

A P P E N D I X

PREPARED STATEMENT OF HON. FLOYD JOURDAIN, JR., CHAIRMAN, RED LAKE BAND OF CHIPPEWA INDIANS

Mr. Chairman, I thank you and the other distinguished members of the Committee for this opportunity to provide testimony on behalf of the Red Lake Band of Chippewa Indians (the "Tribe"). My name is Floyd Jourdain, Jr., and I am the duly-elected Chairman of the Tribal Council of the Red Lake Band.

The focus of my testimony will be on the Tribe's juvenile detention facility, which was constructed in 2005 mainly with Department of Justice (DOJ) corrections facility grant funds, but which has sat empty for the past three years because the BIA failed in its commitment to provide staffing and operational dollars.

In the mid-1990s, the DOJ launched its Indian Country Justice Initiative to enhance and streamline its support for tribal community law enforcement programs. For several years beginning in 1999, Congress appropriated \$34 million annually to DOJ to award correctional facility grants to tribes for the purpose of repair or replacement of dilapidated detention facilities.

In the 1990s, Red Lake was in dire need of a new detention facility. Our old jail was nothing more than an old storage garage designed for our Red Lake Forestry program that was converted in the 1970s for use as a jail, law enforcement center, and courthouse. The facility was severely overcrowded and had been condemned by the BIA.

Between 1999 and 2001, the Tribe was fortunate to receive a DOJ Corrections Facility grant to build two detention facilities. The first detention facility (Phase I) was a 42-bed, medium security facility designed primarily for adult detention, but with capabilities to house an additional 26 juveniles on a short-term basis. The second detention facility (Phase III) was a 24-bed, minimum-security juvenile detention facility, designed for longer-term stays, and with counseling and classroom education capabilities.

The BIA participated in the development of both facilities by providing design funding, and by reviewing and approving the designs prior to construction. The two buildings were inspected by the BIA after construction, and both facilities were certified for occupancy by the BIA. The BIA owns the two facilities and has provided Facility Operations and Maintenance funding for both buildings since the time the BIA approved their occupancy. The BIA also provided furnishings for both facilities, including flat screen televisions, bunk beds, desks, and other equipment for the Phase III juvenile detention facility.

The initiative to repair and replace Indian Country jails was to be a partnership between DOJ and BIA. Funds to construct facilities were to be provided by the DOJ and funds to staff and operate the new facilities were to be provided by BIA. The BIA did provide funding for staffing and operation of the Tribe's Phase I adult detention facility since it was opened in 2003. But the BIA has provided no funds for the operation of our Phase III juvenile facility, despite multiple promises to do so.

In August of 2004 the Tribe held its CY 2005 Self-Governance negotiations with BIA and OSG. At that time, construction of the Phase III juvenile detention facility was nearing completion, and was expected to be operational in CY 2005. The Tribe, during its negotiations, requested staffing and operations funding for the juvenile facility in the amount of \$1,218,482, consistent with the Tribe's operational budget for the facility. The BIA agreed by contract to assist the Tribe in obtaining the \$1.2 million for staffing and operations in CY 2005. Additionally, the BIA agreed by contract to include \$1.2 million in funding for the juvenile facility in the next President's budget request (FY 2006). The Tribe relied on the BIA to follow through with its contractual commitments to the Tribe and to honor its partnership agreement with DOJ by requesting the funds to staff and operate the Tribe's new juvenile detention facility.

In 2004, a few months before the BIA agreed to provide funding for the Tribe's juvenile facility for CY 2005, this Committee and the Committee on Finance held hearings on the Interior Department's Office of Inspector General Report: "Neither

Safe Nor Secure: An Assessment of Indian Detention Facilities.” General Devaney told the Finance Committee on September 21, 2004, that:

BIA–LES was unable to produce any annual budget submissions for our [OIG] review. We later learned that BIA–LES managers use historical funding levels as their new annual budget requests and have rarely asked for actual budget increases. In addition, we discovered that BIA–LES does not seek to obtain accurate or realistic budget projections from detention facility administrators. In fact, funds allocated to individual jails by BIA–LES are not even tracked. Their failure to make an effort to assess the true cost of operations or to have any internal controls in place becomes a self-fulfilling prophecy.

These fiscal management failures also impact new detention facilities built with funds awarded as grants by the Department of Justice (DOJ). Since 1997, DOJ has provided over \$150 million in construction grants for new detention facilities. However, these grants are only for construction of the facility. BIA is then responsible for providing the funding for operational costs. Given the poor budget planning and execution by BIA–LES, it was not surprising to learn that facilities completed with DOJ grant monies often do not get the necessary funding to actually open for business.

General Devaney forecast what would happen to Red Lake a year later when BIA abandoned its contractual obligations to Red Lake. We received no funds in CY 2005. The BIA failed to request funding for the Tribe’s juvenile facility in the FY 2006 budget and provided no other assistance to the Tribe to obtain such funding.

The Tribe was shocked to learn of this breach of contract and breach of trust. The Tribe needs this facility to be opened and operated. It is intended to help us deal with a significant number of youth involved with drugs, alcohol, violence, and gangs. Many of these youth have been in and out of our tribal court system and are often released because they are too vulnerable or too young to be placed in the adult detention facility. The purpose of the Phase III juvenile facility is to house and rehabilitate these young offenders and turn their lives around before it is too late.

About the time we first learned of BIA’s failure to honor its commitments to the Tribe, the tragic events of March 21, 2005 unfolded, in which a troubled juvenile went on a shooting rampage at our Reservation high school, killing 10 people, including himself. After the tragedy of March 21, the Tribe reached out for assistance for its youth and received some aid, including the ultimate realization of a new Boys and Girls Club facility from non-BIA sources. But the Tribe still needs a juvenile detention facility to deal with troubled teens who currently are sent through a revolving door. These kids require an environment in which there is confinement and security, but at the same time one which enables continuation of their education and offers rehabilitative treatment. In the aftermath of the shootings, the Tribe declared that the BIA had breached its contractual obligations to the Tribe, and asked again that the BIA include the Tribe’s juvenile detention facility funding in the FY 2007 budget process. So what was BIA’s response to the Tribe’s request that BIA finally make good on its promises? The BIA pivoted and began arguing that the Tribe’s new juvenile detention facility was not a facility eligible for BIA funding. Considering that BIA participated every step of the way, from funding its design to certifying the facility for occupancy and furnishing it, this new position of the BIA was outrageous.

So where are we today? The Tribe sorely needs a juvenile detention facility. It has one, but it has been sitting empty for over three years now. DOJ did its job as part of the DOJ–BIA partnership and constructed the Red Lake Juvenile Jail. But BIA failed to do its job and fund the operation of our juvenile facility, forcing the Tribe to sue the BIA in federal court. In the meantime, for over three years now, troubled juveniles at Red Lake are devoid of the option for rehabilitation that the Tribe’s new juvenile detention facility was intended to provide.

Mr. Chairman and members of the Committee, this story is not a happy one, but I thank you for the opportunity to tell it to you today.

PREPARED STATEMENT OF HON. ELBRIDGE COOCHISE, INDEPENDENT COURT REVIEW TEAM

Our Team has spent the last three years traveling throughout Indian Country. We have reviewed approximately 37 Tribal Courts. We have, perhaps, more knowledge and experience than anyone else regarding Tribal Courts. We offer this knowledge and experience in our comments on this draft bill.

This is, without question, a good bill. There is much in here to be satisfied with. Thus, we have, with few exceptions, limited comments to proposed changes. We understand this is a Tribal wish list and that DOJ and Interior have not yet weighed