

From: Sullivan, Thomas (ACF)
Sent: Thursday, August 30, 2012 1:49 PM
To: 'r.yankton@spiritlakenation.com'; 'Settles, Sue'; 'Tim.Purdon@usdoj.gov'
Cc: Sheldon, George (ACF); Dawson, Diann (ACF); Sparks, Lillian (ACF); Samuels, Bryan (ACF)
Subject: Fifth Mandated Report of Suspected Child Abuse on the Spirit Lake Reservation and Response to the Chairman's August 23, 2012 Letter

Chairman Yankton:

I would like to thank you for your three page letter dated August 23, 2012 which was sent by overnight delivery but which we just received [in my office](#) late Tuesday afternoon, August 28, 2012 as one might expect with an item that was first entered into the delivery system in Grand Forks around 3:30PM on Monday, August 27.

Since your letter challenges the factual basis for what I have written and submitted in my four Mandated Reports about Suspected Child Abuse at the Spirit Lake Nation and since some might believe your letter is an effort to interfere with my responsibilities as a mandatory reporter, I am filing my response to your letter as the Fifth Mandated Report of suspected child abuse consistent with the guidelines established in the Attorney General's April 24, 2012 Decision Memo.

I am sending this response to your letter by email so that you will receive it expeditiously. I am also attaching a copy of your letter for ease of reference.

I have copied the BIA's Ms. Settles and the US Attorney for North Dakota, Timothy Purdon consistent with my reporting requirements as I understand them.

In your letter you state. "Much of what Mr. Sullivan reports is only rumor and conjecture" but then you provide no specific examples of your claim. Your failure to provide that kind of detail makes it very difficult for me to respond in any effective [or comprehensive](#) manner to what you write [except to state that your claim is baseless..](#) My four mandated reports as well as the supporting documentation I have provided to the BIA now are in excess of 25 single-spaced pages. It would be most helpful to me if you could provide specific examples of your "rumor and conjecture" claim especially since I wish to correct any errors [which have been](#) made. I look forward to hearing from you at your earliest convenience with that information so that the public record [may be corrected](#).

More than a year ago when I was in Fort Totten, meeting with the former Tribal Social Services (TSS) Director, he told me that you had ordered all off-reservation placements of enrolled children to be terminated and those children returned to the Spirit Lake Reservation immediately. He expressed his concern, at that time, that given the timetable to complete this task, a timetable

established by you, that the returning children's safety might be compromised. A few months later when I sought to follow up on that conversation and ever since then, I [have been able](#) to find no one at TSS to answer my questions.

The BIA has, for several years, been completing Annual Reviews of the SLTSS. The list of deficiencies completed during these reviews has grown ever larger with each passing year with no apparent effort, until the last several weeks, to correct these deficiencies. Many of these deficiencies [have been](#) repeated year after year. Their last review, I believe, produced a count of 75 deficiencies, [most of them so serious that they required immediate correction](#).

Tribal Judges, Tribal Elders as well as others concerned for the welfare of [the children of Spirit Lake](#) have been petitioning the Tribal Council, BIA, [the Secretary of the North Dakota Department of Human Services](#), [the North Dakota state Child Welfare Director](#) and the FBI for several years to intervene with TSS and law enforcement to protect the children of the Spirit Lake Nation. If any action were taken by any of these entities, it [has](#) had no apparent effect on improving the well-being and safety of these children.

I believe the case of the 2 month old infant who died at home alone on July 7, 2012 after multiple complaints by a number of adults including the infant's aunt to TSS as well as to Benson County Social Services might have been handled differently if those workers from TSS and Benson County were familiar with the Spirit Lake Children's Code, [enacted](#) by the Spirit Lake Nation Council on [April 30, 2003 under SLT Resolution No. A05-03-160 and incorporated into the Spirit Lake Nation Law and Order Code](#). That Code states in part at 1-1-103, "The Spirit Lake Tribal Court shall have exclusive jurisdiction over any child custody proceedings involving a child residing or domiciled within the exterior boundaries of the Spirit Lake Reservation" This infant lived her entire life, I understand, in the heart of the Reservation, in St. Michael. Moreover, even though not enrolled, she was eligible to be enrolled since all of her grandparents were full-blood, enrolled members of the Spirit Lake Nation.

To further explore the relevance of the Spirit Lake Children's Code section on the Emergency Custody of Child, where it is written in part at 3-1-112 "If it appears from an affidavit or sworn statement presented to the Tribal Judge, that the welfare of the child requires immediate protection the Judge may endorse an emergency order for placement of the child in a facility or with an agency as designated by the Court. If it appears that a child is in danger for whatever reason and the Court is unavailable to issue an emergency order, an officer of the Court including a police officer, a probation officer or a social worker may make an emergency removal of a child. The individual removing the child shall notify Social Services immediately upon removal and Social Services shall make arrangements for appropriate medical shelter or foster care if such removal is deemed necessary for the welfare of the child. Such removals shall be done on an emergency basis only."

The Spirit Lake Children's Code further states in part at 4-1-103, "The Tribal, Federal, or State Social Services agency in cooperation with IHS and BIA shall develop, maintain and coordinate the services of a multidisciplinary child protection team.....Social services shall be responsible in assuring that the team receives the report of abuse or neglect. Social Services shall bear the responsibility to investigate each and every report of abuse or neglect in accordance with this Code and other applicable regulations."

It seems clear that this well-written Spirit Lake Children's Code, if known and implemented by the TSS caseworkers who dismissed the complaint of this infant's aunt as well as those of other concerned relatives and neighbors, this two month old infant, resident of the Reservation and eligible based on blood quantum to be enrolled, might still be alive.

I have had no discussions with anyone from the media. My office has received multiple requests for interviews. None have been granted. All of these requests have been referred to ACF's Public Affairs office in Washington, DC.

All of my concerns about conditions on Spirit Lake have been in writing. I have been clearly identified as the author. My email address and telephone number have been circulated widely. Unfortunately some of those who seem to support you have not been so forthcoming. They have chosen to speak or write anonymously, seemingly afraid to identify themselves. I have little respect for those who will not identify themselves and stand behind their position, whatever that position might be.

Finally, you refer to your "struggles daily to secure additional funding and resourcesfor the future of our children". It always seems that financial resources are inadequate in our efforts to protect children. May I suggest you consider requesting a full federal audit of all tribal spending for the purpose of identifying where funding, currently available to the Tribe, might be allocated more effectively to protect children.

Have a great weekend. I look forward with anticipation to your response to my request for additional information about where what I have written about Spirit Lake is, in your words, "rumor and conjecture".

Thomas F. Sullivan
Regional Administrator, ACF, Denver