

June 29, 2012

Ms. Settles:

Thank you for your quick response to my email.

The following information is sensitive and is provided only for law enforcement purposes so that your agency, the FBI or some other appropriate law enforcement agency may complete a full investigation to determine whether any crimes have occurred, whether agency protocols need to be modified and whether the federal funds provided to the Spirit Lake Nation have been spent consistent with grant or contract requirements. My ultimate purpose in providing this information is to fulfill my obligations as a mandated reporter of child abuse to report those "facts that give reason to suspect that a child has suffered an incident of child abuse" as required in Attorney General Holder's April 3, 2012 Decision Memorandum which he approved on April 24, 2012 to become effective in May, 2012.

Since I made my initial report by email dated June 14, 2012 to the US Attorney for North Dakota, Timothy Q. Purdon, since Mr. Purdon, in response to my report, referred me to you, since you have requested the information provided here because "... we need additional detail so we can follow through on specific reports", I have to assume that the information provided here will be for legitimate law enforcement purposes, that it will not be used for any other purpose and that the privacy of those named in the following material will be protected to the fullest extent possible. If that assumption is incorrect, please stop reading this email immediately, return it to me and destroy any copies of it that you made.

In the beginning of the second paragraph of your email to me you write, "You also said that there are at least five other IHS offices who have similar concerns..." That is an incorrect statement. I referenced "five other reservations" at two different points in my email. In each case I made clear this information was provided by Dr. Tilus. The first reference is in the second full paragraph after the point identified as # 10 I wrote, "What is identified here is simply the tip of the iceberg. Dr. Tilus consulted with the Behavioral Health Directors from 5 other reservations before submitting his letter. All agreed they could have written the same letter about their reservation that he did about Spirit Lake." The remainder of that paragraph concluded with a lengthy quote from Dr. Tilus. The second reference is in point "I" on the last page of my email which reads, "Since Dr. Tilus reviewed his letter with I.H.S. Clinic Behavioral Health Directors from five other reservations and was told they could have written the very same letter about conditions on their reservation, the issues raised by Dr. Tilus may not be unique to the Spirit Lake Reservation but may be systemic to both IHS and BIA operations in this area (Aberdeen and Billings service areas)." This paragraph went on to describe the behavioral health issues in these two areas, the need for additional resources which frequently were promised but apparently never provided and concluded with the question as to why this occurred and whether it was consistent with practice in other services areas. I know of no reason to

retract or change anything I said in those two paragraphs even though I cannot claim credit for those conclusions which I believe, given the evidence available, are absolutely sound.

It is my understanding that those other five I.H.S. Behavioral Health Clinic directors are unwilling to allow Dr. Tilus to use their names or the names of their reservations because they fear they will be subjected to the same treatment Dr. Tilus has been subjected to by the leadership of his clinic and by the Spirit Lake Tribal Council. Succinctly put, they are concerned they will be subjected to the same retaliatory treatment that Dr. Tilus has had to endure for the last two months, that they will be fired or their careers will be short-circuited. Since every federal employee is required to report "facts that give reason to suspect that a child has suffered an incident of child abuse" and since all of those Behavioral Health Directors feel they will suffer adverse consequences if they speak out even though child sexual abuse rages at epidemic levels in Indian Country on their reservations, it seems clear that those who have created this environment and by their actions and inactions perpetuate that environment are facilitating the endangerment of children. Why haven't they been prosecuted criminally? Will they be prosecuted?

Since the Spirit Lake I.H.S. Clinic CEO is a federal employee how can she avoid the mandatory reporting requirement to report any suspicion of child abuse? Because she has interfered with the efforts of another mandatory reporter, Dr. Tilus, is she subject to any penalties for her initial and continuing interference? Do these actions meet the legal definition of criminal child endangerment?

How can the Spirit Lake Tribal Council, which so publicly interfered with Dr. Tilus' efforts to bring the abuse of children on that reservation to the attention of all escape criminal charges for their interference with his efforts to fulfill his responsibilities as a federal; employee?

Since the other five behavioral health directors from five different reservations told Dr. Tilus they could have written the same letter he did and since they have been forced into silence by the treatment he has received, are those in the highest levels of IHS criminally responsible for the continuation of child abuse at these five reservations? There are times when Dr. Tilus and his colleagues from those five other reservations believe when they are reporting to their superiors about the epidemics of both child abuse and child/youthful suicide, the need for additional behavioral health resources that they are speaking, in Daniel Berrigan's terms, "to the Empire of the Deaf". Only when they feel the lash of retaliation and retribution, do they realize they have been heard and that their message is unacceptable.

It is clear from the following descriptions of individual cases that, despite the efforts of some valiant individuals doing their best to protect children, that American Indian children on the Spirit Lake Reservation have been abused in the

past, are being abused today and will continue to be abused until we take effective action to reverse the present mind-set that when it comes to children, they are on their own, there are no effective protections for them on this reservation:

1. In the Fall of 2011 during a one week period almost 40 children were removed from off-reservation foster care and returned to the Reservation at the direction of the Tribal Chair. These children had been placed off-reservation because there were no adequate or qualified foster home placements available on the reservation. In that one week period there was no miraculous development of an adequate number of foster homes, qualified to serve the needs of these children. Many were placed in the homes from which they had been removed because of proven cases of child abuse and neglect. This single action by the Tribal Chair forced most of these children back into the abusive homes they had been removed from a few months previously. Were any questions asked about the qualifications of the adults in those homes to provide the care needed by these children? Did anyone complete a background review of those residing in those reservation homes to determine their fitness to serve as placements for these children? How many charges of child endangerment should the Tribal Chair and Council be subject to for this one action?
2. Many of the children in the care and control of Tribal Social Services are recorded in their system under two different names. Where I have those names I will provide that information for your ease of reference when I get to that portion of this report describing the situation for individual children. It is alleged that some of this name duplication was for the purpose of paying those who were politically connected for the care of fictitious, non-existent children. As a result of the name duplication for the same child 638 funds could be used to reimburse for the care of one of these named children and 4-E funds could be used to reimburse for the care of the other named child. It is my understanding that concerned members of the Spirit Lake community brought this to the attention of the FBI, BIA and to state officials as well. Was anything done to investigate these allegations?
3. It is alleged that most, if not all, foster parents have not been paid their monthly stipend for the foster children in their care since January, 2012. Why has this situation been allowed to continue for almost 6 months? How have the funds allocated for such payments been spent? Is such expenditure of these funds allowable?
4. On Christmas Eve, 2010 a three week old child was removed from his family home on the Sprit Lake Reservation with several other siblings. This child is in the TSS system under the names of [REDACTED] and [REDACTED]

[REDACTED]. The TSS worker who removed these children thought the three week old was dead initially said that the condition of the home was so poor with debris all over the place and broken out windows with no attempt to fix or block the flow of cold air that they would not allow their dog to stay there. This infant was taken to the hospital in Carrington, ND where Dr. [REDACTED] was the attending physician. Because of the severe case of salmonella poisoning this child had, little hope was given for his survival past 24 hours. His bowel movements were so toxic due to the salmonella that he could not be diapered. If he was diapered his fecal matter would burn through his skin. This child survived and was placed in a foster home from which he was removed by the Director of TSS when he learned of the relationship between the foster-parent and one of his workers who he had fired. The child was then returned to the home from which he had been removed on Christmas Eve. In that home lived his father, uncle and grandfather, all registered sex offenders. This child is the same child described in my June 14 email in # 2 who had "more than 100 wood ticks dug in all over his body." There are a multitude of questions that must be raised about this child beginning with whether his father was ever investigated for child abuse and neglect charges associated with the Christmas Eve, 2010 removal and concluding with a question about why that child remains in a house with three registered sex offenders today. Is the Tribal Social Services Director subject to charges of criminal child endangerment for placing this child in a home with three registered sexual offenders?

5. [REDACTED] [REDACTED], an enrolled member at Standing Rock, who was well-known as an abuser of alcohol and drugs was pregnant when she was locked up for drunkenness and had been in jail for three months when she was taken to the hospital for a c-section delivery of her baby in the late Fall of 2010.. The baby tested positive for high levels of marijuana in her system and as a result the new Mom could not take the baby home with her. The Mom left the hospital against medical orders. She had always wanted her newborn to be named Christiana. When she returned to TSS about a week after the birth she was inquiring where her baby was and when could she take her home. She was hung over after a night of drinking but was not drunk in the opinion of the TSS worker who was trying to answer her questions. The TSS Director called Tribal police to come and take the new Mom away on a drunk and disorderly charge and was sentenced to a year in jail for public intoxication. Her ability to regain custody of that child as a result of that sentence was substantially diminished. The baby is in the care of the [REDACTED] family and is now known as [REDACTED] [REDACTED]. Ms. [REDACTED] had no idea who the biological father was. The Director TSS persuaded a General Assistance recipient to sign paternity papers for this child by withholding his monthly check of \$233 until he did sign. The child could then be enrolled in the Spirit Lake Nation. No paternity tests were done.

The [REDACTED] family was unable to qualify as Foster Parents because the Dad was reported to have multiple felony convictions. A good friend of this family is the Tribal CPS staff member who was hired in this capacity despite her having multiple convictions for child abuse. It is believed that this friendship overcame the father's record of felony convictions. I understand that both the FBI and BIA were made aware of this child's situation. Has either agency done anything to investigate the facts of this situation? Have they been able to confirm the facts as laid out here? If so why is this child still in this placement away from her biological mother? Is there any evidence of a payoff to the TSS Director for his collaboration in all of these events? Is the TSS Director subject to criminal endangerment charges for placing this infant in a home where the parents could not qualify to be foster parents because the dad had multiple felony convictions?

6. A one year old child was removed from her single Dad's home because he had drug and alcohol use/abuse problems and needed to complete treatment in order to avoid a jail sentence. This single Dad had little or no family support because his father was a registered sex offender and his mother, separated from his father, was living with another registered sex offender. This child also had two names in the TSS system: one was as [REDACTED] [REDACTED] and the other was as [REDACTED] [REDACTED]. The child had complex medical needs due to a growth in her throat. As a result of this condition she was placed with a Fargo family in which the Mom was a highly qualified nurse. This child was removed from this foster home in July of 2011, with less than two hours notice after the TSS director became aware of the close ties between the foster family and a former member of his staff who he fired. Appointments were in place for the surgery to remove the growth but had to be cancelled due to this abrupt removal. The child was placed back in her single dad's home and he was still unable to cope with all of the demands on him. In the Fall of 2011 the single Dad decided he was going to [REDACTED] where there was a work opportunity. This child, as of the Fall of 2011, had not had the surgery. The growth in her throat was reportedly interfering with her ability to eat age-appropriate food and to speak. It was interfering with her normal stages of development. This child is reportedly still under the care and control of the Spirit Lake TSS. Has anyone tracked down this child to determine whether the surgery has been completed? If she has not had the necessary surgery, has anyone made arrangements for this surgery to be completed in her new home community? Is she eating and speaking at a developmentally appropriate age?
7. A 5 year old child (with two names, [REDACTED] [REDACTED] and [REDACTED] [REDACTED]) was removed from the home of a registered sex offender who was serving as one of her foster parents. She had been removed from the

home of her biological Mom because the Mom tried to burn her house down with several of her children in it. When this 5 year old was removed she was placed back with her biological Mom. There is no indication as to whether this woman completed any plan of treatment. After a short while the child proved to be more than the Mom could handle. When the former foster parents offered the Mom \$50, she returned the child to the foster parents where there was a registered sex offender living. This child is believed by TSS to be still with the Mom. How could this child be placed in a foster home where there was a registered sex offender living? What kind of assessment was completed on the Mom's ability to re-assume parental responsibilities? How can the management of the placement of children be so loose that children move from house to house without anyone in TSS knowing about it? If the TSS staff member responsible for placing this child in a home where a registered sex offender lived can be identified, should they be subject to criminal child endangerment charges?

8. [REDACTED] [REDACTED] is the Tribal Chairman's adopted brother. Three of his children (ages 6, 8 and 12) were removed from his care because he was whipping them with electrical cords. One child was whipped so severely that he could not walk for two – three days. All of the children routinely had bruising on their backs. Despite all of this, nothing has ever been done to Mr. [REDACTED], it is claimed, because of his relationship to the Tribal Chair. One FBI agent is quoted as saying, "TSS would do nothing to protect those kids." How can such physical abuse be tolerated? How can those sworn to protect these children ignore their conditions? Since the FBI apparently knew about the manner in which Mr. [REDACTED] treated his children, why didn't they file charges against him for child abuse? Was there some quid pro quo to the FBI agents for ignoring, not prosecuting this case?
9. [REDACTED] is the father of a little girl who is now in foster care because he beat her up. He is a cousin to [REDACTED] is an elected member of the Council who makes sure that no one does anything to harm him. There seems to be little concern for the council member's cousin's daughter who his son beats up. Why hasn't TSS, the FBI or BIA done anything to protect this child? Does this prove that if you are politically connected on the Spirit Lake Reservation, you can get away with anything you desire? Should Councilman [REDACTED], the FBI and the BIA staff who ignore this abuse of this little girl be subject to child endangerment charges for their failure to protect that child from such abuse?
10. [REDACTED] [REDACTED] is a registered sex offender. A Tribal Child protection worker placed 3 children in his care in late November to early December, 2011. To my knowledge they are still there. What kind

of background check was done that allowed such a placement? How could this man comply with the established requirements for becoming a Foster Parent? Were standards waived in this case? By whom? Why? Should the TSS Child Protection worker who placed these three children in this home be charged with multiple counts of child endangerment for placing these children in the care of a registered sex offender?

11. In the Spring of 2011 TSS was contacted by Clay County, MN Human Services with notice that the county had taken the three children of [REDACTED] [REDACTED] into custody because of the mother's abuse and neglect. At this time the mother was pregnant with her fourth child, was not getting any prenatal care, was arrested multiple times for alcohol use and had not completed any of her treatment programs. A Tribal Judge refused to intervene in Clay County's custody of these three children because they were getting counseling and were going to school. TSS ignoring the decision of the Tribal Judge, went to MN and brought the three children back to ND and turned them over to the Mother who had just delivered her newborn. Shortly thereafter TSS filed an emergency petition with the Tribal Court for removal of the three children from the care of their mother who had left town with her baby suddenly and left her three older children in the care of an uncle who beat them. When the mother returned TSS, ignoring the order of their Tribal Judge, awarded custody of the three children to the mother and closed their case file on this family. How can a child grow to be a healthy adult with all of this turmoil in their lives? Why did the BIA tolerate such arbitrary decision making by TSS that seemed to have little to do with the best interests of those children? Were any charges ever filed against the uncle for beating those three children?
12. [REDACTED] [REDACTED] and his wife who was developmentally delayed had four children, three girls and a boy. TSS became involved with this family when it received reports that the children were not being cared for. The four children were placed in the care of their maternal grandmother in Grand Forks where they began receiving counseling. During the counseling each of the children revealed that they had all been sexually abused by their father. When the Tribal Chair ordered all off-reservation placements to be terminated, these children were returned by TSS to the care and custody of their father. How can any child serving agency place children with known sexual predators? Was there ever any effort to prosecute the father for his sexual abuse of his children? If not, why not? Is the TSS Director subject to criminal child endangerment charges because of this placement?
13. The TSS Director hired a woman as a child Protection Supervisor who had a record of conviction for child abuse. She

apparently knew that her husband and stepson were sexually assaulting her son and said nothing to anyone. How could anyone with this recent history be hired to fulfill child protection supervisory responsibilities? Was anyone conducting or reviewing her background checks?

14. The Tribal Chair and Council, I understand in the name of Tribal Sovereignty, authorized the removal of all descriptions and pictures of all Registered Sex Offenders that had been prominently placed in the Recreation Buildings around the reservation. I believe this is in violation of the Sex Offender Registration and Notification provisions of the Adam Walsh Act. How much federal money will the Spirit Lake Nation have to return to the federal government for their failure to comply with this provision of the Act?

15. When the bodies of the two DuBois children were discovered, murdered in their dad's home more than 13 months ago, police dispatch called TSS and requested a staff member be sent to that location because there were children present. There was a three year old sibling to the two murdered children who was in that home while they were being raped, sodomized and murdered as well as five teens who had come to the home with their mother to pick up the three children who had been staying overnight with their dad. The three year old emerged from the home covered in blood as did the mother who had discovered the dead bodies of her two children. Both the FBI agent and the BIA police in charge of the scene directed the TSS worker to take the three year old to the Recreation Center, to give him a bath and get some different clothes on him. They gave the same instructions to the mother. What is remarkable about this is the following: a) no one took pictures of the three year old or mother; b) no one attempted to retrieve any forensic evidence of any kind from either the child or mother; c) the TSS worker bagged the clothing from the mother and son separately and brought them back to the murder home where she was told by both the FBI agent in charge and the BIA that they did not need that clothing for any reason; d) the boy's aunt took both sets of clothing home with her that night and washed them. I thought all good criminal investigative procedure required the collection of as much forensic evidence as possible from a crime scene. Why was there no effort by either the FBI or BIA agents in charge at this scene to collect a thing from two people, both of whom were in the murder home before the police arrived? Have any penalties been imposed on these agents who did such a poor job of collecting evidence from this crime scene? Has their conduct at the crime scene even been investigated? If not, why not?

16. Because the TSS worker who went to the murder scene described in # 15 believed the family's condition was so fragile she booked them into a hotel room for the night and spent the night with them talking about many things, including their discovery of the bodies of their murdered siblings. The five teens who came with their mother to the murder home spoke openly about their father's sexual assaults on them over many years. The TSS worker, I understand,

encouraged the five teens to report this to the FBI and BIA when they were questioned the next day. I understand they did. Has anyone investigated their complaints? If so were those complaints by these five teens substantiated? If they were, have any charges been filed against this man? If so, what are they? If not, why not? If their complaints have not been investigated in the more than 13 months since first received by the FBI and BIA, what is the reason for this failure? Who made the decision not to investigate these charges? On what basis was such a decision made? I have heard rumors that this man who allegedly raped and sodomized two of his own children and then murdered them, who allegedly has been sexually assaulting his children for many years, has information that if revealed could result in lengthy prison sentences for the Tribal Chair as well as for many of his family and friends. Since this rumor has been so broadly broadcast, I am confident that it has come to the attention of both the FBI and BIA. Has it been investigated to determine whether there is any truth to it? Is this possibly why there has been no prosecution of this man for the murder of his two children?

17. The 12 – 13 year old daughter of [REDACTED] was being sexually abused by an adult male and needed to be placed outside of home. The TSS worker who discovered this abuse sought assistance from the TSS Director who refused to give any help in finding a placement. Finally, the worker went to Myra Pearson, Tribal Chair at that time, for assistance. She placed the child with a suicidal woman.

18. [REDACTED] was a 13 year old boy who was discovered to be planning to commit suicide because he was being physically abused. A TSS worker removed the boy from the home of his physically abusive parent. The TSS Director returned the boy to the physically abusive parent.

19. Mary Lones was responsible for running the BIA Jail at Spirit Lake. A man by the name of [REDACTED] worked at the jail for Ms. Lones. Mr. [REDACTED] complained that his penis had been bitten by a child. When a TSS worker learned of this report, an investigation was initiated into how Mr. [REDACTED]'s penis got into a child's mouth to be bitten. Ms. Lones wrote letters to the state, Tribal Chair and Council and TSS complaining about this investigation of Mr. [REDACTED]. Did any of these individuals/organizations intervene in an attempt to stop this investigation? Why did Ms. Lones, a BIA employee, intervene in this manner? Is such intervention consistent with BIA's ethical standards of conduct? Why should she be concerned about an investigation to determine how Mr. [REDACTED]'s penis got into a child's mouth to be bitten? Were her letters an attempt at intimidation for the purpose of getting the TSS worker to stop or water down his investigation? If so, is this obstruction of justice? Did she as a result of this interference with a legitimate

investigation extend the period during which this child or other children were abused by Mr. Shively? Is she subject to charges of criminal child endangerment for her efforts on behalf of Mr. Shiveley?

20. Ms. [REDACTED] was hired as a CPS worker in TSS. It is my understanding that she was related to a Tribal Council member. After several weeks on the job, she admitted that she had no idea what a form 960 was, what it looked like or what purpose it served. What kind of training is being provided to new hires into TSS? Do those new hires come with any background or prior experience or education that qualifies them for this position? Is Ms. [REDACTED] related to a member of the Council or some other politically important family on this reservation?
21. [REDACTED] was a six year old little girl who was being penetrated vaginally and anally by a 15 – 16 year old teen with his penis. Nothing was done by TSS. It is my understanding that both the little girl and the teen now believe this kind of interaction is normal and that there is nothing wrong with it. The six year old was removed from her mom's house because the mother padlocked the front door when she went out leaving the six year old, a one year old and a newborn unsupervised for extended periods of time. They were all placed in the home with the raping and sodomizing teen at the direction of the TSS director. Is such action by the TSS Director subject him to charges of criminal child endangerment?
22. One former TSS worker who I spoke with said that they had filed a complaint about the Spirit Lake Nation's TSS as well as the activities of the BIA with the Aberdeen office of the BIA, providing much documentation of those allegations made at that time. That person now understands there has been no investigation of their report, that the documentation provided to the Aberdeen BIA now sits, un-read and un-investigated on the desk of the BIA Spirit Lake Superintendent, Mr. Cavanaugh, a best buddy to the former TSS Director. If that were to happen with any of this material I would be very disappointed because it would suggest to me that the chance of any honest investigation had been compromised and that far more dramatic steps were required to begin to resolve these problems, If those documents do actually sit on Mr. Cavanaugh's desk un-read and un-investigated, why is that? If those allegations have been investigated, what was the result of that investigation? Have they been published? If not yet, when will they be published?

Will there be any indictments as a result of that investigation? If yes, when might they be filed?

23. A convicted child sexual abuser who was found guilty of child sex abuse, went to prison, served his time, was released and is now back on the Spirit Lake Reservation. His name is Little Joe Alberts. For the last several years he has served as Santa Claus at the Tribe's annual children's Christmas party. When I asked why this was tolerated, I was told, "If you are living out here and paying your bills, you work for Tribal government, the Tribal Casino or the federal government. If you work for the Tribe in any capacity and you complain about something of that sort, you can find yourself out on the street the next day. So everyone just remains quiet." Is there such a charge as criminal intimidation? If so might it apply to the Tribal Chair and Council who facilitate the sexual abuse of native children by allowing Little Joe to be Santa Claus at the Children's Christmas party?
24. It is my understanding that the Head Start staff who observed the children in their program dry-humping each other have remained silent about this because they were fearful that if they spoke up they would lose their jobs.
25. It has been reported to me by more than one person that two-thirds of the Spirit Lake Council, including the Chair, are themselves child sexual abusers or have immediate family members who are child sexual abusers.

This represents what I have received up to this point. As I receive additional information and as I review the record of the handling of the information enclosed here, more will be provided to you

I have had numerous conversations with individuals who wish to speak to the intolerable levels of child abuse they have observed for years. Some of these people have expressed deep concern about the personal safety of themselves and their families. I also have been warned by several that thugs like those who are running and profiting from all of the abuse at Spirit Lake like to continue in place and will resort to threats and intimidation initially and ultimately to violence. That would be most unfortunate and I trust that will not be the case in this situation.

It is clear to me from what I have seen thus far that there is some high level Agency collaboration in the facilitation of the child abuse at Spirit Lake. That must stop. Children must be protected.

If children are not in a better state as a result of our efforts, we will be failures. I

did not initiate the action I took on June 14, 2012 to fail. There are many folks who stand with me who do not wish to be characterized, in the words of Thomas Merton as “guilty bystanders”. We are all committed to actively ending child abuse at Spirit Lake first and in the remainder of the nation second.

Thomas F. Sullivan
Regional Administrator, ACF, Denver