U.S. Department of the Interior
Office of the Assistant Secretary - Indian Affairs
PROPOSED REGULATIONS FOR
STATE COURTS AND AGENCIES IN
INDIAN CHILD CUSTODY PROCEEDINGS
"ICWA Proposed Rule" - 25 CFR 23
(TRIBAL HEARING - Morning Session)

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PANEL APPEARANCES

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MR. LARRY ROBERTS: Good morning, everyone. My name is Larry Roberts. I'm from the Oneida Nation of Wisconsin, and I am the Principal Deputy Assistant Secretary for Indian Affairs at the Department of Interior. It's a long title, but essentially I report directly to the Assistant Secretary Kevin Washburn.

I want to thank everyone for coming this morning. And before we get started, I've asked Spike Bighorn to just give us -- open up with a blessing.

MR. SPIKE BIGHORN: Thank you, Mr. Roberts. Thank you for this opportunity. So I'll just say a quick prayer before we begin.

Heavenly Father, thank you for blessing everyone who is here today. We ask that you be with our families and members and friends, loved ones who are back home as we come to give testimony and give our input as to this very important law.

We ask that you be with us today as we hear everyone's comments, take them to heart, and we do the very best that we can as members of the Federal Government to take into account what they're telling
us to make things better for Indian children.

I also ask, Heavenly Father, that you be with each and every one of us as we travel to our homes today or tomorrow.

And thank you very much for the lovely day you've provided to us. For all of these things we are truly grateful.

Amen.

MR. LARRY ROBERTS: So we have a number of folks here. We have a large team from the Department of Interior. And actually the Department of Justice has been a part of this team as well in terms of trying to put together a rule to better implement the Indian Child Welfare Act.

So this morning I think we're going to have -- we're going to go through a Power Point. It's going to take roughly about 20 minutes. Our goal with this tribal consultation is to hear from all of you and to be primarily in listening mode.

So we have a court reporter here. And it's important for everyone, if you have comments on the Proposed Rule, it's important for you to just clearly state your name so that we have that, because what we're doing here is we're going to take all of your good comments on the Proposed Rule and
look at them and consider them as we move forward with the final rule.

And so -- again, just a little bit of background of how we got to where we are today during this administration on the Proposed Rule: We had a number of listening sessions in 2014 with Indian Country. And what we heard loud and clear from tribes was that the ICWA guidelines that were promulgated in 1979 needed to be updated.

And we also heard loud and clear from Indian Country that even the guidelines in place weren't always adhered to or followed by state courts and state agencies and that the Department really needs to promulgate regulations to implement ICWA for state courts and state agencies.

And so that's -- as a result of those listening sessions, we issued an -- updated guidelines in February of this year, and then shortly thereafter we issued this Proposed Rule. And the Proposed Rule, once it's finalized, will have force of law.

And so it's a proposal. When we put out a Proposed Rule for tribal input and consultation, it's never perfect. We need your input and your comments to make it better, and so that's why we're here today.
So we're going to get started with the Power Point itself.

And I'm just going to introduce the team here first. This is Rodina Cave to my right. She's a Senior Advisor to the Assistant Secretary for Indian Affairs. To her right is Gina Jackson who's been a valuable resource here. She's Senior Counsel to the Assistant Secretary -- Senior Fellow to the Assistant Secretary.

We also have Mila here from the Solicitor's Office who's been integral in helping us work through this rule.

We have Tim LaPointe, the Regional Director. And we have Spike Bighorn from the Office of Indian Services, Deputy Director for the Office of Indian Services.

And we also have Deb Burton from the Office of Indian Services here as well.

So this is a small part of the team. There's a number of folks within Interior that have been really working on this and putting in a lot of hours on this.

So the first slide is generally just an overview that I'm sure all of you are aware of of ICWA being passed in 1978 and why Congress passed
the Indian Child Welfare Act, and that by passing that act they established minimum federal standards for the removal of Indian children from their families and the placement of children in foster or adoptive homes.

And so it articulates, in very strong terms, the strong federal policy that wherever possible, Indian children should remain with their communities and with their families and that that is the key, the whole purpose of ICWA was to prevent that, to prevent those Indian children from being taken from their homes and their communities.

So as I talked about a little bit, in 1979 the Department promulgated guidelines and also promulgated regulations just involving notice under the Indian Child Welfare Act.

And then since 1979, as I'm here a number of you are familiar with, there's been a lot of different interpretations of ICWA across the state courts and state agencies. And we've heard at some of the consultations and listening sessions that even within -- across various counties, various counties may implement ICWA differently.

And so as a part of those listening sessions in 2014 and then the Attorney General's Advisory
Committee on Children Exposed to Violence in 2014 issued a report also requesting and suggesting that the Department update guidelines and issue regulations for ICWA.

So the new -- we're going to go to the next slide, and this is just a general overview of all the different subparts of the new ICWA Proposed Rule that we have. So we've added definitions in this Proposed Rule for a number of things, including active efforts, which we've received comments on and comments that active efforts, that that definition is helpful because, again, it's a consistency thing about how -- and this is a helpful definition to provide guidance to state courts and state agencies.

We also have definitions for custody, for imminent physical danger or harm and other terms used in the proposed regulation. So it's important that if you see something here in terms of how, the definitions that we should be addressing or haven't addressed, we need that feedback. And it may not be feedback today, but we're going to accept written comments until May 21st, and -- or May 19th. And we're also going to have a national teleconference later in May.

So the goal of the Proposed Rule for the next
slide is consistent implementation. We're making clear in this rule that ICWA applies whenever an Indian child is the subject of a child custody proceeding, including status offenses and including juvenile delinquency proceedings, and that there is, and we make this very clear in the Proposed Rule, that there is no so-called "existing Indian family" exception to ICWA, that that exception does not exist.

The Proposed Rule for the next slide talks about how agencies and state courts must ask at the earliest opportunity, "Is this child an Indian child?" And if there's any reason to believe that the child is an Indian child, then ICWA must be applied unless and until it's determined that the child is not an Indian child.

That ICWA applies to voluntary placements if a parent consents to placement or termination, and that ICWA does not apply if the parent or custodian may regain custody of the child upon demand.

So I'm going to turn it over now to Rodina Cave to talk a little bit about the Proposed Rule's provisions regarding pre-trial requirements.

MS. RODINA CAVE: Thank you.

Good morning. So you can see from the slide
that the Proposed Rule includes requirements that state agencies and state courts must ask if the child is an Indian child at the beginning of a proceeding. And if there's any reason to believe that the child is an Indian child, there's steps that, you know, should be taken from there.

And the Proposed Rule also includes examples of when there is reason to believe that the child is an Indian child.

And the Proposed Rule also includes provisions regarding voluntary proceedings that if the consenting parent wants anonymity, then the agency or court must keep the relevant documents sealed but that the desire for anonymity doesn't mean that you don't provide notice to the tribe, and that there's a requirement to engage in active efforts. And so, you know, there's been questions of, "Well, when exactly does that begin? When does active efforts, when does that requirement start?" And so the Proposed Rule lays out clearly that it starts as soon as the case or investigation may result in the placement of an Indian child outside the custody of a parent or Indian custodian. And it also applies while there's the investigation of whether the child is an Indian child.
For designating the child's tribe, make it clear that the -- only the tribe may determine whether the child is a member of the tribe. And, you know, it also includes notice requirements and determining -- so, you know, what are the steps for when the child could potentially be a member of more than one tribe, the Proposed Rule lays out the process for those situations.

And it also provides when a state court must dismiss an action as soon as it determines that it lacks jurisdiction, for example that the tribal court has jurisdiction.

It also provides when notice is required, what's the process for notice. And, you know, it lays out the proceedings and that notice must be sent by registered mail with return receipt requested to each tribe of which the child may be a member or eligible for membership, and then parents, and, if applicable, the Indian custodian.

The Proposed Rule lays out the time limits and, you know, when additional extensions of time can be granted and that the proceeding may not begin until ten days after each parent or Indian custodian and the tribe receives notice and that there's an additional amount of time for when the parent or any
custodian or tribe receives notice and they request an additional 20 days, then the proceeding may not begin until 30 days after.

And for emergency removal, the Proposed Rule makes it clear that it must be as short as possible and provides the requirements for the agency or state court and that, you know, that you must -- that the agency or state court must immediately terminate placement or removal when the emergency has ended.

And emergency removal (continued), the agency must treat the child as an Indian child until, again, there's a determination that the child is not an Indian child and conduct active efforts to prevent the breakup of the Indian family as early as possible before removal, if possible, and, you know, notification and maintaining records that notice was provided.

And emergency removal (continued) again, that at any court hearing on emergency removal/placement, that the court must decide if removal/placement is no longer necessary to prevent the imminent physical damage or harm to the child and that the temporary emergency custody should be less than 30 days unless there's a hearing with testimony
of a qualified expert witness or there's
extraordinary circumstances.

And for transfers to tribal court, Spike
Bighorn will be explaining this.

Thank you.

MR. SPIKE BIGHORN: Thank you, Rodina.

Again, it's good to be here with you. My name
is Spike Bighorn. I'm the Associate Deputy Director
for the Office of Indian Services in Washington,
D.C., and I'm a member of the Assiniboine and Sioux
Tribes on the Fort Peck Reservation. Again, it's
good to be here with you.

I'll cover the next three or four slides. This
talks about transferring the case to tribal court.
And I won't go through this entire slide, but
basically I want to talk about two things. First of
all in the second point of Bullet No. 1 it talks
about the right to transfer can occur at any time
during the proceeding. There was some confusion
before that once the proceeding starts, the state
court, some people thought, that you couldn't
transfer the case. That's not true. At any point
during the proceeding if you want to have a case
transferred and there's a petition to the court to
transfer the case, then the court has to take that
into consideration.

Also the guidelines talk about under, State court determines good cause to deny transfer, it clarifies the definition. And there's three factors down there that we thought were important to clarify: Whether the case is at an advanced stage, again that refers back to at any stage of the proceedings, so it doesn't matter where in the process and proceedings the case is, even if it's at an advanced stage, that's not a good enough reason to say that you're not going to transfer it to tribal court.

The extent of the child's contacts with tribe or reservation, obviously some people, at times, would say that the child hasn't lived on the reservation, hasn't had any contact with the tribe. That can't be used to deny the transfer.

And then also the tribal court's prospective placement for a child, that's not for the state court to determine. That's obviously for the tribal court. But you can't use that as a reason not to transfer to tribal court.

Next slide, please. This talks about the active efforts that are being made to get the family involved before parental rights are terminated. And
Rodina alluded to it earlier, this question about the active efforts that need to be made. Basically what this talks about is the court has to document that every effort has been made to try and contact the tribe or the children's family and get them involved as a resource to be able to place the child before they go into the state court system and there's any action to involuntarily terminate the parental rights option of the child, and that's what that talks about.

And finally on this slide, this talks about where the court may order foster care placement only if there is clear and convincing evidence and evidence beyond a reasonable doubt. And this outlines the testimony that has to be presented to the court before any type of action is taken on the termination of parental rights or involuntary placement or adoptions. This talks about -- it also -- the rule clarifies what is clear and convincing evidence.

The next slide, finally we talk about a qualified expert witness. This specifically outlines in the guidelines in the Proposed Rule who can be considered an expert witness. You'll notice that there's a descending order. And the first one,
it talks about a member of the child's tribe. Keep in mind that it has to be -- a member of the child's tribe will document that these individuals can serve as an expert witness. First of all, anyone who is recognized by the tribal community in that child's tribe can be considered an expert witness.

But also the second line there, an individual who may not be a member of that tribe but is considered to be, by the Indian child's tribe, to be an expert witness in the family organization and tribal customs and child-rearing of that tribe. So what that means basically is -- I'll use myself, my tribe as an example. If an Indian child is involved in a proceeding and they're eligible to be enrolled or enrolled in Fort Peck but we have someone who is saying maybe he's from a different tribe living in Fort Peck, the tribe could say that individual qualifies as an expert witness under this descending order.

And, of course, any person recognized as having experience in these areas.

And finally, anyone who may be a professional, works in the community, works in the tribal community who has education and expertise working with these types of cases can also be considered to
be an expert witness.

Who's next? Gina?

MS. GINA JACKSON: Good morning. My name is Gina Jackson. I'm a Western Shoshone from Reno, Nevada and living and working in D.C. currently.

I'm just going to go over a few of the highlights of the next few slides. So for the Proposed Rule specific to voluntary proceedings, one of the things that this Proposed Rule will do is require, not just the agency but also the state court, so both, to ask whether the child is an Indian child and not just rely on the agency's word itself that they've asked but to also ask in addition.

For dispositions, one of the things that the Proposed Rule will be requiring when it comes to ICWA-referred placements or tribal placement preferences is that there must be clear and convincing evidence that there was a diligent search to meet the preferred preferences and also explaining if it couldn't be met. So not just, Yes, we looked and we couldn't find anybody, but documentation that they're -- to the level of clear and convincing evidence. So that's an important change.
Also, in order for departure from the placement preferences, it could only happen if the court finds good cause. And good cause, the basis must be included in the record. And the party who is asserting good cause, they are the ones who have the burden to prove by, again, clear and convincing evidence.

So departing from the placement preferences, good cause can be found if the parents request and both attest that they reviewed the placement options.

The child may make that request if they are able to understand the decision, if the child has extraordinary physical or emotional needs that are established by the qualified expert witness.

And what they do not include is bonding or attachment from the placement or just the unavailability of a placement and a determination that active efforts were made to find placements.

So this is an important clarification that the Proposed Rule also gives is that good cause may not be based on socio-economic status of any placement relative to another.

For post-trial rights, the new proposed regulations establish procedures to vacate an
adoption if consent was obtained by fraud or duress, or the proceeding violated ICWA. That's big.

Establishes who can invalidate the action based on a violation of ICWA, which is the child, the Indian child, the parent, the custodian, the tribe, regardless of whether that particular party's rights were violated.

And it establishes adult adoptees' rights to learn their tribal affiliation and encourages states to designate someone to assist with adult adoptees.

And then also requires notice of any change in the child's placement such as change in placement. So their moving from a different home requires notice.

So continuing with post-trial rights, states must provide BIA with a copy of decree or order in any final adoptions, which is already a requirement but this is new in that states must establish a single location for all records of voluntary or involuntary foster care, pre-adoptive placement, and adoptive placement that will be available within seven days of request by the Indian child's tribe or the Department of Interior, which, at a minimum, must contain the petition or complaint, all substantive orders in the proceeding and record of
placement determination, including findings in the
court record and a social worker's statement.

So I know that we had just a few of the
important highlights. You do have copies of the
rule in its entirety. And today you will have the
opportunity to speak. But also we encourage you to
put your comments in writing. And you can make
comment on any part of the provision in the Proposed
Rule.

The public meetings and the consultation
sessions that are coming up for tribal
consultations, we still have coming Albuquerque on
May 5th. We are going to be in Prior Lake,
Minnesota; a national teleconference; and then in
Tulsa, Oklahoma, and then public meetings also in
those same locations. One part of the day will be
for consultation, and the other part will be for the
public meeting. So if you think of something later
that you wish you would have said, you will have an
opportunity.

You can also put your comments in writing and
send them to comments@BIA.gov and we would love to
hear from you.

MR. LARRY ROBERTS: Thank you, Gina.

So the next steps are once the comment period
closes May 19th, we're going to review all of the comments. The team will assemble here to take a hard look at everyone's comments and then move forward with a final rule. And so we're hoping to get something finalized.

We've heard from Indian Country that a final rule of implementing ICWA is important, and so it's a priority for the Assistant Secretary. And -- but we still need all of your good thoughts and good work and good help in terms of trying to make the rule the best it can be.

And so I do want to say that at our public session in Portland we received a lot of comments at both, at the tribal consultation as well.

We heard from some tribes, for example in Michigan, saying that in Michigan the state courts are complying with ICWA and -- for the most part, and that part of that is because the tribes worked really hard with the state to pass the state ICWA law there. And so we've heard some positive things there.

But we need your input not only with what's working well but what's not working well and what needs to be addressed to make sure that there's a consistent implementation of ICWA for all of Indian
Country for those states and agencies.

So with that, I would open it up to whoever has comments or questions on the Proposed Rule.

MS. AVIS LITTLE EAGLE: I guess you all are from D.C. And here in South Dakota we've been going through quite a bit with the Department of Social Services, and I hope that you're aware of some of those cases.

We do have written testimony that we provided to our senators. And here in the State of South Dakota I hope you're aware of what's been going on here. There's a number of --

MR. LARRY ROBERTS: I'm sorry to interrupt. Can we just get your name --

MS. AVIS LITTLE EAGLE: Yes.

MR. LARRY ROBERTS: -- for the court reporter?

MS. AVIS LITTLE EAGLE: Avis Little Eagle.

It's two words. And I'm a member of the Standing Rock Sioux Tribal Council.

And we were fortunate on our reservation that we had a strong advocacy for the children. And we held meetings on both the North and South Dakota side because our reservation encompasses both -- it's in both states. And we took testimony of various parents that went through quite a bit of
trauma from the Department of Social Services. And what was found out, there are a number of lawsuits going on now. But what we found out is that a lot of times they would take the children and they wouldn't hold the hearings, the proper hearings. And immediately when they get the children into the foster care, they would prescribe them medicine for ADHD or whatever they could, and the state was making big money off of this because it's under Medicare or whatever assistance they could get for that. It's really a lucrative business for the State of South Dakota.

But I guess my main concern with your rule here is, like you said, this law has been in place since '78, '79, and this is a congressional act. And how is it going to be enforced with the state? Because states throughout the nation continue to ignore it. It could be a federal rule under the BIA, but when you have a congressional act that the states just ignore, how are we going to get -- how are we going to get the type of assurances that there is going to be -- that it's going to be followed? How are we going to get those assurances?

Because what it's come to here in South Dakota is that the parents finally had to find
representation to file law cases, lawsuits against the judges, against the Department of Social Services.

We've had major meetings here in this motel, and the Department of Social Services was invited and they said, "I'm sorry, nobody invited us." And I don't see anybody in the room today, I don't think. They really disregard the congressional act. And if this Proposed Rule gets put in place, I'm sure we will, on a tribal level, but that doesn't mean the states will. You know, how are we going to get those assurances?

I probably have some more comments, but I'm getting them together here.

MR. LARRY ROBERTS: Thank you.

So I know in the Van Hunnik case that was just recently decided that the tribes prevailed in, you know, one of the things that the court relied on there was our recent guidelines, they pointed to our recent guidelines that we promulgated. And so, again, these regulations, when they're finalized, will have the force of law. So, you know, it's another tool to ensure -- to promote compliance with ICWA.

MS. PHYLLIS YOUNG: Good morning. My name is
Phyllis Young. I'm a Standing Rock Tribal Council Member at Large. And I want to, first of all, welcome you to the Black Hills, the center of our sacred land. And I want to thank you for this historic action today.

In 1958 the BIA, Bureau of Indian Affairs, created an adoption agency, and the goal was to adopt out Indian children in a plan with other agencies in the United States. And by 1978 the Indian Child Welfare Act, which was enacted by the former Senator Abourezk here in South Dakota and Standing Rock was one of the founding tribes of the Indian Child Welfare Act, it was based on White Eagle versus the State of Mississippi.

And those children were brought back. But there was a party of seven tribal members who went to retrieve those children, and their plane, they had to be escorted secretly to another state to fly out back to Standing Rock under threat of being killed by parties, including the families that the children were being taken from.

But we have a history of trying to keep our children, to keep them -- take them back. And that's instilled. That's part of our collective memory. So if people wonder why we are
troublemakers, all of those troublemakers at Standing Rock, it's all worth it because it's for our children.

We have a long history of adoptions out, which is contrary to our traditional law. We're working on many avenues. But I don't want to belabor the issue of case histories on Standing Rock or in Indian Country, but I want to hit the nail on the head by Resolution 49709. And this is how long we've been trying to get to this point. So it's been a long and arduous time.

And I really want to commend the BIA and those advocates, those warriors who work on behalf of Indian Country because I get to witness in my lifetime a place and a time and a victory. I see this threshold, a new threshold.

And I want to thank personally and on behalf of the Standing Rock Tribe, Tribal Council, for holding this historic consultation. It's very meaningful, and it has to do with the human lives, human dignity of our people.

So with this resolution, we made a recommendation specific to the Public Law 95608 which was the enactment of the Indian Child Welfare Act, Section 1914. We don't know if it should be
proposed as an amendment; however, this resolution
does propose that very action to give grandmothers
and grandfathers and aunties and uncles and all
relatives a private right of action to pursue legal
action if placement of a relative child with them
was unfairly denied.

The current Indian Child Welfare Act,
Section 1914 reads, "Any Indian child who is the
subject of any action for foster care placement or
termination of parental rights under State law, any
parent or Indian custodian from whose custody such
child was removed, and the Indian child's tribe may
petition any court of competent jurisdiction to
invalidate such action upon a showing that such
action violated" a provision of -- "any provision of
Section 1911, 1912 and 1913 of this title."

The placement is -- the placement process is
critical, and it has been the focus of our interest
and our endeavors to address that issue. And so the
placement preference should be made enforceable. If
not, then we have to pursue that as a lawsuit. And
so we're seeking to -- seeking that if that could be
an interpretation of this guideline and incorporate
it into the regulations or if we have to seek an
amendment by legislative fiat or if we have to do
court action to seek that change. That's how important the placement procedure is to Standing Rock Sioux Tribe.

So we have consulted with the former Senator Abourezk and sought his interpretation of those sections particularly of the ICWA, of the Indian Child Welfare Act in 1978. So we feel confident that we could clarify it in any legislative action that we seek.

So we have also addressed in the regulations -- we will submit like -- the written. We're working on it. We have the GEO report of foster care. We have adopted our foster care provisions. We have -- we are petitioning the committee to eliminate racial discrimination through the United Nations process to file in the Mette case, the seven children who were sexually abused for ten years, five of whom are Standing Rock members, two Oglala. And so we are petitioning that under the Proxmire Act which was adopted by Congress also in 1985 and Public Law 100-606, adopted November 4th, 1988.

And Section 1891 -- or 1091, six transfers by force, children of the group or attempts to (unintelligible) shall be punished as provided in Subsection B, which is a million dollars. So we are
pursuing that as well. We have asked -- we have retained an attorney and have gone on record for that.

Nowhere in these provisions does it address the suicides, the deaths that have occurred in foster homes and the medication, which is a big business as my constituent addressed earlier, a multi-million dollar business, direct ties to the pharmaceutical companies in Minnesota, which we have -- we have confirmed. We have hired a private investigator who's a former FBI agent to validate so that we have confirmed cases, that we are not just making trouble.

And so we want to protect these children. We have made every effort. And we have been at the tables since 2007. I was not on Tribal Council at the time, but I have been an advocate since 1978 trying to get children back home.

We try to tell the children, the parents, in consolation, that -- to them that those children will always return because of their -- their, um, affiliation with their culture, they will always return.

And it's almost like a human want or need to reconnect with your natural family. So it's not
just limited to Indians or our culture. It's a human thing. And you see it very prevalent in this country now with the non-Indian society. So we have always been the canary in the mine. And if that relates to the human interests of the world, then we're a big part of that.

So my one experience was with an international figure. And I laughed when she asked if, the mother asked if I could help her. And it was the other side of the universe. And I laughed. And she cried and she said, "Don't laugh." I apologized. And all I could tell her was, "He'll come home one day."

When he turned 18 he called her, and he flew his mother to his country. He's a member of the Standing Rock Sioux Tribe, but he lives in another country. And he flew her there. And he told her that without a mother, he didn't have any stature or he didn't have any kind of acknowledgment. So she's very happy, and she flies back and forth to this country. So we know that we are a universal people and that we have those with experiences. I said I wouldn't belabor the case histories, but I have to share that because that's -- it expresses the wide variety of cases that we do have.

And we did, at Standing Rock, a consultation of
sorts for those parents whose children were in foster care. And we have 80 documented cases, and I will submit the case histories to you so that you can look at the situations and see what has occurred and use as part of your consultation to see the situation so that if it provides any kind of answer to the rules that we do need, I do see three -- I read all 20 pages, and I do -- there are three areas specifically that we would like to address in detail. So we will be submitting written comments.

And, again, I want to thank you. In my lifetime, it is very meaningful that you have finally promulgated rules after 37 years. And I hope that they will be incorporated into federal regulations and that they meet the force of the law and that we can move forward and have due process.

We are also trying to meet the May 1st deadline for the Federal District Court to submit recommendations and reparation statements for those illegal adoptions and illegal deaths -- or deaths in the illegal care of families.

Here in this -- not surprising that there are not many people here, and hopefully they'll show up later. I know there is about five people in our party that will come later for the meeting.
But we're wary. Lakotas are wary of the BIA and the Federal Government. We fought long and hard and we fought the bureaucracy to get the meeting here two years ago. And I am glad they didn't move the meeting for security purposes. We're considered hostile. So we know the processes that we have to endure and we will endure them, be what they may, and we will do everything to protect our children.

The Federal District Court decision addressed the GEO report and these regulations as well.

But I want to thank you wholeheartedly for hosting this consultation. This is one of the most important and most critical consultations that we have had in decades. (Native language)

Thank you.

MR. LARRY ROBERTS: Thank you.

MS. JACQUELINE BROWN OTTER: Good morning. My name is Jacque Brown Otter. I'm from the Standing Rock Sioux Tribe. I am currently helping develop the Title IV E Planning Grant, for our tribe was awarded funds for the $300,000 for the two-year plan.

What I see as a newcomer coming into the program, things are going to be wanting to change to help improve our families unite.

What you need to know, too, is that as
grandparents and being a family that experienced ICWA, I had left the State of Nebraska myself because there's not enough training dollars on the reservation. There's not enough 638 dollars to carry out these duties. So that might be some things you take back into consideration. The dollars do not last as long as they are to be anticipated.

Yes, the Title IV E planning grant reimbursement will help improve these practices of reuniting our children's families and keeping families together. But that should be something to take into consideration in remembering that the compassion us Lakota people have for our families is withheld in our hearts. There's nothing more compelling to have -- than reuniting our children back with their families.

You know, my grandson, he's my son now, he's 15, and he's -- he was a child that had been born with drugs. I went down to Nebraska, and I wasn't able to get him because nobody helped me at the tribal level, not knowing the experience at the time.

And now that -- he was told he would never be able to walk, never be able to talk, never be able
to sit up, all of these "nevers". He's in the top
of his class. He mentors other children.

With the little bit of love that you give to a
child within their own blood makes a child grow
stronger and be a public role model within the
community.

So I'm very, very thankful to be a part of
this. Being that I'm fairly new, I would like to
enforce more training dollars on this 638. That is
very important because I heard the ICWA director say
that there's not enough money, there's not enough
staff to carry out these duties. There's only two
at our tribal level to carry out eight communities,
and that's just not enough people. They're
overwhelmed. So please take that into
consideration.

And thank you for your time.

MR. LARRY ROBERTS: Thank you. Thank you for
your comments on that, especially with regard to
funding.

And so the one thing that I just wanted to
share with everyone here, if they don't know this
already, but Kevin Washburn, the Assistant
Secretary, and I, we have a Tribal Interior Budget
Committee, and it's a budget committee of tribal
leaders from all the different regions of BIA. And we ask those tribal leaders that are on that budget committee, "For the next coming budget, what are the tribal priorities?" Because that's where we take our leadership from in terms of funding.

And so for Great Plains, I believe the representative is John Yellow Bird Steele?

MR. TIM LaPOINTE: President Steele is an alternate. I believe it's the chairman from Omaha, Vernon Miller is primary representative, and Chairman Frazier from Cheyenne River.

MR. LARRY ROBERTS: I just say that to reach out to those representatives, because we really do take our leadership from tribal leadership on that.

So thank you.

MS. LILA KILLS IN SIGHT: Good morning.

(Native language.) I want to say thank you for being here.

My name is Lila Kills in Sight, and I'm on the Tribal Council of Rosebud Sioux Tribe. I have worked with child welfare under Casey Family, as well as the tribal level, and this has -- this is a huge passion of mine for our people. And I agree with what Jaqueline said.

Hi.
And, you know, it's really, really important, and I'm happy you people are here. You know, I think ICWA is -- when we hear that word "ICWA," it just is overwhelming, just that itself.

And I -- I've been, you know, educating myself in this, the Indian Child Welfare Act, and right now we are in desperate -- I don't know how to tell you how bad we need your help, all of our reservations. And I get emotional because finally somebody is paying attention.

And we don't have the resources that we need to do the job. We have the soldiers. I'll tell you they're there. But we don't have the resources.

And I believe any reservation you go to, I consider each and every one of us sitting in here tonight, today, we are in the front line of this battle. We understand.

And now because of our prayer, because of who we are and who you are, you are chosen and brought here to help us. You're our prayer. And I take that to heart because that's all sometimes we can do is pray.

And today on the way up here, I was thinking about it. And it's significant that we're meeting here in our sacred land.
And right now we have a lot going on. We have Title IV E. We have, you know -- and that's going well. But how can we move forward with another venture when we don't even address what's over here with ICWA?

Title IV E is going to take the resources from ICWA, and that's Part B monies. So there's a loss right there just overnight because of Title IV E.

Right now we have with our ICWA, same as, you know, Jacqueline's over here, there are two people who are working there diligently. We ain't getting anywhere. We're not getting anywhere. As I speak today, I'm sure there's another court case where we're going to lose somebody. Each time that happens, we are one less child; we are one less nation.

And one of the values that our people have and that we carry in our heart is we are compassionate; we are patient; we love unconditionally our children.

And before western civilization came upon our people, when they were first introduced to the very first non-Native person who came and experienced the Lakota way of life, we were strange; we were not okay; there was something wrong with us because of
how we treated our children, because of how we valued our children. They were the hub of our people.

Our children, they're beloved children. Our spirit is intact to that child that we pray for generation and generation and generation. And we've become so — um, the assimilation process, you know, even today we don't have — we don't have a choice. We gotta go with it.

But today you are offering us, you're giving us a voice. And I appreciate that, because as a nation, as a people, we have so much work to do. I think about this. But you know what? Many times nobody ever asks the tribe, What works for you?

I'll tell you now, we don't have homes. We do not have homes to take these children to. We have to deal with finding more resources to employ more people. MSWs, we need more of them. We need training dollars. We need education dollars. And I believe that, um, through that you're the messenger. And I believe, you know, that you will find that for us.

And it's like, you know, Indian child welfare, that's thrown out there, you know, but our people don't really know what it is. They don't. But when
it happens to them, it's a quick education process. They still don't understand.

And one of the things for our people, as well as every nation, indigenous nation, is the kinship system. That child that was taken away may be the oldest child of that sibling group. The kinship system is very important to our people. If you are the oldest, you come with responsibility. You are trained and taught that responsibility from the day you're born, as well as the youngest child. But ICWA, if we break that process, we're hurting our nations. We are cheating ourselves out of a future.

And, you know, I've been dealing with so much calls working with getting on the tribal council. And, just, we're losing our children. We want to do something about it, but there's no resources. We're stuck. That door is shut. But today you've come and you've given us that voice. And I believe that our people are, there's a few of us here, but you know what, this eventually will be probably standing room only if we continue this dialogue.

And, you know, resources, you know, we talk about, you know. But the other thing is the formula to calculate those resources, what is that formula going to be? Is it based on square footage,
acreage? You know, you have your, what's it called, your -- I know with IHS like a chazda (phonetic) or something, it's perimeters. How far are you, you know, with the -- the formula that the BIA uses, we need to be involved in that process. Those decisions are made for us by people who do not live on our reservations.

I come -- I am one council person. And my colleague and relative, Rose over there, we are two of 20, 20 communities. We have a population of like 45-, almost 50,000 people. And, you know, that's really important.

And the calculations and the formulas that are used to give us those resources, we're not all the same. All our reservations are not the same. We are but we're not. That's something that I'm going to ask you to teach yourselves about that, you know, we all are a Sioux tribe, but -- our needs are the same, but there are land issues that aren't the same.

So when you calculate your formula for these resources, I'd ask that you please take those into consideration, that, you know, you study each reservation, what is the land base. You know, those are the things that nobody ever looks at and asks
us.

And a lot of times like -- and I'm speaking on this because I think about what I've learned with IHS, is that IHS uses a certain formula. They have a perimeter, and there's boundaries there for funding. And they also, they base their funding on an acreage or percentage -- an acreage or footage system. You know, that's started, and nobody has ever looked at it.

Our healthcare down there is the worst ever.

But when we do our formulas, in calculating the formulas, that's the challenge right there. How are we going to disburse resources that are so needed to every reservation and try to target and hit every community, every district?

Back in -- about two years ago I heard more and more ICWA cases coming. And right now just this past week our vice president who's running our tribe right now, he called me and he asked me to come. So I went to see him. And he was sitting there, and he was real -- didn't look well. So I said, "What's wrong?" He said, "Dammit, we lost four kids again today. I don't feel good about it."

We need legal resources. We don't have legal resources. And that's huge with ICWA. You gotta
have legal resources.

And he said, "What can we do to kind of take care of this?" And I said, "You know what? We need to put money aside for legal fees, legal resources. Go out and search for those people." And they're out there. They are.

So, you know, these are just some things that I wrote down. I won't take too much time, I'm sorry, but they are important to me, that I know will help you guys make the decisions you need to.

But this is really, really important. Today is a good day. I'm not just speaking for myself but all of our relatives, you know, we represent each other.

And for you to take this information back, I am going to -- working with the other groups at home that we can, you know, do a written response to you all, too, as well.

But I want to say thank you and welcome. And today is a very good day.

Thank you.

MR. LARRY ROBERTS: Thank you. Thank you for your comments. You talked a little about funding and allocations and how that works. Before I came to the Department, I was an attorney representing
tribes. And when I came to the Department and we were talking about the different things, you know, What can this administration do to update regulations, you know, these guidelines hadn't been updated since I was 11 years old, and that just -- you know, it kind of blows your mind a little bit. And so we've been looking at different things like the leasing regulations that we updated. And we're trying to have -- I think that these proposed regulations and the leasing regulations and the right-of-way regulations, I think there's a consistent theme there from this administration which is wherever we can, we're deferring to tribal decision-making and empowering tribal decision-making because that's where the decisions need to be made. So I appreciate your comments.

MS. ROSE STENSTROM: Hello. My name is Rose Stenstrom, and I come from the Rosebud Sioux Tribe. And I wanted to ask you guys to think about some stuff. You know, earlier I had mentioned one thing and that was making funds available for kids that age out. Because once a child that is in foster care turns 18, they're turned loose because the foster providers, I mean the providers really don't want them there anymore because they're not getting
any money for them.

Excuse me, I have a cold.

And the other thing is: Before these kids turn 18, it would be nice to provide money for like training or, you know, workshops, you know, for them, you know, that is based on our culture.

And the other thing that I wanted to mention was the funding cycle. I often wonder what the states get, you know, for taking care of our children when they're taken from us. And the reason why I say that is kids that get in trouble are often taken from their parents. You know, this is in the State of South Dakota.

And once they're taken away from the parents, one of the things that happens afterwards is that the parents are charged for services that these kids get while they're, you know, in the custody of the state. And to me I don't think that's right. You know, if the State of South Dakota gets money for taking care of these kids, then they shouldn't be charging the parents. You know, the parents are charged for childcare and for health and any other services that they get while they're under the custody of the state, and I don't think that's right.
You know, any way you look at it, our families are being, you know, victimized. And, you know, it creates, you know, a lot of trauma for us. Because like in our tribe, there's like an 85 percent unemployment rate. And if a parent, you know, has to pay this, how are they going to pay it and what's going to happen to them if they can't pay it? Are they going to be charged criminally next? You know, that's why I say our families are being victimized when those kind of things happen. It's just like, you know, the poverty is used against us.

And the other thing is: When someone wants to take in kids, one of the things that is looked at is the age of the child, you know, these children, you know, at such and such an age need to have their own bedrooms. You know, that may work well in non-Indian societies, but with us, you know, we're close.

You know, in our home, you know, the girls have bunk beds. A number of kids share, you know, one bedroom. So people can't -- you know, people on the reservations can't afford to have a bedroom for each of their children. That's why I say those kind of things are used against us where we're not able to become foster parents.
And, you know, I tried to become a foster parent at one time, and I was really offended with some of the rules that they had. You know, they come in and they want to inspect your home. They open up your cabinets, your refrigerator. They want to look in your rooms. You know, I thought that was really invasive. And I thought, you know, Geez, this is really bad. You know, they're treating us like we're criminals or something, like we have something to hide. And, you know, we don't.

And the other thing that I really find, you know, that really goes against us is any time that we say something, you know, nobody listens. And even if we complain about, you know, foster parents or whatever, nobody listens. And, you know, some of those things need to change. And to me, you know, a lot of that is used against us so that the state can make money. That's how I look at it. You know, our children have become something, you know, just to make money off of and, you know, that needs to change.

That's all I've got to share.

Thanks.

MR. LARRY ROBERTS: Thank you.

MS. RAQUEL FRANKLIN: Good morning. I'm Raquel
Franklin, Standing Rock Sioux Tribe, ICWA Director.

I like some of the changes on these regulations. A lot of the things that I see on some of the cases, the emergency removal part of it, even though it does say in the guidelines and the policy and the regulations as well, but I think the biggest problem that I see is DSS not complying with a lot of this stuff. They know it's there. They've read it. I've told a couple of DSS's what it says in the regs. And they already know that, but they still continue to not comply with it.

One of the things would be like emergency removal the night of, having relatives right there, grandma, even dad who wasn't even with mom, wasn't there the night of the removal, coming to the court hearing and advocating, "I'll take the child; that's my child," or grandma there the night of or the next day of the hearing, "I'll take the child" and the State still doesn't, you know, place the child with relatives. I've seen that they'll place them with a non-Native foster home, wait for weeks on end before they do a home study on the relative, when I know it doesn't take that long to do a home study. A quick home study and a quick background check, you can have that child placed in that relative's home.
within a week or two. But they drag that on for months.

And then it gets to the point where we're going six months to 12 months where a child is still in the same foster home and the relatives are still there saying, "We want to take this child" and still nothing.

I had a couple of cases here in Rapid City where grandma was five blocks from DSS. The social worker said, "I'll be down and I'll do a home study." I called the relative, "Have they gone down there?" "No, they haven't. They're coming tomorrow." Okay, wait a couple days. I called the relative, "Has DSS gone down there?" "No. They haven't come yet. They said they'll come today." "Okay." This went on and on and on.

So finally I just transferred it because I was like, "What's taking so long? She lives five blocks from you guys." So then I contact DSS, and they have every excuse in the book, or they're not there, they don't answer, they don't return phone calls, e-mails.

And then later I get an e-mail from the supervisor saying, "Let's sit down and let's talk." "Okay, talk about what? Why am I talking to a
supervisor when I've been trying to contact the worker on the case for weeks?" And it just gets so frustrating.

Then I've got relatives sitting here thinking, What's taking so long? I want my grandchild, my niece, my nephew, what have you. It's just like these DSS workers just refuse to comply with any of this stuff.

So I think that training, more training needs to be with the tribes, yes, but I also think that DSS workers also need this intense training because a lot of times they're on the scene and we're not and we don't hear about this until the next day or two days down the road that a child was removed and placed in care. So they tell me one thing and then I'm expected to believe a DSS worker and take their word for it?

But there's a lot of parties involved, so I'll get ahold of the relatives and say, or the mom or dad and say, "Okay, tell me your side. What happened on your side?"

And then you get to the hearings, the 48-hour hearings, and those last two minutes. I've been to another one down here, a 48-hour hearing, I called in. The child was placed with supposedly a next of
kin, which in the court I said, "The tribe doesn't view her as a kin. She has no blood ties, not even by marriage to this family," but that's where the child was placed.

So dad showed up to the 48-hour hearing. He hitchhiked from Standing Rock down to Rapid City to be there for the 48-hour hearing. I had grandma and grandpa there the night of the removal and at the 48-hour hearing, and I -- the judge said, "Okay, what does the tribe want?" And I said, "I'm advocating for one of the relatives, if not dad, to have this child." "Well, the child is already placed where the placement is at and that's a good placement and DSS has ordered custody of the child. Court adjourned." And that literally lasted not even two minutes. And they hung up on me. And I'm like, You've got to be kidding me? So I was fighting this case. It's been four months now and I'm still fighting for these relatives to have this child.

And then I e-mailed the DSS worker non-stop, non-stop, non-stop, and then lo and behold I heard from some other agency that that worker either got fired or she resigned. So now they want to sit down at the table with me and discuss, "Okay, let's
discuss the relative placement." "Okay, four months
in? You've got to be kidding me? These relatives
have been there since Day 1."

So DSS is not complying whatsoever. This
stuff, they don't even care. They're like, "We're
going to do what we're going to do and you have to
comply with us." I don't think that's how it should
be when it comes to Native children being removed,
not when we've got relatives advocating since
Day 1 for these children.

Another thing that I see in a lot of the cases
is that the attorney for the parent knows nothing of
ICWA. And I feel bad for these parents because
they're telling their attorneys things and the
attorney doesn't advocate for them, doesn't know
nothing of ICWA. So I don't know -- I mean, I know
that's not your guys', you know, job to educate
these attorneys, but it's hard for parents to fight
for their own kids when they have attorneys who know
nothing of ICWA, who know nothing of foster care or
CPS issues, know nothing about it.

And another issue that I run into is state
judges. I know that they know these rules. I know
they know ICWA law, but at the end of the day, at
the end of the hearing a lot of times it is the
judges who just, flat out just don't -- they don't want to comply. (Unintelligible), I've had several cases, court cases in front of him. I've had other cases in front of him besides this one, so he's well aware of what ICWA placement is all about, and he still -- he doesn't want to comply with it.

There's other cases. And I have 13 -- I work with 13 different states, and it all boils down to that judge, whether they're going to view it as an ICWA case or not.

I've gone to a case in Alabama where they were arguing in days and days of hearings of whether this was an Indian child. I'm like, "That's not your determination to determine if this is an Indian child. That's the tribe's responsibility to determine." It was a Native American mother. The child was very much eligible for enrollment.

I went down there I don't know how many times and I advocated and gave documentation that this is an Indian child. They still had a hearing. And then they had to rule, a ruling about a month later where she said, "Okay, ICWA applies." It applied from Day 1.

So the judges as well also need some kind of training. Especially in the eastern states,
southern states where they don't have too much contact with Indian tribes, they lack knowledge completely.

I could probably go on and on about a lot of our cases. But one of the things, too, on this one here where it talks about that the Court should allow -- alternate methods the state needs to provide the tribe, I think that's very key. Because I do have a case, I want to say it's in Oklahoma or Nebraska, where they're not allowing the tribe to participate in hearings. Because of that one judge, you have to be in person.

The Alabama case was the same way. She denied our transfers. We put in a transfer intervene. They denied it. Transfer, denied it. I came onboard. I intervened. She granted it, and we put in for a transfer, and we're still waiting on a transfer. But she wanted to -- she denied it because she wanted somebody there in person. Well, you think of all the resources the tribe had to expend to fly down there. I went down there three times. When I walked out of the hearing, when the hearing was done, I was like, Okay -- I was so lost. Okay, what are we doing? What did we just have a hearing on? Because it didn't go like the normal
hearing like they do around here, our tri-state, North and South Dakota, Minnesota. But that was a waste of time. We even bought a ticket for the child to come back, and that ticket is still there.

    So, yeah, I think three times I flew down there. The second time I went down there they rescheduled in the middle of my flight. So I (unintelligible) in Denver and come back because it was scheduled.

    So them not allowing us to participate via telephone, in a lot of these, you know, the southern, eastern states, I think that's -- that needs to change because of the resources that we don't have to be flying around constantly at their whim whenever they decide to have a hearing when they can just let us telephone in. I think the Oklahoma or Nebraska case I didn't participate in one hearing on that because the judge doesn't allow telephonic hearings. So that's -- I say that's a big change.

    How -- the determination of good cause not to transfer, it says in here that any -- "the state court believes or any party asserts." I think we need to just limit that to the state, because you open it up to any party, you're opening it up for
foster parents to be parties of the case.

We have a case in Virginia where because of that, "any party," they file to be a party to that case. It just so happens that that foster father is an attorney, so any time the tribe does anything as far as trying to transfer or try to do anything as far as placement issues, they object. They don't think that the relative is suitable to care for this child. That case is still ongoing. So I think limiting it just to the state to object not to transfer, the state, the tribe or the parent, is better than "any party" because foster parents shouldn't be parties to these cases. They're there simply to care for the child so the child is taken care of. It leaves it open to too much other people asserting their -- especially foster parents.

On that case in Virginia we're fighting to try to get that child placed with an auntie. I don't know what's going to happen with that case, but that case is frustrating because they just object to everything the tribe does based upon the foster parents.

Another issue I think I had was -- oh, I'm not quite sure if any of the other tribes that are here are experiencing this, but where it talks about
child custody proceedings and then where it talks about where ICWA does not apply, it does say divorce proceedings in there, but this day and age it seems like most parents aren't married. So you have unwed mothers, you know, boyfriend, long-term boyfriend, and they have children.

I've been experiencing a lot of phone calls recently since that ruling of that lawsuit in the State of South Dakota that came out about third-party custody, ICWA applies to a third party where mom or dad has the child and they have joint custody or there's no custody papers period, one of the parents goes to jail, is in jail for a long term, the grandparents having the children, the mom wants them back and the grandparents won't give them back, which is their right. The grandparents file in court for custody, again which is their right, but mom or the father, either one, will call the tribe and say, "I'm an enrolled member of your tribe and can you guys help me get my kids?" So I have to ask all of the pertinent questions of whether ICWA applies to that case. And then at the very end it comes down to just a custody battle between the parents and grandparents.

And I just had gotten a phone call, I think two
weeks ago, from a lady in Minnesota. She says that she has a case like that dealing with custody with grandparents and the parent and she says ICWA applies. And I said, "Were the children removed and placed in foster care?" She said, "No." So she told me the whole story. And I said, "ICWA doesn't apply." And she said, "Yes, it does. Third-party custody applies." I'm like, "I don't think that's what it says." So I had to read it again and it just says "divorce proceedings." She said, "Well, I have an ICWA judge who told me that third-party custody applies." And I said, "I don't believe it does."

So I think taking into consideration that divorce proceedings, most families, couples are not married, so it does boil down to a custody battle with either mom and dad or mom and dad and the grandparents. I was just trying to get that across to them. A lot of them don't like the answer that I give them, but we have to stick with how ICWA applies to the situation.

That's it for now, I guess, unless I think of some more. Thanks.

MR. LARRY ROBERTS: Thank you.

MS. CANDACE JEANOTTE: Hi. My name is Candace
Jeanotte and I'm with Sisseton Wahpeton (unintelligible.)

I just wanted to add and expand on the child custody ourselves. A lot of our cases do involve custody disputes, so if the language can just be modified so that it's spelled out that we're not here to determine parent against parent or grandparent against the parents.

The other case is with the men, I think with fathers. In reading the new ICWA guidelines it really excludes the fathers. I'm here to advocate we have very few fathers that step up, and when they do, like I definitely want to be onboard with them. So I think that the language in regards to fathers should be included.

One of the things I want to point out, though, is that the ICWA directors within the State of South Dakota have teamed up on this project with working and interpreting the guidelines and even approached the Great Plains Tribal Chairmen's Association for support. So we do have quite a few written recommendations that we will be submitting. I think we'll probably -- I think we're almost complete with that, and it should be submitted maybe next week. So it's just something that you guys can look
forward to from us.

Thanks.

MR. LARRY ROBERTS: Thank you. That's really helpful, and it's really great to get comments well before the deadline, too, because I think everybody just kind of, you know, waits for the deadline. But we have folks that can start going through those comments and thinking about them right away, so that's great if you're going to submit comments next week or whenever, that's really helpful. Thank you.

And just a general comment on that is it's always helpful to get suggested language about how to fix it right. So if we've gotten something not right, tell us how it should be and how it should be written there. So that's helpful.

MS. LILA KILLS IN SIGHT: I have one more thing. I'm Lila Kills in Sight.

In reviewing this, I'm really, really stringent on our traditional customary rules as a people. Those laws and traditions are still what we follow today, and that's what strengthened us, you know, to get to this point.

One of the issues that I would also like to ask you to look at in this process is the tribal customary adoptions. That is very, very important.
Ties are made for our children, and these traditional customary laws of our people, we hold those in very high regard.

I myself right now, I have four adopted daughters through that process. And because our ceremonies are coming back, they are returning, this generation, seventh generation and on, are bringing that back.

And I have raised my niece's daughter. I took her since birth. Right out of the hospital, I was there. She's mine. All of those ceremonies were done for her, you know, but in my heart that customary tribal adoption that was done is superior to what a legal adoption is. That's my belief. That's our belief as a people.

Because you are obligated and set -- the standards are set there through our people to -- this is done publicly. We are upheld to them as a people. So those are important factors that need to be addressed as well in this.

When we have children come home or we work on that process, there are some very important ceremonies that need to be done for them, calling of the spirit. You know, it's a spiritual work.

ICWA is a spiritual work. It is almost like in
us. And when you bring a child home back to the people, that comes with a lot.

There was a time, I remember one of my grandmas, she was talking about it, and she says, you know, "No matter what, no matter where you go and no matter where you're at, your heart is always going to be with your people. Your heart, you're going to want to come home and you're going to want to know who you are." And there are grandparents who step up and are willing to take these children.

But when she was talking about DSS, you know, I'll tell you, they don't care. I, myself, we don't have use for them. They don't even need to be on our reservation.

I have busted in on meetings with them because they have tried to separate twins. You don't do that. And sad to say, they did it anyway. Two weeks later one of them twins were dead. They were 3 years old. Those are taboos that they need to learn about our cultural ways.

And we need cultural training dollars because together -- this isn't going to work if we don't have that piece of it. We have our elders who we utilize every day in this work. Sometimes it's not written anywhere. We can't find it.
Sexual abuse, 99 percent of that -- I'd say a hundred percent, but that 1 percent I'll say is because of the prayer, 99 percent of that when a child is sexually abused. I am just appalled that they're still alive. And these customs and traditions are very important for the healing of that child. And there are times that, you know, I sit there and I think about this, and I'll tell you right now, I truly believe and I've witnessed that help us.

But, again, resources for helping grandparents when DSS comes in, they take a child and they find a relative placement, they just drop them off. Grandma is probably living on a $400 fixed income and already has five grandkids. These are relatives. This is how it is. And they bring one more, she's not going to say no. She's going to take them. She's going to find a way to make that work, and that's through the kinship system, how we live. It's unspoken of. We don't talk about those things. We just know. And the reason why it's unspoken is because we have that fear, We're going to get busted; we're going to be the bad guy.

So even in these jobs, we break rules because it's a child. And those are things we shouldn't be
ashamed of. We should not be ashamed of wanting our children to have a good life and knowing who they are, solidifying who they are as a human being.

And what really hurts me again is aging out, like Rose talked about, when these children are of age, they come home; they look and they try to find somewhere to go. I wish we -- I dream. I dream a lot. And I wish we had a resource center. And every reservation where our adoptees, our children who grow up in this system, find a way -- I wish they had somewhere to come home to. They need a place. We can't provide that because we don't have the resources. But they need a place to know that they're still a part of us. But their needs, their issues, they're not different to me, but to them, they have to ease back into their identity.

And our people, our elders always talk about a termination, termination, "They're going to terminate us some day if we lose that language." It worries me and it scares me.

I'm very fortunate I can speak our language. I'm very fortunate that I was gifted with that. But when these children come back, we have a beloved language. We have a language that only pertains to the children from conception, from -- you know, it's
not when they're born.

And I'm going to tell you a story. About five years ago -- no, 2007, so that would be eight years ago, we were taking over the work of child welfare for the tribe, and we had to have all of these meetings. CFR 25, I had to ingrain that, pump that into my head, you know. And we had all of these meetings with the finance people, the bureau. I mean, we had -- it was just -- it was overwhelming but we did it.

Anyway, we had a meeting. And sad to say but this is something that happened and I share it. I don't like it, but I share it because it's pretty powerful. This person is no longer, I think, working or around. But we had a meeting, and this person was acting as superintendent or something they sent down, and she was a part of this little process. I don't know how long she stayed with us or what. But we were sitting there, and we were talking about the spirit and, you know, our customs and, you know, how we're really big on that. And we had the finance people sitting there, and they came in, you know, "CFR" right on top. And I was like, Oh, God.

So we got into this discussion, and we talked
about how we were going to try to create a line item
or some kind of resource to even help the
grandparents with food money, $75 or a hundred
dollars. You know, so we were discussing that.
Just as soon as you get this child -- when a child
is in trauma, the first thing our people do, what we
do is we feed each other. That child needs to eat.
I don't care what time of day it is, you feed that
child until they're content. Trauma, so we talked
about that, and that was one of the huge things,
there's spiritual food that needs to be fed to them.
You know, there's things that need to be done
immediately. And that's preventative and it's
crisis work on that end for them.

And here we got done. And we had from January
to like March, that year we had about 23 deaths,
infant deaths, SIDS, I don't know what it was, but
we were burying our babies. They wouldn't want to
come. And it was horrible, stillborn. I mean, it
was just horrible. So we touched on that. And here
this lady was a bureaucrat and -- I don't know. It
just -- and she said, "Okay, now it's my turn to
talk. When are you people going to get it? When
are you going to get it? You cannot be living like
that anymore." I was like (indicating). It just
blew me away. She was a Native woman. She said, "When are you going to determine when a fetus is a fetus and when a child is a child? You guys have to make that determination." I was like, "Whoa." "That costs money." Okay, 23, you know, infant deaths that cost this much money, that was it. It was just -- it just blew me away, even to this day when I say that. I couldn't believe it, the mentality of that bureaucracy.

And we just -- I mean, there was nothing to say. How could you respond to that? That is not our place as a tribe. It was basically, "You tribal people, you guys are off in your head. There's no money. There's no money." Look at how long it's been that there has not been resources but we're making it work.

And it really saddens me that our children who do age out, we don't have a transition plan for them. When you get 18, whatever that money is you get, you get dropped off on the street of where they know your family come from. And that happens. It's real. From 18 I'd say to 28, even 30 years old, these young people search for themselves. There's nothing in place to help them. Resources, there aren't many. So we're missing a piece there. Even
if we say 25 years old.

But we don't have transition dollars. We don't have that with ICWA. How are you going to set them up to have -- get an apartment and do all of these things? Some of them still go to school. They still want to go to school. So, you know, those are additions to, you know, what I wanted to say before that education dollars are very important. If these children want to continue their education, we have colleges on our reservations. Those are options that, you know, we need to give to them. They need options.

Thank you.

MR. LARRY ROBERTS: Thank you. So I appreciate your comments about, you know, kids that age out of the foster care system and, you know, what -- how do we help those young kids and young adults. And it's something that internally within the federal family we're meeting together with Indian Affairs and HHS and DOJ to just see how we can better collaborate internally not only on ICWA but all of these types of issues.

And on the foster care thing, it's something that is very near and dear to the Secretary's heart because she was a foster parent for a non-Native
child. And so she, herself, has talked about, you know, when that child aged to 18, they weren't ready to go out into the world on their own, you know, and so she was very, very concerned about that child and continuing to care for that child even though it had aged out of foster care. I don't know if it was a male or female, but the child had aged out of foster care, so she talks about that.

So I just raise that because in addition to these regulations that we're here to talk about today and hoping to finalize these regulations under the Native American Affairs Council that the President established, we have agencies talking internally about ICWA and how to focus those internal resources and better collaborate. So it's helpful to hear from a number of people that that is obviously a concern in Indian Country that we need to look at and do what we can.

MR. ROBERT TAKEN ALIVE: (Native language)

My name is Robert Taken Alive. I'm on the tribal council for the Standing Rock Sioux Tribe, and my district is in the South Dakota portion of the reservation. I come from a very traditional background, very traditional, and the big piece is ethics.
I was just at a BIE consultation yesterday. We were advised that there's rules to consultation. So I was trying to get those last night. However, I couldn't.

I was also invited to gaming regulations. There's another consultation this afternoon. One of our casinos invited me, so that's where I was this morning and that's why I'm getting here late.

Jessie Taken Alive was going to come. He was at the consultation also yesterday with BIE.

One of the things that I'm seeing and reading here, proposed changes, is -- and I'll touch slightly here on the lady's comments earlier, is that education, the BIE should, you know, working collaboratively and networking, would be a source of saved dollars for our students for our foster children.

My background is in education. And my education, I'm an administrator, superintendent certified for South Dakota. And I did work in one of our bigger tribal schools.

And I did work with ICWA law quite a bit in the transferring and bringing back and different things like that with ICWA. And a lot of the people that are involved are the ones that have been involved
for a few years with the law.

So if you try to be innovative with the students and try to keep into them with our ICWA director, Raquel Franklin, and saying, What supports your needs in terms of working with -- of course, the State of South Dakota is probably the toughest state to work with. I say that because I was -- the school I was at was in North Dakota, and the legislative and the people that are in a political realm seem to be more -- I used to work with them, especially with students.

South Dakota, it seems like it's a dollar issue. You know, a Native child identified with a learning disability is a high priority for a lot of the South Dakota entities in terms of working with children. And those are some of the concerns that I share as a council representative. I don't get down into the specifics with our children anymore as much as I used to. However, I do, once in a while, will stop at our school. We have a K-8 school in my community, Sitting Bull School.

And we do have -- we did have a case where we had an ICWA transfer from the East Coast, and that was last fall. And it seemed to have gone smooth. However, he was placed with his grandmother. The
grandmother is on dialysis, and there's a lot of needs that need to be met and to care for these children.

And I asked the grandmother, "How can we help you?" You know, "Just get my grandchildren back and we'll figure it out then." Because it just comes down, like the lady spoke about, the traditional part of our people is that we want to make sure our children are safe. And money isn't going to be safe -- I mean, it's not going to provide that security that our children need.

And it all ties into their adult life. You know, when they age out at 18, they only age out if they're identified with learning disabilities until they're 21. However in ICWA they age out at 18. Those are a couple of concerns that I had.

And for me I see a lot of our community members, and specifically our children, and wonder if they're getting a yearly checkup, physical checkup. Because we have a clinic and then the clinic is like 10 miles away.

Healthcare is horrible for my community. So that was one of the things that I ran for council for is the healthcare.

Now we have a mobile unit which, you know, we
can do in terms of clinical care for our children, not only physical but mental.

If ICWA could collaborate with the BIA services there and develop something that's mobile, it would really help. Because I was raised in an atmosphere of health is wealth. And what that means is to be -- to take care of yourself physically. It don't matter how much money you get or how much money you don't have, if you're healthy, you're going to have a good life. In our language it's called (Native language), watch what you eat; watch what you do; make sure you take care of yourself. And it's instilled in the life of our community. Our children are still taught that. So it's imperative that along with child care, these different possible entities, is that if they could collaborate with the larger federal entities.

And when the President came to visit, his question to me was, "What two things do you see that you'd like changed in your community?" And so I told him education was one. And the other one is clean drinking water. And these are basic needs of life. There's no if, ands and buts about that.

Well, when I got done answering his questions, the President's, well, the First Lady asked, "What
about your youth? What would you like to see happen in your community?" So I said, "After-hours organized activities such as a YMCA, something that would let the students be, children be children."

In the communities on the reservation that I've worked with, I've seen the oldest child be the caretaker for that home.

And, like I said, you know, there's a lot of -- I mean, I'm looking at your proposed changes. They're pretty good. And I didn't get to speak at the BIE consultation yesterday because there was a lot older council member representatives of the Great Sioux Nation. And I listened.

One of the things that I was concerned about with that particular consultation is they were changing the whole plan; they were changing the whole organization of the BIE. And I don't think as an educator I was even allowed to understand the whole BIE plan. As it was now, they're going to change the whole thing.

And that was one of the things that I see here is that you're developing, adapting, which is good, because you're not going to have to be wondering what's going to work and what's not going to work.

But for the record I just wanted to make those
comments. And if -- I guess we're having an
election in October. And if a representative from
ICWA could present to the new tribal council or a
yearly presentation to the tribal council on ICWA
and what's new, that's something that, you know,
take care of in e-mail and that we could have in
front of us. In doing that, we won't be going to
meetings and not knowing what's going on.

Yesterday they gave us the re-word for it.
They called it the Group (unintelligible) Reform
Policy. And they laid it in front of us, and we had
maybe about four minutes to go through it. I was
going through it. You know, there was, I guess, the
views on it.

But, like I said, you know, it's very
imperative that we provide services for our
children. Because working with foster children,
you're already kind of able already.

And I was taking extra time -- if I know that
there's a foster child in my community, I'll take my
time to go over and I'll visit their home. As I did
as a teacher, I take my time and I visit with them
and encourage them, and then as an administrator do
the same thing.

So to this day they may be in their early 30s
or 20s, you know, late 20s or mid 20s, they'll get ahold of me and they'll talk to me. So the "age-out" part of it never happens for me. And it probably won't. But I accept that as part of the community and part of a community member. But yes, we do need information to get out there.

And when I got to speak with Senator Thune, I talked about ICWA with him, and I told him that federal agencies, along with state agencies, if they're collaborated, would provide a lot better service for our community. And I tried not to say just for (unintelligible), but clearly you want to say it for the Standing Rock Indian Reservation because there are a lot of foster children. And we do have a large dropout rate, and we do have a large poverty, you know.

But those are some of the things I'm always reminding young people: You shouldn't get bored. There's always that possibility to want to learn the language. And when they learn the language, it changes them.

I know our pharmacist from the BIA in our clinic in McLaughlin is a self-taught language learner, and he carries the conversation. And he's -- he can't understand why people don't learn
the second language, because it broadens your view on demographics or the area that you're working in. So it's really a positive thing that you do consultations and come out for the communities. Because we as tribal council representatives -- like I said, you know, I was at a training this morning. And the GM said, "Well, you know, I'll take your information. There's another training going on in Prior Lake, so you can catch that one."

So when I leave here, I'm going to go home, and I'll meet with some elders tonight. And I'll advise them and I'll share your documentation with them. So -- and they are -- they get afraid of taking grandchildren now because they don't want to be the bad guy. If something is going bad, they don't want to be identified. So I always encourage them, "Here's what it is: If somebody needs a bad guy, then I'll be that bad guy." Because the bottom line is those kids, when they hear "grandma" or "lala" or "grandfather," they know that there's going to be three square meals and there's going to be a place to sleep, bottom line.

So I always tell our CPS program, you know, when you're working with relatives, that's not just a title. That means security. That means there's
going to be a place for them to be where there's no drinking, where there's no fighting, where there's no possibility of being violated.

So I just wanted to share those. And I know, my brother Jess, I'm hoping that I could cover some of his areas, too. But I just wanted to share those.

Thank you.

MR. LARRY ROBERTS: Thank you.

And I just wanted to say we covered this a little bit earlier as part of the presentation, but we got to this point with the Proposed Rule because of the leadership of the tribes. We had listening sessions over 2014, and we heard from tribal leadership loud and clear that we not only needed to update the guidelines but we need to make regulations.

And so we updated the guidelines earlier this year. And it's forums like this that are really helpful on our Proposed Rule because, you know, it's folks like your ICWA directors that are working on the front lines and they can say, "This is working well; this isn't working well. This is what this county is doing. This is what this county is doing." And, you know, some counties might be doing
it well. And we need to raise those up to say, This is the best practice, and, you know, we can draw some consistency in implementing ICWA. But we really need -- we appreciates your feedback and your support on this rule making because we need to make this the best rule we can in moving forward.

    Thank you.

    MR. WILLIAM CROSS: Good morning. My name is William Cross. I'm with the Oglala Sioux Tribe Pine Ridge ICWA Office called ONTRAC.

    Sitting beside me here is Lema Richards. She's an ICWA social worker with the Rapid City office on Rushmore Street, and she's managing that office by herself and has been for a while. We felt it was necessary to have a Rapid City office due to the amount of cases in the State of South Dakota that one office couldn't handle it by itself.

    Because of ICWA ONTRAC, we serve the United States. We have a heck of a lot of Lakota people in the states Washington, Oregon, California, Idaho, Texas, even in the East. We have Lakota people all over the place, and this is why we have such a large caseload and that we have found it necessary to have two offices to try to bring some of the cases down in South Dakota.
And at the same time while Lema does the State of South Dakota, she also does ten other states. We divided the states up into groups like ten or so. That's the only way we could do it.

And I just wanted to say ICWA is, like the lady said earlier, it's a sacred law. I've always said that myself, because we deal with children. We deal with children which we hold sacred. We've always said that.

And, you know, this law is sacred in more than one way. It's a law that enforces tribal sovereignty and jurisdiction, culture and tribal membership, and education, acknowledgment nationwide of who we are. We're here in the 21st Century. We exist.

And our reservations are vital. Our membership is vital. Our children are vital to us. And this is what we do, fight for them, every day.

ICWA is a complicated law. It's probably the most attacked law in my experience. It's being attacked almost on a daily basis from politicians, from courts, judges, social workers. Even tribal leadership at times will undermine or attack ICWA. And we've seen that.

But I'm not here to complain today. I just
want to say thanks for taking testimony and giving me and Lema the opportunity to express our views on some of these rule changes.

And we are supporters of any changes that's going to make ICWA easier and, you know, better funded and more understanding of this law. Because right now we have people that don't understand this law at all, and there's a lot of individual interpretations, you know, the wrong interpretations of ICWA law, and sometimes we're defeated in court because of the application of these rules that they don't seem to understand.

In a motion-to-transfer hearing, a lot of times ICWA rules are violated. And there's nowhere to turn. This does happen. We don't have a central or a nationwide enforcement system for ICWA. And I'm sure all of the ICWA offices have probably experienced that, the violations of the Indian Child Welfare Act.

And at times we have to let it go; we have to let them go ahead and violate ICWA law because there's no recourse. There's no resources and attorneys available to correct these problems. So a lot of our children get lost in that system. They get adopted out, or some remain in that system for
years. Some of our cases go back several years
because of these type of decisions that courts make
not being totally familiar with ICWA law.

But I think the rules that we make should be
solid. They should be binding and that they should
be like one -- one interpretation.

I practice a lot of ICWA in Nebraska. And
that's one state that tries to undermine ICWA and
create their own statutes that counter ICWA. Like
(unintelligible) in a Nebraska town, they told me,
"No, you have to be an attorney." And I have to
bring out my ICWA knowledge of what's required to
intervene. And you do not have to be an attorney.
And I just can't seem to convince them of that.
They refer back to their own statute and that's
binding on them and we can't go around it.

And they said we don't have the legal
expertise. But we don't really need to be lawyers
just to intervene in a case. And we can't convince
them of that.

But there needs to be more ICWA education, not
only locally but nationwide, not only for the
system, the courts, the Social Services, but for the
families. A lot of times the families don't know
their own law that protects their children. They
don't really know the law because nobody has told them or provided them with the education that they need. The courts won't do that. When Indian children are taken into custody and it comes to court, the parents are not provided with ICWA education of what their options are. If so, it's done very minimally.

But I wanted to -- Lema also has something to say about the stuff that she has coming from her office.

MS. LEMA RICHARDS: Good morning. My name is Lema Richards. I am the social worker for the Oglala Sioux Tribe Child Protection Services ONTRAC ICWA. The office is located at 1405 Mt. Rushmore Road here in Rapid City.

I have worked with other tribes where they come in and they ask for information, "Can you help me get my child back?" And I'm not able to do that because they are not from Oglala Sioux Tribe. They may be from Cheyenne River or Crow Creek.

And so what I do is I let them, you know, be able to talk to the director in these other tribes and give them information, their fax number. And they can fax intakes to the office here that we have, and they are able to fill it out and fax it
back to the other tribes. And I was able to do that.

And I worked with Crow Creek also where we did a dual -- we went to court in Crow Creek Tribe Tribal Court, and what we did is we -- what -- they turned -- the Crow Creek turned the child over to the Oglala Sioux Tribe, and what we did was we helped the child because the child is here in Rapid City and my office is here in Rapid City. And they're out in Crow Creek, so they're not able to help the families and they don't know the resources here in Rapid City and I do know the resources here in Rapid City. So in saying that, I think that we as tribes work together and help each other through resources.

And I went to court yesterday in the State of Wyoming. When I went to court there, the judge said, um, "Ms. Richards, I would like it if all the tribes would come to their first initial contact, their first initial hearing, 48-hour hearing, because I can see that you're a person that is interested in your children. And after this," he said, "I will do telephonic hearings. But your first appearance would be in physical -- you know, physically there." So we need funding for being
able to attend these court hearings across the United States.

There is high rates in California, Oregon and Washington that are Sioux, from the Sioux tribes, and we get a lot of notices. I would say California is our second highest.

So there's a lot of hearings here in South Dakota and California, and I take care of both. So it's really, really busy.

And our funding is very low. We need more funding for staff. I'm alone up here. I answer phones. I take -- do intake. I go to court hearings. And I'm in court hearings with other states, while I'm in another court hearing. So I'm quite busy. I have a cell phone and I can be in a court hearing on my cell phone.

And I do apologize I was late today because I was working on another case before I did get here. And Bill was also. So we're quite busy.

And there is three ICWA workers. And the supervisor for the ONTRAC CPS for the Oglala Sioux Tribe is Juanita Sherick. And the other of the two workers is Carole O'Rourke. She is the family locator who does all of our home studies throughout the United States or wherever we want her to do our
home studies. She does background checks and does
the home studies in these different states.

And that's also another reason why we need more
funding for the home studies is for the safety of
our children before we place them. And also she
does a lot of transporting of our children. Because
Bill and I are so busy, and Juanita. We're in court
hearings or we're in meetings and we're not able to
transport the child. Because we have to be
representatives of the Oglala Sioux Tribe that we
have to go and sign for the child if he's in
Washington, California, wherever. We have to go and
sign for them. And so we need a representative from
the tribe to pick up our child to bring them back
and place them with the family that we did the
background check and a home study on. So funding is
very -- is needed a lot.

We need attorneys in some of these states.
Like I know that Bill was having a hard time in
Nebraska because they're violating our ICWA laws.
They don't -- they need -- like when I went into a
hearing they said, "Oh, no, an ICWA worker from the
Oglala Sioux Tribe is here, a social worker is
here." So what they do is they wait, and the judge
goes and looks up ICWA law real fast before I get
there.

So when I walk in, I'm probably intimidating, because they're like, "Oh, no, she's here. I'd better look up the ICWA law real fast before we have this hearing. Let's have a recess until I can look up the laws." So that has happened a lot. And they don't -- they don't read the whole law. So, um, a lot of violations are happening.

And what I do when I go into a court hearing is I do a -- I have this form with me. And when I go into the hearings, I fill out this form while the hearings are going on: Are they violating mom, dad, the child? And keeping track of who the judge was and what was said, if ICWA was, if the law was read in court by the judge, who the judge was and the children and which tribe they're from. Because some of them have -- they're from, you know, Cheyenne River and Oglala Sioux Tribe. And those are also on my form, and also everything that the judge said.

And I know that there's -- there was a lot of violations here in South Dakota as people, you know, have known. And we had a lawsuit because of all the violations for, you know, our children being taken. And it's hard to get them back because they want our children because they come with money because they
consider them disabled. So what they do is they put them on medication, prescription drugs, and it's more for them, more money to get every month. So we have a hard time getting them back because they have all this money coming with them. And so it's a struggle to get them back.

And I know that Bill has a hard time in the states that he's working on in Arizona, Nebraska. I say Bill takes care of that side, on the south side of the United States, and I'm over here on the north side. And Juanita is in between. So there's us three workers that are working these cases and trying as hard as we can. And we do intervene on every case and, um -- to make sure that the Oglala Sioux Tribe is known and that we will fight for our children.

And yes, more funding is needed for trainings. And different laws that are in these different states, we need to know about these laws before we go into court hearings that these things have changed. And I know there's different laws changing in different states. And Bill and I are always talking, and Juanita, you know, "What's going on in this state?" Because maybe the law has changed. We need to know about it.
I know we have a, it's not an MOU or anything, but we have a, how would we say it, a communication with Denver Indian Center where they help us with our families there. They would -- because our courts on the Oglala Sioux Tribe, they would like our families to have parenting classes and doing an alcohol and drug assessment, or "others," which means that they could -- we could have them go to anger management or domestic violence classes or whatever they need to help them to get their -- reunify with their children. And so the Denver Indian Center has helped us.

And through cultural, we as Native, the Sioux Nation, hold our language and, um, our (Native language), our dances. And we want our children to keep those and to -- because, you know, a lot of our families or a lot of our children don't know those because they're in the cities and they don't have that, those dances, you know, and our culture, and they lose that.

And so the Denver Indian Center has helped us with the cultural part and doing -- helping them with their parenting classes.

Also the Minneapolis Indian Center has also helped us with home visits and will call me and let
me know that one of the families out there is doing this or this or this, just to give us updates on what's going on with those families. Because we're not able to get to Minneapolis because we might be in Denver in a court hearing, and then they'll call and let us know.

And I am busy. It's hard to get ahold of me. But what happens is everybody calls the Pine Ridge Office, and they leave messages for me. And then they either fax or e-mail me the messages. And so I'm able to get back to the families on the questions that they may have and the assistance that I may give them.

And Emily Iron Cloud-Koenen is the director of the OST CPS and ONTRAC. And I don't know if she wants to say a few words or --

MS. EMILY IRON CLOUD-KOENEN: Just one thing.

(Native language)

Good morning. There was just a couple of things that I wanted to bring your attention to. One thing that, just very recently, the Oglala Sioux Tribe passed by ordinance an action to integrate Child Protection Services and ONTRAC services into one service system. So that being said, we're just in the very, very initial beginning stages of
working to identify protocols on how we will be providing these services together. And I see it as a really positive step towards streamlining, maximizing and enhancing services to families.

And then overall this will help us to track our children. We'll know where our children are. And so with this move, we are working toward having much better communication with all the court systems across the United States and other DSS type of agencies. And so we will have, you know, we'll have that one central place on our reservation that Child Protection and ICWA-related services will be, you know, where we will have that one communication point.

The other -- second point that I wanted to speak to is that in our work, as we move toward capacity building, you know, I have seen that the ICWA program historically has been sadly underfunded. And that their work is, um, is so very important, as Bill says, to exercising sovereignty and to ensuring that our children have that right to know who they are, to know their language, to have -- to know that they have education, land, and medical benefits as tribal members. That there needs to be more staffing and just more everything.
And from an administrative perspective, I would like to recommend that there be serious consideration given for employee -- well, let me say it this way: In the past I know that the state DSS, and I think IHS has had a similar program, where you fund employees to obtain a degree.

So in our case, it would be very helpful if we could have funding to help our staff obtain a Bachelor of Social Work and an MSW level degree. Because as you all know, you deal with the impacts of poverty. And it's going to take a long while for us to get to a point where we are stable and healthy as Native communities. And who knows better than our own people what the solutions are. So we need that balance of professionalism and cultural knowledge.

So those are, I guess, a couple of the points that I wanted to make and to request your very serious consideration for.

And I thank you very much for coming here and listening to us and to know that we -- we locally on our reservation are working really hard to -- to address the needs of our children.

Pilamaya.

MR. LARRY ROBERTS: Thank you.
So I think we're just a little bit past 11:30. It's scheduled until noon today.

We're also going to have a public meeting session this afternoon starting at one o'clock.

So is there anyone else that wants to provide a comment on the Proposed Rule this morning?

UNIDENTIFIED SPEAKER: Real quickly.

MR. LARRY ROBERTS: Yeah, sure.

UNIDENTIFIED SPEAKER: I can tell you two things that are not working and they're not being complied with is notification, notifying the tribe after removal. A lot of times they'll notify me the day after when they already had a hearing. I just had one on Tuesday, they had a hearing on Tuesday and notified me yesterday, and they already made an order. So notification is a big thing that is still an ongoing problem.

And active efforts, that's a huge, huge key. A lot of times DSS will give our parents a laundry list of things to do and then stop right there. And then so parents are trying to jump over all of the hurdles to get these services done. And then when they're not done by a year, they're getting terminated.

I've asked several DSS workers to give me a
list of active efforts, what have they actively did with this parent to help them overcome the hurdles. I never get that, ever. I've asked numerous times via e-mail. Even when I'm talking to (unintelligible) that I attend, you know, "What have you guys done to try to help this mother get to her services, get to her appointments, get here, get that?" And I never get an answer. They'll give them a laundry list to do, but they're struggling. They're struggling to get this stuff done. And then by the time it's too late, 12 months rolls around and now they're finally TPR on them. So that's one of them.

Oh, and then the state's active efforts in searching for a father, there are a couple times, some of the cases that I've had, where they had a father on their pursuant or alleged. Well, these fathers don't even know that their names are on these petitions. So when I come across those, I always ask DSS or the state's attorney, "Do we know this is the father? Does he even know if he's the father?" Because I've had a couple cases where they've had four or five different fathers, you know, and they're getting to the point where they're going to terminate this father and the father didn't
even know he's a father. So trying to get that established, whether it's paternity, DNA or something, some kind of active efforts of, What are you guys doing to try to track down who this father is? I think they're violating -- whoever that individual father is, they're violating their right.

So I think that's it for now.

MR. LARRY ROBERTS: Thank you.

And on the definition of active efforts, you know, we've sort of listed a number of different examples. But if there are other things that come to mind in terms of comments on how that can be further clarified or things that you see, that would be helpful.

UNIDENTIFIED SPEAKER: I have one more comment. Who do I submit this resolution to? And I have the cases, case histories. And for the record, of these 80 case histories, not one has had an attorney. So with reference to the attorney, I know we're mandated by the district court that mandates attorneys. So I'll submit these for the record.

Thank you.

MR. LARRY ROBERTS: Okay.

Well, thank you all for attending this tribal consultation. Thank you. I know that a number of
you are coming away from your day jobs, and so I thank you for being here and providing input.

And, again, I encourage that you participate in the national teleconference consultation in May. And any written comments would be greatly appreciated.

So thank you all for joining us here today.

MR. JAMES HAWK: My name is James Hawk. I represent Lakota People's Law here in South Dakota.

I want to express something that's been very important to me and the process of our future generations. Now we all know that we have a crisis here in South Dakota. It's called the West River Crisis because of the things that goes on and the participation by the state.

And then we have our tribal governments that are very important, instrumental in creating a system that's going to be effective for our children.

But unfortunately I missed out. I wanted to be here, but I just now got here. And I just wanted to express how important it is that as a Lakota that we have to define the nature of what's going on with the Department of Social Services and ICWA. There was a federal ruling a couple weeks back that
addressed that. And I see that as important to understand that.

You know, the creativity of what's going on here, I have no idea what you guys are doing. I'll read up on this. But I just know -- I wanted to express wopila for the concerns of Lakota children. Because it's very important here, especially in Pennington County.

And, you know, I think relationships between the tribes, the state government, Federal Government is very important, very important role.

Now, I do know a little bit about IV E and the system that we partake. And I know a little bit about the negotiations that go along with the state and the tribes. But I think -- in all due respect, you know, I think the correspondence between the tribes and the governments is very important, and -- because what I've seen in the last couple years was there's been a fizz phase, I call it. You know, there's negotiations that go on, but a lot of people don't understand that out there. The real people always say this, "I'm not a politician and I'm not a lawyer but I'm real because I know Indian people."

But also in the same due respects, you know, how do we, you know, heal? Is that part of this
process of healing the wounds? Especially when we have federal rulings identifying the wrongdoings, that's, you know -- it's always seemed to be a crutch. And it's an effective crutch.

And we lose children constantly. I brought with me statistics of what goes on with the Indian Child Welfare in South Dakota.

And I just want to say thank you for everybody that attends. It's very important, because we can do this all day long but unless we're effective, unless we have correspondence with truth and honor, you know, I think that's very important, something to address always, you know.

But I just want to say thank you and thank you for the opportunity to at least let me express a little bit. Because I could go on all day long, I really could. But the most important thing is we've got to have participation. And whether -- who does it or whatever, we need a consistency of someone to be addressing these issues that we face every day. Because I feel for the children.

I work for people that, we're going to work for bringing our children home because of the violations. We're going to bring them home.

We need emersion schools. We need a lot of
things. We need a lot of funding. I always say this: There should be no reason why a Lakota child should go and live in poverty. Because we're land based and plus we have the most richest lands, and the government just loves all that gold stored up, but yet we see these problems. And this is -- it's the system that we have to live because genocide is still here in 2015.

And it hurts to see this when I look in these eyes, whenever I see them taken away from their families. That's the feeling that I want people to feel because that's where the love and the care are going to come from. Because we can be legit all day long but unless we're effective, we love, encourage and be able to lock down the system that's going to be able to bring our children up.

It's hard here in Rapid City for Indian children. It's hard for Indian children in Pine Ridge, Crow Creek, Standing Rock, Cheyenne River. We got a suicide rate that just blows me away. I just -- and, you know, we think about, Well, what's the problem? Well, I'll tell you what the problem is: Our treaties ain't honored. The treaties that we live by are not honored. So what do we do?

But anyway, I'll tell you what: I love
everybody. Thank you very much for the time. And thank you very much.

Wopila.

MR. LARRY ROBERTS: Thank you.

If you spoke today, please sign the sign-in sheet just so that we have your names for the transcript, because we want to use all of your good comments for this.

Thank you.

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(The proceedings concluded at 11:57 a.m., April 23, 2015.)
STATE OF SOUTH DAKOTA )
                  ) ss.
COUNTY OF PENNINGTON )

I, CINDY K. PFINGSTON, hereby certify that
the foregoing pages numbered from 1 to 99, inclusive,
constitute a full, true and accurate record of the
proceedings had in the above matter, all done to the best
of my skill and ability.

DATED this 13th day of May, 2015.

________________________________
CINDY K. PFINGSTON
Registered Professional Reporter

My commission expires:
February 4, 2016