

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON TRIBAL AFFAIRS**

March 21, 2019

8:08 a.m.

**MEMBERS PRESENT**

Representative Tiffany Zulkosky, Chair  
Representative Bryce Edgmon, Vice Chair  
Representative John Lincoln  
Representative Dan Ortiz  
Representative Chuck Kopp  
Representative Dave Talerico  
Representative Sarah Vance

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

PRESENTATION(S): Impacts of Law & Policy on Alaska Native Villages and Alaska Native Victims

- HEARD

Alaska Tribal Child Welfare Compact

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

TAMI TRUETT JERUE, Executive Director  
Alaska Native Women's Resource Center  
Fairbanks, Alaska

**POSITION STATEMENT:** Presented on the impacts of law and policy on Alaska Native villages and victims.

NICOLE BORROMEO, Executive Vice President & General Counsel  
Alaska Federation of Natives (AFN)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented on the Alaska Tribal Child Welfare Compact.

NATALIE NORBERG, Director  
Office of Children's Services (OCS)  
Alaska Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Presented on the Alaska Tribal Child Welfare Compact.

**ACTION NARRATIVE**

[8:08:01 AM](#)

**CHAIR TIFFANY ZULKOSKY** called the House Special Committee on Tribal Affairs meeting to order at 8:08 a.m. Representatives Talerico, Kopp, Lincoln, Ortiz, and Zulkosky were present at the call to order. Representatives Edgmon and Vance arrived as the meeting was in progress.

**PRESENTATION(S): Impacts of Law & Policy on Alaska Native Villages and Alaska Native Victims**

[8:08:56 AM](#)

CHAIR ZULKOSKY announced that the first order of business would be a presentation on tribal law and jurisdiction.

[8:09:14 AM](#)

TAMI TRUETT JERUE, Executive Director, Alaska Native Women's Resource Center, began a PowerPoint presentation [hard copy included in the committee packet] titled "Impacts of Law & Policy on Alaska Native Villages and Alaska Native Victims." She introduced herself and described her educational credentials. She identified herself as a resident of the Village of Anvik and said she has worked as a tribal administrator, social worker, and in other capacities in Anvik for over 27 years. She said her husband was the tribal chief for over 27 years. She described his firsthand experience responding to various and constant crises, such as search and rescue operations, children in need, and sudden and suspicious deaths. She described her role in facilitating these responses and opening her home to people in need. She said all those experiences have contributed to the presentation she is giving today. She addressed two images on page 1 of the slideshow, the first an old photograph portraying grandmothers standing on a hill and the second a recent photograph portraying five children who are direct descendants of the grandmothers. She noted that

both photographs were taken on the same river. She said, "The direct correlation of the land, the people, and the community is extremely strong." She stated that it is important to note when discussing tribal affairs or tribal authority that "their ancestors have meaning."

MS. JERUE addressed slide 2, which featured a language map of indigenous languages in Alaska. She said Alaska has 229 of the nation's 573 federally recognized tribes, amounting to over 40 percent. She commented on the breadth of tribal experience contained in Alaska and opined that it is something of which Alaskans can be proud. She remarked that the language map reflects distinct language groups with distinct cultures and ways of life. She commented that, even though similarities exist, it is important to be aware and careful in acknowledging differences.

[8:13:29 AM](#)

MS. JERUE addressed slide 3. She explained that the rate of violence against Alaska Native women is much higher than the rate of violence in the United States as a whole. She shared that she has 40 years of experience working in the field of domestic violence and sexual assault. She spoke to the tepid degree with which Alaskans have grappled with high violence rates.

MS. JERUE addressed slide 4, titled "Principles of Sovereignty." She mused on the idea of sovereignty and compared tribal sovereignty to the sovereignties of the United States of America and the State of Alaska (SOA). She said the idea of inherent sovereignty applies to tribes, explaining that sovereignty is not given, rather it is part of the identity of the group of people. She listed additional sovereign principles: Health, safety, and political integrity, as well as community health and survival. She spoke again to high rates of violence. She said SOA has unfortunately not adequately met the needs of Alaska's tribal system. She said "immediate and local response" is another principle of sovereignty. She opined that tribes must practice self-responsibility in order to keep their citizens accountable. She listed additional sovereign principles: Self-determination and safety, children and culture, traditions, and language. She remarked that when considering language, one must look beyond the mere speaking of the language. She explained that language is closely tied to identity. She also described the often-intricate ways of understanding tied to languages and noted that some languages contain meanings that are different

than those found in English. She commented that language can be tied into a sovereign or cultural belief system.

[8:16:35 AM](#)

MS. JERUE addressed slide 5 and spoke to the issue of jurisdiction in Alaska. She said Public Law 280 [passed by the United States Congress in 1953] has major implications for tribal Alaska because it eliminates most - though not all - of the federal criminal jurisdiction in Indian Country. She noted that there is federal jurisdiction in Indian Country for felony offenses. She said Public Law 280 authorized states to apply their statewide criminal laws in Indian Country to Indians and non-Indians. She said it opened state courts to private suits against Indians arising out of Indian Country. She said it also authorized states - not tribes - to retrocede their jurisdiction to the federal government.

MS. JERUE addressed slide 6. She restated some of the effects of Public Law 280.

MS. JERUE addressed slide 7. She explained that Public Law 280 did not authorize states to exercise jurisdiction over trust lands nor over federally protected hunting and fishing rights. She added that it did not eliminate preexisting tribal jurisdiction. She disclosed that she does not have a legal background but stressed that these are "the facts from the law."

[8:19:35 AM](#)

MS. JERUE addressed slide 8. She said the concept of "Indian Country," defined under 18 U.S.C. § 1151, is problematic because 228 of Alaska's tribes are not federally designated as such. She explained that only the Metlakatla Indian Community is defined under federal law as "Indian Country." She restated that Public Law 280 impacts "Indian Country." She referenced *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998), which she said, "changed the designation in Alaska for any Indian Country." She stated that the Alaska Native Claims Settlement Act (ANCSA) changed things in Alaska. She remarked that most Native lands in Alaska do not constitute "Indian Country," therefore Public Law 280 is largely irrelevant in Alaska, apart from allotments and trust land. She commented that this information informs discussions about jurisdiction.

MS. JERUE addressed slide 9. She said concurrent jurisdiction is "the one thing that did stay in place." She stated that the

SOA has concurrent jurisdiction over most matters that arise in tribal villages. She defined concurrent jurisdiction as a scenario in which more than one sovereign entity holds power. She noted that this does not mean that the village power is any less than SOA's power, though opined that this "is not necessarily true." She mentioned that she has a great deal of respect for the Division of Alaska State Troopers (AST) and voiced some of the challenges faced by AST when policing rural areas. She said she also has respect for the Village Police Officer (VPO) and Tribal Police Officer (TPO) programs, as well as other police officers. She spoke to the importance of having a swift and effective police response. She argued that it is difficult to work toward justice in tribal courts and/or state courts when such response is insufficient.

[8:22:29 AM](#)

MS. JERUE addressed slide 10. She said it is important to state that Public Law 280 did not eliminate pre-existing tribal jurisdiction. She noted that tribal courts have exercised authority over people and places for thousands of years, and they can still assert their authority over their members and internal matters. She spoke to the importance of understanding that tribal courts have authority over their members. She said that authority does not currently manifest itself "because of those other laws that eliminated the 'Indian Country' designation over a land base." She reiterated that this can be problematic, especially as relates to "lawless" communities. She used Anvik as an example, noted that there was a law enforcement figure present for only 5 of the 27 years during which her husband served as tribal chief. She spoke to the short tenures of Village Public Safety Officers (VPSOs) and the infrequent presence of TPOs. She stated that law enforcement officials from the Aniak AST post often had to respond to incident in Anvik. She noted that the Aniak AST post was itself supervised by the Bethel AST post. She remarked that immediate law enforcement response was infrequent during times of need. She identified this is a major issue, arguing that there needs to be some sort of response. She said that when things happen, the most immediate respondent was some sort of trusted community figure.

MS. JERUE addressed slide 11, titled "Unique Circumstance in Alaska." She said the United States Supreme Court decision in the Venetie case tied the hands of many tribal jurisdictions. She said there are "a lot of differing opinions" on ANCSA. She referenced the Alaska National Interest Lands Conservation Act

(ANILCA). She said the remote location of many Alaskan communities creates challenges. She opined that more creative solutions are necessary for helping rural citizens.

[8:25:38 AM](#)

MS. JERUE addressed slide 12, which featured various photographs of transportation devices, including an airplane, snowmobile, all-terrain vehicle (ATV), dog sled, and small boat. She said these photographs illustrate the isolation of rural villages and how residents travel. She said she believes in tribal and local community response. She opined that a community knows what it needs. She said identifying needs is critical for holding people accountable. She spoke to the challenge of holding people accountable when there is no law enforcement presence over a long stretch of time. She noted that prosecutors are unable to move forward without adequate evidence, so offenders are not often held accountable. She said communities would operate more smoothly if there were a local tribal authority willing to step in and hold citizens to a high standard. She said she advocates for community accountability and response.

MS. JERUE stressed that tribal courts need resources to effectively facilitate systems of accountability and response. She said the high levels of victimization in Alaska - especially in tribal communities - are linked to resource disparities. She stressed that "resources" is more than just funding; it includes staffing, training, and vehicles for enforcing both state and tribal codes. She spoke to the importance of understanding where state and tribal codes intersect and where they differ. She stressed the importance of responsible partnerships in securing funds and understanding a community's needs. She relayed tribal leaders' complaints about the lack of respect for longstanding tribal jurisdiction/sovereignty and insufficient levels of response from law enforcement in support of tribal courts. She referenced a question asked by Representative Edgmon at a previous hearing about whether drugs and alcohol create "most of the problems." She remarked that drugs and alcohol are a huge problem in rural Alaska, but the roots of the problem are much deeper than just those substances. She said drugs and alcohol are a symptom of a larger problem. She reiterated the need for resources in helping tribes establish healing services in their communities.

[8:29:55 AM](#)

REPRESENTATIVE LINCOLN asked if Public Law 280 offered any opportunities for tribes to receive federal funding for law enforcement.

MS. JERUE answered yes but said it is complicated. She said law enforcement funding usually comes from the Bureau of Indian Affairs (BIA) and the Office of Community Oriented Policing Services (COPS) under the federal Department of Justice (DOJ). She said jurisdictional issues that arose from Public Law 280 has rendered BIA unable to fund law enforcement positions in Alaska. She noted that United States Senator Ted Stevens had worked to enable tribes to accept COPS funds to hire TPOs. She stated that TPOs must abide by tribal code, but said issues arise when tribal code does not align with state code. She commented that there is a lack of training for COPS-funded positions. She mentioned that AST conducts a two-week training course for TPOs. She called the training "very minimal." She shared that other tribes in Alaska have attempted to get their TPOs admitted to the United States Indian Police Academy operated by BIA in Arizona. She said roadblocks stemming from Public Law 280 mean that "the only real overlap that has been available" is under the Violence Against Women Act (VAWA). She said VAWA contains provisions that allow any protective order issued through a tribe to be administered through any law enforcement agency within the vicinity, including AST, TPOs, VPSOs, and federal officers. She reiterated that she believes the problems relating to law enforcement stem from issues pertaining to "Indian Country" designation, lack of training, lack of opportunity, and confusion relating to enforcement of multiple codes.

[8:33:03 AM](#)

CHAIR ZULKOSKY thanked Ms. Jerue for her dedication to Alaskan tribes and for her testimony.

MS. JERUE thanked the committee for allowing her to speak.

### **Alaska Tribal Child Welfare Compact**

[8:33:20 AM](#)

CHAIR ZULKOSKY announced that the final order of business would be a presentation on the Alaska Tribal Child Welfare Compact.

[8:33:45 AM](#)

NICOLE BORROMEO, Executive Vice President & General Counsel, Alaska Federation of Natives (AFN), said AFN is the oldest and largest statewide native organization in Alaska. She added that AFN was established over 50 years ago as an umbrella organization to ensure a fair and just settlement of land claims. She said AFN continues to work on issues of mutual importance to the entire Alaska Native community. She noted that she grew up in McGrath located on the Kuskokwim River. She added that she holds a law degree from the University of Washington. She said she is most proud of graduating from Mount Edgecumbe High School (MEHS) in Sitka. She identified herself as a product of the public-school system who attended the University of Alaska Anchorage (UAA). She said she is licensed to practice law in Alaska, Hawai'i, Washington, and on the Tulalip Reservation.

[8:34:45 AM](#)

NATALIE NORBERG, Director, Office of Children's Services (OCS), Alaska Department of Health and Social Services (DHSS), said she was born and raised in Southeast Alaska. She stated that it is a privilege to serve Alaska in her current position. She introduced a video that she said would provide an overview of the Alaska Tribal Child Welfare Compact.

[8:35:22 AM](#)

The committee took an at-ease from 8:35 a.m. to 8:36 a.m.

[8:36:33 AM](#)

MS. NORBERG played a video featuring various people speaking about the Alaska Tribal Child Welfare Compact. The video opened with an interview with Ms. Borromeo, who said the following:

It is time. Our children deserve this. This compact is for them. It's going to change the trajectory of our future. We'll be able to pinpoint this moment in time 15 years from now, 10 years from now, and say, "This is when it changed. This is when we took control of our own destiny and started to rewrite how our history is going to unfold."

The video then shifted to an interview with Will Mayo, the Board Co-Chair of AFN, who said the following:

There are many things in the history of the Native people and the tribal community that sent a message to us that, as we grew up, that our communities - our governments - were not important. And as we moved into adulthood, we struggled with that, and feeling like we have a place in our own homeland, so to speak, in our own traditional land and cultures. Advances like this, and having people acknowledge and recognize our authority and our place, to me, it gives me a sense of coming home, of having a home. And then there's a freedom that comes. There's a lifting of a burden that comes when important steps like this are made.

The video ran footage of the compact deliberations from 2017.

The video then shifted to an interview with Valerie Davidson, then-Commissioner of DHSS, who said the following:

I think a lot of the emotion in that room was really about generations of people telling Alaska Native people and Alaska Native leadership that who we were as people wasn't enough. And that's just not true. And I think it was a recognition of the fact that, in our communities, if we have our tradition, if we have our culture, if we have our language, we have enough. We have what it takes to keep our children strong and safe.

The video then shifted to an interview with Kristie Swanson of OCS, who said the following:

We've been trying to think of ways to have the tribes be able to provide the services that they have the inherent right to do so. They have their sovereign nations and this compact provides the opportunity to do just that, to provide services to their children and families within their home communities.

The video then shifted to an interview with Vivian Korthuis, CEO of the Association of Village Council Presidents, who said the following:

Tribes and tribal organizations will always act in the best interest of the tribe. Our tribes are made up of families, extended families, large extended families. So, it's our obligation as leaders to create the

framework in which to move forward anything, including compacting, as a tool to ensure that our communities are strong. That's really what it means.

The video then shifted to an interview with Christy Lawton, then-Director of OCS, who said the following:

We know that Alaska Natives are disproportionately represented when they come into foster care and then as they go through the foster care system, their outcomes are worse than their non-native counterparts. So, we believe that kids will do better when they're served closest to home, and particularly if they're served by their own tribe or tribal organization. Those families are going to be far more receptive to engagement and to working through those really difficult issues, than they are with the state.

The video then shifted to an interview with Francine Eddy-Jones, Director of Tribal Family & Youth Services for Central Council Tlingit and Haida, who said the following:

What the compact, in my opinion, does, is it really empowers tribes to exercise their ability to develop and implement culturally relevant services that really truly meets the needs of our children and families, and really impact how we provide the services.

The video shifted back to Valerie Davidson, who said the following:

The Alaska Tribal Child Welfare Compact is a recognition that Alaska Native culture keeps Alaska Native children safe. This historic agreement, really the first of its kind in the United States, is an agreement between the State of Alaska and Alaska tribes that recognizes the authority of tribes to provide child welfare services in their communities.

The video then shifted to an interview with Karen Forrest, then-Deputy Commissioner of DHSS, who said the following:

This agreement strengthens all Alaskan families because it gives us the opportunity to work more closely with our partners to provide services for kids all across Alaska. And the other thing that this does is it sets a framework for government to government

agreements with tribes going forward into the future for other potential services besides child welfare services.

The video then shifted to an interview with Myron and Agnes Naneng, who are foster parents. Mr. Naneng said the following:

I think it's a step in the right direction. Our culture, before we are even at the state or the federal government involved in our lives, the villages worked hard to help support other families. We've gone through times of famine and times of abundance, but whenever they have an abundance, they share it with the families in need. And they looked out for each other. So, I think, in essence, becoming a foster parent is just like going to that culture for your other fellow men, and especially children that are in need.

The video then returned to the interview with Ms. Borromeo, who said the following:

So, having our children be in that environment where they have regular access to their elders and to their culture so that one day, they can be the elder and hand down our cultures and traditions to the next generation is vitally important to the native community.

An unnamed narrator then said the following:

Our culture is the heartbeat of our people. It's what guides us and connects us. Our children deserve better and we can do better.

[8:43:55 AM](#)

CHAIR ZULKOSKY shared that seeing images of home in the video made her slightly homesick.

[8:44:04 AM](#)

MS. NORBERG began a PowerPoint presentation [hard copy included in committee packet] and addressed slide 2. She provided an overview of the Indian Child Welfare Act (ICWA) of 1978, which she called a major piece of federal legislation that governs the work done in Alaska relating to child welfare. She stated that

ICWA recognized and responded to the fact that many American Indian and Alaska Native children were being taken into state custody and adopted by Caucasian families. She said those children were being forever lost to their tribes. She summarized the situation as "tribal children being taken away from their tribal nations, and there was nothing the tribes could do about it." She stated that ICWA, which sought to correct the situation, provides for additional oversight, special conditions, and scrutiny related to Alaska Native and American Indian child cases handled by the state child welfare systems. She said ICWA provides special protections for "Indian children," defined as children who are enrolled or eligible for enrollment in a tribe. She added that ICWA specifically allows tribes to enter as a legal party in a child welfare case, permitting them to express their interest in the case separate from the interests of the parent and child.

[8:45:50 AM](#)

MS. NORBERG addressed slide 3. She said ICWA requires "active efforts" on a case. She explained that, several years ago, the federal government finally provided regulations and guidance to define "active efforts." She said that, in Alaska, "active efforts" means that services must be provided to families, included extended families, to try to keep children within their biological families and tribal communities. She stated that case planning must involve as many family and tribe members as possible. She added that services are to be provided in a manner that is culturally consistent.

MS. NORBERG addressed slide 4. She said another provision of ICWA is the requirement for a hierarchy of placement preferences. She explained that states are held to this requirement to ensure that foster children are placed as follows, in decreasing order of preference: with a family member, in a licensed home approved or licensed by the tribe, in an Indian foster home approved by the tribe, or in an institution that has been approved by the tribe. She added that, in adoptive situations, ICWA establishes a hierarchy under which the primary preference is adoption by a member of the child's extended family. She said the secondary preference is adoption by another member of the child's tribe and the tertiary preference is adoption by another Indian family.

[8:47:44 AM](#)

MS. NORBERG addressed slide 5. She said the Alaska Tribal Child Welfare Compact came about because of an understanding that, even with the passage of ICWA, there are still significant disparities in Alaska's child welfare system for Alaska Native children. She stated that Alaska Native children make up about 23 percent of the child population in Alaska yet make up 64 percent of the children in foster care. She added that, once they enter into the foster care system, those children's outcomes tend to be worse. As an example, she shared that 17 percent of Alaska Native children experienced repeated maltreatment in 2018. She compared that figure to the 9 percent figure for non-Native children in Alaska. She added that the national average is 6.8 percent. She commented that Alaska faces real problems related to maltreatment and repeated maltreatment.

MS. NORBERG addressed slide 6. She said the work to address these problems did not begin with the Alaska Tribal Child Welfare Compact. She commented on long-term relationships and collaborative work between OCS and tribal partners, noting that the work has been ongoing for nearly 25 years. She said the work started when tribes were able to draw down federal funds for child welfare services through Tribal Title IV-E. She remarked that there are 11 tribes and tribal entities in Alaska that currently have "pass through" agreements to draw down federal funds. She explained that Tribal Title IV-E is the major federal funding source for child welfare. She said tribal entities can leverage Tribal Title IV-E to build their own child welfare systems through funds for training, case management, and support services for families in SOA's child welfare system. She explained that OCS and its partners from tribes with existing child welfare programs have worked to develop strategies to address disproportionality and to ensure SOA's compliance with ICWA.

[8:50:34 AM](#)

MS. BORROMEO addressed slide 7. She said the Constitution of the United States of America grants plenary power over Indian Affairs to the United States Congress. She explained that this gives the federal government exclusive rights to enter into agreements with tribes. She added, "They have extended that to states as well." She continued, "As a basic principle, a compact is established on sovereignty of federally recognized Indian tribes." She said tribes have inherent authority to provide for the health, safety, and welfare of their members, as well as individuals who are eligible for membership in the

tribe. She commented that the compacting model arose during the self-determination and self-governance era that began in the 1960s. She remarked that federal Indian law and policy has had many different eras, including some she described as "darker times." She characterized the current era as one of self-determination and self-governance, in which the federal government endeavors to strengthen the inherent governance authority of tribes. She referenced the section of the video in which Ms. Davidson spoke about the compacting model and called the Alaska Tribal Child Welfare Compact a "first of its kind" agreement for SOA. She said SOA is "really on the edge of law and policy in negotiating a compact of this nature at the state level." She commented that no other state has done something like it. She expressed pride in the work that went into the compact. She stressed the importance of knowing the difference between a compact and a grant. She said the compact is not contingent on the tribes performing specific services. She described the 10-month negotiation phase that shaped the compact and noted that it was drafted jointly between DHSS representatives and tribal cosigners.

[8:53:12 AM](#)

REPRESENTATIVE LINCOLN asked how eligibility for tribal membership is determined. He referenced what had been said about tribes having authority over their members and "individuals eligible for membership."

MS. BORROMEO said eligibility is determined at the tribal level. She stated that all tribes are their own independent sovereign entities. As an example, she said a tribe in Kotzebue could not determine eligibility for a tribe from McGrath. She noted that in order to be considered an Indian for federal benefits, one must have a blood quantum of 25 percent or higher. She mentioned that some tribes have lowered that blood quantum for purposes of enrollment in their services. She said that is "perfectly permissible, but in order to be considered an Indian for political classification doctrine purposes, there is a blood quantum requirement."

[8:54:18 AM](#)

REPRESENTATIVE LINCOLN stated that the Native Village of Kotzebue accepts tribal members from different tribes and backgrounds. He noted that Noorvik Native Community welcomes people with no American Indian or Alaska Native blood to become members. He expressed confusion because there is a huge range

of membership policies across tribes. He asked, "For this purpose, you need to comply with the federal rules around the quarter blood quantum?"

MS. BORROMEO confirmed that "Indian" is defined in the compact through the federal definition found in ICWA. She said that is how "Indian child" is also defined. She stated that the compact recognizes how a tribal organization defines its service population, which "play[s] into the different services that they can provide." She noted that it is permissible for a child to be enrolled in two different tribes if the parents are from those different tribes and the tribes allow dual enrollment. She said not all tribes in Alaska allow dual enrollment. She added that some tribes require the parents to choose one tribe in which to enroll the child. She said the topic of non-Native enrollment is a gray area for many tribes. She stated that when a non-Native is adopted into a tribe, it is often for ceremonial purposes or for public recognition, and not necessarily for the delivery of services and programs.

[8:56:08 AM](#)

MS. BORROMEO addressed slide 8. She said the Alaska Tribal Child Welfare Compact, which seeks to enable tribes to deliver services previously rendered by OCS, accomplishes its goals through the Service Support Funding Agreement (SSFA). She characterized the compact as "an overarching umbrella agreement" between SOA and the different tribal cosigners." She said the compact contains 11 sections which cover a variety of topics. She touched on a few of them before highlighting Article Six, which she said covers the sharing of services and supports between SOA and tribal co-signers without the exchange of funds. She added that Article Seven discusses the different services to be assumed by the tribes upon agreement of an SSFA.

[8:57:25 AM](#)

REPRESENTATIVE EDGMON asked whether it would be beneficial to codify provisions of the compact into Alaska statute.

MS. BORROMEO answered "definitely." She explained that codifying a regulation or policy makes it stronger. She opined that there will be an opportunity to do that later. She noted that implementation of the compact has only recently begun. She said "some bugs" still need to be fixed. She repeated her remark about operating on the edge of law/policy and said, "We're not operating in an environment of perfection." She

stated that all compact cosigners committed at the outset to not allow perfection to be the enemy of good. She said she does not want to speak for SOA or any of the tribal cosigners but expressed that it might be too early to think about codifying the compact as is.

[8:58:39 AM](#)

MS. BORROMEO addressed slide 9, which featured a list of 18 tribal cosigners representing 161 tribes. She commented on the "incredible reach" the compact has across Alaska. She echoed earlier testimony by Ms. Jerue pertaining to the fact that approximately half of the nation's federally recognized tribes are in Alaska. She commented that the compact has the potential to shape the implementation of tribal welfare services in Indian Country across the nation. She noted that the compact has been decades in the making. She spoke to the broad participation of representatives from across Alaska in negotiating the agreement. She expressed her intention to recognize everyone who participated in the process. She discussed how tribal organizations were each allowed two representatives: a decision-maker and a subject matter expert.

[9:01:01 AM](#)

CHAIR ZULKOSKY asked for confirmation that the negotiations took 10 months.

MS. BORROMEO confirmed that negotiations over the 40-page compact occurred over a 10-month span. She noted that over 20 attorneys worked on drafting the compact. She said it was "a very collaborative effort." She recognized two attorneys she deemed "phenomenal": Carla Erickson and Stacie Kraly.

[9:01:33 AM](#)

MS. NORBERG addressed slide 10. She introduced the timeline for implementation of the compact. She said the compact was signed and went into effect in December 2017. She said fiscal year 2018 (FY 18) was spent developing the necessary infrastructure for implementation. She stated that this included the Initial Diligent Relative Search (IDRS) scope of work, which she explained means "the cosigners who signed on ... are searching for relatives for children who come into the foster care system." She noted that there are federal and state requirements mandating that all relatives be identified and notified within 30 days of a child coming into care. She

reiterated that the cosigners are doing that work for OCS. She added that the cosigners have direct access to OCS's online filing system, which means the data is being entered on OCS's behalf. "So," she continued, "when the work is done, it's done." She contrasted this with a system in which an OCS case worker would be required to input the information.

[9:03:09 AM](#)

CHAIR ZULKOSKY asked for clarification on who has direct access to the online filing system.

MS. NORBERG confirmed that the tribes have access to the system.

MS. BORROMEO clarified that the tribal cosigners and tribes are not able "to just log on to the state system." She noted that there are confidentiality agreements in place, as well as other means to secure private information.

[9:03:38 AM](#)

MS. NORBERG confirmed that confidentiality agreements are part of the compact. She addressed slide 11 and reiterated that the compact is an overarching document. She relayed that OCS has been busy working on various scopes of work under the compact. She noted that OCS implemented IDRS during FY 19. She said there are two more scopes ready to go and shared that she anticipates them being activated soon. She said that, if OCS is allowed to move forward with the compact in FY20, it will implement two additional scopes of work.

[9:04:37 AM](#)

REPRESENTATIVE EDGMON noted that she said, "If we're allowed to continue with the compact ...". He asked for elaboration.

MS. NORBERG stated that the Office of the Governor is still evaluating the compact. She said OCS is moving forward with anticipation and is "cautiously optimistic," but an ultimate decision has not been made.

REPRESENTATIVE EDGMON asked for greater clarity on the timeline. He asked if there is a certain point in time after which the compact may be nullified.

MS. NORBERG said there are negotiation meetings scheduled for mid-May. She expressed hopefulness that those meetings will be

able to continue. She added, "Other than that, I don't know that we have a timeline."

MS. BORROMEO stated that the last round of scopes is effective through the end of FY 19. She said if new scopes of work are not started for FY 20, then a winddown process would need to begin. She said the compact specifies how that would happen and that "it won't be an overnight type of thing." She clarified that the programs would not be transferred immediately back to the state on July 2, because that would not be in the best interest of the tribes or the children they are serving. She restated that the winddown process would have to begin if the Office of the Governor does not decide on the continuation of the compact.

[9:06:32 AM](#)

CHAIR ZULKOSKY commented that, as tribes begin to assume collaborative work in partnership with SOA, it is important for SOA to provide resources. She asked about SOA funding authorized through FY 19 and what it supports.

MS. BORROMEO stated that her understanding is that the funds for the compact, which she clarified are "very minimal," are currently available. She said, "It's more of a policy decision for the governor at this time."

[9:07:46 AM](#)

REPRESENTATIVE EDGMON said that "the exercise" is essentially ministerial. He postulated that the decision whether to continue the compact need not involve the input of the cosigners or Department of Law (DOL).

MS. BORROMEO said that is correct.

[9:08:12 AM](#)

REPRESENTATIVE KOPP reflected on the statistic that there are 1,900 Alaska Native youths in SOA custody. He asked if the compact is supported by enough resources within the tribal community to support all 1,900 children. He mused that foster parents can be hard to recruit. He asked about the system capacity to effectively carry out the compact.

MS. BORROMEO said the short answer to that question is "no." She said there is currently not adequate capacity in terms of

labor and financing for tribes and tribal organizations that have signed onto the compact to fully assume the work. She stated that much more funding is necessary. She commented on Article Seven of the compact, which she said covers the most important services for tribes and tribal organizations "to take on initially." She said those responsibilities include decisions on protective services reports, initial assessments, diligent relative searches and ICWA preference searches, in-home case management, safety evaluations of unlicensed relatives, initial licensing, renewal and support, out-of-home case management, case worker visits, family contact, transportation, and adoption and guardianship home studies. She called the list "very expansive" and noted that more SOA resources will be needed. She said that, through the Title IV-E program, tribes "draw down" at a much higher rate than the state does when it comes to federal reimbursement. She continued, "So, our foster care and our child welfare system is primarily funded through Title IV-E and when the state is reimbursed, they are only reimbursed at [approximately 30 percent]."

MS. NORBERG said tribal reimbursements vary tribe to tribe, but they are significantly more than 30 percent.

MS. BORROMEO said the approach prescribed in the compact would also be more cost-efficient and cost-effective for SOA in the long run. She added that there will need to be some dedication of SOA resources "in order for the tribes to leverage what they are already doing." She called the cosigners "masters" at leveraging resources amongst each other and resources from the federal government.

[9:11:22 AM](#)

REPRESENTATIVE KOPP remarked that it is clear the foster care system needs additional support. He asked about the decision-making process related to foster care under the compact when resources are insufficient

[9:12:08 AM](#)

MS. BORROMEO said it is not an option to not place a child who needs to be removed. She deferred to Ms. Norberg.

MS. NORBERG said the decision regarding placement [of a child] must happen immediately. She stated that OCS attempts to immediately notify the child's tribe when it is investigating a case, allowing the tribe to aid in identifying potential

relatives. She said that when a relative cannot immediately be found, the child is placed in "stranger" foster care with an intention to continue the search for a relative to take the child until the end of the case.

[9:13:14 AM](#)

MS. BORROMEO continued her presentation and noted that a cosigner is not obligated to assume a scope of work if the tribe or tribal council determines it is unable to do so. She said there are different mechanisms to reroute or return funds that had been previously earmarked for a tribe that decides not to assume a scope of work.

[9:14:04 AM](#)

MS. BORROMEO addressed slide 12. She said one successful way to leverage resources is through public-private partnerships. She recognized Casey Family Programs (CFP), which she described as a national organization focused on child welfare and foster care. She said CFP has had a dedicated presence in Alaska for about 20 years. She stated that CFP provided seed money to assist the compact negotiation process. She said it has continued to support the process with technical assistance and financial giving. She added that CFP has helped ensure that national best practices are incorporated in the compact. She restated the goal of leveraging existing resources to streamline funding from SOA and other entities into grassroots services for Alaska children.

[9:15:14 AM](#)

REPRESENTATIVE EDGMON asked for further clarification of "streamlining funding" and OCS's role in the future, assuming the compact remains intact.

MS. BORROMEO clarified that the intention is to expedite and strengthen the work of regional child welfare workers. She explained that it is easier for the tribe or someone working on behalf of the tribe to identify close family members. She said that is one example of how resources can be saved. She said another example is transportation costs that would be saved by avoiding long distance travel to smaller villages. Instead, she explained, OCS could contact a cosigner and request that tribal representatives perform an assessment.

[9:16:47 AM](#)

REPRESENTATIVE EDGMON said one cannot help but be in awe at the potential significance of the compact. He recognized how overworked OCS workers are and the restrictions that workload places on their abilities. He said the potential of the compact is larger than can be realized today.

MR. BORROMEO concurred. She said the compact has the potential to improve the prospects of Alaska Native children. She recognized that SOA is in a difficult position regarding budgeting and revenue, but shared hope that members of both legislative bodies can be made to understand the value of the compact. She said the resources requested are not exorbitant, but some funding is necessary to achieve the compact's potential.

[9:18:21 AM](#)

REPRESENTATIVE KOPP stated that he finds the Alaska Tribal Child Welfare Compact exciting because of its relevance to state tribal education compacts, which he said he is committed to pursuing. He shared hope that the Alaska Tribal Child Welfare Compact can be a successful model to follow. He said the education compacts are also about taking care of Alaska's children, especially Alaska Native children.

[9:19:16 AM](#)

MS. BORROMEO addressed slide 13. She shared her long-term vision for Alaska and expressed an intention for Alaska's children to be served as close to home as possible. She compared tribal services to local services. She noted that tribal governments are effectively the only local governments in many small villages, as the official local governments do not have the resources to serve their populations. She remarked that the compact is a matter of local control. She restated that the goal is for services to be delivered in the most cost-effective and cost-efficient manner. She shared that the tribes and tribal organizations intend to supplement the work of OCS, and vice-versa. She said she wants to see an end to repetitive abusive behaviors within Alaska. She reflected on statistics presented earlier relating to the high rates of maltreatment among Alaska Native children. She said she wants to see improvements in the outcomes of all Alaskan children. She thanked the committee members and expressed the pride she and Ms. Norberg feel to do the work they do.

[9:21:11 AM](#)

REPRESENTATIVE VANCE passed along a question from a constituent. She asked about the correlation between the high percentage of Alaska Natives in the prison system and the high rates of maltreatment of Alaska Native children in foster care. She shared that the compact gives her hope that the problem can be addressed at the source.

MS. BORROMEO affirmed that those issues are related. She shared her anecdotal knowledge about the links between difficult upbringings and dysfunctional adulthoods. She relayed an analogy posed by Senator Cathy Giessel which compared the compact to a personal floatation device. She discussed the future of the child welfare system in Alaska, explaining that tribes and tribal organizations want to prioritize prevention over intervention. She noted that the current system is more focused on intervention because that is what is currently needed. She expressed hope that the future of the system will allow for opportunities to keep families intact. She called poverty "the elephant in the room" and mused on the major quality-of-life disparity between rural Alaska and urban Alaska.

[9:23:36 AM](#)

CHAIR ZULKOSKY asked Ms. Norberg if additional agreements have been developed in the wake of the groundbreaking working done on the Alaska Tribal Child Welfare Compact.

MS. NORBERG stated she is not aware of other agreements but said she could research it.

CHAIR ZULKOSKY said she asked because she knows the Norton Sound region has been "very involved in this work as well." She mentioned the advocacy done by Kawerak, Inc. She expressed that the committee would like to hear about any additional productive models based on the work done on the compact.

[9:24:46 AM](#)

MS. BORROMEO said discussions with SOA have begun on possible compacts related to education and corrections. She noted that education negotiations would be different, as those would also involve school boards and parents. She added that she would be remiss if she did not recognize the work done by the First Alaskans Institute (FAI). She recognized Liz Medicine Crow,

president and CEO of FAI for her contributions to the negotiation process.

MS. NORBERG concurred on the importance of recognizing those contributors.

[9:26:18 AM](#)

CHAIR ZULKOSKY thanked the two presenters for the presentation. She said one focus of the committee has been to explore compacting opportunities on a shared foundation of knowledge. She reflected on discussions from previous committee hearings about compacting and improved contracting/consultation within state government. She discussed the broad spectrum of relationship-building opportunities. She concurred with the assertion that the signing of the Alaska Tribal Child Welfare Compact was a historical moment. She said she wants the committee to recognize that. She praised the compact and those who participated in its development. She spoke to the importance of finding transformational solutions and said she looks forward to future conversations on areas of opportunity.

[9:28:43 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Tribal Affairs meeting was adjourned at 9:28 a.m.