

EXECUTIVE SUMMARY: SPIRIT LAKE TRIBAL SOCIAL SERVICES REPORT

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 Spirit Lake Tribe consists of an enrollment population of approximately 6,700 members.

Background on the Spirit Lake Social Services Program

There have been allegations of epidemic levels of child abuse and neglect on the Spirit Lake Reservation. Health and Human Services (HHS) and the Bureau of Indian Affairs (BIA), two federal agencies that provide financial support for social services on the reservation, began a series of investigations and issued recommendations on how to address issues facing the tribal social services agency as early as 2007. Child welfare practice under the authority of the Spirit Lake Tribal Social Services (SLTSS) did not improve as a result of the investigations. On September 14, 2012, the Spirit Lake Tribe asked to voluntarily retrocede a number of social services programs to the Bureau of Indian Affairs (BIA).

The retrocession became effective on October 1, 2012, creating a bifurcated child welfare system, dividing components of the social services system between the BIA and SLTSS. Members of the Tribe and stakeholders in surrounding counties initially criticized the transition of responsibility for the social service programs from the Tribe to the BIA. There were concerns from the community that the process for receiving reports of abuse and neglect was fragmented and, as a result, left children unprotected. Since that time, there have been additional reports that children reported for abuse and neglect are placed or remain in unsafe conditions. Although systems have been put into place in an attempt to increase communication and information sharing between the BIA and SLTSS, there continue to be reports of confusion over how referrals are managed by the BIA social services and BIA law enforcement. In addition, there is little to no information regarding the specific placement of children who have been brought into the foster care system since October 2012, particularly for those who were not deemed title IV-E eligible.

Current Structure of Spirit Lake Tribal and BIA Social Services

Following the retrocession, the BIA assumed responsibility for CPS investigations and foster care services for children who are not eligible for title IV-E reimbursements. 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.

The Spirit Lake Tribal Social Services (SLTSS) program currently provides child welfare case management and foster care related services for children eligible for title IV-E program dollars on the Spirit Lake Tribe Reservation. The program is responsible for providing:

- Child Welfare Case Management

- Foster Care Services
- Indian Child Welfare Act (ICWA)

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

Despite many efforts to intervene, provide support, and increase performance, the Tribal social services program continued to experience organizational turmoil. This turmoil, coupled with the lack of an information system to collect and maintain data, as well as a formal set of procedures or protocols for conducting investigations, has resulted in significant challenges in reviewing and comparing outcome and performance data.

In FY 2013, the first year BIA provided CPS services; they reported 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 2012¹ national referral rate of 46.1 per 1,000 children.

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. Of the 900 CA/N 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.

In FY2013, 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 (data from FY2012) of 2 per 10 screened in referrals.

Funding Sources

Title IV-B

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, a service of the Children's Bureau.

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.² 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.

¹ FY 2012 is the latest FY for which national data is available for comparison.

² ACF, Region 8, Regional Program Manager.

Title IV-E (Tribal-State Agreement)

Spirit Lake currently has 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

From 2001 until the retrocession in 2012, the Spirit Lake Tribe has administered an array of social services programs under a Public Law 93-638 contract for Self-Governance with the BIA.

Records 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 child welfare program.

Practice Issues Impacting Spirit Lake Tribal Social Services

Some of the current gaps related to service delivery relate to the lack of communication between the BIA social services agency and SLTSS. Recent reports, summaries, overviews, assessments, and interviews related to the Tribe's difficulties have identified many challenges and service gaps. The existence of the same findings from one review to the next could be explained by several factors affecting the Tribe, including frequent staff turnover as well as the limited capacity of those workers who have remained in the positions and experience a high workload which does not allow adequate time to focus on system improvements.

Previous reports identified that SLTSS did not have a uniform, methodical process for conducting and documenting investigations. Under BIA authority these issues still persist. This has led to the community reporting continual time lapses between the receipt of reports of abuse/neglect and initiation of an investigation by the BIA. 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.

Previous reviews and organizational assessments noted the lack of comprehensive assessments for cases involving placement. In addition, the lack of available supportive services and foster home placements has led to fragmented cases with little to no direction. These issues are compounded by reports that Tribal Council members overturn or influence Tribal Court decisions. The lack of independent court decision making authority leads to instability in the courts and negatively impacts Tribal families and children.

In addition to issues identified in the child welfare practice, the social service department has further suffered from 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.

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 social services that go immediately to voicemail with no apparent 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.

Findings and Recommendations from the Administration for Children and Families: Child Welfare Interviews April 9-10, 2014

Representatives from the Administration for Children and Families (ACF) held on-site listening sessions at the Spirit Lake Reservation April 9-10, 2014. The sessions included interviews of 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 law enforcement.

ACF Findings:

1. Confusion over the process for reporting abuse and neglect.

Community members are unsure of the process for reporting allegations of abuse and neglect in the period after retrocession. In addition, law enforcement staff have had no training or protocol to investigate and make assessments of children at risk.

2. Lack of follow-up after reports are filed.

The community does not know what happens after a report is filed, and it is unclear from the community's perspective how soon after a report is filed that BIA investigates. In addition, there is a lack of communication between institutions that may be attributed to a lack of follow-up or a lack of clear procedures.

3. Children may be in unsafe placements.

According to data provided by the ACF Region 8 office, from the BIA, there were 56 cases transferred to the BIA from the SLTSS on October 1, 2012. There is concern that Tribal social services placed these children with individuals without appropriate safety checks (i.e., criminal background checks for all adults residing in the home).

4. Absence of community resources.

Community resources on and around Spirit Lake are limited and constrained. Problems range from access to basic medical and mental health services to safe housing for children in custody. The Tribe has no centralized database and no electronic files to track child welfare cases. This lack of technological readiness has caused confusion and led to a lack of coordination of efforts between the Tribe, the courts, laws enforcement, North Dakota Department of Human Services and the BIA.

5. Instability in child welfare and judicial leadership.

A number of sources noted a strong correlation between Tribal Council control of Tribal social services and high staff turnover rates, including replacement of several juvenile court justices after alleged disagreements with judicial decisions.

6. Inadequate staff in BIA to cover CPS and foster care.

BIA social services are not fully staffed. They have an allowance of six permanent FTE staff to cover the Spirit Lake region, but currently have only three: the administrative support, a social services representative to process the SF960s, and one child welfare specialist.

ACF Recommended Immediate Action Plan:

Based on information gathered to date, the following are the 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:

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

Hire/recruit full time staff. Work with BIA to develop a transition and staffing plan that will ensure a minimum complement of qualified caseworkers to manage the caseload.

2. Work with BIA to create a uniform process for conducting and documenting investigations.

SLTSS did not, and BIA still does not have a 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 by the BIA. 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. SLTSS should work with BIA to develop a joint investigation and service process that clearly identifies the division of responsibilities between the two organizations. A joint plan also promotes a more seamless transition of CPS responsibility from BIA back to SLTSS.

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

BIA and Tribal social services should jointly develop Child Protective Services and foster care procedures and policies that would be ratified through leadership and be made publicly available.

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

Modernize SLTSS data systems; this includes creating a database (possibly an Excel spreadsheet), 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.

Work with BIA, the state and county to identify and license foster and emergency foster homes and create an agreement about placements with BIA.

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

The Tribal Court and BIA who oversee the case before eligibility is determined 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.

7. Increase community engagement and increase communication.

Develop a Memorandum of Understanding (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. Increase informal and formal communications among stakeholders to allow for greater access and accountability.