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109TH CONGRESS
2d Session

SENATE

REPORT
109-255

AMENDING THE INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT TO IDENTIFY AND REMOVE BARRIERS TO REDUCING CHILD ABUSE, TO PROVIDE FOR EXAMINATIONS OF CERTAIN CHILDREN, AND FOR OTHER PURPOSES

MAY 18, 2006.—Ordered to be printed

Mr. McCAIN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1899]

The Committee on Indian Affairs, to which was referred the bill, S. 1899, to amend the Indian Child Protection and Family Violence Prevention Act to identify and remove barriers to reducing child abuse, to provide for examinations of certain children, and for other purposes having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

PURPOSE

The bill to amend the Indian Child Protection and Family Violence Prevention Act of 2006 (S. 1899) provides for a five-year reauthorization of child abuse prevention and treatment programs and conforms the Act to other federal child abuse reporting and confidentiality laws. It enhances the ability of the Congress to identify the scope of child abuse and family violence in Indian Country and encourages inter-agency coordination between the Indian Health Service and public and private medical or treatment organizations in the treatment and examination of children through the use of telemedicine; and reauthorizes the Indian child sexual abuse treatment and the Indian child protection and family violence prevention grant programs. The bill also recognizes the role of the Attorney General in documenting and addressing incidents of felony child abuse in Indian Country.

BACKGROUND

Public Law 101–630, the Indian Child Protection and Family Violence Prevention Act, (hereafter, “the Act”) was enacted in 1990. The Act addressed the findings of the Senate Select Committee on Indian Affairs and the Special Committee on Investigations that reports of child abuse in Indian Country were not properly investigated; that child abuse in Indian Country was perpetrated by federal employees with a known history of suspected child abuse; and that Indian tribes and the federal government lacked sufficient resources to treat children who had been abused.¹

In 1989, the Special Committee on Investigations convened hearings after several federal employees were indicted abusing multiple Indian children over the course of several years. The hearings focused on three Indian reservations where large numbers of children were abused by federal government employees. The Special Committee found that, often, the perpetrator had been earlier removed or terminated from federal employment for suspected acts of child abuse and, in several instances, reports of the abuse were disclosed to administrators and local law enforcement who failed to respond appropriately. In some cases, the failure to act on these report resulted in the employee being hired to work with children in other Indian communities, which resulted in the continued abuse of Indian children.

Further, the Special Committee and the Senate Select Committee on Indian Affairs found that Indian tribes lacked the mental health resources to appropriately treat victims of sexual abuse or to provide services to Indian communities affected by the abuse.

The Act resulted in the first federal mandatory Indian child abuse reporting law with criminal penalties for the failure to report suspected abuse. It required the Bureau of Indian Affairs (hereafter “BIA”), the Indian Health Service (hereafter “IHS”), and Indian tribes receiving Indian Self-Determination and Education Assistance Act funds to conduct employee background checks on individuals who come into contact with children. The Act proposed to identify the scope of child abuse and family violence in Indian Country and to provide funds to Indian tribes for the mental health treatment of child sexual abuse and family violence victims. In addition, it encouraged cooperative investigation and prosecution activity to ensure that no further trauma was inflicted on children during the investigation and adjudication of child abuse crimes.

A. REAUTHORIZATION OF THE ACT

In 1995, the Committee convened a hearing on the Act’s reauthorization. The Committee learned that neither the BIA nor the IHS had requested funding to implement child abuse prevention and treatment programs that were authorized by the Act. In addition, the BIA had not promulgated regulations for the administration of such programs or developed the Central Registry for reports or information on the abuse of children in Indian Country called for in the Act. Consequently, Indian tribes were left with inadequate resources to address child abuse. The reauthorization legislation, S. 441, became Public Law 104–16.

¹ S. Rpt. 101–203 on S. 1783, November 13, 1989.

During the 108th Congress, S. 1601 was introduced to reauthorize the Act. A hearing was held on that bill and information was provided by the Administration and Indian tribes and organizations. The testimony largely revealed that child abuse treatment grants and programs continue to be administered in piecemeal fashion and with little consistency. In addition, a concern was raised that information about the rates of child abuse in Indian Country remains elusive due to the multiple jurisdictions with responsibility for responding to reports of abuse. Consequently, it is difficult for Indian tribes and the federal government adequately to measure the resources necessary to address the impact of child abuse in Indian Country. S. 1601 passed the Senate, but was not acted on by the House.

B. SENATE BILL 1899

S. 1899 is intended to strengthen the law and provide a means to address the current lack of comprehensive data available on the extent of child abuse in Indian Country. The Committee believes that this data, including numeric reporting data, is critical to the Congress' understanding of the scope of the problem and the degree of resources necessary to address it. S. 1899 encourages a collaborative effort between the responsible agencies and governments in collecting data on an annual basis. Finally, it requires annual reports to those Committees of the Congress that have oversight responsibility over agencies that respond to the effects of child abuse.

1. Annual reports to the Congress

The law currently requires local law enforcement immediately to submit reports of child abuse to the Federal Bureau of Investigation. This process was intended to ensure that reports of child abuse did not go unaddressed. Shortly after the law was enacted, the FBI began collecting this data on an annual basis. The Committee believes that the Congress would benefit from receiving an annual report of the numeric data currently generated pursuant to this provision of the law. See the attached letter from the FBI. Therefore, S. 1899 includes an amendment to require the FBI, in consultation with the Attorney General and the Secretary (who has some responsibility and oversight for federal and tribal law enforcement agencies in Indian Country), to submit annually this numeric data to the Congress. In addition, an amendment provides that the FBI shall keep this information in a manner accessible only to agencies that require such information to comply with the background check on employees pursuant to this law.

The bill also provides an amendment for the collection of other types of child abuse information beyond that already collected by the FBI. The Committee believes that federal, tribal and local judicial, behavioral health and medical agencies that respond to incidents of child abuse in Indian Country have important data. The amendment requires a collaborative effort between the Indian tribes, the Secretary, the Secretary of Health and Human Services, the Attorney General and the Director of the FBI to coordinate the collection of comprehensive data, including criminal and civil child abuse allegations, federal and tribal prosecutions, sentencing patterns and recidivism rates, and to provide this information annually to the Congress. This information will enhance the Congress'

understanding of the overall extent to which child abuse impacts federal, state and tribal investigation, prosecution and treatment resources in Indian Country.

The Committee believes these two reports are not duplicative. Each report calls for a different type of data. The first contains only local law enforcement reports of alleged child abuse and is immediately accessible. The latter report is more comprehensive and inclusive of non-law enforcement agency information, including information only known by tribal governments. Consequently, this second study will take considerably longer to develop and thus, to report. The Committee believes that the Congress should have access to information that is readily available in order to expedite an appropriate response to this problem. To the extent that these reports can be combined at a later date, the Committee will amend this provision to accommodate such a request.

2. Background character investigations

The Committee received comments that some Indian tribes that were engaged in the foster care placement of children were duplicating investigation efforts pursuant to the Indian Child Protection law and other federal laws governing foster care and adoption placement. To avoid duplication of this effort, the bill as introduced has been amended to provide that an Indian tribe that conducts background checks on volunteers or potential volunteers under this Act are deemed to have met the requirements of any other federal law.

3. Using telemedicine in the treatment and diagnosis of child abuse

The Committee is aware that there is a lack of available professionals trained to diagnose and treat the sexual and physical abuse of children in Indian Country. This section recognizes that there is a level of training needed to appropriately diagnose and treat forms of child abuse. Not all physicians employed by the IHS are experienced in performing sexual assault examinations, particularly on children. However, given the placement of IHS and tribal facilities in Indian Country, physicians therein are routinely asked to perform such examinations and to render diagnosis and treatment and there is a great potential for missed diagnosis or inappropriate referral for investigation and services. Therefore, the bill contains an amendment that makes accessible through the use of telemedicine, experienced public and private medical and treatment agencies that specialize in the area of child abuse diagnosis and treatment to IHS Service areas and tribal facilities in rural or isolated communities.

This specialized care (including the proper manner of examination and interview) is critical to minimize trauma to children who have been victimized. Ideally, such examinations should take place immediately after disclosure of abuse. The Committee is aware, however, that due to the current lack of resources, some children must wait to receive these services. They are routinely being transported hours away from their homes to be examined. The bill takes a conservative approach to the provision of such services by providing that isolated Indian communities receive priority in receiving such telemedicine services.

4. Major Crimes Act amendment

Currently, the federal government has jurisdiction to investigate and prosecute specific acts of child sexual abuse in Indian Country pursuant to the Major Crimes Act. However, the federal government does not have jurisdiction to investigate or prosecute acts of child physical abuse or neglect unless they rise to the level of serious bodily injury or death. Given that child abuse or neglect is not a crime listed in the Major Crimes Act, these acts cannot be prosecuted using comparable state offenses. While Indian tribes have jurisdiction to investigate and prosecute acts of child abuse and neglect, their jurisdiction is limited to acts committed by or against an Indian and penalties of no more than one-year in custody and a \$5000 fine. The Committee is concerned that a whole category of crimes against children is going unaddressed. Therefore, an amendment is added to the Major Crimes Act to criminalize acts of child abuse and neglect in Indian Country. This amendment is intended to close the gap that exists in addressing the full range of crimes that may be inflicted on children. The Committee encourages the federal government and the tribes to use Multi-Disciplinary Teams to determine how to proceed in adjudicating such crimes to avoid duplication of effort and to minimize the trauma to the child often associated with prolonged exposure to the judicial systems.

LEGISLATIVE HISTORY

S. 1899 was introduced on October 20, 2005, by Senators McCain, Dorgan, Crapo and Inouye, and was referred to the Committee on Indian Affairs. On March 15, 2006, the Committee held a legislative hearing on S. 1899. The hearing addressed the need to reauthorize the Indian Child Protection and Family Violence Prevention Act and several key issues, including annual reports to the Congress, background character investigation, an amendment to the Major Crimes Act, and using Telemedicine in the treatment and diagnosis of child abuse. On March 29, 2006, S. 1899 was unanimously passed out of the Committee and ordered reported as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On March 29, 2006, the Committee, in an open business session, considered S. 1899, and an amendment in the nature of a substitute and unanimously voted to have the substitute amendment favorably reported to the full Senate with a recommendation that the amendment do pass.

SECTION-BY-SECTION ANALYSIS

Section 1

Short title. Indian Child Protection and Family Violence Prevention Act Amendments of 2006.

Section 2

Sec. 402. Findings and purpose.

A new finding is added which recognizes the role of the federal and state governments in investigating and prosecuting felony acts of child abuse in Indian Country and federal law. A new purpose

has been added to identify and remove impediments to the investigation and prosecution of acts of child abuse.

Section 3

Sec. 403. Definitions.

Technical corrections and modifications are added to this section. The term “conviction” is defined with respect to an offense, as a formal judgment of guilty through a verdict by a judge or jury or a plea of guilty or nolo contendere, but does not include any formal judgment that has been expunged by pardon, reversed, set aside, or otherwise voided. The substitute amendment adds conforming and technical changes to this section.

Section 4

Sec. 404. Reporting procedures.

An amendment to section 404 brings the Act into conformity with other federal child abuse reporting statutes to provide confidentiality protections for the child and to permit disclosure of information about the child only to those who need to know such information in investigating, treating or adjudicating child abuse. See Title 18 United States Code Section 3509.

The amendment to section 404 also requires the Federal Bureau of Investigation, in coordination with the Attorney General and the Secretary of the Interior, to annually report to appropriate Committees of Congress the number of child abuse incidents that have been reported to it by virtue of the original law. This amendment is intended to enhance the Congress’s understanding of the extent of child abuse in Indian Country.

This section also requires the Secretary, in consultation with the Department of Health and Human Services and the Attorney General and the tribes, to gather other data relating to child abuse from the Indian tribes, federal and local law enforcement, criminal justice, behavioral health and medical agencies. This information has heretofore not been gathered or provided to the Congress and will permit the Administration and the Congress to determine the type of resources necessary to address child abuse and where to direct such resources.

Section 5

Repeals Sec. 405. Central registry.

Removal of Barriers to Reducing Child Abuse.

Section 405 is repealed and replaced with a new section. The central registry provision was repealed based on recommendation from the Bureau of Indian Affairs that due process concerns and developing a mechanism that requires tribal implementation created substantial obstacles. The replacement provision requires a federal study to identify factors that are impeding the reduction of child abuse in Indian Country. The substitute amendment adds conforming and technical changes to this section.

Section 6

Sec. 406. Confidentiality.

Section 406 is amended to broaden the waiver of laws requiring confidentiality of records to permit agencies that investigate and treat child abuse to receive the otherwise confidential information

in the performance of their duties. The substitute amendment inserts the unpaid "volunteer" to the list of categories included in character investigations.

Section 7

Sec. 407. Waiver of parental consent.

Section 407 specifies that no parental consent for forensic examinations is necessary if the reporting agency suspects a child has been abused. The substitute amendment adds a new provision which is intended to minimize additional trauma to the child who may have been subject to abuse by requiring, to the greatest degree possible, avoidance of multiple interviews in the examination and interview processes.

Section 8

Sec. 408. Character investigations.

This section requires Department of the Interior and Department of Human and Health Services to conduct character investigations of individuals who work in voluntary positions where they have regular contact with children. The substitute amendment adds a new provision which is intended to remove redundancy in conducting background character investigations. The substitute deems that a character investigation under this subsection shall satisfy any requirement under any other federal law requiring background checks in connection with the placement of an Indian child in a tribally licensed or approved foster or adoptive home. The burden to show compliance with the law is on the agency seeking the waiver of such requirement from another agency.

Section 9

Sec. 409. Indian child sexual abuse treatment grant program.

This section reauthorizes appropriations until 2011 at such sums as necessary.

Section 10

Sec. 410. Indian child resource and family services centers.

Section 410 is amended to establish Regional rather than Area Offices of Indian Child Resource and Family Services Centers, and includes the Attorney General in the agencies permitted to participate in the service centers. The service centers are to provide services to victims and families who have suffered abuse or violence, and provide training for tribal staff in child sexual abuse investigation and treatment or post traumatic stress disorder treatment. The provision expands the lists of personnel appropriate for a multi-disciplinary team and reauthorizes appropriations until 2011 at such sums as necessary. The substitute amendment adds conforming and technical changes to this section.

Section 11

Sec. 411. Indian child protection and family violence prevention program.

Section 411 reauthorizes appropriations for the Indian Child Protection and Family Violence Prevention Program from 2007 through 2011 at such sums as necessary.

These grants have heretofore not been provided. The Committee believes that these grants are necessary to provide Indian tribes with recurring prevention programs that focus on the dynamics of child and family violence. The Committee is aware that currently, Indian tribes piece together grants from various resources for prevention activity (e.g. child abuse prevention ribbons, designated month activity, etc.) that skim the surface of the problems that they seek to address. While these activities provide awareness, they do not provide tribes with on-going prevention efforts as envisioned by the law when it was first passed. The substitute amendment adds conforming and technical corrections to this section.

Section 12

Sec. 412. Use of Telemedicine.

Section 412 is added to authorizes the Indian Health Service to enter into contracts or agreements with experienced private or public medical and treatment practitioners for the use of telemedicine in the treatment and diagnosis of Indian children. It requires the Indian Health Service to supplement existing telemedicine infrastructure and to give priority to rural and isolated Service Units or tribal health facilities. It also permits public and private agencies to seek assistance from the Indian Health Service in the treatment of Indian children. An authorization of appropriations is provided for 2007 through 2011 at such sums as necessary.

The substitute amendment adds language to this section which is intended to clarify that access to any information or consultation on the treatment of Indian children who have, or may have, been subject to abuse or neglect, is limited to purposes of telemedicine services addressed in this section.

Section 13

Conforming Amendments.

Section 413 amends Title 18 U.S.C. § 1169 to broaden the class of people required to report child abuse to include foster parents and volunteers thus bringing the Act into conformity with other federal child abuse reporting statutes. See Title 42 United States Code Section 13031. The substitute amendment adds “felony child neglect” to the list of offenses in the Major Crimes Act (18 U.S.C. 1153(a)) and makes other technical corrections to this section.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office has calculated the cost estimate for S. 1899 as follows:

S. 1899—Indian Child Protection and Family Violence Prevention Act Amendments of 2006

Summary: S. 1899 would authorize appropriations to operate Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) programs aimed at preventing abuse of Indian children. CBO estimates that implementing S. 1899 would cost about \$350 million over the 2007–2011 period, assuming appropriation of the necessary amounts.

S. 1899 would prohibit local law enforcement or child protection agencies from disclosing names or other information about abused children to entities that are not involved in preventing or treating

child abuse. While this prohibition is an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would restrict the authority of local government agencies, CBO estimates that it would impose no costs on state, local, or tribal governments. Therefore, the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation) would not be exceeded. The bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1899 is shown in the following table. The cost of this legislation falls within budget functions 450 (community and regional development) and 550 (health).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
Indian Child Abuse Treatment Grants:					
Estimated Authorization Level	12	12	12	13	13
Estimated Outlays	6	9	12	12	13
Indian Child Resource and Family Service Centers:					
Estimated Authorization Level	6	6	6	6	7
Estimated Outlays	5	6	6	6	7
Indian Child Protection and Family Violence Protection Program:					
Estimated Authorization Level	42	43	44	45	46
Estimated Outlays	32	43	44	45	46
Use of Telemedicine:					
Estimated Authorization Level	23	7	7	7	7
Estimated Outlays	9	14	8	7	7
Other Provisions:					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	2	2	2	2	2
Total Changes:					
Estimated Authorization Level	85	70	71	73	75
Estimated Outlays	54	74	72	72	75

Basis of estimate: For this estimate, CBO assumes that S. 1899 will be enacted in 2006, that the necessary amounts will be provided for each year, and that spending will follow historical patterns for similar programs. S. 1899 would authorize appropriations to operate BIA and IHS programs aimed at preventing abuse of Indian children. Based on information from the two agencies, CBO estimates that implementing S. 1899 would cost about \$350 million over the 2007–2011 period to operate programs that would be authorized under the bill.

Indian child abuse treatment grants

Section 9 would authorize the appropriation of such sums as necessary for fiscal years 2007 through 2011 to provide grants to Indian tribes to treat child abuse. The grants would be administered by the IRS. Based on the level of spending previously authorized for this activity (which has not been previously funded), CBO estimates that implementing the grant program would cost \$6 million in 2007 and \$52 million over the 2007–2011 period, assuming appropriation of the necessary funds.

Indian Child Resource and Family Services Centers

Section 10 would authorize the appropriation of such sums as are necessary for fiscal years 2007 through 2011 for Indian Child Resource and Family Services Centers. The legislation would estab-

lish regional centers to provide services to victims and families who have suffered abuse or violence and provide training to tribal staff regarding family violence, child abuse, and child neglect. Based on information from BIA, CBO estimates that implementing this section would cost about \$6 million a year to staff such centers, assuming appropriation of the necessary amounts.

Indian child protection and family violence prevention program

Section 11 would authorize the appropriation of such sums as are necessary for fiscal years 2007 through 2011 for the BIA to provide grants to tribes to establish child protection and family violence prevention programs. This would include on-reservation treatment and prevention programs for both child abuse and neglect as well as family violence. The grants could be used to purchase equipment, employ and train staff, and provide shelter. Although authorized at \$30 million annually over the 1992–1997 period, no funds have been appropriated for these grants. Based on information from BIA, CBO estimates that implementing this section would cost about \$32 million in 2007 and \$210 million over the 2007–2011 period to establish and operate these programs.

Use of telemedicine

Section 12 would authorize the appropriation of such sums as are necessary for fiscal years 2007 through 2011 for IRS to use telemedicine (the transfer of medical information via electronic communication) to better diagnose and treat child abuse. Based on information from IRS, CBO estimates that implementing this section would cost about \$9 million in 2007 and \$45 million over the 2007–2011 period for new equipment, staff, and training.

Other provisions

The legislation includes provisions that would add new reporting requirements and administrative costs for federal agencies that oversee Indian child abuse. Based on information from the agencies about the costs of similar services, CBO estimates that implementing those provisions would cost \$2 million annually.

Estimated impact on State, local, and tribal governments: S. 1899 would prohibit local law enforcement or child protection agencies from disclosing names or other information about abused children to entities that are not involved in preventing or treating child abuse. While this prohibition is an intergovernmental mandate as defined in UMRA because it would restrict the authority of local government agencies, CBO estimates that it would impose no costs on state, local, or tribal governments. Therefore, the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation) would not be exceeded.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Matthew Pickford and Eric Rollins. **Impact on State, Local, and Tribal Governments:** Leo Lex. **Impact on the Private Sector:** Jennifer Doleac.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee concludes that S. 1899 will reduce regulatory or paperwork requirements and impacts.

EXECUTIVE COMMUNICATIONS

The Chairman and Vice Chairman of the Committee sent letters to the Federal Bureau of Investigation, the Indian Health Service and the Bureau of Indian Affairs, requesting information on each agencies' implementation of the law. A copy of each letter and its respective response is attached.

JOHN McCAIN, ARIZONA, CHAIRMAN
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United States Senate

COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-6450

<http://indian.senate.gov>

September 21, 2005

Federal Bureau of Investigation
Director Robert S. Mueller III
J. Edgar Hoover Building
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-3000

Re: Reauthorization of The Indian Child Protection and Family Violence Protection Act, Public Law 101-630

Dear Director Mueller:

The Federal Bureau of Investigation is authorized by statute to investigate Major Crimes that occur in Indian Country, including crimes against children. In 1993, *The Indian Child Protection and Family Violence Prevention Act* ("the Act") was enacted after the disclosure of multiple instances of Indian child sexual abuse that were perpetrated by Indian school employees in Indian Country over a number of years. Among other requirements, the Act mandated reports of child abuse in Indian Country, sought to track the extent of child abuse, and reduce incidents of child abuse there.

The Act is now due to be reauthorized. To determine whether the existing law is meeting its intended purpose, the Committee requests information from your agency:

Section 404 of the Act requires all local law enforcement agencies in Indian Country to report allegations of child abuse, involving an Indian child and an Indian perpetrator, to the Federal Bureau of Investigation:

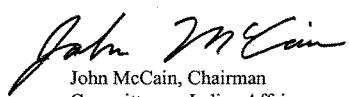
1. Does the FBI routinely receive reports of Indian child abuse in Indian Country by local law enforcement agencies? If not, please identify the obstacles affecting their ability to do so or the ability of the FBI to gather that information;
2. Upon receiving reports of Indian child abuse, how are these reports documented within the FBI;
3. How many reports of Indian child abuse has the FBI received in the last 3 years;

4. What does the FBI do with these reports, and
5. What, if any, new trends or obstacles has the FBI encountered in investigating crimes against children in Indian Country.

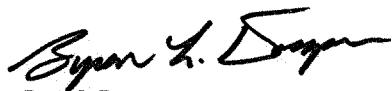
Finally, please share with the Committee any recommendations that you have for improving the Act and for addressing crimes against children in Indian Country.

Thank you for your immediate attention to this matter.

Sincerely,



John McCain, Chairman
Committee on Indian Affairs
United States Senate



Byron L. Dorgan
Committee on Indian Affairs
United States Senate



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 18, 2005

Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Mr. Chairman:

Thank you for your September 21, 2005, letter. I appreciate the opportunity to provide you the following information in response to your request regarding the reauthorization of *The Indian Child Protection and Family Violence Protection Act*.

1) Does the FBI routinely receive reports of Indian child abuse in Indian Country by local law enforcement agencies? If not, please identify the obstacles affecting their ability to do so or the ability of the FBI to gather that information.

The FBI routinely receives reports of Indian child abuse from various local law enforcement agencies in Indian Country, including the Bureau of Indian Affairs, Office of Law Enforcement Services (BIA-OLES). Additionally, the FBI receives referrals of allegations of Indian child abuse from other public service entities such as schools, medical professionals and child protective service organizations. Some of these referrals are the direct result of FBI participation on Multi-Disciplinary Teams (MDT) or Child Protection Teams (CPT) in Indian communities.

There may be instances where child abuse complaints are received and investigated by other law enforcement agencies in Indian Country and the FBI is not made immediately aware of those allegations.

2) Upon receiving reports of Indian child abuse, how are these reports documented within the FBI?

Allegations of child abuse are documented in FBI investigative files if an investigation is initiated. In cases where the FBI refers the allegations to either tribal law enforcement or BIA-OLES, the allegation may be documented in a complaint form or other communication.

3) How many reports of Indian child abuse has the FBI received in the last 3 years?

The number of Indian child abuse allegations received by the FBI in the last 3 years can be determined by the number of investigations conducted by the FBI in the Sexual Abuse of Child or Physical Abuse of a Child investigative classifications and by the number of allegations documented in a format other than an investigative file. During the period covering fiscal years 2003 through 2005, the FBI initiated 1,396 investigations in matters involving Indian child abuse. This represents 30% of all FBI investigations in Indian Country during that period.

Honorable John McCain

Child abuse allegations received by the FBI and documented in a format other than an investigative file represent child abuse reports with various dispositions, including unsubstantiated reports, referral to other investigative agencies, or immediate declinations of prosecution. During the period covering fiscal years 2003 through 2005, the FBI documented 1,451 reports of matters involving Indian child abuse. Two FBI field divisions in South Dakota and Arizona participate on extensive MDT projects that essentially result in the FBI field divisions documenting nearly all reports of child abuse that are collectively received by all participating agencies on the MDT. Accordingly, 1,005 of those reports were documented by the Minneapolis and Phoenix FBI field divisions.

4) What does the FBI do with these reports?

In nearly all cases of Indian child abuse reports received by FBI field divisions, investigations are conducted either by FBI Indian Country agents or task force members working with the FBI on Indian Country Safe Trails Task Forces (STTF). In circumstances, where the severity of the abuse is determined to be less serious, the allegations may be referred to tribal or BIA-OLES personnel for investigation and presentation to tribal courts as deemed necessary.

5) What, if any, new trends or obstacles has the FBI encountered in investigating crimes against children in Indian Country?

The FBI faces many unique, challenging obstacles in investigating crimes against children in Indian Country. These investigations often require significant commitments of investigative manpower in remote areas. This frequently means investigators must travel substantial distances and are without ready access to the technical expertise which is essential to their investigations. These investigations usually require substantial, specialized and expensive techniques, such as forensic interviewing of victims, serology/DNA and autopsy examinations, and polygraph examinations. Indian Country investigations are also hampered by the reluctance of witnesses to cooperate, due to close family structures in most tribal communities and cultural sensitivities in tribal relations.

6) Finally, please share with the Committee any recommendations that you have for improving the Act and for addressing crimes against children in Indian Country.

Indian Country law enforcement is hampered by a lack of standardized crime reporting for crimes in Indian Country. The standardization of crime reporting would be of invaluable assistance to the FBI and the BIA-OLES in identifying, tracking and analyzing crimes and crime trends.

If I can be of further assistance to you regarding this matter, please do not hesitate to contact me.

Sincerely yours,

Chris Swecker

Chris Swecker
Assistant Director
Criminal Investigative Division

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United States Senate
COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-6450
<http://indian.senate.gov>

September 21, 2005

United States Department of Health and Human Services
Office of the Secretary
Secretary Michael O. Leavitt
200 Independence Avenue SW
Room 615F
Washington, D.C. 20201

Re: Reauthorization of The Indian Child Protection and Family Violence Protection Act, Public Law 101-630

Dear Secretary Leavitt:

In 1993, *The Indian Child Protection and Family Violence Prevention Act* ("the Act") was enacted after it was disclosed that multiple instances of Indian child sexual abuse were perpetrated by Indian school employees (including federal employees) in Indian Country over a number of years. The primary goals of the Act are to reduce the incidents of child abuse, mandate reports of child abuse in Indian Country, and to track the extent of child abuse there. The Act is due to be reauthorized. To determine whether the law is meeting its intended purpose, we request the following information:

Section 405 required the Department, in consultation with the Department of the Interior, to conduct a study on the feasibility of establishing a Central Registry to document reports of Indian child abuse in Indian Country. Please provide the Committee with any updated information regarding the study or the implementation of the Central Registry.

Section 408 of the Act requires the Department to conduct background character investigations on individuals who seek employment in positions where they would have access to children. It further mandates that Indian tribes that receive Indian Self-Determination and Education Assistance Act or Tribally Controlled School Act funding do the same.

1. How has the Department complied with Section 408;
2. How does the Department determine whether the required Indian tribes that contract services from the Department comply with Section 408, and

3. Does the Department believe that Section 408 has met its intended purpose in keeping children safe?

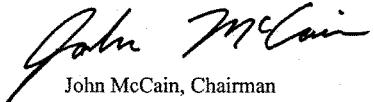
Section 409 provides that the Department, acting through the Department of the Interior, shall establish an Indian Child Abuse Treatment Grant program to establish child abuse treatment programs. Please provide the Committee with a status report on this grant program. In addition, please provide the Committee with a list of additional resources that are available through the Department to Indian tribes to treat victims of child abuse.

In addition, please provide the Committee with the Department's policies or protocols, specifically relating to the Indian Health Service, for sharing health related information with tribal, state, and federal law enforcement agencies who need to know such information in the course of investigating instances of child abuse.

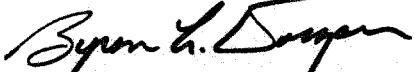
Finally, please share with the Committee any recommendations that you have for improving the Act and for addressing crimes against children in Indian Country.

Thank you for your immediate attention to this matter.

Sincerely,



John McCain, Chairman
Committee on Indian Affairs
United States Senate



Byron L. Dorgan, Vice Chairman
Committee on Indian Affairs
United States Senate



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Indian Health Service
Rockville MD 20852

FEB - 1 2006

The Honorable John McCain
 Chairman, Committee on Indian Affairs
 United States Senate
 Washington, D.C. 20510-6450

Dear Chairman McCain:

Secretary Michael Leavitt asked me to thank you for your September 21, 2005, letter and to respond to you directly regarding your request for information on the Department of Health and Human Services' (HHS) role in implementing the Indian Child Protection and Family Violence Prevention Act (the Act).

Section 405 of the Act authorizes the Secretary of the Interior (DOI), in consultation with the Secretary of HHS and the Attorney General, to prepare a study on the feasibility of establishing a Central Registry. The DOI consulted with the HHS and the Attorney General in 1990 and determined that the establishment of a Central Registry was not feasible due to privacy and legal concerns.

In regard to your question about Section 408, on September 23, 2002, the HHS published an Interim Final Rule implementing Section 408 of the Act, as amended by section 814 of the Native American Laws Technical Corrections Act of 2000. The regulations establish minimum standards of character for all positions in the Indian Health Service (IHS) where duties and responsibilities involve regular contact with children. All Indian Tribes or Tribal organizations receiving funds under the authority of the Indian Self-Determination and Education Assistance Act, as amended, must employ only individuals who meet standards of character no less stringent than those established by these regulations. These standards are met only after individuals in these positions (including volunteers and contractors), or individuals who are applying for these positions, have been the subject of a satisfactory background check. I believe the regulations implementing Section 408 ensure the safety of children. Audits conducted in November 2004 and June 2005 indicated there sometimes were lapses between the time an individual was identified as an employee and the completion of the background check. This has been addressed by requiring new employees to perform their duties "in the line of sight" of an experienced staff member until the clearance process has been completed.

With the establishment of Section 409, the Indian Child Abuse Treatment Grant Program, the IHS is working independently as well as collaboratively with other Federal agencies to provide training materials and to ensure the quality and character of the IHS staff providing services to our American Indian and Alaska Native (AI/AN) children and families. Some of the resources available through the Department to Tribes to treat victims of child abuse include programs such as the Indian Child Protection and Child Abuse Prevention Demonstration Projects for Mental Health/Social Services for AI/ANs. The following demonstration programs provide additional

Page 2 – The Honorable John McCain

resources: “Pueblo of Isleta,” “Little Traverse Bay Band of Odawa Grandmother’s Wisdom Program,” “Southern California Indian Center, Inc.,” “Indian Health Care Resource Center of Tulsa, Inc.,” “Confederated Tribes of Siletz Indians,” and “The University of Oklahoma’s Project Making Medicine.”

Attached please find information on the policies and protocols that have been shared with Tribal, State, and Federal law enforcement agencies for the purpose of investigating instances of abuse. We continue to explore new collaborations with other Federal agencies that will translate into action within Indian Country.

I trust this information is helpful. Thank you for your continued interest in and concern for the health and well-being of the AI/AN people. A similar letter is being sent to Senator Byron Dorgan.

Sincerely yours,

Charles W. Grim, DDS

Charles W. Grim, D.D.S., M.H.S.A.
Assistant Surgeon General
Director

Attachment

**Policies and Protocols Shared by the Indian Health Service
With Tribal, State, and Federal Law Enforcement Agencies**

The following policies and protocols have been shared with Tribal, State, and Federal law enforcement agencies for the purposes of investigating instances of abuse:

- The IHS has funded the development of a child protection manual through the University of Oklahoma's Health Sciences Center.
- The IHS has entered into an inter-agency agreement with the Department of Justice's Office of Victims of Crime to train IHS direct care staff in the application of forensic and telemedicine equipment in child sexual abuse cases.
- The IHS has developed the "Mental Health and Community Safety Initiative (MH&CSI) for AI/AN Children, Youth and Families" to develop innovative strategies that focus on community safety needs. "Project Making Medicine," a "train-the-trainer" model, provides awareness and intervention training for Tribal communities as well as a child abuse and neglect resource manual.
- Finally, an interagency agreement with the Substance Abuse and Mental Health Services Administration (SAMHSA) provides 16 Tribal cooperation demonstration projects from the MH&CSI. These projects deliver mental health services to Indian children who are at risk of becoming involved with the local justice system due to mental and behavioral health problems.

JOHN McCAIN, ARIZONA, CHAIRMAN
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TOM COBURN, M.D., OKLAHOMA	

United States Senate
COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-6450
<http://indian.senate.gov>

September 21, 2005

United States Department of the Interior
Office of the Secretary
Secretary Gale A. Norton
18449 C Street NW
Mail Stop 7229
Washington, D.C. 20240

Re: Reauthorization of The Indian Child Protection and Family Violence Protection Act, Public Law 101-630

Dear Secretary Norton:

In 1993, *The Indian Child Protection and Family Violence Prevention Act* ("the Act") was enacted after it was disclosed that multiple instances of Indian child sexual abuse were perpetrated by Indian school employees (including federal employees) in Indian Country over a number of years. The primary goals of the Act are to reduce the incidents of child abuse, mandate reports of child abuse in Indian Country, and to track the extent of child abuse there. The Act is due to be reauthorized. To determine whether the law is meeting its intended purpose, we request the following information:

Section 404 of the Act requires all local law enforcement agencies in Indian Country to report allegations of child abuse, involving an Indian child and an Indian perpetrator, to the Federal Bureau of Investigation:

1. Does the Bureau of Indian Affairs Office of Law Enforcement Services routinely receive reports of Indian child abuse in Indian Country by local law enforcement agencies, including those agencies operating under Indian Self-Determination and Education Assistance Act contracts? If not, please identify the obstacles impeding their ability to do so;
2. Upon receiving reports of Indian child abuse, are these reports provided to the Federal Bureau of Investigation? If not, please explain why;
3. How many reports of Indian child abuse has the BIA Office of Law Enforcement Services responded to in the last 3 years;

4. What, if any, new trends or obstacles has the BIA encountered in investigating crimes against children in Indian Country.

Section 408 of the Act requires the Department of the Interior to conduct background character investigations on individuals who seek employment in positions where they would have access to children. It further mandates that Indian tribes that receive Indian Self-Determination and Education Assistance Act or Tribally Controlled School Act funding do the same.

1. How has the Department complied with Section 408;
2. How does the Department determine whether the required Indian tribes comply with Section 408, and
3. Does the Department believe that Section 408 has met its intended purpose in keeping children safe?

Section 405 required the Department, in consultation with the Department of Health and Human Services, to conduct a study on the feasibility of establishing a Central Registry to document reports of Indian child abuse in Indian Country. Please provide the Committee with any updated information regarding the study or implementation of the Central Registry.

Section 409 provides that the Department of Health and Human Services, acting through the Department of the Interior, shall establish an Indian Child Abuse Treatment Grant program to establish child abuse treatment programs. Please provide the Committee with a status report on this grant program.

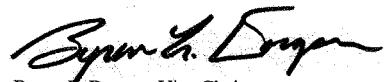
Finally, please share with the Committee any recommendations that you have for improving the Act and for addressing crimes against children in Indian Country.

Thank you for your immediate attention to this matter.

Sincerely,



John McCain, Chairman
Committee on Indian Affairs
United States Senate



Byron L. Dorgan, Vice Chairman
Committee on Indian Affairs
United States Senate



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

OCT 27 2005

The Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your September 21, 2005, letter to Secretary of the Interior Gale A. Norton regarding the reauthorization of the Indian Child Protection and Family Violence Protection Act, Public Law 101-630 (the Act). The Secretary has asked me to respond to your inquiry.

Pursuant to Section 404 of the Act, all law enforcement agencies in Indian country report allegations of child abuse involving an Indian child and an Indian perpetrator to the Federal Bureau of Investigation (FBI). The Bureau of Indian Affairs (BIA) Office of Law Enforcement Services (OLES) routinely receives reports of Indian child abuse from local law enforcement agencies within Indian country, including tribally contracted and compacted programs. These reports are provided to the local FBI field office and the United States Attorney's Office. The BIA OLES has responded to 2,593 Indian child abuse calls in the last three years. This figure is limited to BIA managed programs. The BIA OLES, tribal police, and the FBI are committed to working together to coordinate their responsibilities in reporting child abuse cases.

Pursuant to Section 408 of the Act, the Office of Indian Education Programs (OIEP) within the BIA requires that screening be conducted for each individual who is employed in or being considered for employment within its jurisdiction for a position having contact with or control over Indian children. It is the policy of OIEP that the initiation of a background investigation include an Advanced FBI Fingerprint check. The BIA further requires that all Indian tribal governments or their entities operating Bureau-funded schools sign within their grant or contract award documents *Statements of Assurance* to comply with Section 408 requirements. These contracts and compacts are monitored by the BIA OLES and compliance with local law enforcement reporting requirements is ensured.

The BIA OLES believes that Section 408 has only partially met its intended purpose. Record checks have been limited to submissions of fingerprints to the FBI. The FBI only maintains records that are forwarded to them by local agencies or cases they investigate. Tribal convictions are not included in a basic criminal records check. There are also instances where crimes that result in a plea bargain may result in contact with children when the actual conviction of the crime would prevent such interaction.

The Honorable John McCain

2

In a more positive light, each school sends its reports directly to local law enforcement. The OIEP Security Office keeps track of the number of Suspected Child Abuse/Neglect (SCAN) reports. Once an incident is reported at the local school level, an investigative team designated by a OIEP line officer conducts the investigation of the incident. The OIEP Security Office conducts annual training for these teams and partners with OLES and also provides information on what to look for when investigating an incident.

Contrary to the provisions of Section 405 of the Act, a Central Registry has not been established. A feasibility study for this registry was completed in 1994. The study concluded that the main obstacles to implementing the Central Registry were overcoming due process concerns and developing a mechanism that would require tribal implementation. To date, these obstacles remain a challenge. A federal study to identify factors that are impeding the reduction of child abuse in Indian country would fulfill the intent of Section 405, as the legal and other obstacles to implementation of the Central Registry may never been overcome.

The Department of Health and Human Services has not established an Indian Child Abuse Treatment Grant Program. For more information on the implementation of this grant program, you may contact Michael Mahsetky, Director of Congressional and Legislative Affairs, Indian Health Service, at 301-443-7261.

Thank you for bringing this important matter to our attention. We appreciate your continued interest in Indian country law enforcement. We have sent an identical letter to Senator Byron L. Dorgan, Vice Chairman, Committee on Indian Affairs.

Sincerely,



Michael J. Agan
Director, Bureau of Indian Affairs

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1899, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new language to be added in italic, existing law to which no change is proposed is shown in roman):

INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT

PUBLIC LAW 101-630

25 U.S.C. § 3201

25 U.S.C. § 3201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

* * * * *

(E) the Federal Government and certain State governments are responsible for investigating and prosecuting certain felony crimes, including child abuse, in Indian Country, pursuant to chapter 53 of title 18, United States Code;

[(E)] (F) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

[(F)] (G) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that *[(two)] the* major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian Country and to reduce such incidents *[(and)]*;

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations~~[(,)]~~; and

(C) identify and remove any impediment to the immediate investigation of incidents of child abuse in Indian Country.

(b) PURPOSE.—The purposes of this title are to—

(1) * * *

[(3) authorize such other actions as are necessary to ensure effective child protection in Indian Country]

(3) provide for a background investigation for any employee or volunteer who has access to children;

* * * * *

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs [Area Office] *Regional Office* which will consist of multi-disciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

* * * * *

25 U.S.C. § 3202

25 U.S.C. § 3202. DEFINITIONS.

For the purposes of this title, the term—

* * * * *

(6) 'final conviction' means the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of *nolo contendere*, but does not include a final judgment that has been expunged by pardon, reversed, set aside, or otherwise rendered void;"

[(6)] (7) "Indian" means any individual who is a member of an Indian tribe;

[(7)] (8) "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4));

[(8)] (9) "Indian Country" has the meaning given to such term by section 1151 of title 18, United States Code;

[(9)] (10) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

[(10)] (11) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);

[(11)] (12) "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;

[(12)] (13) "local child protective services agency" means [that agency of the Federal Government, of a State, or of an Indian tribe] *the Federal, State or tribal agency* that has the primary responsibility for child protection on any Indian reservation or within any community in Indian Country;

[(13)] (14) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency (*including a tribal law enforcement agency operating pursuant to a grant, contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)*) that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian Country involved;

[(14)] (15) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—

(A) any employee or volunteer of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children;

[(15)] (16) "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;

[(16)] (17) "Secretary" means the Secretary of the Interior;

[(17)] (18) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; [and]

[(18)] (19) "Service" means the Indian Health Service of the Department of Health and Human Services[.]; and

(20) "telemedicine" means a telecommunications link to an end user through the use of eligible equipment that electronically links health professionals or patients and health professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care diagnosis and treatment.

25 U.S.C. § 3203

25 U.S.C. § 3203. REPORTING PROCEDURES.

* * * * *

(c) WRITTEN REPORT OF CHILD ABUSE.—

[(1) Within] (1) *IN GENERAL.*—Not later than 36 hours after receiving an initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

* * * * *

[(2)(A) Any] (2) INVESTIGATION OF REPORTS.—

(A) *IN GENERAL.*—Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 403(3) shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

[(B) Upon] (B) *FINAL WRITTEN REPORT.*—On completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation *including any Federal,*

State, or tribal final conviction, and provide to the Federal Bureau of Investigation a copy of the report.

(C) MAINTENANCE OF FINAL REPORTS.—The Federal Bureau of Investigation shall maintain a record of each written report submitted under this subsection or subsection (b) in a manner in which the report is accessible to—

- (i) a local law enforcement agency that requires the information to carry out an official duty; and*
- (ii) any agency requesting the information under section 408.*

(D) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Director of the Federal Bureau of Investigation, in coordination with the Secretary and the Attorney General, shall submit to the Committees on Indian Affairs and the Judiciary of the Senate and the Committees on Resources and the Judiciary of the House of Representatives a report on child abuse in Indian Country during the preceding year.

(E) COLLECTION OF DATA.—Not less frequently than once each year, the Secretary, in consultation with the Secretary of Health and Human Services, the Attorney General, the Director of the Federal Bureau of Investigation, and any Indian tribe, shall—

(i) collect any information concerning child abuse in Indian Country (including reports under subsection (b)), including information relating to, during the preceding calendar year—

- (I) the number of criminal and civil abuse allegations and investigations in Indian Country;*
- (II) the number of child abuse prosecutions referred, declined or deferred in Indian Country;*
- (III) the number of child victims who are the subject of reports of child abuse in Indian Country;*
- (IV) sentencing patterns of individuals convicted of child abuse in Indian Country; and*
- (V) rates of recidivism with respect to child abuse in Indian Country; and*

(ii) to the maximum extent practicable, reduce the duplication of information collection under clause (i); and

* * * * *

(e) CONFIDENTIALITY OF CHILDREN.—No local law enforcement agency or local child protective services agency shall disclose the name of, or information concerning, the child to anyone other than—

(1) a person who, by reason of the participation of the person in the treatment of the child or the investigation or adjudication of the allegation, needs to know the information in the performance of the duties of the individual; or

(2) an officer of any other Federal, State, or tribal agency that requires the information to carry out the duties of the officer under section 406.

(f) REPORT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit

to the Committees on Indian Affairs and the Judiciary of the Senate and the Committees on Resources and the Judiciary of the House of Representatives a report on child abuse in Indian Country during the preceding year.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2007 through 2011.

25 U.S.C. § 3204

25 U.S.C. § 3204. [CENTRAL REGISTRY.]

[(a) PREPARATION OF STUDY.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of children in Indian Country.

[(b) CONTENT OF STUDY.—The study conducted pursuant to subsection (a) shall include, but shall not be limited to—

- [(1) the need for, and purpose of, a Central Register;
- [(2) the examination of due process implication of the maintenance of such a register;
- [(3) the extension of access to information contained in the register;
- [(4) the need and process for expunging information from the register;
- [(5) the types, and duration of maintenance, of information in the register; and
- [(6) the classes of persons who should be covered by such register.

[(c) SUBMISSION TO CONGRESS.—The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after the date of enactment of this title.]

REMOVAL OF IMPEDIMENTS TO REDUCING CHILD ABUSE.

(a) STUDY.—The Secretary, in consultation with the Attorney General and the Service, shall conduct a study under which the Secretary shall identify any impediment to the reduction of child abuse in Indian Country and on Indian reservations.

(b) INCLUSIONS.—The study under subsection (a) shall include a description of—

- (1) any impediment, or recent progress made with respect to removing impediments, to reporting child abuse in Indian Country;*
- (2) any impediment, or recent progress made with respect to removing impediments, to Federal, State, and tribal investigations and prosecutions of allegations of child abuse in Indian Country; and*
- (3) any impediment, or recent progress made with respect to removing impediments, to the treatment of child abuse in Indian Country.*

(c) REPORT.—No later than 18 months after the date of enactment of the Indian Child Protection and Family Violence Prevention Act Amendments of 2006, the Secretary shall submit to the Committees on Indian Affairs and the Judiciary of the Senate and the Committees on Resources and the Judiciary of the House of Representatives, a report describing—

- (1) the findings of the study under this section; and
- (2) recommendations for legislative actions, if any, to reduce instances of child abuse in Indian Country.”.

25 U.S.C. § 3205

25 U.S.C. § 3205. CONFIDENTIALITY.

【Pursuant to section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) or Section 264 of title 42, the Health Insurance Portability and Accountability Act (42 U.S.C. 1320d), or provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.】

(a) *IN GENERAL.*—Notwithstanding any other provision of law, any Federal, State, or tribal government agency that treats or investigates incidents of child abuse may provide information and records to an officer of any other Federal, State, or tribal government agency that requires the information to carry out the duties of the officer, in accordance with section 552a of title 5, United States Code, section 361 of the Public Health Service Act (42 U.S.C. 264), the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.), and other applicable Federal law.

(b) *TREATMENT OF INDIAN TRIBES.*—For purposes of this section, an Indian tribal government shall be considered to be an entity of the Federal Government.

25 U.S.C. § 3206

25 U.S.C. § 3206. WAIVER OF PARENTAL CONSENT.

(a) EXAMINATIONS AND INTERVIEWS.—Photographs, x-rays, medical examinations, psychological or forensic examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian Country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

* * * * *

【(c) PROTECTION OF CHILD.—Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise, or under the guidance, of a local multidisciplinary team established pursuant to section

411 or, in the absence of a local team, a multidisciplinary team established pursuant to section 410.]

(c) *PROTECTION OF CHILD.*—Any examination or interview of a child who may have been the subject of child abuse shall—

(1) be conducted under such circumstances and using such safeguards as are necessary to minimize additional trauma to the child;

(2) avoid, to the maximum extent practicable, subjecting the child to multiple interviews during the examination and interview processes; and

(3) as time permits, be conducted using advice from, or under the guidance of—

(A) a local multidisciplinary team established under section 411; or

(B) if a local multidisciplinary team is not established under section 411, a multidisciplinary team established under section 410.

25 U.S.C. § 3207

25 U.S.C. § 3207. CHARACTER INVESTIGATIONS.

(a) The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions, *including any voluntary position*, within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children[,];

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment (*including in a volunteer capacity*) by the respective Secretary in a position listed pursuant to paragraph (1)[, and]; and

* * * * *

(b) *CRIMINAL RECORDS.*—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) of this section have been found guilty of, or entered a plea on nolo contendere or [guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children.] *guilty to, any felony offense under Federal, State, or tribal law, or 2 or more misdemeanor offenses under Federal, State, or tribal law, involving—*

- (1) *a crime of violence;*
- (2) *sexual assault;*
- (3) *child abuse;*
- (4) *molestation;*
- (5) *child sexual exploitation;*
- (6) *sexual contact;*
- (7) *child neglect;*
- (8) *prostitution, or*
- (9) *another offense against a child.*

* * * * *

(d) *EFFECT ON CHILD PLACEMENT.*—An Indian tribe that certifies that the tribe has conducted an investigation under this section shall be considered to have satisfied the background investigation requirements of any Federal law requiring such an investigation for the placement of an Indian child in a tribally-licensed or tribally-approved foster or adoptive home, or an institution.

25 U.S.C. § 3208

25 U.S.C. § 3208. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.

* * * * *

[(e) there is hereby authorized to be appropriated to carry out the provisions of this section \$10,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.]

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2007 through 2011.

25 U.S.C. § 3209

25 U.S.C. § 3209. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

(a) *ESTABLISHMENT.*—The Secretary shall establish within each [area office] *Regional Office* of the Bureau an Indian Child Resource and Family Services Center.

(b) *MEMORANDUM OF AGREEMENT.*—[The Secretary and the Secretary of Health and Human Services] *The Secretary, the Secretary of Health and Human Services, and the Attorney General* shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

* * * * *

(d) *CENTER RESPONSIBILITY AND FUNCTIONS.*—

* * * * *

(4) develop recommendations to assist Federal, *State*, and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and

(5) develop policies and procedures for each [agency office] *Regional Office* of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) *MULTIDISCIPLINARY TEAM PERSONNEL.*—Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

(1) law enforcement[.];

(2) child protective services[.];

[(3) juvenile counseling and adolescent mental health, and]

(3) adolescent mental and behavioral health (including suicide prevention and treatment);

(4) domestic violence and sexual assault[.];

(5) criminal prosecution; and

(6) medicine.

(f) CENTER ADVISORY BOARD.—[The Secretary in consultation with the Secretary of Health and Human Services]

(1) *ESTABLISHMENT.*—*The secretary, in consultation with the Service and the Attorney General, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Chapter. [Each]*

(2) *MEMBERSHIP.*—*Each advisory board [shall consist of 7 members] shall be appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. [Members]*

(3) *COMPENSATION.*—*Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. [The advisory]*

(4) *DUTIES.*—*Each advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.*

(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT TO CENTERS.—[Indian Child]

(1) *IN GENERAL.*—*Indian Child Resource and Family Services Centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination [Act] and Education Assistance Act (25 U.S.C. 450 et seq.). [If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area Alaska Region, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required.]*

(2) *CERTAIN REGIONAL OFFICES.*—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), if a Center is located in a Regional Office of the Bureau that serves more than 1 Indian tribe, an application to enter into a grant, contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to operate the Center shall contain a consent form signed by an official of each Indian tribe to be served under the grant, contract or compact.*

(B) *ALASKA REGION.*—*Notwithstanding subparagraph (A), for Centers located in the Alaska Region, an application to enter into a grant, contract, or compact described in that subparagraph shall contain a consent form signed by an official of each Indian tribe or tribal consortium that is a member of a grant, contract, or compact relating to an Indian child protection and family violence prevention program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) [This section]*

(3) *EFFECT OF SECTION.*—*This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal organization as a Center if all of the tribes to be served by the Center agree to such designation.*

[(h) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section \$3,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.]

(h) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2007 through 2011.*

25 U.S.C. § 3210

25 U.S.C. § 3210. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.

* * * * *

(c) [INVESTIGATION AND TREATMENT AND PREVENTION OF CHILD ABUSE AND FAMILY VIOLENCE] *COORDINATING INVESTIGATION, TREATMENT, AND PREVENTION OF CHILD ABUSE AND FAMILY VIOLENCE.*—An Indian tribe operating an Indian Child Protection and Family Violence Prevention Program established under this section shall designate the agency or officials which shall be responsible—

- (1) for the investigation of reported cases of child abuse and child neglect; and
- (2) for the treatment and prevention of incidents of family violence; and
- (3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) PROGRAM RESPONSIBILITIES AND FUNCTIONS.—

* * * * *

(3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—

- (A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services[,];
- (B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim[, and], and
- (C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities *with respect to appropriate safety measures for child protection workers carrying out this Act;*

* * * * *

[(f)] (e) * * *

[(g)] (f) * * *

[(h)] (g) * * *

[(i) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section \$30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.]

(h) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2007 through 2011.*

25 U.S.C. § 3201

25 U.S.C. § 3201. USE OF TELEMEDICINE.

(a) *CONTRACTS AND AGREEMENTS.*—*The Service is authorized to enter into any contract or agreement for the use of telemedicine with a public or private medical university or facility, or any private practitioner, with experience relating to pediatrics, including the diagnosis and treatment of child abuse, to assist the Service with respect to—*

- (1) *the diagnosis and treatment of child abuse; or*
- (2) *methods of training Service personnel in diagnosing and treating child abuse.*

(b) *ADMINISTRATION.*—*In carrying out subsection (a), the Service shall, to the maximum extent practicable—*

- (1) *use existing telemedicine infrastructure; and*
- (2) *give priority to Service units and medical facilities operated pursuant to a grants, contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) that are located in, or providing service to, remote areas of Indian Country.*

(c) *INFORMATION AND CONSULTATION.*—*On receipt of a request, for purposes of this section, the Service may provide to public and private medical universities, facilities, and practitioners described in subsection (a) any information or consultation on the treatment of Indian children who have, or may have, been subject to abuse or neglect.*

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2007 through 2011.*

18 U.S.C. § 1153

(a) 18 U.S.C. § 1153(a). Offenses Committed Within Indian Country, is amended—

- (1) in subsection (a) by inserting “*felony child neglect*,” after “*robbery*”.

18 U.S.C. § 1169

(b) 18 U.S.C. § 1169. Reporting of child abuse, is amended—

- (1) in subsection (a)(1)—

(A) * * *

(B) teacher, school counselor, instructional aide, teacher’s aide, teacher’s assistant, or bus driver employed by or volunteering for any tribal, Federal, public or private school,

(C) * * *

(D) child day care worker or volunteer, headstart teacher, public assistance worker, [worker in a group home] worker or volunteer in a group home or residential or day care facility, or social worker,

(E) psychiatrist, psychologist, [or psychological assistant] psychological or psychiatric assistant, or person employed in the mental or behavioral health profession;

(F) licensed or unlicensed marriage, family, or [child] individual counselor,

[(G) person employed in the mental health profession or]

(G) foster parent; or

[(H) law enforcement officer, probation officer] *law enforcement personnel, probation officer, criminal prosecutor, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;*

(2) in subsection (c)—

[(3) “local child protective services agency” means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian Country; and]

(3) ‘local child protective services agency’ has the meaning given the term in section 403 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202); and

[(4) “local law enforcement agency” means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian Country involved.]

(4) ‘local law enforcement agency’ has the meaning given the term in section 403 of that Act.”

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