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United States Senate

COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-6450

MIKE ANDREWS, MAJORITY STAFF DIRECTOR
JENNIFER ROMERO, MINORITY STAFF DIRECTOR

March 4, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
330 C St. SW
Washington, DC 20416

Dear Secretary Azar,

The Senate Committee on Indian Affairs, as the Committee of jurisdiction charged with oversight of the Indian Health Service (IHS), requests you provide an unredacted copy of the internal audit report on the IHS management response to former IHS pediatrician Stanley Patrick Weber's patient abuse compiled by Integritas Creative Solutions, LLC, within seven business days.

The Department of Health and Human Services (HHS) and IHS leadership have committed repeatedly to full transparency, openness, and accountability regarding all issues related to IHS patients abuse generally and Weber's abuse of minor IHS patients specifically.¹ However, recent decisions made by HHS regarding the disclosure of the referenced Integritas report appear to contradict those commitments.

The Committee requested you provide a full unredacted copy of the report on February 21, 2020.² Three days later, citing the sensitive nature of the report, HHS Deputy Assistant Secretary for Legislation Traci Vitek informed both Majority and Minority Committee staffs that the Department would only make the report available for in-camera inspection at your agency offices, "with limited redactions (personal identifiers and attorney/client privilege information)," for a set amount of time on the condition that such review be "read only" and that no notes be taken.^{3,4}

There is no legal basis for the IHS to withhold or limit access to its unredacted findings from review by the congressional committee of jurisdiction.⁵ As a coequal branch of government, we expect full

¹ E.g., Nomination of RADM Michael D. Weahkee to Serve as Director of the Indian Health Service, U.S. Dep't of Health and Human Services Before the S. Comm. on Indian Affairs, 116th Cong. 24 (2019) (statement of RADM Michael D. Weahkee); E-mail from Jonathan Osborne, Legislative Analyst, Office of the Assistant Secretary for Legislation, U.S. Dep't of Health and Human Services (Jan. 31, 2020, 09:44 EST) (on file with Comm.).

² Letter from Sen. John Hoeven, Chairman, S. Comm. on Indian Affairs, to Alex Azar, Sec'y, U.S. Dep't of Health and Human Services, (Feb. 21, 2020) (on file with Comm.).

³ E-mail from Traci Vitek, Deputy Asst. Sec'y for Legislation, Office of the Asst. Sec'y for Legislation, U.S. Dep't of Health and Human Services to Jennifer Romero, Staff Director, Office of the Vice Chair, S. Comm. on Indian Affairs, and Mike Andrews, Staff Director, Office of the Chair, S. Comm. on Indian Affairs (Feb. 24, 2020, 14:14 EST) (on file with Comm.).

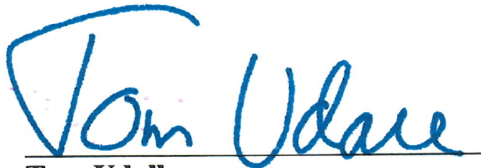
⁴ On behalf of Vice Chairman Udall, Minority Staff Director Romero agreed to the in-camera review noting the Vice Chairman's objection to the limitations and reserving the right to review the unredacted audit in full.

⁵ The law cited by IHS as the basis for its refusal to provide full disclosure, 25 U.S.C. 1675, relating to medical quality assurance records is inapposite; the audit is no such a record. But even if it were, that law specifically provides that "Nothing in this section shall be construed as authority to withhold any medical quality assurance record of either House of Congress, any joint committee of Congress, or the Government Accountability Office if

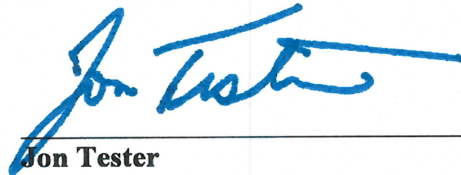
transparency from your Department and the agency regarding this report and on all instances of patient abuse. HHS and IHS must uphold their commitment to transparency on the Weber incident and issues of patient abuse.

Please direct any questions to Please direct any questions to Jennifer Romero, Minority Staff Director and Chief Counsel, at Jennifer_romero@indian.senate.gov.

Sincerely,



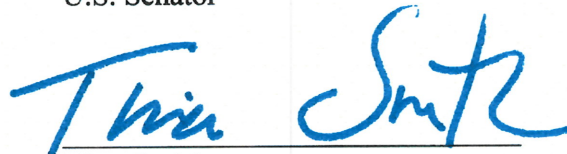
Tom Udall
U.S. Senator



Jon Tester
U.S. Senator



Catherine Cortez Masto
U.S. Senator



Tina Smith
U.S. Senator

record of either House of Congress, any joint committee of Congress, or the Government Accountability Office if such record pertains to any matter within their respective jurisdictions." 25 U.S.C. 1675 (e)(2). What's more, the Supreme Court has held that Congress' power of inquiry is "as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution," *Barenblatt v. United States*, 360 U.S. 109, 111 (1959), and that its investigative powers are at their peak when the subject is abuse of maladministration within a government agency. *Watkins v. U.S.*, 354 U.S. 178, 187 (1957).