

**First Focus Campaign for Children
Statement for the Record**

**Subcommittee on Indian and Alaska Native Affairs:
“Child Protection and the Justice System on the Spirit Lake Indian Reservation”**

July 9, 2014

Chairman Young, Ranking Member Hanabusa, and Members of the House Subcommittee on Indian and Alaska Native Affairs, we thank you for the opportunity to submit this statement for the record for the hearing entitled “Child Protection and the Justice System on the Spirit Lake Indian Reservation.”

The First Focus Campaign for Children is a bipartisan advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our organization is committed to promoting policies that serve the best interest and safety of children in the child welfare system. We are concerned with the recent reports of child abuse, neglect and death on the Spirit Lake Indian Reservation and encourage the use of federal resources to assist tribes in strengthening their child welfare systems so better outcomes are achieved for at-risk American Indian children.

As you know, American Indian tribes are unique in that they are recognized as sovereign entities, subject to federal law. Tribes are eligible for federal Title IV-E foster care funds by entering into contracts with the states running the program in that region. Child abuse on the Spirit Lake Indian Reservation gained federal attention in 2012 when Thomas F. Sullivan, the regional administrator for the Administration for Children and Families (ACF) and Michael R. Tilus, the director of behavior health at Spirit Lake Health Center expressed concerns to federal officials about child abuse on the reservation and a lack of responsiveness from tribal leadership.¹ The Spirit Lake Reservation has been the focus of many news stories since that time and remains under scrutiny. In response, the federal financing of the tribe’s foster care program was suspended and the tribe retroceded authority over its child welfare program to BIA on

October 1, 2012. It has also sought the assistance of ACF and Casey Family Programs to address deficiencies in its child welfare program.

The Spirit Lake Indian Reservation is not alone in facing problems with child abuse and neglect. While a number of tribes have made significant progress in strengthening their child welfare systems, overall, American Indian children are three times as likely to be reported to Child Protective Services and twice as likely to remain in foster care for more than two years than peers. In North Dakota, American Indians make up 9 percent of the population, but 30 percent of the state's child abuse victims.² This overrepresentation of American-Indian children in foster care can be, in part, attributed to a bias in the system, leading child protective services to classify certain cultural practices as child neglect or abuse. The Indian Child Welfare Act (ICWA) addresses some of these concerns by recognizing the role of tribes in removal and placement decisions and providing protections to keep American Indian families safely together and children connected to their communities and cultures. However, widespread non-compliance with ICWA and a lack of resources for American Indian families continue to place high numbers of American Indian children at risk and in the foster care system.

A number of other societal factors also contribute to child abuse and neglect on Indian reservations. In 2009, 32.4 percent of American Indian children under the age of 18 lived in poverty.³ There is also a high propensity for sexual violence on tribal lands. American Indian women are 2.5 times more likely to experience sexually violent crimes than other women. In addition, there is a high prevalence of trafficking on tribal lands. American Indian youth are five times more likely than their peers to be victims of sex trafficking. Rates of substance use are also higher among American Indians than the national average in the United States.⁴ All of these factors put children at risk for abuse and neglect and must also be addressed. One reason Indian reservations have been susceptible to violence is because, until recently, tribal courts lacked jurisdiction to prosecute non-Indian perpetrators and had to rely on federal authorities such as the Federal Bureau of Investigation to prosecute.⁵

There is no quick and easy fix for the myriad of challenges that place American Indian children at greater risk for entering foster care. Child services programs must be strengthened by allocating more resources to developing systems in conjunction with tribal leadership to ensure that programs are designed in a culturally appropriate way and protect the best interest of children on reservations. In addition, investments should be made more generally to reduce the rates of poverty, violence, trafficking, and substance abuse on Indian reservations, support families and reduce risk for entry into the foster care system.

Below are several of our recommendations for improving the health and wellbeing of American Indian children:

- **Incentivize Caseworkers and Judges to Come to the Reservations.** There is a shortage of qualified professional caseworkers and legal professionals to support child services programs on Indian reservations. Incentives such as student loan forgiveness, higher salaries and targeted recruitment from colleges should be prioritized.
- **Pass the Native American Children’s Safety Act (S. 2160) to Ensure Better Screenings Before Foster Care Placement.** Congress should pass this legislation, which aims to curb unsafe foster care placements by requiring the tribal social services agency to complete an investigation of each individual living, including a criminal background check, in the home where the child will be placed and ensure that they meet the acceptable standards of character that the tribe establishes. In addition, follow-up visits should be made after placement to make sure the child remains safe.
- **Establish Policies and Procedures in Conjunction with Tribal Services for Smooth Transition from BIA Back to Tribal Services.** Currently, the Spirit Lake’s child welfare program is controlled by the BIA. The agency should work with tribal leadership to create systems that are long lasting and culturally appropriate so that once the tribe is ready, it can take over the system seamlessly.
- **Increase Funding of the Indian Child Protection and Family Violence Prevention Act.** The ICPFVP provides funding for prevention programs such as treatment for family and domestic violence, investigation of child abuse reports and provides for BIA resource and family centers to assist tribes.
- **Create Electronic Databases for Coordination and Collection of Data.** Given the shortage of case workers and the need to collaborate across federal, state and tribal systems, databases should be created that makes it easier for tribal services to keep track of where a child is in the system and ensure that perpetrators of violence are recorded so unsafe placements are not made.

- **Increase Funding for BIA Human Services and BIA Public Safety Justice Program.** Current financial allocations for tribal services are not adequate and BIA needs more resources to implement effective programs and create long-lasting systems.
- **Reform Child Welfare Financing.** Currently, not all children in foster care are eligible for Title IV-E reimbursement given that program eligibility is tied to the defunct AFDC program. Tribes are currently receiving less than 1% of funds available despite their population being higher. This formula must be re-evaluated so that all children in foster care are eligible for IV-E funds, including American Indian children receiving services through tribal service programs.

We thank you again for the opportunity to submit this statement for the record and look forward to working with Congress to improve the health and wellbeing of American Indian children. Should there be any questions regarding this statement, please contact Shadi Houshyar, Vice President, Child Welfare Policy, at shadih@firstfocus.net or (202) 657-0678.

¹ Tomothy Williams, *Officials See Child Welfare Dangers on a North Dakota Indian Reservation* (July 7, 2014), Available at <http://www.nytimes.com/2012/07/08/us/child-welfare-dangers-seen-on-spirit-lake-reservation.html?pagewanted=all&r=0>

² *Id.*

³ Aspen Institute, *Fast Facts on Native American Youth and Indian Country* (Sept. 2013), Available at <http://www.aspeninstitute.org/sites/default/files/content/images/Fast%20Facts.pdf>.

⁴ Substance Abuse among American Indian or Alaska Native Adults, June 24, 2010. Available at <http://www.samhsa.gov/data/2k10/182/AmericanIndian.htm>

⁵ Bureau of Justice Statistics, “A BJS Statistical Profile 1992-2001: American Indians and Crime.”