

Testimony of:
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Good morning Chairman Dorgan, Vice Chairman Barrasso, and other distinguished Members of the Committee. I am Gerald Roy, Deputy Inspector General for Investigations at the U.S. Department of Health & Human Services' (HHS) Office of Inspector General (OIG). I appreciate the opportunity to testify about OIG work relating to the Indian Health Service (IHS). I have the privilege of having with me today OIG Special Agent Curt Muller who has served in the Aberdeen area since 2000 and is familiar with many of the issues I expect will be raised at this hearing.

OIG is an independent, nonpartisan agency committed to protecting the integrity of more than 300 programs administered by HHS. We are the Nation's premiere health care fraud law enforcement agency, providing oversight to all agencies and programs of our vast Department.

OIG consists of five components: our offices of *Audit Services, Evaluation and Inspections, Counsel to the Inspector General, Management and Policy,* and *Investigations*, which I oversee. OIG has a significant body of work on IHS issues, which I am happy to submit for the record, but my testimony today is focused solely on the work of the Office of Investigations.

The Office of Investigations employs nearly 400 highly skilled special agents trained to conduct investigations of fraud and abuse related to HHS programs and operations. Our special agents utilize state of the art

technologies and effectuate a wide range of law enforcement actions including service of subpoenas and the execution of search and arrest warrants.

Our constituents are the American people and we work hard to ensure their money is not stolen or misspent. Thanks to the work of our dedicated professionals, over the past fiscal year OIG has opened over 1,700 investigations and obtained over 570 criminal convictions. OIG investigations also have resulted in over \$3 billion in expected criminal and civil recoveries.

Over the last 10 years, my office opened nearly 300 investigations related to, or affecting IHS. Many of these cases also involved allegations of Medicare or Medicaid fraud. In the course of these investigations, OIG has identified three general areas of vulnerability that threaten IHS. These areas are: (1) mismanagement, (2) employee misconduct, and (3) drug diversion.

I will now provide examples of investigative findings in each of these three areas.

Mismanagement

Our investigations have uncovered insufficient internal controls, lack of documentation relating to employee misconduct, and prohibited personnel practices, including hiring excluded individuals to provide items or services to Federal program beneficiaries. OIG protects beneficiaries and the integrity of Federal health care programs, including IHS, by excluding individuals for fraud and abuse violations, such as drug diversion and patient

abuse. IHS must be vigilant in ensuring that it does not hire excluded individuals. Otherwise, vulnerable patient populations may be put at risk, and Federal health care program funds could inappropriately pay for the salaries and services of excluded individuals.

In 2008, the Aberdeen Area personnel office identified two employees who were excluded by OIG from participation in federally funded health care programs. One of the employees was excluded based on a criminal conviction for embezzlement in 2001 that was the result of an investigation conducted by our special agents. While still excluded, this employee was subsequently rehired by the same department within the Aberdeen Area Office where she committed her illegal acts. The other employee was a nurse convicted of drug diversion charges.

During the course of this investigation, we discovered that IHS had no policy in place to verify employees and contractors against the List of Excluded Individuals and Entities. As a result, we recommended that IHS immediately review the names of all current employees and contractors against the excluded individuals and entities lists and issue exclusions guidance to employees. IHS agreed to implement OIG's recommendations.

Employee Misconduct

OIG investigations have resulted in numerous criminal convictions relating to employee misconduct. These investigations have focused on a variety of criminal violations, including conspiracy, health care fraud, and embezzlement. In 2005, we investigated allegations that an IHS employee unlawfully altered government medical records of IHS beneficiaries for

personal gain. The employee and co-conspirators replaced beneficiaries' names with their own on medical records and filed claims for payment to a private insurance company. Five individuals were indicted, including two IHS employees, who were charged with conspiracy and health care fraud. One employee was sentenced to 12 months in prison. The other, an IHS supervisor, was sentenced to 18 months in prison. They are jointly responsible for paying the insurance company over \$99,000 in restitution.

Drug Diversion

We have determined that IHS pharmacies are vulnerable to controlled substance abuses, including diversion and trafficking by employees, contract providers, and patients. In 2008, we investigated an allegation that a Sioux San pharmacy technician in Rapid City, South Dakota, stole large quantities of Vicodin and Tramadol. When questioned by our special agents, the employee admitted to stealing large quantities of narcotics from the IHS pharmacy, which she then sold on the street for cash. During a search of her home, our special agents found additional evidence of stolen narcotics. The employee pled guilty to a felony count of theft. During the course of our investigation, we discovered that the IHS pharmacy lacked effective security controls to prevent and detect drug diversion, such as security cameras and two-person inventory counts.

Conclusion

The work I have testified about today reflects OIG's serious commitment to ensuring the integrity of IHS programs. Our Sioux Falls office has significant expertise with these issues and dedicates over 30 percent of its workload to investigating fraud and abuse in IHS. Additionally, the

Inspector General serves on the Secretary's Intradepartmental Council on Native American Affairs and has personally toured Indian country. Through the dedicated efforts of OIG professionals, we will continue working to deter fraud, waste, and abuse within IHS and the tribal programs. Thank you for your support of this mission. I welcome any questions you may have.