

Testimony of Hopi Chairman Timothy Nuvangyaoma
U.S. House of Representatives
Committee on Natural Resources
Subcommittee on Indigenous Peoples of the United States
Hearing on Examining Federal Facilities in Indian Country
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Introduction

Greetings Chairwoman Leger Fernandez, Ranking Member Young, and Honorable Members of the Subcommittee on Indigenous Peoples of the United States. My name is Timothy Nuvangyaoma and I have the honor of serving as Chairman of the Hopi Tribe. Thank you for the opportunity to testify at today's hearing on "Examining Federal Facilities in Indian Country." My testimony will focus on our struggles to obtain a detention center and our efforts to improve our education system's infrastructure.

The Hopi Reservation is located in the Northeast corner of Arizona and is approximately 2.5 acres in size. The Tribe has over 14,000 enrolled tribal citizens, over half of whom reside in one of the Reservation's 12 villages. Unfortunately, the residents of the Reservation suffer from a 60% unemployment rate due, in large part, to the lack of economic development opportunities caused by the remote and landlocked nature of the Reservation. The Hopi Reservation is the only reservation in the United States to be completely surrounded by another reservation. This makes it even harder to access markets and opportunities outside of the reservation.

Hopi Detention Center Overview

The now condemned Hopi Detention Center ("HDC") of Keams Canyon Agency had been in a constant state of decline for decades. The HDC facility was originally built in 1981 as a treatment center that was not intended for incarceration. The building was eventually converted and repurposed into a detention center. The fact that the facility was not constructed as a detention center led to a host of issues over the course of decades.

Closure of Juvenile Correction Section of HDC

The Bureau of Indian Affairs ("BIA") has known for over 15 years that there were serious issues with the HDC. In 2004, the Department of the Interior's Office of the Inspector General ("OIG") conducted a health and safety inspection of the HDC, which resulted in the immediate closure of the juvenile correctional component of the facility. Up until that time, BIA corrections held minors with adults in joint spaces. As you can certainly understand, such a practice is problematic and incredibly dangerous to minors.

HTC Resolution Establishing HDC Steering Committee

In response to the actions taken by the OIG, the Hopi Tribal Council authorized Tribal Resolution H-042-2005, which established the Hopi Detention Facility Steering Committee ("Committee") in 2005. The Committee was directed to pursue the planning, design, and

construction of a new Hopi detention facility on the Hopi Reservation. The Tribe allocated \$1 million to the Committee to fulfill its mission and the Committee ultimately developed plans for a permanent facility. However, at the time there were no federal funds available to carry out the project.

Declining Conditions at HDC

Despite knowledge of the issues at HDC, it remained in operation and was being used to incarcerate inmates who had either been sentenced to 30 days or less or who were awaiting hearings in the Hopi Tribal Courts. Additional inspections of the HDC between 2013-2015 led to portions of the building being deemed unsafe and uninhabitable. Inmates who had been formally sentenced to more than 30 days of incarceration were transported to other facilities. The BIA contracted bed space at Navajo County Jail, in Holbrook, Arizona; Coconino County Jail, in Flagstaff, Arizona; Arizona State Prison Complex, in San Luis, Arizona; and Chief Ignacio Adult Detention Facility, in Towaoc, Colorado.

BIA-OJS Visit 2015/ Discussion Regarding Temporary Facility

In February 2015, the Director of Bureau of Indian Affairs- Office of Justice Services, met with Hopi tribal leaders to discuss the building of a new detention facility. BIA-OJS recognized that there was a need for a new facility and had indicated plans for a transition from the old facility to a temporary facility while the new facility was constructed. Further discussions were held regarding the temporary facility, which was to include two components to cover the needs of the correctional and administrative staffs. The temporary facility would also allow for the detainment of individuals for up to eight hours.

HDC Closure

In October 2016, the BIA formally condemned and closed the HDC without properly consulting with the Chairman's office or the Hopi Tribal Council. The closure, which was due to structural issues, caused all inmates and personnel to be immediately evacuated from the HDC. Any new arrestees were to be booked and transported to Navajo County Jail within one hour of booking. Further, a change of orders was issued from BIA-OJS Hopi Agency instructing all officers that they would have to conduct the transport related to any arrests made. This instruction was also given to the Hopi Resource Enforcement Services (HRES) officers, who act as a secondary law enforcement agency when services are requested by BIA-OJS.

Hopi Declares State of Emergency

Following the BIA's abrupt condemnation and closure of the HDC, the Hopi Tribe declared a state of emergency (Hopi Tribe Executive Order #03-2016) in December 2016. The closure caused a great strain on law enforcement's ability to respond to public safety issues, leaving tribal citizens and reservation residents vulnerable. Law enforcement was having to transport prisoners to jails 80 miles away, officers were instructed to conduct "cite and release" for many minor crimes, and criminals were emboldened by the fact that there was little chance of being incarcerated.

Pursuit of a Permanent Detention Facility

The Tribe immediately began engaging the BIA headquarters and our Congressional delegation with a great sense of urgency after the condemnation. The BIA assured the Hopi Tribal Council that it was contracting for temporary wheeled units to immediately address the situation. However, the timeline for execution of the contracts and delivery of the temporary units was continuously delayed. We held additional meetings with the BIA in January and February 2017 but made no progress.

In March 2017, a Hopi delegation traveled to Washington, D.C. to discuss the situation directly with the Acting Assistant Secretary—Indian Affairs. The delegation also met with numerous offices in the House and Senate, as well as the White House Office of Management and Budget. Alarmed by the situation with the HDC, the House Subcommittee on Indian, Insular, and Alaska Native Affairs invited the former Hopi Chairman to testify before the Subcommittee.

Meanwhile, the situation with the HDC continued to deteriorate. In May 2017, the BIA-OJS Phoenix sent the Hopi Chief of Police a letter to discuss the use of contract bed space at non-BIA correctional facilities such as the ones the BIA contracts with to house Hopi inmates. The letter stated that “in the coming month, we are expecting a significant cut to our budget [and] due to these cuts, we will be closely monitoring the usage of these contracts.” The letter then reduced the allocation of bed spaces to hold prisoners. At the same time, the BIA sent the Tribe’s prosecutor a draft motion to commute sentences of prisoners.

In June 2017, the Tribe had a call with former Acting Interior Deputy Secretary James Cason and demanded action and firm commitments. The call resulted in assurances from the BIA, including: HDC would be the number one construction priority for BIA/OJS; BIA would not reduce its contracted bed space; BIA confirmed that contracts for two temporary modular units had been approved; and BIA agreed to pursue a \$5 million reprogramming request to build the permanent HDC replacement facility. In addition, the BIA apologized for the draft commutation memorandum, stating that it was sent in error.

In July 2017, the Department of the Interior (“Department”) sent letters to the leaders of the House and Senate Interior Appropriations Subcommittees, which noted that the HDC closure “has resulted in a negative impact on public safety at Hopi.” Further, the Department notified the subcommittees of its proposal to reprogram \$5 million within Indian Affairs’ Public Safety & Justice Construction Appropriation to address the “emergency situation” by allowing for the construction of a detention facility to replace the condemned building. The Department estimated that the reprogrammed funds would cover 100 percent of the replacement costs. “Once initiated, project completion could be accomplished within seven to nine months,” the letter stated.

In August 2017, the Tribe received confirmation that the \$5 million reprogramming request had been approved. The Tribe sent letters to the House and Senate Interior Appropriations Subcommittees thanking them for approving the reprogramming request. Our letters noted that the BIA estimated that it would take nine months to a year for the new detention center to be constructed and operational. That same month, the Department’s Division of Facilities

Management & Construction (DFMC), Indian Affairs requested to consult with the Tribe on the construction of the new Detention Center.

Status of HDC & Tribal Efforts

Nearly four years later, there is no broken ground, only broken promises. This is the fourth time I have testified before Congress regarding the Hopi Detention Center, and the previous Hopi Chairman also testified before Congress on the HDC. We have written letters to the Interior Department; our Congressional Delegation has written letters to the Interior Department. We have had numerous meetings with Interior officials; our Congressional Delegation has had meetings with Interior officials. We have had the BIA/OJS Director visit the HDC and the inadequate temporary units. In response to all these actions, all we ever received were excuses. We are tired of the excuses; we need the Hopi Detention Center constructed and operational.

Latest Update from DFMC

The most recent update from the DFMC is that the deadline for contractors to bid on the project has been pushed back from the spring and is now July 12, 2021. The proposals will then be reviewed over the course of several weeks and then a contractor will be selected. Subsequently, the contractor will work to complete 100 percent of the design phase. All in all, it was indicated that a shovel may enter the ground in February 2022. The most promising news from our last conversation was that additional funding for the Hopi Detention Center has been set aside solely for the purposes of the project.

Recommendations on HDC & DFMC

To say that the Hopi people are frustrated with the delays on this project is a major understatement. We urge the Subcommittee to continue to conduct oversight to ensure that the BIA completes the Hopi Detention Center as quickly as possible. We also need someone at the Interior Department to take responsibility. According to the Office of the Assistant Secretary—Indian Affairs organizational chart, the DFMC falls under the authority of the Deputy Assistant Secretary—Indian Affairs (Management). If this is the case, this official has yet to play a role with the Hopi Detention Center project. This needs to change.

Poor Conditions at Hopi Schools

The Hopi Tribe is also dealing with significant health and safety issues at several Hopi schools. The Hopi Day School (HDS) is over 100 years old, with most of the building made from logs. As you can imagine, there are significant structural issues that require constant upkeep and repairs. Further, the HDS does not have an adequate HVAC system. Despite the poor condition of the HDS, it is not on the BIA's school construction priority list.

The Keams Canyon Elementary School (KCES), which was built in 1935, has major health and safety concerns, including: cracked walls, a leaking roof, and retention walls that need major repairs. There are also water quality concerns at the KCES due to high arsenic concentrations. The KCES has been on the BIA's school replacement priority list since 2004.

The Moencopi Day School (MDS) and Hotevilla Bacavi Community School (HBCS) are each over 50 years old. The schools rely heavily on the use of portable modular buildings due to safety concerns in the original structures of the schools. MDS is currently on the BIA's priority list, while HBCS is being considered for the BIA's school replacement list.

The Hopi Tribe calls on Congress to increase funding to school construction in order to meet the needs of growing tribal student populations across Indian Country. Hopi students should not have to suffer taking classes in a 100-year-old log structure. Hopi students deserve the same access to quality educational environments as every other American.

Conclusion

In closing, I would like to again thank you on behalf of the Hopi Tribe for the opportunity to testify at today's hearing. Until the permanent detention center is completed, public safety concerns on the Hopi Reservation will remain. Further, until Hopi children can learn in a safe, modern-day environment, they will continue to face challenges no child should have to confront. The Tribe thanks the Subcommittee for its attention to the need to improve federal facilities in Indian Country and urges the Subcommittee to continue working to address these issues.