Abandoned and Forgotten:

South Dakota's State Concealed Sexual Exploitation of Lakota Children
A New Special Report by the Lakota People's Law Project

For 12 years from 2001 to 2013, the State of South Dakota covered up a series of heinous criminal acts perpetrated against seven Native American foster children under its authority. Based on interviews and accounts from the people involved, our report describes the state's ongoing pattern of enabling the repeated sexual abuse and exploitation of Indian children. The story of these children and of the people who tried to help them, only to be prosecuted by the state and lose their jobs as a consequence, demands immediate action from law enforcement. Please contact us at ChildAdvocatesDefenseFund.com and LakotaLaw.org to find out how you can help.

LAW PROJECT
LAKOTA PEOPLE'S

CASE PERSPECTIVE

As a young attorney, what struck me the most about the Mette case was how the state systematically removed every person in the children's support system, placed the children back in the abusive home, sabotaged the cases and all to try and avoid being sued by the children, to manufacture a defense to my labor grievance, and to derail my campaign for Brown County State's Attorney.

First, the state got rid of me; the only prosecutor who actually cared about their safety and whom the children trusted. Then the state went after the children's attorney and coerced her with lies to abandon the children for fear the state would bring false charges against her. Then the state went after the children's psychologist and court appointed special advocate and had them removed based on lies. Then the state went after the judge presiding on the case and recused him. This left the children with only their biological sister and brother in law. The state went after them, too, and scared them so bad that they fled the state in fear. Once the children's entire support system was systematically destroyed, the state dismissed 22 felonies against the admitted child-rapist adoptive father. That still wasn't enough. The state needed to return the children to the adoptive mother to lessen the likelihood of, if not completely destroy, the children's lawsuit.

The one remaining obstacle in the state's path was the 11 felony child abuse charges pending against the adoptive mother. The state's solution to that major hurdle was to dismiss all her charges and publicly blame me, Shirley and Dr. Sippel. The state had to find a way to spin the dismissal of charges to avoid public outrage. The state accomplished the needed PR spin by bringing 15 false and malicious criminal charges against me and Shirley.

Brandon Taliaferro

Interview with the Lakota People's Law Project; March 1, 2013

TABLE OF CONTENTS

LAKOTA PEOPLE'S LAW PROJECT

Abandoned and Forgotten:

In what appears to be a common situation, the State of South Dakota placed Lakota children with a sexual predator from 2001 to 2013. The State not only systematically ignored please for help but prosecuted the child advocates Brandon Taliaferro and Shirley Schwab who tried to rescue the children.

In January of 2013 two professional child advocates in South Dakota - **Brandon Taliaferro**, a former assistant state's attorney for Brown County, and **Shirley Schwab**, a court-appointed special advocate - were exonerated from all criminal charges after state officials spent more than a year investigating and prosecuting them.

The State alleged that Taliaferro and Schwab encouraged four young Indian foster girls to lie to South Dakota courts about sexual abuse they were experiencing at home. The charges against the two included six felony counts of subornation of perjury, three felony counts of witness tampering, and two felony counts of conspiracy to commit perjury. Retired circuit court judge Gene Paul Kean determined the merits of the case so unworthy, he granted judgments of acquittal on all charges against Taliaferro and Schwab before the defendants could call a witness.

Shirley Schwab

Brandon Taliaferro

Despite that small victory, the story is tragic on many levels. The Lakota children, most of them siblings, had disclosed to authorities that their foster mother, Wendy Mette, knew that her husband, Richard Mette, physically and sexually abused them, including rape. Richard Mette pled guilty to raping one of the girls, a child under ten years old, and is currently serving a 15-year prison sentence. If the claims made by the girls about Mrs. Mette are true, she too should be held criminally liable. Rather than take the girls' abuse disclosures at face value, however, the State of South Dakota brought felony charges against Taliaferro and Schwab for "putting the girls up" to lying about Mrs. Mette.

All of the available evidence demonstrates that Wendy Mette did know about her husband's sex crimes and that she did nothing to stop those crimes. The evidence also shows that state officials knew she knew. So why did South Dakota try to destroy Taliaferro and Schwab, who were acting to protect the children? Why has the state now returned the foster children to the home of Wendy Mette, in which they were sexually molested for nearly a decade?

In the view of the **Lakota People's Law Project**—and in the view of both Brandon Taliaferro and Shirley Schwab[1]— the reason is that South Dakota was afraid its Department of Social Services (DSS) would be sued for turning a blind eye to the systematic abuse of seven helpless Lakota children over a ten-year period. The state tried to destroy the advocates for the children because they would make the strongest witnesses against the state in a potential civil lawsuit. The DSS returned the children to Wendy Mette because her home is an environment likely to deter the Indian girls from pressing civil rights charges against the DSS and their adoptive parents. As minors, the girls cannot bring suit against the DSS without the permission and support of their legal mother, Wendy Mette.

Why did South Dakota try to destroy Taliaferro and Schwab, who were acting to protect the children?

Why has the state now returned the foster children to the home of Wendy Mette, in which they were sexually molested for nearly a decade?

Returning the children to Wendy Mette has posed "imminent danger" to the children, according to Taliaferro,[2] since Mrs. Mette herself used to beat the children with shoes and other objects.[3]

The Beginning

Mrs. Mette was originally charged with 11 counts of felony child abuse in 2011, alongside her husband's 23 counts of physical/sexual abuse. The DSS has known of Mrs. Mette's questionable conduct since 2001.[4]

How could foster care in South Dakota for Indian children have gone so wrong?

[1] Taliaferro, Brandon & Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[2] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[3] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 87
[4] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013

Aberdeen is a sleepy, icy town in the northeast corner of South Dakota, population 26,000. Foster parents Richard and Gwendolyn (Wendy) Mette made Aberdeen their home and agreed to care for seven Lakota child siblings between 2000 and 2006.[5] Most of them were adopted by the Mettes. Four of these children are still minors and live with Wendy Mette today.

The sordid saga of child abuse in those often cruel confines began in 2001, when two male foster children complained to authorities about "inappropriate touching" and physical abuse by their foster parents.[6] DSS was also made aware that pornography was being left out in the open in the Mette home, where all the children could see it.[7] **Court Appointed Child Advocates** (CASA), the volunteer organization Shirley Schwab led at the time, was involved with the family in 2001, but DSS did not inform Schwab and her associates of the incident. DSS instead had the Mettes sign a contract pledging to discontinue any illegal behavior.[8] Shirley Schwab says:

> **"It is important to note that had we [CASA] been made aware of this referral and the serious nature of the report and contract, we would have immediately called for a hearing to present a report to the Court and Judge on record...it would be safe to say our recommendation would have been to remove all children from the Mette home and we certainly would have questioned any adoptions that ultimately took place after the 2001 referral."[9]**

Richard Mette

Despite the Mette's pledge to cease their abuse, they did not. In 2007 the DSS received another official referral. When police came to the home to investigate, one of the girls informed them that her foster father, Richard, liked to put her on his lap and touch her breasts.[10] The girl also said that she told her foster mother, Wendy, about it. Again, DSS allowed the children to remain in the home.[11] CASA and Schwab were not involved with the family at that time because the children had been adopted. Taliaferro was still a law student in 2007.[12]

Things came to a head in October 2010, when the only boy among the foster siblings at that time went to see a doctor at the Human Services Center in Yankton, South Dakota. The child, covered with bruises, disclosed abuse occurring in the home of Wendy and Richard Mette, including inappropriate touching of his sisters by their adoptive father.[13] The authorities were contacted right away. Taliaferro was the Assistant State's Attorney responsible for prosecuting both criminal child abuse cases and abuse and neglect cases on behalf of the state in Brown County where Aberdeen is located. He immediately took up the case.[14]

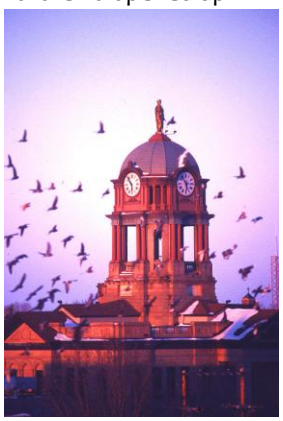
> **In November 2010, the police obtained search warrants for the Mette home and subsequently discovered *"enough pornography...to pack a store."***

Taliaferro called the police who launched an investigation. The police obtained search warrants for the Mette home and subsequently discovered "enough pornography… to pack a store," according to Taliaferro's attorney Michael Butler.[15] Some of the collection dealt with incest and contained titles like "Family Heat."[16] Police reports corroborated the earlier testimony of the two boys, confirming that pornography was located out in the open in every room where all the children could see it.[17]

---

[5] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[6] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 20
[7] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 35
[8] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 35
[9] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[10] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 32
[11] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[12] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[13] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 32
[14] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[15] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 34
[16] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 34
[17] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 34

Richard Mette was arrested in November 2010 and Wendy Mette was arrested in March 2011.[18] Taliaferro opened up a criminal investigation into the foster parents and assembled a multidisciplinary team to support the children. Taliaferro's team included the children's attorney, Kari Bartling (who took the case pro bono at the behest of the girls' older sister), a licensed child psychologist (Dr. Francine Sippel), court appointed special advocates, and law enforcement.[19]


Aberdeen Courthouse

An initial round of forensic interviews of the children was conducted by trained forensic interviewers and law enforcement in mid-October, 2010. In those recorded interviews the children revealed physical beatings and abuse by the Mettes.[20] Then, on October 25th, 2010, during a visit with a DSS worker, one of the girls started to cry and disclosed incidents of sexual abuse by Richard Mette. This led authorities to conduct a second forensic interview during which the young girl revealed that Richard Mette had raped her and committed other graphic sex crimes against her.[21] According to the child, one of her father's common practices was to offer her a choice between "a beating and giving him a blow job."[22] He liked to show her incest porn movies and then rape her afterwards.[23] He showed her incest pornography and raped her in the house and in the back of a van. In these interviews, the child did not disclose that Wendy Mette knew about the sexual exploitation. However, the young girl and the other children were still in Wendy Mette's custody. Once they were removed from Mrs. Mette and she was court-ordered not to contact them, all the children began describing their foster mother's role in, and knowledge of, their abuse.[24] They revealed things incrementally, as is common with child victims of sex crimes.

Richard Mette was initially indicted on 18 counts of sexual abuse in November 2010. Additional disclosures yielded further detail, and the state added more charges in March of 2011. The final indictment against Mr. Mette consisted of 23 felony counts of physical and sexual abuse of his five adopted children, including first-degree rape of a child under 10 years of age.[25] The prosecution alleged that Mette's criminal acts spanned seven long years, from 2003 until 2010.[26] Mr. Mette, 41 years old, was looking at life in prison without parole, unless the prosecution failed to prove its case. On March 10, 2011, Taliaferro convened a grand jury to seek charges against Wendy Mette. The grand jury indicted Mrs. Mette, 39, on 11 counts of child abuse. None of Mrs. Mette's charges were sexual in nature and all were felonies.[27]

Once the children began disclosing Wendy Mette's knowledge and participation in their abuse, their story remained wholly consistent—they never exonerated their adoptive mother. They never said anything about Taliaferro and Schwab except that their advocacy was helpful and conducive to their healing.[28]

Once the children began disclosing Wendy Mette's knowledge and participation in their abuse, their story remained wholly consistent. They never exonerated their adoptive mother.

They never said anything about Taliaferro and Schwab beyond that their advocacy was helpful and constructive to their healing.

The Middle

During the three years that Taliaferro worked for the Brown County

[18] Waltman, Scott; *Aberdeen News*; "Aberdeen Man Jailed on Sex Charges"; November 20, 2010; & "Hub City Woman Indicted for Child Cruelty, Abuse"; March 11, 2011
[19] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[20] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 33
[21] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 31
[22] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 31
[23] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 31
[24] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 31, 37
[25] Waltman, Scott; *Aberdeen News*; "More Abuse Charges Filed in Rape Case"; March 5, 2011
[26] Waltman, Scott; *Aberdeen News*; "More Abuse Charges Filed in Rape Case"; March 5, 2011
[27] Waltman, Scott; *Aberdeen News*; "Hub City Woman Indicted for Child Cruelty, Abuse"; March 11, 2011
[28] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013

State's Attorney's office, he was often at odds with DSS.[29] One of his complaints was that DSS seemed to treat **Indian Child Welfare Act** (ICWA) cases, or cases that involved Native American foster children, more harshly than DSS would treat non-ICWA cases with similar facts.[30]

Taliaferro communicated his concerns to his boss, State's Attorney Kim Dorsett, on more than one occasion. In 2010, Dorsett advised him to start keeping a paper trail of his dealings with DSS as protection.[31] Dorsett also said she would write a letter to Attorney General Martin Jackley to try to address the problems.[32] But Dorsett's show of support was deceit. Although she wrote a letter to the AG regarding Taliaferro's complaints about the DSS, she never sent it. Instead, DSS started sending its own private attorneys from the state capitol to Brown County to represent the DSS' interests when the DSS didn't agree with the state's position in certain abuse and neglect (A&N) cases.[33]

In retrospect, Dorsett's actions make sense. As the *Aberdeen American News* revealed on December 11, 2011[34], Dorsett had, as of April 2010, a side contract with the DSS that paid her as much as $75,000 per year—more than her salary as the elected state's attorney—and required her to take no actions "in opposition to the interests of the State of South Dakota or any of its departments [e.g. the DSS]."[35]

As the Aberdeen American News revealed on December 11, 2011 , Dorsett had, as of April 2010, a side contract with the DSS that paid her as much as $75,000 per year—more than her salary as the elected state's attorney—and required her to take no actions "in opposition to the interests of the State of South Dakota or any of its departments [e.g. the DSS]."

Taliaferro, during his years as assistant state's attorney, came to the conclusion in his cases that the DSS almost always took Lakota foster children into custody and placed them outside the tribes, a clear violation of the federal Indian Child Welfare Act when placement preferences are not followed.[36] The *Aberdeen American News* also reported that Taliaferro said it is financially beneficial for the department to remove children, especially American Indian children, from their homes and place them in foster homes.[37]

Beginning in the summer of 2011, Dorsett began obstructing the work of Taliaferro's team on the Mette case in a scandalous way. The obstruction, in the view of this law firm and of Taliaferro himself, extended to firing Taliaferro from his job. Let us take a step back to early 2011. Taliaferro's work to support the Lakota siblings in the Mette affair, and to prosecute the foster parents, entailed him acting on behalf of the state in both the criminal proceedings and the abuse and neglect proceedings.[38] In the abuse and neglect case, Taliaferro as the Assistant State's Attorney prosecuted Richard and Wendy Mette with the goal of terminating their parental rights. In the criminal case, he prosecuted them to convict them for their crimes.

In March 2011 at the abuse and neglect proceedings, the children's attorney, Kari Bartling, informed the court of the Aberdeen DSS office's failure to protect the children between 2001 and 2011. In response, the court appointed a special guardian ad litem (GAL) attorney Scott Heidepreim of Sioux Falls to look after the interests of the children, and to explore the possibility of a civil law suit against the DSS on behalf of the children.[39] Heidepriem was the

[29] Waltman, Scott; *Aberdeen News*; "Legal Wrangling, Probe Follow Firing"; December 11, 2011
[30] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[31] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[32] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[33] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[34] Waltman, Scott; *Aberdeen News*; "Legal Wrangling, Probe Follow Firing"; December 11, 2011
[35] Contract between Kimberly Dorsett and South Dakota's Department of Social Services; April 16, 2010
[36] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[37] Waltman, Scott; *Aberdeen News*; "Legal Wrangling, Probe Follow Firing"; December 11, 2011
[38] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[39] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 242, 383-4

former Democratic candidate for governor.[40] Heidepriem and an associate spent 88 hours reviewing the records in the children's case pro bono as a public service.


Scott Heidepriem

On June 1, Heidepriem issued his report to one Judge Scott Myren, in which he recommended that a lawsuit in fact be filed against DSS.[41] Heidepriem followed through by hiring attorney Stephanie Pochop to file the suit (the suit has yet to be initiated as of the date of this publication).[42] Heidepriem's report led the children's attorney, Kari Bartling, to file a motion to remove the Aberdeen office of the DSS from the Lakota foster children's lives permanently. Judge Myren granted Ms. Bartling's motion in June of 2011, transferring responsibility for the children to the Sioux Falls office of the DSS.[43]

Consequently, by the middle of 2011, both the criminal and the abuse and neglect cases against the Mettes were progressing, and the DSS had come under substantial fire for allegations that it grossly neglected the welfare of the foster children. Taliaferro and Schwab succeeded in removing the children from the Mette home –and made an ICWA compliant placement of the children with the girls' biological older sister and brother-in-law. The children began receiving therapy from licensed psychologist Dr. Francine Sippel.[44] Taliaferro and Schwab were pulling no punches in fighting to protect the children, which meant exposing the DSS' gross negligence and keeping pressure on the state's attorney's office to prosecute the Mettes to the fullest extent of the law.[45]

In July, 2011, Taliaferro's boss, Kimberly Dorsett - a few months before Dorsett's DSS side contract was exposed - began her campaign of obstruction in earnest. Dorsett's first act was to remove Taliaferro from in-court participation in the criminal portion of the Mette case and prevent him from attending any team meetings.[46] Dorsett still instructed Taliaferro to attend all the hearings in the criminal case but required him to sit in the pews with the public rather than at counsel's table. Her second act was to begin systematically disassembling the entire support team Taliaferro and Schwab had put in place for the children. Schwab describes Dorsett's work:

> **"From July 2011 the case was under the direction of Dorsett and it was at that time that everything got crazy. Everything had to go through Dorsett, and team members were told not to talk to each other. Ultimately each and every team member was removed from the Mette case and those important support people were also removed from the lives of the children."[47]**

In September of 2011, Taliaferro clashed with Dorsett and the DSS over a separate ICWA case. In her opinion, this provided Dorsett legitimate cause to separate Taliaferro from the Mette issue entirely. In this separate case, Taliaferro refused to support DSS' decision to have him terminate a Lakota mother's parental rights. Dan Todd, chief legal counsel for DSS, filed a notice of appearance on behalf of DSS to oppose Taliaferro if Dorsett couldn't get him to support the official position. When she failed in that attempt, Dorsett instructed Taliaferro to remain silent at further hearings on that case. He reluctantly obeyed for months.

When allegations of abuse in the foster home relevant to this ICWA case surfaced, however, Taliaferro felt he could no longer sit quiet and fail the child victims. He could not skirt his ethical obligations as a public prosecutor even if State's Attorney Dorsett ordered him to do it.[48] At the end of the long trial, he requested a transcript so he could appeal. When Dorsett found out, she made it clear to him that the state's attorney's office would not pay for the

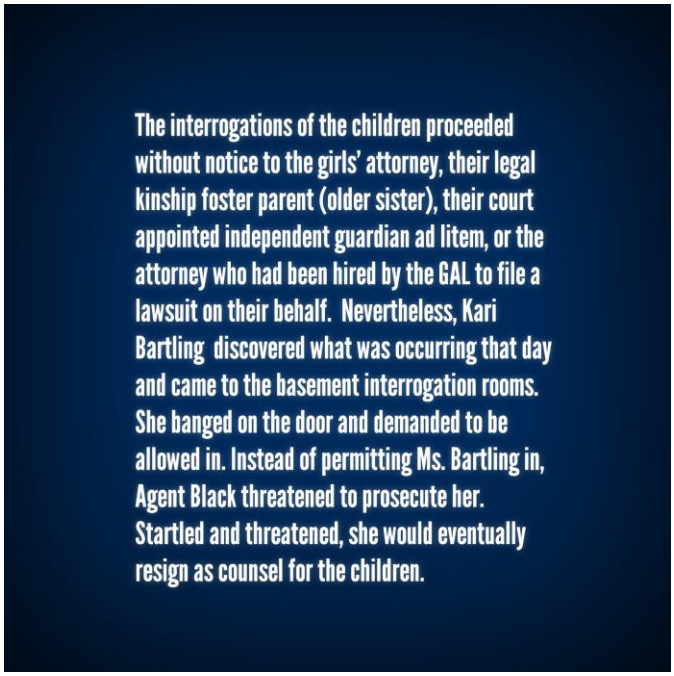
[40] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 242
[41] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 242
[42] Interview with Daniel Sheehan, Chief Counsel for the Lakota People's Law Project; March 25, 2001
[43] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 243
[44] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 31
[45] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[46] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[47] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[48] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013

transcript. Taliaferro offered to pay for the transcript with his own money. The next day, State's Attorney Kim Dorsett fired him.[49]

We have seen that Dorsett spared no effort to disrupt Taliaferro and his team in protecting the children in the Mette case. At the same time, Dorsett worked hard to reduce to a bare minimum the charges against the Mettes. She did this in collusion with the Attorney General's office and the DSS. Throughout 2011 the Department of Criminal Investigation (DCI)—which took its instructions directly from Attorney General Martin Jackley[50]—tried to get the Lakota foster girls to alter their story about Wendy Mette's knowledge of Richard Mette's abuse prior to October, 2010. In a brazen act of witness tampering, DCI agent Marc Black on November 4, 2011—under the explicit authority of the DSS Child Protection Administrator, Virginia Weisler[51]—pulled the foster girls out of school and brought them to the basement interrogation rooms of the DCI office.[52] There Agent Mark Black and his colleagues grilled the girls, while filming with a hidden camera, in an effort to get them to recant their story that their foster mother knew about the sexual abuse. The girls did not recant.[53]

The interrogations of the children proceeded without notice to the girls' attorney Kari Bartling, their legal kinship foster parent (older sister), their court appointed independent guardian ad litem Scott Heidepriem, or Stephanie Pochot the attorney who had been hired by Heidepriem to file a lawsuit on their behalf.[54] Nevertheless, Kari Bartling discovered what was occurring that day and came to the basement interrogation rooms. She banged on the door and demanded to be allowed in. Instead of permitting Ms. Bartling to come in, Agent Black threatened to prosecute her.[55] Startled and threatened, she would eventually resign as counsel for the children.[56]

Before Bartling resigned, however, she was contacted by Kim Dorsett and offered a proposed plea bargain regarding the Wendy Mette criminal prosecution. Dorsett offered to dismiss all charges against Wendy Mette in exchange for Wendy testifying against her husband. The agreement was being negotiated even though the state knew that Wendy Mette would only agree to testify that she knew nothing about her husband's sexual abuse.[57] When Bartling brought this offer to the girls' older sister on behalf of State's Attorney Dorsett—as required by the **Victim's Bill of Rights**[58]— the sister was completely outraged and refused. Soon after this incident, Bartling quit as counsel for the children and future plea bargains were no longer presented to the child victims' older sister.



The campaign of state-sponsored intimidation and obstruction continued into 2012. Due to a conflict of interest on the part of Kim Dorsett, Attorney General Jackley specially appointed a state's attorney from outside Brown County, Michael Moore, to complete the prosecution of the Mettes. (The relevant conflict of

[49] Waltman, Scott; *Aberdeen News*; "Legal Wrangling, Probe Follow Firing"; December, 2011
[50] Audio transcript, Mark Black Raid of Shirley Schwab's Office; November 7, 2011
[51] Transcript, *Pretrial Hearing for State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; August 22, 2012; pg. 118
[52] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[53] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 90
[54] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[55] Interview with Daniel Sheehan, Chief Counsel for the Lakota People's Law Project; March 25, 2001
[56] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[57] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[58] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013

Between March 26 and April 8, 2012, Special Prosecutor Michael Moore dropped all but one of Richard Mette's 23 felony counts of sexual abuse in exchange for Mr. Mette pleading guilty to one count of rape of a child under 10.

...Then Mr. Moore dropped all 11 felony charges against Wendy Mette.

interest in this instance was that Kim Dorsett was thought unable to effectively prosecute a case that had been initiated by Taliaferro, since she had recently fired him—under extreme protest by him.)[59] Special Prosecutor Moore continued Dorsett's, DSS', and the AG's, agenda of obfuscation. Between March 26 and April 8, 2012, he dropped all but one of Richard's 23 felony counts of sexual abuse in exchange for Mr. Mette pleading guilty to one count of rape of a child under 10. Then Mr. Moore dropped all 11 felony charges against Wendy Mette.[60] Shirley Schwab describes the illegality of the plea bargain:

> The child sexual abuse victim and her sister and brother-in-law (kinship foster parents) were not told of the plea agreement until [after it had been codified] … According to the Victim's Bill of Rights, this child victim's rights were violated because she was not advised at any level until it had been finalized and approved in court.[61]

When the children's older sister learned of the plea bargain, after it was already executed and approved by the court, she went straight to Special Prosecutor Moore—who blamed the deal on Taliaferro and Schwab.[62] Richard Mette is now serving a 15-year prison sentence but will be up for parole within 6½ years.[63] Many of Mr. Mette's original charges carried with them maximum sentences of life in prison. Mr. Mette is now writing letters to his underage Lakota victims despite a no contact order as part of his sentence. Because the Sioux Falls DSS office took the girls from the care of their elder sister and returned them to Wendy Mette in or about August of 2012, there is no oversight regarding whether Wendy Mette is sharing Richard's Mette's letters with his child victims.[64] Richard and Wendy Mette divorced on March 19, 2012, and Wendy has renewed her maiden name of Larson—but she has made Richard's child victims retain his last name of Mette.[65] (In this report we will continue to refer to Wendy Larson as Wendy Mette for consistency.)

[59] Waltman, Scott; *Aberdeen News*; "Mette Freed on Bond; Allegations of Witness Tampering Emerge"; November 29, 2011
[60] Waltman, Scott; *Aberdeen News*; "Aberdonian Richard Mette Pleads Guilty to Rape"; March 26, 2012; "Wendy Mette Abuse Charges Dropped"; April 18, 2012
[61] Schwab, Shirley; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[62] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[63] Waltman, Scott; *Aberdeen News*; "Richard Mette Sentenced to 15 Years on Rape Charge"; May 29, 2012
[64] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[65] Waltman, Scott; *Aberdeen News*; "Aberdonian Richard Mette Pleads Guilty to Rape"; March 26, 2012.

The End (for now)

On October 25-27, 2011 National Public Radio aired a major, **three-part exposé** on Lakota foster care in South Dakota. The hard-hitting report was heard by 28 million listeners and won a Peabody Award for excellence. NPR impugned South Dakota for taking $100 million in federal money each year to support foster care, while disregarding the Indian Child Welfare Act's mandate that Native American children be kept with their extended families and tribes. According to NPR, and also to a **special report** issued by the nine Indian Child Welfare Act Directors from South Dakota, half of foster children in South Dakota are Native American—but nine in 10 of them are placed by DSS with white families while some licensed Native American foster homes sit empty.[66]

In the immediate wake of NPR's reporting, South Dakota stepped up its offensive regarding the Mette trial. We have reviewed already how the AG, DCI, state's attorney, and DSS, between the summer and fall of 2011, colluded to shut down Taliaferro's and Schwab's efforts to protect the children. We've also reviewed how these state officials minimized the criminal prosecution of the Mettes. But in November, 2011 the state went further in its attacks on Taliaferro and Schwab, under direct orders from Attorney General Jackley.[67] As indicated previously, the state opened up a criminal investigation into Taliaferro and Schwab for allegedly encouraging the Lakota foster girls to lie about Wendy Mette's knowledge of her husband's abuse.[68] The AG's office assigned Special Prosecutor Moore to this investigation, in addition to the Mette case. DCI Agent Marc Black executed search warrants, conducting raids at night and early morning at Taliaferro's and Schwab's private offices and private homes. Their computers, hard drives, cell phones, and documents were seized.[69] Next, the State filed legal motions to prohibit all contact by Taliaferro and Schwab with the children and the children's kinship foster parents. Conveniently, the state provided no notice of the motions or hearing date to Taliaferro and Schwab who, as a result, were not present to defend themselves against the state's false allegations.[70]

Reviewing the Facts:
An Assessment of the Accuracy of NPR's *Native Foster Care: Lost Children, Shattered Families*

During one of the raids, Black **recorded a discussion** he had with Schwab. This recording was later turned over to Taliaferro and Schwab's defense team during the discovery phase of their trial.[71] In the recording, Black says "The Attorney General himself has told me to work on this until I am done with it. This is my priority case right now, short of a homicide happening."[72] We see thus that the AG's office was not only interested in limiting the convictions of Richard and Wendy Mette; it was behind the systematic, prosecutorial attack conducted by DCI against Taliaferro and Schwab.

Martin Jackley

Recall that the foster girls were removed from school on November 4th, 2011, and interrogated without their lawyer present. During that interrogation, in addition to trying to get the girls to reverse their testimony about Wendy Mette, Agent Black went after Taliaferro and Schwab. There is a portion of the **audio recording** from that interrogation, also gained during discovery by Taliaferro's and Schwab's legal team, that reveals a discussion between Agent Black and his colleagues (Taliaferro and Schwab did not know the conversations were being recorded).[73] Late one night, after Taliaferro had listened to the recording hundreds of times, he discovered the illicit conversation. Both Taliaferro and Schwab began searching for audio/video experts to enhance the audio recording. Taliaferro and Schwab retained Certified Forensic Audio and Video Expert **Arlo E. West** of Creative Forensics, located in Maine. Mr. West had experience working on high profile

[66] Sullivan, Laura & National Public Radio; "Native Foster Care: Lost Children, Lost Families"; 10/25-27/11; & South Dakota Coalition for Children and Families (ICWA Directors); "Reviewing the Facts: Assessing the Accuracy of NPR's *Native Foster Care: Lost Children, Shattered Families*"
[67] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[68] Waltman, Scott; *Aberdeen News*; "Probe Involves Child Advocate, Former Deputy State's Attorney"; November 19, 2011
[69] Waltman, Scott; *Aberdeen News*; "Probe Involves Child Advocate, Former Deputy State's Attorney"; November 19, 2011
[70] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[71] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 30. Audio available here.
[72] Audio, Mark Black Raid of Shirley Schwab's Office; November 7, 2011
[73] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013

cases and employed the same forensic techniques utilized by the FBI to enhance the recording.[74] Once the recording was forensically enhanced, the contents revealed were shocking:

Unnamed DCI Agent: "You guys want to say he was involved with anything?"

DCI Agent Mark Black: "That's our theory."

DCI Agent Mark Black: "What I'm saying, [inaudible], is you know [inaudible] Shirley and a number of those girls have been fucking with us."

DCI Agent Mark Black: "Because they are going to be poking on the girls, they'll probably want a felony count."

DCI Agent Mark Black: "That why we push that. And we both have to say this."

DCI Agent Mark Black: "We'll ask her about [inaudible]..conspiracy. Well, actually it's all we have, right?"
"We can still fucking shut it down. See what I'm saying."

DCI Agent Mark Black: "We got that. At least...at least we fuck with Brandon."

DCI Agent Mark Black: "And I guarantee, we put fucking Fran Sippel [the children's therapist] in here and put the hot fucking screws in her. Bitch you better start talking, you're in deep shit...She goddamn well knows she's got a business."

DCI Agent Mark Black: "You don't fuck with the State's Attorney. Whatever you do."

DCI Agent Mark Black: "We got to get out of this shit over here, that's what we gotta do...It gets really expensive for the Department of Social Services."[75]

Taliaferro and Schwab's expert, Arlo E. West, testified regarding this illicit recording at a pre-trial hearing in their case on August 22, 2012. After providing damaging testimony against the DCI agents, Mr. West boarded his flight in Aberdeen to return home to Maine. Mr. West checked one of his bags at the tiny Aberdeen airport, and when he returned to his home and unpacked his suitcase, all of his items had been removed from his bag, wadded up, and put back in his suitcase with large amounts of dirt and sand dumped on top of them. His toiletry bag was ripped open and his eyeglasses were broken. There was an Aberdeen TSA inspection card in the bag. Mr. West filed complaints with the TSA and federal officials in South Dakota[76], but nothing was done. Mr. West believes that this was a clear instance of intimidation by South Dakota to make him think twice about returning to the state to testify at Taliaferro and Schwab's jury trial.

DCI Agent Black admitted under oath that he made many of the statements in the recording uncovered by Taliaferro. At the Taliaferro-Schwab jury trial, Agent Black admitted that his statement that "It gets really expensive for the Department of Social Services" was referring to the lawsuit of the children against the State.[77]

Agent Black admitted that when he said "It gets really expensive for the Department of Social Services," he was referring to the lawsuit of the children against the State.

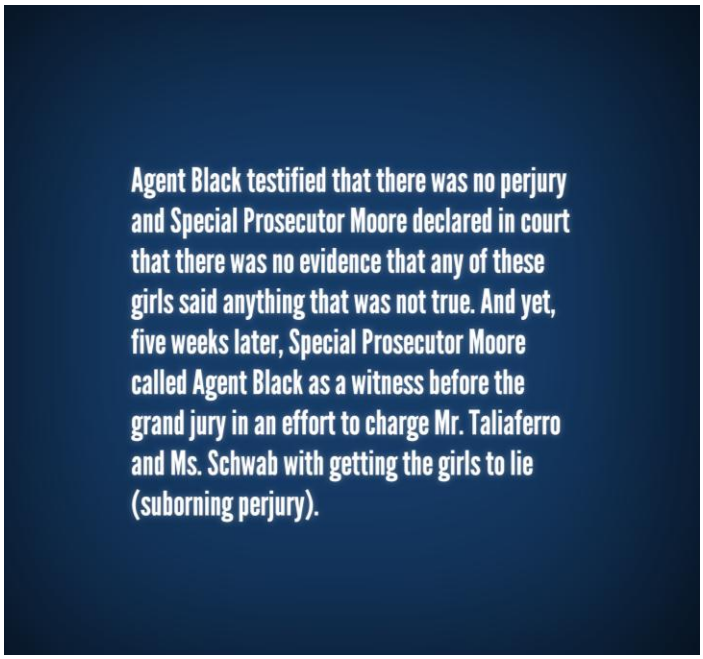
[74] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[75] Audio, Mark Black Interrogation of Foster Children, July 20, 2012
[76] Forensic Expert Arlo West's Complaint to TSA; re August 22, 2012; & Forensic Expert Arlo West's Complaint to SD US Attorney Brenden Johnson and Maine Senator Olympia Snowe; August 28, 2012
[77] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013

An explanation is due concerning Mark Black's misogynistic threats against Fran Sippel in the recording. In March of 2011, one of the child victims disclosed in therapy to Dr. Sippel that "Mom walked in"[78] on Richard abusing the girl. Indeed, it was via disclosures made by the children in therapy to Dr. Sippel, and subsequently testified to by Dr. Sippel at the Wendy Mette grand jury, that the state would base its prosecution of Taliaferro and Schwab. The state would ultimately assert that Taliaferro and Schwab caused the girls to lie to Dr. Sippel, and that Dr. Sippel testified to those falsehoods at Wendy Mette's grand jury.[79] However, the DSS referral from 2007 contained revelations by one of the girls that Wendy Mette had been told about Richard's abuse before Taliaferro and Schwab were involved with the children. Moreover, as a mandatory reporter, Dr. Sippel was legally obligated to report the children's disclosures of abuse made in therapy.[80] South Dakota law also provides mandatory reporters absolute immunity from criminal prosecution when acting in good faith. This didn't stop the state from executing search warrants against Dr. Sippel or indicting her on criminal charges that were eventually dismissed.[81]

On March 13, 2012 a pretrial hearing in the case of State v Richard Mette was held before the Honorable Jon S. Flemmer. Special Prosecutor Michael Moore called DCI Agent Black to the stand and questioned him about his investigation of Taliaferro, Schwab and Sippel. Special Prosecutor Moore asked Agent Black: "Through your investigation you haven't found that anybody committed perjury under oath or said something that was not true? Agent Black answered, "No. No. I don't have evidence of perjury."[82]

Then Special Prosecutor Moore asked Agent Black: "And did you ask [the child] about the truthfulness of her statements she made to Dr. Sippel regarding Wendy Mette?" Agent Black answered, "Yes, sir, I did." Special Prosecutor Moore then asked: "And what did she tell you?" Agent Black answered, "She stated that her statements about Wendy Mette were true."[83] Special Prosecutor Moore then addressed the court himself and stated: "But the investigation that they [DCI] have and that's been presented here today, there's no evidence that any of these girls said anything that was not true."[84]

Five weeks after Agent Black testified that there was no perjury and after Special Prosecutor Moore declared in court that there was no evidence that any of these girls said anything that was not true, Special Prosecutor Moore called Agent Black as a witness before the grand jury to obtain an indictment charging Mr. Taliaferro and Ms. Schwab with suborning perjury and getting the girls to lie.[85]



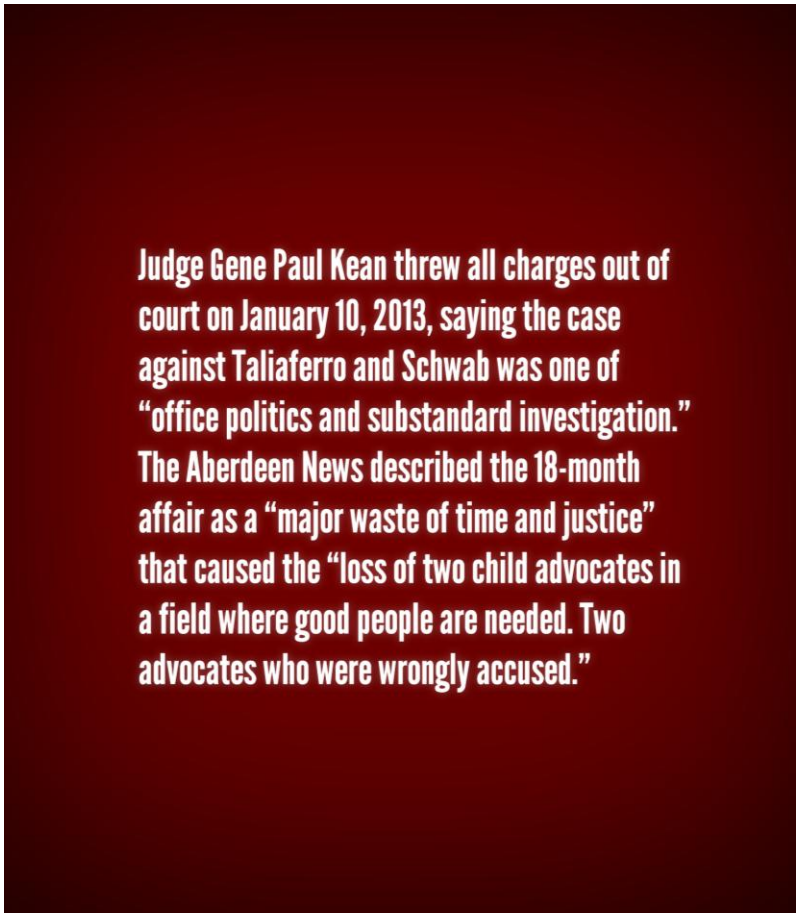
The overall strategy of self-protection chosen by the state requires a closer look. By creating, in the fall of 2011, state-sanctioned allegations that Taliaferro and his team tainted evidence against Wendy Mette concerning her criminal trial, the Attorney General and his team provided Special Prosecutor Michael Moore with an excuse, in April of 2012, to dismiss charges against Wendy Mette and, in May 2012, to undermine the children's civil lawsuit by prosecuting Taliaferro and Schwab who were the two of the best potential witnesses against the state in a civil suit by the children. On April 18, 2012 Special Prosecutor Moore commented on the dismissal of the charges against Wendy Mette to the press: "[Taliaferro's and Schwab's] involvement taints evidence and would make it difficult to get a

[78] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 31
[79] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; pg. 31
[80] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 26
[81] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[82] Transcript, *Pretrial Hearing for State of South Dakota v Richard Mette*; March 13, 2012; pg. 27.
[83] Transcript, *Pretrial Hearing for State of South Dakota v Richard Mette*; March 13, 2012; pg. 30
[84] Transcript, *Pretrial Hearing for State of South Dakota v Richard Mette*; March 13, 2012; pg. 38
[85] Transcript, *Hearing re Judicial Estoppel for State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; October 10, 2012

conviction from a jury." Later, Special Prosecutor Moore contradicted himself during Taliaferro and Schwab's jury trial saying that he dismissed the charges against Wendy Mette because there was ***zero evidence*** against her.[86]

Additionally on March 26, 2012 Mr. Moore used, the same justification to dismiss 22 of the 23 charges against Richard Mette. Special Prosecutor Moore's explanation to the press for his dismissal of Richard Mette's charges was that tainted evidence could make it difficult to get a guilty verdict.[87] Remarkably, this defies logic, however, considering that, according to Moore's own testimony to the newspapers, "[T]he charges against Richard Mette differed from those against Wendy Mette in that the allegations against him were made in October 2010 after the victims were properly interviewed by law enforcers, but beforeTaliaferro, Schwab, and Sippel (the children's therapist) got involved in the case."[88]

On May 1, 2012, after a five-month investigation, and the day before Taliaferro was set to depose Dorsett in his labor grievance case for having been fired, Taliaferro and Schwab were arrested and arraigned on multiple felony charges. Despite being arrested, arraigned on felony charges and publicly humiliated, Taliaferro remained resolute and showed up at the same courthouse the following morning to depose Dorsett for seven hours. Taliaferro was charged with two felonies, witness tampering and subornation of perjury, and two misdemeanors, unauthorized disclosure of abuse and neglect information and obstructing a law enforcement officer.[89] Schwab was charged with three felonies, two counts of witness tampering and one count of subornation of perjury, and two misdemeanors, unauthorized disclosure of abuse and neglect information and false reporting.[90]



Judge Gene Paul Kean threw all charges out of court on January 10, 2013, saying the case against Taliaferro and Schwab was one of "office politics and substandard investigation."[91] [92] The Aberdeen News described the 18-month affair as a "major waste of time and justice" that caused the "loss of two child advocates in a field where good people are needed. Two advocates who were wrongly accused."[93]

[86] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; pg. 11
[87] Waltman, Scott; *Aberdeen News*; "Aberdonian Richard Mette Pleads Guilty to Rape"; March 26, 2012
[88] Waltman, Scott; *Aberdeen News*; "Wendy Mette Abuse Charges Dropped"; April 18, 2012
[89] Waltman, Scott; *Aberdeen News*; "Former Brown County State's Attorney, Advocate Face Felony, Misdemeanor Charges"; May 1, 2012
[90] Waltman, Scott; *Aberdeen News*; "Former Brown County State's Attorney, Advocate Face Felony, Misdemeanor Charges"; May 1, 2012
[91] Waltman, Scott; *Aberdeen News*; "In Our Opinion: Court Case was Major Waste of Time and Justice"; January 12, 2013
[92] Waltman, Scott; *Aberdeen News*; "In Our Opinion: Court Case was Major Waste of Time and Justice"; January 12, 2013
[93] Waltman, Scott; *Aberdeen News*; "In Our Opinion: Court Case Was Major Waste of Time and Justice"; Jan 12, 2013

Details of the Trial

On the morning of the fourth day of the trial, January 10, 2013, retired Judge Gene Paul Kean ended the state's prosecution in midstream. For just the third time in his 30 years on the bench, he ruled that there was not enough evidence to support the charges—and he directed verdicts of acquittal on all counts against Taliaferro and Schwab. Judge Kean wondered out loud why the Taliaferro and Schwab case had been brought before him in the first place.[94]

Judge Kean observed that there were many ways to get bogged down with side issues in this case. Among the side issues cited were the internal politics of the Brown County State's Attorney's Office (directed by Dorsett), the substandard performance of DCI Agent Marc Black in investigating the case, and disputes between the Department of Social Services and the Court Appointed Special Advocates (CASA).[95]

The Judge said that it was important to focus on the central issue in the case. The felony counts—the witness tampering and subornation of perjury—came down to claims that the defendants induced the children to make false statements against their adoptive parents in exchange for certain benefits. The Judge listed his reasons for dismissing these claims.

Judge Kean stated that since the prosecution had dropped its charges against the children's therapist, Dr. Sippel, the state must have believed that Dr. Sippel did not lie to the grand jury regarding what the children disclosed to her in therapy. Since, as explained already, it was via Dr. Sippel's testimony before the grand jury on March 10, 2011 that the prosecution claimed Taliaferro and Schwab suborned perjury. The fact that Dr. Sippel was not being prosecuted implied that Taliaferro and Schwab had not induced the children to lie.[96] It should be noted that when state DCI agents interrogated these children in November of 2011, every single child denied that Taliaferro or Schwab had ever pressured them to say something against their adoptive parent, and they denied that Taliaferro or Schwab ever gave them gifts to get them to lie. The children, as a matter of fact, told the DCI that everything they said about Mrs. Mette was ***true.***[97] Had the state wanted to challenge the testimony of Dr. Sippel, or the assertions of the children, they could have called either Sippel or the children to testify, the Judge said. They did not.[98]

Intrinsic to the prosecution's witness tampering charges was the claim that Taliaferro and Schwab gave gifts to the children to get them to lie about the Mettes. During the Christmas week of 2010 Schwab gave gift cards to the children's foster mom, and in early 2011 Taliaferro was invited to one of the girls' birthday party—where he gave her a Hershey chocolate bar and a foot scrubber. Judge Kean did not believe that any of these items rose to the level of bribes as defined by the law.[99] The gift cards given by Schwab had been donated by Northern State University's student council.[100] As for Taliaferro, Judge Kean decided that the chocolate and foot scrubber were not the type of benefits the relevant statute intended to prohibit. In particular, the state had produced no evidence that the gifts led to the production of false testimony. Judge Kean observed that the children could have been asked to testify about the effect of these gifts, with certain safeguards, but the state never called them.[101]

[94] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 450
[95] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 443
[96] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 444
[97] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 41
[98] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 444
[99] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 447
[100] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg.446
[101] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 447

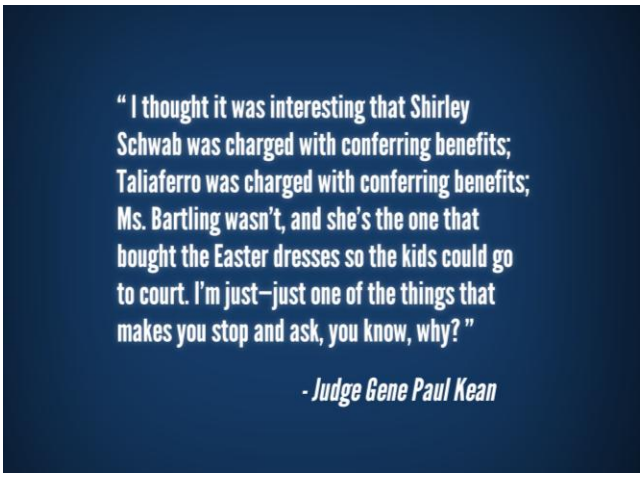
Judge Kean next cautioned the state—specifically, the executive branch—for intruding on the judicial branch by inappropriately prosecuting Shirley Schwab, a court appointed child advocate. He said:

> When somebody's an officer of the Court and they're representing the children's best interests by statute, I really think it's encroaching into the judicial branch by the executive branch of government to come in and charge somebody when they are executing the child's best interests, and there's nothing to show it wasn't the child's best interests.[102]

Judge Kean finally summarized his overall reasoning in the case for the jury by stating that there was insufficient evidence with regard to counts 1 to 6 of the indictment, and all other counts had been dismissed. As a result, the state had failed to meet its burden to require Taliaferro and Schwab to put on a defense, much less to send the case to the jury.

The Judge then posed an intriguing question.

> I thought it was interesting that Shirley Schwab was charged with conferring benefits; Taliaferro was charged with conferring benefits; Ms. Bartling wasn't, and she's the one that bought the Easter dresses so the kids could go to court. I'm just—just one of the things that makes you stop and ask, you know, why?[103]



Judge Kean's admonitions to the prosecution were understated. But, **Lakota People's Law Project** Chief Counsel, **Daniel Sheehan**, who has specialized in high profile impact litigation for 40 years, says that the judge's restraint was typical of an effective jurist:

> Judges are supposed to demonstrate a measured impartiality and a close review of the legal issues of the case. Judge Kean's remarks spoke volumes about the deficiency of the prosecution and left the door open to a closer investigation of how and why the state had acted, and whether there was a pattern to it—even a conspiracy.


Daniel Sheehan & Brandon Taliaferro

The trial was well attended every day by several tribes including Standing Rock, Cheyenne River, Oglala, Yankton, and Sisseton. Judge Kean commended those in the court room for their restraint during some of the very emotional testimony and evidence that was presented. The trial has galvanized several leaders to take action to protect their children and to begin the process of setting up their own federally funded family service programs.

Conclusion

Judge Kean's fundamental question of "Why?" remains unanswered. The State of South Dakota, as of summer 2011, was prepared to drop all felony charges against Richard Mette. It only held onto one count when the children's older sister vehemently objected. Usually pleading guilty to one charge of the rape of a child under 10 is punishable by up to life in prison. Why did the state agree to a short15-year sentence for Richard Mette, who is eligible for parole in 6½ years? Despite countless disclosures from the children and voluminous therapy notes from Dr. Sippel about Wendy Mette's complicity in her husband's conduct, why were Wendy Mette's 11 felony child abuse charges were dismissed and custody of the children returned to her.

[102] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 448-449
[103] Transcript, *State of South Dakota v. Shirley Schwab and Brandon Taliaferro*; January 7-10, 2013; pg. 450

The larger question is why Schwab and Taliaferro were charged at all. When DCI agent Marc Black confronted Schwab during his raid of her home, he was recorded as saying that he was acting on orders from Attorney General Martin Jackley. Why did Attorney General Jackley later deny this when he was confronted by Lakota People's Law Project Executive Director **Sara Nelson**?

Despite their acquittals, Schwab and Taliaferro find themselves in terrible straits. With legal fees, expert fees and private investigator fees, driving costs exceeding $180,000 and no current way to make a living due to the damage caused by their prosecution, their careers and finances have been ruined. Despite being exonerated of all the state's false criminal charges, the legal expenses continue to rise as Taliaferro pushes forward with his labor grievance and is now attempting to save his license to practice law. Schwab is defending against similar attacks on her licensure. The state's prosecution of Schwab has caused the local volunteer Court Appointed Special Advocates (CASA) program in Brown County to refuse to take on cases out of fear of retaliation by the state and DSS. There are still no advocates available for the children there.

Brandon Taliaferro summarizes the degree to which South Dakota has been willing to trample on principles of jurisprudence and ethics to protect its own interests:

> As a young attorney, what struck me the most about the Mette case was how the state systematically removed every person in the children's support system, placed the children back in the abusive home, sabotaged the cases and all to try and avoid being sued by the children, to manufacture a defense to my labor grievance, and to derail my campaign for Brown County State's Attorney.
>
> First, the state got rid of me; the only prosecutor who actually cared about their safety and whom the children trusted. Then the state went after the children's attorney and coerced her with lies to abandon the children for fear the state would bring false charges against her. Then the state went after the children's psychologist and court appointed special advocate and had them removed based on lies. Then the state went after the judge presiding on the case and recused him. This left the children with only their biological sister and brother in law. The state went after them, too, and scared them so bad that they fled the state in fear. Once the children's entire support system was systematically destroyed, the state dismissed 22 felonies against the admitted child-rapist adoptive father. That still wasn't enough. The state needed to return the children to the adoptive mother to lessen the likelihood of, if not completely destroy, the children's lawsuit.
>
> The one remaining obstacle in the state's path was the 11 felony child abuse charges pending against the adoptive mother. The state's solution to that major hurdle was to dismiss all her charges and publicly blame me, Shirley and Dr. Sippel. The state had to find a way to spin the dismissal of charges to avoid public outrage. The state accomplished the needed PR spin by bringing 15 false and malicious criminal charges against me and Shirley.[104]

This report illuminates a series of state-sponsored abuses of power. Even one example of misconduct by South Dakota should be unacceptable. DSS's removal of Lakota children from their families and tribes is widespread. There appears to be a double standard for white and Native American children. The tribes do not have the funding to enforce the provisions of the Indian Child Welfare Act on their own. Federal funding should be directed to the tribes to support the creation and management of their own family service agencies. South Dakota annually receives $100 million from the federal government to support foster and adoptive care.[105] Taxpayers should be outraged that these dollars are being spent to systematically oppress and destroy First Nation's tribes, families and their children. This appears to be the latest version of the attempt to solve the 'Indian problem' once and for all.

To learn about ways you can help, please visit ChildAdvocatesDefenseFund.com and LakotaLaw.org.

[104] Taliaferro, Brandon; Post-Trial Interview with the Lakota People's Law Project; March 1, 2013
[105] Coalition for Children and Families (SD ICWA Directors); "Reviewing the Facts: An Assessment of NPR's 'Native Foster Care: Lost Children, Shattered Families'"; January 22, 2013; pg. 16.