes unless they are licensed by the counties.

⁷ PATH is a child placing agency that licenses foster homes/relative placements

Fort Totten Agency with files and records management. The BIA continues to actively recruit for the remaining three positions, which have been advertised but not permanently filled.

Strengths of the Child Welfare Program at Spirit Lake

Although SLTSS has gone through a reorganization and transition including changes in Tribal leadership, there exists an opportunity to enhance the programs and services for children and families by solidifying relationships and ensuring the infrastructure is in place to monitor, comply, and track progress. In addition, since the retrocession to BIA of several social service programs, there have been improvements in data management and community engagement. Several strengths are noteworthy and can be used as building blocks to enhance the efforts already in place.

Existence of a Title IV-E Case Transfer Protocol

The BIA social services agency revised the title IV-E case transfer protocol in October 2012 for the SLTSS. The protocol defines emergency placement and investigation, initial IV-E case transfer staffing, and monthly IV-E case staffing. Although the protocol is in place, no transfers have been made since May 2013 due to tribal staffing limitations which, as previously noted, has resulted in the Tribe declining to transfer any additional Title IV-E cases since last summer.

Tribal-State Agreement

Spirit Lake has had a title IV-E agreement with the State of North Dakota since 1983, with one subsequent amendment to the agreement in 2004. The original agreement and the 2004 amendment allow the Spirit Lake Tribe to receive reimbursements for Tribal children who are in foster care placements and under the jurisdiction of the Spirit Lake Tribal court. This Tribal-state agreement and addendum outlines the responsibilities of the parties involved in child welfare cases.

Spirit Lake Social Services Coalition

The Spirit Lake Social Services Coalition was established in April 2012 to foster interagency collaboration. The coalition is composed of community partners including law enforcement, schools, judicial representatives, private service providers, health services, SLTSS and BIA.

Consultation with North Dakota Department of Human Services

SLTSS has ongoing consultation with Strengthening State and Native American Partnerships (SNAPP), which meets concurrently with the Native American Training Institute (NATI) on a quarterly basis to address the issues identified in the Program Improvement Plan (PIP).

Consultation with the Native American Training Institute (NATI)

Consultation with NATI is focused on identifying best practices in child welfare. NATI works with SLTSS to locate consultants for contracted services to assist with the completion of the PIP with the State of North Dakota.

Child Protection Team (CPT) and Multi- Disciplinary Teams (MDT)

BIA conducts monthly child welfare case review meetings. CPTs and MDTs are facilitated by BIA Social Services, and comprised of partners including law enforcement, schools, judicial representatives, health services, and SLTSS.

RECOMMENDATIONS FROM THE ACF CHILD WELFARE INTERVIEWS, APRIL 2014

Representatives from ACF held on-site listening sessions at the Spirit Lake Reservation April 9-10, 2014. The sessions included interviews with a range of stakeholders from the Spirit Lake Tribal child welfare system, including current and former social workers, current and former juvenile judges, BIA staff, school district staff, North Dakota and county human services staff, and BIA law enforcement.

Recommended Immediate Action Plan

Based on information gathered to date, the following list includes seven priority recommendations to be addressed through a coordinated action plan between SLTSS, BIA and other stakeholders including HHS, and state and county child welfare agencies. Each recommendation includes suggested lead agencies and a brief description of the issue:

- 1. Develop a comprehensive strategy to support the development of a short and long term workforce.**

Lead(s): Tribal leadership, representatives from SLTSS and BIA

SLTSS has experienced sporadic staffing patterns, including limited full-time professional staff to deliver services to reservation families and lack of available training to advance worker knowledge of child welfare issues and child abuse and/or neglect reporting requirements. A number of sources noted a strong correlation between Tribal Council control of Spirit Lake Tribal social services and high staff turnover rates, including replacement of several juvenile court justices after alleged disagreements with judicial decisions.

Since the retrocession, BIA also has struggled to recruit and retain a permanent workforce. Due to the limitations in the number of staff and the capacity of the available staff to meet all of the demands in the work, there is inadequate case management.

Recommendations:

- SLTSS and BIA should work together to develop and implement a comprehensive strategy aimed at recruiting and hiring full-time staff. Concurrently, explore resources from private or public programs that may financially support placement of staff detailed for several months to a year to increase program stability, followed by the hiring of additional full-time staff that will be trained and prepared to take over the caseloads after one year.
- SLTSS should work with the BIA to develop a transition and staffing plan that will ensure a minimum complement of qualified caseworkers are available to manage the caseload. The staffing plan should

include performance measures to address high turnover, including multiple, simultaneous hires and ongoing support systems for staff.

- No additional IV-E cases should be transferred to Spirit Lake Tribal social services until staffing has stabilized and policies and procedures have been created and implemented. SLTSS and BIA should work with state and county agencies on training protocols.

2. Create a uniform and documented process for conducting and documenting investigations.

Lead: SLTSS, BIA and Tribal Law Enforcement

SLTSS did not have a process for conducting and documenting investigations. The Spirit Lake Tribe retroceded this responsibility to BIA in 2012. While BIA utilizes a process for conducting and tracking investigations, documentation about the process has not been made available to the public. As a result there is confusion over the process for reporting abuse and neglect among some community members.

- Community members were unsure of the process for reporting allegations of abuse and neglect. Some community members continue to contact SLTSS and others reach out to BIA law enforcement.
- BIA law enforcement staff reported during our interviews that they sometimes receive reports of child abuse and neglect and when they do so they investigate and involve BIA CPS staff when a removal is warranted. It is not clear that BIA law enforcement uniformly receive training or protocols to investigate and make assessments of children at risk. The children who are not removed when law enforcement conducts an investigation may need additional resources, services or supports.

Recommendations: SLTSS, BIA Social Services, and BIA Law Enforcement should work together to document and provide training on a uniform process for conducting and documenting investigations. Since retrocession, the BIA has maintained a hotline to receive referrals alleging abuse and/or neglect. The process should include the development of a centralized hotline to be utilized by both the Tribe and BIA. A centralized hotline should include staffing and response for referrals received after hours and on weekends and/or holidays. We encourage BIA to work with SLTSS to ensure that procedures are maintained after the program is transferred back to the tribe.

3. Development of a basic operations manual outlining policies and procedures for child welfare case services.

Lead: SLTSS and BIA with assistance from the State/County Social Service Agencies and ACF

The Tribal Annual Program Services Report (Title IV-B APSR) for Spirit Lake refers to a policy and procedures manual, although repeated requests to gain access to it have failed. If there is a manual it is not widely known or used. In order to ensure children are seen in a timely manner, that there is uniformity in response, and that there is structure for how to handle child protection and child welfare cases, a policy and procedure manual needs to be developed.

Recommendations: The Spirit Lake Tribal social services and BIA should jointly develop policies and procedures that encompass all aspects of child welfare services, in particular foster care services and case management. The policies and procedures manual should at a minimum reference the investigation process. The policies should clarify that “affidavit homes” must comply with federal and state safety checks, including background checks on all adults residing in the home. In addition, policies regarding monthly face-to-face case visits should apply equally to cases supervised by SLTSS and BIA. The policies and procedures would be ratified through Tribal and BIA leadership. Training and technical assistance should also be provided to all SLTSS, BIA, and Tribal Court staff, and the procedures made publicly available.

4. Develop and implement a data tracking/information system.

Lead: SLTSS, BIA and HHS

There is no current Spirit Lake Tribal tracking system for information on children, placements, investigations, or other basic child and family information. The history of child abuse and neglect allegations is often a critical factor used to determine the risk of future child abuse or neglect. Without a system to track and record intakes and responses, it is virtually impossible to assess imminent harm or risk of future abuse/neglect. The lack of an information system may also lead to multiple reports of the same incident, or reports could be lost if not appropriately tracked and logged. The lack of documentation that currently exists extends from the point of safety assessments and plans to service plans and services provided to families.

Recommendations:

- The SLTSS and BIA social services program should develop a modern data system to track and manage cases. This includes the creation of a database (possibly using an Excel spreadsheet until a database can be created), and entering records into that database so they can be tracked, followed up on, and shared between and among social services staff and other stakeholder agencies.

5. Develop and implement a plan for recruitment of foster/kinship homes.

Lead: SLTSS Director and BIA

The number of available foster homes available for placement in Spirit Lake is extremely limited. The limited number of available placements needs to be

resolved, along with policy to address licensing, background checks, and home studies.

Recommendations: To address the immediate issue of a lack of foster family homes, the SLTSS Director and BIA should work with state and county leadership to identify and license foster and emergency foster homes, including kinship homes, and create an agreement about placements with BIA. Concurrently, the team should develop, in partnership with the state, county and with TA from HHS, a longer term recruitment and retention plan in cooperation with the BIA.

6. Provide training for the Tribal Court on requirements of title IV-E.

Lead(s): SLTSS, BIA, HHS, and Tribal Court Judge

Eligibility for title IV-E foster care services and funding can be permanently lost if cases are not properly handled in the court system. The Tribal Court has also experienced staff turnover. The Tribal Court needs to be trained on the requirements of IV-E and needs to be aware of the policies and procedures of the department in order to fully understand the implications of the orders that are made.

Recommendations:

- SLTSS, BIA, and members of the Tribal Court with ACF's assistance should access no cost training on IV-E, available from a variety of state, federal and private sources. Upon development of the policies and procedures to guide the case work within SLTSS and the BIA, they should share and review the policies and procedures with the Tribal Court.
- Tribal court should be independent from other branches of Tribal government. Independence is essential to ensure that judicial decisions are objective and free from community influence.

7. Increase community engagement and increase communication.

Lead(s): Tribal leadership, SLTSS Director, HHS, IHS, and BIA

Community resources on and around Spirit Lake are limited. Problems range from the lack of access to basic medical and mental health services to safe housing for children in custody. There is also limited support for those who provide kinship care and an absence of available substance abuse treatment facilities or programs available to the Tribal community.

Community anger and frustration with the Tribal child welfare system persists. There is currently no single place to make formal complaints and as a result, concerned community members have nowhere to express their concerns about how children and families are (or are not) served by the system.

Recommendations:

- a) Create and fill the position of ombudsman, someone who has ability to receive, investigate, and help resolve complaints that arise about BIA and

Spirit Lake Tribal social services in order to best serve the interests of Tribal children. For an ombudsman role to be effective, the person has to function with a high degree of independence and have access to those with decision-making authority in both Spirit Lake TSS and BIA.

- b) Develop supports and services for kinship care providers. Kinship families are key community assets and often assume the responsibility for caring for their relative children who are involved with the child welfare system. Supports for kinship families can include training, support groups, respite homes, and resource and service referrals.
- c) Increase informal and formal communications among stakeholders to allow for greater access and accountability as Spirit Lake and BIA work towards improved child welfare services. Develop a MOU among key stakeholders including SLTSS, BIA, ACF, state and county social services, foundations and other interested parties that reflects a jointly developed action plan with clearly defined roles and responsibilities and benchmarks.

APPENDICES

Appendix A: Spirit Lake Tribal Social Services Funding Sources

ACF's Children's Bureau (CB) provides funds to eligible states, Tribes, and Territories for the provision of child welfare-related services to children and their families. In response, jurisdictions in receipt of the funding are required to provide specific categories of child and family services. The funding opportunity requirements are designed to support the operation of child welfare systems—from the prevention of child abuse and neglect to the support of permanent placements through adoption and subsidized guardianship.

Title IV-B

Title IV-B funds are available to promote the development and expansion of coordinated child and family services programs that use community-based agencies, family support services, family preservation services, adoption promotion and support services, and time-limited family reunification services and that ensure all children are raised in safe, loving families. Funds are available under title IV-B for the following:

- **Stephanie Tubbs Jones Child Welfare Services Program: Title IV-B, Subpart 1, of the Social Security Act** - Funds to support preventive intervention, alternative placements, and reunification efforts to keep families together
- **Promoting Safe and Stable Families: Title IV-B, Subpart 2 of the Social Security Act** - Funds to assist with family support, family preservation and support, time-limited family reunification services, and services to support adoptions

The Spirit Lake Tribe of North Dakota is a title IV-B grantee. The Tribe submitted its first 5-year Child and Family Services Plan (CFSP) in 1995. The Tribe began receiving both title IV-B subparts one (1) and two (2), in FY 1997. Since the original submission, per the title IV-B regulations, the Spirit Lake Tribe has submitted five-year plans for FY 2000-2004; FY 2005-2009; and FY 2010-2014. Additionally, as a title IV-B grantee, Spirit Lake has access to the Training and Technical Assistance (T/TA) Network. The Administration for Children and Families (ACF) provides the programs to assist states, Tribes, territories, and courts with program improvement and development.

For the current fiscal year (2014), the Tribe received \$22,009 for title IV-B subpart 1, and \$44,044 for title IV-B subpart 2 services.⁸ These funds are awarded to the Spirit Lake Tribal Council and administered by Spirit Lake Tribal Social Services. The Tribe will have until September 30, 2015, to obligate the use of the funds. The Denver ACF Regional Office has advised Tribal staff and leadership of the need to obligate and liquidate these grant funds for services to child welfare families. For the FY 2013 grant,

⁸ ACF, Region 8, Regional Program Manager.

the Tribe still has approximately \$37,000 unobligated for both subparts.⁹ These funds must be obligated by September 30, 2014, or they will be lost to the Tribal program.

Title IV-E (Tribal-State Agreement)

Title IV-E of the Social Security Act provides funds for states and Tribes to provide foster care, transitional independent living programs for children, guardianship assistance, and adoption assistance for children with special needs. Funds are available under title IV-E for the following:

- **Title IV-E Foster Care** - Assistance with costs of foster care for eligible children and associated administrative and training costs
- **Title IV-E Adoption Assistance** - Financial and medical assistance for the adoption of children with special needs and associated administrative and training costs
- **Title IV-E Guardianship Assistance** - Financial and medical assistance for guardianship of eligible children and associated administrative and training costs
- **John H. Chafee Foster Care Independence Program** - Funds to help older youth in foster care and former foster care youth acquire training and independent living skills so they can become self-sufficient

Only the public agency or Tribe designated to provide a program of foster care is eligible to apply for and receive direct title IV-E funding. Individuals and private entities may apply to the title IV-E Agency as sub-grantees or contracted providers. Spirit Lake has not applied and is not eligible to receive direct title IV-E funding. They do, however, have an agreement with the State of North Dakota to administer foster care and adoption assistance payments. Spirit Lake has had a title IV-E agreement with the State of North Dakota since 1983 and there has been one subsequent amendment to the agreement in 2004. The original agreement and the 2004 amendment allow the Tribe to receive reimbursements for Tribal children who are in foster care placements and under the jurisdiction of the Spirit Lake Tribal court. Although the Tribal-state agreement allows for claiming of administrative funds for title IV-E allowable activities, the Tribal program has not made a claim for these additional funds for several years.

Bureau of Indian Affairs

Before 2001, the BIA operated social services programs for the Spirit Lake Tribe. From 2001 until the retrocession in 2012, the Spirit Lake Tribe has administered an array of social services programs under an Indian Self-Determination and Education Assistance Act (ISDEAA) Title I contract with the BIA.

Records prior to 2013 indicate this contract provided the Spirit Lake Tribe with approximately \$540,000 annually to operate these programs. Programs provided under this funding included the child protection and Indian child welfare program. As noted earlier, after a series of program and fiscal audits conducted by BIA, from 2011 to 2012, the Spirit Lake Tribal Council voluntarily retroceded the social services programs to BIA.

⁹ ACF, Region 8, Regional Program Manager.

Appendix B: Findings of Previous Reports, Reviews and Assessments of Spirit Lake Tribal Social Services

Prior to the ACF on-site review in April 2014, we conducted four reviews/assessments of the Spirit Lake Tribal Social Services department since 2007:

1. National Resource Center for Organizational Improvement (NRCOI), April 30 to May 3, 2007
2. North Dakota IV-E file review, January 17-20, 2012
3. National Resource Center for Tribes, Organizational Assessment, November 2012 - February 2014
4. North Dakota IV-E file review, May 7-8, 2013

Summary of Findings from Previous Reviews

Many of the issues and recommendations included in our report are not new. Although some of these issues have been addressed under BIA's leadership many issues persist. Below is a summary of findings and recommendations from the previous five reviews organized into four categories: safety, permanency, administration/workforce and community relations. What follows the overview is a more detailed summary of findings and recommendations from each assessment.

Safety

The Spirit Lake Tribe social services program did not have a written uniform, methodical process for conducting and documenting investigations. This has led to the community reporting continual time lapses between the receipt of reports of abuse/neglect and initiation of an investigation. The lack of documentation extends from safety assessments and plans to services provided to families. This results in an inability to support active efforts to provide case management to families.

Other safety issues identified in previous reports include:

- Need for placement prevention services
- Need for documentation for existing court orders, 72-hour hearings and safety plans in files
- Foster homes need documentation of federal background checks and home studies or the foster home licenses in files
- Monthly visits need to be clearly documented and tracked
- Referrals to child protective services and investigations need to be tracked and documented.

Permanency

Previous reviews noted the need for comprehensive assessments for cases involving out-of-home placement. Comprehensive assessments lead to well thought-out and individualized case plans. Reviewers noted the need for documentation of case

management, supportive services, or minimal reasonable efforts to keep families intact. In addition, the lack of available supportive services and foster home placements has been problematic. Of the homes that were licensed, many needed the appropriate documentation of background checks, home studies, and licenses. These issues were compounded by reports of confusion about Tribal court.

Other permanency practice issues identified include:

- Need for placement history documentation in case files
- Need for documented reasonable efforts made to reunite families
- Need for documentation for all missing court orders
- Need to discuss children's special needs with foster parents
- Need for documentation of signed foster home agreements in files
- Need for visit documentation in case file
- Need for monthly visits conducted and documented

Administration/Workforce

In addition to issues identified in the child welfare practice, the SLTSS further struggled with sporadic staffing patterns, including limited full-time professional staff to deliver services to reservation families and a lack of available training to advance worker knowledge of child welfare issues and child abuse and/or neglect reporting requirements.

Previous reviews indicated a chronic issue with improper documentation and noted that files were missing many critical documents such as consents, child health information, family income, Tribal enrollment, and court orders (many of these issues have been resolved under BIA management). The cases did not have documentation of a case plan every 90 days or an ongoing case narrative to document the progress and status of the case. The limited documentation and tracking is a thematic issue throughout the entire social services department, including administration. As previously mentioned, the department does not have written policies and procedures to support and guide the flow of the work. The overall limitation in documentation makes it difficult to determine caseload size or composition. A master tracking form was developed and implemented, but based on results of the reviews, the master tracking list does not appear to be reliable and remains an obstacle to the effective management of the program.

Community Relations

The turmoil within SLTSS, exacerbated by years of negative media, has impacted the relationships between SLTSS, the Tribal community, and surrounding communities. Previous reviews have revealed poor relationships between community service providers, distrust between members of the Tribal community and the Tribal Council, and a lack of coordination of services between authorities and providers in the surrounding area. The community has raised concerns that there are reports of child maltreatment or risk of harm that go unreported and phone calls to SLTSS that go immediately to voicemail with uncertain monitoring by the agency. These issues, along

with a lack of support from the surrounding communities, have shaken the confidence of the community in SLTSS.

Detailed Findings and Recommendations from Prior SLTSS Reviews

National Resource Center for Organizational Improvement (NRCOI), April 30-May 3, 2007

Findings:

- Case file documentation did not provide evidence that:
 - Case plans and all required child information are in each child's file.
 - Foster children were receiving monthly visits by SLTSS case managers while in placement or reunification efforts were provided by SLTSS for birth parents and their children.
 - Permanency plans exist for each child in placement;
 - Foster children are receiving support services (medical, dental, counseling, etc.) with involvement or oversight by SLTSS case manager.
 - Foster parent licenses are re-evaluated annually.
 - Regular foster parent training is offered to new or continuing foster families.
- There is a need for licensed and trained kinship, non-related foster parents and emergency shelter placements.
- SLTSS policies and procedures do not provide enough information for staff to staff to meet the title IV-E and 638 case management guidelines.
- The SLTSS Director is not adequately aware of federal child welfare rules and regulations, particularly title IV-B child welfare funding.

Recommendations:

- Case managers must ensure that the proper information is in each child's case file.
- Each case manager must have a monthly face-to-face visit with each child in placement, preferably in their home setting. A record of the visit, with written narrative about the child's progress, must be documented and up-to-date in the child's file.
- Each case manager must document reunification efforts monthly in case file how birth parents are being assisted to reunify with their child(ren).
- Case managers must document that a permanency plan is in each child's file with documentation of how actual efforts are being made to provide permanency for the child (for example, taking immediate action when birth parents' rights have been terminated, assisting foster parents with adoption or guardianship arrangements when that is the permanency plan, etc.)
- Case managers must document information regularly about the child's physical and mental health, including information about educational needs.

- SLTSS staff must review each foster family file to determine current licensing status of family; licensure and re-licensure must meet all title IV-E and 638 licensing requirements.
- SLTSS staff must review all foster family files to determine whether foster parents are current in their annual foster parent training requirements; when training is needed, staff must identify training resources to assist foster parents in updating their training.
- It is highly recommended that the SLTSS program hire or designate a foster care coordinator to recruit, license, and train foster and kinship families.
- The SLTSS Director and Child Welfare Advisory Board must make it a priority to develop basic SLTSS policies and procedures, followed by training and regular usage and reference by all SLTSS staff.
- SLTSS Director must become more informed about title IV-B funding and federal requirements associated with it and needs to initiate contact with the federal program officer at the regional Administration for Children and Families (ACF-Denver) and maintain communication to access technical assistance available from that office.

North Dakota IV-E File Review, January 17-20, 2012

This review was completed for the case files of IV-E eligible youth for the calendar year of 2011. It should be noted that IV-E requirements differ from IV-B and CFSR requirements, and only IV-E requirements were reviewed during this review.

Findings:

- The use of other contracted provider's case plans to supplant the custodian's case plan is not acceptable for IV-E requirements.
- There was a need to involve and document the involvement of parents and age appropriate youth in case plan development and review meetings.
- There was a lack of documentation of the services that are being provided to assist in the appropriate reunification of the family.
- There was very limited documentation noting the assessment of the safety of the child and appropriateness of the placement.
- Transition planning/Independent Living assessment documentation was lacking in the case plan for youth over age 16.
- There was very little documentation noted in the case plan surrounding the placement or separation of siblings in the same home.
- Monthly case worker visitation is either not taking place or being documented. It was noted that this has improved during the review period.
- Assessment of child's safety is not documented in many instances.
- In many cases, the continuing necessity and appropriateness of placement is not documented.

- Very few files had any documentation of compliance with the case plan goals or progress made toward alleviating the causes that necessitated the need for foster care placement.
- No documentation was found in reference to a projected date for the child to achieve their permanency goal.
- In a number of cases, it was found that the permanency goal in the permanency order was not consistent with the case plan goal.
- In the majority of the files, documentation was not present showing that procedural safeguards were in place to protect parent's rights surrounding: Removal of children from the home; Change in the child's placement and Determinations made affecting visitation privileges.
- Documentation of current educational records was limited in reviewed files.
- Current IEPs were noted in some files, but not consistently. Current grade level and performance documentation were not present in many files, even though the Permanency Planning Committee Progress Report noted that these items were in the case file.
- Documentation of current health records was found on a limited basis.
- Health Tracks reports were found on occasion, but current and annual reports were only noted as present on a limited basis.
- Documentation of optical and dental procedures was found on a limited basis.
- Documentation was limited as to the involvement and understanding of an age appropriate child's involvement in permanency hearings regarding their proposed permanency or transition planning, compelling reasons to not pursue a TPR under required circumstances, concerning services provided to the child's family for the completion of a permanency plan for the child or served notice of hearings for relatives/foster parents/pre-adoptive parents was not present in any reviewed files.

Recommendations:

- A "tab" system that is used to organize the files is a good practice from an organizational standpoint. It is recommended that there be consistency in what documents are placed under what tabs for all cases. For example, "medical" type documents were found under the "legal" tab. This type of issue was common during the file reviews. Also, it would be beneficial to file documents in chronological order.
- There were a few instances noted where there were documents from a youth found in another youth's file. It was also noted that there were items in the file that should not have been in a file. For example, a criminal background check for a foster parent was in the youth file.
- It would be beneficial to create and use some type of case activity log to track daily events in the youth's file. This would help to provide a record of the history of the youth, efforts made on behalf of the youth, progress toward meeting goals, assessment of safety etc.

- Spirit Lake Tribal Social Services currently uses the CFTM document (Permanency Planning Committee Progress Report) as their case plan. They may want to consider developing or finding an existing case plan document that more readily meets the IV-E requirements. If they choose to continue to use the current document, they must be more comprehensive in adding items required by Fostering Connections (e.g. sibling placement).
- There is a need to customize the tasks that families must complete and not just use generic statements like “contact social services.”

National Resource Center for Tribes, Organizational Assessment, November 2012 - February 2014

NRC4Tribes was asked to conduct an organizational assessment in November 2012. They found that many of the issues identified in previous reports persists, including but not limited to:

- Lack of safety plans – found during the March 2013, September 2012, and the May 2013 review.
- Placement history missing – found during the August 2011, January 2012, and the February/March 2012 review.
- Visit documentation missing – found during the May 2007, August 2011, and the January 2012 review.

Findings:

- Staff turnover is a significant challenge that has been an issue in the SLTSS program for quite some time. This challenge has impacted the ability of the NRC4Tribes to provide quality/timely services since the initial TA request and subsequent requests for training.
- Given the nature of the work, the SLTSS program impacts all of the community members of the Tribe. Therefore, before work can begin on community education, for example, the community must be healed from all of the negativity they have experienced over the years. As one respondent stated, “Otherwise you’re just spinning your wheels and wasting money because the community is not ready to be helped.”
- Broken bridges with stakeholder agencies. Several respondents indicated that bridges have been either “burnt” or “broken” with other agencies that have partnered or collaborated with the SLTSS program in the past. Work needs to be done to re-establish and nurture these important relationships.
- The Associate Judge was removed from her position. According to several respondents, the Associate Judge was removed after issuing a Court Order requiring an alleged underage sexual offender to stay away from other children in the alleged sexual offender’s extended family until such time as an investigation is complete.
- The unwillingness to provide – or non-existence of – documentation related to practice. For example, although numerous documents were requested, including the organization's child welfare code and policy and procedure

manual, no documentation was ever received, although the NRC4Tribes was told that the documents exist.

Recommendations:

- Ensure that, whatever technical assistance is recommended, all TA providers in the field understand and agree to work off of one plan in order to alleviate confusion and duplication of effort.
- It is important the Tribal Leadership as well as the BIA Fort Totten Agency leadership and staff has a full and complete understanding and is completely “bought-in” to the plan on alleviating identified challenges. In order to determine if the Tribe is ready to embark on this enormous TA effort, a readiness assessment may be required.

North Dakota IV-E File Review, May 7-8, 2013

Findings:

- The issue of the BIA not giving SLTSS access to transferred files cannot occur in future reviews.
- Be conscious not to use a “template approach” when doing treatment plans for sibling groups in care.
- Safety plans not in file.
- The more recent court orders are not as strong in noting the permanency goal and progress toward those goals as past court orders.
- There were a number of instances noted where TPR petitions have been filed, but were never adequately followed up.

Recommendations:

- If a IV-E file is going to be transferred to BIA, SLTSS must keep a copy of that file for audit purposes.
- Case plans for each youth should be individualized to their specific needs and progress.
- When the whereabouts of a youth’s biological parents are unknown, attempts to search for them and other relatives should be documented.
- Files should note that there were safety assessments completed on the youth and whether or not there is a need for a safety plan. If there is a safety plan, it should be in the file.
- Foster providers need to be included when giving notice to pertinent parties of upcoming court proceeding involving the youth they are serving.
- Court order permanency goals match the permanency goals listed in the case plan.
- Petitions for termination of parental rights (TPR) must be followed-up with appropriate action.

- Improvements should be made in notification of collateral services providers such as therapists, education personnel, etc.