

**Follow-up to Tribal Consultations: Continuing the Dialogue**  
**Tribal Consultation Summary**  
**August 19, 2008**  
**Holiday Inn Grand**  
**Billings, MT**

**Morning General Session**

Morning Co-moderators: *Jacqueline Johnson Pata, Executive Director, National Congress of American Indians (NCAI)*  
*Gena Tyner-Dawson, Executive Director, Justice Programs Council on Native American Affairs, Office of Justice Programs (OJP), U.S. Department of Justice (DOJ)*

**Blessing**

*Charles Tailfeathers, Sr., Chippewa Cree*

Ms. Pata introduced Mr. Tailfeathers, who served as a prosecutor for 37 years and currently consults with tribes on Native judiciary issues. Mr. Tailfeathers thanked the participants and said it was important for States and tribes to come together for wellness and healing. Mr. Tailfeathers gave a blessing in his Native language.

**Local Welcome**

*Manuel Coversup, Speaker of the House, Crow Nation Legislative Branch*

Ms. Pata introduced Mr. Coversup, speaker of the house of the Crow Nation Legislative Branch, and thanked the Crow Nation for helping to host the meeting.

Mr. Coversup welcomed the participants to Billings and said he appreciated their efforts to continue the dialogue of tribal consultation to find solutions to the problems that face Indian Country. Important issues related to local and Bureau of Indian Affairs (BIA) police departments need to be addressed to meet the needs of Indian communities.

**Welcome**

*William W. Mercer, United States Attorney for the District of Montana*  
*Jerry Gidner, Director, BIA, U.S. Department of the Interior*

Ms. Pata introduced Ms. Tyner-Dawson, who had the idea for bringing Federal agencies and tribes together in a collaborative effort. Ms. Tyner-Dawson acknowledged the contributions of Acting Assistant Attorney General Jeffrey Sedgwick and Community Capacity Development Office Director Dennis Greenhouse. She introduced Mr. Mercer, who has served as U.S. Attorney for Montana since 2001. In 2006, he was nominated as Associate Attorney General by President George W. Bush, and he served as Acting Associate Attorney General for 11 months.

Mr. Mercer thanked the participants and the Billings community for hosting. He explained that the consultation would focus on continuing the dialogue on public safety and wellness, and his remarks would raise issues for the work groups. The goal of the work groups is to evaluate

existing efforts and make suggestions for improvements. He noted that his observations might not reflect the experience of participants from outside Montana.

Mr. Mercer explained that the Major Crimes Act and the Assimilated Crimes Act describe the Federal role in tribal law enforcement. Federal law enforcement has no jurisdiction for crimes that occur outside the reservations. In Montana, the U.S. Attorney has significant responsibility for justice within the boundary of a reservation and can bring charges in Federal court for major violent crimes. In a case of domestic violence in which the perpetrator and victim are Indian persons, if the perpetrator has no criminal history and there is no serious bodily injury, the crime would not fall within Federal jurisdiction. In this instance, the tribal prosecutor would have the authority to bring the case. Effective collaboration between tribal prosecutors and U.S. Attorneys and among BIA police, tribal police, and the Federal Bureau of Investigation (FBI) is necessary to ensure that cases are investigated and referred for prosecution.

Advocacy groups, social services, teachers, and reservation communities need to be active partners in public safety initiatives. Some people believe that non-tribal members who commit crimes on reservations are beyond the reach of prosecution. In such cases, the tribal prosecutor cannot bring charges, but U.S. Attorneys can. Federal courts have jurisdiction, even for misdemeanor crimes. There are forums at the tribal, State, and Federal levels for any criminal conduct that occurs on a reservation.

Mr. Mercer discussed the common goal for the consultation: adequate investigation of all criminal acts and prosecution of all crimes for which there is adequate proof, followed by conviction and sentencing.

Advancing the purpose of public safety, victims' rights, and holding individuals accountable for criminal conduct requires:

- Adequate human and physical infrastructure
- Victims and witnesses willing to come forward with information for investigations
- Public confidence that investigators will listen and work to protect the privacy and security of the victim
- Timely investigation
- Referrals to prosecutors who take cases seriously to hold perpetrators accountable
- Adequate prisons to hold charged individuals prior to and after conviction
- Regular evaluation and accountability across the entire tribal justice system.

Mr. Mercer noted two innovative programs in Montana: the tribal liaison program and case tracking system. U.S. Attorneys' Offices in Montana that cover Indian reservations have tribal liaisons who are required to visit reservations three times each year to meet with the tribal chair, tribal council, and other stakeholders. Legislation recently introduced in Congress addresses tribal liaison programs. Mr. Mercer worked with a legal clinic at the University of Montana Law School to develop a case tracking system that allows U.S. Attorneys to ensure that cases are moving forward in a timely fashion.

Mr. Mercer discussed the following aspects of tribal justice:

- Declinations. Prosecutors charge viable cases but decline a certain percentage of cases in which Federal prosecutors do not have jurisdiction or the case is not viable.
- Conviction rates. The rate of State felony convictions is 4.9/1,000 charges, and this is a useful benchmark for assessing Federal felony conviction rates.
- Juvenile justice. Juvenile proceedings are closed to the public, and Federal prosecutors cannot publicize convictions of juvenile offenders. Members of the community beyond the victim and victim's family may be unaware of such cases, creating an impression that individuals under the age of 18 can get away with major crimes.
- Prescription drug abuse. This is a major problem in Indian Country and elsewhere in the United States. Montana has done a good job of reducing methamphetamine use, but prescription drug abuse is increasing.
- Sex offender registries. The Federal registry allows people to identify sex offenders living in their areas, but registries have not been implemented on all reservations.
- Victims' rights. Victims should be engaged throughout the law enforcement process. It is important to understand that no victim has the right to refuse to cooperate with a criminal investigation.
- Sovereignty. The most effective drug investigations are cooperative partnerships between tribes and Federal and State investigators. Some tribes resist allowing State police to participate in a reservation investigation. Limiting the investigation team can limit efforts to fight drug abuse and trafficking.

Mr. Mercer described a panel discussion at the University of Montana. A tribal judge on the panel commented that his predecessor had been fired by the tribal council, and he expected to leave the position because of the unfriendly council. A Native American law student commented that these issues can discourage law graduates from working on reservations. Council interference with law enforcement or judges is a significant problem that strikes at the core of due process and separation of powers.

Jerry Gidner, director of the BIA, thanked the people who made the meeting possible and noted that it was the seventh consultation session. Safe communities in Indian Country are necessary in order to protect children. Although there is a lack of money, there is no limit on human ingenuity, passion, creativity, or hard work in advancing community safety. The consultation allows individuals who deal with safety issues on a day-to-day basis to share their experience and become reenergized.

### **Purpose of the Sessions and Goals**

Ms. Pata explained that the consultations were designed to create a positive, interactive dialogue between tribal leaders and Federal partners and to allow tribes to become more involved in policy making. At previous consultations, participants identified a need to discuss certain technical areas in more detail. During this meeting, work groups will focus on these areas. Each work group will have a morning and an afternoon session, allowing participants to attend sessions on two topics. The meeting will conclude with work group reports and follow-up discussion. Ms. Pata noted that the format for the consultation was experimental, and she invited the participants to offer feedback on the meeting structure.

## Work Groups

### **Police Presence, Investigations, Cooperative Agreements, and Data Sharing**

Federal Co-facilitator: *Christopher Chaney, Deputy Director, Office of Tribal Justice, DOJ*

Recorder: *Adam Spector, Congressional Affairs, Office of Communications, OJP, DOJ*

**Morning Session.** Issues discussed included:

- Improving police presence
- Addressing the lack of funding
- Improving conditions in jail facilities
- Dealing with jurisdictional issues
- Enhancing data sharing and granting access to National Crime Information Center (NCIC) data (recognized by the White House as a critical issue)
- Improving communication
- Respecting tribal sovereignty.

Carol Justice, systems planner/grants, Northern Arapaho Tribe, suggested a return to what worked in the 1990s—concurrent tribal and U.S. Attorney’s Office prosecutions, with information immediately reported to both prosecuting entities. Tribes worked with county prosecutors to ensure that cases were properly filed, and tribes held individuals while cases were investigated. This increased speed and accountability.

Today, BIA provides no information to tribes, and there are misunderstandings about accountability between BIA and FBI, which meet weekly about cases. A lack of agents after 9/11 adds to the problem. There is high turnover and a need for more investigators. To improve tribal and Federal prosecutions, Ms. Justice recommended concurrent prosecutions, more cooperation from the FBI, and sharing of police reports and crime lab data. She noted that there is a lack of awareness about the transfer of prisoners between BIA jails. Correction facilities are inadequately staffed, and officer positions should be filled. These issues were dealt with locally and more effectively in the past.

Gary Harrison, tribal chief, Chickaloon Village, said that a Community Oriented Policing Services (COPS) grant was used to hire and train tribal police officers. Senator Ted Stevens caused COPS funds to dry up, and now there are not enough officers. There needs to be another way to hire officers. He noted that State troopers would not work with local law enforcement.

The law could be changed to allow COPS grants to be used in boroughs, or BIA funds could be used. Public Law (PL) 280 status puts some tribes in a difficult position. There are jurisdictional issues between tribes, States, and the Federal Government. Congress could change PL 280 jurisdiction to remove States from the retrocession process.

Charleen Greer, assistant general council, Salt River Pima-Maricopa Indian Community, said that the Salt River Police Department investigates all crimes on the reservation. The government of Salt River supports law enforcement. The FBI comes only if asked, and the State and local police departments do not investigate. Arizona’s tribal law enforcement is very advanced. Officials are very knowledgeable, and the U.S. Attorney is Native American. Under Arizona law,

tribal police officers who complete Arizona Peace Officer Standards and Training Board training are considered State officers. The FBI trusts the tribe to work cases properly, and there are no problems with sovereignty. Assistant attorneys general are well trained.

There are agreements between the tribe and local governments, such as the agreement to cooperate through the East Valley Fusion Center on drug and gang issues without a loss of sovereignty. Tribal law enforcement has a contract with Scottsdale for a crime lab, so it does not have to rely on the FBI. There are monthly meetings about crimes against children and federally prosecuted crimes. It was agreed that it would be helpful to share copies of the memoranda of understanding (MOUs).

Negotiations have improved relations between the tribe and the State of Arizona. States that have good relations with tribes should contact other States and educate them about tribal partnerships.

Richard Slats, tribal administrator, Chevak Traditional Council, said that many individuals in the tribe have dual citizenship. Close coordination between the State and tribe is needed, but tribal officers are not trained with State troopers, and the State does not recognize the tribes or allow tribal court orders or arrests.

Mr. Slats said that his community is dry, but alcoholism is still a problem that is not addressed. Other problems include high turnover among councilmen and a lack of funding. There was an attempt to develop tribal courts to address alcohol-related and juvenile crime, but these problems were not seriously addressed. There was a recent report on the state of justice in Alaska tribes, and it was suggested that Alaska hold an Indian Justice Summit.

Grant programs should eliminate matching requirements and allow indirect costs.

Robert Kane, chief of police, Hoopa Valley Tribe, said that his tribe has a deputization agreement. Lack of communication and education hampers investigations. There is fear and mistrust of law enforcement, and crimes go unreported. NCAI will set up a meeting on PL 280 jurisdictions. Each jurisdiction needs to be treated differently, and the populace needs to be educated.

Tribal, State, and Federal law enforcement entities have improved recognition of one another's subpoenas.

Ed Naranjo, vice-chair, Goshute Tribe, noted that there is a lack of communication between Federal prosecutors and communities. Special agents are not competent, and the FBI does not accept tribal investigations. The U.S. Attorney's Office should raise this issue.

An August 8 report discussed well-known problems in tribal justice facilities. Tribal leaders should examine larger problems and not focus on securing money for their own tribes. The DOJ and BIA need to work together. Mr. Naranjo discussed a model tribal justice facility and the need for training for detention officers. It is important to treat offenders as human beings and consider how they will reenter their communities.

Mary Harjo, Child Protection Services, Iowa Tribe of Oklahoma, suggested improvements in education and communication on law enforcement issues. Some tribal communities have citizens' police academies that allow citizens to ride along with the police. Tribal youth police academies could teach basic police skills and community responsibility.

Elinor Nault-Wright, court administrator, Chippewa Cree Tribe, said that MOUs should require tribal government approval before grant applications are submitted. All agencies should have training in cultural sensitivity and tribal laws and traditions. Some Federal agencies, such as the Substance Abuse and Mental Health Services Administration (SAMHSA), already have such training.

Anthony Addison, Sr., chairman, Northern Arapaho Business Council, said there is a lack of communication, understanding, trust, and resources. With changes in Congress, more resources may become available. Tribal police officer positions have not been filled, and officers take too long to respond to crimes and cannot make it to court. Detention facilities are also inadequate. Mr. Addison added that tribes need information about declinations, contracts, and MOUs.

Bobby Fields, chief of police, Iowa Tribe of Oklahoma, said he had consulted with Government agencies, and cultural diversity is needed on both sides. Officials from State and local courts can attend tribal courts. Shared training for State, local, and tribal law enforcement can bridge gaps and prevent misunderstandings. The Iowa Tribe overlaps with 16 jurisdictions, and a cross-jurisdiction master agreement among all tribes helps improve coordination in Oklahoma.

Ms. Greer noted that Arizona is not a PL 280 State. She suggested that tribes invite individuals from Federal agencies to visit and learn about tribal issues. Arizona's Federal, State, and tribal judge forum is very helpful, especially with full faith and credit issues. Tribes may need to give limited waivers of sovereignty in certain cases (borrowing money, injunctions, etc.), and tribal law enforcement officials and councils need training on when to waive immunity. Regular meetings with U.S. Attorneys' Offices and State law enforcement agencies can help build relationships.

Mr. Naranjo asked about tribal consultation before grant funds are appropriated. Smaller tribes feel that large tribes receive funds repeatedly. He suggested that the BIA investigate providing their officers with the same training State police receive. This has been effective in Nevada.

Mr. Harrison said that Federal agencies should help tribes submit better grant applications and build the capacity of smaller tribes to compete with larger tribes. Mr. Kane agreed that tribes should be consulted when funds are disseminated, as grants have matching requirements. It is difficult to know the appropriate funding level for new programs.

Roland Mena, executive director, Montana Board of Crime Control, noted that State administering agencies (SAAs) could provide grant writing assistance to tribes. Ms. Nault-Wright added that her tribe has a strong relationship with its SAA and encouraged other tribes to develop similar relationships. She added that Federal, State, and local law enforcement officers should be trained on tribal law enforcement and cultural concerns.

Sherry Matteucci, attorney, Crow Tribe, said that U.S. Attorneys' Offices lack funding. The DOJ needs to understand that offices that serve tribes have unique responsibilities and need additional resources. U.S. Attorneys need to work closely with tribal court systems; cooperative agreements and cross-deputization are critical.

Juvenile codes may take responsibility away from tribal elders, and community processes for addressing youth problems should be enhanced. Retiring baby boomers are a population that can work with tribal communities. A new administration may also offer new opportunities.

**Afternoon Session.** During the afternoon session, the work group reviewed the major needs identified in the morning session:

- Concurrent/joint investigations
- Funding for officer positions/filling vacancies
- A clear process for police officers to report to prosecutors
- Crime lab access
- Cooperative agreements for underpoliced areas
- Training for tribal officers at State police academies
- Fusion centers
- Regular meetings between State and tribal law enforcement and investigative agencies
- Public education about the importance of law enforcement to address suspicion and mistrust
- Law enforcement cross-jurisdictional work
- Law enforcement focus on tribal communities
- Ending turf wars
- Exploring sentencing alternatives, such as substance abuse treatment
- Cultural sensitivity training for Federal and State grant makers and law enforcement
- Declination reports from U.S. Attorneys' Offices
- A master cross-deputization agreement
- Meetings of Federal, State, and tribal judges
- Limited waivers of sovereignty in some cases
- Budget planning for law enforcement agencies
- Balance between discretionary awards and formal grant programs
- Training for tribal grant writers
- U.S. Attorney's Office as the focal point for information
- U.S. Attorney's Office assistance for tribal prosecutors
- Emphasis on prevention policies.

Thelma Stiffarm, BIA, added that BIA police officers need more training on domestic abuse and sex crimes.

Juana Majel-Dixon, Tribal Legislative Council, Pauma Band of Mission Indians, raised the following issues:

- Victims do not report abuse. Available evidence, such as doctors' reports, should be used.
- There should be a protocol for establishing relationships with State crime labs.
- There is a lack of understanding of PL 280, even among BIA investigators. States do not always recognize sovereignty and honor tribal police.
- The needs of children of offenders should be considered.

- Individuals who do not belong to reservations can sign memoranda of agreement (MOAs), filed with the State and the tribe, to be governed by the laws of the reservation.
- A transitional plan and strong data collection are needed for a sex offender registry.
- Reservations should have a policy of zero tolerance toward violence.
- Information sharing among the BIA, FBI, and tribes is still a problem.
- Tribes should have full access to declination reports, and the declination protocol should be standardized.
- Senator Byron Dorgan's crime bill needs to be thoroughly examined.
- Some of the U.S. Attorneys who were fired were on the Native American Issues Subcommittee. There should be an associate deputy attorney general focused on tribal issues.
- Tribes collect crime statistics, but the States and BIA do not accept these statistics. Tribes should work together to ensure the data they collect are recognized. The National Institute of Justice is conducting research on domestic violence and sexual assault, but the tribes should contribute their own data.
- Tribal grants should not include matching requirements. There should be tribal set-asides, and tribes should not have to compete against one another.
- Institutionalized racism should be examined.

## **Jurisdiction and Prosecution**

**Morning Session.** Federal Co-facilitator: *Tracy Toulou, Director, Office of Tribal Justice, DOJ*

Tribal Co-facilitator: *Diane Enos, President, Salt River Pima-Maricopa Indian Community*

Recorder: *Melissa Holds the Enemy, Intern, Office of Tribal Justice, DOJ*

The group discussed the training of tribal prosecutors and how tribes learn from one another.

Karen Red Owl, court administrator, Santee Sioux Nation, said she was new to her position and frustrated by non-Indians going unpunished for assaulting Indian women and committing other crimes. There are a large number of non-Indians on the reservation.

The group discussed this problem. Legislation is pending on this issue. In some situations, Federal, State, and tribal law enforcement all have jurisdiction, but none of these entities takes action. Misdemeanor domestic violence cases are often declined. Mr. Toulou noted that these cases are difficult to prosecute if the victim recants. Statements taken at the hospital may be admitted under the hearsay exception; there are several evidentiary issues. Ms. Enos added that limited resources are a problem.

A participant said there is a lack of law enforcement on the Crow Reservation because police departments shift the responsibility to one another. Cross-deputization might help, but Big Horn County will not consider it. Tribal members are not applying for law enforcement officer positions. Mr. Toulou said that the sheriff in Big Horn County is a tribal member and asked whether loss of tribal sovereignty was an issue. Ms. Enos said Arizona tribes face similar problems. A freeway passes through the community, and the tribe has established cross-deputization through mutual aid agreements. She suggested talking to other tribes with these types of agreements.



Jodi Gardner, assistant prosecutor, Ute Indian Tribe, said that her tribe ended cross-deputization because of problems with racial profiling. Cross-deputies became abusive and did not recognize tribal orders in domestic violence cases. Ms. Enos discussed the Supreme Court case *Hagan v. Utah* and its effect on Ute tribal jurisdiction.

The group discussed the full faith and credit provision to enforce protective orders across jurisdictions in domestic violence cases and problems with the recognition of tribal orders. The Purple Feather Campaign offers “Hope Cards” that contain details of restraining orders. Washington, Montana, and Wisconsin recognize these cards as restraining orders.

Jonathan Windyboy, councilman, Chippewa Cree Tribe of Rocky Boy Reservation, asked about jurisdiction in Internet stalking cases that are linked to domestic violence. It was suggested that Federal law would apply.

Kevin Dauphinais, director, Spirit Lake Social Services, said he collected data about Federal declinations and found that cases are declined because Federal investigators are not trained to properly gather information. There is a lack of accountability to tribal councils, and timely reporting to the tribes is needed. BIA and FBI should collaborate more effectively and have greater accountability to tribes in child protection cases. Resources for Indian children are lacking.

John Harte, policy director, United States Senate Committee on Indian Affairs, said there should be local control over crimes, and the crime bill is not as radical as it could be. Tribes do not have sufficient criminal justice mechanisms. He was interested in seeing actual declination rates and said it is important to achieve consistent results.

Mr. Tailfeathers said the FBI should be aware of tribal issues, follow tribal procedures, and collaborate. Ms. Gardner said tribal courts could try cases rather than wait on Federal law enforcement. Tribes should be persistent and proactive in their contacts with the FBI, and tribes need timely information about why cases are declined. Mr. Toulou said the FBI does a good job but is slow. Mr. Tailfeathers asked what tribes should do with suspects while cases are investigated. Tribes cannot try suspects in tribal courts when Federal law enforcement takes the evidence.

The group discussed the lack of an established declination process.

Thomas Sullivan, Denver regional administrator, Administration for Children and Families, HHS, noted that there are higher rates of sexual abuse in Indian Country. He is using data from Fort Peck to develop a system to track predators.

Ms. Majel-Dixon said that eight young people in her community were killed by police and discussed the racism her community has experienced. Her State is a PL 280 State, and tribal sovereignty was denied. Indian women are being harassed and worry for their safety when they leave the reservation. She said she was filing her complaints at the meeting and with the BIA. The BIA is involved in the cross-deputization processes. She said that tribes are following procedures, but the level of institutionalized racism needs to be acknowledged. Tribes should

have a mechanism to file complaints. Federal agencies often do not share information with one another. Ms. Majel-Dixon asked to whom she could speak about these issues.

Mr. Dauphinais said he went to the U.S. Attorney and followed procedures, but tribal prosecutors lack access to evidence and crime labs to prosecute crimes. The Federal crime lab takes too long. Ms. Enos said her tribe had an agreement with a crime lab in Scottsdale, but tribes have to pay for these crime lab services.

Mr. Toulou asked for suggestions to improve the declination process. Mr. Sullivan said that in many domestic violence cases at Fort Peck, a non-Indian is the perpetrator and an Indian is the victim. The tribe does not have jurisdiction in such cases. The cases are turned over to Federal prosecutors and often declined. An evidence-based investigation should be conducted up front, and officers should be trained to take the victim to a doctor immediately because this evidence can be entered. More data on domestic violence are needed.

Mr. Mercer said cases are not declined over the phone, and he did not know of any cases of domestic violence involving a non-Indian and an Indian that had been declined. The database the Indian Law Clinic at the University of Montana is developing can help ensure that domestic violence victims get justice. He asked for ideas about capturing domestic violence cases. The victims are not going to the grand jury.

Ms. Gardner noted that State and Federal systems for requesting evidence are different. Tribes must go through BIA and file Freedom of Information Act (FOIA) requests. The BIA is hiring victims' services staff. Problems with the BIA Social Services child victim and foster care processes were discussed. Mr. Toulou suggested that participants talk with Louise Reyes, BIA, about these issues.

Ms. Majel-Dixon talked about her tribe closing the reservation. The tribe has taken the following measures:

- Tribal members unwilling to heal themselves have been banished.
- All nonmember Indians who were not married were told to make their relationships permanent.
- All non-Indians were asked to leave unless they signed an MOA to follow Pauma law.

The tribe needs to have zero tolerance for violence. Tribes have sovereignty and should not wait for BIA or the Federal Government to act. The Government has not been accountable to tribes. Attorneys general should work with the tribes; perpetrators do not want counseling, but there are ways to help them. Racism is still a major obstacle.

Ms. Enos suggested the appointment of a deputy assistant attorney general for tribes. Mr. Dauphinais said he agreed, as long as the appointment is not a token position. Ms. Stiffarm said that tribes should advocate for Native representation at high levels in Federal agencies such as the DOJ. A participant recommended that a deputy assistant attorney general for tribes would need to understand issues specific to Indian Country. Mr. Toulou said he did not know how this position would help with prosecutions in the field. Ms. Enos said the individual in this position

would play a tribal advocacy role and deal with prosecutions, training, and other issues. The position would be a presidential appointment.

Ms. Gardner asked about an attorney general subcommittee focused on tribal issues. Ms. Majel-Dixon said most of the U.S. Attorneys on the subcommittee were fired. Mr. Toulou said the subcommittee still exists. The removal of the U.S. Attorneys was political, and it is possible for the subcommittee to be dissolved.

The following needs were identified during the morning session:

- Training resources
- More officers
- A standardized, timely declination process
- Access to State crime labs
- Evidence-based prosecution of domestic violence, with FBI, BIA, and tribal police collaboration
- A special deputy at the attorney general level
- Deputization agreements (constitutional issues need discussion).

The following issues were also discussed:

- Lack of accountability among those tribes that share jurisdiction and shifting of criminal prosecution responsibilities
- Differences in priorities between tribal and Federal prosecutors and the need for collaboration
  - Domestic violence, non-Indian against Indians
  - Crimes against children—lower Federal priority based on the lack of resources
- Full faith and credit between the sovereigns
- Declination rate
  - More timely reporting
  - Collaboration with BIA and FBI
  - Procedure for declinations and tribal notification
- The need for BIA and FBI to get the evidence to tribes
- BIA restrictions
  - BIA social workers—tribes cannot get documents in ongoing investigations
  - Tribes requesting State evidence required to do a FOIA request.

**Afternoon Session.** Federal Co-facilitator: *Leslie Hagen, Senior Counsel, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), OJP, DOJ*  
Tribal Co-facilitator: *Linda Holt, Substance Abuse and Mental Health Services, Suquamish Tribe*  
Recorder: *Melissa Holds the Enemy, Intern, Office of Tribal Justice, DOJ*

Mr. Dauphinais said the Adam Walsh Child Protection and Safety Act mandated the creation of an electronic database of fingerprints, but the State of North Dakota does not have the means to

provide this information to the tribe. He asked whether there were incentives for States to comply with the Walsh Act. Ms. Hagen said grant money is available for the electronic fingerprint database. The statute includes a financial incentive, but no money was appropriated, and the database has not been fully implemented.

It was noted that Montana will not comply with the Walsh Act, and tribes do not have the capacity to comply. Ms. Hagen discussed States that have not implemented the Act. There are six PL 280 States: Alaska (except Matakana), California, Oregon (except Warm Springs), Nebraska, Minnesota (except Red Lake), and Wisconsin (except Menominee). All 50 States have a registry, but there are issues with juvenile offenders and risk assessment. There could be situations in which tribes comply with the Walsh Act, but States do not.

The SMART Office has contracted with an information technology (IT) provider to create a Web template. The Walsh Act requires in-person verification. Tribes will need to invest in Adam Walsh compliant code development. NCAI is working to develop model code agreements. If Montana decides not to implement the Walsh Act, tribes can reach out to the SMART office.

The law requires the registration of new crimes and penalties of 5 years or more. A participant noted that if the tribal court does not prosecute, the information is not readily available to the tribe. Ms. Hagen said that if individuals are convicted in State or tribal court, they must be registered before they are released from custody. SMART has been working on collaborations among Federal prisons, tribes, and Federal probation offices. She mentioned a Baltimore conference on sex offender issues.

It was suggested that the community should be involved through the schools. Ms. Hagen discussed provisions for community notification in the Walsh Act.

Mr. Harrison asked about the NCIC and noted that tribal police need access to information. He asked whether tribes were treated as States. Ms. Hagen said that State law enforcement does not always respect tribal law enforcement authority. Mr. Harrison asked whether NCIC access would translate into compliance with the Walsh Act. Ms. Hagen said that if tribes are in a noncompliant State, the tribe should still have NCIC access.

Ms. Justice discussed concurrent prosecutions. There is a lack of police reports, and law enforcement hinders tribal prosecutions. Federal law impedes MOUs for child abuse cases. Tribes have exclusive jurisdiction over their children, and the tribal code permits punishment for off-reservation crimes. She discussed problems with faith and full credit in Wyoming.

The group discussed 18 U.S.C. 3509, which addresses multidisciplinary child abuse teams and child victims' and child witnesses' rights.

Ms. Justice discussed problems with information from FBI and BIA investigations getting to U.S. Attorneys and the need for more funding. Ms. Hagen noted the Violence Against Women Act provides some funding, but more money is needed.

Ms. Holt said that some States are not going to comply with the Walsh act and asked whether tribes could use the “burn money.” Ms. Hagen said she would have a better answer after the general counsel meeting. She noted that there are no residency restrictions in the Walsh Act, and States are looking into jurisdiction over juvenile offenders.

A participant asked about juvenile offenders and mentioned the case of a 12-year-old offender. Ms. Hagen said that offenders over the age of 14 have to register if they commit sex crimes in which force or threat of violence are used, the victim is unconscious or involuntarily drugged, or the victim is 12 or younger. This has generated a great deal of public comment because juveniles who commit nonviolent crimes could be registered. Prosecutors have discretion with consensual juvenile cases.

Ms. Hagen said a Federal statute requires that the FBI be notified of child sexual abuse. There needs to be a mechanism in place for reporting and starting prosecution. Evidence-based investigations and hearsay exceptions should be emphasized. U.S. Attorneys and tribes need to have open and honest communication.

Ms. Justice discussed the distinction between MPT and CPT, and the Bureau of Prisons in tribal courts.

The group discussed the benefits of having an associate attorney general for tribes. This position could help tribes interact with U.S. Attorneys’ Offices and ensure that cases are prosecuted. There was concern about the position infringing on tribal sovereignty. It was suggested that every U.S. Attorney’s Office should have a tribal liaison, recognized by the DOJ, and that there should be a tribal liaison in the FBI.

Tribal representatives raised the following issues:

- Control of prison records
- Failure of the FBI to remove juvenile offenders from the reservation to protect victims
- The need for a systematic way for the FBI to notify tribes about investigations
- A need for better understanding of jurisdictional issues
  - The Indian Child Welfare Act
  - PL 280
  - Tribal court system
  - Sovereignty policies
- State certification of police and confusion with tribal police upholding State law over tribal law
- Failure of States to comply with record requests
- Limited resources for criminal prosecutions
- Lack of training due to high turnover
- Lack of resources for rehabilitation
- MOUs between tribes rather than between tribes and the Federal Government.

The primary issues discussed during the afternoon session were:

- The Walsh Act—tribal access to electronic database for fingerprints
- Full NCIC access

- Concurrent prosecution:
  - Lack of police reports and cooperative efforts
  - FBI and BIA: bottleneck of information
  - Full faith and credit
- 18 USC 3509: Multidisciplinary teams
- The role of the assistant attorney general
- Tribal access to computerized records
- Self-governance
- Resources to deal with juvenile offenders, such as housing facilities
- FBI docket to notify tribes of investigations, tracked through NCAI or the Native American Rights Fund
- Consistent communication between U.S. Attorneys' Offices and tribes
- A handbook, written by and for tribes, to address inadequate training due to high turnover.

## **Prevention and Early Intervention Programs, Treatment and Rehabilitation, and Prisoner Re-entry Programs**

**Morning Session.** Federal Co-facilitator: *Daryl W. Kade, Director, Office of Policy, Planning, and Budget, SAMHSA, HHS*

Tribal Co-Facilitator: *Hope MacDonald-Lonetree, Councilwoman, Navajo Nation*

Recorder: *Love Foster-Horton, Public Health Advisor, Center for Substance Abuse Treatment, SAMHSA, HHS*

Gordon Belcourt, executive director, Montana and Wyoming Tribal Leaders Council, said that the Council would like to reopen a facility to treat methamphetamine problems and co-occurring disorders, but funding is a barrier. The Council has submitted applications for funding to SAMHSA. Ms. Kade said the facility would be a new funding need, and there may be funding opportunities through Federal agency grants.

Theresa Hanway, consultant, Northern Arapaho Tribe, noted the lack of services for individuals released from prison. Assistance to the prisoner and family should include counseling beyond substance abuse counseling. Employment is also an issue. Funding should be culturally relevant and directed at community needs and families.

Tribes need information about available BIA and DOJ funding and assistance competing for funding. Tribes that have received funding could be identified to facilitate peer-to-peer interaction about the funding process.

Harold Spradling, director, Cheyenne and Arapaho Tribes Substance Abuse Program, discussed an in-house residential treatment facility that accepts all tribal members nationwide. The facility has been applying for funding to expand services, and many new grants require treatment of co-occurring disorders. He is looking for funds for transition programs for prisoners.

Kathy Johnson, Board of Directors, Norton Sound Health Corporation, raised the issue of repeat offenders. There is no help for individuals once they leave the prison system and reenter society. City officials are not familiar with laws about people leaving the prison system. The jail can be a

revolving door for individuals with alcohol problems. She said that individuals use hospitals for alcohol detoxification rather than medical emergencies. There are no residential treatment centers for alcoholism in Nome, Alaska, and people have to go to another location for treatment.

Jennifer Nanez, Clinical Director, Pueblo of Acoma Behavioral Health Services, agreed that there are problems with offenders returning to jail. Some court systems mandate third-party billing for treatment, and treatment is generally not approved. Currently treatment is only available for adolescents, and most substance abuse treatment is only available outside New Mexico. Solutions require long-term funding. The State promotes treatment modalities that are not culturally relevant for tribal communities in order to secure funding. The court system refers individuals for mandatory substance abuse treatment when they are not ready and offers no employment or other services.

Ms. MacDonald-Lonetree said that grant funding at the State level is not as flexible as Federal funding. State funding sources are not designed to address substance abuse issues in tribal communities.

Mark Goldman, Justice Planners International, noted that many people in prison should be in a substance abuse treatment facility. People are placed in secure facilities because treatment facilities are not available.

Henry Cagey, chairman, Lummi Indian Business Council, said tribes should evaluate their own laws, leadership, and economic development, as well as the funding relationships among SAMHSA, the States, and the tribes. The work plan should be divided into policy issues and program issues.

It was suggested that SAMHSA consider sustainability of funding. Block grants to States may not get to the tribes, and SAMHSA should look for better methods.

Mr. Windyboy said that States send tribes to the Federal Government for funding, and the Federal Government sends tribes to the States. Tribal leaders should actively work to ensure that the Federal Government does not determine what is culturally "Indian."

Nora Baker, juvenile court director, Three Affiliated Tribes, discussed programs that are geographically close but culturally distant from tribes. Tribal councils should be involved in programmatic issues, such as services for children whose parents are incarcerated and programs for juvenile offenders. States pay for non-tribal treatment programs that are certified by the State.

Paul Nosie, Jr., administrator, San Carlos Apache Juvenile Rehabilitation, said he is trying to reach out to Indian Health Services (IHS) to pay for services. His center has been mandated to care for residents, but they receive no funding for health care, substance abuse treatment, or mental health issues. Funding needs to be simplified and go directly to the tribes.

A BIA representative said that a lack of detention services is a system-wide problem and can only be corrected through Federal coordination. Ms. MacDonald-Lonetree said the tribes might have more flexibility if they received State block grants directly.

It was recommended that agencies consult with tribes before beginning policy or funding initiatives. Data collection should be tied to funding to ensure that tribes meet objectives. Legislation should mandate that States involve tribes in funding allocations, and tribes need the flexibility to designate funding for prevention, intervention, and treatment programs.

Jolene Crebs, court counselor, Chippewa Cree Tribal Court, said she refers juveniles to cultural activities and ceremonies during probation. She suggested that SAMHSA fund cultural programs.

In summary, the work group identified the following issues that need to be addressed:

- Jail conditions
- State inflexibility
- Long-term sustainability
- Outsourcing of services
- Need to move from silos to collaborations
- Prevention gap
- Data gap
- Infrastructure development.

The work group discussed the following solutions:

- Legislative agenda for tribes—substance abuse prevention and treatment block set-aside
- More funding from the State and Federal Government
- More model programs that include the whole family, including programs in detention centers
- Legal education to ensure enforcement of local ordinances
- Flexibility to use culturally appropriate, evidence-based programs
- Maximizing third-party billing to increase sustainability under the current system and changing the system to meet behavioral health needs
- Data collection
- Tribal consultation prior to setting block grant or Federal grant requirements
- Inventory of current service programs
- Norming existing evidence-based practices for Native American programs
- Examining reasons for recidivism.

**Afternoon Session.** Federal Co-facilitator: *Cynthia Hansen, Ph.D., Special Expert, Center for Mental Health Service, Division of Prevention, Traumatic Stress and Special Programs, SAMHSA, HHS*

Tribal Co-facilitator: *Hope MacDonald-Lonetree, Councilwoman, Navajo Nation*

Recorder: *Love Foster-Horton, Public Health Advisor, Center for Substance Abuse Treatment, SAMHSA, HHS*

The group raised the following issues:

- Tribal detention facilities should examine services provided in non-tribal facilities and adapt them.
- Federal agencies need to collaborate with tribes to better utilize the funds available and manage facilities efficiently.



- Improved staff development would make treatment and rehabilitation programs more effective.
- Some tribes are too small to compete for State block funding and Federal grant funds when population is a criterion.
- Youth issues should be addressed to help prevent crime. Crime prevention programs should include job training, language programs, traditional activities, and elder intervention. Many juveniles are repeat offenders, and they may find detention facilities preferable to their family environments.
- Technical assistance for economic development would enable tribes to stand on their own feet.
- Families play an important role in preventing drug and alcohol use.
- Scholarships for Native people to get degrees in counseling, social work, and other behavioral health fields are needed.

The work group discussed the following local solutions:

- Workforce development—hiring individuals from the community
- Implementation of the Warrior Down program, a cost-effective, peer-to-peer reentry program that encourages family involvement
- Tribal participation in some State committees
- Prison cultural outreach programs
- Healing and wellness programs that provide mentorship, require participation in cultural activities, and reward attendance at drug court
- Banishment laws for tribal members that commit crimes against other tribal members
- Tribal schools to ensure tribal children are not victimized
- Collaboration among tribes to help minimize methamphetamine use and gangs
- Dividing rural reservations into communities that determine their own prevention activities and needs.

## **Victims' Services**

**Morning Session.** Federal Co-facilitator: *Leslie Hagen, Senior Counsel, SMART, OJP, DOJ*  
 Tribal Co-facilitator: *Martha Interpreter-Baylish, Councilwoman, San Carlos Apache Tribe*  
 Recorder: *Diana Bob, Staff Attorney, NCAI*

During previous consultation sessions, the group discussed the lack of consultation about the Adam Walsh Act, lack of Federal prosecution of sexual assault crimes on Indian reservations, and need for more comprehensive victim services programs.

The group discussed limitations on the interactions between IHS behavioral programs and tribal programs. Julian Shields, supervisory social worker, BIA, said that IHS is contracting for services to Fort Peck, resulting in less restrictive services. One restrictive policy is that IHS requires people to go to the clinic and sometimes requires guards to transport people to treatment.

Shirley Blackstone, counselor supervisor, Loneman School, said her community recently had 11 suicides and called IHS for support. IHS said they could not offer after-hours outreach without

asking for departmental support, and it was not clear whether departmental support would be provided.

Roberta Lane, lead social services representative, BIA, said it was rumored that IHS is not reporting sexual abuse and child abuse cases. Tribal social service providers say that they hear about the nonreporting by IHS after the fact. Ms. Lane said her community had not experienced this problem. IHS has rape kits and a doctor on duty to address victims' needs.

Mr. Shields said IHS doctors do not attend rounds at local community hospitals, but they used to.

It was noted that there is a general lack of victim services, but solutions are available through Federal IHS or BIA social services, law enforcement, courts, and community-based intervention programs that receive Federal support.

Ms. Lane said that multidisciplinary child abuse teams include physicians, tribal and BIA social services, and victim services coordinators. Court and BIA law enforcement staff need to participate in these teams. Several participants indicated that their tribes use multidisciplinary teams. Ms. Hagen said United States Code Title 18, Section 3509 (18 USC 3509) spells out the role of multidisciplinary teams as a case management tool for services to victims.

Mary Husby, director of social services, Menominee Indian Tribe of Wisconsin, noted that multidisciplinary teams are problematic and duplicate efforts of the BIA social services child protection team. Tribes are asked to do both as a condition of funding. Ms. Lane suggested that agencies use multidisciplinary teams only for very serious situations. Ms. Husby noted that the multidisciplinary team focuses on prosecution, while the child protection team focuses on developing services for families. A lack of clarity about the purpose of these teams can create confusion.

The group discussed problems in child victim services and potential solutions:

- Ms. Husby said there was a lack of treatment models in Indian country that address control issues in domestic violence cases. The victim is further victimized when children are removed from the family. Academic approaches are needed, and mental health models would be helpful.
- Eric Broderick, deputy administrator, SAMHSA, suggested a new model that shifts mental health treatment from asking "what is wrong?" to asking "what happened?" when addressing traumatic experiences. He did not know whether there were any Native-specific models. SAMSHA is in a position to provide technical assistance to approach care in that way.
- Ms. Hagen suggested training programs for non-offending parents. Coleen Clark, domestic violence coordinator, Fort Beck Family Violence Resource Center, said her program offered quarterly trainings about providing services to abuse victims. The program received a grant to provide services to non-offending parents and child victims.
- Multiple interviews are a problem for victims of crime, and victim-centered, culturally appropriate forensic interview training is needed.
- A child assessment center was suggested.
- There were problems with getting support from the crime victims fund. Quicker payments and expanded services are needed.

- BIA behavioral health case managers, judges, prosecutors, probation officers, child welfare workers, educators, and health care providers should all receive mandatory training about sexual assault and victims' issues.
- Programs developed by State sexual assault coalitions should be adapted for Indian Country.
- Federal agencies should make internal policy changes to strengthen grant management and keep good programs from dying out.
- Data about child abuse and neglect should be collected and used to generate more funding for programs.
- In-home services could help prevent children from being removed and speed compliance with programs.
- Parents' rights and needs are often overlooked. Enforcement of the Indian Child Welfare Act and advocacy for parents in child welfare cases should be improved.
- Most tribal courts lack representation for children. The offender should be removed; not the child or non-offending parent.
- Many career Federal employees are not accountable, and dead wood should be removed from the system.
- Policies should be developed to encourage arrest when there is probable cause that an assault has been committed. Personal protection orders must be enforced, and there must be full faith and credit between jurisdictions. There should be minimum incarceration times before an offender can be released on bond.
- Children who experience or witness violence should be treated for posttraumatic stress disorder.
- Tribal communities need increased victims' services presence and coordination. The multidisciplinary team works as a liaison to Federal victim services programs and focuses on victims' long-term needs.
- A coordinated response team model with an FBI victim advocate can supplement the services of a tribal advocate.
- The sentencing authority of tribal courts should be increased.
- Multi-jurisdiction coordination is required to implement the Sex Offender Registry and Notification Act. The group discussed issues related to the implementation of the Walsh Act, including requirements for extensions and concerns about de facto abrogation of tribal sovereignty.
- Culturally based programs should be incorporated into batterer programs.
- Pan-Indian groups can pose a problem; there is a need for tribe-specific service providers. The SAMHSA panel of "cultural experts" is troublesome because the "experts" were largely non-Native, Washington, DC, bureaucrats. Tribes would rather lose grant funding than jeopardize cultural integrity. Federal agencies should not be dabbling in local cultural property rights.

**Afternoon Session.** Federal Co-facilitator: *Beverly Watts Davis, Senior Advisor to Administrator, SAMHSA, HHS*

Tribal Co-facilitator: *Martha Interpreter-Baylish, Councilwoman, San Carlos Apache Tribe*

Recorder: *Valerie Jordan, Tribal Specialist, SAMHSA, HHS*

The work group summarized issues related to communications, tribal justice, victim services, and data collection.

#### Communications:

- There is a lack of education on domestic violence for prosecutors and police.
- Animosity between the States and tribes must be addressed.
- Education about domestic violence should be provided to tribal schools and tribal leaders.
- Funding is available to address communication barriers, but there are gaps in connecting funds with the people who need them.

#### Tribal justice:

- Tribal codes need to reflect the seriousness of domestic violence.
- Perpetrators of domestic violence are placed in county jails under county jurisdiction, and then they are released and returned to the tribe under tribal jurisdiction, and they commit domestic violence again. There is a lack of coordination between tribal and non-tribal justice systems.
- U.S. Attorneys' Offices are not helping tribal victims receive victims' reimbursements.
- Travel to distant U.S. Attorneys' Offices may be prohibitive.
- Tribal courts need to recognize the orders of other tribal and non-tribal courts.
- States remove children, take away parental rights, place children in institutions, and have children adopted. Parents need resources to find their children and have them returned home.
- Tribal police are walking off the job because of low pay; the BIA can help.
- There is not an updated or complete code to address domestic violence.
- Detention facilities are not meant for long-term detention, but people are being detained long-term because of mandatory sentencing.

#### Victim services:

- Child advocacy centers should be located on reservations.
- There should be greater coordination among law enforcement, BIA, and victim services.
- When perpetrators do not get help, they often victimize family members again. Services are needed for the entire family, including the perpetrator.
- State social services are insufficient, and culturally based suicide prevention programs are needed.
- IHS does not offer assistance in suicide cases, and suicide prevention services are not available after hours.
- Funding for domestic violence services is lacking.
- The paradigm for victim services must change. A victim's needs should be addressed in a trauma-informed way. Victims in treatment should be asked, "What happened to you?" instead of, "What is wrong with you?" If trauma-informed services are not available, tribes should look for ways to provide technical assistance to victim service providers.

#### Data collection:

- When DOJ collects data on tribal communities, they take the data from the large tribes and apply it to all of Indian Country. The severity of problems in each tribe is lost, particularly in the smaller tribes. Demographics for State block grants do not reflect what is happening in the tribes.
- Tribes should collect data in their traditional way through gatherings and groups, and traditional data must be respected.

- An associate attorney general for tribes should be appointed at DOJ.

Dr. Sedgwick said this was his first consultation. He spent the morning in the juvenile justice session and the afternoon in the session on victim services, and he heard comments that gave him hope. He heard a participant say, “Nobody else would come and help me so I had to help myself.” There is a sense of control in helping oneself. Dr. Sedgwick said there is a need for more data about what is going on in Indian Country, and he urged tribes to keep statistics. The data can help build the case for increased funding. He agreed with earlier statements about data collection.

Ms. Majel-Dixon said that tribes need:

- Access to State crime labs
- More investigative training for tribal police officers
- Recognition of the chain of evidence
- Access to rape kits in Indian Country
- Protocols that are recognized and accepted throughout the United States
- Transitional housing
- Zero tolerance for violence and policies to banish perpetrators
- Tribal set-asides
- Collaboration for victim services.

A representative from the Montana Border Crime Patrol invited Dr. Sedgwick to attend a Montana State meeting.

## **Juvenile Justice**

**Morning Session.** Federal Co-facilitator: *Laura Ansera, Tribal Youth Programs Policy Coordinator, Office of Juvenile Justice and Delinquency Prevention, OJP, DOJ*  
Co-facilitator: *Debra Gee, Deputy Attorney General, Chickasaw Nation*  
Recorder: *Adele Holzman, Intern, Office of the Assistant Attorney General, OJP, DOJ*

**Afternoon Session.** Federal Co-facilitator: *Sheila Cooper, Chairperson, Youth Commission, Administration for Children and Families, HHS*  
Co-facilitator: *Debra Gee, Deputy Attorney General, Chickasaw Nation*  
Recorder: *Adele Holzman, Intern, Office of the Assistant Attorney General, OJP, DOJ*

The work group discussed the lack of juvenile services in Indian Country. Truancy prevention programs and juvenile law and order codes are needed. Tribes also lack sufficient 911 technologies and emergency response plans.

The group noted the following problems with the grant process:

- Insufficient notice of grant opportunities
- Slow Internet connections that hamper the application process
- Lack of technical assistance and interface
- Notifications that resemble spam e-mail
- Matching requirements

- Requirements to demonstrate sustainability
- Lack of awareness of annual registration updates
- Limitations of paper applications.

The group discussed solutions to improve the grant process:

- OJP and HHS are working on longer notice of grant opportunities.
- Grants.gov offers an online tutorial.
- Dr. Sedgwick suggested lengthening the window for grant applications to 12 weeks. Solicitations could be opened October 1 with the understanding that the amount of award would depend on Congress. There's a risk that funds may not be available for the solicitations.
- Research was conducted to determine whether matches are agency policy or statutory, and a list of grants with this information may be released later.
- Some matching requirements can be met with Federal funds.
- Dr. Sedgwick said matching requirements might be in appropriations language or authorizing legislation. The appropriations committee can be asked to remove the match requirement. Matching funds show that the community will be able to sustain the program.
- A policy is needed to allow tribes to submit paper applications if they wish. The system accepts paper applications if tribes prove that they cannot maintain an Internet connection. Applications can be converted to portable document format (PDF) and sent out electronically.

The work group discussed numerous problems with juvenile treatment facilities:

- Lack of facilities
- Distance to facilities
- Inability to hold intoxicated juveniles
- Lack of funding for staff
- Charges for tribes to use facilities.

The following solutions were proposed:

- Tribes should own treatment facilities that offer culturally appropriate services.
- Facilities should be centrally located to serve multiple tribes.
- Funds should be available for planning and needs assessment.
- The Centers for Disease Control and Prevention and IHS Mental Health Program should partner to improve treatment of co-occurring disorders.
- Tribes, States, and counties should work together to compile data.
- Treatment should be family oriented and community based.
- Tribes should decide whether to apply for funding as part of a tribe or a region.
- The Federal Government should provide oversight and make States accountable to tribes when States receive money for detention or detoxification facilities.
- Tribes should participate in decision-making and administration of treatment facilities.
- Facilities should teach life/coping skills.
- Funding should be available for group homes and for preventive measures.

It was noted that mental health services are drastically short staffed, and tribal members have to go outside their communities for services. There is insufficient funding and insurance for mental

health care. Not enough is being done to correct bad perceptions of mental health care, and there is a lack of infrastructure to accommodate traditional methods. Increases in funding, resources, training, and infrastructure for culturally based mental health services could help solve these problems. Policies should be developed, with tribal input, to recognize traditional methods and practitioners.

The group discussed problems with fragmented grant funding. Fragmented funding does not adequately address root problems; while one program is supported, related programs are ignored. Funding for drug and alcohol treatment does not reach tribes. Long-term general funding could address these problems. Grant programs should build in planning years to increase capacity. Congressional hearings should be held to determine the impact of funding on all tribes. It was suggested that enhanced diversion programs should be established for offenses such as minors consuming alcohol.

The work group also discussed the following issues:

- Crime data collection is insufficiently funded, and tribes should enter into MOUs to share crime data. PL 280 retrocession was offered as a solution.
- The BIA alcohol and substance abuse program was defunded in 2006, and funding went to IHS. Some tribes lost funding as a result.
- When juveniles are registered under the Adam Walsh Act, they are not treated differently than adults. Tribes need to be notified about the implementation of the Walsh Act, and an SAA can provide technical assistance in implementing the Act. It was suggested that crimes under the Walsh Act be expunged when the offender turns 18.

## **Work Group Reports**

Afternoon Co-moderators: *Jacqueline Johnson Pata, Executive Director, NCAI*  
*Estelle Bowman, Senior Advisor for Tribal Affairs, SAMHSA, HHS*

The work group facilitators summarized and presented the recommendations of the five groups.

## **Police Presence, Investigations, Cooperative Agreements, and Data Sharing**

Federal recommendations:

- Encourage Federal/tribal/State/local agreements
- Address declination reporting
- Treat investigations jointly
- Improve information sharing (NCIC, fusion centers)
- Develop greater cultural sensitivity for grant makers and Federal law enforcement
- Sponsor summits in areas with underpolicing and/or jurisdictional disputes
- Create tribal point of contact in U.S. Attorney General's Office
- Increase tribal access to crime labs
- Develop appropriate alternatives to incarceration
- Improve grants process
  - Eliminate matching funds requirements for tribes
  - Develop balance between discretionary awards and grant funding.

Tribal recommendations:

- Increase use of cooperative agreements
- Encourage tribal law enforcement to obtain joint training with State/local agencies
- Have regular meetings with Federal and State law enforcement counterparts
- Have regular meetings between courts and Federal and State counterparts
- Plan ahead regarding law enforcement staffing and budget development
- Educate public about importance of law enforcement
- Increase focus on prevention (crime and substance abuse)
- Refocus law enforcement on serving tribal communities.

## **Jurisdiction and Prosecution**

The facilitators described the primary issues and recommendations the work group discussed:

Declinations:

- Federal Government too slow in announcing declinations
- Tribal notification when it is too late to do anything
- Need for national standards.

Tribal prosecutions:

- Need improved prosecutions
- Resource-related needs (more officers)
- Training for investigative officers
- More lab resources
- More collaboration between BIA and FBI.

Declination and prosecution:

- Finding solutions
- More training and resources to police officers and tribal courts
- More police officers
- More timely reporting on why a case is declined
- Development of a nationwide standard
- More tribal and BIA training
- Places for tribes to report race-based issues
- Access to State crime labs
- FBI crime lab too slow, interferes with completion of investigation
- Greater use of MOUs for apprehension and sharing of model MOUs among jurisdictions
- Evidence-based prosecution for domestic violence.

New deputy attorney general for tribal affairs:

- Could help address all other issues
- Worth researching and defining
- Unanimous support for this position within work groups that discussed this issue.



#### Jurisdiction and prosecution:

- Distinction between PL 280 and non-PL 280 jurisdictions
- Lack of NCIC access is problematic
- Resources for tribal governments and courts converted to electronic records
- Child sexual abuse and physical abuse cases—there is a perception that these cases are not being prosecuted aggressively
- Need for information sharing
- Tools in Federal statutes to create multidisciplinary teams
- Manual by tribes, for tribes, dealing with jurisdictional issues
- Need to take some sovereignty back
- Need for additional resources, specifically in dealing with juvenile defenders
- Need for greater communication between tribal, State, and Federal offices.

#### Walsh Act:

- States talking about opting out
- Resources
- Issues with juveniles—risk assessments
- No notification to tribes on Federal prisoners
- Full NCIC access needed
- No information sharing from FBI
- Need for cooperation.

#### Other needs:

- Full faith and credit—should be more widely applied in State/tribal court context
- Social marketing for community
- Assistant attorney general appointment and similar position in the FBI
- Funding
- Written information on FBI and U.S. Attorney investigations
- Standardization of investigation
- Better communication with tribal leadership
- Training in tribal law enforcement on jurisdiction
- Centralized tracking of cases that affect tribes
- Review of tribal court systems
- Refining jurisdiction that is currently too broad
- Funding for tribal police departments
- Removal of personality issues in collaboration among tribes, FBI, and U.S. Attorneys
- Victim/witness advocates
- Equal standards in handling tribal issues as with non-tribal issues
- Justifications for declinations should be provided to tribes.

#### **Prevention and Early Intervention Programs, Treatment and Rehabilitation, Prisoner Reentry Programs**

#### New issues:

- Poor jail conditions
- Recidivism

- State inflexibility
- Outsourcing programs
- Long-term sustainability of programs
- Lack of coordination among Federal agencies
- Prevention gap: not enough prevention services/model programs
- Data gap
  - Infrastructure
  - Ownership
  - Evaluation
  - Needs assessments
  - Costs
- Workforce development
  - Native American professionals
  - Jobs for program participants
- Lack of support services
  - Treatment
  - Aftercare
  - Individual/family services.

#### Solutions:

- Legislative agenda for tribes
  - Compacting
  - State block grants should have tribal set-aside
- More State and Federal funding
  - Unfunded mandates
- More model programs
- Education on laws
- Enforcement of ordinances
- Flexibility to use evidence-based practices, as opposed to practice-based evidence
- Maximize third-party billing
- Data collection/analysis by Federal Government, States, and tribes
- Require States to consult with tribal governments for funding through block grant and discretionary programs
- Develop inventory of service and prevention programs
- Adaptation of existing programs for Native populations
- Survey on reasons for recidivism
- Scholarships and job outreach
- Economic development to generate jobs and develop local businesses
- Waivers for matching requirements and inclusion of indirect costs in appropriate uses of grant funds.

#### **Victims' Services**

##### General needs are:

- More resources
- Better coordination at State, local, and Federal level

- More serious approach to domestic violence/sexual assault crimes.

Greater coordination is needed:

- Coordination of services for the victims
- Tribal courts recognizing other tribal courts
- Coordination of services for perpetrators among all relevant jurisdictions
- Officer training coordination
- Development of sexual assault response teams
- Child advocacy centers
- Data collection.

Victims' needs:

- Shift paradigm in addressing victims
- Ask what they need.

Leadership needs:

- Deputy attorney general
- Culturally based peer review
- More time to respond to grants.

Improving relationships with State grants:

- Respect for tribal sovereignty
- Accountability to ensure States follow through

## **Juvenile Justice**

Issues discussed included:

- Lack of services in Indian country
- Insufficient 911 access in several tribal communities
- Grant processes not user friendly
- Insufficient mental health services
- Grants depleted quickly
- Crime data collection insufficient
- Lack of consultation for juvenile justice programs.

Priorities:

- Insufficient funding for crime data collection
- Lack of juvenile services
- Lack of mental health/counseling services.

Data collection:

- Lack of process for data collection on juvenile justice-related issues.

Juvenile facilities:

- More treatment facilities
- Increasing sense of identity and spirituality in youth

- Culturally based programs should be used
- Detention and dual diagnosis with mental health issues should be approached in a rehabilitative environment.

Reasons for lack of mental health services:

- Lack of funding
- Drastically short staffed
- Services outside community
- Cost of developing and staffing programs is high
- No referral source
- Insufficient funding and insurance
- Lack of infrastructure
- Lack of recognized role for elders
- Few Native practitioners.

PL 280:

- Legislation to eliminate PL 280 States
- Effect on spirituality
- Crosscutting of funding
- Problems with matching funds
- 90 days needed to complete grant materials.

Responsibilities of sovereigns:

- Tribal, State, and Federal governments
- Include all government entities in program development.

## **Next Steps**

After the work group reports, the participants offered the following comments and suggestions:

- Proposed solutions should be divided into short-term, moderate-term, and long-term solutions. Each solution should be assigned to the appropriate agency, department, and individuals who can evaluate progress. Agencies should begin working on short-term solutions and focus on the timeliest items.
- The tribal consultation group should develop a timeframe for proposed solutions.
- NCAI will take the lead at an October meeting to work on solutions to tribal problems.
- By mid-December, agencies will develop a matrix that prioritizes the proposed short-term and long-term solutions and assigns them to the appropriate entities and individuals.
- There are overlapping areas of jurisdiction; more work on jurisdictional issues is needed.
- Tribes should work together to develop solutions and pursue approaches that do not cost money.
- Restraining orders should not have limits regarding enforcement.
- The SAMHSA reauthorization should ensure that tribes receive their own block grants.
- There will be an upcoming meeting on child safety and child protection.
- Agencies should identify budget impacts and take these changes to budget work groups.
- There needs to be a way to bring States to the table.

- An executive order in Wisconsin requires State departments to develop consultation plans and to consult with tribes annually.
- Oregon State law requires quarterly meetings between tribes and the State and annual meetings between tribes and State agencies. Tribal liaisons are assigned to all State agencies.