

CHILD PROTECTION AND THE JUSTICE SYSTEM ON THE SPIRIT LAKE INDIAN RES- ERVATION

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AND
ALASKA NATIVE AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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OVERSIGHT HEARING ON CHILD PROTECTION AND THE JUSTICE SYSTEM ON THE SPIRIT LAKE INDIAN RESERVATION

Tuesday, June 24, 2014

U.S. House of Representatives

Subcommittee on Indian and Alaska Native Affairs

Committee on Natural Resources

Washington, DC

The subcommittee met, pursuant to notice, at 2:50 p.m., in room 1334, Longworth House Office Building, Hon. Don Young [Chairman of the Subcommittee] presiding.

Present: Representatives Young, Cramer, LaMalfa; and Cárdenas.

Mr. YOUNG. Subcommittee will come to order. Chairman notes the presence of a quorum. The Subcommittee on Indian and Alaska Native Affairs is meeting today to hear testimony on the child protection and justice system on the Spirit Lake Indian Reservation.

Under Committee Rule 4(f), opening statements will be limited to the Chairman and Ranking Member of the subcommittee so we may hear from the witnesses. However, I ask unanimous consent to include any other Member's opening statement in the hearing record, if submitted to the clerk by the close of the business today.

[No response.]

Mr. YOUNG. Hearing no objections, so ordered.

STATEMENT OF THE HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. The subcommittee scheduled this hearing at the request of our colleague, Mr. Cramer of North Dakota, because of the alarming child abuse and neglect problems that have plagued the Spirit Lake Sioux Reservation. Because this hearing concerns his constituents, I would like to defer the remainder of my time, after I read my statement, the opening statement, to Mr. Cramer, after I briefly note my grave concern about the state of child health, safety, and protection on the reservation.

In my review of records Federal agencies provided to committee staff, it does not appear that Federal officials and tribal law enforcement have given allocations of abuse and neglect of Spirit Lake Indian children the kind of timely and serious attention that were clearly warranted. It took two Federal whistleblowers, one of whom the Obama administration attempted to punish, to flag these crimes for the media before the media agencies dedicated the necessary resources and personnel to respond.

I do note there has been a change in the tribe's leadership, and that Chairman McDonald is trying to right the ship. In his statement, Chairman McDonald states, "The time for placing blame on

the tribe has passed. We are not the same reservation we were in 2012. We have a plan. Now we need the means to make it happen.”

I commend the Chairman for his forward thinking. The change in leadership may not serve as an excuse to ignore the solemn obligation of the Federal and tribal governments to serve justice to those who harm and pose a threat to the children. And this is one thing I am very passionate about emphasizing. This is about the children.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF THE HON. DON YOUNG, CHAIRMAN, SUBCOMMITTEE ON
INDIAN AND ALASKA NATIVE AFFAIRS

The subcommittee scheduled this hearing at the request of our colleague, Mr. Cramer of North Dakota, because of the alarming child abuse and neglect problems that have plagued the Spirit Lake Sioux Reservation. Because this hearing concerns his constituents, I'd like to defer the remainder of my time for an opening statement to Mr. Cramer after I briefly note my grave concern about the state of child health, safety, and protection on this Reservation.

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I do note there has been a change in the tribe's leadership and that Chairman McDonald is trying to right the ship. In his statement, Chairman McDonald states, “The time for placing blame on the tribe has passed. We are not the same reservation that we were in 2012. We have a plan. Now we need to means to make it happen.”

I commend the Chairman for his forward-thinking. But I would respectfully observe that we cannot forget the recent past. There must be justice served on those who harmed or posed a threat to children.

I now yield to the Gentleman from North Dakota, Mr. Cramer.

Mr. YOUNG. And I now yield the remaining of my time to Mr. Cramer, and he may consume.

STATEMENT OF THE HON. KEVIN CRAMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. CRAMER. Thank you, Chairman Young, Ranking Member Cárdenas, and distinguished members of the Indian and Alaska Native Affairs Subcommittee. Welcome to this subcommittee oversight hearing, “Child Protection and the Justice System on the Spirit Lake Indian Reservation,” and thank you to all of the witnesses that are here today.

Today is the fulfillment of my promise to have a public hearing regarding the Bureau of Indian Affairs responsibility over the Spirit Lake tribal social services program. Since the BIA also has final accountability over the law enforcement system, I believe this is an excellent opportunity to be informed of the status of their efforts.

To provide a brief background, in April 2012 a whistleblower by the name of Dr. Michael Tilus, Director of Behavioral Health at the Spirit Lake Health Center, reported an “epidemic” of child abuse within the Spirit Lake Indian Reservation, at the same time indicating a loss of confidence in tribal leadership and their ability to

protect vulnerable children. In his report he cited numerous cases of negligence by Spirit Lake Tribal Social Services. The only formal recognition of Dr. Tilus's report was a reprimand by his superiors.

Although this formal report was later rescinded, Dr. Tilus was transferred off the Spirit Lake Reservation, and is now stationed in Montana. Although in my opinion, his presence here today would provide invaluable insights, his supervisors declined to honor his invitation.

Thomas Sullivan, a colleague of Ms. Chang, from the Administration for Children and Families, published from June 2012 until late March 2013 13 mandated reports detailing almost 100 incidents of abuse and professional misconduct by the BIA and Spirit Lake Tribal Social Services. As with Dr. Tilus, Mr. Sullivan's presence was also requested here today, but denied.

Although neither Dr. Tilus or Mr. Sullivan ever received recognition by their superiors, they did receive validation on October 2012 in the form of the Spirit Lake Nation's voluntary retrocession of their 628 authority to administer social services programs on the reservation, making the Bureau of Indian Affairs not only the primary law enforcement authority on the Spirit Lake Reservation, but for Child Social Services as well.

Unfortunately, there continue to be repeated reports of abuse and deaths on the reservation. It is my understanding the BIA knew since spring of 2012 that Spirit Lake Tribal Social Services was failing to safeguard the health and safety of Indian children, yet waited until the fall of 2012 before officially taking over their program. There are numerous reports in that timeframe of dead or injured children as a result of abuse. It would be unfortunate if the protection of those children was secondary to other motivations.

I expect the committee to be briefed on BIA's almost 2-year process of improving the welfare of my constituents, most importantly the children of Spirit Lake. I agree with the Chairman—it is about the children.

We should also be apprised of the BIA's exit strategy in regard to social services, and what is the standard they hope to achieve on Spirit Lake before the tribe can again take over these responsibilities.

Additionally, what, if anything, is the BIA doing to address the repeated allegations of a lack of accountability for the child welfare and law enforcement services provided to the citizens? Our hearings, like today, are public. All of our votes are public. My duty carries with it a requirement to respond to media and constituents to take account for my decisions. Yet, I continuously hear complaints by media attempting to cover Spirit Lake of an utter lack of accountability to produce information.

As early as last year, a local television reporter covering Spirit Lake was assaulted with a BIA officer nearby providing no support to the victim.

We are honored to have here today Chairman Russ McDonald of the Spirit Lake Nation. During the last year I have appreciated working with Chairman McDonald after he took office. I hope today's hearing will assist the Chairman and the Spirit Lake Nation in addressing the many challenges associated with this important issue.

We also have here today former Judge Molly McDonald. Judge McDonald served 2 years on the Spirit Lake tribal court, overseeing not only the criminal docket, but social services as well. Her prior experience with the judicial system, not only tribal but the U.S. Federal court system as well, during her tenure as a probation agent, will provide this subcommittee with concrete facts and objectives in order to facilitate not just protection for the children of Spirit Lake, but justice for past victims.

I am hopeful today's hearing will put a bright-enough spotlight on the situation in Spirit Lake to bring about the meaningful and urgent actions we owe these children.

With that, I yield back the remainder of my time. Thank you, Mr. Chairman.

Mr. YOUNG. Mr. Cárdenas.

STATEMENT OF THE HON. TONY CÁRDENAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CÁRDENAS. Thank you, Mr. Chairman, Chairman Young. I would also like to start by thanking our witnesses. I want to thank you so much for taking time out of your schedule to bring forth your knowledge and experience, so that we can better understand this issue.

Today's hearing is about an important topic: child abuse. Child abuse is wrong, period. And, as a society, we must ensure our young ones are protected at all times.

In 2012, reports began to surface, alleging that child abuse was rampant on the Spirit Lake Reservation in North Dakota. These stories were covered by national press outlets and led to Federal investigations into the situation on that reservation.

At today's hearing I am looking forward to hearing testimony from our Federal agencies dealing with this crisis to see what they are doing to remedy the situation and to ensure Spirit Lake children are protected.

As tough as an issue as this is, anyone who would use the tragedy of the Spirit Lake situation for political gain, or who would use it to make the case that tribes cannot manage their own affairs, or should not be respected as sovereigns, is seriously misguided. No one cares more for Native American children more than their tribes and their Indian families.

Let us not forget that for over a century the United States and the States actively sought to kidnap Indian children in order to civilize them. In 1978, Congress repudiated these practices by enacting the Indian Child Welfare Act, which recognized the fact that Indian communities, while culturally distinct from mainstream society, are more capable of providing for their young than anyone else.

The committee is holding this hearing at the request of my colleague, Congressman Cramer, and he has said that legislation may be needed to deal with this issue. I agree with Congressman Cramer. Legislation is certainly needed to deal with various issues in Indian Country. But when we discuss legislation that would affect tribes, we have to be careful to get our facts straight.

First, tribes are inherently sovereign. This is a fact that was recognized by our founding fathers, and that is enshrined in the U.S.

Constitution. The United States did not grant sovereignty to tribes; it recognized it. So, when we craft legislation aimed at aiding tribes, we have to do it from that standpoint. Any measures which would erode a tribe's sovereignty are an anathema to established Federal Indian policy.

Second, social ills run rampant in impoverished communities, and are not confined to communities of color or Indian reservations. Let us not forget that communities all across the United States deal with similar problems. I am concerned because some fringe groups are using the situation in Spirit Lake to make the case that tribes cannot manage their own affairs, and that tribal communities are not fit to raise their own children. Capitalizing on this crisis is sickening. And, as elected leaders, we have a duty to make policy based on sound research and congressional precedent, not on the attenuated claims of fringe elements.

We also must concede that violence against women and violence against children is inextricably linked. That is why I am puzzled that the same Members of Congress that fought so hard against provisions in the Violence Against Women Act that would enable tribes to protect their own communities are now turning their attention to Indian child welfare.

Progress is being made on the Spirit Lake Reservation. Back in October of 2012, the tribe made the decision to retrocede child protection services to the BIA. New tribal leadership took the helm last fall, and in February a new social services director was appointed. Both are here with us today, and the tribe is using the lessons of the past to work with the State and Federal partners to chart a positive course forward to protect the children of Spirit Lake. DoJ and BIA police have stepped up their commitment to arrest and prosecute individuals who harm kids at Spirit Lake. The perpetrators involved in the 2011 and 2013 child deaths are both behind bars.

Of course, challenges remain. Both the tribe and the BIA continue to face barriers to recruit and retain qualified staff, due to the reservation's remoteness, poor housing options, and bad publicity. Tight Federal budgets and a maze of jurisdictions and bureaucracy complicate this process, and many community members are skeptical, and continue to fear that kids are not as safe as they should be. Federal, State, and tribal officials all must take responsibility and work together.

I appreciate the recent collaboration between everyone, and look forward to hearing your efforts to build a high-quality foster care system at Spirit Lake. I am also interested to learn what has been done to overcome the biggest barriers to your work, and what Congress can do to remove some of those barriers.

I yield back. Thank you, Mr. Chairman.

Mr. YOUNG. I thank the gentleman for the gentleman's information.

I did vote for the provisions for Violence Against Women. I want you to know that. I wasn't one of those that didn't vote for it, and worked hard to make sure they were included.

The first panel is Michael Black, Director of Bureau of Indian Affairs. Michael, welcome back. He is accompanied by Darren

Cruzan, Director of BIA Office of Justice Services and the Staff of Office of Indian Services.

We also welcome Joo Yeun Chang, Associate Commissioner, Administration for Children and Families, Department of Health and Human Services.

Thank you, you may be seated. I think you all know the rules, how this is going to work. You have 5 minutes. If you are doing something really good, I may let you go a little longer. If not, I will shut you down. And then, when you get done, we will have the full panel, and there will be questions.

I will probably have to leave and come back and leave and come back. We have another hearing at the other end of the hall that I have to be at for questions too. But Mr. Cramer will chair the meeting when I am not here.

And, with that, I believe we will have Mr. Michael Black, Director of the Indian Affairs, to proceed with his testimony.

STATEMENT OF MICHAEL S. BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DARREN CRUZAN, DIRECTOR, BIA OFFICE OF JUSTICE SERVICES

Mr. BLACK. Good afternoon, Chairman Young, Ranking Member, and members of the subcommittee. Thank you for the opportunity—

Mr. YOUNG. Make sure you use the microphones, guys. Just that little button in front. I forget it, too.

Mr. BLACK. All right. Well, again, good afternoon, Chairman Young, Ranking Member, and members of the subcommittee. Thank you for the opportunity to present testimony for the Department of the Interior on child protection and the justice system on the Spirit Lake Indian Reservation.

It is important to focus on Spirit Lake at this time, because it is an example of the serious challenges that many Indian reservations are facing. Throughout the country, protection of children is a top priority for Federal, State, tribal, and local governments. In a time of limited resources, however, challenges remain in Indian Country and in many States.

Sequestration inflicted additional challenges on Indian Country in 2013, cutting over \$6.2 million from BIA human services, and \$17 million from BIA public safety and justice. Sequestration cuts for social services alone were equivalent to eliminating 15 social service workers of tribal and BIA-operated programs. The 2014 budget passed by Congress restores many of these cuts inflicted by sequestration, but resources remain constrained, making it difficult to meet all of our needs in Indian Country.

For that reason, the President's 2015 budget includes critical increases for both BIA human services and law enforcement to support families and communities. The 2015 budget proposes the Tiwahe Initiative, with an increase of \$11.6 million in social services and job training programs to address inter-related problems of child and family welfare, poverty, violence, and substance abuse in tribal communities. Tiwahe is the Lakota word for family. Through this initiative, social services and job training programs will be integrated and expanded to provide culturally appropriate programs

to assist and empower families and individuals through economic opportunity, health promotion, family stability, and strengthened communities.

Funding the Tiwahe Initiative is vital to addressing the significant challenges faced by children on Spirit Lake Reservation and Indian Country as a whole. We urge Congress to take this request seriously.

The Spirit Lake Indian Tribe faces significant challenges in restoring a stable and well-functioning social services program. The BIA stands shoulder-to-shoulder with the tribe, as it attempts to meet these significant challenges.

To the tribe's credit, the leadership at Spirit Lake has been aggressive in seeking guidance, and reforming its programs. It has, for example, sought assistance from the Casey Family Programs, ACF, and the BIA, in order to reform and improve all facets of their social services programs, from foster care to tribal courts. In seeking improvements, the tribal leadership has not shied away from scrutiny.

In addition to formal or informal program reviews, and support by Casey Family Programs and ACF in recent weeks and months, the tribe has obtained an extensive on-the-ground review of its policing programs by the BIA Office of Justice Services, and it has also undergone an extensive tribal court assessment in the last several months. It is also working with BIA to prioritize specific needs for training and technical assistance for all court personnel.

Though addressing a systemic restructuring of the programs will take time, the leadership at Spirit Lake has embraced the need for improvements, and has sought assistance in many corners. Such efforts provide confidence that the tribe is a good partner, and that there is a strong will to address the problems at the tribal level.

Since October 1, 2012, the BIA has had responsibility for the social services programs previously contracted by the tribe. The tribe continues to operate a title IV-E program funded by ACF through the State of North Dakota with a Tribe-State agreement for foster care placements. The BIA foster care program actively works to transfer children to services under the tribe's 4E program, provided the children meet the criteria for the program.

Hiring permanent staff at Spirit Lake has proven to be a challenge for BIA for several reasons. Similar to many States across the country, both our BIA programs in this region and in the State of North Dakota reported a shortage of qualified social worker applicants. We have seen this repeatedly in hiring certifications with no applicants at all, or unsuitable applicants. We have increased our efforts at Spirit Lake by offering bonuses and expanded outreach to non-Indian candidates. Yet, despite these efforts, we have experienced instances where the best candidate was selected, only to have the individual later withdraw or fail to satisfy the background check.

Another challenge has been the lack of available housing in the area. And, finally, unsubstantiated allegations of publicity regarding the Spirit Lake Reservation, even with significant improvements that have been made since retrocession, has significantly hindered permanent hiring.

As a result, the BIA continues to detail staff to cover the advertised positions at Spirit Lake. And given all the factors noted above, the Department is also pursuing contracting options to provide longer-term stability until the program can be permanently staffed.

Thank you again for the opportunity to testify on the issue of child protection and the justice system on Spirit Lake Indian Reservation. The Department is committed to doing its part to ensure the safety and protection of the children of Spirit Lake and at other reservations throughout the country. I would be glad to answer any questions the subcommittee may have. Thank you.

[The prepared statement of Mr. Black follows:]

PREPARED STATEMENT OF MICHAEL S. BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Chairman Young, Ranking Member Hanabusa, and members of the subcommittee, my name is Michael Black and I am the Director of the Bureau of Indian Affairs (BIA). Thank you for the opportunity to present testimony for the Department of the Interior (Department) on "Child Protection and the Justice System on the Spirit Lake Indian Reservation."

It is important to focus on Spirit Lake because it is an example of the serious challenges that many Indian reservations are facing. Throughout the country, protection of children is a top priority for Federal, State, tribal, and local governments. In a time of limited resources, however, challenges remain in Indian country and in many States. Sequestration inflicted additional challenges on Indian country in FY2013—cutting over \$6.2 million from BIA Human Services and \$17 million from BIA Public Safety and Justice. Sequestration cuts for social services alone were the equivalent of eliminating 15 social services workers at tribal and BIA operated programs. As sequestration took back millions of dollars from these areas, the Spirit Lake Tribe retroceded social services to the BIA.

The Fiscal Year 2014 Budget passed by Congress restores many of the cuts inflicted by sequestration, with BIA Human Services funding at Fiscal Year 2012 levels and BIA Public Safety and Justice receiving an increase of \$3.7 million over Fiscal Year 2012 levels. Despite restoring some of those cuts, resources remain constrained, making it difficult to meet all of our needs in Indian country.

For that reason, the President's Fiscal Year 2015 Budget includes critical increases for both BIA Human Services and BIA Public Safety and Justice. To support Native American families and communities, the 2015 budget proposes the Tiwahe Initiative, with an increase of \$11.6 million in social services and job training programs to address the interrelated problems of child and family welfare, poverty, violence, and substance abuse in tribal communities. Tiwahe is the Lakota word for "family." Through this initiative, social services and job training programs will be integrated and expanded to provide culturally appropriate programs to assist and empower families and individuals through economic opportunity, health promotion, family stability, and strengthened communities. Funding the Tiwahe Initiative is vital to addressing the significant challenges faced by children on the Spirit Lake Reservation and elsewhere in Indian country. We urge Congress to take this request seriously.

To promote public safety and tribal community resilience, the 2015 budget request also includes resources to build on BIA Law Enforcement's recent successes in reducing violent crime. A pilot program will be implemented to lower repeat incarceration rates in tribally operated jails on three reservations—Red Lake in Minnesota, Ute Mountain in Colorado and Duck Valley in Nevada—with a new Priority Goal to lower repeat incarcerations by a total of 3 percent by September 30, 2015. The Alternatives to Incarceration Strategy will seek to address underlying causes of repeat offenses, such as substance abuse and lack of adequate access to social service support, through intergovernmental and interagency partnerships. The critical needs of Indian country are evident both at Spirit Lake and elsewhere. The Department calls upon this committee to fully support the President's Budget on these critical issues so that tribal communities have the necessary tools to protect Indian children.

SIGNIFICANT EFFORTS TO SUPPORT IMPROVEMENTS AT SPIRIT LAKE

The Spirit Lake Indian Tribe (Tribe) faces significant challenges in restoring a stable and well-functioning social services program. The BIA stands shoulder-to-shoulder with the Tribe as it attempts to meet these significant challenges. To the Tribe's credit, the leadership at Spirit Lake has been aggressive in seeking guidance in reforming its programs. For example, it has sought assistance from Casey Family Programs and the Administration for Children and Families (ACF) at the Department of Health and Human Services (HHS).

In seeking improvements, the tribal leadership has not shied away from scrutiny. In addition to formal or informal program reviews and support by Casey Family Programs and ACF in recent weeks and months, the Tribe has obtained an extensive on-the-ground review of its policing programs by the BIA Office of Justice Services (BIA OJS). It has also undergone an extensive BIA tribal court assessment in the last several months, and is working with the BIA OJS, Division of Tribal Justice Support, to prioritize specific needs for training and technical assistance for all court personnel.

Though addressing programmatic challenges will take time, the leadership at Spirit Lake has embraced the need for improvements and has sought assistance in many corners. Such effort provides confidence that the Tribe is a good partner and that there is a strong will to address the problems at the tribal level.

BACKGROUND OF SPIRIT LAKE SOCIAL SERVICES PROGRAM

Prior to October 1, 2012, the Spirit Lake Sioux Tribe operated the Social Services programs under a P.L. 93-638 contract with the Federal Government. Beginning in August of 2011, the Tribe operated the programs under a Corrective Action Plan (CAP), which required the Tribe to address activities that were identified in its yearly contract review as required under the P.L. 93-638 contracting requirements. Leading up to October 1, 2012, the Tribe had a year to complete the CAP in order to maintain operation of the Social Services programs under its P.L. 93-638 contract. The BIA monitored the Tribe's Social Services programs and provided it with technical assistance to assist the Tribe with maintaining these programs. Despite these efforts, tribal social services continued to experience areas of poor performance. With likely incompleteness of the CAP, the Tribe chose to retrocede those P.L. 93-638 contracted Social Services programs to BIA. The Tribe retained operation of the 477, Welfare Assistance, and ICWA programs.

Since October 1, 2012, the BIA has had responsibility for the Social Services programs once contracted by the Tribe. The Tribe also operates a Title IV-E program funded by ACF through the State of North Dakota with a tribal-State agreement for foster care placements. The children placed under the IV-E North Dakota State agreement are not subject to BIA supervision since care, control, and custody lie with the Tribe and the Tribe is responsible for oversight on those foster care placements. The BIA foster care program actively works to transfer children to services under the Tribe's IV-E agreement with the State of North Dakota, provided the children meet the criteria for the Tribe's IV-E program.

As of June 11, 2014, there are 26 children in foster homes, 63 children in relative care, and 8 in other placements, such as group homes, treatment, etc. It is important to note that there are a total of 97 children that are in the care, control, and custody of the BIA. Regardless of the nature of the placements, the BIA Social Services Program works closely with the Tribe and its Tribal Court to ensure care and custody of the children is properly addressed in every case.

Immediately after the retrocession on October 1, 2012, the BIA Social Services Program took the following actions:

- Detailed 12 Social Workers to the Tribe to assist at different periods of the transition during the first 30 days of operation after retrocession.
- Established a new office, including work space for staff, set up for computers, telephone lines, phones, fax machines, and on-call cell phones.
- Advertised six positions for the BIA Social Services program.
- Collaborated with the Spirit Lake Sioux Tribal Court to establish care and control of children in custody, identify the children in placement, and obtain court records.
- Partnered with the Tribe to develop a protocol for Title IV-E and IV-B (Family Preservation) to assist with establishing an agreement between the two programs regarding transferring of cases.
- Inventoried stored case files to determine files needing to be archived and files related to active cases.

- Collaborated with the Federal Bureau of Investigation, Red River Advocacy Center, and BIA OJS to complete forensic interviews.
- Attended meetings with the Spirit Lake Tribal Council in order to network services.
- Worked with the Department of Justice to complete fingerprinting for children, aged 14 and older, that the BIA would have care and control over and all adults living in the home with them.

The continuing work of the BIA Social Services Program includes:

- Providing child protection, child welfare assistance, case management, emergency assistance, burial assistance, and family and community services, as well as supervising Individual Indian Money (IIM) accounts;
- Receiving, reviewing, and investigating reports of alleged child abuse and/or neglect;
- Maintaining and managing current and active case files for 97 children, as well as coordinating services for children and families, making referrals, conducting permanency planning, and supervising visits;
- Participating in child protection and multi-disciplinary teams and hosting team meetings to review on a regular basis child abuse and neglect cases;
- Hiring two additional in-house social services personnel and working to recruit and hire four more; and
- Rotating 19 social workers from other BIA agencies to the Fort Totten Agency at various intervals since October 1, 2012, to provide support and expertise during the tribal program's transition to BIA management.

The continuing work of the BIA OJS includes:

- Working with the BIA Fort Totten Agency and Federal law enforcement (U.S. Attorney's Office and Federal Bureau of Investigations in North Dakota) on child safety and protection at Spirit Lake;
- Training BIA social services staff in the use of mobile fingerprinting units and assisting with the fingerprinting of foster parents;
- Investigating allegations of child abuse and neglect at Spirit Lake;
- Continuing to work with the Federal Bureau of Investigation and the U.S. Attorney's Office in North Dakota on all active Spirit Lake cases; and
- Providing tribal court tribal advocacy training for tribal judges, public defenders and prosecutors on cases dealing with sexual assault of children.

BIA OJS, Division of Tribal Justice Support (TJS), also conducted a comprehensive tribal court assessment for the Spirit Lake Nation's Tribal Court. The assessment resulted in recommendations to assist with Tribal Court staffing, Tribal Code development, and Tribal Court Training. In addition, BIA OJS/TJS provided:

- Immediate funding to the Spirit Lake Nation to assist with staffing needs within the Tribal Court: positions have been funded to assist in Child Welfare matters in the Tribal Court: (a) Family Services Indian Child Welfare Presenter, (b) Guardian Ad Litem (2 GAL Positions), (c) Juvenile Public Defender.
- A Tribal Court Bench Book; and Desk Book for Practicing Lawyers and funding for Code development.
- Funding for a Child Protection Title IV/E training opportunity for the Tribe's juvenile tribal court judge.

STAFFING FOR SOCIAL SERVICES AND LAW ENFORCEMENT AT THE SPIRIT LAKE SIOUX TRIBE

Hiring permanent staff at Spirit Lake has proven to be a challenge for BIA for several reasons. Similar to many States across the country, both our BIA programs in this region and the State of North Dakota report a shortage of qualified social worker applicants. We have seen this repeatedly in hiring certifications with no applicants at all or unsuitable applicants. We have increased our efforts at Spirit Lake by offering bonuses and expanding outreach to non-Indian candidates. Despite these efforts, we have experienced instances where the best candidate was selected, only to have the individual later withdraw or fail to satisfy the background check.

Another challenge has been the lack of available housing in the area. Finally, unsubstantiated allegations and publicity regarding the Spirit Lake Reservation, even with the significant improvements that have been made since retrocession, have significantly hindered permanent hiring. As a result, the BIA continues to detail staff to cover the advertised positions at Spirit Lake. Given all the factors noted above,

the Department is pursuing contracting options to provide longer term stability until the program is permanently staffed.

When fully staffed, the BIA Social Service program at Spirit Lake includes six permanent positions. These six positions are as follows:

1—Supervisory Social Worker: Manages all program element operations and supervises social services staff; assists with investigations and case management, as needed; assists on call as needed; acts as liaison to other Federal, State, county and tribal agencies and partners.

3—Child Welfare Specialists: Two of these positions are focused on child protection/abuse and neglect investigations; and one of these positions is focused on case management for monitoring and services such as home visits for foster care and relative placements and safety plans.

1—Social Services Representative: Tracks and screens new abuse and neglect reports; coordinates court activities, home visits and other assistance as needed.

1—Social Services Assistant: Assists with all phone and walk-in traffic, filing, and all other administrative tasks.

Presently, the Supervisory Social Worker has been selected with a reporting date of June 30, 2014, and two of the Child Welfare Specialist positions are advertised.

Currently, there are 14 sworn law enforcement positions at the BIA Fort Totten Agency. These 14 positions include the Chief of Police and 2 Special Agent Investigator positions. There is one vacant police officer position. The Tribe has one certified officer hired for a tribal police officer position. There is a second tribal officer position, which is vacant. These two tribal police officer positions will support the BIA staff at Spirit Lake. The BIA Fort Totten Agency has also received a full time experienced Law Enforcement Assistant to provide administrative support.

The BIA OJS conducted an initiative to assist the BIA Fort Totten Agency with identifying and correcting mandatory BIA-OJS handbook compliance deficiencies, as well as program leadership and first line supervision mentoring. This initiative was led by the BIA OJS Assistant Director, along with supervisors and agents from other agencies. Evidence, Police Reports, case load, scheduling and communications issues were of primary concern. Training in these areas was provided along with best practice recommendations.

Regular weekly meetings were established between the local BIA OJS management and the Tribal Chairman to discuss program activities as well as to ensure that communication is improved and pending investigations are briefed regularly. A BIA OJS Special Agent has been assigned to monitor/work child abuse and child sexual assault cases for the BIA Fort Totten area. He has direct contact with Social Services three to five times per week. There are currently six open “960 Reports for Child Abuse and Child Sexual Abuse”: three of these are FBI cases and three are BIA cases.

PROCESS AND PERFORMANCE IMPROVEMENTS

Since retrocession, the BIA has adopted a number of significant procedures and resource partnerships that not only ensure safety and protection of children, but also engage the community in family preservation activities designed to reduce instances of abuse. In addition, the efforts at Spirit Lake also allowed program and BIA staff to filter through some of the unsubstantiated cases through improving mandatory reporting methodologies in coordination with other key partners such as the medical facilities and school systems. The mandatory reporter methodologies alone have resulted in a 40 percent drop in child abuse and neglect reports. The methodologies have also resulted in reports with information which facilitates a more rapid and thorough investigation strategy. For the past few months, the number of referrals has maintained even levels of approximately 50–80 per month.

BIA protocols have been established for all key social services processes. Staff detailed to Spirit Lake either know or are trained on the proper protocols for investigations, case management, foster care, and all other key social services processes. This standardization has led to more consistent and thorough processing and results across the board. Most importantly, both foster care placements and abuse and neglect reports are documented and tracked through a concise system. Training has been coordinated and completed internally and through other State and Federal Agency partners to improve services at Spirit Lake.

Currently, the Social Services program operates under a 12-week set of detail assignments, which establishes coverage for all vacant positions. The number of detailees to Spirit Lake is reduced as permanent hiring for vacant positions take

place. The BIA will continue to aggressively pursue hiring for these vacant positions until all positions are filled.

The BIA also has other highlights of the positive improvements and efforts at Spirit Lake, which include:

- The BIA Social Services program continues to collaborate with the Federal Bureau of Investigation, Red River Advocacy Center, and BIA OJS to complete forensic interviews for children who report instances of mental, physical, or sexual abuse.
- The BIA staff has worked on encoding data and uploading documentation for cases into the Financial Assistance and Case Management System (FASS-CMS) that is utilized by all BIA Social Services programs for thorough tracking.
- The BIA staff is performing 24-hour per day on-call Child Protective Services as of October 1, 2012, and has partnered with BIA OJS, Office of Law Enforcement Services to assist with investigations of referrals of allegations of child abuse and/or neglect.
- Since November 1, 2012, the Social Services program has assumed the responsibility of leading bi-weekly Child Protection Team (CPT) meetings, which allow multiple local agencies to staff particular cases to best coordinate physical and mental health services for children in the BIA's care and custody. The members of this team are: BIA Social Services, Spirit Lake Tribal Social Services, Ramsey and Benson County Social Services staff, school district staff, Indian Health Service staff, and local counseling and family services providers. The meetings are usually held the 1st and 3rd Thursday of every month. All members of this team sign confidentiality statements.
- Since November 1, 2012, the Social Services staff participates in the Multi-Disciplinary Team (MDT) meetings coordinated through the Department of Justice's U.S. Attorney's office to address those cases which are the subject of criminal investigation and prosecution in either Federal or tribal court. Members of this team consist of: BIA Social Services, FBI, U.S. Attorney, Spirit Lake Tribal Social Services, the Tribal prosecutor, BIAOJS, Office of Law Enforcement Services, Spirit Lake Tribal Victim's Assistance program, and Red River Advocacy (an organization conducting forensic interviews of children). The next meeting is not yet scheduled, but meetings will likely be every 4–6 weeks depending on the volume of forensic interviews. All members of this team sign confidentiality agreements.
- On November 30, 2012, the BIA Great Plains Regional Office, Human Services, BIA Fort Totten Agency Social Services, Spirit Lake Tribal Social Services, and the University of North Dakota's Children and Family Services Training Center co-presented mandatory reporter training to the Spirit Lake community. The BIA also recently offered a refresher course in mandatory reporting and processes for filing a thorough abuse and neglect report at Candeska Cikana (Little Hoop) Community College on April 29, 2014.
- Since June 2012, the Social Services Coalition (SSC) meets approximately once a month to communicate and collaborate on providing effective delivery of social service-related programs. Members of this coalition include all local State, county, Federal, and tribal social service entities; representatives from State district, tribal, and Federal courts; Law Enforcement; the Victim's Assistance program; the Tribal Council; and area leaders. The SSC works on interagency services coordination and communication, inter-agency community events like Child and Family Wellness Fairs, and other community issues related to social services, as they arise.
- On January 8, 2013, the BIA Great Plains Region and BIA OJS provided fingerprint training to Tribal and BIA Social Services staff at the BIA Fort Totten Agency. The Agency has received three mobile fingerprinting units that the social services staff has begun to use for in-home fingerprinting of adults in foster and relative placement homes.
- On March 12, 2013, a Child and Family Wellness Fair was held in Fort Totten, North Dakota, where resource providers shared information with the Tribe's community members on topics such as domestic violence prevention and services.
- The BIA has been participating in the Tribe's 5-year strategic planning process in May and June 2014 for receipt of Title IV–B funding to offer a variety of child and family services. The plan has widespread stakeholder buy-in and all service providers will benefit from expanded family services available in the community. The Native American Training Institute from Bismarck, North Dakota is facilitating the planning and application process.

CONCLUSION

Thank you again for the opportunity to testify on the issue of “Child Protection and the Justice System on the Spirit Lake Indian Reservation.” The Department is committed to doing its part to ensure the safety and protection of children at the Spirit Lake Sioux Tribe. I would be glad to answer any questions the subcommittee may have.

QUESTIONS SUBMITTED FOR THE RECORD TO MICHAEL BLACK, BUREAU OF INDIAN AFFAIRS

Question 1. Please provide the name of the tribal social services employee who recommended placing the two twin girls in the home of their step-grandmother, Hope Louis Tomahawk Whiteshield? Is he/she an employee of the BIA? Please provide all other instances where this tribal social services employee placed children in foster homes who subsequently experienced documented abuse, neglect, injury and/or death. Please redact as necessary to protect the identity of minors.

Answer. Mr. Paul Hutchinson, Director, Spirit Lake Tribal Social Services and Ms. Irenice Noseep, Spirit Lake Tribal ICWA Director are the individuals who recommended the placement. Both persons were employed by the Spirit Lake Tribe at the time and were not (nor have they ever been) employed by the Bureau of Indian Affairs. Additionally, both persons are no longer working for the Spirit Lake Tribe. As this placement was accomplished using tribal transfer of jurisdiction under ICWA, any records of these employees placing children would have to be obtained from the Spirit Lake Tribe.

Question 2. As stated during the hearing, please provide a spreadsheet indicating the status of investigations regarding the allegations of Thomas Sullivan in his mandated reports. Please redact as necessary to protect the identity of minors.

Answer. Spreadsheet is attached.

Allegation	Social Service Related	Law Enforcement Related	Disposition
Sullivan Allegation 1: 40 Children Removed from the Reservation	SS Related		No LE violations
Sullivan Allegation 2: Name Duplication	SS Related/ Tribal Internal		No LE Violations
Sullivan Allegation 3: Foster Parents not paid	SS Related/ Tribal Internal		No LE violations
Sullivan Allegation 4: Abuse and Neglect complaint	Foster Home Placed	Investigation and Charged	Closed: Charged
Sullivan Allegation 5: Reckless Endangerment	Foster Home Placed	Active FBI Case	Under investigation FBI
Sullivan Allegation 6: Abuse and Neglect Complaint	Child returned to father		No LE violations
Sullivan Allegation 7: Child living with sex offender	Child returned to mother	No sex offense	No LE violations
Sullivan Allegation 8: Abuse and Neglect		Active FBI Case	Under investigation FBI
Sullivan Allegation 9: Abuse and Neglect, Nepotism	Child placed in relative care	Investigation and Charged	Charged Tribally
Sullivan Allegation 10: Placement with Sexual Offender	Foster Home Placed	Investigation, no violation	No LE violations, not a sex offender
Sullivan Allegation 11: Abuse	Child placed in relative care	Investigation, unfounded	No LE violations
Sullivan Allegation 12: Neglect	Child placed in relative care	Investigation, unfounded	No LE violations
Sullivan Allegation 13: Sexual Abuse complaint		Investigation, unfounded	Declined Federally
Sullivan Allegation 14: SORNA Complaint			No LE Violations
Sullivan Allegation 15: Homicide		Investigation and Charged	Closed-Sentenced
Sullivan Allegation 16: Homicide		Investigation and Charged	Closed-sentenced
Sullivan Allegation 17: Sexual Abuse			Closed-Sentenced
Sullivan Allegation 18: Attempted Suicide	Child returned to parent	Unfounded	No LE Violations
Sullivan Allegation 19: Murder Suicide		Investigation	Closed
Sullivan Allegation 20: Nepotism	SS/ TSS internal issue		No LE Violations
Sullivan Allegation 21: Sexual Abuse		Active FBI Case	Under investigation FBI
Sullivan Allegation 22: Complaint Against SUTSS	SS/ TSS internal issue		No LE Violations
Sullivan Allegation 23: Sex Offender Contact with Children	SORNA issue		No LE Violations
Sullivan Allegation 24: Child Inappropriate contact		Unfounded	Unfounded
Sullivan Allegation 25: Sex Offenders on Council		Unfounded	No LE Violations
Sullivan Allegation 26: Child Inappropriate Contact	SS Follow up	Investigated: Child on Child	No Charges due to age of children
Sullivan Allegation 27: Custody and Court Conditions	SS Custody		No LE Violations
Sullivan Allegation 28: Child Abuse		Investigation and Charged	Closed-Charged Tribally
Sullivan Allegation 29: Child Abuse		Active FBI Case	Under investigation FBI
Sullivan Allegation 30: Child Placement	Child returned to her mother		No LE Violation
Sullivan Allegation 31: Sex Abuse	Aged out of care	Investigated: no violation	No LE Violation
Sullivan Allegation 32: Sexual Assault Case	Foster Home Placed	Investigation	Declined Federally
Sullivan Allegation 33: Child Abuse		Investigation unfounded	No LE Violation
Sullivan Allegation 34: Child Neglect		Investigation unfounded	No LE Violation
Sullivan Allegation 35: SIDS		Investigation	Declined Federally
Sullivan Allegation 36: Child inappropriate language	SS Follow up		No LE Violation
Sullivan Allegation 37: Child Rape		Investigation	Declined Federally
Sullivan Allegation 38: Child placed with Sex offenders	SS Follow up	Investigated unfounded	No LE Violation
Sullivan Allegation 38A: Child Abuse		Referred to IA	No LE Violation
Sullivan Allegation 39: Threats by BIA Employee	No SS record	FBI Unfounded	No LE Violation
Sullivan Allegation 40: Child Sex Abuse/ Drug Abuse		Referred to IA	No LE Violation
Sullivan Allegation 41: Unlawful Termination	SS Follow up and State SS	Active FBI Case	Under Investigation FBI
Sullivan Allegation 42: Unqualified Court Staff	Tribal internal issue		No LE Violation
Sullivan Allegation 43: Child Placement with Sex offender	Tribal internal issue		No LE Violation
Sullivan Allegation 44: Unlawful Termination	SS Follow up	Unfounded	No LE Violations
Sullivan Allegation 45: Sexual Abuse	Tribal internal issue		No LE Violations
Sullivan Allegation 46: Sexual Abuse	SS Followup	Unfounded	No LE Violations
Sullivan Allegation 47: Child Death	State SS	State Case	State Conviction
Sullivan Allegation 48: Child Death	SS Follow up	Investigated: no violation	Declined Federally
	SS Follow up	Investigation: no death	No LE Violation

Question 3. What capacity does the BIA possess to enter into or encourage joint aide agreements with surrounding government entities to help augment the available resources for Spirit Lake? Has the Spirit Lake tribe entered into such agreements with the surrounding ND State and/or county entities? Have they done so in the past? If so, why not presently?

Answer. The Bureau of Indian Affairs has been working to develop a Memorandum of Agreement (MOA) with the Spirit Lake Tribe to bring all components of the Spirit Lake Child Welfare system into a more unified system. This includes an effort to co-locate BIA and Spirit Lake Tribe child protection, foster care, and ICWA services under one roof to increase communication and collaboration to protect Spirit Lake children. We are actively seeking portable space that will serve our space needs for this endeavor through the collaboration of our BIA Housing staff and facilities staff. We are in preliminary discussions about including the local county, which is already using a tribal building as a satellite office.

BIA is also working closely with the tribe to incorporate technical assistance from Casey Family Programs to strengthen overall child welfare practices. The BIA has been participating in the planning meetings and participating in child welfare training needs to ensure the agencies are working together and closing any gaps between systems. The proposed draft MOA formalizes our efforts to share training and information, as well as encourages the development of unified processes and procedures for operations mindful of the ultimate plans for eventual tribal re-assumption of all programs once the tribe has completed its long-term capacity building efforts.

Although, BIA has not had any formal written agreements in the past with the surrounding government agencies, BIA has been participating in the Spirit Lake Coalition Meetings and new Spirit Lake Children's Coordinating Council with representation from the Ft. Totten Agency, Regional level and Central Office level. The BIA also participates in the multi-disciplinary teams which review cases for possible prosecution and other efforts, such as collaborative community family services fairs or outreach and training regarding suicide prevention or substance abuse.

Question 4. As stated by the Interim Director for Spirit Lake Social Services during the June 24, 2014 hearing, there could be as many as 30 or more children still unaccounted for as the result of alleged improper placements. What kind of investigation was done in regard to these allegations? Could you please provide the work product regarding your investigation(s) to this committee? If no investigation was undertaken, please provide an explanation as to why not. Please redact as necessary to protect the identity of minors.

Answer. The Spirit Lake Tribe has hired an individual who has been conducting the investigation into the allegation that a certain number of children remain unaccounted for as a result of improper placements. This figure has been reported in the media as ranging from 30 to 100 children, primarily by Ms. Betty Jo Krenz, a licensed social worker and mandatory reporter. Mr. Thomas Sullivan has also repeated these allegations as a self-identified mandatory reporter. Both individuals, as mandatory reporters, have a responsibility to file mandatory reports through the proper process at this location, which starts with the filing of a formal report of abuse and neglect (also known as a 960 report form in North Dakota). Law Enforcement interviewed Mr. Sullivan directly to receive any information in his possession about specific instances of abuse and neglect and Mr. Sullivan has not provided a specific list with identifying information regarding victims and/or perpetrators to the Bureau of Indian Affairs.

The Bureau of Indian Affairs has provided the background information requested by the tribal investigator of these allegations. Any information specific to the tribal investigation would need to be made to the Spirit Lake Tribe. The Bureau of Indian Affairs urges Representative Cramer and any other individuals receiving such reports to strongly encourage and insist that those individuals immediately come to Bureau of Indian Affairs Social Services and file an official report of abuse and neglect, particularly any mandatory reporters, who are required by law to do so. They can do so in person or over the phone at any time.

Question 5. When acquiring new BIA personnel for the Spirit Lake Tribe, what role does the tribe play in such hiring decisions?

Answer. The Spirit Lake Tribe has given permission to the Bureau of Indian Affairs to waive Indian preference in hiring to assist in filling positions. Tribe does not play a role in the selection process of new Social Services staff of Bureau of Indian Affairs at Agency locations.

Question 6. Please provide the jurisdictional breakdown between the BIA and the tribe regarding Social Services on the Spirit Lake Indian Reservation. Do you have

authority to assume all responsibility for social services programs on the Spirit Lake reservation?

Answer. The Bureau of Indian Affairs provides child protective services as well as initial and emergency foster care placement and case management and will continue to do so until, at some later date, the tribe successfully contracts those functions. In order to do so, it must be able to demonstrate sufficient capacity.

The tribe has an IV-E agreement with the State to provide foster care for children meeting Title N-E eligibility requirements. Although the Bureau of Indian Affairs would make emergency placements based on suspected or substantiated cases of abuse and neglect, all Title IV-E eligible cases would normally be transferred to Tribal Social Services Foster care. The transfer of these cases is not happening due to the lack of staff resources at Tribal Social Services.

The tribe operates a broad range of social services programs not involving child protective services and foster care which are either self-funded or funded through other Federal sources. The Bureau of Indian Affairs has the authority to intervene to ensure child safety.

Question 7. What efforts have you made to address the lack of accountability of your agents on the Spirit Lake as expressed by Molly McDonald during the June 24, 2014 hearing?

Answer. BIA has consulted with Labor Relations to address performance and conduct issues with staff. Several Officers/Agents have resigned/retired and are no longer with the agency, one has voluntarily stepped down to a lesser grade. Additionally we conduct case file reviews locally every 45 days to ensure cases are progressing appropriately.

Question 8. During the June 24, 2014 hearing, there was discussion regarding a BIA Special Investigator and reports of purported domestic abuse inflicted by him against his wife. Have these allegations been investigated by the BIA? Were formal charges ever filed? If not, please provide an explanation.

Answer. Raised in the Sullivan Allegation labeled 38J: "This was investigated and the wife was interviewed by law enforcement. She advised she was never abused or assaulted and that she put the language in the letter that way because she was mad at the other female and wanted to get her fired." No charges were filed in this case and the investigation is closed based upon the admission of the wife to falsifying this information.

Question 9. Does the BIA currently have an office of Ombudsman program to serve as an intermediary between tribal members and the BIA? Is it possible to create such a position within your existing authority?

Answer. The BIA does not have an office of Ombudsman program. The BIA currently has twelve (12) Regions located throughout the United States and each Region has a Regional office and several agency offices. These offices assist in the local administration of BIA programs for tribes and for tribal members. Tribes and tribal members living on or off Indian lands can contact their local agency or Regional office regarding the administration of BIA programs. These BIA Regional and agency offices currently assist as the direct link between tribes and tribal members and the BIA.

Question 10. Patricia Denice White alleges her infant grandson was improperly returned to the child's drug dependent mother by Tribal Court without adequate safeguards in place to protect the child from future harm. Please inform this committee of all steps taken to insure the safety of this child.

Answer. The child referenced in this question is under the care, control and custody of the BIA Social Services program and is placed in a relative environment with the maternal grandmother. The placement is also subject to protective strategies which include the mother going through drug and alcohol abuse treatment. At this time, it appears that the mother is doing well with all treatments and complying with random and scheduled visits with a staff social worker.

Question 11. Is it true, on or about June 24, 2014, two BIA Law Enforcement Officers allegedly responded to the home of Patricia Denice White? If true, is it also correct the same officers failed to validate any facts which purportedly initiated the purpose of their visit? It is alleged your Officer's presence at the home of Ms. White was initiated due to Ms. White and her daughter Britnee Iceman's participation in the June 24, 2014 hearing. Please respond to this allegation. What have your officers done to investigate the source of this information for making a false report to police (or similar crime)?

Answer. We received only one report in our automated records management system regarding Patricia Denise White, which was reported on May 24, 2014 and listed a Denise White. There are no reports on the radio log regarding Denise White/Patricia Denise White matching that date. There were no IMARS entries for Brittany Iceman or Patricia Denise White.

On May 24, 2014 a female called requesting an officer to come to her residence because of a potential domestic incident between her nephew and his girlfriend. Dispatch relayed the information to the on duty officer. The reporting party called back and canceled the call for service.

Question 12. According to the Grand Forks Herald, on or about November 28, 2013 seven additional BIA Law Enforcement Officers were assigned to the Spirit Lake Tribe. What was the purpose of their assignment? How long were these officers ultimately deployed to the Spirit Lake Indian Reservation? Why this period of time?

Answer. Bureau of Indian Affairs, Office of Justice Services senior leadership has developed and ultimately implemented a "Corrective Action Support Team" (CAST) philosophy to assist OJS District and Agency management assess critical programmatic issues. CAST will take immediate action to correct very specific challenges when needed. The primary goal of CAST is to ensure no material weaknesses exist in agency level operations. OJS senior management arrived at the Fort Totten Agency to conduct an assessment of critical operational functions.

In addition to the analytical review aspect of this initiative, the CAST was able to provide real time coaching to employees and managers on a large variety of topics and disciplines. Leadership mentoring was afforded to the Chief of Police and the Police Lieutenants over the CAST period.

The CAST deployment was approximately 2 weeks long. This allowed for specific corrections and or compliance activities undertaken at the agency.

Question 13. When my office receives reports of inadequate conduct or investigation by your law enforcement or Spirit Lake Tribal Social Services, whom should we contact on their behalf? Is there someone specifically in your Aberdeen Office I and my constituent's questions should be referred to?

Answer. For issues related to the Spirit Lake Tribal Social Services, the tribe would be the contact.

For issues related to law enforcement see contact information below:

Chief of Police Raymond Cavanaugh, Fort Totten Agency Chief of Police, Fort Totten, ND, (701) 766-4231

Assistant Special Agent in Charge, Jeremiah Lonewolf, District I Office Aberdeen, SD, (605) 226-7347

Special Agent in Charge, Mario Redlegs, District I Office, Aberdeen, SD (605) 226-7347

Question 14. Do your law enforcement officers have squad video installed in their police vehicles? If so, do all your Law enforcement officers receive training in regard to their use? Are your law enforcement officers mandated to use their squad video during all investigations? Why or why not?

Answer. Uniformed Police Officers have the WatchGuard Camera System installed in their police unit. BIA OJS works with the Indian Police Academy and the Watch Guard Company to provide training to law enforcement officers. In-Car Video usage is addressed in the BIA/OJS Handbook 2nd Edition under Section 2-25 In Car Video (See Attached).



Effective: 07/01/2008
CALEA Standard(s)–

Revised:

2-25 IN CAR VIDEO

POLICY

The Office of Justice Services shall utilize an in car video system which shall be known as the car video system (CVS) whenever available. The CVS records video and audio accounts of events as they occur. This system may corroborate an officer's testimony but will not be used independently as evidence.

2-25-01 THE CVS SYSTEM

A. The CVS consists of:

1. a miniature color video camera mounted next to the rear view mirror that is capable of rotating 180 degrees which allows for recording within the police vehicle,
2. a small video recording unit mounted in the trunk, in a crush proof, environmentally controlled box, which is secured providing access by supervisor only,
3. a remote microphone worn by the officer which records conversations, and
4. a monitor mounted inside the vehicle that can be used for monitoring while the CVS is in operation, and for playback of recorded incidents.

B. Although the CVS will be utilized to primarily videotape impaired driving offenses, it is also a valuable investigative aid in the documentation of various other circumstances, including:

1. videotaping traffic offenses,
2. videotaping collision scenes,
3. enhancing note taking and report writing,
4. videotaping arrests,
5. recording statements taken from witnesses or suspects, for use by field training officers as a training aid,
6. enhancing officer safety and professionalism during violator contacts, and
7. recording other types of incidents officers encounter during the performance of their duties.



BIA-OFFICE OF JUSTICE SERVICES
LAW ENFORCEMENT HANDBOOK



Effective: 07/01/2008
CALEA Standard(s)~

Revised:

2-25-02 TRAINING

Officers using the CVS must be properly trained. The training will be provided by one of the following resources: The Indian Police Academy, field training officers, or the vendor providing the CVS.

2-25-03 Operating Procedures:

Officers shall adhere to the following procedures when utilizing the CVS:

1. At the beginning of each shift, officers using the CVS shall ensure there is adequate tape for video recording, and that the system is fully operational, based on training guidelines.
2. If the CVS equipment is not fully operational, any malfunction shall be brought to the attention of the officer's immediate supervisor.
3. The CVS will automatically activate when the vehicle's emergency overhead lights are activated. The CVS may also be manually activated or deactivated at any time.
4. Where possible, officers shall verify that the CVS is operating in order to record traffic stops or other enforcement actions. In doing so, they will ensure:
 - a. the video camera is properly positioned and adjusted to record events,
 - b. the wireless microphone is activated in order to provide audio with the video recording, and
 - c. the CVS recording is not deactivated until the enforcement action is completed.
5. Officers shall not remove or replace the videotape during their shift. If a tape is ejected from the unit and then re-inserted, the unit will automatically rewind it. Therefore, any information previously contained on the tape will be erased once any new recordings resume.
6. It is recommended when stopping vehicles, that officer's inform violators they are being recorded on video tape. This forewarns persons they are being recorded, and can assist in the prevention of any unnecessary arguments or confrontations.

2-25-04 Tape Management and Control:

- A. Each agency shall assign a supervisor to manage the CVS system. The CVS uses standard VHS tapes that record for approximately six hours. It will be the responsibility of each agency to maintain an adequate supply of tapes for their own use. A log book shall be maintained by each agency to track all tapes which will be utilized as evidence.



BIA-OFFICE OF JUSTICE SERVICES
LAW ENFORCEMENT HANDBOOK



Effective: 07/01/2008
CALEA Standard(s)–

Revised:

- B. If officers record an event involving a criminal charge, or an event which may require corroboration or further investigation from an outside entity such as the Internal Affairs Division, the tape shall be submitted as evidence along with an offense or incident report describing the incident in question.
- C. If an incident is recorded that does not result in criminal charges, such as a traffic violation, the individual officer's supervisor will make the decision whether to submit the tape for court purposes or not. The individual officer's supervisor may also submit any tape containing an event which may result in a complaint being lodged against the officer. In this case, the officer should notify his supervisor of the incident and submit an incident report with the tape as soon as possible.
- D. If an officer records any event they feel may be beneficial for training purposes, they shall advise their supervisor. A copy of the tape may then be provided to the Indian Police Academy for their evaluation and possible use as a training aid.

2-25-05 Equipment Maintenance:

CVS equipped vehicles that require repairs to the video system will be reported immediately to the officer's supervisor. Repairs will be scheduled as soon as possible. Each agency is responsible for maintaining an adequate supply of nine-volt batteries for use in the wireless microphones.

2-25-06 Advances in Digital Technology

It is anticipated that advances in digital technology will bring about changes in the type of equipment used in the Car Video System. Compact discs and hard drives may replace video cassettes, etc. In all cases, officers will follow manufacturers' guidelines to ensure proper collection of evidence from the CVS equipment.

2-25

Mr. YOUNG. Thank you, Michael.
Just a moment. Ms. Chang.

STATEMENT OF JOO YEUN CHANG, ASSOCIATE COMMISSIONER, CHILDREN'S BUREAU, ADMINISTRATION FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Ms. CHANG. Thank you. Good afternoon. Chairman Young and members of the subcommittee, thank you for inviting me to testify

today. The Administration is committed to partnering with Spirit Lake to improve child safety and child well-being on the Spirit Lake Reservation, and we are grateful to you for having this hearing and bringing attention to the issues affecting the delivery of child welfare services at Spirit Lake Nation. My name is Joo Yeun Chang, and I am the Associate Commissioner of the Children's Bureau in the Administration for Children and Families, Department of Health and Human Services.

The Bureau administers the Federal foster care and adoption assistance programs, as well as a range of prevention and post-permanency initiatives. We also provide technical assistance and training on a range of child welfare topics to States, counties, and tribes. Today I would like to talk about three things. The first is the Administration for Children and Families' role in supporting child welfare at Spirit Lake. The second is our observations for our most recent trip to Spirit Lake. And finally, a summary of our recommendations to the tribe.

ACF provides financial support for social services, primarily through Titles 4B and 4E of the Social Security Act. These funds are available to States, tribes, and territories, and can be used to cover a range of child welfare services, from prevention to foster care, adoption, and guardianship. The Spirit Lake Tribe is a direct Title 4B grantee, and receives title IV-E foster care and adoption assistance funding indirectly through an agreement with the State of North Dakota.

In addition to financial support, ACF also provides technical assistance and training on a range of child welfare topics, including organizational and workforce development, prevention, and permanency in child welfare. We have a dedicated national resource center for tribes, as well as a number of subject matter resource centers, including a few that have worked with the Spirit Lake Tribal Social Service Agency over the years.

In response to allegations of child abuse and neglect on the Spirit Lake Reservation, ACF has, in the last 7 years, conducted a series of investigations and assessments, and has issued recommendations on how to address these issues.

Most recently, on April 9 and 10 of this year, I, along with some of my colleagues at ACF, including Lillian Sparks Robinson, Commissioner of the Administration on Native Americans, and Marrienne McMullen, ACF's Deputy Assistant Secretary for External Affairs, conducted a listening session at Spirit Lake. We met with a range of stakeholders, including current and former Social Service staff, current and former tribal court judges, BIA staff, school administrators, as well as State and county social service officials. The goal of our listening session was to get a better understanding of the current structure of social services at Spirit Lake, including the division of roles and responsibilities between the tribe and the BIA post-retrocession, and to develop recommendations for improvement. Much of what we found during this most recent visit is consistent with our previous assessments.

The most urgent issue facing child welfare practice at Spirit Lake is the lack of adequate staff to meet minimum standards of practice in both child protection and foster care casework. In addition, we encourage the development of a uniform operations man-

ual that covers activities including investigation, and a child welfare practice model.

We also noted the need to develop a data and tracking system to enable both the tribe and the BIA to understand who it is that they are serving, the needs of children in their care, the case goals, and to ensure that they are able to track child outcomes over time.

We also note the importance of recruiting and training foster care and kinship homes, as well as increasing community engagement and communication.

A new recommendation focuses on the need to clarify roles and responsibility between the tribe and BIA, while maintaining consistent policies across both organizations to ensure seamless transfer of responsibilities back to the tribe. Following the return of BIA-funded programs in 2012, BIA has assumed most child welfare services, including child protection services, investigations, initial placement decisions, and ongoing case management of non-IV-E cases.

I want to conclude by saying that, although challenges remain, we want to acknowledge the strengths that exist at Spirit Lake that we think can be the building blocks to transform this child welfare system. Perhaps the most notable strength is the commitment of new leadership under Chairman McDonald and the work of the BIA. We also acknowledge the commitment of the community and its neighbors to persist in efforts to keep children at Spirit Lake safe from harm.

We recently shared our observations and recommendations with the Chairman, and welcome an opportunity to work with the Spirit Lake Tribe, BIA, and community stakeholders to implement these recommendations.

I would be happy to answer any questions.

[The prepared statement of Ms. Chang follows:]

PREPARED STATEMENT OF JOO YEUN CHANG, ASSOCIATE COMMISSIONER, CHILDREN'S BUREAU, ADMINISTRATION FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chairman Young and members of the subcommittee, thank you for inviting me to testify. The Administration is very concerned about child safety and well-being at the Spirit Lake Reservation. We are grateful to you for having this hearing and bringing more attention to the issues affecting the delivery of child welfare services at Spirit Lake Nation.

I am Joo Yeun Chang, Associate Commissioner of the Children's Bureau. I have worked as a national advocate on child welfare policies both as a senior staff attorney at the Children's Defense Fund and immediately prior to my appointment to the Bureau, I worked at Casey Family Programs Foundation where I worked closely with State and local child welfare agencies. In my current role, I oversee the Federal foster care and adoption assistance programs as well as a range of prevention and post-permanency initiatives.

Today, I will speak about the Administration for Children and Families' (ACF) role in supporting child welfare services at Spirit Lake and our work to date. I will also discuss our observations from our most recent trip to Spirit Lake and finally, I will provide a summary of some recommendations.

ACF'S ROLE IN SUPPORTING CHILD WELFARE SERVICES AT SPIRIT LAKE AND OUR WORK TO DATE TO ADDRESS THE NUMEROUS CHALLENGES FACING SPIRIT LAKE

The Administration for Children and Families provides financial support for social services on the reservation through funds from title IV-B and IV-E of the Social Security Act to eligible States, tribes, and territories for the provision of child welfare-related services to children and their families. The Spirit Lake Tribe of North

Dakota is a title IV–B grantee and receives title IV–E dollars through an agreement with the State of North Dakota.

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. Title IV–B is a formula grant under which Spirit Lake has received approximately \$320,000 since 2011.

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. 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 therefore 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 for eligible children and youth at Spirit Lake.

ACF provides technical assistance and training on a range of child welfare issues from prevention to post-permanency. We have a dedicated National Resource Center for tribes as well as subject matter resource centers who have worked with the Spirit Lake Tribal Social Services (SLTSS).

FINDINGS FROM OUR MOST RECENT FACT FINDING TRIP TO SPIRIT LAKE

In response to allegations of child abuse and neglect on the Spirit Lake Reservation, ACF has conducted a series of investigations and assessments, followed by recommendations on how to address issues facing the Spirit Lake Tribal Social Services.

Between 2007 and 2014, ACF was involved in the following four reviews of the Spirit Lake Tribal Social Services department:

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; and
4. North Dakota IV–E file review, May 7–8, 2013

Most recently, on April 9 and 10, 2014 ACF leadership, including Lillian Sparks Robinson, Commissioner of the Administration on Native Americans, Marrienne McMullen, ACF's Deputy Assistant Secretary for External Affairs and I conducted listening sessions at Spirit Lake. The listening sessions included meetings with a range of stakeholders from the Spirit Lake tribal child welfare system, including current and former social workers, current and former juvenile judges, Bureau of Indian Affairs (BIA) staff, school district staff, North Dakota State and county human services staff, and law enforcement. The goal of the listening session was to better understand the current structure of social services at the Spirit Lake Reservation including the division of roles and responsibilities between the tribe and BIA to offer recommendations for improvement.

Many of the findings and related recommendations from ACF's most recent visit are similar to those contained in the previous assessments. A new recommendation focuses on the need to clarify roles and responsibilities between the tribe and BIA while maintaining consistent policies and practices to ensure seamless transfer of responsibilities back to the tribe. Following the return of the BIA funded programs from the tribe back to BIA, a process known as retrocession, BIA assumed responsibility for most child welfare activities including investigations of abuse and/or neglect as well as foster care services for children who are not eligible for title IV–E reimbursements. The tribe maintained responsibility for placement and care of 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. At the time of retrocession, this represented approximately one-third of the foster care population. In addition the tribe provides services and supports related to the Indian Child Welfare Act (ICWA).

Although there have been some improvements since the tribe retroceded many child welfare functions to BIA, a number of gaps remain. The most urgent issue facing child welfare practice at the Spirit Lake Reservation is the lack of adequate staff to meet minimum standards of practice in both child protection/investigation and foster care casework.

In addition, a common theme that emerged from the ACF listening session and the previous four reviews was the lack of specific protocols and procedures to direct and guide staff activities on a range of child welfare activities from child maltreatment investigations, assessment, placement, and foster care services to the delivery of services in the community. 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 also noted the lack of comprehensive assessments for cases involving placement in out of home care. Comprehensive assessments lead to well thought-out and individualized case plans. Previous reviews found little evidence of case management, supportive services, or minimal, reasonable efforts to reunite families. In addition, the lack of available supportive services and foster home placements has led to fragmented cases with little to no direction. Of the homes that were licensed, many lacked the appropriate documentation of background checks, home studies, and licenses. BIA has addressed some of these issues for BIA social services, most notably the safety checks prior to placement. However, we recommend that BIA and the tribe develop short-term and long-term staffing solutions and jointly develop a policies and procedures manual.

SUMMARY OF OUR RECOMMENDATIONS

Based on information gathered to date, ACF has identified seven priority recommendations to be addressed through a coordinated action plan between SLTSS, BIA, and other stakeholders including the team at HHS, and State and county child welfare agencies.

The seven priority recommendations are:

1. Develop a comprehensive strategy to support the development of a short- and long-term workforce;
2. Create a uniform process for conducting and documenting investigations;
3. Develop a basic operations manual outlining policies and procedures for child welfare case services, including investigations;
4. Develop and implement a data tracking/information system that would enable the tribe to manage its caseload and understand who is being served, their needs and case goals and track case outcomes;
5. Develop and implement a plan for recruitment of foster/kinship homes;
6. Provide training for the Tribal Court on requirements of title IV-E funding; and
7. Increase community engagement and increase communication.

Although challenges remain, we want to acknowledge the strengths that exist at Spirit Lake that can be harnessed to transform its child welfare system. Perhaps the most important strength is the commitment of new leadership under Chairman McDonald and the work of the BIA. We also acknowledge the commitment of the community and its neighbors to persist in efforts to keep its children safe from harm and able to grow and thrive in adulthood. We recently shared our observations and recommendations with the Chairman and welcome an opportunity to work with the Spirit Lake Tribe, BIA, and community stakeholders to implement them.

The Administration also looks forward to working with you to address this crucial issue and improve services to Spirit Lake Tribal Social Services.

Again, thank you for the opportunity to speak with you today. I would be happy to answer any questions.

QUESTIONS SUBMITTED FOR THE RECORD BY THE HON. KEVIN CRAMER TO JOO YEUN CHANG, ASSOCIATE COMMISSIONER, CHILDREN'S BUREAU, ADMINISTRATION FOR CHILDREN AND FAMILIES

Question 1. Please provide this panel with any and all performance reviews for Thomas Sullivan.

Answer. Staff from the Department of Health and Human Services (HHS) will be in touch with your staff to discuss this sensitive personnel material.

Question 2. Is it true that Thomas Sullivan has been recognized for his work to prevent Child Abuse and Neglect of American Indian Children? Specifically, did he receive a certificate of appreciation from the Montana Wyoming Tribal Leaders Council?

Answer. In a memo accompanying his 2010 personnel review, Mr. Sullivan said that he received this award. The Administration for Children & Families (ACF) has no other record of such an award.

Question 3. Is it true Thomas Sullivan helped to design, develop and test in 10 States a pediatric consultation program directed to improving the effectiveness and efficiency of Project Head Start's health care program? As the result of his efforts, did the American Academy of Pediatrics agree to operate this program nationally, resulting in highly effective consultation being provided to Head Start programs by board-certified pediatricians in every community in this country?

Answer. Tom Sullivan has served as ACF's Regional Administrator in Region 8 since 2002. His work with ACF has been in the Region 8 States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. ACF has no records indicating that he undertook the work described above while at ACF. I have no direct knowledge of his work prior to serving with ACF or of work he has performed outside of Region 8.

Question 4. Did Thomas Sullivan help evaluate the operation of the Watts Neighborhood Health Center in south-central Los Angeles when it first opened, helping to close a loophole which assisted the Center in recovering financially?

Answer. Tom Sullivan has served as ACF's Regional Administrator in Region 8 since 2002. His work with ACF has been in the Region 8 States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. ACF has no records indicating that he undertook the work described above while at ACF. I have no direct knowledge of his work prior to serving with ACF or of work he has performed outside of Region 8.

Question 5. Did Thomas Sullivan work with a Community Board representing Chelsea, MA, helping to design and direct a survey of the health needs of the community and then negotiate with the General Director of Massachusetts General Hospital on behalf of the Community Board for the establishment of a health center in that community on terms including how the center's progression to opening would be staged, what services would be offered, hours of operation etc.? As the result of his efforts, is the health care center in question providing desperately needed services for the very poor residents of that community?

Answer. Tom Sullivan has served as ACF's Regional Administrator in Region 8 since 2002. His work with ACF has been in the Region 8 States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. ACF has no records indicating that he undertook the work described above while at ACF. I have no direct knowledge of his work prior to serving with ACF or of work he has performed outside of Region 8.

Question 6. Is it true Mr. Sullivan consolidated Federal staff from three different offices in a single office with regulatory responsibility for monitoring the health and safety of nursing homes and intermediate care facilities in New England, ultimately developing and implementing a policy of unannounced inspections which has improved the quality of service of nursing homes and institutional health care providers?

Answer. Tom Sullivan has served as ACF's Regional Administrator in Region 8 since 2002. His work with ACF has been in the Region 8 States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. ACF has no records indicating that he undertook the work described above while at ACF. I have no direct knowledge of his work prior to serving with ACF or of work he has performed outside of Region 8.

Question 7. Did Mr. Sullivan work collaboratively with an Air Force General and his reserve staff to design and implement a plan to conduct weekend health fairs all across metropolitan Boston staffed by Air Force medical and administrative personnel providing basic medical care to people who, in some cases, had not been seen by a physician in years?

Answer. Tom Sullivan has served as ACF's Regional Administrator in Region 8 since 2002. His work with ACF has been in the Region 8 States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. ACF has no records indicating that he undertook the work described above while at ACF. I have no direct knowledge of his work prior to serving with ACF or of work he has performed outside of Region 8.

Question 8. Did Mr. Sullivan conduct a major evaluation of the Oklahoma system for delivering services to people with developmental disabilities, demonstrating higher quality care could be provided at lower total cost in small community resi-

dences than in large, isolated institutions? Did Mr. Sullivan provide expert witness testimony regarding these efforts in Federal Courts, lead seminars for White House, OMB congressional and executive branch staff and testify before State legislative committees in New England and Oklahoma?

Answer. Tom Sullivan has served as ACF's Regional Administrator in Region 8 since 2002. His work with ACF has been in the Region 8 States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. ACF has no records indicating that he undertook the work described above while at ACF. I have no direct knowledge of his work prior to serving with ACF or of work he has performed outside of Region 8.

Question 9. Considering these facts, and in light of the testimony of Chairman McDonald who indicated he offered Mr. Sullivan a chance to work with the Spirit Lake Tribe, why does the Administration for Children and Families not feel Mr. Sullivan should have an expanded, and more critical role, in your agencies' efforts on Spirit Lake?

Answer. The issues of child safety, child protection, and foster care are child welfare issues. Within HHS and the ACF, the Children's Bureau within the Administration on Children, Youth and Families has responsibility for overseeing child welfare. Established in 1912, the Children's Bureau is the oldest Federal agency for children. The Children's Bureau provides matching funds to States, tribes, and communities to help them operate every aspect of their child welfare systems—from prevention of child abuse and neglect to adoption—and the information systems necessary to support these programs. The Children's Bureau seeks to provide for the safety, permanency, and well-being of children through policy guidance, grants to support and evaluate services, and productive partnerships with States, tribes, and communities. In addition, the Bureau makes major investments in staff training, technology, and innovative programs.

Within the Children's Bureau, oversight of child welfare practice and interagency collaborations are managed at the highest level by the Associate Commissioner. The Bureau's central office staff, located in Washington, DC, and regional staff work together to provide child welfare policy and practice guidance to States and tribes.

Prior to an ACF reorganization in 2006–07 during the Bush administration, regional administrators had direct supervisory authority over regional program directors and, consequently, regional program work. Since the reorganization, regional program managers (such as for the Children's Bureau) began reporting directly to program directors at headquarters. Regional administrators such as Tom Sullivan assumed different duties. The primary responsibilities of the regional administrator include: providing regional ACF leadership through representing ACF on Federal coordinating bodies and by maintaining strong and positive relationships with State, tribal territory, and local government partners, as well as with university, philanthropic, and other community partners; leading high-priority cross-cutting initiatives for the agency, such as Affordable Care Act outreach and anti-human trafficking initiatives; providing administrative support for all ACF regional offices and staff; leading emergency preparedness and response efforts; and providing for communications support, from local stakeholder communication to maintaining the regional Web site.

Regardless of personal interest in a program area, it would not be appropriate for Mr. Sullivan or any regional administrator to assume the responsibilities of the Children's Bureau for child welfare work. This would also apply to other ACF program work, such as child support enforcement, Head Start, and Child Care. This specific program work is done by each program office, each of which has a director at the Federal headquarters.

ACF has made clear to Tom Sullivan that he has the freedom in his personal capacity to express his views on Spirit Lake. ACF has encouraged him to report any and all allegations of abuse and neglect to the appropriate parties including law enforcement. ACF has also made clear to Mr. Sullivan that the Children's Bureau has responsibility over these matters, and, to the extent that he has official matters to discuss, he should raise them with the Children's Bureau.

The Children's Bureau is leading this effort for ACF and manages the work with both the tribal leadership and the tribal social services staff. The Children's Bureau also is the principal liaison with the State of North Dakota, the Bureau of Indian Affairs, and the Department of Justice to address child protective issues at Spirit Lake. The Bureau has child welfare staff from within the Bureau, as well as national tribal child welfare experts, involved in the work of child protection at Spirit Lake.

Question 10. Considering Dr. Tilus was initially reprimanded for his efforts to improve the conditions for vulnerable children and adults on Spirit Lake, has HHS implemented any reforms to encourage behavior like that exhibited by Dr. Tilus?

Answer. Dr. Tilus is not an employee of ACF, and I am not in a position to comment on any agency or departmental actions undertaken with respect to him. To the extent that you are asking more generally about agency efforts to encourage employees to speak without fear of retribution, ACF requires all employees to take annual training on the No Fear Act, which includes information about the rights of whistleblowers and the legal protections afforded them, and sends out periodic notices to remind employees to take this mandatory training.

Question 11. During your testimony it is my understanding you indicated Thomas Sullivan had not been to the Spirit Lake Indian Reservation. In subsequent conversations I have been informed that he actually has, at least on several occasions. In light of this information, would you like to take this opportunity to amend your testimony?

Answer. When I testified, it was my understanding that Mr. Sullivan had not visited Spirit Lake.

I have since learned that he has traveled to Spirit Lake on the three occasions listed below. Two of the trips are documented in the government travel reservation system GOVTRIP and the third (December 7–10, 2010) is reported by Mr. Sullivan.

1. November 14–17, 2010—Tom Sullivan met with the executive director of the Fetal Alcohol Spectrum Disorder Center at the University of North Dakota and then visited the Fetal Alcohol Clinic on the Spirit Lake Reservation.
2. December 7–10, 2010—Tom Sullivan attended a meeting with FEMA to address human service needs arising from the flooding in Devils Lake, ND.
3. July 5–9, 2011—Tom Sullivan reviewed flood damage and met with the social services director.

Mr. YOUNG. I want to thank the panel. I appreciate your testimony. After this hearing is over, if there isn't improvement, we will have another one. But it won't be just a hearing.

Mr. Black, I take this a little personally. Your statement, you relate Spirit Lake's Tribe social services problem to sequestration. But those problems were occurring before sequestration. Why do you think and why do you link sequestration to the tribe's problems when it happened before?

You know, I have heard this sequestration excuse, Mr. Black—every time there is a problem, it is sequestration. And thank God for George Bush and sequestration, otherwise you guys wouldn't have anything to stand on. So why do you link that, when these occurred before sequestration?

Mr. BLACK. Well, I apologize for the misunderstanding, sir. I am not equating, or wasn't trying to equate sequestration to the problems that are faced out there at Spirit Lake. As you stated, a lot of the problems happened long before sequestration.

I guess the point I was trying to emphasize is the fact that, at a time when we were reassuming the program, and trying to deal with some of the shortfalls that we had out there, sequestration just became a barrier to us getting to fully where we need to be with the program and stuff, and getting fully staffed out there. So it was just another impact on our efforts to try and reform the program.

Mr. YOUNG. OK. That is why I wanted to clarify that, because, you know, again, we like to blame things for that when this was occurring ahead, and you have admitted that in your testimony, so that is good.

The Bureau was supposed to submit a report to the House and Senate committees in jurisdiction on the progress of efforts and advocacy of child placement and judicial review by the tribe and the Bureau. That was passed in—I believe the Appropriation Act of 2014. Are you working on that? Where is the report?

Mr. BLACK. Yes, sir. We are currently still working on that. We have just completed a number of different reviews, including the review of our law enforcement program, the tribal court system, as well as our social services program, and we will be getting that report submitted.

Mr. YOUNG. The 638 contract documents I have reviewed show that the April 20, 2012—that the BIA Great Plains Region officials reported high-risk findings at the Fort Totten Agency that pose an immediate danger to the health, safety, and well-being of children, either in placement or referred to protective services. These findings stem from the BIA February and March 12 site visit to the reservation. The tribe failed to eliminate these high risks to the children. But again, the agency allowed the tribe to continue operating a contract for 7 months, since the problem was identified, before the tribe voluntarily retroceded the contract on October 1, 2012.

The question is they receded the contract. Can they go back into this contract again? What is the criteria? They receded it, so they really weren't acknowledging there was anything wrong.

Mr. BLACK. Yes. And you are correct, sir. The tribe did voluntarily retrocede the program. But it was following a year-long process of a review that identified a number of corrective actions that needed to take place. And, as you stated, there were follow-up reviews in March, April, in August, as well as, I personally led a strike team out there, including my Deputy Director for Trust Services and Indian Services that summer, around July or August, to sit down and meet personally with the tribe. We attempted to provide them as much technical assistance as we could, to bring the program back to where it needed to be. Coming that September is when that decision by the tribe was made to retrocede the program back to BIA.

Mr. YOUNG. OK.

Mr. BLACK. As far as their ability to come back and contract the program again, there would be nothing that would prevent that from them, other than the fact that when that time comes, if it comes, and the tribe indicates they are interested in contracting the program again, we would be evaluating the tribe's capacity, the situation with the program as it stands when that happens, and then we would be reviewing it at that point.

Mr. YOUNG. How large is this tribe?

Mr. BLACK. Pardon me?

Mr. YOUNG. How large is this tribe?

Mr. BLACK. You mean as far as the number of members?

Mr. YOUNG. Yes.

Mr. BLACK. I don't know, right off the top of my head, sir, I apologize.

Mr. YOUNG. The reason I am asking that question is it is my understanding that there are—and I know that—this is my Ranking Member—there is a desire of self-determination, which I support,

desire of self-governance, which I support. But there is also, my understanding, a shortage of qualified people that, in fact, can take and are eligible for taking care of a child.

If that is the case, I would like to know that, because—and this goes back to the children. This is the common denominator, the children. And I don't really have much truck with the tribe who won't take care of their own children. I have been very hostile in my career about—because I live with them. And someone messes up, he got punished the right way. There is no reason to abuse a child. I see I have my officer sitting there, but that is the way I ran my shop. And my people backed me up. There is no reason for a child that cannot protect himself or herself to be abused, to be raped, have incest, be beaten and starved. That is unacceptable. I personally won't tolerate it.

Ms. Chang, what is your interface with the BIA on this? You are a different agency, correct?

Ms. CHANG. We are. We are part of the Administration for Children and Families and—

Mr. YOUNG. Have you been out there?

Ms. CHANG. I have. I have been out there, and we have been working closely with BIA since our visit in April.

Mr. YOUNG. And you have made progress?

Ms. CHANG. I think that we, as a community, have been making progress in trying to figure out what the issues are, and how we can address them.

Certainly, sir, your issue about identifying appropriate families to care for children who are vulnerable is a critical issue, not only at Spirit Lake, but, quite frankly, across the country. Identifying, training, and licensing resource families or foster families, as you might call them, is an issue that all child welfare agencies at the State, county, and tribal level really struggle with.

But the good news is that we do have some strategies about how you can recruit them and train appropriate families, so that there is a place for kids to go if they can't remain in their homes. So we are encouraged by a desire to work on these issues.

Mr. YOUNG. I am going to suggest that we have a follow-up report from Mr. Black and yourself in 6 months. And if I hear of one child at Spirit Lake that went through that litany what I said, then there is going to be more of a longer-term period of a hearing. Because this is good words, it doesn't necessarily accomplish something.

Mr. Black, this is not your problem. You are spending all this money going to my State, trying to recognize and put in land trust on tribes, supposedly to have them improve the violence on children and the violence on women. And yet you have this going on in Spirit Lake. Where is the rationale? If you follow what I am saying, where is the rationale of doing that?

That is supposed to stop this violence in children according to you, the Department, and the violence on women. And yet we have this going on in Spirit Lake, has been a reservation you have been in charge for a long time—or the agency has. Do they add up?

Mr. BLACK. Well, I am not sure if I am quite following the correlation, Mr. Chairman, but—

Mr. YOUNG. Well, the proposed fee to trust was based upon stopping the violence and the mistreatment of children in Alaskan tribes. And now yet we have an existing tribe and reservation that this has been going on. If you wanted to spend the money, I would suggest you spend it in Spirit Lake. I mean just an idea. I just want you to think about it.

Mr. BLACK. OK.

Mr. YOUNG. Mr. Cramer, would you mind—excuse me. He is going to chair. You are going to—Mr. Cramer, you have to chair for me, because I have to go down the hall—I will be back.

Mr. CRAMER [presiding]. Recognize Mr. Cárdenas.

Mr. CÁRDENAS. Thank you, Chairman Cramer. Mr. Black, I want to commend you for taking on a responsibility that at times must feel like a thankless job. Any time a group of human beings is trying to help another group of human beings, yet you are dealing with communities that have been at the brink of genocide being exercised on them, you are talking about communities that, even when that was—those efforts of such, where they are actually killing human beings just because of who they are, when that stopped, then you had other activities such as taking their children away from them, trying to demean them to the point where they say, “You are not fit to raise your own children,” when you are dealing with communities like that, it must be extremely difficult to try to act like things are normal there, or that we can apply certain norms in those communities.

I have a question for you as to when—in dealing what you are dealing with in your opening statement, you talked about resources. Do you feel as though you have been afforded the adequate resources to address, in particular, this particular issue at this sovereign nation?

Mr. BLACK. You know, quite honestly, sir, I would have to say no, I don’t think that we have the resources that are really necessary, not only at Spirit Lake, but across the country, to deal with child protection issues, social services, law enforcement, and all of the other programs that we deliver.

As an example for Spirit Lake, we have been detailing anywhere from 12 to 19 different people on various bases up there to fulfill some of those permanent staff that we haven’t been able to hire. And, there again, that is just an additional burden on our resources. It is also an additional burden on those other reservations and tribes that we have to take that staff from in order to fulfill the needs at Spirit Lake.

Mr. CÁRDENAS. And when you are talking about trying to attract appropriate staff, I mean, you are not just trying to find people to answer phones, or you are not trying to find people who are just going to do jobs that perhaps any American could do if they were out of work. You are talking about people with degrees, you are talking about people with expertise. Is that what you are talking about? You are talking about people like—with doctorate degrees, et cetera?

Mr. BLACK. Yes, sir. I am talking about people with masters in social work, people with experience in dealing with child protection and child issues and stuff.

And right now, as I stated in my testimony, there is a serious shortage of those types of qualified applicants. And then, you know, this is not an easy situation to walk into, I think. So that challenge, I think, might be somewhat daunting for some of the folks that we are looking to really try and recruit and hire out there.

Mr. CÁRDENAS. Now, let me understand. When you say it is daunting, are you giving a—

Mr. BLACK. I am saying—

Mr. CÁRDENAS. You said it could be daunting. I am asking you a question. Are you giving up?

Mr. BLACK. No, sir.

Mr. CÁRDENAS. I just want to be clear about that.

Mr. BLACK. In no way, shape, or form.

Mr. CÁRDENAS. Because I have been in some of these committees where, when somebody says something like that, and they are just being honest and truthful about how daunting the situation is, sometimes I see them get attacked as though they are giving up, as though they are not trying. So I just want to make that clear.

Mr. BLACK. Absolutely not.

Mr. CÁRDENAS. Are you using every effort that you have available to try to contribute to solving this problem?

Mr. BLACK. Yes, sir, we are. We have been reaching out across the country to all of our BIA regional offices. We are looking at—we have been talking with ACF, Casey Family, anybody we can to bring the resources and personnel to bear on this issue. We are even reaching a point now we are talking to other tribes that have social work programs that have been successful, and trying to recruit some of them to come up and help us and identify some of the issues that they could help us to resolve. And partly right now it is really needing caseworkers on the street, right out there on the ground that can really address some of the issues.

Mr. CÁRDENAS. OK, thank you.

Ms. Chang, over at the Administration for Children and Families, HHS, when you are dealing on a situation like this in a sovereign nation, does it complicate things a little bit compared to, say, doing something in maybe Detroit or Los Angeles, or somewhere else in the country?

Ms. CHANG. Absolutely. I think it is important to recognize that you are working with a sovereign nation, that they have their own rules and ways of governance that also may be foreign to folks who work only with States and county-level governments.

But the reality is that good child welfare practice is good child welfare practice. And the good news is that the Chairman and the BIA recognize that. And, as they have pointed out, as Mr. Black has pointed out, the big challenge here is staffing. And that can't be—

Mr. CÁRDENAS. The biggest challenge.

Ms. CHANG. Yes.

Mr. CÁRDENAS. Many challenges, but the biggest challenge.

Ms. CHANG. That is right. And it is a big challenge. And what I think it calls for are creative solutions. And they have reached out to us and, as he pointed out, other philanthropies and private organizations. And I think we can develop creative solutions to a very big challenge.

Mr. CÁRDENAS. Thank you. I yield back my time.

Mr. CRAMER. Thank you, and thank the panel for being here. And let me at the outset express some of my appreciation for being here, but Director Black, for your willingness to be in regular contact with me. You have been very responsive, very professional, and I very much appreciate it throughout our relationship. And I think building trust is an important part of all of this. So thank you for that.

I do want to revisit a little bit of the history of this, because this 7-month time gap that the Chairman referenced between retroceding, the tribe voluntarily retroceding, and the reassumption report that came out that said, "Hey, there is imminent danger here," what is the technical difference between reassuming—had the BIA reassumed, as I understand it, the contract—versus the tribe voluntarily retroceding? What are the ramifications of those two differences, the distinctions?

Mr. BLACK. Well, I guess the short version of that would be in the case we are dealing with here, the tribe voluntarily returned the program back to the Bureau of Indian Affairs for us to operate.

If we were to go in and reassume the program, which was, quite honestly, on the table at the time in our discussions with the tribe, is that can somewhat become more of a longer and lengthy process, because we do have to notify the tribe that we are going to reassume the program, take it back from them. They have their appeal rights and, quite honestly, I have seen it in cases where it can go another year or longer before we actually are able to take over the program, once it goes through all of the appeal processes. So—

Mr. CRAMER. But it is my understanding that if there is an imminent threat, if there is an emergency situation—which I believe, as I recall, this was designated—couldn't you have reassumed—

Mr. BLACK. We could reassume it. It is not that that wouldn't be without challenges. We could do an emergency reassumption, you are correct, as you state, which we would just roll in and take over the program at that point. We would still have some wrangling, probably, to do over appeals. We would immediately begin operation of the program, but—

Mr. CRAMER. The reason I am curious about that is because during that time period there were child deaths. Now, we haven't even begun to really dig into other allegations of abuse in terms of prosecutions, in terms of the number of reports. We pretty much focused on child deaths.

So, looking back on it, I mean, do you ever regret and think maybe we should have been a little more urgent in our response? And I ask that question not just to relive history, but as we go forward, and while I appreciate the optimism of both the new Chairman and ACF, there is—in my view there is an urgency to this, because it seems like the only time we are hearing news out of Spirit Lake is when there is another dead child.

And so, that is why things like this are—these moments are important for us to have an open dialog that provides both hope, as well as solutions, if that makes sense. So, I still am a little concerned about that 6- to 7-month gap, and wish we would have acted a little more urgently.

Let me ask this. Are you aware of the 13—I guess they are called mandated reports from Tom Sullivan, the HHS or IHS investigator that has worked on this situation, investigated it?

Mr. BLACK. Yes, I am.

Mr. CRAMER. Do you know if all of his allegations—and if you have read them, as I have, you know that they are quite—there is a lot there, and they are quite provocative, quite serious, to say the least. Have any of them been investigated, any of these allegations?

Mr. BLACK. Sir, we have investigated, through our Office of Justice Services, in coordination with the U.S. Attorney, we have investigated every one of the allegations in the Sullivan reports. We have reached out to Mr. Sullivan personally, through our OJS staff and investigators, to try and gather information from those reports. And I can honestly say that every one of those has been put into, basically, three categories.

Where we are unable to substantiate the allegation after further investigation, was there, was nothing located. Or a number of them that were already investigated or were currently under investigation at the time that we reviewed them.

Mr. CRAMER. Well, given that we—I have a copy of all those, they are public. Could we get a copy of all the investigation reports that followed that trail after his allegations?

Mr. BLACK. Sir, we would be happy to work with that. You know, especially when we are dealing with children here, like we are, we do have to protect the rights and the privacy of the children and the individuals involved. But we would be happy to work with you to generate some type of a report that we could provide you—

Mr. CRAMER. Well, I certainly—

Mr. BLACK [continuing]. That wouldn't affect any—

Mr. CRAMER. You know, I certainly want to. Whatever way, if it requires redacting information, that is fine. If it is just kept to the committee—which the committee of jurisdiction does have the right to those kinds of reports—but I would just as soon work collaboratively with you on the best way to do that, in a way that maintains the integrity of the process.

Mr. BLACK. Yes, sir.

Mr. CRAMER. Are you familiar with a recent case of a 2-month-old—it actually was an infant born 2 to 3 months ago, diagnosed with having meth in the system, removed from the mother, who was a meth addict, evidently? Has been returned to the mother, and just in the last week or two—are you familiar with that case, without naming any names?

Mr. BLACK. I am not familiar with that case.

Mr. CRAMER. OK. We may ask that of the next witnesses.

My time has expired. However, I—we have any other—did you want to—sure, yes, yes. So, OK, with that, we are going to take another round of questions. I will recognize the Ranking Member, my friend.

Mr. CÁRDENAS. Thank you very much. Ms. Chang, when it comes to the activities that you are involved in at HHS, when you are dealing with a sovereign nation and you have the BIA right by your side, as they have jurisdiction as well over much that happens when it comes to Federal activity, who reports to who when it comes to taking further steps, and when it comes to apprising one

or the other of what you feel should be done in order to remedy the situations like this? Who reports to who between departments?

Ms. CHANG. So I certainly can't say anyone reports to me across agencies. I think we actually work quite well in the spirit of collaboration. We have been talking very regularly with BIA. We have been sharing our recommendations with the Chairman. He has those. And we are looking forward to continuing to work together.

I think this has to be done in partnership. Everyone has a role to play. We have responsibilities, because we give funding through our ACF programs for a number of services. We are actively working with the tribe to make sure those dollars are being used effectively. The BIA has their responsibilities. And I think the goal here is to make sure that we are coordinating our services and our efforts to improve, so that they are in alignment and that they are actually cohesive.

Everyone here I can say really wants the same thing, which is to ensure that children at Spirit Lake are safe. There certainly are challenges here. But the only way that we can address them is to work together. So we have been working very collaboratively.

Mr. CÁRDENAS. So you are saying in this situation you have been working in a collaborative spirit, and it appears to be working well when it comes to the new tribal chairman and his administration. And then, when it comes to BIA, HHS, and everybody else involved—

Ms. CHANG. Absolutely. The Chairman has been really, I think, outstanding in reaching out to all partners, and being willing to say, "What do we need to do better here," and is willing to listen and to talk and be open. And I think, really, that is also very important, is that everyone is willing to be open and share with one another what is actually happening.

Mr. CÁRDENAS. OK. And sharing what is happening is one thing, but actually charting a course for taking proactive actions, whether it is deciding that—say you do—you are fortunate to find another MMW or a psychologist or somebody who is willing to be hired, et cetera. Who is involved in that decision as to who gets picked, et cetera?

What I am getting at is how long does it take between knowing that you have something in front of you and a decision can be made, which is good for the solution, yet at the same time, what hurdles do you have to jump through before that action can be taken?

Ms. CHANG. Sure. So, to Chairman Young's point, this is certainly a very urgent issue. I think we all recognize that. Some of the recommendations we shared with the Chairman were that there needs to be both short-term and long-term fixes that are put in place, because of the nature of that urgency.

I think when you think about staffing, it is a little challenging here, because you have both tribal staff, as well as BIA staff, who need to be hired and recruited. Our recommendation is that they come together to think of a joint short-term and long-term recruitment and training plan, so that they can get the same type of folks in who are trained similarly, who are providing the same kind of services.

Because even though you have two different organizations providing services, the child ultimately is the same, and we need to make sure that the type of services they are getting are equal, regardless of which organization is ultimately responsible.

Mr. CÁRDENAS. Well, one of the things that—whether it is Mr. Black or you, Ms. Chang, if you could help me understand, is there a barrier or a hindrance to getting good, qualified people, or good, qualified candidates when it comes to cultural sensitivity and understanding the particular constituency that they are hired to work with?

For example, when I was in the city of Los Angeles—I don't mean to sound light about it, but we had a police chief that was from Boston. And every once in a while I would kind of have to turn my ear a little bit to understand what he said. Again, that is not all that critical, thank God, because I didn't work for him, I didn't have to take orders from him. But when we were collaborating, and sharing information, again somebody who has perhaps some cultural differences, or somebody that maybe you are communicating with, and you are not catching it the first time, that can create difficulties.

So, my point is are you running into problems trying to find individuals who may have the titles, yet, at the same time, unfortunately, the cultural sensitivities might be amiss?

Mr. BLACK. I think to your point, Congressman, the cultural sensitivity, I think, is kind of almost critical and important, but the most important thing right now is, I think, finding those qualified individuals that really care about what they are doing and really come out there with the mission to make the lives better of the children there at Spirit Lake.

I think it is important with any tribe that there is an understanding of the cultural differences. But those are things that I think we can teach, that we can educate those kinds of people and that staff in. And I think, to Ms. Chang's point, there is—we are also working really close with the tribe. And at the same time we don't want to compete with them for these employees, because it is—if one of us can get them, great.

But we want to be able to help each other to get to that point where we can bring people in. There again, then that allows us to improve that collaboration and educate those folks as they come in on what they really need to know about the community, about the culture, and then how they can best help the children.

Mr. CÁRDENAS. Thank you, Chairman.

Mr. CRAMER. Thank you. Before I leave you, Mr. Black, you talked about unsubstantiated allegations leading to bad publicity and making it difficult to attract people. Do you have any specific allegations you can reference that are particularly both unsubstantiated and—I use the word “provocative” or “inflammatory”—that would be creating this problem?

Mr. BLACK. I think there probably are some of those cases within the report that we would be able to share with you after we get the chance to really sit down. But there are some of those in there, yes.

Mr. CRAMER. Then one other question. Do you know the number of—roughly the number of either prosecutions or even charges filed

for child abuse that did not lead to a child death in, say, the last 2 or 3 years?

Mr. BLACK. I don't have those numbers with me, but we can certainly coordinate with DoJ to get those numbers for you.

Mr. CRAMER. The reason I ask that, I don't—and this is, frankly, part of the problem where I live, and probably where we all live, is that I don't read much about them. I don't see much about it.

And I think—and maybe this leads to my first question for you, Ms. Chang, on your site visit and what you have learned in this process—it seems to me that there is a lack of transparency, that there is—somewhere between corruption and just fear, there is a lack of transparency is the best way I can put it.

I mean we have reports of TV, you know, cameramen and reporters being assaulted, BIA officers requiring them to delete their video files, being locked out or left out of meetings. Could you help me better understand that, or am I just imagining this, or have you observed the same thing?

And again, not casting any allegation on why. But am I on to something?

Ms. CHANG. Sure. So I certainly think that there is a great deal of community distrust. There is a high level of anxiety among the community that I witnessed when I went there on the site visit. And it is part of the reason why one of our recommendations to the Chairman is that they come up with a plan, in collaboration with BIA, to improve their communication and community relationships. We think that is critical. Because unless the community understands how BIA and the tribe is now functioning, and can understand the system, I think there will be always that heightened level of anxiety, which isn't good for the community or the kids within that community.

One of the recommendations we have made is that they have an ombudsman, who can really serve as a go-between between the community members and both the tribe and BIA. But part of it also is being transparent about what the process is.

One of the things we learned when we went out there is that there is, quite frankly, not because of a lack of transparency, but I think because, quite frankly, everyone is so busy doing the work that they haven't necessarily taken a step back to explain to the community, "This is how things are structured now." And so, some people weren't even—didn't realize that they were supposed to send reports of abuse and neglect to BIA and not to the tribal social service agency.

So those are some of the things that we think can be easily addressed, and really help alleviate some of the anxiety within the community.

Mr. CRAMER. Ms. Chang, I assume that you have read the mandated reports by Tom Sullivan?

Ms. CHANG. I have.

Mr. CRAMER. OK. You know Mr. Sullivan? Do you know him?

Ms. CHANG. I do.

Mr. CRAMER. OK. Do you know why he wasn't allowed to testify today when we requested him?

Ms. CHANG. So I think it is important to clarify that we have made clear to Mr. Sullivan that the Children's Bureau is the agen-

cy that has responsibility on matters related to child protection, child welfare, and that to the extent—if he has official matters to discuss, we have encouraged him to bring that to the Children's Bureau.

In his personal capacity, he certainly has the right to express his views, and we have encouraged him, whenever he has allegations of abuse and neglect, to take them to the proper officials who can actually address those issues.

Mr. CRAMER. I have got to be honest. What you just said or read sounds—it leads to suspicion by me that there is some reason that you didn't want him, the person who investigated for well over a year and has the most intimate knowledge of it.

I would ask—I guess I am the Chair, but, without objection, I would like to have his mandated reports placed into the record.

And we can determine what—

Ms. CHANG. It is also my understanding that Mr. Sullivan has never been to Spirit Lake. He has never acted on behalf of the government in his conversations with individuals. He has never been part of any of our investigations or assessments. We have been on the ground, on the reservation, working directly with the tribe and with the BIA. So, I just wanted to make that point of clarification.

Mr. CRAMER. OK. So I just want to make sure you are saying he has never been to Spirit Lake.

Ms. CHANG. That is my understanding.

Mr. CRAMER. All right. We will try to verify that before the end of the day.

Ms. CHANG. Right.

Mr. CRAMER. But I have a suspicion that are you not right on that.

Mr. Chairman—OK. Well, my time has expired. Did you want to—OK.

Mr. Cárdenas, did you want another round? Would you?

[No response.]

Mr. CRAMER. OK. Then we will dismiss this panel, realizing that the record will be open for 10 more days, and the members of the committee can submit questions in writing—will submit questions in writing.

Thank you very much for your time, and we will take some time for the second panel to assume their positions.

All right. We are now ready for the next panel of witnesses. I will introduce all of you first, and then we will call on you one at a time for your prepared testimony.

First, we are very honored to be joined by Chairman Russell McDonald, Chairman of the Spirit Lake Tribe of North Dakota. Mr. Chairman, welcome. Thank you for being here. He is accompanied by Melissa Merrick-Brady, the Interim Director for Spirit Lake Social Services. My understanding is Ms. Merrick will not be providing testimony, but is available for questions. Is that accurate? Very good, thank you.

Molly McDonald of Devils Lake, North Dakota. Molly is a member of and former tribal judge for Spirit Lake. Judge McDonald, thank you for being here.

And Anita Fineday, Managing Director of the Indian Child Welfare Program at the Casey Family Programs in Seattle, Washington. Thank you for making the trip out here.

All of the witnesses are again reminded their complete written testimony will appear in the hearing record. We have all received it, and I assume you have all read it. And you have 5 minutes to summarize it.

With that, Mr. Chairman, you may begin the testimony. Thank you for being here.

STATEMENT OF LEANDER R. McDONALD, Ph.D., CHAIRMAN, SPIRIT LAKE TRIBE, FORT TOTTEN, NORTH DAKOTA, ACCOMPANIED BY MELISSA MERRICK-BRADY, INTERIM DIRECTOR FOR SPIRIT LAKE SOCIAL SERVICES, FORT TOTTEN, NORTH DAKOTA

Dr. LEANDER McDONALD. Mr. Chairman, I would just also like to reserve an opportunity for Ms. Brady to—if there is any detailed information that we need, I might have to go to her for those questions. Thank you, sir.

I would like to begin by thanking Chairman Don Young, Ranking Member, and distinguished members of the committee for the opportunity to let you know about progress being made to strengthen the child welfare system on the Spirit Lake Indian Reservation. Our children are our top priority, and we appreciate your support in making sure they have access to the same services, programs, and opportunities to succeed as any other American child.

We have submitted a longer testimony for the record, but we would like to use this opportunity to give background on who we are, and where we are, and ask for help with our top priorities.

My name is Leander Russ McDonald, Chairman of the Spirit Lake Tribe, located in northeastern North Dakota. The Spirit Lake Reservation was established by the Treaty of 1867, and currently consists of more than 250,000 acres of land. Our treaty guarantees that the Federal Government will provide for the education, health, and welfare of the Spirit Lake Nation. All these areas have been historically under-funded, resulting in a lack of capacity, inadequate services, and gaps in the system.

In October 2012, we retroceded the child protection services program back to the Bureau of Indian Affairs, but nothing has changed, and the problems still remain. We have experienced tragic child losses as a result of these failings of the trust responsibilities, and we continue to struggle to meet the child protection needs of our community.

Over the past 2 years, our tribe has been highlighted in the media due to child protection issues, and has struggled to recruit and retain child welfare and social workers, as a result.

I recognize the fact that the tribe was slow to respond to scrutiny in the past. However, I have made child protection services a priority since being sworn into office as Chairman in September of 2013.

First and foremost, we need social workers and behavioral health providers through the Department of Health and Human Services, and a commission corps of the U.S. Public Health Service. Short term, this would stabilize our system and address the immediate

need. Long term, this would give us the necessary time to develop a strategy, to recruit and retain the necessary professionals.

Currently, we have only nine licensed foster care homes on the reservation, and a 31-child case load for the Spirit Lake social services, and an additional 11 children ready to transfer from child protection services. The Child Welfare League of America recommends 12 cases per social worker. At this conservative estimate of 42 children, our current need for social workers, case managers, is 3.5 full-time equivalents. We are currently funded for two, and both of these positions have not been filled.

Having full-time social workers in Spirit Lake Social Services is our first priority. Our next major priority to deter child abuse and assure a safe community is a trained and adequately staffed law enforcement department. The ratio for our area is 2.8 law enforcement officers per 1,000 people. We have approximately 5,000 residing on our reservation. We should be staffed at 14 officers, but we only have 8 officers assigned to our area, with only 2 on every shift. We need more adequately trained law enforcement personnel, because the presence of a police force has been shown to deter crime.

Last, we would like to provide an update on the status of our efforts to implement recommendations from our court assessment. The tribe has secured immediate funding from the Office of Tribal Justice to hire a juvenile court attorney, a guardian for minor children, and a juvenile court public defender to represent families and juveniles in court proceedings.

Also, a review and update of the Spirit Lake court is necessary to not only assure child protection, but also the prosecution of those involved in substance abuse. The majority of child welfare cases and sexual offender cases can be either traced back to drug and alcohol use, or the influence of intoxicating substances of the offender.

In Dakota, children are called Wakanheza, which translates to sacred being. They are considered sacred, as they are recognized as newly coming from the creator. This perspective guides us as individuals, tribal leaders, and elected officials to do everything within our power to develop legislation that fosters their protection and welfare. All of our requests would allow the tribe to implement our plans for improvement of the child welfare and justice systems, and effectively protect the children from harm.

Thank you again for holding this hearing and granting me the opportunity to advocate for the children of the Spirit Lake Indian Reservation. I hope this represents an effort by Congress to understand the current position of the tribe, and support the furtherance of our progress to heal a broken system.

I am calling on Congress to be accountable for concrete solutions to our problems. We are not the same reservation that we were in 2012. We have a plan. Now we need the means to make it happen. I look forward to answering any questions that you might have. Mitakuye Owasin, all my relatives. [Speaking native language.]

[The prepared statement of Mr. McDonald follows:]

PREPARED STATEMENT OF LEANDER "RUSS" McDONALD, CHAIRMAN, SPIRIT LAKE
TRIBE, FORT TOTTEN, NORTH DAKOTA

I would like to begin by thanking Don Young and distinguished members of the House Natural Resources Committee for the opportunity to let you know about progress being made to strengthen the Child Welfare System (CWS) on the Spirit Lake Indian Reservation. Our children are our top priority, and we appreciate your support in making sure they have access to the same services, programs, and opportunities to succeed as any other American child.

My name is Leander "Russ" McDonald, Chairman of the Spirit Lake Tribe (SLT), located in northeastern North Dakota. The Spirit Lake Reservation was established by the Treaty of 1867 and currently consists of more than 250,000 acres of land. We have just over 7,200 enrolled members with more than 4,000 of these people residing on the Reservation. Spirit Lake Tribe, like many other tribes, has long suffered from chronic underfunding of programs and services. Issues of poverty and unemployment, loss of land, lack of housing, lack of primary and preventive health, and inadequate law enforcement and judicial services have led to many intergenerational challenges, such as disproportionately high rates of suicide and other child welfare needs.

Many of these challenges have negatively impacted our Reservation and children, and are a result of the Federal Government's failure to meet its trust responsibility to our Nation. We have experienced tragic child losses as a result of the lack of capacity and we continue to struggle to meet the child protection needs of our community. Over the past 2 years, our tribe has been highlighted in the media due to child protection issues and has struggled to recruit and retain child welfare and social workers as a result.

On October 1, 2012, the SLT retroceded a Public Law 93-638 Child Protection Services (CPS) program back to the Bureau of Indian Affairs (BIA) due to the inability of the tribe to address serious deficiencies identified in a detailed corrective action plan issued by the BIA in April, 2012. Limited budgets, difficulties retaining qualified professionals, and lack of placement options for children in crisis are among the factors that have contributed to the issues that we *continue* to face within our community.

I recognize the fact that the tribe was slow to respond to scrutiny in the past; however, I have made CPS a priority since being sworn into office as Chairman in September of 2013. From then until the present, a tremendous amount of time and effort by Spirit Lake Social Services (SLSS) and my office have been dedicated to collaborating with Federal, State, county, tribal, and foundation partners (Appendix A: Partners) to address immediate needs and take a proactive approach to building the necessary infrastructure through strategic planning to keep our children safe.

As Chairman, I have come to realize the complexity of this issue and the need for our law enforcement, child protection services, tribal court, and tribal social services to communicate and work together to create an exemplary system. All of the areas have been historically underfunded at approximately 60 percent of need resulting in a lack of capacity, inadequate services, system distrust, and gaps in the system. We struggle to provide the most basic services, but we have achieved milestones in a positive direction. I believe that given the proper resources we could build a good system for our Nation.

I am here today to report to you regarding the planning and implementation of a multifaceted approach to addressing these issues. This intensive process has resulted in a number of achievements from this collaboration, such as a revised Title IV-E transfer protocol, establishment of the Spirit Lake Social Services Coalition, and completion of several assessments and reports. The assessment results from the Administration of Children and Families (ACF) and Office of Justice Services (OJS) will also be used in part to help develop a map on how children's needs will be addressed when entering the social services system. Casey Family Programs has been very supportive by being present and providing critical linkages to resources that have enhanced the overall collaborative. This work will culminate with a meeting being sponsored and facilitated by the Casey Family Programs at Spirit Lake on July 7-9, 2014. SLSS is also receiving technical assistance from Native American Training Institute for the development of a 5-year plan.

LAW ENFORCEMENT

A trained and adequately staffed law enforcement department is critical as the front lines for the determent of child abuse and safe communities. The ratio for our area is 2.8 law enforcement officers per 1,000 people. We have approximately 5,000 residing on our Reservation; therefore, we should be staffed at 14 officers. We have eight officers assigned to our area with two officers per shift patrolling this large

geographical and isolated rural area, even during the high crime days of Wednesday and Thursday. Just the presence of an adequate police force has been shown to deter crime. Law enforcement officers trained in documenting child abuse are also necessary to the larger picture of child safety.

CHILD PROTECTION SERVICES (CPS) AND TRIBAL SOCIAL SERVICES

Currently, we have only 9 licensed foster care homes on the reservation and a 31 child caseload for SLSS and an additional 11 children ready for transfer from CPS. The Child Welfare League of America recommends 12 cases per social worker. At this conservative estimate of 42, our current need for social workers/case managers is 3.5 full time equivalents (FTE). We are currently funded for two, and both of these positions have not been filled. Funding to increase case manager staffing and funding for a full time equivalent (FTE) for a foster home recruitment specialist position at \$75,000, for salary and fringe, would greatly assist in increasing foster homes on the Reservation.

SLSS currently uses hard copy for all files, which has previously delayed the placement of children due to the necessary sharing of files among agencies. We are in need of an electronic database system that is estimated to cost approximately \$300,000 to purchase and \$12,000 a year to maintain and operate. Staff training would also be necessary and is estimated to be an additional \$10,000. The system and training would allow us to more quickly place children in safe environments relieving unnecessary delays. Every State relies on some sort of electronic database system. This disparity between what is available to States in comparison to tribes demonstrates a part of our frustration.

Last, we ask for immediate assistance to help address urgent welfare needs by providing staffing of social workers and other behavioral health providers through 6–12 month deployments through the Department of Health and Human Services and the Commissioned Corps of the U.S. Public Health Service. Short-term, this would stabilize our system and address the immediate need. Long-term, this would give us the necessary time to develop a strategy to recruit and retain the necessary professionals.

We need a larger building to house all of the child welfare services, including child protection. We also need two program vehicles, security for our current building, community education, and continued training for staff. Negative attention from the press has made recruitment of providers and foster care homes especially difficult. We need help from a PR team to generate positive media coverage in an effort to correct public opinion on the current condition of the Reservation. While the community faces many challenges, we also have many strengths that should be similarly highlighted in the media and would go a long way in helping our community recruit and retain providers and promote hope.

THE TRIBAL COURT

Third and possibly most essentially, we are currently implementing recommendations from our court assessment that are designed to improve and enhance access to our court and representation of those involved in court proceedings. The tribal court is the guardian of our sovereignty and the way through which the tribe helps parties in dispute, families in distress and children in need. All stakeholders rely on the tribal court for this solemn responsibility. Recommendations from the assessment regarding representation and the development of institutional infrastructure are receiving immediate attention. For example, the tribe has secured immediate funding from the Office of Tribal Justice to hire a juvenile court presenting attorney, a guardian ad litem for minor children, and a juvenile court public defender to represent families and juveniles in court proceedings.

The tribe has also secured funding and is in the process of securing technical assistance to develop court infrastructure—including a judicial bench book, attorney desk book and a clerk's manual—that will help institutionalize the processes of the court. Last, a review and update of the Spirit Lake Law and Order Code is necessary to not only ensure child protection, but also the prosecution of those involved in substance abuse. The majority of child welfare cases and sexual offender cases can be either traced back to drug and/or alcohol abuse or the influence of intoxicating substances of the offender.

In Dakota, children are called *Wakanheza*, which translates to sacred being. They are considered sacred as they are recognized as newly coming from the Creator. This perspective guides us as individuals, tribal leaders, and elected officials to do everything within our power to develop legislation that fosters their protection and welfare. We need support in solving our problems. All of our requests would allow

the tribe to implement our plans for improvement of the child welfare and justice systems and effectively protect the children from harm.

Thank you again for holding this hearing and granting me the opportunity to advocate for the children of Spirit Lake Indian Reservation. I hope this represents an effort by Congress to understand the current position of the tribe and support the furtherance of our progress to heal a broken system. I am calling on Congress to be accountable for concrete solutions to our problems. The time for placing blame on the tribe has passed. We are not the same reservation that we were in 2012. We have a plan. Now we need the means to make it happen.

Mitakuye Owasin (All My Relatives).

Appendix A: Partners

Federal Partners

Administration of Children and Families (ACF)
 Administration on Native Americans (ANA)
 Bureau of Indian Affairs (BIA)
 Department of Justice (DOJ)
 Office of Justice Services (OJS)
 National Resource Center for Child Protection Services (NRCCPS)

State Partners

North Dakota Indian Affairs Commission (NDIAC)
 North Dakota Department of Human Services (NDDHS)
 Benson and Ramsey County Social Services
 Area law enforcement
 Area schools
 Judicial representatives
 Health services

Non-Profit and Foundational Partners

Casey Family Programs
 Native American Training Institute (NATI)
 Center for Native American Youth; and others

QUESTIONS SUBMITTED FOR THE RECORD BY THE HON. KEVIN CRAMER TO RUSS McDONALD, CHAIRMAN, SPIRIT LAKE TRIBE AND MELISSA MERRICK-BRADY, DIRECTOR, SPIRIT LAKE TRIBAL SOCIAL SERVICES

Question 1. Please provide a list of all Tribal Court child abuse charges and convictions on the Spirit Lake Indian Reservation for the last 2 years. Please provide redactions as necessary to protect the identity of minors.

Answer. The tribal court administrator explained their database only has charges not convictions. There aren't names attached to the report. In order for them to provide the number of convictions they would have to go through all of the files manually. The database issue was addressed in the recent tribal court assessment conducted by the Department of Justice and funding will be provided for software purchase. At least a month is needed for obtaining the software and training. The data will then need to be entered into the system.

The information below is based on what was readily available upon review of hard copy records. This question will require us more time to fully answer.

Child Abuse/Neglect (they aren't separated)
 2011 — 15
 2012 — 45
 2013 — 36
 2014 (Jan–June) — 19

Question 2. Patricia Denice White alleges her infant grandson was improperly returned to the child's drug dependent mother by the Tribal Court without adequate safeguards to protect the child from future harm. Please address these allegations, and inform this committee of all steps taken to insure the safety of this child.

Answer. Melissa Merrick-Brady, Director, Spirit Lake Tribal Social Services (SLTSS) reports: Denice White called regarding her grandson to Tribal Social Services. She shared what had been happening and I advised her to file a 960 with Bureau of Indian Affairs (BIA) Child Protection Services (CPS), because that is how a child protection investigation would begin. I offered to assist with filing a 960, but she informed me that she had already done so. I advised her to file for custody through Tribal Court and she stated she was hesitant because she did not want the mother to be mad at her, which may keep the grandson from her. I advised her to go directly to BIA CPS and speak with them and to tell them what she knew. I also advised her also to file a 960 for every incident and if there were witnesses to have them file 960's as well. I told her if she felt this was an urgent situation to call the police.

Chairman McDonald: I met with Judge Cavanaugh regarding Patricia Denice White's (paternal grandmother) concerns. According to Judge Cavanaugh, the Spirit Lake Tribe Law and Order Code seeks to reunify parent(s) with their children. A previous court order on the mother had court ordered her to seek assistance for her addiction and parenting issues. Documentation was provided to the Court that indicated she was participating in treatment and rehabilitation services. Tribal Court continues to maintain custody of the child and provided BIA Child Protection Services (CPS) with care, control and placement authority. CPS placed the child back with the mother with supervision being provided by the maternal grandmother and CPS to support reunification. CPS continues to provide safety checks on the child, mother, and household.

Question 3. Will Monty J. Stensland continue to serve as your Chief Judge, notwithstanding your present knowledge regarding the status of his license to practice law in North Dakota and the facts leading to his suspended status?

Answer. Chairman McDonald reported at the Oversight Hearing that Tribal Council had went on record to support the hiring of Mr. Stensland as Chief Judge; however, when the background check was provided back to Tribal Council, this decision was reversed. Mr. Stensland was never hired as Chief Judge nor was he offered the position.

Question 4. How many foster care providers does the SLTSS currently require?

Answer. Tribal Social Services: BIA currently has 132 children in placement. SLTSS has 32 children in placement and case management. We have 9 licensed affidavit homes on the Spirit Lake Nation. Our licensing standards limit a home to no more than 4 children per home. With this standard alone, Spirit Lake would need at a minimum of 33 licensed foster homes; therefore, we are in need of an additional 24 homes. There are qualifiers that can change that number, for example if a foster home provider is elderly, the number of children they can provide for will decrease. A home may only be able to take one child if the child has special needs.

Question 5. As discussed during the hearing, how many children of the Spirit Lake nation are currently unaccounted for?

Answer. Tribal Social Services: All 101 children from the list received have been accounted for by our independent social work contractor; however, there are 3 children where direct contact has not been able to be obtained as the caregiver has not been available. The independent contractor began May 19, 2014 and will continue working until all of the children are determined safe. The independent contractor holds a masters in social work and is licensed in the State of North Dakota. She is a retired Federal employee mental health worker with over 30 years of service and experience.

Question 6. Of those children recently found who are in at-risk placements, specifically the "complicated" scenario discussed by the interim Tribal Social Services Director at the June 24, 2014 hearing, is that child now in a protected environment? Please explain.

Answer. The "complicated" scenario discussed briefly is still in process as the children are off the reservation and in another jurisdiction. A 960 has been filed in the county they reside. The social services agency within that county is well aware of the situation, but is hesitant to remove them. The mother of the children has legal custody and voluntarily placed the children in this home. We've contacted the National Indian Child Welfare office for guidance. Because the mother abandoned the children, SLTSS is going to file for custody of the children in SLT Court. Once

custody is obtained, we will forward the order to the county in which they reside and take care and control of the children.

Mr. CRAMER. Thank you, Mr. Chairman.
Judge McDonald, you are recognized for 5 minutes.

**STATEMENT OF JUDGE MOLLY McDONALD, DEVILS LAKE,
NORTH DAKOTA**

Judge MOLLY McDONALD. Good afternoon, distinguished Members of Congress. My name is Molly McDonald. I sincerely appreciate the time and attention you give me today to listen to my testimony regarding these important issues on Spirit Lake Reservation: child protection and the tribal justice system.

I am an enrolled member of the Spirit Lake Tribe. I was raised on the Spirit Lake Reservation. I graduated from the reservation high school in 1987. I enlisted in the U.S. Navy in 1988, and was honorably discharged in 1992, during Operation Desert Storm. I earned my associate degree in criminal justice in 1997 from United Tribes Technical College. I went on and earned my bachelor's degree in criminal justice at Minot State University in 2000, while working full-time at the North Dakota State Penitentiary as a corrections officer.

I was hired in October of 2000 as a U.S. probation and pre-trial services officer for the District of North Dakota in the Devil's Lake office. I was specifically hired to work with my home reservation. I worked hard—I worked with this agency for almost 10 years, where I gained a vast knowledge of the Federal justice system and the investigation process, from the police report to a conviction.

In February of 2010 I was appointed as the Associate Juvenile Judge for the Spirit Lake Tribal Court. My appointment ended in March of 2012. When I accepted the appointment as Associate Juvenile Judge in February 2010, I was already aware of incidents of negligence which involved both BIA and law enforcement and—excuse me, and Spirit Lake tribal social services in Federal cases from my employment with U.S. Probation.

One example of this is our office was supervising a juvenile from Spirit Lake, where we were required to do a home contact with the juvenile at a minimum of once a month. Every home visit, the juvenile was locked inside of his home from the outside. We had to visit with the juvenile through the window. Because we were mandated reporters, we filed a 960 after each visit. The 960 was filed with Ramsey County Social Services and Devil's Lake. Ramsey County Social Services sent the 960 on to Spirit Lake Tribal Social Services.

Over and over again the child continued to be locked in the home. Our office contacted the director of Spirit Lake Tribal Social Services, Director Kevin Dauphinais, and told him of the situation. He said he would begin investigating immediately. It should be noted the mother of this particular juvenile also worked at Spirit Lake Tribal Social Services. The child remained locked in the home throughout his supervision. This juvenile was released from super-

vision upon his 18th birthday. He later shot and killed his aunt and then himself.

When I began my appointment, there were issues with BIA law enforcement, which included not filing paperwork in a timely manner, not filing complaints and/or police reports, not showing up for trials, not completing investigations, and other problems. The court contacted Elmer Four Dance with the Aberdeen Regional Office, along with Marcus Babbit and Mario Redlegs, and a meeting was held at the court with these individuals, along with the officers from the Fort Totten Police Department. This meeting appeared to be successful, with all BIA law enforcement present, promising better work from their officers. However, problems continued to happen, and the court continued to document these issues through emails.

Upon leaving the court in March of 2012, the issues with BIA law enforcement were not resolved. In February 2012, I had a meeting with tribal prosecutor, Joe Vetsch. Mr. Vetsch stated to me that there had been no improvements with BIA law enforcement since the time I had left the court. In fact, at that time there were three alleged rapes that occurred within 6 months that were reported directly to Mr. Vetsch by the victims because BIA law enforcement did not complete any reports or investigation in the cases.

All three victims reported the incidents to law enforcement. Mr. Vetsch also stated to me that he, himself, contacted FBI for assistance on these particular cases. He was told by FBI, "We offered to assist BIA criminal investigator, Jeff White, but he told us he had these cases covered, and we didn't want to step on anyone's toes."

Within the first months of my appointment as Associate Juvenile Judge, Spirit Lake Tribal Social Services was requesting hearings for the foster care cases. However, when the hearings took place, there was no representation from Spirit Lake Tribal Social Services for the hearings. I met with Spirit Lake Tribal Social Services Director Kevin Dauphinais about this, along with other issues. Mr. Dauphinais assured me these issues would be taken care of, and it wouldn't happen again. The court continued to have the same issues. It got to the point where I began dismissing the cases, and Spirit Lake Tribal Social Services had to refile all the cases.

On several occasions families were coming to the court stating Spirit Lake Tribal Social Services removed their children from their homes, and they wanted to know when the hearings were taking place, so they could attend and work to get their children back. The court had no documentation of the children being removed from the home. In some cases the children were out of the home for a year without any documentation.

The court attempted to contact Spirit Lake Tribal Social Services about these cases without success. In other cases, the court became aware of physical, sexual, and emotionally abused children through I.H.S. Clinic, I.H.S. Mental Health, and the Suicide Prevention Coalition, along with victim assistance where 960s were filed on these cases and no response from Spirit Lake Tribal Social Services, as far as the investigation process.

If the proper investigations took place, the court should have been involved in the process by completing background checks on

the children and their guardians. The same names continuously came up through time, either through I.H.S. Clinic, I.H.S. Mental Health, or the Suicide Prevention Coalition. This indicated to me that the 960s filed were not being investigated.

During my 2-year appointment as Associate Juvenile Judge, Spirit Lake Tribal Social Services had went through 10 workers who were either terminated or resigned. When a new worker was hired at Spirit Lake Tribal Social Services, he or she would come to the court and request direction on what their duties were, because the director did not properly train these individuals on how to do their job.

Before I began my appointment, there was an agreement made between the court and Spirit Lake Tribal Social Services. In order to receive the State IV–E funding for foster care, the State required specific wording in their court orders. The court paid for an employee of Spirit Lake Tribal Social Services to get the training for the wording in the court orders, and Spirit Lake Tribal Social Services would complete their own orders.

After I began at the court, I noticed several delays in the orders being completed by Spirit Lake Tribal Social Services. Even on crucial cases, the court would not receive an order for signature until approximately a month after a hearing. There were also many cases that didn't have court orders completed, despite requests from the court.

In 2011/2012, when audits were taking place by BIA and the State on Spirit Lake Tribal Social Services, it is suspected some of the Spirit Lake Tribal Social Services orders were fraudulent, Spirit Lake Tribal Social Services taking a signature page from an order that I signed, and manipulating it into another order to get into compliance.

[The prepared statement of Judge McDonald follows:]

PREPARED STATEMENT OF MOLLY McDONALD, DEVILS LAKE, NORTH DAKOTA

Good morning distinguished Members of Congress. My name is Molly McDonald. I sincerely appreciate the time and attention you give me today to listen to my testimony regarding these important issues on Spirit Lake Reservation; child protection and the tribal justice system.

I am enrolled member of the Spirit Lake Tribe. I was raised on the Spirit Lake Reservation. I graduated from the reservation high school in 1987. I enlisted in the U.S. Navy in 1988 and I was honorably discharged in 1992 during Operation Desert Storm. I earned my associate degree in Criminal Justice in 1997 from United Tribes Technical College. I went on and earned my bachelor's degree in Criminal Justice at Minot State University in 2000 while working full time at the North Dakota State Penitentiary as a corrections officer. I was hired in October of 2000 as U.S. Probation & Pretrial Services Officer for the District of North Dakota in the Devils Lake office. I was specifically hired to work with my home reservation. I worked with this agency for almost 10 years where I gained a vast knowledge of the Federal justice system and the investigation process from the police report to a conviction. In February 2010, I was appointed as the Associate/Juvenile Judge for the Spirit Lake Tribal Court. My appointment ended in March of 2012.

When I accepted the appointment as Associate/Juvenile Judge in February 2010, I was already aware of incidents of negligence which involved both BIA Law Enforcement and SLTSS in Federal cases from my employment with U.S. Probation. One example of this is our office was supervising a juvenile from Spirit Lake. We were required to do a home contact with the juvenile at a minimum of once a month. Every home visit, the juvenile was locked inside of his home from the outside. We had to visit with the juvenile through the window. Because we were mandated reporters, we filed a 960 after each visit. The 960 was filed with Ramsey

County Social Services in Devils Lake. Ramsey County Social Services sent the 960 on to Spirit Lake Tribal Social Services. Over and over again, the child continued to be locked in the home. Our office contacted the director of Spirit Lake Tribal Social Services, Kevin Dauphinais, and told him of the situation. He said he would begin investigating immediately. It should be noted the mother of this particular juvenile also worked at Spirit Lake Tribal Social Services. The child remained locked in the home throughout his supervision. This juvenile was released from supervision upon his 18th birthday. He later shot and killed his aunt and then himself.

When I began my appointment, there were issues with BIA Law Enforcement which included not filing paperwork in a timely manner, not filing complaints and/or police reports, not showing up for trials, not completing investigations, and other problems. The Court contacted Elmer Four Dance with the Aberdeen Regional Office along with Marcus Babbit and Mario Redlegs and a meeting was held at the Court with these individuals along with officers from the Fort Totten Police Department. The meeting appeared to be successful with all BIA Law Enforcement present promising better work from their officers. However, problems continued to happen and the Court continued to document these issues through emails. Upon leaving the Court in March of 2012, the issues with BIA Law Enforcement were not resolved. In February 2014, I had a meeting with the tribal prosecutor, Joe Vetsch. Mr. Vetsch stated to me that there had been no improvements with BIA Law Enforcement since the time I had left the Court. In fact, at that time, there were three alleged rapes that occurred within 6 months that were reported directly to Mr. Vetsch by the victims because BIA Law Enforcement did not complete any reports or investigation in the cases. All three victims reported the incidents to law enforcement. Mr. Vetsch also stated to me that he himself contacted FBI for assistance on these particular cases. He was told by FBI "we offered to assist BIA Criminal Investigator Jeff White but he told us he had these cases covered and we didn't want to step on anyone's toes."

Within the first months of my appointment as Associate/Juvenile Judge, SLTSS was requesting hearings for the foster care cases. However, when the hearings took place, there was no representation from SLTSS for the hearings. I met with Spirit Lake Tribal Social Services Director Kevin Dauphinais about this along with other issues. Mr. Dauphinais assured me these issues would be taken care of and it wouldn't happen again. The Court continued to have the same issues. It got to the point where I began dismissing the cases and SLTSS had to re-file all the cases. On several occasions families were coming to the Court stating SLTSS removed their children from their homes and they wanted to know when the hearings were taking place so they could attend and work to get their children back. The Court had no documentation on the children being removed from the home. In some cases, the children were out of the home for a year without any documentation. The Court attempted to contact SLTSS about these cases without success. In other cases, the Court became aware of physical, sexual and emotional abused children through I.H.S. clinic, I.H.S. Mental Health and the Suicide Prevention Coalition along with Victim Assistance where 960s were filed on these cases and no response from SLTSS as far as investigation process. If the proper investigations took place, the Court should have been involved in the process by completing background checks on the children and/or guardians. The same names continuously came up throughout time either through I.H.S. clinic, I.H.S. Mental Health or the Suicide Prevention Coalition. This indicated to me that the 960s filed were not being investigated. During my 2-year appointment as Associate/Juvenile Judge, SLTSS had went through 10 workers who were either terminated or resigned. When a new worker was hired at SLTSS, he/she would come to the Court and request direction on what their duties were because the director did not properly train these individuals on how to do their job.

Before I began my appointment, there was an agreement made between the Court and SLTSS. In order to receive the State 4E funding for foster care, the State required specific wording in court orders. The Court paid for an employee of SLTSS to get the training for the wording in the court orders and SLTSS would complete their own orders. After I began at the Court, I noticed several delays in the orders being completed by SLTSS. Even on crucial cases, the Court would not receive the order for signature until approximately a month after a hearing. There were also many cases that didn't have court orders completed despite requests from the Court. In 2011/2012, when audits were taking place by BIA and the State on SLTSS, it is suspected some of the SLTSS orders were fraudulent; SLTSS taking a signature page from an order that I signed and manipulating it into another order to get in compliance.

I discussed these issues with the prior tribal council and the present Chairman along with the present social worker at SLTSS. I've been told that I have to stop

living in the past. What about the children who have reached out for help from their situations? What about the 960s that were thrown away? How does the tribe intend to deal with this? How many more children have to die before we are willing to start dealing with what happened in the past? Our tribe continues to say that our children are sacred. So why are we willing to throw away their hurt and pain?

Mr. CRAMER. Judge McDonald, I am going to cut you off at this point, because we have allowed you to go over quite some time. But there will be plenty of opportunity in the Q&A for you to finish your thoughts, I assure you.

And we do have your entire written testimony submitted, as well. So thank you for your testimony. And thank you for your service to our country.

Ms. Fineday, you are recognized. Thank you.

STATEMENT OF ANITA FINEDAY, JD, MPA, MANAGING DIRECTOR, INDIAN CHILD WELFARE PROGRAM, CASEY FAMILY PROGRAMS, SEATTLE, WASHINGTON

Ms. FINEDAY. Good afternoon, Chairman Young. Thank you for inviting me to join you today, and the members of the subcommittee. I am Anita Fineday, Managing Director of the Indian Child Welfare Program at Casey Family Programs, the Nation's largest operating foundation focused on safely reducing and ultimately preventing the need for foster care by building communities of hope. We are headquartered in Seattle, Washington. We operate nine field offices throughout the Nation, and encourage and engage in partnerships with child welfare leaders in all 50 U.S. States, including leaders in Indian Country.

We believe that the goals of our Nation around securing well-being for all children should be to keep children safe, to prevent abuse and neglect, and decrease the possibility of child deaths, and reduce the need for foster care by strengthening vulnerable families and their communities. In my testimony today I will briefly describe Casey Family Programs' strong history in Indian Country, and our work with the Spirit Lake Tribe. I will conclude with thoughts on opportunities to help support both Spirit Lake and tribes throughout this Nation in their efforts to protect their children and strengthen their families.

If you look at my written testimony, you will see the work done by Casey Family Programs over our 30-year span of work in Indian Country, starting with the provision of direct services to children and families, and shifting to services to broader strategies involving systems improvement and the demonstration and sharing of best practices. The Indian Child Welfare Program within Casey focuses on providing technical assistance to tribes on a wide variety of topics.

We share your deep concern over ongoing cases and allegations impacting the children and families at Spirit Lake. There is nothing that we take more seriously than working to ensure that every child and family in this country resides in a safe, supportive, familial environment that will foster their well-being.

On April 25 of this year, Casey Family Programs received a letter from Spirit Lake's tribal chairman, Mr. McDonald, requesting

our assistance to address issues in their child welfare system. Since that time, Casey has worked with the tribe to gather information, create an action plan, and initiate collaboration between the tribe, the State, and Federal entities.

After meeting with Spirit Lake representatives in May, the agreed-upon goal was to have the tribe reassume control over all child welfare cases and matters involving Spirit Lake children, and their culture and traditions will be embodied in the Spirit Lake child welfare system.

To address child safety concerns at Spirit Lake, we are supporting and participating in a range of activities, including consulting with the State of North Dakota to explore options for their support in reducing the current backlog of investigations and background checks; arranging trainings for local BIA workers on intake and safety assessment, as well as culturally relevant practice models and safety tools; convening a leadership meeting in 2 weeks for principal decisionmakers from the tribe, BIA, ACF, and North Dakota, to review plans for the improvement of child welfare at Spirit Lake, with the goal of a shared vision for the work.

Since one meeting will not resolve all the issues, additional sessions will occur over the next several months. Casey Family Programs believes a new model is needed to serve all families and children in Indian Country. Since long-term foster care does not promote child well-being, the new model should include efforts to provide culturally appropriate services that allow the child to remain safely with their family, necessary infrastructure to support a robust child protective services system, including access to professional staff and resources, and a continuum of community child welfare services nearby.

In my written testimony I have provided more details on the need and vision for this model. Change to this new model will require oversight and targeted resources. Federal oversight and accountability is needed. There currently is no Federal agency responsible for the oversight of the Indian Child Welfare Act of 1978, creating challenges in implementation, allowing Federal resources to support best practice on safety and child well-being. Casey has brought the financial resources to Spirit Lake and other tribes to try and fill the gaps and leverage current funding, but tribes continue to struggle.

The majority of tribes who receive child welfare funding from title IV-E do so through agreements with States, and effectiveness ranges widely. At the same time, it is important to highlight that these Federal title IV-E resources only fund foster care once a child is removed from their family and home. It does not fund prevention services. Tribes and States need a new model for financing child welfare that protects the child's safety and serves families. It is time to shift Federal resources to services and supports that are known to promote child well-being.

Over 20 States are using this authority provided by Congress in 2011 to redirect Federal funding in a more effective manner to support a broader array of services that are targeted to safety and child well-being. Further discussion is needed on how every State and every tribe can make such strategic investments in better practice.

However, being honest, this issue is more than just Spirit Lake or even Indian Country. Congress realized this when it created the Commission to Eliminate Child Abuse and Neglect Fatalities. We would encourage this subcommittee to explore how to engage with this Commission to be sure that the issues within Spirit Lake and Indian Country are an important consideration in their work.

Thank you again for the opportunity to testify, and I would be happy to answer any questions.

[The prepared statement of Ms. Fineday follows:]

PREPARED STATEMENT OF ANITA FINEDAY, MANAGING DIRECTOR, INDIAN CHILD WELFARE PROGRAM, CASEY FAMILY PROGRAMS, SEATTLE, WASHINGTON

Good afternoon Chairman Young, Ranking Member Hanabusa. Thank you for inviting me to join you today.

I am Anita Fineday, Managing Director of Indian Child Welfare at Casey Family Programs, the Nation's largest operating foundation focused on safely reducing, and ultimately preventing, the need for foster care by building communities of hope. Headquartered in Seattle, Washington, we operate nine field offices throughout the Nation and engage in partnerships with child welfare leaders in all 50 U.S. States, including leaders in Indian Country. We believe that the goals of our Nation around securing well-being for all children should be to: (1) Keep children who have been abused and neglected safe from further harm; (2) Prevent abuse and neglect and decrease the possibility of child deaths; and (3) Reduce the need for foster care in the first place by strengthening vulnerable families and their communities.

In my testimony today, I'll briefly describe Casey Family Program's strong history in Indian Country and the principles that guide how we engage with these communities. I'll describe our work with the Spirit Lake tribe and conclude with thoughts on opportunities and areas for focus to help support both Spirit Lake and tribes throughout this Nation in their efforts to protect their children and strengthen their families.

A LEGACY OF INVESTMENT TO BENEFIT CHILDREN IN INDIAN COUNTRY

Casey Family Programs has worked deeply in Indian Country for more than 30 years. Early on we established partnerships with the Oglala Sioux Tribe in South Dakota, the Rosebud Sioux Tribe in South Dakota, the Mandan, Hidatsa, & Arikara Nation in North Dakota, the Confederated Salish and Kootenai Tribe in Montana, the Tlingit Haida Tribe in Alaska and other tribes throughout the country. These partnerships included establishing child welfare offices on the Pine Ridge and Rosebud Reservations, caring for tribal youth in Montana and providing extensive technical assistance in Alaska. These efforts focused largely on direct services for youth residing on or near the reservation.

Efforts were made to integrate the efforts of child welfare, juvenile justice, State social services, housing, employment, tribal government, and reservation leaders to increase safety and improve outcomes for children residing there. This work was founded on the following guiding principles:

- Children belong with their families and community;
- All children deserve to be safe;
- All families should be provided the comprehensive supports they need to become self-sufficient and interdependent;
- All children and families should have access to their culture and traditions;
- Work should focus on preserving and strengthening families;
- An emphasis on the importance of extended families in tribal communities to keep children safe and families strong;
- Every family should have a home with all basic amenities such as running water, heat, electricity and adequate food; and
- An emphasis on ensuring full respect for the sovereignty of each Tribal Nation.

Through our work in Indian Country, Casey Family Programs provided an array of services to children in their care which went above and beyond child welfare services. In addition to foster care and respite care, these included:

- Alternative services to prevent removal from their home and placement in foster care where possible;

- Medical services not covered by Indian Health Services (IHS) or the tribe including orthodontia, vision, and substance abuse disorder treatment;
- Case planning that involved culturally appropriate approaches and services designed to fit the needs of the family. This planning involved the family, through family group decisionmaking and crisis intervention staffing. Input by the youth occurred where appropriate;
- Psychological Services when needed, including mental health assessments, counseling, psychotherapy, intensive care placements, chemical dependency evaluations and treatment; and
- Educational Services including tutoring, educational enrichment activities, Ansell-Casey Life Skills Assessments, funds for high school graduation costs, college preparation services, college tuition, and funds to defray costs while in college.

Our work has always recognized and supported the development and capacity building efforts necessary to embed and sustain strong practice and services for families. Since the beginning of Casey Family Program's partnerships in Indian Country, we have consistently invested in staff educational development and training to ensure that children received high quality, culturally responsive services. Foster families also receive an array of services designed to help them nurture the children they care for and help them prepare youth for participation in the adult world. We have always made and prioritized efforts to recruit American Indian staff to work with Native youth and to recruit American Indian families. Tribal members were hired as family developers to recruit, license, train and provide on-going support to American Indian families. These developers were supported to attain their Bachelors and Masters degrees in Social Work and, over time, were exposed to a broad and culturally appropriate array of training opportunities.

As our work has evolved over the years, Casey Family Programs has moved away from focusing largely on direct services to broader strategies involving systems improvement and the demonstration and sharing of best practices. The foundation's work in Indian Country is no exception. The work has evolved, however the guiding principles remain the same—safely reducing the number of children in foster care, reducing disparities, preserving families and communities, and improving outcomes for children.

The Indian Child Welfare Program within Casey focuses on providing technical assistance to tribes on a wide variety of topics. Casey Family Programs works to provide training to both States and tribes regarding the requirements of ICWA. We also work to build collaboration and cooperation between tribes and States regarding best practices, capacity building and improving well-being outcomes for children, and have convened a National Indian Child Welfare Practice Group to draw together tribal leaders from across the country. Our foundation also convenes judicial roundtables bringing tribal and State court judges together to develop partnerships, improve communication and develop partnerships between judges to improve the systems.

CASEY FAMILY PROGRAMS WORK AT SPIRIT LAKE

We join the members of this subcommittee, the Administration, and other national partners in expressing concern over ongoing cases and allegations impacting the children and families at Spirit Lake. There is nothing we take more seriously than working to ensure every child and family in this country resides in a safe, supportive familial environment that will foster their well-being.

On April 25 of this year, Casey Family Programs received a letter from Spirit Lake's Tribal Chairman Leander R. McDonald requesting our assistance to address issues in their child welfare system.

Since that time, Casey has worked with the tribe to gather information, create an action plan, and initiate collaboration between the tribe, State, and Federal entities. The overarching vision for our work with the Spirit Lake Tribe is to ensure that Spirit Lake children are safe in their own homes or in tribally approved foster homes.

This vision also included ensuring that the tribe would have the resources and capacity to effectively reassume control over all child welfare cases and matters involving Spirit Lake children, and Spirit Lake culture and traditions will be embodied in the Spirit Lake child welfare system.

This vision was developed in conversations with Spirit Lake's chairman and director of tribal social services during an initial visit by Casey staff to the reservation in May. Because child safety is an urgent concern at Spirit Lake, we are initially focusing on the completion of all outstanding BIA investigations and background

checks. Also, clarity is needed among all stakeholders about their roles and responsibilities in providing child welfare services to Spirit Lake children.

We are currently consulting with the State of North Dakota to explore options for their support in reducing the current backlog of investigations and background checks to enhance child safety. Casey Family Programs is providing technical assistance in the development of a searchable database to support the intake process of cases. We are also arranging trainings for local BIA workers on intake and safety assessment, as well as culturally relevant practice models and safety tools.

In terms of initiating collaboration between the various responsible entities, Casey Family Programs is convening a leadership engagement meeting in 2 weeks for principal decisionmakers from the tribe, BIA, ACF, and North Dakota to review plans for the improvement of child welfare at Spirit Lake. The goal of this meeting is secure a commitment to cooperative collaboration on defined goals, and to agree on a shared vision for the work.

Immediately following the leadership meeting, Casey is facilitating a working session for representatives from these entities who are involved hands-on with child welfare work at Spirit Lake. The working session will kick off a multi-part mapping and planning process to define the ideal case flow sequence, clarify roles and responsibilities, identify root causes of barriers to implementation, and create a prioritized list of proposed short-term actions.

One meeting will not solve all the issues, so additional sessions over the next several months will refine the vision, add detail, and identify and remove causes of delays or other issues that affect child safety and well-being.

A vital aspect of these mapping and planning processes will be the active solicitation of guidance from tribal members on how to improve tribal child welfare. This will be accomplished through community meetings when information will be shared about progress and challenges. Tribal members will be engaged both in implementation of strategic plans and in dialog about how cultural values, attitudes, and experiences impact the safety and well-being of Spirit Lake children. These conversations should address attitudes toward accountability and consequences, and practices leading to political stability. It will be critical to address historical trauma impacting parenting skills and the cycle of abuse.

Casey will continually provide technical assistance to the tribe:

- To sustain the process of continuous improvement over time,
- To incorporate community input in creating a comprehensive strategic plan for achieving its vision for the welfare of tribal youth and families,
- To increase tribal case management and child welfare related service provision capacity,
- To gather and analyze data for enhanced decisionmaking and improved practice,
- To access available resources.

Casey will also facilitate peer-to-peer assistance from other tribes and to encourage an exchange of ideas about currently used best practices in tribal child welfare.

Casey's long-term goal is that the tribe will have the full capacity to deliver child welfare services through more effective recruitment and retention of child welfare workers, increased access to funding, and improved policies and procedures.

A NEW MODEL FOR SERVING CHILDREN AND FAMILIES IN INDIAN COUNTRY

1. Casey Family Programs always promotes safety and child well-being. Research and the strong voices of children in care clearly indicate that long-term stays in foster care do not promote child well-being. Therefore, more must be done to provide culturally appropriate services that allow the child to safely remain with their family.
2. Developing the necessary infrastructure to support a robust child protective services system is essential to reach these goals. From investigation, to supporting the family, to maintaining an ongoing engagement to promote well-being, Spirit Lake and all tribes need quality professional staff and adequate resources.
3. Best practice in child welfare shares the priority and values of Indian Country in keeping children with their families and within their communities. But safety is always paramount and it is often necessary to have a continuum of services to be available nearby to meet this standard of practice.

Change to this new model will require oversight and targeted resources:

Federal oversight and accountability: Our work in child welfare often brings together public and private partners, Federal, State and tribal communities and national partners committed to better outcomes for families and children. In these discussions, it is apparent the ownership and accountability at the Federal level of oversight for tribal child welfare is lacking. Various Federal agendas provide a range of funding streams in a manner that is not streamlined or well-coordinated. However, there is no Federal agency responsible for the oversight of the Indian Child Welfare Act of 1978, creating challenges in implementation. We believe this type of leadership is critical at the Federal level, much as the leadership is critical at the tribal level.

Allowing Federal resources to support best practice on safety and child well-being: The issue of resources is certainly one to explore further. We have brought the financial resources of our foundation to Spirit Lake and other tribes throughout this country to try to fill the gaps and leverage current funding. But tribes continue to struggle. The majority of tribes who receive child welfare funding from Title IV-E do so through agreements with States, and effectiveness ranges widely.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 provided tribes, for the first time, with direct access to these funds so tribes are no longer required to go through their State. However, since 2008, only four tribes have been successful in gaining direct access. Even with such access, those tribes have significant infrastructure challenges. We are actively working to increase this number given the importance of these resources. We are also enhancing the partnerships among States and tribes who have agreements to ensure they further collaborate toward shared goals.

At the same time, it is important to highlight that these Federal Title IV-E resources only fund foster care once a child is removed from their family. They do not fund prevention services or support services that can safely avoid removal and foster care placement.

Tribes—and States—need a new model for financing child welfare that protects a child's safety and serves families. It is time to shift Federal resources to services and supports that are known to promote child well-being. In 2011, Congress passed legislation to give States and tribes the opportunity to seek a waiver to use Federal foster care funding more effectively. Over 20 States are using this authority to redirect Federal funding to support a broader array of services that are targeted to safety and child well-being. Further discussion is needed on how every State and every tribe can make such strategic investments in better practice.

In closing, we thank the subcommittee for its oversight on the specific issues of Spirit Lake. However, being honest, this issue is more than just Spirit Lake, or even Indian Country. Congress realized this when it created the Commission to Eliminate Child Abuse and Neglect Fatalities. At a different House hearing about the commission, Dr. David Sanders, our Casey Family Programs Executive Vice President for Systems Improvement and commission chair, acknowledged the challenge our country faces on child fatalities. Extrapolating from Federal Government statistics, every 24 hours in America, on average about four children die as a result of child abuse and neglect, most of them before they reach their 5th birthday.

We would encourage this subcommittee to explore how to engage with the commission to be sure the issues within Spirit Lake and Indian Country are an important consideration in their work.

Thank you again for the opportunity to testify and I'd be happy to answer any questions.

QUESTION SUBMITTED FOR THE RECORD BY THE HON. KEVIN CRAMER TO ANITA FINEDAY, CASEY FAMILY PROGRAMS

Question. What precedent do you feel retaining placement of a child with their mother should take? In those instances where a mother is a recovering methamphetamine addict, is it better to place the child with the mother without supervision rather than placing the child in a foster home?

Answer. As I mentioned in my testimony, Casey Family Programs has extensive history working with tribal communities. We believe that the goals of the Nation around securing well-being for all children, including Native American children, should be about keeping children who have been abused and neglected safe from further harm; preventing abuse and neglect in the first place; eliminating child deaths; and safely reducing the need for foster care by strengthening vulnerable

families and their communities. My testimony highlights our guiding principles on which we center our work.

Safety is the priority, and there is nothing we take more seriously than ensuring a child should be safe.

Congress, through the passage of the 1997 Adoption and Safe Families Act, also requires child welfare policy to promote permanency and well-being for children. Research and practice tells us promoting safety, permanency and well-being together requires a case-by-case approach. Where to place a child is a complicated question that requires a case-by-case decisionmaking with a clear focus on the child's safety, permanency and well-being. Decisions should be based on the facts of the individual case with the child's safety and well-being and the mother's parent's status in her/his recovery and the protective factors for the specific family. The goal of the child welfare system should be to determine if the child can stay in their family safely with appropriate services and oversight, whether the child can be reunified safely and quickly or if another form of permanency is required.

Federal agencies dealing with substance abuse problems, including methamphetamines, have developed protocols on how to evaluate child safety and effectively engage on a case-by-case basis. There are numerous research studies and guides to support child welfare staff in making these complicated decisions including the National Resource Center for Child Protective Services, which I have listed below.

Safety Intervention in Methamphetamine Using Families: A Practice Guide for Safety Decisions Making and Safety Management in Child Protective Services, National Resource Center for Child Protective Services (2005). Available at: <http://www.nrccps.org/PDF/FinalMethintopracticeguidemethoct05.pdf>.

Discusses a number of issues related methamphetamine use in families and strategies for intervention.

Safety Management with Methamphetamine-Using Caregivers, National Resource Center for Child Protective Services (2004). Available at: http://www.nrccps.org/PDF/Meth_IA_article.pdf.

Discusses identifying and assessing safety threats in the initial assessment of families involved in methamphetamine use, including criteria for identifying present danger and impending danger, and key steps for managing safety threats

Treatment Improvement Protocol (TIP) Series 33: Treatment for Stimulant Use Disorders, Rawson (1999). Available at: <http://adaiclearinghouse.org/downloads/TIP-33-Treatment-for-Stimulant-Use-Disorders-61.pdf>. In SAMSHA/CSAT *Treatment Improvement Protocols*.

Provides practice guidelines for the treatment of stimulant use disorders, including the use of methamphetamines.

Thank you for the opportunity to respond to this question.

Mr. CRAMER. With that, the Chair recognizes the Chair for 5 minutes.

Mr. YOUNG. I thank the witnesses. Judge and the chief, if you had a wand to solve this problem, what would you need, Chief?

Dr. LEANDER McDONALD. Well, I think—Mr. Chairman, I think what was included in my testimony is that, first of all, we just need front-line workers right now. We have been trying to fill these positions for over the years, since—while I have been in office, coming in September, and we have had a difficult time, as a result of that.

As a result of that, the workers that we do have are overworked, because they have been taking on these duties because the personnel aren't there—

Mr. YOUNG. OK. But now, is it a lack of money, or a lack of personnel?

Dr. LEANDER McDONALD. It is a lack of personnel.

Mr. YOUNG. Now, there are no tribal members that can do this, or have you looked outside the tribal members to do it, too?

Dr. LEANDER McDONALD. It is open. It has been open, sir.

Mr. YOUNG. And there aren't any people—what is the pay?

Dr. LEANDER McDONALD. The majority of them are right around \$20 an hour, \$40,000 a year. Social workers, on the other hand, though, especially masters in social work, if you look at the Federal rates, they are right around \$50,000 for masters in social work that is licensed.

Mr. YOUNG. But I am looking for a solution. If you need two—ma'am, if you want to comment—you have got two, and you need—you don't have—filled that yet. You need three-and-a-half, right?

Dr. LEANDER McDONALD. Yes.

Mr. YOUNG. So how do we get there? Do we—

Dr. LEANDER McDONALD. Well, I think—

Mr. YOUNG. We go to Thailand and get a couple people? Or what do we do?

Dr. LEANDER McDONALD. Well, sir, I think what we proposed here in regard to the Department of Health and Human Services and the Commission would allow us for some emergency workers that could staff us up until we can get to that point and recruit those professionals.

Mr. YOUNG. OK. I am trying to help you here. You are on the right track, and I compliment you on this.

If that is the problem, let's figure out how we can be of help, so you can get that three-and-a-half, or—I don't know how you are going to get half—or four. Because, again, it goes back to the children.

So, Judge, what do you think? I mean your testimony is interesting. The lack of activity from the BIA agents themselves, the police force, is that correct, was it the legal force?

Judge MOLLY McDONALD. Yes.

Mr. YOUNG. Now, are they local, or are they outsiders?

Judge MOLLY McDONALD. The police officers?

Mr. YOUNG. Yes.

Judge MOLLY McDONALD. The police officers, I believe, a majority of them are from Spirit Lake.

Mr. YOUNG. Well, that is one of the problems, then, because it is hard to arrest your uncle and your aunt and your brother, your sister, your father, and your mother.

Judge MOLLY McDONALD. Yes.

Mr. YOUNG. So how do we eliminate that?

Judge MOLLY McDONALD. I think the view that I would like this committee to see is that the people on the reservation have no trust in the law enforcement system right now. There is absolutely no trust because of prior practices that have been happening, even before my appointment. This has been going on for years.

Mr. YOUNG. Well, again, I understand that. And, like I say up in Alaska—

Judge MOLLY McDONALD. And my—

Mr. YOUNG. But I am saying how do you—we had the end up eventually—actually, we had a great police chief, because he was 6'6", and nobody would give him any bad problems. But now they have a problem there is no trust in the local police, they try to bring in the state troopers, they don't like the state troopers. So we

have the same problem. I am just looking for a solution. What would you suggest?

Judge MOLLY McDONALD. My recommendation—and I have talked to the Chairman about this, as well—is accountability. There is no accountability in law enforcement, as far as our officers on our reservation. We are aware of what they are doing, we are aware of the practices that are going on, and nobody is holding these people accountable. Nobody is holding these officers accountable for their job. They are sworn officers to protect our people, and they are not doing it.

Mr. YOUNG. Now, Chief, do you hire these people?

Dr. LEANDER McDONALD. No.

Mr. YOUNG. Who hires them?

Dr. LEANDER McDONALD [continuing]. These are Federal—

Judge MOLLY McDONALD. BIA.

Dr. LEANDER McDONALD [continuing]. Bureau of Indian Affairs officers.

Mr. YOUNG. Well, then why don't we fire them? We didn't ask the BIA this, either.

Judge MOLLY McDONALD. There is no—as far as I know, none of these officers have ever been reprimanded for their duties, or lack of doing their duties.

Mr. YOUNG. Well, I am the Chairman, I am going to ask the Chairman. I think we ought to fire the whole bunch, move them out, get somebody else. If they are not doing their job, what are they getting paid for? Maybe reinstate some faith within the community.

Judge MOLLY McDONALD. I agree.

Mr. YOUNG. I am going to ask both of you—and this is his district, but you work with your congressman, and let's see if we can't solve this problem. I don't want to have—like I say, I get very irritated when it comes to kids. And I am not putting the burden on you, Chief, because you are relatively new, and you have been there. But we can solve this. You know, get somebody in there that can—anybody that starts abusing kids, we—well, you got any big, deep holes out there that we can put them in, like Joseph had to go into, and leave him there a while? We might look for that solution too, you know. We will bring them out after a while and find out what is going on, though.

But I want to help Chief, go ahead, and then I have to go.

Dr. LEANDER McDONALD. Mr. Chairman, the other piece of that, too, is that in regard to the lack of staff, lack of police officers, I have seen it—I am not disagreeing with any of Molly's statements—

Mr. YOUNG. You better not, she is your sister. Go ahead.

Dr. LEANDER McDONALD. I know it. But on the other side is that—you know, because BIA is ultimately responsible for the law enforcement of our reservation. But I think a piece of that is that—part of it is that, because of the underfunding, and the personnel with—it only recently came up to two police officers. It was only one police officer up to about 3 months ago. And so we had one person on per shift, and they didn't have a whole lot of time off because of the lack of personnel there.

So, I think there is some other piece in regard to possible burn-out that could be affecting their functionality, I guess, within—you know, within their positions. So I just ask that to be a consideration in regard to this—in regard to the comments that have been made, because I think if we are staffed up to the 14 officers that we do need, that I stated, then I think we would be in a better position to patrol and keep our lands safe.

Mr. YOUNG. Last thing, Mr. Chairman. Chief, what is your main supply of dollars? Is it government aid, or what is it? Where is the money coming from for the reservation?

Dr. LEANDER McDONALD. The majority of the funds that we receive are Federal funds that are provided through the trust responsibility of the Federal Government.

We also receive funds from our casino that we have, and these are called economic development funds. With those funds we have supplemented the social services program with about \$325,000 this past fiscal year. We have also put about a quarter of a million dollars aside for additional tribal law enforcement officers to help to have adequate law enforcement on our lands.

You know, so—and then, with the tribal court system, we are at about \$300,000 down there, too. So we have contributed and supplemented these programs with tribal funds.

Mr. YOUNG. All right, I—again, work with us, and see if we can't make sure you aren't back here again with bad publicity, and get the job done. And if they are not doing the job, let us know. OK?

Mr. Chairman, I am done.

Mr. CRAMER. Thank you, Chairman Young. With that, I recognize the Ranking Member for about 7½ minutes, I can tell.

[Laughter.]

Mr. YOUNG. Go ahead.

Mr. CÁRDENAS. I appreciate it, but Chairman Young can speak as long as he wants, I am sure.

Chairman McDonald, earlier the name Tom Sullivan was mentioned. Are you familiar with this individual? Have you heard of him? Do you know him in any way?

Dr. LEANDER McDONALD. Yes, I know Mr. Sullivan.

Mr. CÁRDENAS. How do you know him?

Dr. LEANDER McDONALD. Well, I have only met him once. But to answer your previous question, has he been out to our reservation before, he has.

Mr. CÁRDENAS. As in 6 months ago, 6 years ago, 60 years ago? I mean can you put it in context?

Dr. LEANDER McDONALD. It is about 6 years ago, sir. There was a FEMA meeting that was held that I actually helped out at, and he was there for that FEMA meeting, along with a lot of other officials from regional and national office that came out and responded to then-Chairman Pearson's request for that assistance, or Chairperson Pearson.

So, yes, he has been out there. But then on the other piece of that is—with Tom, we have had these reports out there, and I have seen him, but he has never sent them directly to the Office of the Chairman, from what I can see. I have never received them directly. In fact, Molly is the one who has been giving them to me.

But I actually got to meet with him at a Health and Human Services consultation down in Denver.

Mr. CÁRDENAS. How long ago?

Dr. LEANDER McDONALD. Oh, geez, about 4 or 5 months ago.

Mr. CÁRDENAS. OK.

Dr. LEANDER McDONALD. And there we—

Mr. CÁRDENAS. Did you ask him for help? Did you—he seems to, at least on paper, claim to be knowledgeable about what has been going on on your reservation, et cetera. But is—let me just cut to the chase. How helpful has he been when it comes to not just saying what he feels has happened, or has been going on? Has he been solution-oriented, as far as wanting to roll up his sleeves and be part of the solution, as far as you can tell?

Dr. LEANDER McDONALD. Well, sir, there have really been two requests for assistance from myself, personally, to him. I wrote him a letter asking him to—in his official capacity as a regional administrator, to come in and investigate these cases that he was bringing up within these mandated reports for our community. I didn't get—

Mr. CÁRDENAS. Did you get a response?

Dr. LEANDER McDONALD. I didn't get a response.

Mr. CÁRDENAS. OK. So you wrote to him in writing?

Dr. LEANDER McDONALD. Yes, I did.

Mr. CÁRDENAS. And you sent him a request in writing?

Dr. LEANDER McDONALD. Yes.

Mr. CÁRDENAS. And you are telling this committee that he did not respond to you in writing? And, as far as you can tell, you have not received any correspondence from him—

Dr. LEANDER McDONALD. No, I—

Mr. CÁRDENAS [continuing]. From you sending him that request?

Dr. LEANDER McDONALD. Not an email, not a letter, not a response, not a phone call.

The second—

Mr. CÁRDENAS. On that note, Mr. Chairman—and then thank you, I do appreciate what you are explaining to us. But that letter, can you make sure that this committee gets a copy of that letter that you—of request to Mr. Tom Sullivan from you, the Chairman?

Dr. LEANDER McDONALD. You bet.

Mr. CÁRDENAS. Were you the Chairman at the time, when you asked him?

Dr. LEANDER McDONALD. Yes, sir.

Mr. CÁRDENAS. OK. So if you can get us a copy of that letter, I would appreciate it, Mr. Chairman, thank you. OK, yes, thank you, go ahead.

Dr. LEANDER McDONALD. The second time was at this Health and Human Services consultation meeting, region 8, in Denver. And I got to—we had the—well, we didn't really have lunch, but we took the lunch break in order to visit a little bit. And because I had seen out there in his letters that he was advocating for the tribe, so I specifically asked for the meeting. And I guess the region granted it, and I was able to sit down with him.

At that meeting we visited a little bit, and I asked him then—because he was cutting down ACF pretty good. But ACF, you know, had been the ones that were out there, helping us. And so, him

having said that, so what I asked him is that—I offered him a job, and I asked him to come and work for us. I said, “Come on out, Tom. Come and work for us. I will give you a job, you know, to help us to investigate this.” And he said he couldn’t do that at that time.

So, those are the two places where I asked him to help us out, and there was no response the first time, and no to the second.

Mr. CÁRDENAS. So basically, you did make an effort, as the Chairman on behalf of your tribe, to involve this person, Tom Sullivan. So what I gather from you is you weren’t—you didn’t take offense to what he said, you trusted that he was being honest and just forthright about what he knew, and therefore, you wanted his assistance to try to solve these issues?

Dr. LEANDER McDONALD. Yes, sir. And what I was seeing is that—the question I asked him—because there is a process for this, there is a process when we have allegation of this, and the process for our community is that when you—there is an allegation, and you do a 960 on it, and then there is an investigation conducted on the 960. And so, my question to him was that, “Well, here is the process, you are a regional administrator. You guys are kind of—try to keep us in check over at our level, at the local level, in regard to following these processes that are set up.”

And my question was that, “Why didn’t you file a 960 on these stories that you were hearing—because some of them were pretty detailed—and so we could make sure that a proper investigation was being conducted?” And he said it was not in his jurisdiction.

And so, I just wondered, because he is region 8. We fall within region 8, so I figured it was in his jurisdiction. But, in any event, there was nothing filed with the 960s on our behalf or our children’s behalf.

Mr. CÁRDENAS. Mr. Chairman, could I take 5 seconds to ask Molly McDonald a question?

Mr. CRAMER. Yes.

Mr. CÁRDENAS. Thank you, Mr. Chairman. A quick question. At what time were you a judge over at Spirit Lake? And then, second, other than being a tribal member, do you have any other official capacity at this time with the tribe?

Judge MOLLY McDONALD. I was appointed as the Associate Juvenile Judge in February of 2010, and my appointment ended in March of 2012. And right now I am not working for the tribe.

Mr. CÁRDENAS. OK. Thank you. Thank you, Mr. Chairman.

Mr. CRAMER. Thank you. And I suspect I will either take 7½ minutes, or we will have another round of questions for these two witnesses.

I do want to get to something—do any of you know how many prosecutions there have been of child abuse in the last 2 years, other than the well-known child death situations? Does anybody have an answer to that question?

Ms. Merrick, do you—

Ms. MERRICK-BRADY. I don’t have the number offhand, but I was part of coordinating the CTAS grant application for the tribe this spring, and we got numbers from the tribal court. So I have tribal court numbers available of the cases that went through tribal court. I do not have the Federal—

Mr. CRAMER. The Federal ones. OK. If we could get those at some point, that would be great. Thank you.

Judge McDonald or Chair, you don't know any different? Because I want to get to the court situation a little bit, because you did speak specifically to it. We have a former judge here. You seem to want to fix that part of it. I personally think that is one of the major challenges. The separation of powers issue, I think, has been a problem in the past. I am hoping it is not now.

So, I want to get to that. I know that, as I understand it, Judge Cross was recently resigned. Could somebody—perhaps, Mr. Chairman, you could speak to why Judge Cross was recently either let go or resigned?

Dr. LEANDER McDONALD. Judge Cross was terminated from the tribe.

Mr. CRAMER. On what grounds? And I don't know, so I am sincerely wondering.

Dr. LEANDER McDONALD. Well, Tribal Council deemed it necessary to terminate her. And, myself, I need to say on record that I was opposed to that, and that I——

Mr. CRAMER. So you were——

Dr. LEANDER McDONALD. With the forethought is that there needs to be a separation of powers between government and our judicial system. And so, whatever those rulings were, they should have stood. I mean they—well, they did stand. But the termination should have never occurred.

Mr. CRAMER. So was your sense, if I understand, that some of the Tribal Council members wanted her removed because they disagreed with her rulings? Is that possible, or a fact?

Dr. LEANDER McDONALD. Well, the way I saw it, that was a public pressure.

Mr. CRAMER. OK.

Dr. LEANDER McDONALD. For them to remove her.

Mr. CRAMER. And the public pressure came from people that she had sentenced, or victims, or just the general public?

Dr. LEANDER McDONALD. I believe they were community members who were not satisfied with her rulings.

Mr. CRAMER. All right. Now, did the tribe recently hire a new chief judge for your court system?

Dr. LEANDER McDONALD. There was Chief—Judge Morsett was there, and then he resigned.

Mr. CRAMER. OK.

Dr. LEANDER McDONALD. And so now we are——

Mr. CRAMER. I am asking specifically about a Monty J. Stensland. Did you recently hire——

Dr. LEANDER McDONALD. Yes, the counsel hired Monty.

Mr. CRAMER. Counsel hired Monty Stensland?

Dr. LEANDER McDONALD. Yes.

Mr. CRAMER. How recently?

Dr. LEANDER McDONALD. Oh, about a week ago.

Mr. CRAMER. Are you aware that Mr. Stensland is currently suspended from practicing law in North Dakota?

Dr. LEANDER McDONALD. We realized that after the action was taken.

Mr. CRAMER. OK.

Dr. LEANDER McDONALD. And a background check was being implemented.

Mr. CRAMER. So the background check hadn't been done prior to the offer of the job, and now you have a judge with a suspended license. Is there any effort to—did you know what he was suspended for?

Dr. LEANDER McDONALD. I only know that—from what I understood was that he was debarred, and he was suspended for—it sounded like some type of misrepresentation.

Mr. CRAMER. Well, let me just read it to you right off of the Supreme Court Web site. His first suspension a few years ago was for—a 60-day suspension—and, by the way, it has been suspended for—over the course of 7 years now—a 60-day suspension for fraudulently signing or having another person, at his direction, sign a client's name on a document and filing it with the court.

And then, after that, two instances of fraudulently affixing a client's name to a document and filing it with the court, failure to properly notify clients of a prior suspension, falsely certifying to this court compliance with the notification requirements, repeated and flagrant failure to communicate with clients, and mishandling and refusing to return unearned client funds.

The Supreme Court stated his behavior “suggests a pattern of dishonesty to the courts and flagrant disregard of his clients' welfare.” I would submit to you probably not going to be great public relations when this comes out. And it is your court.

I also want to follow up on something you said, Mr. Chairman, toward the end of your prepared remarks. You said you—I don't remember if you used the word “charged” Congress for solutions, or “challenged” Congress for solutions, and I would agree, I hope that we can work together on some solutions. But I also want to remind you that, if sovereignty is in fact what we are talking about, and self-reliance is the goal, the best solutions are going to come from you, and in consultation with your friends at the Casey Foundation and others that want to partner with you.

I want—I am wondering. How many victims does your victims advocate program handle in 1 month? And probably Ms. Merrick-Brady is best able to answer.

Could you give me a rough idea of how many victims you deal with in a month? And maybe that is an unfair way to put it, but if you could sort of help me with a general number, a caseload—

Ms. MERRICK-BRADY. Can you repeat the question? I had somebody—

Mr. CRAMER. Sure. How many victims does your victims advocate program handle in a month?

Ms. MERRICK-BRADY. I—again, I didn't bring my victim assistance numbers with me. And I am currently overseeing both programs. I want to say—I can give you some of last year's numbers—

Mr. CRAMER. Sure.

Ms. MERRICK-BRADY [continuing]. Just because we—and it is—

Mr. CRAMER. Just general.

Ms. MERRICK-BRADY. For the year last year, we had, I believe, around—and again, this is from memory, a rough estimate—

around 168, total, domestic violence, sexual assault victims that came through our program.

Mr. CRAMER. All right. Very good. With that, my time has expired, but we are going to do another round of questions, so I am going to yield to the Ranking Member for another round of questions.

Mr. CÁRDENAS. Thank you very much, Mr. Chairman.

Ms. Fineday, your organization works to improve foster care and child welfare systems across the Nation. Are child deaths a problem in and outside of Indian Country, or only in Indian Country?

Ms. FINEDAY. Thank you, Congressman, for that question. At the end of my testimony I referenced a congressional commission that has been created, I think, because Congress, as a whole, realizes that this is a problem across the country. It is not a problem just in Indian Country.

Mr. CÁRDENAS. And when it comes to a problem that occurs in clusters, have you seen that arise outside of Indian Country, or only in Indian Country?

Ms. FINEDAY. I think, unfortunately, it is a common occurrence across many communities.

Mr. CÁRDENAS. So it appears to be a human side effect, not necessarily a tribal issue, specifically?

Ms. FINEDAY. I think that is correct, Congressman.

Mr. CÁRDENAS. OK. Your written testimony includes themes of cultural appropriateness and tribal sovereignty. Can you please expand on those points and tell us why paying attention to these is so important with regard to Indian children?

Ms. FINEDAY. Well, I think when we are looking at culturally appropriate services, it has been our experience in child welfare that in working with tribes, that the services are most effective with tribal children when those services are culturally appropriate, and children respond more positively when it is from their own culture and their own community.

Mr. CÁRDENAS. OK. So, what you are saying is it affects the effectiveness of the actual provider of services, right, if they have that cultural sensitivity, or if they can learn a lot of those sensitivities quickly, they are more effective.

Ms. FINEDAY. That is correct, Congressman.

Mr. CÁRDENAS. OK. And I have a question to the Chairman, Chairman McDonald.

Are you—what pay range is your tribe able to pay judges when they are judges for your courts?

Dr. LEANDER McDONALD. I think right now the range is from \$60,000 to \$85,000 a year.

Mr. CÁRDENAS. Are you familiar at all with what judges get paid around the corner when they are working for the State, or Federal judges in your State or in your region?

Dr. LEANDER McDONALD. I am familiar with some older numbers, and it looks like we are competitive.

Mr. CÁRDENAS. Oh, really?

Dr. LEANDER McDONALD. I think so.

Mr. CÁRDENAS. OK.

Dr. LEANDER McDONALD. But I am not too sure at the State level. I would think—

Mr. CÁRDENAS. I would be surprised if you are competitive. Because in order to be a judge in most jurisdictions, you have to have a juris doctorate. You probably needed to have been practicing, et cetera, et cetera.

For example, in California, judges are paid about \$180,000 a year. And the reason why I ask it with a question, I am not saying that judges are paid that amount in your State, I am just saying that when you look at the minimum qualifications and the amount of years of experience before somebody gets either appointed as judge, or runs for—to be a judge, or what have you, it seems as though the requirements and the minimum standard of requirement is much different. And I would assume much higher.

It appears that the judges in your court are not required to have had to pass the bar or be active. Correct?

Dr. LEANDER McDONALD. I believe they are required to have a—

Mr. CÁRDENAS. Yes, please shed some light on that, Molly.

Judge MOLLY McDONALD. Pursuant to our Spirit Lake law and order code, there is no requirement for the judge to be law-trained.

Mr. CÁRDENAS. OK. And the reason why I ask that question is because it is unfortunate that the responsibilities that the tribes take on for themselves sometimes don't come with equivalent funding opportunities, they don't come with the opportunity to actually have equivalence thereof.

And so, when people outside of Indian Country find out, or what have you, they—in my opinion, too many Americans actually think that it is wrong. But, wait a minute, it is not about being right or wrong, it is about having to deal with your responsibilities with the resources you may or may not even have to deal with them. And then many Americans take it for granted that when somebody is a judge down the road in some county somewhere, that they actually have a certain standard, and assume that standard. Well, that standard is actually able to be adhered to, because they have been given the resources to go ahead and hire people with those qualifications.

But yet in Indian Country it seems as though many times tribes are being criticized because they don't have people of certain degree—certain formal degrees, excuse me, and people with certain—like, having passed the bar, et cetera. Most Americans take that for granted, but what they don't realize is many tribes—many sovereign nations don't have the wherewithal to actually attract those individuals, or even keep that bar at that level.

So, it is unfortunate. I am not saying that one can't be a good person and do a good job. All I am saying is that many Americans judge people or what is going on in Indian Country unfairly because they don't understand that they are not—their jurisdiction and their requirements and their abilities are way, way different.

So thank you very much for shedding light, Molly, and also Chairman. Thank you.

Dr. LEANDER McDONALD. May I add something?

Mr. CRAMER. Please feel free.

Dr. LEANDER McDONALD. Mr. Chair?

Mr. CRAMER. Yes.

Dr. LEANDER McDONALD. I am going to—I am in agreement with all that you said. And I think a lot of the issues that we are having is that we talk a little bit about sovereignty, and the inherent right of tribes as sovereign nations. It is recognized within our Constitution. And so, we have the rights here as being for a nation here within these lands.

And with that right, and for the cessation of lands that we gave up, we were provided—we were to be provided these things that are based in our treaties, that are based on contracts with the U.S. Government. And it doesn't say within the treaties that we were going to provide these to you inadequately. It doesn't say that. It says, "We are going to provide these things to you."

And in my opinion, and when I read this, and when our forefathers, our ancestors signed on those treaties, I think that is how they understood it, because they wanted the—the Federal Government, they were taking them at their word to provide these things to us for the cessation of millions of acres of land. And so I continue to believe that.

And in regard to sovereign status, I think we are moving in the right direction. I think there were things that were not happening within our community that needed to happen. And, as a result of that, based on our constitution, changes were made by our people within our community, and they continue to be made.

And so—but things like Molly was sharing, these things—and I think what we heard throughout the testimony here today is that these things have been going on for quite some time. And so—but we are responsible now. It is our watch now. It is our responsibility to do this.

So, I thank the committee here for allowing us to share these perspectives today. Thank you.

Mr. CRAMER. Thank you. Could somebody on the panel tell me how many foster homes there are on the reservation? Do you know? Qualified foster homes?

Ms. MERRICK-BRADY. There are currently nine licensed homes on the reservation.

Mr. CRAMER. And how many would you need to provide the appropriate safe haven for children in distress, in danger?

Ms. MERRICK-BRADY. Well, right now we have—we don't exclusively use just the tribally licensed homes. We have them placed also throughout the State because of the number of, like, say, sibling groups or family size of the kids that are being placed.

I guess I was appointed on March 3, and I am coming up on my second 60-day appointment for this. And so I guess that was never a question that anybody really asked was how many do we need. We just know we need some. And, in fact, one of the efforts that we are doing is—this evening, because I am here, I am missing our event—is we are hosting a foster parent appreciation/recruitment dinner for these purposes. Our current foster homes are—you know, it is like a—them plus one, you know, potential foster parents. And then we are also using it as a recognition and appreciation, because we only have a little bit, and so we do appreciate their efforts. And they know the needs, and so we are also utilizing it as a venue for their site visits.

And also one of the, I guess, good PR efforts is we are also using it—we are hiring a photographer, because some of these children probably have never taken family portraits, family pictures together, including their siblings, the sibling groups. You know, we really are—progress is being made.

Mr. CRAMER. What are the standards for becoming a foster parent? You know, Senator Hoeven and I each have legislation in our respective communities. And we are not here to necessarily talk specifically about it, but we want to have some sort of minimum standard. And you may very well meet that standard. It is basically regarding background checks for all adults in the foster home. Is that something that is currently done for these nine licensed—

Ms. MERRICK-BRADY. We currently follow the State's practices. Just because of all the scrutiny, we moved toward following the background checks. They have to get fingerprinted, and it is every adult over the age of 18 that resides in the home that has to pass the background check. We have site visits. We have—I believe it is three, and one of them is unannounced. You know, there is a process. It is timely, but we want it to be thorough.

Mr. CRAMER. Having been through it myself to be a licensed foster home, I can tell you it is—the scrutiny is almost uncomfortable, but it is very important, and we are happy to have gone through it.

I want to get to a couple of specific cases, or at least one. First of all, several of us—and I think you, Mr. Chairman, included—have received a list of 136 children believed to be at risk from former social service worker Betty Jo Krenz. You are familiar with that list?

Dr. LEANDER McDONALD. Yes. But the list I received, I think it was around 100.

Mr. CRAMER. OK. And I don't know exactly, I was sort of guessing, myself. But it is somewhere around 100 or more.

Do you know—have you followed up, or has somebody followed up on that report?

Dr. LEANDER McDONALD. Well, just—we hired on—her name is—well, she is Sister, but Joanne Strifle.

Mr. CRAMER. OK, sure.

Dr. LEANDER McDONALD. She is a retired masters social work trained, I.H.S. mental health professional.

Mr. CRAMER. Sure.

Dr. LEANDER McDONALD. And she was residing in our community, and she had great interest in this area. And so we have asked her to come out of retirement to help us investigate these cases.

Mr. CRAMER. Has she found most of them, or all of them, or any number of them, and have any of them found to be at risk? Do you know?

OK, Ms. Brady?

Ms. MERRICK-BRADY. She is still currently employed, and still actively pursuing and finding out how many children are safe. Within the first week we have identified 66 of them as being safe, as, you know, they are either in placement, they have aged out, they have been adopted. And that was within the first week.

She is working hand in hand with our ICWA manager, Chuck, and he is also a licensed social worker. She is being greeted, I

guess, and BIA is being cooperative with her. Also the courts are being cooperative with her. Everybody is focused on the safety of identifying——

Mr. CRAMER. Has she found any to be in an unsafe situation?

Ms. MERRICK-BRADY. There have been a couple of incidents.

Mr. CRAMER. And——

Ms. MERRICK-BRADY. And those were reported. She sat down with one of our staff members, and we did formally report.

Mr. CRAMER. Did they—were they removed, then?

Ms. MERRICK-BRADY. They were just—it was recent. Like real recent. Like last week.

Mr. CRAMER. So they have been removed from the home?

Ms. MERRICK-BRADY. Well, one of them is complicated. One of them is really complicated. So we have contacted a national office, because we feel like they should be removed. We don't have—and they are not in our jurisdiction. That is the one that is complicated, that is the one where we have asked for help and, I guess, technical assistance on how best to have those children removed from that home.

Mr. CRAMER. OK. That causes some concern for me, to be honest. I don't know what level the danger is. I hope you do, if it is too complicated to take immediate action.

Are you familiar with a case where a BIA officer assaulted his wife? She came to—I don't know if it was Social Services or the tribe for help. Her husband was, of course, being a tribal officer, either heard of, or it was reported to him that she reported him, and resulted in an even more severe beating. Are either of you familiar with this case, or—Judge McDonald?

Judge MOLLY McDONALD. I am familiar with what you are talking about. There are two separate issues to this.

Mr. CRAMER. OK.

Judge MOLLY McDONALD. One was a human resource issue, and one was an advocacy issue. I addressed it with human resources, I followed the process. And one of the first things that—when Chairman McDonald was sworn in, came into office, I briefed him on the whole situation. Because of confidentiality and the VAWA provisions, I can't release any of that information publicly to some of the people who thought maybe I had done something wrong.

Mr. CRAMER. OK.

Judge MOLLY McDONALD. But I was—the whole—there was an investigation because the public didn't know all of the provisions and there was—the H.R. piece was a little bit more public. And that is where a lot of the things were out in the public, went wrong. And so I briefed him on everything, and I was—I did my job.

Mr. CRAMER. OK. So I guess now I am a little more concerned than I was before I asked at the beginning of the question.

So this officer, wife abuser, learned of her reporting it through some——

Judge MOLLY McDONALD. Through her own doing.

Mr. CRAMER. She went and told him that she squealed on him, or—is that what you are saying?

Judge MOLLY McDONALD. I don't know if I can get—I can't——

Mr. CRAMER. No, I understand. All right. Well, we can talk about—

Judge MOLLY McDONALD. I can't—

Mr. CRAMER. Yes, I understand, I understand. We can talk about it offline, if that is what is necessary.

You know, I want to wrap this up, and I know the Ranking Member has some comments, as well. But one of the things that I think we have all admitted—and I have said it many times—there is a clumsiness. We had a hearing last week in this committee, or on the Natural Resources—on the Energy Committee on sovereignty issues, where I have introduced a bill to try and further codify sovereignty with regard to handling of minerals on tribal lands.

And what we find is that you have got bureaucracy, and then you have bureaucracy. And when you have two bureaucracies you have a worse situation than one plus one. It gets very clumsy. And I think we are struggling with that, to say the least.

That said—and I think it needs to be clear that, yes, our Constitution recognizes and acknowledges the sovereignty of tribes, and Congress is the trustee. There is a trustee relationship here, that Congress is the trustee, that BIA is our agent in carrying that out, but Congress itself is the trustee. And I suspect that the reason for that is that—and maybe Chairman McDonald hasn't heard me say this; his predecessor, and every other chairman in North Dakota has—that when there is an issue of danger, especially—and I agree with the Chairman on this—especially with regard to children, very little else matters, but the safety of that child, quite honestly.

In fact, nothing else matters, besides the safety of that child, because that child is my constituent, like that child is your constituent. And that child's family and the community is asking for help. And, as the trustee of this relationship, there are some things we can do, and there are some things we can't do. And so we—whatever we do, we need to do it in concert, and do it together.

So, you are sure you don't have another round of questions you want to—because I don't want to lose the moment?

Well, we haven't been called to vote yet, that is why I am—I don't want to lose the moment, because these folks have to go. But why don't—do you have some—OK, I am going to recognize the Ranking Member for a few more questions, as well, just because you all took the time and expense, and you are a long ways from home, and you are here, and I don't want to miss the opportunity.

Mr. CÁRDENAS. Thank you, Mr. Chairman. And once again, in case you run out of time, I want to say thank you to all of the panelists who came. I really do appreciate your expertise and your knowledge that you are helping to educate us, this Committee of Congress. And I also want to say that, of the people who have testified today, I don't get any feeling that people who came forward to be part of the testimony today are in any way doing it—are in any way hindering wanting to do the right thing, or allowing others to do the right thing. So thank you very much.

Now, this question is for Ms. McDonald. How does the tribe's judiciary system impact the child welfare system? And what can Congress do to improve judicial independence?

Judge MOLLY McDONALD. I still stand with accountability. Law enforcement, our social services, our tribal court, the decisions made by our tribal court are going to affect a child, especially in a social services case, for the rest of their lives. And the tribal court needs to take that seriously.

What I have been observing since I left the court, I just believe that they need—they all need to work together. And I just don't see that happening. Instead I am seeing the blame game. It is the tribal court's fault, it is BIA Social Services' fault, it is the Tribal Social Services' fault, it is the Tribal Council's fault.

Mr. CÁRDENAS. Is any of what you just said to us right now, is any of that element of lack of attention in the proper ways have to do with the lack of providers, or the services that are afforded the tribe?

Judge MOLLY McDONALD. [No response.]

Mr. CÁRDENAS. In other words, is it 100 percent lack of will, or is it a combination of some people not having the will, yet at the same time those who do have the will don't have the resources to address it properly?

Judge MOLLY McDONALD. If you want the honest truth, with the Chairman sitting here, I believe a lot of these things that are happening on the tribal level is because the workers—the employees of the tribe are all afraid of getting fired. They are going to do whatever the Council tells them to do. So there is that distrust now in those tribal programs from people in the community. The same at the BIA law enforcement level.

Mr. CÁRDENAS. Thank you.

On that note, Mr. Chairman, do you agree that more should be done? And, if so, what are the elements that are holding the tribe back from being able to make more progress faster when it comes to making sure that the children get justice, and families?

Dr. LEANDER McDONALD. Well, I would like to refer back to the testimony provided by Ms. Chang in regard to the result—one of the results they found within their report was that there was a lack of communication going on. And I think that is one of the main issues that we have to resolve, and to take away these silos and come together in regard to addressing this issue.

And you know, I think the thing to do, too, is—to respond to Molly's comments a little bit is that we have been doing our best to try to create a system where you don't have to be afraid of losing your job, but you can come forth and contribute to what is available out there. And I think we are moving forward on that. We have EPA assisting us in reviewing of our policies and procedures manual within the next couple weeks, and they will be out there to help do that. The directors have been invited to provide some input on that. And I think, as that strengthens, that part becomes strengthened, that part will be addressed.

And we are—I think the thing is that, historically, we have been operating as—tribes have kind of really control of what was happening in their environments. And I think we have to continue to move in a positive direction, but bring forth the expertise that we do have. And if we don't have that expertise, bring it in from the outside in order to help us build that capacity that we can build a stronger system in whatever area it is.

And for here, for what we are talking about today is child protection services. And these four areas that we have been talking about today are so important that they come together. And I think we are moving in that right direction. And that is why the Casey meeting is so important here on July 7–9, in order to bring all this together and give us an actual map, a visual, but also the documentation to support that on how we are going to address this issue for our children.

So I think the work is coming together. I think that there has been good progress in that. And I think—but that is only a piece of that. We are not there yet. That is—I think half the work has been planning. And now we need to move forward. But we need the resources in order to do that, sir.

Mr. CÁRDENAS. Thank you, Mr. Chairman. And one more comment, if I may, Chairman of the Committee.

I think it is important for you to understand, Chairman—and please take this back to your colleagues at every level. Especially from you, the Chairman, please do not stop asking the Federal Government for help and resources. I know you probably feel as though you are frustrated and you don't know if anybody is listening.

But one piece of advice that I have learned, both as a business owner, and as a 18-year full-time elected official, every time you make those requests, if it is verbally, follow it up in writing. Document every single request. Do not allow yourself to get frustrated and think that nobody is listening. Maybe almost nobody is listening, but please, please do not stop making those requests, and make those requests in writing. And any time you can be specific, continue to double down on that communication.

I know it is not easy. I am sure you are working your tail off. I am sure that, you know, there is probably not enough time in the day to address all the things you need to address. But when it comes to getting the Federal Government to recognize their responsibility, as you described your forefathers actually understood that the Federal Government would do, I believe that it is woefully inadequate in what is being provided. Yet, at the same time, please continue to document those requests.

Thank you, Mr. Chairman.

Mr. CRAMER. Thank you. I am going to take 5 minutes myself, now, and follow up and wrap up. I want to go fairly quickly.

One of the issues, Mr. Chairman, you raised in your testimony, especially your written testimony, you elaborate a bit on the need for good public relations. I don't think there is any question that the public relations has been bad. The news has been bad because the situation has been bad. And so, how do we get better news out there? Hopefully this is part of it. You know, coming together, providing some hope, a road map, the help of the Casey Foundation.

And Judge McDonald talked about accountability. You know, since you have been Chairman—remind me. The incident that I referred to earlier with the TV reporter that was assaulted, they were there covering a fire or something, and—or something else, and they saw it, and they had the camera out, and we read all about it. I don't know all the facts of it, but—did that happen after you became Chairman? I am not accusing you of doing it. I am just

wondering—I am trying to get a sense of the timeline. And what do you think of that situation?

And second, the reporter that—I read a report, and I don't remember where it was now—I think it might have even been the same reporter recently was rebuked, according to this report, by you for reporting on the most recent child death, which I think was in April.

Maybe just respond to that in general, and then let's talk about how we can help create accountability through transparency. Is that fair?

Dr. LEANDER McDONALD. Yes. On the—Mr. Chairman, in regard to the incident that occurred when—his name is Adam Ladwick.

Mr. CRAMER. That is right—

Dr. LEANDER McDONALD. The reporter for our area. And, from what I understand, he was next to private property, and he was viewing—or shooting the burning down of a building. And the family whose building was burning down didn't like him filming that. And so then, therefore, they told him to get off of private land, which he wasn't, because he was on public. And the road is considered public.

Mr. CRAMER. Sure.

Dr. LEANDER McDONALD. And so—and they pretty much—from what I could see on a video footage from the newscast itself, is that he was—I don't know if he was assaulted, but they did break his camera.

And so, I think he had the opportunity, if he wanted to, to press charges. But I don't know if he did or not. So—on that part of it.

On the other one, in regard to him coming to a public meeting, and the child was not yet buried, and the child had passed away. And I had seen a news piece that he had aired the night before, and what he said in regard to the loss of this child—I think the child was 7, 8 months old—is that this was a suspicious death. And when it came down to it, and so the next morning he came to this meeting, a public meeting that we had.

And I asked him about it, and I said, "What are you doing, calling that a suspicious death?" I said, "You don't know the facts. We don't know. The autopsy report hasn't come back yet. We don't know what happened here, and you are out there saying this." And culturally—I told him, I said, "Culturally, you are wrong. Culturally, we don't—we are not talking about—this family is in mourning right now. Let them mourn. And here you are putting this on TV and you are calling this suspicious. Now you are—they're not only in mourning, but you are saying they might be responsible for the death of their child?"

Mr. CRAMER. Do we know any more about that—

Dr. LEANDER McDONALD. Well, several days later we found out it was a SIDS death when the report came out.

You know, so I think he needed to catch hell. And I am not sorry that I gave it to him publicly. And so—and I am still—I still get along with him, we still do that, but he had to leave that meeting.

Mr. CRAMER. He does a lot of good stories, is my understanding, for—

Dr. LEANDER McDONALD. Well, he needs to come out and do some more good stories on us. Because when we make those re-

quests, he is not coming out to the positive things that are happening within our community, and that is what we are saying.

Mr. CRAMER. Thank you. In the little time we have remaining, I want to ask about the accusations of lost documentation and even shredded documents. Do you know anything—and that is about as much as I know about it. So I am sincerely asking. Do any of you know anything about these allegations, and what the status of any of that might be?

Dr. LEANDER McDONALD. We have heard rumors.

Mr. CRAMER. OK.

Dr. LEANDER McDONALD. We have heard rumors, but we—as far as I know, we haven't anything solid to support that. And I don't know if any of—Molly or Melissa might have more knowledge, but what I have heard are rumors.

Mr. CRAMER. OK. Judge McDonald, do you know anything about that?

Judge MOLLY McDONALD. Yes. In the beginning of December of 2011, two social workers had been recently hired—I would say within a week. They had come into my office, and it was before hearings. Social workers' names are Jackie Bavaro and Sandy Ladacer. I asked them casually how it was going at Social Services, because they had only been there a week. They both told me that, for the first week at work, they had been spending from 8:00 a.m. until 10:00 p.m. at night shredding documents, based on the direction from Kevin Dauphinais, the Social Services director.

Mr. CRAMER. All right. With that, my time has expired, and we really have gone a long time. We have been very lenient, as you know, so our Chairman is—prefers to dig in, as opposed to keep a tight schedule. I appreciate that, especially in this particular circumstance. You have all been very forthcoming, I appreciate that. I very much appreciate my friend, Mr. Cárdenas, who is a man with a very good heart, I can assure you. And I appreciate him very much, and I appreciate all of you being here, as well.

And I want to thank all of the witnesses for their valuable testimony and patience this afternoon, and the members and staff, as well, for their participation and preparation.

Members of the subcommittee may have additional questions. As we mentioned earlier, they will have 10 days. And we would ask you to respond to those in writing if they are provided to you.

And then, if there is no further business to come before the subcommittee, without objection the subcommittee stands adjourned.

[Whereupon, at 4:58 p.m., the subcommittee was adjourned.]

[ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

Correspondence between Thomas F. Sullivan, Regional Administrator, ACF, Denver and Chairman McDonald, June 25, 2014

Correspondence between Thomas F. Sullivan, Regional Administrator, ACF, Denver and Ms. McMullen, July 1, 2014

Letter to Congressman Kevin Cramer from Bonita Morin, Tribal Elder, Spirit Lake Tribe, June 28, 2014

“Mandated Reports Concerning Suspected Child Abuse on the Spirit Lake Reservation”, by Thomas Sullivan (ACF), Reports I–XIII

Statement of Elizabeth Sharon Morris, Chairwoman, Christian Alliance for Indian Child Welfare (CAICW), with various attachments

Statement of First Focus Campaign for Children

Statement of Betty Jo Krenz

Various news articles submitted concerning the topic of “Child Abuse on the Spirit Lake Reservation” including submissions from: ABC News, The Salt Lake Tribune, NY POST

