

**Tino Batt, Treasurer, Fort Hall Business Council, Shoshone-Bannock Tribes
House Interior Appropriations and Related Agencies Subcommittee (03/27/2012)**

The Shoshone-Bannock Tribes (Tribes) deeply appreciate the Committee's commitment to Indian country and its tremendous efforts to ensure that there is sufficient funding for critical programs and services at the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). We especially thank our Congressman, Rep. Mike Simpson, for being not only our champion in Congress but also a champion for all of Indian country.

My name is Tino Batt, and I serve as Treasurer of the Fort Hall Business Council, the governing body of the Shoshone-Bannock Tribes located on the Ft. Hall Indian Reservation in southeastern Idaho. My testimony focuses on the following areas of priority: (1) administrative designation and support of our Juvenile Detention Center as a regional juvenile detention center; (2) funding for educational and mental health care services at our Juvenile Detention Center; (3) funding to start a sixth grade program and to construct a dormitory for homeless children attending the Shoshone-Bannock High School, which is administered by the Bureau of Indian Education (BIE); (4) clean up of Superfund sites on the Reservation; and (5) a funding increase for road maintenance in BIA's Indian Reservation Roads Program (IRR).

Regional Juvenile Detention Center

The Treaty of Fort Bridger, federal laws, and dozens of Supreme Court decisions all acknowledge the significant legal responsibility of the U.S. to provide for public safety on Indian lands. Sadly, the U.S. has largely fallen short in keeping these solemn promises. Reservations nationwide suffer violence at more than 2.5 times the national rate. The Fort Hall Reservation faces many of the public safety challenges common to Indian country. Public Law 83-280 adds to the challenges facing our tribal justice officials. The State of Idaho has neglected the responsibilities for juvenile delinquency matters that it assumed, without tribal consent, under Public Law 280, leaving the needs of troubled youth on our Reservation unaddressed for far too long.

Faced with a condemned police and jail building and a 110-year old courthouse and after many years of unsuccessfully seeking federal and state funding assistance, we took the initiative and took out a loan to construct a state-of-the-art Tribal Justice Center to house all of our law enforcement services, including police services, tribal courts, and adult and juvenile detention. The Center has been operational for nearly two years now and has allowed us to provide dramatically improved law enforcement services for the Reservation.

The detention facility has 80 adult and 20 juvenile beds. The adult detention program has seen higher-than-expected use of bed space, with adult bed space use at capacity much of the time. Conversely, the juvenile facility has operated at substantially less than capacity since its opening in August of 2010. We have held a total of 281 juveniles in custody (including repeat offenders) at our Center since it opened. Their average age is between 12-17. The length of their disposition order ranges from 3 to 30 days, but the average stay is 7-14 days. The juveniles come from the Shoshone-Bannock Jr./Sr. High School, Blackfoot High, Hawthorne Jr. High, Pocatello High, Highland High, and Power County schools. Detention staff attribute the low juvenile inmate population to the facility serving as a deterrent to juvenile crime. However, many of the juvenile crimes are considered "status offenses," which are crimes committed by juveniles for

which they can not be detained. The Shoshone-Bannock Jr./Sr. High School does provide limited educational services to the juveniles only if they are enrolled in its school.

We designed the Tribal Justice Center with the intention of having our juvenile detention program serve as a leading model for a regional center concept. The Juvenile Center has sufficient bed space, and we have the support from nearby tribes – including the Goshute and Blackfeet Tribes – to house juvenile offenders adjudicated in their court systems. The concept for a regional approach was supported in the Interior Department’s June 2008 study titled “Master Plan for Justice Services in Indian Country.” This Report detailed the deplorable state of 34 specific BIA and tribally-operated jails. (The now condemned Fort Hall Detention Center was reviewed in this Report.) The authors of the Master Plan concluded that a regional corrections approach should be part of a comprehensive plan to address Indian country detention.

Congress, through enactment of the TLOA, approved of the regional detention concept. The Act broadened the authorization for the Department of Justice (DOJ) Tribal Jails program to specifically include funding for regional detention centers. P.L. 111-211, Section 244(b). ***We ask the Subcommittee to direct the Administration to designate and foster the development of the Shoshone-Bannock Juvenile Center as a regional juvenile detention facility.***

Juvenile Detention Education, Mental Health, and Rehabilitation Services

As noted above, while our Justice Center is operating successfully, we continue to face critical funding needs for juvenile education and mental health and substance abuse services in order to make our regional juvenile detention concept a reality. Juvenile detention must include education and substance abuse and mental health services programs to provide juveniles an opportunity to become productive citizens. A juvenile’s placement in a detention center is often his or her last opportunity at rehabilitation to prevent youth from falling through the cracks and becoming career criminals. As a result, they deserve our best efforts to rehabilitate them and open doors for a brighter future. Our Juvenile Center incorporates space for treatment and education components. However, funding for these essential services has lagged.

From 2008-2010, Congress held a number of hearings to examine the mental health needs of Indian country. Current funding levels account for one-third of tribal mental health needs. The rates of alcohol and substance abuse, depression, and other mental health issues among tribes are staggering. At 3.5 times the national rate, Indian youth have the highest rates of suicide among any population in the U.S. Congress, again through enactment of the TLOA, acknowledged the need to provide education and mental health services to Indian juveniles in custody. Section 241 of TLOA directs the Departments of Interior and Justice, in consultation with tribes, to develop a long-term plan for detention and alternatives to detention. As part of this plan, the BIE and IHS must coordinate with tribal and BIA juvenile detention centers to provide educational and health care services to those centers.

In past years, the BIA has denied requests from the Tribes to use BIA corrections funding to provide education, health, and mental health services to our juvenile population. There is no statutory barrier to using corrections funds for this reasonable purpose. Instead, the BIA is making an administrative decision that we believe is now overruled by Congress through enactment of the TLOA. ***We ask the Subcommittee to provide report language acknowledging***

Tribes can use BIA corrections funding for education, health, and mental health services to inmates and youth in custody at tribally operated detention centers. We also ask that the Committee direct the BIA, BIE and IHS to meet their statutory obligation to work with the Shoshone-Bannock Tribes to provide these essential services to juveniles at our Center.

In addition, the President's FY13 budget requests zero funding for educational services to youth in custody. The BIA's Juvenile Detention Education program provides educational resources for juveniles in 24 BIA funded detention facilities. In FY11, this program was funded at \$619,000 and then unfortunately zeroed out in FY12. ***We ask the Committee to provide adequate FY13 funding for this program and to include report language to streamline the funding mechanisms so that tribes can access these funds more easily.***

Funding for the Shoshone-Bannock High School

The Shoshone-Bannock Jr./Sr. High School (School), a tribally controlled school administered by the BIE, began as an alternate school in 1975 for Native youth struggling to succeed in area public schools. The School operated for more than 30 years in various buildings on the tribal campus before a school was built in 1995 just west of the site of the Fort Hall Boarding School, which operated on the reservation from 1880 to 1936. The mission of the School is to educate Native American students in their culture and to prepare them for a lifetime of learning and achievement.

The School is underfunded. The funding provided by the BIE under its Tribal Grant Support Costs (TGSC) program provides \$3,000 per full time student. This amounts to a funding level of less than \$1 million per year for the School, an inadequate amount to provide for a quality education. The TGSC provides critical funding to cover administrative and indirect costs of exercising local authority and exercising tribal self-determination in assuming the operation of a school. The FY13 budget requests \$48.253 million for TGSC. This funding level would meet only 65% of need. ***We ask that TGSC be funded to meet 100% of need.***

The Tribes added a sixth grade program to the School last year to enhance the academic success of our students. The sixth grade program was needed because the on-reservation elementary school only goes to fifth grade, which forces students to attend sixth grade at schools off the Reservation. This lack of consistency results in widespread variation in student education levels. Offering a sixth grade program will prevent these students from having to play catch up in their first semester as seventh graders, and will increase our graduation rates. The BIE cites FY95 and FY96 Interior appropriations riders to justify a moratorium on developing a sixth grade at the School. ***The Tribes request assistance in ensuring that TGSC funding can be used for the School's costs to expand to the sixth grade and that its sixth grade students can be included in BIE's annual funding formula for the School.***

The School also needs a student dormitory to address the high number of homeless students that the school serves. Based on our current data, the number of students who are homeless any given night is estimated to be between at least 8-10 children. Without a stable place to live, children have no hope at achieving a proper education, and many children in this position drop out of our School. The dorm would serve 50 students and 25 teachers / resident assistants. The dorm will afford homeless children attending the School stable housing and meals on campus, which will

decrease our drop-out rate and encourage improved study habits. *To address this significant need, we request \$11.3 million in funding to construct a 40,000 square foot student dormitory on the School campus.*

EPA Support to Clean Up Superfund Sites on Ft. Hall Reservation

There are more than 602 hazardous waste sites on or impacting Indian country with 55 EPA National Priority List (NPL) sites affecting 50 tribes. For more than 50 years, the health, environment, and safety of the residents of the Fort Hall Indian Reservation have been subjected to hazardous pollution caused by the FMC Corporation, which began phosphate mining operations on and near our Reservation lands in 1940. For decades, hazardous waste from the operation was stored or disposed of in unlined holding ponds with unknown damage and contamination done to the earth and ground water. In the late 1980s, the EPA detected arsenic, cadmium, and selenium in monitoring wells at the plant. Due to the complete disregard for the health and environment of our people, in 1990, the EPA listed the FMC site on the National Priority List as the Eastern Michaud Flats Superfund Site. FMC lined the ponds that held the hazardous waste, but it severely mismanaged the ponds, which caught fire on a number of occasions. FMC shut down operations in 2001 and dismantled the then-existing treatment system. The extent of the contamination is significant and longstanding. Decades of poison continue to pollute the air and seep into the groundwater west of Pocatello.

In recent years, we have seen the destruction of the hazardous pollution in action. Thousands of mammals and birds that have come into contact with the site have died. The site has also affected the Bottoms area, the sacred hunting grounds of the Shoshone-Bannock Tribes. The contamination of our groundwater remains a significant concern. All of this leads to the obvious concerns for the health of our people. *We respectfully request that the Committee urge the EPA to work us to actually clean up Eastern Michaud Flats, instead of just covering it up, which is what the EPA has proposed.*

Funding Increase for Road Maintenance under BIA Indian Reservation Roads Program

Although funding for IRR Program has increased considerably over the last decade, funding for the BIA Road Maintenance Program (Program) has remained stagnant for the last 30 years. The FY13 budget requests a \$235,000 cut for the Program to \$25.155 million. As tribes construct roads and bridges on our reservations with IRR Program “tribal shares,” these facilities are not enjoying their full useful life of 20+ years due to inadequate routine and preventive maintenance. This lack of funding is also a public safety issue that contributes to the unacceptable levels of highway fatalities and serious injuries among Native Americans, well above the national average. In 1992, Congress made a one-time appropriation of \$41 million for the BIA Road Maintenance Program for the purchase of new equipment to replace antiquated equipment that tribes and BIA Regions were using for routine and emergency road maintenance needs. Funding for the program the following year then dropped \$14 million to \$27 million, where it has essentially remained for the last two decades. *If there cannot be a sustained funding increase, then we request at least a one-time appropriation of \$50 million for the purchase of heavy equipment and supplies, materials and fuel to address the growing deferred road maintenance needs throughout Indian country.*