

Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence

Briefing Materials

Hearing #3: April 16-17, 2014 - Ft. Lauderdale, Florida

*Theme: American Indian Children Exposed
to Violence in the Community*

Hyatt Regency Pier Sixty-Six
Panorama Ballroom



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The Tribal Law and Policy Institute www.tpi.org is providing technical assistance support for the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence including: (1) assisting the Task Force to conduct public hearings and listening sessions, (2) providing primary technical writing services for the final report, and (3) providing all necessary support for the Task Force and the public hearings.

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**Attorney General's Advisory Committee on
American Indian/Alaska Native Children Exposed to Violence
Agenda for Hearing #3 April 16 -17, 2014**
Hyatt Regency Pier 66 - Fort Lauderdale, FL - Panorama Ballroom
Theme: *American Indian Children Exposed to Violence in the Community*

Wednesday: April 16, 2014

- 1:00PM – 1:30PM **Invocation, Welcome and Opening Remarks**
- **Invocation:** Seminole Nation Representative (*Invited*)
 - **Welcome:** Theodore Nelson, Sr. (*Seminole Tribe of Florida*), Vice President, Board of Directors for National Indian Child Welfare Association (NICWA), and Tribally Appointed Child Welfare Advocate, Seminole Tribe of Florida
 - **Opening Remarks:** Karol V. Mason, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice
- 1:30PM - 1:45PM **Comments from Attorney General's Advisory Committee Co-Chairs**
- Joanne Shenandoah (*Iroquois*), Co-Chair, Composer and Singer
 - Anita Fineday (*White Earth Band of Ojibwe*), Alternative Co-Chair, Managing Director, Indian Child Welfare Program, Casey Family Programs
- 1:45PM – 2:45PM **Panel #1: Tribal Leader's Panel: Overview of Violence in Tribal Communities**
- Outcome:** *Provide a synopsis of the many issues addressing tribal communities relative to the issue of community violence including gang, sex trafficking, bullying, youth suicide and other criminal related violence. Describe the impact of this violence on schools and communities, on and off reservations. Address community concerns relative to placement of their tribal children in foster care and adoptive homes. Recommend both non-legislative and legislative improvements.*

(Each panelist provides a 15 minute presentation (a total of 45 minutes) followed by 15 minutes of questioning by the Advisory Committee.)

Panel #1 Speaker Biographies:

Brian Cladoosby (*Swinomish*), President, National Congress of American Indians, and Chairman, Swinomish Indian Tribal Community

Brian Cladoosby is the Chairman for the Swinomish Indian Tribal Community and serves as the 21st President of the National Congress of American Indians. Currently, President Cladoosby is also the President of the Association of Washington Tribes and has served on the Swinomish Indian Senate, the governing body of the Swinomish Indian Tribal Community, since 1985; he also served as the Chairman of the Swinomish Indian Senate since 1997. President Cladoosby is one of the most senior tribal political leaders in Washington State and the Pacific Northwest. He is an Executive Board Member of the Washington Gaming Association and is continually active in tribal and state politics. On an international basis, he is the Co-Speaker of the Coast Salish Gathering, which comprises British Columbia First Nations and Western Washington tribes. Brian and his wife of thirty-five years, Nina, have two daughters LaVonne and Mary, a son-in-law Tylor, a granddaughter Isabella, and a grandson, Nathanael.

Erma J. Vizenor (*White Earth*), Chairwoman, White Earth Nation

Erma J. Vizenor was elected as the Chairwoman of the White Earth Reservation in 2004 and is the first woman to lead the largest tribe in Minnesota. As Chairwoman she represents all districts on and off the White Earth Reservation. Erma has worked her entire career in education on the White Earth Reservation. She holds an undergraduate degree in elementary education, a master's degree in guidance and counseling, and a specialist degree in education administration from Minnesota State University Moorhead. A Bush Leadership Fellowship gave Erma the opportunity to earn a master's degree in community decision making and lifelong learning and a doctoral degree in administration, planning, and social policy from Harvard University. Erma is committed to building a strong infrastructure within the White Earth Reservation. Erma has two daughters: Jody and Kristi. She is the proud grandmother of Addie, Bethany, Marina, and Cedar.

Cyril L. Scott (*Rosebud Sioux*), President, Rosebud Sioux Tribe

Cyril L. Scott was born in 1962 to proud Lakota Sioux (Sicangu) parents. President Scott grew up entirely on the Rosebud Indian Reservation graduating from Todd County High School in 1980. President Scott then went into the private sector, traveling the country in various positions. Upon returning home, President Scott was elected to a seat on the Rosebud Sioux Tribal Council in 2005, where he served for two years representing the Antelope District. Tribal duty and service is a historic family passion for Cyril and his Tiospaye (family clan/unit).

Cyril is a strong believer in historic treaty rights and helped to recently choreograph a large private land acquisition of sacred Lakota lands in the Black Hills of South Dakota known as Pe'Sla. Pe'Sla plays a very important and vital role to the Lakota, as it is part of their creation story and location of their yearly renewal ceremonies.

2:45PM – 3:45PM **Panel #2: Indian Child Welfare Act: Keeping our Children Connected to our Community.**

Outcome: *Address the link between American Indian Children Exposed to Violence and compliance with the Indian Child Welfare Act. Discuss the possible impact of Adoptive Couple v. Baby Girl on tribes and families of American Indian Children Exposed to Violence. Provide specific details on Indian Child Welfare Act Compliance. Discuss whether American Indian Children Exposed to Violence are being helped/hurt by the state child welfare system.*

(Each panelist provides a 10 minute presentation (a total of 40 minutes) followed by 20 minutes of questioning by the Advisory Committee.)

Panel #2 Speaker Biographies:

Jack F. Trope, Executive Director, Association on American Indian Affairs

Jack F. Trope is the Executive Director of the Association on American Indian Affairs (AAIA). Before joining AAIA in 2001, Mr. Trope was Director of the Western Area Office in New Mexico for the Save the Children Federation, a partner with the law firm of Sant'Angelo & Trope, a senior staff attorney with AAIA, and an Assistant Counsel to two New Jersey governors in the 1980s. Much of his legal work has focused in the area of youth at risk, including Indian child welfare and juvenile justice advocacy.

Terry L. Cross (*Seneca*), Executive Director, National Indian Child Welfare Association

Terry L. Cross, MSW, ACSW, LCWS, is an enrolled member of the Seneca Nation of Indians and is the developer, founder, and Executive Director of the National Indian Child Welfare Association. He is the author of the Positive Indian Parenting curriculum, as well as Cross-Cultural Skills in Indian Child Welfare. He also co-authored *Toward a Culturally Competent System of Care*. From 2008 to 2012, Terry served as a member of the Substance Abuse and Mental Health Services Administration National Advisory Council. Terry has forty-one years of experience in child welfare, including ten years working directly with children and families.

Chrissi Nimmo (*Cherokee Nation of Oklahoma*), Assistant Attorney General, Cherokee Nation of Oklahoma

Chrissi Nimmo is an Assistant Attorney General for the Cherokee Nation, who has represented the nation in tribal, state, and federal courts since 2008. Her primary focuses are on the Indian Child Welfare Act and in-house counsel duties for the nation. She represented the Cherokee Nation in *Adoptive Couple v. Baby Girl* before the U.S. Supreme Court and the South Carolina Supreme Court; and in *Nielson v. Ketchum* before the U.S. Court of Appeals for the Tenth Circuit. Chrissi also serves as the Adam Walsh Act Sex Offender Registration and Notification Compliance Office for Cherokee Nation. She is the former President of the Cherokee County Bar Association and former Chair of the Indian Law Section of the Oklahoma Bar Association. In law school, Chrissi served as Vice-President of the Student Bar Association and as an editor for *Tulsa Law Review*, was awarded Gable & Gotwals Outstanding First-Year Student, and graduated in the top 5 percent of her class.

Shannon Smith, Executive Director/Attorney, Indian Child Welfare Act Law Center

Shannon Smith is the Executive Director of the Indian Child Welfare Act (ICWA) Law Center located in Minneapolis, Minnesota. Shannon has been with the ICWA Law Center since 2000. The ICWA Law Center is committed to strengthening, preserving, and reuniting Indian families consistent with the mandates and spirit of ICWA. She has more than fifteen years of experience working in the field of Indian child welfare. She has provided direct legal representation to hundreds of Indian families impacted by the child protection system in state and tribal courts. She is respected for her legal expertise and has conducted local and national trainings furthering efforts to increase the understanding of the historical necessity, practical applications, and future implications of ICWA.

3:45PM - 4:00PM **Break**

4:00PM – 5:00PM **Panel #3: Gangs and Sex Trafficking in Urban and Rural Indian Communities**

Outcome: *Provide an overview of tribal gang issues in urban and rural communities. Provide a description of sex trafficking and gangs in a rural tribal community and the impact on tribal youth. Discuss sex trafficking in urban communities and the impact on tribal youth. Provide recommendation on what can be done to improve the present situation.*

(Each panelist provides a 10 minute presentation (a total of 30 minutes) followed by 30 minutes of questioning by the Advisory Committee.)

Panel #3 Speaker Biographies:

Chris Cuestas, Consultant, National Violence Prevention Resource Center

Chris Cuestas is a nationally recognized expert in the field of street gangs and juvenile violence. Chris has built his expertise during more than nineteen years of investigating criminal street gangs, as a police officer, a school resource officer, a crime prevention officer, and a technical assistant for the Department of Justice. Chris has more than thirty-two years of experience in gang reduction, intervention, prevention, and suppression. Chris is one of the original members of the Gang Investigators League of Arizona and assisted in the writing of the Arizona street gang and criminal syndicate state codes. In 2009–2010 Chris’s gang reduction strategy received “National Best Practice” recognition for gang reduction in tribal lands. The Gang Reduction through Intervention Prevention and Suppression (G.R.I.P.S.) strategy develops a community-based collaborative, which responds to community “risk factors” that often ignite the gang problem in tribal lands. The G.R.I.P.S. strategy has shown significant success in tribal communities seeking to impact this developing subculture.

Sadie Young Bird (*Arikara and Hidatsa*), Director, Fort Berthold Coalition Against Violence

Sadie Young Bird is the Executive Director of the Fort Berthold Coalition Against Violence, which is a tribal victim service program that serves domestic violence, sexual violence, child sexual violence, elder abuse, and human-trafficking victims. She has been working within the program for more than three years. Prior to working with victim services, Sadie worked as a correctional supervisor and correctional officer for eight years at the Fort Berthold Tribal Facility, Texas Department of Criminal Justice, and GEO Private Prisons. While working at the tribal facility, Sadie worked with re-entry programs and offender services as a Case Manager. She studied criminal justice with minors in sociology and psychology. Sadie lives on the Fort Berthold Indian Reservation with her fiancée, son, foster son, and brother. She is Arikara and Hidatsa and is from the community of White Shield.

Jeri Williams (*Klamath*), Diversity and Civil Leadership Program Coordinator, Office of Neighborhood Involvement, Portland, Oregon

Jeri Williams manages the Diversity and Civic Leadership Program, which funds underserved communities to engage in civic engagement with the City of Portland. Prior to her employment with the City of Portland in 2006, Jeri was the Director for the Environmental Justice Action Group, which defeated the expansion of the I-5 freeway through Northeast Portland. In 1994, while working as a hotel worker exposed to toxic chemicals, she was introduced to environmental justice and became an organizer for the Workers Organizing Committee. Jeri has seventeen years of field experience specializing in developing leadership skills for diversified communities and encouraging them to voice their opinions. She dedicates her free time to work with victims of human trafficking, sustainability, community organizing, and environment. Jeri is a native Oregonian and a member of the Klamath Tribe. Her favorite artistic hobbies include writing, painting, and making jewelry. She enjoys spending her time with her four children and nine grandchildren.

5:00PM – 6:30PM

Public Testimony

Public may register online prior to the April 16th hearing and/or onsite to provide oral testimony (testimony limited to 5 minute maximum)

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American Indian/Alaska Native Children Exposed to Violence
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Hyatt Regency Pier 66 - Fort Lauderdale, FL - Panorama Ballroom
Theme: *American Indian Children Exposed to Violence in the Community*

Thursday: April 17, 2014

- 8:30AM - 8:45AM **Opening Remarks**
- Joanne Shenandoah (*Iroquois*), Co-Chair, Composer and Singer
 - Anita Fineday (*White Earth Band of Ojibwe*), Alternative Co-Chair, Managing Director, Indian Child Welfare Program, Casey Family Programs

- 8:45AM -9:45AM **Panel #4: Tribal Schools Facing Violence**
Outcome: Provide the Advisory Committee with a broad national overview of bullying, truancy and suicide issues related to American Indian children exposed to violence. Identify training available to teachers and other professionals working with children in tribal communities on identification, assessment and healing of American Indian children exposed to violence. Identify gaps in related services and systems. Provide concrete recommendations for improvements.

(Each panelist provides a 10 minute presentation (a total of 30 minutes) followed by 30 minutes of questioning by the Advisory Committee.)

Panel #4 Speaker Biographies:

Iris PrettyPaint (*Blackfeet/Crow*), Training and Technical Assistance Director and Native Aspirations Project Director, Kauffman & Associates, Inc.

Dr. Iris PrettyPaint has thirty years of experience as an educator and researcher. She is a leading authority on cultural resilience, student retention, and indigenous evaluation with American Indian and Alaska Native communities. Dr. PrettyPaint serves as the Vice President and Director of Training and Technical Assistance (TTA) at Kauffman & Associates and provides administrative oversight and management for data-driven TTA engagement and planning, data collection and analysis, capacity building, implementation of evidence- and culture-based interventions, and reporting. Dr. PrettyPaint has delivered training and technical assistance on violence, suicide, substance use, mental health disorders, bullying, community-based planning, and evaluation and research methods. Dr. PrettyPaint provides training and technical assistance to tribal governments; county, state, territory, and federal agency representatives; secondary schools and postsecondary colleges and universities; public and private consumers; Indian health organizations; and other mental health and substance abuse providers.

Marleen Wong, Assistant Dean and Clinical Professor, University of Southern California School of Social Work

Marleen Wong is Associate Dean, Clinical Professor, and Director of Field Education at the USC School of Social Work. Since 1997, she has been engaged in a long-term community-based research partnership with RAND Health on the effects and prevalence of psychological trauma on children exposed to school and community violence. With colleagues from RAND and UCLA Health Services Research Center, she has been one of the original developers of evidence-based child trauma interventions being implemented in schools across the country and internationally. She has lent her expertise to the social and emotional recovery of children and families from major traumatic events, including terrorist attacks in New York and Oklahoma City, and postdisaster behavioral health humanitarian work in China, Japan, and the Philippine Islands. She served on many boards and advisory groups including the National Advisory Council of Substance Abuse and Mental Health Services Administration/HHS, National Expert Advisory Council, National Native Children's Trauma Center, and the U.S. Department of Justice, Defending Childhood Initiative/Expert Work Group.

Matthew Taylor, Associate Director, National Native Children's Trauma Center; Director, Montana Safe Schools Center; and Associate Director, Institute of Education Research and Service, University of Montana

Matthew Taylor serves as Director of the Montana Safe Schools Center and is Associate Director of the Institute for Educational Research and Service (IERS) at the University of Montana, where he has worked since 2002. He is also affiliated with the Native Children's Trauma Center that serves as a Category II Treatment and Services Adaptation Center within the National Child Traumatic Stress Initiative. He has participated in numerous expert review groups for the U.S. Department of Education and the Federal Emergency Management Agency. He and his colleagues are collaborating with tribes in service provision to multiple schools and child serving agencies in Montana, South Dakota, and Minnesota. He has been extensively involved in design and service provision for the U.S. Department of Education's School Emergency Response to Violence and Readiness and Emergency Management in Schools programs. Prior to his affiliation with IERS, he worked for the Maureen and Mike Mansfield Center.

9:45AM - 10:45AM **Panel #5: Promising Approaches**

***Outcome:** Identify promising approaches to responding to American Indian children exposed to violence in the community. Recommend approaches for responding and training on the issue.*

(Each panelist provides a 10 minute presentation (a total of 40 minutes) followed by 20 minutes of questioning by the Advisory Committee.)

Panel #5 Speaker Biographies:

Gerald Small (*Chippewa Cree*), Tribal Councilman, Chippewa Cree Tribal Business Committee

Gerald Small has served his community of which he is an enrolled member of for many years. He has twenty-nine years as a Child Educator at Rocky Boy Schools, eighteen years in the tribe's Forestry Department, six years as a case worker for Temporary Assistance for Needy Families, and has held a seat on the Tribal Council for four years. Mr. Small is a great asset to the community and it shows through his dedication and longevity to the people of the Rocky Boy's Indian Reservation. Currently, Mr. Small is the chairman for the Chippewa Cree Human Services Sub-Committee and helps make some tough decisions when it comes to the families in which the Human Services Department serves.

Aisha Uwais-Savage Concha, Attorney General, Rosebud Sioux Tribe

Aisha Uwais-Savage Concha serves as the Attorney General of Rosebud Sioux Tribe–Sicangu Oyate Lakota. Aisha was raised on Taos Pueblo Indian Reservation and graduated from the University of Wisconsin Law School where she emphasized in federal Indian law and international law. She previously served as General Counsel for Kawerak, Inc., a Native nonprofit that provides services to the Alaska Native Tribes of the Bering Strait Region of Northwest Alaska. She has worked on indigenous rights issues and constitutional development in Wisconsin, Kenya, and Nepal.

Christine Meyer, Director of Education, Coeur d' Alene Tribe

Dr. Christine Meyer is the Director of Education for the Coeur d'Alene Tribe's Department of Education. She co-authored "Developing a Community-Led Education Pipeline," which was published in the Journal of Community Engagement and Scholarship. Dr. Meyer is the director for the State Board for Early Head Start and Head Start, a member of the North Idaho College Foundation Board of Directors, and a member of the Professional Non-Profit Leadership Council Advisory Council. Dr. Meyer received her bachelor's degree at Eastern Washington University, Cheney; and her master's degree in special education and doctorate in education from the University of Idaho.

Edward Reina (*Salt River-Pima Maricopa Indian Community*), Tribal Law Enforcement Consultant, Retired Tribal Chief of Police

Edward Reina is a member of the Salt River Pima-Maricopa Indian Community and is a retired Chief Police Executive, who worked for five tribal governments: as Chief of Police for four (the Salt River Pima-Maricopa Indian Community, Fort McDowell Yavapai Nation, Reno-Sparks Indian Colony, and Yavapai Prescott Indian Tribe) and as Director of Public Safety for the Tohono O’odham Nation. He served on GLOBAL, a Federal Advisory Committee dealing with criminal justice information sharing; is a board member of the Tribal Law and Policy Institute; is a lifetime member of the Indian Country Law Enforcement Section of the International Association of Chiefs of Police; was the first Tribal Police Chief to serve as President of the Arizona Association of Chiefs of Police and on the Executive Committee of the International Association of Chiefs of Police; served as chairman of the Indian Country Law Enforcement Section (Arizona Tribal Police Chiefs); and served as a member of National Task Force on Juvenile Justice for Native American and Alaska Native.

10:45AM -11:00AM **Break**

11:00AM - 12:15PM **Public Testimony**

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12:15PM - 12:30PM **Closing Invocation and Remarks**

Panel #1: Tribal Leader's Panel:
Overview of Violence in Tribal Communities

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Outcome: Provide a synopsis of the many issues addressing tribal communities relative to the issue of community violence including gang, sex trafficking, bullying, youth suicide and other criminal related violence. Describe the impact of this violence on schools and communities, on and off reservations. Address community concerns relative to placement of their tribal children in foster care and adoptive homes. Recommend both non-legislative and legislative improvements.

Panelists:

Brian Cladoosby (*Swinomish*), President, National Congress of American Indians (NCAI) and Chairman, Swinomish Indian Tribal Community

Brian Cladoosby is the Chairman for the Swinomish Indian Tribal Community and serves as the 21st President of the National Congress of American Indians. Currently, President Cladoosby is also the President of the Association of Washington Tribes and has served on the Swinomish Indian Senate, the governing body of the Swinomish Indian Tribal Community, since 1985; he also served as the Chairman of the Swinomish Indian Senate since 1997. President Cladoosby is one of the most senior tribal political leaders in Washington State and the Pacific Northwest. He is an Executive Board Member of the Washington Gaming Association and is continually active in tribal and state politics. On an international basis, he is the Co-Speaker of the Coast Salish Gathering, which comprises British Columbia First Nations and Western Washington tribes. Brian and his wife of thirty-five years, Nina, have two daughters LaVonne and Mary, a son-in-law Tylor, a granddaughter Isabella, and a grandson, Nathanael.

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Erma J. Vizenor was elected as the Chairwoman of the White Earth Reservation in 2004 and is the first woman to lead the largest tribe in Minnesota. As Chairwoman she represents all districts on and off the White Earth Reservation. Erma has worked her entire career in education on the White Earth Reservation. She holds an undergraduate degree in elementary education, a master's degree in guidance and counseling, and a specialist degree in education administration from Minnesota State University Moorhead. A Bush Leadership Fellowship gave Erma the opportunity to earn a master's degree in community decision making and lifelong learning and a doctoral degree in administration, planning, and social policy from Harvard University. Erma is committed to building a strong infrastructure within the White Earth Reservation. Erma has two daughters: Jody and Kristi. She is the proud grandmother of Addie, Bethany, Marina, and Cedar.

Cyril Scott (*Rosebud Sioux*), President, Rosebud Sioux Tribe

Cyril L. Scott was born in 1962 to proud Lakota Sioux (Sicangu) parents. President Scott grew up entirely on the Rosebud Indian Reservation graduating from Todd County High School in 1980. President Scott then went into the private sector, traveling the country in various positions. Upon returning home, President Scott was elected to a seat on the Rosebud Sioux Tribal Council in 2005, where he served for two years representing the Antelope District. Tribal duty and service is a historic family passion for Cyril and his Tiospaye (family clan/unit).

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Potential Questions for Panelists

PRESIDENT BRIAN CLADOOSBY

1. You mentioned, as a part of the federal trust responsibility, that you would recommend direct funding to tribes from federal sources to target health, welfare and safety of American Indian Children Exposed to Violence. Can you provide more details on the funding you recommend—for instance are you speaking of competitive grants, formula funding or other types of direct federal funding?
2. You mentioned a jurisdictional maze with respect to criminal jurisdiction in Indian Country. What specific recommendations would you make to simplify this maze that would enhance the health, safety and welfare of American Indian Children Exposed to Violence?
3. Your written testimony indicates “where ICWA non-compliance goes ignored, it ties the hands of tribal leaders to protect their children”. Could you discuss this in more detail—specifically what rights would you like to see tribal leaders exercise with respect to ICWA compliance?

CHAIRWOMAN ERMA VIZENOR

1. As a tribal leader, what do you identify as the single-most predominate type of violence American Indian youth are exposed to in your area?
2. What would you identify as one of the most important resources needed to identify, assess and treat American Indian children exposed to violence?
3. What do you identify as critical to the success of training and technical assistance provided to tribal communities and could you explain why?

PRESIDENT CYRIL SCOTT

1. In your written testimony, you mention a correlation between poverty and violence. In your opinion, what would you recommend in the way of federal resources to address the issues of poverty you identified in your tribal community?
2. Your written testimony mentions certain systems and/or institutions that are key in identifying, assessing and treating American Indian Children Exposed to Violence. What federal resources could be provided to tribal courts and schools to address this issue more effectively?

Written Testimony for Brian Cladoosby

Brian Cladoosby (*Swinomish*), President, National Congress of American Indians (NCAI) and Chairman, Swinomish Indian Tribal Community

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Testimony begins on the next page

**Attorney General's Advisory Committee on
American Indian/Alaska Native Children Exposed to Violence
Hearing #3**

April 16, 2014 – Fort Lauderdale, Florida

Theme: **American Indian Children Exposed to Violence in the Community**

**WRITTEN TESTIMONY OF BRIAN CLADOOSBY
PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS; AND
CHAIRMAN, SWINOMISH INDIAN TRIBAL COMMUNITY**

On behalf of the National Congress of American Indians (NCAI), I present this testimony to the U.S. Attorney General's Advisory Committee of the Task Force on American Indian/Alaska Native Children Exposed to Violence (Advisory Committee). I would like to thank the Advisory Committee for inviting me to testify as President of the National Congress of American Indians.

The Attorney General's Task Force on American Indian/Alaska Native Children Exposed to Violence (Task Force) convened "to examine the specific needs of American Indian/Alaska Native (AI/AN) children exposed to violence and recommend actions to protect AI/AN children from abuse and neglect and reduce violence" as noted in the Report of the Attorney General's National Task Force on Children Exposed to Violence.¹ The two previous hearings of the Task Force focused on violence in the home and the juvenile justice response. The focus of today's hearing is on American Indian Children Exposed to Violence in the Community.

Founded in 1944, NCAI is the oldest, largest and most representative American Indian and Alaska Native organization serving the broad interests of tribal governments and communities. Tribal leaders created NCAI as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. For 70 years, tribal governments have come together through NCAI to consider issues of critical importance to tribal governments and endorse consensus policy positions. As the most representative organization of AI/AN tribes, NCAI serves the broad interests of tribal governments across the nation.

The topic of today's hearing is a solemn one – examining the impact of violence on our Native children. As an elected tribal leader and President of NCAI, I recognize, and tribal leaders all across Indian country recognize that there is no more important responsibility than to ensure that our children are safe. If that basic need is not met, Indian children cannot thrive and succeed and become the future leaders that our tribes rely on to take our tribes into the future. As tribal leaders and as members of this committee, we are all committed to making sure our children are first protected from violence and where violence does occur that Native children have the resources they need to move forward in a healthy environment. But tribal leaders cannot succeed without help from our partners in our community, in the state and at the federal level.

In developing this testimony, NCAI has focused on recommendations on those actions that will 1) empower tribal leaders to address exposure to violence at the local level; 2) enforcement of the Indian Child Welfare Act at the State and federal level; and 3) investment in tribal justice systems and jurisdiction solutions.

I. INTRODUCTION

Every community—including both tribal and non-tribal communities—experience violence to some degree. That is, violence is not an Indian problem. Violence is a human problem. The response and reaction to such violence is dependent on a community as a whole. It seems so simple to state that a community needs to be engaged and invested in their children because it is common sense. Stepping back and considering the themes of these hearings as well as the priorities of this Task Force, it is important to note that communities are part of a larger system. Here, for tribal communities, while we are stewards of our youth, we are also part of a larger federal system that has a significant impact on how we are able to protect our children. And that multi-tiered system has been a part of the problem. Where are the solutions going to come from? Tribal communities *want* to invest and engage in solutions to address the needs of their most precious resource for the future: their children. Tribal communities need federal officials to recognize how system policy and behavior is at the root of so much ongoing violence in

tribal communities. This is not about assimilation or saving the Indian. It begins with recognizing the role of colonization and federal Indian policies in constraining tribal communities from responding, preventing, and healing from violence.

The federal government has a trust responsibility to tribal governments. As tribal leaders, we are the trustees of our children. So, when we examine the approaches and solutions to the exposure of our children to violence, we must work together to come up with solutions that will work at every level.

II. KEY EXPOSURES TO COMMUNITY VIOLENCE IN TRIBAL COMMUNITIES

According to the 2010 Census, 5.2 million AI/AN people (1.7 percent of the total US population) reside in the United States. (Census, 2010) Seventy-one percent of AI/AN people live in urban areas.² (National Congress of American Indians [NCAI], 2010) According to the 2006-2010 American Community Survey estimates, the median age for AI/AN on reservations is 26 compared to 37 for the entire nation, with nearly one-third of the population under the age of 18.

The Department of Justice defines “exposure to violence” to include “being a victim of violence or a witness to violence and encompasses sexual abuse, physical abuse, intimate partner violence, school violence, and community violence.” As recognized in the 2012 Report of the Attorney General’s National Task Force on Children Exposed to Violence, AI/AN children are exposed to high levels of violence and experience vast unmet needs in terms of service and support, and the federal government has a unique responsibility in working with system and community leaders to solve this problem.

There are three main types of violence in a community: 1) intergenerational; 2) peer-to-peer; and 3) systems. By systems, NCAI means institutions like schools, hospitals, criminal justice systems, foster care and adoption, etc. Breaking that down to identify key exposures to community violence, we come to:

- Conventional crime
- Child maltreatment
- Sexual victimization
- Family violence
- Gang violence
- Bullying
- School violence (including school shootings)
- Involvement with juvenile justice system

Many of the factors highly associated with the occurrence of exposure to violence are the same factors that put AI/AN children at risk for youth violence and entering the juvenile justice system. Overlapping all these problems is substance abuse. While NCAI recognizes that the Advisory Committee will benefit from the testimony of technical and subject-matter experts in the above-mentioned areas, it is necessary to highlight them.

III. WHAT DOES THE FEDERAL TRUST RESPONSIBILITY HAVE TO DO WITH VIOLENCE IN INDIAN COUNTRY?

What does the federal trust responsibility have to do with violence in Indian Country? It has everything to do with the “health, safety and welfare” of AI/AN tribes and our children. It is deeply intertwined with the creation and purpose of this Task Force—as well as with any recommendations and solutions in protecting AI/AN children from violence. As tribal leaders, we are trustees for the resources of our tribes’ futures: our children.³ By virtue of election as a public official, we accept that responsibility. Tribal leaders shoulder the heavy burden of knowing our resources for the future are hurting.

A. Overview of the Federal Trust Responsibility

An understanding of the unique political status of AI/AN nations is crucial to the development of effective responses to the needs of tribal communities. The United States has legal obligations to Indian tribes that are grounded in the United States Constitution, treaties, federal statutes, and Supreme Court decisions. Much of the federal Indian policy revolves around this special relationship, which is expressed in term of legal duties, moral obligations, and expectancies that have arisen from treaties, federal statutes, federal court decisions, and historical dealings between Indian tribes and the federal government. This trust relationship recognizes tribal governments as distinct political entities with the inherent power to govern themselves. One component of the federal trust responsibility, as enumerated in many treaties and codified in the Snyder Act of 1921, is to ensure the “health, safety, and welfare” of AI/AN peoples. In terms of services to AI/AN children and families, this trust responsibility extends to all departments and agencies of the federal government.

Historically, the responsibility for development of solutions has been given to other entities, such as state, federal, or private agencies, rather than tribal governments, resulting in interventions and outcomes that were not effective in either a fiscal or management analysis. By funding tribal governments directly from federal resources, the federal government is honoring the trust relationship and empowering tribal communities and governments with the best opportunity to change the dynamics that bring children, youth, and families into child welfare, mental health, and juvenile justice service systems.

B. Addressing Exposure to Violence in the Community Leads to Jurisdiction

In examining recommendations for improvements to systems, institutions and/or programs, NCAI has to discuss jurisdictional issues. The above-mentioned key exposures to community violence directly relate to problems with criminal jurisdiction. While steps forward have been made with the Tribal Law and Order Act of 2010 (TLOA) and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), law enforcement remains a principal concern of tribal leaders throughout Indian Country. The most basic priority for allowing tribes to address the impact of violence on native youth and in tribal communities is to provide tribal governments with the jurisdiction they need to ensure the safety and well-being of tribal citizens.

Recommendations

The Violence Against Indian Women movement is not so far away when discussing AI/AN children and exposure to violence. Safety of Indian women is directly related to the exposure of children to violence. American Indian and Alaska Native children who live on reservations are under the authority of one of several jurisdictional arrangements: federal, tribal-federal, state, or tribal-state. Recommendations to increase the safety of communities:

- Review pending applications of Indian tribes requesting that the Department of Justice reassume felony jurisdiction under the TLOA.
- Assist in developing state-tribal law enforcement compacts that support tribal sovereignty and safety for Indian women and provide online access to such compacts.
- Provide tribal, federal, and state cross training on implementation of TLOA and VAWA 2013 specific to tribal-state concurrent jurisdictions.
- The intended ends of the TLOA and VAWA 2013 cannot be achieved unless tribes have the means to implement them. This requires adequate federal funding for critical tribal justice programs that will support the overarching TLOA and VAWA vision of comprehensive law enforcement reform. Native Americans—like all Americans—deserve to live free of fear in their communities, where their basic rights are protected and they can trust the justice system that serves them.

As noted in the Indian Law and Order Commission report’s findings and conclusions, “federal and state juvenile justice [systems] are making matters worse, not better.”⁴ NCAI agrees with the Commission’s reasoning to return exclusive juvenile jurisdiction to tribes that want it. Furthermore, NCAI supports the Commission’s recommendations in its testimony, including:

6.1 Congress should empower Tribes to opt out of Federal Indian country juvenile jurisdiction entirely and/or congressionally authorized State juvenile jurisdiction, except for Federal laws of general application.

6.2 Congress should provide Tribes with the right to consent to any U.S. Attorney’s decision before Federal criminal charges against any juvenile can be filed.⁵

It begins with local response. Yet, tribal law enforcement agencies are chronically under-funded—federal and state governments provide significantly fewer resources for law enforcement on tribal land than are provided for in comparable non-Native communities. The lack of appropriate training in all police forces – tribal, federal and state – also undermines justice.

1. Jurisdiction Background

This jurisdictional gap has not always existed. In the early days of the Republic, tribes routinely, and with the United States’ assent, punished non-Indians who committed acts of violence on tribal lands. For example, the very first Indian treaty ratified by the United States Senate under the Federal Constitution—the 1789 Treaty with the Wyandot, Delaware, Ottawa, Chippewa, Potawatomi, and Sac Nations— recognized that, “[i]f any person or persons, citizens or subjects of the United States, or any other person not being an Indian, shall presume to settle upon the lands confirmed to the said [Indian tribal] nations, he and they shall be out of the protection of the United States; and the said nations may punish him or them in such manner as they see fit.”⁶ Similar language appeared in the last Indian treaty ratified before the Constitutional Convention—the 1786 Treaty with the Shawnee Nation.⁷

a) The Maze

Criminal jurisdiction in Indian country is divided among federal, tribal, and state governments, depending on the location of the crime, the type of crime, the race of the perpetrator, and the race of the victim. The rules of jurisdiction are the result of over 200 years of Congressional legislation and Supreme Court decisions – and are often referred to as a “jurisdictional maze.”⁸ The Department of Justice Criminal Resource Manual sets out a chart on Indian country criminal jurisdiction derived from the statutes and cases listed above:⁹

Where jurisdiction has not been conferred on the state:

Offender	Victim	Jurisdiction
Non-Indian	Non-Indian	State jurisdiction is exclusive of federal and tribal jurisdiction.
Non-Indian	Indian	Federal jurisdiction under 18 U.S.C. § 1152 is exclusive of state and tribal jurisdiction.
Indian	Non-Indian	If listed in 18 U.S.C. § 1153, there is federal jurisdiction, exclusive of the state, but probably not of the tribe. If the listed offense is not otherwise defined and punished by federal law applicable in the special maritime and territorial jurisdiction of the United States, state law is assimilated. If not listed in 18 U.S.C. § 1153, there is federal jurisdiction, exclusive of the state, but not of the tribe, under 18 U.S.C. § 1152. If the offense is not defined and punished by a statute applicable within the special maritime and territorial jurisdiction of the United States, state law is assimilated under 18 U.S.C. § 13.

Indian	Indian	If the offense is listed in 18 U.S.C. § 1153, there is federal jurisdiction, exclusive of the state, but probably not of the tribe. If the listed offense is not otherwise defined and punished by federal law applicable in the special maritime and territorial jurisdiction of the United States, state law is assimilated. See section 1153(b). If not listed in 18 U.S.C. § 1153, tribal jurisdiction is exclusive.
Non-Indian	Victimless	State jurisdiction is exclusive, although federal jurisdiction may attach if an impact on individual Indian or tribal interest is clear.
Indian	Victimless	There may be both federal and tribal jurisdiction. Under the Indian Gaming Regulatory Act, all state gaming laws, regulatory as well as criminal, are assimilated into federal law and exclusive jurisdiction is vested in the United States.

*Where jurisdiction has been conferred to the state by **Public Law 280**:*

Offender	Victim	Jurisdiction
Non-Indian	Non-Indian	State jurisdiction is exclusive of federal and tribal jurisdiction.
Non-Indian	Indian	"Mandatory" state has jurisdiction exclusive of federal and tribal jurisdiction. "Option" state and federal government have jurisdiction. There is no tribal jurisdiction.
Indian	Non-Indian	"Mandatory" state has jurisdiction exclusive of federal government but not necessarily of the tribe. "Option" state has concurrent jurisdiction with the federal courts.
Indian	Indian	"Mandatory" state has jurisdiction exclusive of federal government but not necessarily of the tribe. "Option" state has concurrent jurisdiction with tribal courts for all offenses, and concurrent jurisdiction with the federal courts for those listed in 18 U.S.C. § 1153.
Non-Indian	Victimless	State jurisdiction is exclusive, although federal jurisdiction may attach in an option state if impact on individual Indian or tribal interest is clear.
Indian	Victimless	There may be concurrent state, tribal, and in an option state, federal jurisdiction. There is no state regulatory jurisdiction.

The complexity of the jurisdictional rules—evident in the tables above— creates significant impediments to law enforcement in Indian country. Each criminal investigation involves a cumbersome procedure to establish who has jurisdiction over the case according to the nature of the offense committed, the identity of the offender, the identity of the victim, and the exact legal status of the land where the crime took place. The first law enforcement officials called to the scene are often tribal police or BIA officers, and these officers may initiate investigations and/or detain a suspect. Then a decision has to be made—based on the race of the individuals involved in the crime, the type of crime committed, and the legal status of the land where the crime occurred—whether the crime is of the type warranting involvement by the FBI or state law enforcement.

As recently as the 1970s, dozens of Indian tribes exercised criminal jurisdiction over non-Indians. But in 1978, in *Oliphant v. Suquamish Indian Tribe*,¹⁰ the Supreme Court created federal common law preempting the exercise of the tribes' inherent sovereign power to prosecute non-Indians.¹¹ The *Oliphant* Court noted, however, that Congress has the constitutional authority to override the Court's holding and restore tribes' power to exercise criminal jurisdiction over non-Indians.¹² Justice Rehnquist, writing for the majority in *Oliphant*, expressly stated that the increasing sophistication of tribal court systems, the protection of defendants' procedural rights under the Indian Civil Rights Act of 1968,¹³ and the prevalence of non-Indian crime in Indian country were all "considerations for Congress to weigh" in deciding whether to authorize tribes to try non-Indians.¹⁴

Since *Oliphant*, the Supreme Court has approved congressional affirmations of "inherent tribal power" similar to those passed in the VAWA 2013 tribal provisions. "Congress, with this Court's approval, has interpreted the Constitution's 'plenary' grants of power as authorizing it to enact legislation that both restricts and, in turn, relaxes

those restrictions on tribal sovereign authority.”¹⁵ *United States v. Lara* involved the affirmation of tribal criminal authority over non-member Indians, whom are not eligible to vote or otherwise participate in tribal politics.¹⁶ Extending this authority to prosecute domestic violence by non-Indians is an example of something well-within Congress’ power.

b) Context of Public Law 280

Public Law 83-280 was enacted by Congress in 1953, at the height of the federal government’s efforts to terminate its trust responsibilities to Indian tribes. Initially enacted in six “mandatory” states (Minnesota, Wisconsin, California, Oregon, Nebraska and Alaska upon statehood), P.L. 280 authorized state jurisdiction on Indian reservations and eliminated federal jurisdiction for Indian country and major crimes (18 U.S.C. 1152 and 1153). P.L. 280 also allowed other states to acquire jurisdiction at their option, but the federal government retained concurrent jurisdiction in the “optional” states. Although tribes also retain concurrent jurisdiction over tribal members in the P.L. 280 states, the federal government has viewed the law as an excuse to terminate funding for tribal law enforcement, particularly in California. Amendments to P.L. 280 in 1968 now require tribal consent before a state can acquire jurisdiction, and permit states to retrocede jurisdiction back to the federal government. Retrocession can occur only with the support of the state.

P.L. 280 has been controversial and unsuccessful in addressing crime in Indian country. Tribal opposition to P.L. 280 has focused on the states’ failure to provide law enforcement services, the encroachment on tribal sovereignty, and the lack of consent of the affected tribes. States have focused on the failure of the law to provide federal funding—an unfunded mandate on lands that are not taxable. The law has contributed to mistrust and hostility between state and tribal officials on many reservations. A common tribal perception is that state law enforcement refuses or delays when the tribe asks for assistance, but vigorously asserts their authority when the tribe does not want them to intervene.

Professor Carole Goldberg has made a compelling case that the law has worsened the problem of lawlessness on reservations¹⁷:

...Public Law 280 has itself become the source of lawlessness on reservation. Two different and distinct varieties of lawlessness are discernible. First, jurisdictional vacuums or gaps have been created, often precipitating the use of self-help remedies that border on or erupt into violence. Sometimes these gaps exist because no government has authority. Sometimes they arise because the government(s) that may have authority in theory have no institutional support or incentive for the exercise of that authority. *** Second, where state law enforcement does intervene, gross abuses of authority are not uncommon.

This description comes with an important caveat: good working relationships with state and local law enforcement do exist in some areas of Indian country, and they are critical to maintaining public safety. However, in other areas, these relationships may never have existed on some reservations, or sometimes disappear at the whim of the local elected sheriff. Thus, Congress passed the Tribal Law and Order Act because of the dire need for federal law enforcement services on some P.L. 280 reservations. Continued failure to address crime on these reservations perpetuates an unsafe environment for families and children.

C. ICWA Compliance Is Significant In Addressing The Exposure of AI/AN Children To Violence

When ICWA was enacted in 1978, it was intended to address abused that were identified, reduce the number of out-of-home placements of AI/AN children, and provide protections to Indian families and children in both involuntary and voluntary proceedings. Yet, many states have continually disregarded the intent and design of ICWA. Although progress has been made as a result of ICWA, recent analyses of national child welfare data

indicate that the out-of-home placement of Indian children is still disproportionate to the percentage of Indian youth in the general population and that Indian children continue to be regularly placed in non-Indian homes, an indication of the continuing need for Congressional intervention in this area.¹⁸

Where ICWA non-compliance goes ignored, it ties the hands of tribal leaders to protect their children—and address violence in their communities because it undercuts the ability of tribes to self-govern. Tribal rights are recognized in ICWA because the law is “based upon the fundamental assumption that it is in the child’s best interest that its relationship to the tribe be protected . . .”¹⁹ As noted above in discussing jurisdictional issues, the abilities of tribal governments to govern themselves—to address violence in their communities—is hampered where the inherent sovereign rights of AI/AN governments are not respected. The answer is [still] not removal of our children. NCAI applauds the actions of Congress in the passage of ICWA; but, ICWA’s true purpose and intent—meaning that of Congress—has not yet been fully realized.

Recommendations

We request that this Committee examine ways to improve compliance with ICWA at each level of the system, tribal, state and federal. In particular, NCAI supports the following recommendations:

- ICWA compliance²⁰ is a necessary component of any recommendations that the Task Force report should have.
- Address the loopholes of ICWA enforcement – what is the mechanism available to the federal system to ensure state compliance.
- ICWA clarifications, including: “dual” status of youth²¹, and tribes’ ICWA rights under Fostering Connections²² (where, among other provisions, youth can continue in foster care after age 18).
- Improve Tribal Child Welfare Technical Assistance to Tribal Governments.
- Utilize the expertise and resources of the National Indian Child Welfare Association.
- Support an ICWA-compliance task force among regional tribes. Support technical-assistance to identify whether regional intertribal databases for AI/AN foster and adoptive placement would be useful.

1. ICWA Background Overview

The Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901-1963, was enacted in 1978 in response to a crisis affecting Indian children, families, and tribes. Studies revealed that large numbers of Indian children were being separated from their parents, extended families, and communities and placed in non-Indian homes. Congressional testimony documented the devastating impact this removal was having upon Indian children, families, and tribes. Testimony heard by Congress echoes today:

Culturally, the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of the tribal heritage, are to be raised in non-Indian homes and denied exposure to the ways of their people. Furthermore, these practices seriously undercut the tribes’ ability to continue as self-governing communities. Probably in no area is it more important that tribal sovereignty be respected than in an area as socially and culturally determinative as family relationships.²³

One of the main goals of ICWA was to recognize the vital role of tribes in protecting their children through the confirmation of their exclusive jurisdiction over children resident or domiciled on the reservation, as well as the

right of tribes to intervene in (and in appropriate cases, seek transfer of) state child custody proceedings in order to effectuate their *parens patriae* interest in Indian children, as defined by the Act. Congress clearly intended to acknowledge and protect a different family structure than that protected under state laws as it understood that placement of a child outside the family is a loss felt by the entire extended family and kinship network.

While there have been many improvements in protecting Indian children and families in the 35 years since ICWA was passed, the full purposes of ICWA have not been realized and too many children are lost to their families and their tribes. Issues remain regarding state compliance with ICWA's provisions. This lack of compliance led NCAI membership to pass Resolutions supporting compliance with ICWA and asking the Department of Justice to formally investigate non-compliance with ICWA.²⁴

2. Right to Challenge ICWA Violations

Under Section 1914 of ICWA, any Indian child, tribe, or parent or Indian custodian may petition to invalidate state court orders for foster care placement or termination of parental rights that violate critical sections of ICWA addressing jurisdiction, state court procedures, and parental rights in voluntary proceedings. Section 1914 does not provide for the exclusive basis for federal claims alleging state violations of ICWA. Tribes may also bring actions for injunctive and declaratory relief under 42 U.S.C. § 1983, alleging a pattern of violation of ICWA.²⁵

IV. CONCLUSION

As the Advisory Committee prepares its report, NCAI would ask that the Committee keep some overarching values in mind: federal trust relationship, engagement of—and investment in—tribal leaders and communities in responding to and healing from exposure to violence, and respect for the sovereignty, history and culture of AI/AN people.

The objective of the Advisory Committee is “to provide the Attorney General with critical advice regarding a broad array of issues relating to addressing the problem of AI/AN children being exposed to violence in the United States.” NCAI believes that in order to formulate what will work, it is necessary to examine the roots of why other things have not worked. As the Advisory Committee is comprised of leading experts including practitioners, child and family advocates, academic experts, and license clinicians, the strength of experience and motivation is here. As the Advisory Committee is not continuing in nature, it is imperative to recognize and repeat that the key is investment and engagement of tribal communities (the local response) in protecting their children. NCAI has presented the Advisory Committee testimony as to what tribal leaders need from their own communities and from our federal trustees: 1) investment in tribal justice systems and jurisdictional solutions, 2) enforcement of and compliance with the Indian Child Welfare Act, and 3) empowerment of tribal governments in protecting our communities.

A. Federal Government Level

If the Administration and Congress can address violence against women in Indian Country, there is a path to addressing AI/AN children exposed to violence. Invest in the local response—tribal justice systems. Hand in hand with the local response is collaboration. When state and local authorities come to the table with tribal officials, we all can agree that the safety of our children is key. We need federal oversight for state compliance with the Indian Child Welfare Act.

Technical-assistance may be offered; but improvement is needed. Tribal leaders passed a resolution to voice their requests for assistance in operating child welfare programs.²⁶

B. Tribal Government Level

Tribal leaders must look at their tribal youth and children and ask themselves, “Am I your trustee?” With tribal government investment in children and youth programs, community and grassroots leaders will feel empowered to bring forth their ideas.

General Recommendations

- Identify children and youth mentors in tribal governments. Work with local schools to create mentoring program to develop young leaders.
- Use the National Indian Child Welfare Association as a technical and expert resource.
- Create an ICWA-compliance task force with regional tribes. Identify whether regional intertribal databases for AI/AN foster and adoptive placement would be useful.

C. Community or Grassroots Level

Two words are essential: community investment. The idiom “boots on the ground” inevitably comes to mind. Indian Country has people in place who are doing good things in their communities. It is important to lift these programs up and highlight them as ways to engage a community. With 566 federally recognized tribes, there is no one model. But as Indian Country shares the common goal in protecting AI/AN children, these examples can spur more ideas—an idea right for your community.

General Recommendations

- Get out in the community and ask your AI/AN youth what they think they need.
- Examine what cultural traditions in your tribal community could do to address the exposure of AI/AN children to violence.
- Cultivate long-term trust-based relationships by having regular community meetings and collaborations between law enforcement and the AI/AN community to allow for relationship building and an opportunity to discuss priorities from both the tribal perspective and law enforcement perspective.
- Organize multidisciplinary tribal children’s task force to include law enforcement, health care providers, social service providers, educators, advocates, prosecutors, and public defenders. (See above specific example of Coeur D’Alene’s Tracking Program).
- Provide education and training for law enforcement and others working with AI/AN children that addresses tribally specific cultural issues, domestic violence, and education about jurisdictional issues.
- Acquire mediators between the tribal community and local law enforcement to facilitate communication and allow for more positive outcomes for AI/AN children.

Specific Examples

- **Coeur D’Alene Youth At Risk Tracking Program** (Strengthening The Spirit Program)

The Coeur d’Alene Tribe’s Department of Education’s Strengthening the Spirit (STS) Program provides all enrolled students at Lakeside elementary and middle school in 6-8th grade, and Tribal School, who have completed and returned the STS application, an opportunity to participate in the after school enrichment program.

There are four goals to the Strengthening the Spirit Program: 1) to implement enrichment programs that provide structured educational, cultural, and physical activities in a safe and nurturing setting; 2) to increase better grades in school by providing students more information in science, technology, engineering, and math; 3) to foster a stronger cultural identity, building resiliency and a stronger self-worth; and 4) to promote physical well-being, healthy eating and a drug free lifestyle. These four goals will allow every student to improve their grades and quality of life.

The STS “tracking” program has been in existence for eight years. The Coeur D’Alene Tribe noticed issues regarding youth to include discourse and systemic indifference. The Tribe was plagued with youth issues such as high drop-out rates, suicide and substance abuse. Dr. Chris Meyer took the lead and recognized that the issues seemed to begin in youth grades 6-8. The STS Program targets that age group and notes that if we can get our youth through the 8th grade, they have a fighting chance.

The STS Program is community-based with various organizations coming together to focus on the youth and what the youth need. The organizations include: education, wellness, various youth programs and the Univ. of Idaho Extension Programs. The Program stressed that these organizations were not territorial and instead were working together for the good of the youth. This program follows targeted youth throughout high school and oftentimes beyond.

As a result of this program, the Tribe has no drop outs, no gangs and no suicides. Youth still struggle but they have support now. Other tribes could duplicate this program but the crux is having key organization participants who are physically and spiritually healthy—and are truly passionate about assisting youth.

- **Cheyenne River Youth Project**

The Cheyenne River Youth Project (www.lakotayouth.org) was founded in January 1988 in response to the community’s need for more services that support struggling children and their families. Originally housed in a converted bar on the town’s Main Street, the organization created a safe place for children to come after school, offering activities such as arts and crafts, intramural sports and volunteer mentorship, in addition to serving a healthy meal and snack each day. The youth center was operated completely by a volunteer staff and quickly became a vital element of the Cheyenne River Community. Despite its small size, and very little money for programming, the center was filled to capacity each day.

From those meagre beginnings, the Cheyenne River Youth Project has come a long, long way. In 1997, CRYP partnered with the national non-profit, Running Strong for American Indian Youth, to build a new youth center that could support the organization’s growth. The new “Main Youth Center” opened in May 1999, and provides a recreation room, library, family room, commercial grade kitchen, office space and residential quarters for long-term volunteers. Of course, CRYP has continued to expand and partnered once again with Running Strong in 2004 to build the Cokata Wiconi Teen Center for youth ages 13-18. The Teen Center is a tremendous achievement for CRYP, boasting a full-sized basketball court, an internet cafe, a computer lab, dance and art studios, as well as private volunteer quarters.

¹ Report of the Attorney General’s National Task Force on Children Exposed to Violence, *Defending Childhood: Protect Heal Thrive* 9 (2012).

² The Census “urban” designation includes Urbanized Areas (densely developed territory that contains 50,000 or more people) and Urban Clusters (densely developed territory that has at least 2,500 people but fewer than 50,000 people). As a result, in 2010, 13 percent of AI/AN people considered urban for census purposes live on tribal lands (reservation, Oklahoma Tribal Statistical Area, or Alaska Native Village Statistical Area). NCAI Policy Research Center analysis of Census 2010 American Indian and Alaska Native Summary File. See http://factfinder2.census.gov/bkmk/table/1.0/en/DEC/10_AIAN/PCT2//popgroup~001%7C006%7C009?slice=POPGROUP~001 for more info.

³ As recognized by Congress in the Indian Child Welfare Act, “there is no resource more vital to the continued existence and integrity of Indian tribes than their children . . .” 25 U.S.C. § 1901(3).

⁴ Indian Law and Order Commission, Report to the President & Congress of the United States: *A Roadmap for Making Native America Safer* 155 (2013).

⁵ Indian Law and Order Commission, Report to the President & Congress of the United States: *A Roadmap for Making Native America Safer* 160-173 (2013)(recommendations 6.1 through 6.12).

⁶ Treaty with the Wyandot, Delaware, Ottawa, Chippewa, Potawatomi, and Sac Nations, art. IX, Jan. 9, 1789, 7 Stat. 28, 30.

⁷ See Treaty with the Shawnee Nation, art. VII, Jan. 31, 1786, 7 Stat. 26, 27.

⁸ See Robert N. Clinton, Criminal Jurisdiction Over Indian Lands: A Journey Through a Jurisdictional Maze, 18 Ariz. L. Rev. 503, 508-13 (1976)

⁹ This chart has not been updated to reflect the distribution of authority set out in the Adam Walsh Child Protection and Safety Act, which was passed by Congress in 2006. For a discussion of these changes, see *infra*.

¹⁰ 435 U.S. 191 (1978).

¹¹ 435 U.S. 191, 195-212.

¹² 435 U.S. 191, 195 & n.6, 206, 210–12.

¹³ Public Law 90-284, tit. II, 82 Stat. 77 (1968).

¹⁴ *Oliphant*, 435 U.S. at 212; see also *United States v. Lara*, 541 U.S. 193, 206 (2004) (holding that the Constitution allows Congress to override “judicially made Indian law” (quoting *Oliphant*, 435 U.S. at 206) (emphasis added in *Lara*)).

¹⁵ *Lara*, 541 U.S. 193, 202 (2004).

¹⁶ *Lara*, 541 U.S. 193, 206 (2004).

¹⁷ Carole Goldberg-Ambrose, *Planting Tail Feathers: Tribal Survival and Public Law 280* (UCLA American Indian Law Studies Center, 1997), p. 12.

¹⁸ See, e.g., Alicia Summers, Steve Woods & Jesse Russell, National Council of Juvenile and Family Court Judges, *Technical Assistance Bulletin: Disproportionality Rates for Children of Color in Foster Care* 7 (2012) (finding that although Native Children make up 0.9% of the United States population, they make up 1.9% of children in foster care); Rose M. Kreider, *Interracial Adoptive Families and Their Children: 2008*, in National Council for Adoption Factbook V 109 (2001) (reporting that in 2008 more Indian children in adoptive placements lived in non-Indian adoptive homes than Indian adoptive homes).

¹⁹ *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 37 (1988).

²⁰ See also, Indian Law and Order Commission, Report to the President & Congress of the United States: *A Roadmap for Making Native America Safer* 173 (2013) (recommendation 6.12 – ICWA should be amended to provide that when a State court initiates any delinquency proceeding involving an Indian child for acts that took place on the reservation, all of the notice, intervention, and transfer provisions of ICWA will apply. For all other Indian children involved in State delinquency proceedings, ICWA should be amended to require notice to the Tribe and a right to intervene).

²¹ Although the language of the ICWA expressly excludes from its definition of child custody proceedings placements based on an act which, if committed by an adult, would be deemed a crime (25 U.S.C. § 1903(1)), in some circumstances the ICWA may or does still apply—for example, where the offending youth is already in foster care.

²² Public Law 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008.

²³ 1978 House Hearings at 193 (statement of Calvin Isaac, National Indian Tribal Chairman’s Association).

²⁴ NCAI Resolution #TUL-13-040 Support for DOJ Investigation of ICWA Non-Compliance (attached); see also, Resolutions #SAC-12-068 Support for the Protection of the Indian Child Welfare Act; #PDX-11-112 Ensuring Compliance with the Indian Child Welfare Act and the Protection of Tribal Nations Children; #ABQ-10-038 Support for Indian Child Welfare Act Compliance Efforts (attached).

²⁵ See *Dep’t of Health & Soc. Servs. v. Native Vill. of Curyung*, 151 P.3d 388 (Alaska 2006).

²⁶ NCAI Resolution PSP-09-080 Support for Improving Tribal Child Welfare Technical Assistance to Tribal Governments (attached).



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #TUL-13-040

TITLE: Support for DOJ Investigation of ICWA Non-Compliance

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SOUTHERN PLAINS
Steven Smith
Kiowa Tribe

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Indian Child Welfare Act (ICWA) was passed by Congress in 1978 to stop the abusive practices of state child welfare agencies, adoption attorneys and private agencies that were removing large numbers of American Indian and Alaska Native children, many times unnecessarily, and placing them in non-Indian homes far from their families and communities; and

WHEREAS, American Indian and Alaska Native children are disproportionately represented in state foster care systems (at 2-3 times their population numbers) and private adoptions of tribal children continue to go unregulated and undocumented in many cases; and

WHEREAS, one of the critical safeguards of ICWA that is often overlooked is the requirement that parents of American Indian/Alaska Native children appearing in state court whose rights are subject to being terminated or taken away temporarily are sometimes not provided legal representation; and

WHEREAS, recent events in South Dakota and South Carolina (NPR investigation of South Dakota foster care system and Baby Veronica case) have shed light on ICWA non-compliance problems with state child welfare and private adoption systems; and

WHEREAS, these compliance issues go well beyond the recent events in these two states and are part of a larger pattern of ICWA non-compliance that ultimately threatens the well-being of their children and families and the stability of tribes; and

WHEREAS, no federal agency has taken action to formally examine ICWA non-compliance which has allowed these issues to continue and worsen; and

WHEREAS, the Department of Justice, which has a responsibility to uphold federal law, has reached out to Indian child welfare experts, American Indian organizations and tribes to gain a better understanding of their concerns regarding ICWA non-compliance.

NOW THEREFORE BE IT RESOLVED, that the NCAI will urge the U.S. Department of Justice to launch a formal investigation of non-compliance with the Indian Child Welfare Act focusing on both involuntary and voluntary placements of American Indian/Alaska Native children to document the scope and frequency of non-compliance; and

BE IT FURTHER RESOLVED, that NCAI urges the Department of Justice to work closely with tribes and experts in Indian child welfare to ensure that any investigation conducted will address all relevant and appropriate issues and requirements of ICWA; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

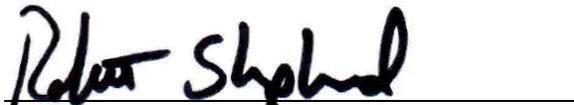
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.



 President

ATTEST:



 Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

**The National Congress of American Indians
Resolution #PDX-11-112**

**TITLE: Ensuring Compliance with the Indian Child Welfare Act and the
Protection of Tribal Nations Children**

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Indian Child Welfare Act was enacted into law in 1978 to ameliorate the widespread abuses in private and public child welfare systems involving tribal nation children and families; and

WHEREAS, prior to the passage of the Indian Child Welfare Act the Association on American Indian Affairs conducted a study in the late 1960's and early 1970's that documented the rate of state removal of tribal nation children in out of home care averaged between 25% to 35% and in some jurisdictions was much higher; and

WHEREAS, in the last 33 years tribal nations have worked diligently to assist state and federal agencies in the implementation of the protections contained within the Indian Child Welfare Act, including but not limited to providing training, developing inter-governmental agreements and providing tribal staff and resources in ICWA cases; and

WHEREAS, in 2005 the General Accountability Office conducted a study to examine the status of implementation of the Indian Child Welfare Act and found that at least 32 states were out of compliance with some provisions of the Indian Child Welfare Act; and

WHEREAS, the study also recommended that the Department of Health and Human Services use data that was being collected by the states and sent to DHHS to develop improved technical assistance and training to states on implementation of ICWA, which was summarily rejected by DHHS in their response letter; and

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WHEREAS, federal data collected by states on placements of children under their care in foster care (AFCARS) reveals a long trend of disproportionate placement of tribal nation children in foster care and the data is considered to be a conservative estimate of the actual rates for these children; and

WHEREAS, no federal agency has made meaningful efforts to monitor and enforce the Indian Child Welfare Act despite federal mandates under ICWA and other federal mandates to improve outcomes for all children in the child welfare system and this lack of oversight has directly contributed to the high rates of placement of tribal nation children; and

WHEREAS, the Indian Child Welfare Act recognizes that it is in the best interest of tribal nation children to be placed with their families and within their nation to maintain the child's cultural, spiritual and emotional well-being and not following the protections and procedures contained within ICWA places these children at high risk of experiencing serious social problems; and

WHEREAS, over the last year National Public Radio conducted an investigation in South Dakota into the highly disproportionate placement of tribal nation children in the state foster care system which was presented in a three part series during October of 2011; and

WHEREAS, the NPR investigation found the following:

- Nationally, tribal nation children are more than twice as likely to be sent to foster care as other races even in similar circumstances
- Nearly 90% of tribal nation children placed in the South Dakota foster care system are placed in non-Indian homes
- The higher rates of removal of tribal nation children in South Dakota is occurring despite the lower than national average rate of child abuse with this population
- A number of licensed Indian foster homes in South Dakota are not being used to place tribal nation children.

WHEREAS, the NPR report revealed that this is not just a South Dakota problem.

NOW THEREFORE BE IT RESOLVED, that the NCAI supports the findings of the NPR investigation and requests the Congress and the Obama Administration to further investigate the failure of states to comply with the Indian Child Welfare Act; and

BE IT FURTHER RESOLVED, that immediate action be taken to improve federal oversight of the implementation of ICWA by state child welfare systems, including improved coordination and cooperation between the Departments of Interior and Health and Human Services; and

BE IT FURTHER RESOLVED, that the Department of Interior take immediate action to ensure that BIA Social Services activities are conducted in full compliance with the ICWA and through close coordination with the affected tribal nations; and

BE IT FURTHER RESOLVED, that Congress consider amendments to the ICWA to improve compliance with the Act, including provisions that would permit challenges by tribal nations and parents based upon a failure to comply with the placement preferences and that would mandate stricter oversight of state compliance by the federal government; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2011 Annual Session of the National Congress of American Indians, held at the Oregon Convention Center in Portland, Oregon on October 30 – November 4, 2011, with a quorum present.



President

ATTEST:



Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #ABQ-10-038

TITLE: Support for Indian Child Welfare Act Compliance Efforts

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Indian Child Welfare Act (ICWA) was signed into law in 1978 to remedy decades of abuse and neglect by public and private agencies that were removing large numbers of American Indian and Alaska Native children from their families and placing them in non-Indian homes outside their communities; and

WHEREAS, after over 30 years of implementation of the ICWA there are still many states that are substantially out of compliance with the requirements of the law with little enforcement or technical assistance being provided by federal agencies; and

WHEREAS, in 2005 the General Accountability Office (GAO) conducted a study that found that while the Administration for Children and Families had some responsibility for overseeing state planning with tribes to implement the law it was not actively involved in helping states monitor or improve their implementation; and

WHEREAS, this lack of attention to ICWA compliance and technical assistance needs of agencies responsible for implementing the law has resulted in tribal governments and their children and families not having any recourse when federal mandates are not met and little incentive or help for states to improve their practices; and

WHEREAS, tribal leaders and advocates have made significant efforts over the last 16 years to engage the Administration for Children and Families in this work, however, the response has been to deny the agency has any role in ICWA implementation and resist any efforts to address the issues.

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NOW THEREFORE BE IT RESOLVED, that the NCAI requests the Administration for Children and Families to meet with tribal leaders to consult on meaningful steps to improve state implementation of the ICWA and support necessary efforts to establish a regular review system for state ICWA compliance; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until otherwise amended or rescinded, or until the policy objective of this Resolution is accomplished.

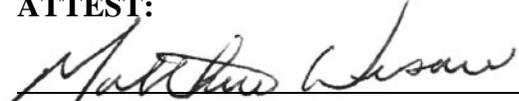
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2010 Annual Convention of the National Congress of American Indians, held at the Albuquerque Convention Center in Albuquerque, NM on November 14-19, 2010, with a quorum present.



President

ATTEST:



Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS (

The National Congress of American Indians \$
Resolution #PSP-09-080 \$

TITLE: Support for Improving Tribal Child Welfare Technical Assistance to Tribal Governments

EXECUTIVE COMMITTEE

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Congress has provided authority for tribes to directly apply for and operate the many of the existing federal child welfare programs, such as Title IV-B and IV-E; and

WHEREAS, in providing authority to operate these federal programs Congress has acknowledged both the federal trust responsibility and government to government relationship that exists between the United States and tribal governments; and

WHEREAS, tribal governments are eligible to receive technical assistance from the federal government to prepare for accessing these programs and enhancing their overall child welfare operations; and

WHEREAS, the federal government's interest in assisting tribal governments in the development and operation of tribal child welfare services goes beyond just the operation of federal programs as is demonstrated by the expressed intent within the Indian Child Welfare Act and Indian Self Determination Act; and

WHEREAS, tribal governments have increasingly been asking for assistance to help them prepare for operation of federal child welfare programs, enhancement of their service delivery system; and

WHEREAS, the Children’s Bureau under the Department of Health and Human Services, which is charged with providing child welfare technical assistance to tribes, has set criteria for how technical assistance is provided and what can be provided that is often not responsive to tribal needs and has limited capacity to assist tribal governments in developing effective programs; and

WHEREAS, several tribal governments that have tried to work with the Children’s Bureau have expressed their concerns regarding the technical assistance process, but little or no improvements have been made; and

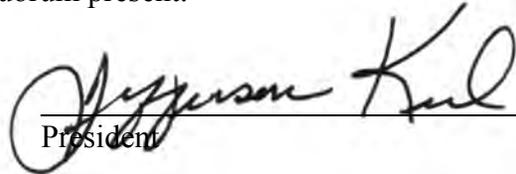
WHEREAS, if technical assistance from the Children’s Bureau continues to not be responsive to tribal needs the result will likely be fewer tribes participating in federal programs, little improvement in service capacity for tribes and improved outcomes and permanency for tribal children and families not being attainable.

NOW THEREFORE BE IT RESOLVED, that NCAI will convene a meeting with tribal leadership and officials from the Department of Health and Human Services to review the Children’s Bureau’s implementation of government to government policies and protocols for federal agencies working with tribal governments and specifically address tribal concerns regarding child welfare technical assistance to tribes; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2009 Annual Session of the National Congress of American Indians, held at the Palm Springs Convention Center in Palm Springs, California on October 11-16, 2009, with a quorum present.



President

ATTEST:



Recording Secretary

Written Testimony for Erma Vizenor

Erma Vizenor (*White Earth*), Chairwoman, White Earth Nation

Erma J. Vizenor was elected as the Chairwoman of the White Earth Reservation in 2004 and is the first woman to lead the largest tribe in Minnesota. As Chairwoman she represents all districts on and off the White Earth Reservation. Erma has worked her entire career in education on the White Earth Reservation. She holds an undergraduate degree in elementary education, a master's degree in guidance and counseling, and a specialist degree in education administration from Minnesota State University Moorhead. A Bush Leadership Fellowship gave Erma the opportunity to earn a master's degree in community decision making and lifelong learning and a doctoral degree in administration, planning, and social policy from Harvard University. Erma is committed to building a strong infrastructure within the White Earth Reservation. Erma has two daughters: Jody and Kristi. She is the proud grandmother of Addie, Bethany, Marina, and Cedar.

Testimony is not available prior to hearing

Written Testimony for Cyril Scott

Cyril Scott (*Rosebud Sioux*), President, Rosebud Sioux Tribe

Cyril L. Scott was born in 1962 to proud Lakota Sioux (Sicangu) parents. President Scott grew up entirely on the Rosebud Indian Reservation graduating from Todd County High School in 1980. President Scott then went into the private sector, traveling the country in various positions. Upon returning home, President Scott was elected to a seat on the Rosebud Sioux Tribal Council in 2005, where he served for two years representing the Antelope District. Tribal duty and service is a historic family passion for Cyril and his Tiospaye (family clan/unit).

Cyril is a strong believer in historic treaty rights and helped to recently choreograph a large private land acquisition of sacred Lakota lands in the Black Hills of South Dakota known as Pe'Sla. Pe'Sla plays a very important and vital role to the Lakota, as it is part of their creation story and location of their yearly renewal ceremonies.

First of all, I would like to thank all of you for showing compassion for and fostering our future leaders. I'm sure many of you are aware of the practice shared by numerous tribes. I'm speaking of the practice that consists of considering what the implications of your daily actions will have on the next 7 generations. I want to congratulate and thank the members and supporters of this task force for continuing to progressively explore and modify approaches to ensuring the safety and health of our children. By doing so, you are truly participating in this practice. Thank you (pilamayapelo).

We are here to examine key exposures, explore different clinical and traditional methods for screening, assessing and treating children that have been exposed to violence, and to, ultimately, recommend improvements. It makes my heart grow heavy that there is a need for such a task force, as I'm sure it has the same effect on many of you. But we need to come together and unite, so our sorrow will grow into strength.

The first step is to try to gauge the extent of exposure to violence. I know that not many of you will contend that the numbers are astounding. This has already been established from prior task force meetings.

Mato Standing High, the former Attorney General for the Rosebud Sioux Tribe stated in his written testimony submitted for the Children's Exposure to Violence in Rural and Tribal Communities hearing held in Albuquerque, New Mexico on January 30-February 1, 2012 the following: "For us, the question is not who has been exposed to violence; the question is, who hasn't?" I think this a very powerful, and unfortunately true statement.

We all know the statistics are disheartening and have caused many to abandon hope. I know that isn't the case for the individuals here today to support a safe environment for our

children, so they can grow, learn, prosper and build on our efforts; so they know that they are a priority.

After reviewing stats compiled by a collaborative of local agencies, federal agencies and the Defending Childhood Initiative (DCI) it is believed that 100% of our children and youth are exposed to direct or indirect violence.

The main method of identifying children exposed to violence is currently institutional recognition. The main institutions identifying exposure are the Schools, Police Departments, Social Service Agencies and Courts.

These exposures are identified by witnesses, children approaching an authority or trusted peer with a report of being victimized (direct) or witnessing victimization (indirect), or through Social Service Agency and/or Police notification of violent crimes either perpetrated by or against a child.

Needless to say, there are numerous direct and indirect exposures to violence that go unreported.

These institutions serve the people greatly and are appreciated; however, to effectively decrease the overwhelming occurrences of child exposure to violence, we need to educate and encourage members of our communities to practice a non-violent lifestyle and to promote a non-violent house hold.

These public services weren't designed to be the first exposure to the teaching of a non-violent approach to life, but a service to assist the few that weren't taught in the critical years of development the negative repercussions on a micro (home, community, school) and macro level (state, nation, world) of resorting to violence.

Without a doubt, progressive legislation and alliances between law enforcement and prosecutors are a critical implements in addressing the epidemic of violence, but we also need to explore and remedy the deeper issues that give birth to violent tendencies.

I'm sure statistics will show that poverty and oppression go hand-and-hand with elevated instances of violence.

I'm not a scientist or statistician but I can attest to this theory. Take into consideration the fact that the Rosebud Sioux reservation is located in the 2nd poorest county in the nation and inhabited by one of the proudest but most oppressed groups of human beings in history. Juxtapose the level of poverty, oppression with the rate of child exposure to violence, and I dare you to deduce the inexistence of a correlation.

Violence and poverty aren't only a problem for the Rosebud Sioux Tribe. The following stats will illustrate the hardships faced by indigenous populations from across the nation:

- Census data from 2012 indicates that the poverty rate for American Indian/Alaskan Native (AI/AN) people was estimated at 29.1%, considerably higher than the rest of the United States population that hovers around 15.9% according to a statement made by the United States Census Bureau in November, 2012.
- Data shows that 10.7% of all AI/AN people over the age of 12 have had an alcohol use condition in the past year (Office of Applied Studies, SAMHSA,2007).
- 5% of AI/AN people over the age of 12 have had an illicit drug use condition in the past year (Office of Applied Studies, SAMHSA, 2007).
- In 2011 there was 1 murder, 44 forcible rapes , 1 robbery, and 144 aggravated assaults (Bureau of Justice Statistics, BOJ, 2011).

Those are just a few stats to illustrate the obstacles we are dealing with. If you notice there was 144 aggravated assaults reported on the Rosebud reservation in 2011 and 1 murder. I can guarantee you the murder rate has increased in 2013. If children on the Rosebud continue to be exposed to violence at the current rate, those aggravated assaults could start to become murders.

The follow are a few general proposed recommendations that can be crafted to unique situations.

Recommendations for improvements in the system, institutions and relevant programs:

- Provide direct services to tribal children who are victims of crime and exposed to domestic violence on the reservation;
- Provide case management across systems to identify children that are not being prioritized by law enforcement, health care, child protection, and school interventions;
- Organize community awareness activities to promote social change, including a prevention public health campaign against violence as well as community-specific outreach and information sharing;
- Promote collaboration with advocates, schools, law enforcement, prosecutors, and federal and state entities to share relevant information to better support children exposed to violence;
- Create policy advocacy agenda to reform those laws and policies that impact our children and youth on the reservation.

Recommendations for lawmakers:

- Increase funding for Indian Health Services
- Increase funding for Social Service Block Grants
- Increase funding for SAMHSA programs
- Enact progressive legislation that promotes collaborative efforts between tribal and federal law enforcement officers and prosecutors
- Continue and possibly increase direct consultation with tribes.

Recommendations for communities:

- Attempt to maintain a non-violent house hold
- Encourage alternative dispute resolution
- Encourage families to come together as a community to promote a violence free community
- Release a public announcement proclaim the zero tolerance policy to violence in your community

Thanks to valiant efforts made by President Obama's administration, U.S. Attorney General Eric Holder, U.S. Attorney Brendan Johnson, and prosecutorial collaborations between federal and tribal allies, I am hopeful instances of violent crimes experienced by women and children on South Dakota's reservations will decline. But it is critical that we never forget that it all starts at home within the family (tiwahe). Safe families = Safe communities = Safe nations. Ho Hecetu Yelo.

Resources

U.S. Department of Commerce, U.S. Census Bureau, American FactFinder. (2012). Poverty status in the past 12 months: *2012 American Community Survey 1-year estimates*.

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http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_C17001C&prodType=table

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Panel #2: Indian Child Welfare Act:
Keeping our Children Connected to
our Community

Panel #2: Indian Child Welfare Act: Keeping our Children Connected to our Community

Outcome: Address the link between American Indian Children Exposed to Violence and compliance with the Indian Child Welfare Act. Discuss the possible impact of *Adoptive Couple v. Baby Girl* on tribes and families of American Indian Children Exposed to Violence. Provide specific details on Indian Child Welfare Act Compliance. Discuss whether American Indian Children Exposed to Violence are being helped/hurt by the state child welfare system.

Panelists:

Jack Trope, Executive Director, Association on American Indian Affairs

Jack F. Trope is the Executive Director of the Association on American Indian Affairs (AAIA). Before joining AAIA in 2001, Mr. Trope was Director of the Western Area Office in New Mexico for the Save the Children Federation, a partner with the law firm of Sant'Angelo & Trope, a senior staff attorney with AAIA, and an Assistant Counsel to two New Jersey governors in the 1980s. Much of his legal work has focused in the area of youth at risk, including Indian child welfare and juvenile justice advocacy.

Terry Cross (*Seneca*), Executive Director, National Child Welfare Association (NICWA)

Terry L. Cross, MSW, ACSW, LCWS, is an enrolled member of the Seneca Nation of Indians and is the developer, founder, and Executive Director of the National Indian Child Welfare Association. He is the author of the Positive Indian Parenting curriculum, as well as Cross-Cultural Skills in Indian Child Welfare. He also co-authored *Toward a Culturally Competent System of Care*. From 2008 to 2012, Terry served as a member of the Substance Abuse and Mental Health Services Administration National Advisory Council. Terry has forty-one years of experience in child welfare, including ten years working directly with children and families.

Chrissi Nimmo (*Cherokee Nation of Oklahoma*), Assistant Attorney General, Cherokee Nation of Oklahoma

Chrissi Nimmo is an Assistant Attorney General for the Cherokee Nation, who has represented the nation in tribal, state, and federal courts since 2008. Her primary focuses are on the Indian Child Welfare Act and in-house counsel duties for the nation. She represented the Cherokee Nation in *Adoptive Couple v. Baby Girl* before the U.S. Supreme Court and the South Carolina Supreme Court; and in *Nielson v. Ketchum* before the U.S. Court of Appeals for the Tenth Circuit. Chrissi also serves as the Adam Walsh Act Sex Offender Registration and Notification Compliance Office for Cherokee Nation. She is the former President of the Cherokee County Bar Association and former Chair of the Indian Law Section of the Oklahoma Bar Association. In law school, Chrissi served as Vice-President of the Student Bar Association and as an editor for *Tulsa Law Review*, was awarded Gable & Gotwals Outstanding First-Year Student, and graduated in the top 5 percent of her class.

Shannon Smith, Executive Director/Attorney, Indian Child Welfare Act (ICWA) Law Center

Shannon Smith is the Executive Director of the Indian Child Welfare Act (ICWA) Law Center located in Minneapolis, Minnesota. Shannon has been with the ICWA Law Center since 2000. The ICWA Law Center is committed to strengthening, preserving, and reuniting Indian families consistent with the mandates and spirit of ICWA. She has more than fifteen years of experience working in the field of Indian child welfare. She has provided direct legal representation to hundreds of Indian families impacted by the child protection system in state and tribal courts. She is respected for her legal expertise and has conducted local and national trainings furthering efforts to increase the understanding of the historical necessity, practical applications, and future implications of ICWA.

Potential Questions for Panelists

JACK TROPE

1. Your written testimony mentioned that HHS may have a strong role in strengthening ICWA compliance. What would be your recommendation in this regard?
2. Your written testimony mentioned that you were researching the authority of the Secretary of Interior to promulgate ICWA regulations and that you hoped to be able to report the findings of your research at the public hearing. Can you provide the Advisory Committee with an update on the results of your research?

TERRY CROSS

1. What do you see as the biggest obstacle to ICWA compliance?
2. If you could make only one recommendation regarding ICWA compliance monitoring, what would that recommendation be?
3. What resources do tribes need that will strengthen ICWA compliance?

CHRISSI NIMMO

1. If you could make only one recommendation regarding ICWA compliance monitoring, what would that recommendation be?
2. Based on your experience with *Adoptive Couple v. Baby Girl*, what do you identify as the biggest obstacle to ICWA compliance?
3. Based on the federal trust responsibility, what resources are needed to strengthen tribal sovereignty with respect to ICWA compliance?

SHANNON SMITH

1. In your experiences in Minnesota, is there an ample supply of tribal foster homes? To that end, what federal or state resources could be provided to tribes that would promote the recruiting of tribal foster homes?
2. Based on your experiences, what is the largest barrier to ICWA compliance?

Written Testimony for Jack Trope

Jack Trope, Executive Director, Association on American Indian Affairs

Jack F. Trope is the Executive Director of the Association on American Indian Affairs (AAIA). Before joining AAIA in 2001, Mr. Trope was Director of the Western Area Office in New Mexico for the Save the Children Federation, a partner with the law firm of Sant'Angelo & Trope, a senior staff attorney with AAIA, and an Assistant Counsel to two New Jersey governors in the 1980s. Much of his legal work has focused in the area of youth at risk, including Indian child welfare and juvenile justice advocacy.

Testimony begins on the next page



AAIA

Association on American Indian Affairs

Executive Office

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TESTIMONY PRESENTED TO THE TASK FORCE ON AMERICAN INDIAN AND ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE

April 16, 2014, Fort Lauderdale, FL

By Jack F. Trope, Executive Director

Co-Chairs Shenandoah and Dorgan and members of the Task Force on American Indian and Alaska Native Children Exposed to Violence. My name is Jack Trope. I am the Executive Director of the Association on American Indian Affairs, Inc. (AAIA). AAIA is a national non-profit citizens' organization headquartered in Rockville, Maryland. Our mission is the preservation and enhancement of the rights and culture of American Indians and Alaska Natives. The policies of the Association are formulated by a Board of Directors, all of whom are Native Americans. Thank you for the opportunity to testify as part of a panel entitled, "The Link Between American Indian Children Exposed to Violence and Compliance with the Indian Child Welfare Act".

Overview of the Indian Child Welfare Act (ICWA)

The Association began its active involvement in Indian child welfare issues in 1967 and for many years was the only national organization active in confronting the crisis in Indian Child Welfare. AAIA studies were prominently mentioned in committee reports pertaining to the enactment of the ICWA and, at the request of Congress, AAIA was closely involved in the drafting of the Act in 1978. Since that time, the Association has continued to work with tribes in implementing the Act, including the negotiation of tribal-state agreements, training, and legal assistance in contested cases.

The ICWA was enacted in response to a tragedy that was taking place within the Indian community. Enormous numbers of Indian children had been removed from their families and tribal communities without just cause. The ICWA was landmark bipartisan legislation which, although it has been imperfectly implemented, has provided vital protection to Indian children, families and tribes. It has formalized the authority and role of

tribes in the Indian child welfare process.¹ It has forced greater efforts and more painstaking analysis by agencies and courts before removing Indian children from their homes.² It has provided procedural protection to families and tribes to prevent arbitrary removals of children.³ It has required recognition by agencies and courts alike that an Indian child has a vital interest in retaining a connection with his or her Indian heritage, specifically recognizing that placement with a child's extended family or other tribal families (when out-of-home placement cannot be avoided) is in the child's best interests.⁴ Each year thousands of child custody and adoption proceedings take place in which the Indian Child Welfare Act is applied. The ICWA applies to all child custody proceedings where a child may be removed from its parent or Indian custodian except for divorce proceedings or where the placement results from an act by a youth that would be considered a crime if the youth were an adult.⁵

Although progress has been made as a result of ICWA, recent analyses of national child welfare data indicate that the out-of-home placement of Indian children is still

¹ See *e.g.* 25 U.S.C. 1911(a) (exclusive tribal jurisdiction over Indian children resident or domiciled on the reservation); 25 U.S.C. 1911(b) (transfer of off-reservation state court proceedings to tribal court); 25 U.S.C. 1911(c) (recognizing the right of Indian tribes to intervene in all state court child custody proceedings involving children who are members or eligible for membership in the tribe); 25 U.S.C. 1911(d) (requiring state courts to accord tribal court judgments full faith and credit); 25 U.S.C. 1912(a) (requiring notice to Indian tribes by state courts in involuntary child custody proceedings); 25 U.S.C. 1914 (providing Indian tribes with the right to challenge state placements that do not conform with the Act's requirements in federal court); 25 U.S.C. 1915(c) (recognizing, as a matter of federal law, tribally-established placement preferences for state placements of off-reservation Indian children); 25 U.S.C. 1915(e) (recognizing right of Indian tribes to obtain state records pertaining to the placement of Indian children); and 25 U.S.C. 1919 (authorizing tribal-state Indian child welfare agreements).

² 25 U.S.C. 1912(d) (requires active efforts to provide remedial and rehabilitative services before Indian children may be removed from the care of their parents).

³ 25 U.S.C. 1912(e) and (f) (establishing substantive standards for involuntary foster care placement of an Indian child or termination parental rights of the parent of an Indian child which exceed those provided under state law).

⁴ See, *e.g.*, 25 U.S.C. 1915(a) (requiring that adoptive placements of Indian children under state law be made preferentially with the child's extended family, other members of the Indian child's tribe or other Indian families, in that order, absent good cause to the contrary); 25 U.S.C. 1915(b) (requiring that foster care placements of Indian children under state law be made preferentially with the child's extended family, a tribally-licensed foster home, an Indian foster home licensed by a non-Indian entity or a tribally-approved or Indian-operated facility, in that order, absent good cause to the contrary); 25 U.S.C. 1915(d) (requiring that the cultural and social standards of the Indian community must be applied by the state court when it applies the placement preferences); and 25 U.S.C. 1917 (providing adopted Indians who have reached the age of 18 with the right to access their adoption records for the purpose of establishing their Indian tribal membership).

⁵ 25 U.S.C. 1903(1).

disproportionate to the percentage of Indian youth in the general population and that Indian children continue to be regularly placed in non-Indian homes, an indication of the continuing need for the federal government to step up its oversight in this area.⁶

The ICWA is relevant to children exposed to violence in three very important and interconnected ways. First, it provides a mechanism for state and county systems to respond to incidents of abuse involving Indian children and youth by taking measures to keep the family intact and ensure a safe environment within the family. This mechanism emphasizes the importance of active efforts to provide families in crisis with services that heal the family and allow children to safely remain with or return to their birth families. This is consistent with a key principle of child welfare that it is in the best interests of children to support, develop, and maintain their ties to their birth parents.

Second, it also emphasizes placing children with their extended families or other tribal members if they need to be removed from their homes. Placement with extended family has been widely embraced as a best practice in the child welfare community.⁷ Indeed, general child welfare statutes applying to all children are moving in the direction of the ICWA placement preferences, requiring notice to extended family to inform them of the opportunity to serve as a placement for a child that will be placed in foster care, and providing that the state must consider giving preference to an adult relative over a non-related caregiver.⁸ Placement with extended families or tribal members also helps to ensure that Indian children will remain connected with their communities and cultures. As stated in the Attorney General's report, "children exposed to family violence particularly need to retain their connection with their cultures and communities, which is a key factor that can protect them from the psychological harm and insecurity caused by exposure to violence in their families.

⁶ See, e.g., Alicia Summers, Steve Woods, & Jesse Russell, National Council of Juvenile and Family Court Judges, *Technical Assistance Bulletin: Disproportionality Rates for Children of Color in Foster Care* 7 (2012) (finding that although Native children make up 0.9% of the United States population they make up 1.9% of children in foster care); Rose M. Kreider, *Interracial Adoptive Families and Their Children: 2008*, in National Council for Adoption Factbook V 109 (2011) (reporting that in 2008 more Indian children in adoptive placements lived in non-Indian adoptive homes than Indian adoptive homes).

⁷ See National Council of Juvenile and Family Court Judges, *supra*, at 10–11 (2000) ("An appropriate relative who is willing to provide care is almost always a preferable caretaker to a non-relative."); Adoption Standards § 1.10 ("The first option considered for children whose parents cannot care for them should be placement with extended family members when a careful assessment clearly indicates the ability, willingness, and capacity of those individuals to care for the children."). Tiffany Conway & Rutledge Hutson, *Is Kinship Care Good for Kids?* 2 (2007) ("[T]he research tells us that many children who cannot live with their parents benefit from living with grandparents and other family members.")

⁸ 42 U.S.C. 671(a)(19), (29) (notice and preferred placement requirements in Title IV-E of the Social Security Act).

Remaining in their communities and staying involved with cultural, religious, and community activities provides children with an indirect connection to their families even when they cannot live in their family homes or with family members.”⁹

Third, ICWA strengthens the role of tribal governments in furtherance of the federal government’s special relationship with Indian tribes. The recognition of this role in ICWA is based at least in part upon the concept that an Indian tribal government stands in the relationship of *parens patriae* to its children.¹⁰ The *parens patriae* function is a core function of any sovereign government which allows it to take an active role in making sure that the decisions that are being made for children who have been exposed to violence are truly in that child’s best interests.¹¹ In addition, tribal rights are recognized in ICWA because the law “is based upon the fundamental assumption that it is in the child’s best interest that its relationship to the tribe be protected . . .”¹²

Although constituting only a small percentage of the violent acts committed against Indian children, it should also be mentioned that full implementation of ICWA can help prevent future violence within the American Indian and Alaska Native youth community. There is considerable statistical evidence that many youth who wind up in the juvenile justice system were previously in the child welfare system.¹³ Providing Indian children who have been abused with the treatment that they need and promoting a strong connection with family, culture and community can provide the psychological and emotional support that they need to stay out of the pipeline between the child welfare and juvenile justice systems.

We would note also that ICWA is supposed to be applied to juvenile justice proceedings that do not involve activities that would be crimes if committed by adults. If this were fully implemented, it would provide youth who have committed status offenses with additional supports and services that are likely to reduce recidivism. There is considerable evidence that providing such youth with alternative placements and rehabilitative services is far more effective than incarcerating such youth.¹⁴

⁹ Report of the Attorney General’s National Task Force on Children Exposed to Violence, section 4.10, page 120.

¹⁰ United States Senate Report 95-597, 95th Cong., 1st Sess. (November 3, 1977) at 51.

¹¹ It is well-settled that *parens patriae* authority extends beyond territorial boundaries. See *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592 (1982) (Puerto Rico, as *parens patriae*, has right to intervene in Virginia state court to protect the health and safety of Puerto Rican workers in Virginia.); see also *State of Alaska v. Native Village of Curyung*, 151 P.3d 388, 402 (Alaska 2006) (Tribe has right as *parens patriae* to bring suit to prevent future violations of ICWA).

¹² *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 37 (1989).

¹³ See, e.g., Casey Family Programs and the Georgetown University Center for Juvenile Justice Reform, *Juvenile Justice and Child Welfare Integration*, 2010, at 8.

¹⁴ See generally Holman and Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, published by the Juvenile Policy Institute.

Role of the federal government in ensuring compliance with ICWA

As stated in the Attorney General's report, "Thirty-four years after ICWA's passage, full implementation of the act remains elusive." The Departments of Interior ("Bureau of Indian Affairs"), Health and Human Services ("Administration for Children and Families") and the Department of Justice all have roles in ensuring that state and local courts and agencies comply with the mandates of ICWA. One role is to provide funding to build tribal capacity in child welfare and promote tribal-state collaboration in this area. We will refer to some important funding sources in our recommendations. The following summarizes most important statutory framework that underlies the authorities of the key federal agencies that need to take responsibility for ICWA compliance.

Department of the Interior

ICWA vests considerable authority in the Department of the Interior. The Secretary is authorized to "promulgate such rules and regulations as may be necessary to carry out the provisions of the Act",¹⁵ receive notices of child custody proceedings when the child's tribe cannot be identified¹⁶, provide appointed counsel for indigent parents when state law does not provide for same¹⁷, approve reassumption by tribes of exclusive jurisdiction over child custody proceedings,¹⁸ provide grants to tribes and off-reservation Indian organizations for the operation of child and family service programs¹⁹, enter into funding agreements with HHS²⁰, and collect and release information about adoption decrees entered since 1978.²¹

Pursuant to this authority, the Secretary of Interior has promulgated regulations addressing issues of notice, payment of appointed counsel, reassumption of jurisdiction and child welfare grants.²² The Bureau of Indian Affairs has also issued "Guidelines for State Courts; Indian Child Custody Proceedings."²³ The guidelines are recommendations and not binding upon the states. In 1979, when the Guidelines were issued, the Department of Interior indicated that it did not believe it had the authority to issue regulations. Currently, the Guidelines are under review. One question being considered is whether the Department of Interior has the authority to issue regulations governing ICWA compliance by state agencies and courts. To the extent it has this authority, regulations may be a mechanism for strengthening ICWA compliance. We are currently researching this question and hope to be

¹⁵ 25 U.S.C. 1952.

¹⁶ 25 U.S.C. 1912(a).

¹⁷ 25 U.S.C. 1912(b).

¹⁸ 25 U.S.C. 1918.

¹⁹ 25 U.S.C. 1951 and 1952.

²⁰ 25 U.S.C. 1933.

²¹ 25 U.S.C. 1951.

²² 25 C.F.R. Part 23 (does this include reassumption).

²³ 44 Fed. Reg. 67584 (1979).

able to share our perspective on this issue with you at the hearing.

Department of Health and Human Services

There are several statutory provisions regarding ICWA which directly authorize the Department of Health and Human Services (HHS) to promote tribal child welfare programs and the objectives of ICWA, including compliance with the Act. In ICWA itself, there are two provisions: (1) a section that permits HHS to enter into agreements with Interior to make funds available for Indian child and family service programs²⁴, and (2) a section that authorizes ICWA funds to be used as match for programs under the jurisdiction of HHS, including Title IV-B and Title XX, and which also provides that for the purpose of qualifying for assistance under a federally assisted program, tribal licensing shall be deemed the equivalent of state licensing.²⁵

In the generally applicable child welfare statutes administered by HHS under the Social Security Act, there are some important references that relate to the issue of ICWA compliance. The state plan required by the Title IV-B child welfare services program must "contain a description, developed after consultation with tribal organizations...in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act."²⁶ Title IV-B also includes sections which provide for direct funding to Indian tribal child welfare programs under this title.²⁷ Likewise, Title IV-E provides for direct eligibility by tribes for the Title IV-E Foster Care, Guardianship, and Adoption Assistance Program, as well as funding through tribal-state agreements.²⁸

States have a number of obligations vis-à-vis tribes under the Social Security Act statute. In addition to the specific ICWA compliance requirement to be included in the state plan and the obligation to negotiate in good faith a Title IV-E tribal-state agreement if requested by a tribe, there are a number of other issues that require, or would at least benefit from, state involvement including coordination between tribes and states for populations located on lands under state jurisdiction. Tribes can define their own service area under the tribal direct funding part of Title IV-E. That service area may include lands that are outside of the tribe's exclusive jurisdiction and subject to ICWA. Moreover, pursuant to the ICWA, tribes can transfer off-reservation child custody cases to tribal court. Coordination between state and tribal agencies will be important to ensure that the child's access to maintenance payments and services is uninterrupted and to determine the allocation of costs.

²⁴ 25 U.S.C. 1933.

²⁵ 25 U.S.C. 1931(b).

²⁶ 25 U.S.C. 622(b)(9).

²⁷ 25 U.S.C. 628, 25 U.S.C. 629f(b)(3).

²⁸ 42 U.S.C. 679c (regular IV-E program); 42 U.S.C. 677(j) (IV-E Chafee program). AAIA has recently completed "A Survey and Analysis of Select Title IV-E Tribal-State Agreements including Template of Promising Practices", with the support of Casey Family Programs, which can be found, among other places, on our website at www.indian-affairs.org.

Based upon its authority to administer this Titles IV-B and IV-E, HHS has adopted regulations providing for periodic Child and Family Services Reviews of state agencies and systems.²⁹ Given the statutory framework described above, there is a strong justification for HHS to utilize this authority to ensure that ICWA compliance is an essential part of the CFRS review process.

Department of Justice

The United States has an important and unique relationship with Indian nations; specifically, it “has a direct interest, as trustee, in protecting Indian children.”³⁰ This special relationship means that the United States has the responsibility to ensure the “protection and preservation” of Indian families as guaranteed by the mandates of ICWA. Thus, the Civil Rights Division of the Department of Justice would have the legal authority to ensure these civil and constitutional rights are upheld. It also has an obligation to support tribes involved in important precedent-setting ICWA legislation.

In addition, given that ICWA should be applied in the context of certain juvenile justice proceedings (but often is not), the Office of Juvenile Justice and Delinquency Prevention may have a role in ensuring ICWA compliance in that context.

Recommendations

ADMINISTRATIVE RECOMMENDATIONS

In general

The three responsible federal agencies should develop a comprehensive plan for ICWA compliance, developed in full consultation with tribes. The elements of the plan should include as many of the recommendations listed below as are feasible, as well as other ideas generated by tribes and Indian organizations with expertise in this area.

Department of the Interior

1. We support the review of the BIA ICWA Guidelines that is currently taking place. We believe that the goal of the review should be to include requirements in regulations to the extent legally defensible. If there are any subject areas that are determined not suitable for regulations, the Guidelines should be strengthened in those areas. To the extent that some of the regulations/guidelines could be advanced through agency action, as opposed to court action, Interior should coordinate with HHS to promote implementation of the regulations/guidelines by utilizing the review, oversight, and

²⁹ 45 C.F.R. Parts 1355-1357.

³⁰ 25 U.S.C. 1901(3).

sanctioning authority of HHS to achieve those goals. Any regulations or changes to the guidelines must be developed through full consultation with tribes.

2. The Department should increase funding for Title II ICWA grants to increase tribal capacity to implement ICWA.

Department of Health and Human Services

1. *Put some real teeth in the Title IV-B provision requiring state plans to include a description of how the state will comply with ICWA.* HHS should be asked to develop criteria (again in consultation with tribes) as to how the ICWA compliance description in the IV-B plan is developed -- with the idea of developing a process that requires real collaboration with tribes. HHS should make it clear that it will reject any IV-B plan where that section of the plan has been developed without the required tribal input and that it will hold states accountable for complying with the ICWA section of the IV-B plan when it reviews state systems and for involving tribes and Indian organizations in development of state child and family services plans, reviews, and improvement plans.
2. *Require more data elements by state child welfare systems that will track specific ICWA requirements.* ACF requires states to provide limited data on a few Indian Child Welfare Act requirements, but there is more data that should be routinely collected. ICWA identifies several legal requirements that shape Congress's thinking about what are good outcomes for AI/AN children. The Indian Child Welfare Act requirements do not stand alone in determining good outcomes for AI/AN children, but neither do those under required by existing federal databases. Without integrating the two sets of requirements, the outcomes picture for AI/AN children is incomplete at best. Where states collect more detailed and ongoing longitudinal data about child well-being and collect additional information relating to Native American children, utilizing these systems can greatly help to inform the Federal monitoring process.

We would note that some states, for example the State of Washington, have developed more robust data systems relating to Indian children. We would note also that states have been supportive of broader data requirements. In its recommendations to HHS, the American Public Human Services Association (APHSA) stated the following: "Additional data elements unique to Indian children included in ICWA that relate to positive (and sometimes different) outcomes for Indian children would include items such as 'if a Native American, is the child a member or eligible for membership in a tribe; has notice been sent to the child's tribe(s); has the child been placed with a relative or other Indian family,' etc. The actual list of measurements would be developed through consultation among federal, state and tribal representatives. These representatives would also need to work together to determine how elements can best be used to determine levels of ICWA compliance and to identify specific areas where improvement is needed. As with all children, this information would be folded into the more robust assessment and quality assurance systems that states would be utilizing

(and which would involve collaboration with tribes at the local level).” We agree with APHSA.

3. *Strengthen the CFSR process so that it better monitors ICWA compliance.* Collecting better data as described above is the first step in this process. In addition, the CFSR process should include review of an adequate number of Indian cases including, if necessary, a separate process of review, and developing additional questions for that review that track unique needs and legal requirements that pertain to Indian children. ICWA compliance should be one of the standards for review and the review should also measure the quality of tribal-state collaboration, including access to tribal services, use of tribally-licensed foster homes and collaborative decision-making on individual cases. Again, APHSA described the goal in a way that we can endorse: “define specific measures to evaluate how Indian children are being treated by the child welfare system in terms of their unique needs and legal requirements (and how this can be improved) and ensure that these measures and resultant improvement plans are developed in collaboration with tribes and appropriate Indian organizations.”
4. *Provide maximum access to federal resources to build the capacity of child welfare systems.* As previously mentioned, the Fostering Connections to Success and Increasing Adoptions Act of 2008 made tribes eligible for direct funding under Title IV-E or alternatively mandated that states negotiate Title IV-E funding agreements with tribes in good faith. Although it is true that Title IV-E is very prescriptive, it is important that this statute be interpreted to give tribes as much discretion in implementing the law as possible so that tribal access is maximized. It is also important that tribes have access to all other funding streams available through HHS.

Providing technical support to states and tribes will be an important part of all of these initiatives, especially technical support from providers that are knowledgeable about both child welfare laws and practices and the unique needs and legal requirements applicable to Indian children, families and tribes.

Department of Justice

1. As recently requested by our organization, the National Indian Child Welfare Association and National Congress of American Indians, we believe that the Civil Rights Division should investigate the widespread non-compliance with ICWA and the unlawful and biased practices pertaining to AI/AN children by state and private child welfare and adoption systems.
2. The Department of Justice should be alert to ICWA cases being litigated across the country and file *amicus* briefs in cases where there is the potential for broad interpretations of the *Adoptive Couple v. Baby Girl* case that go beyond the facts, circumstances and provisions of the law that were before the United States Supreme

Court in that case.

3. OJJDP should develop a plan, in consultation with tribes, for increasing the use of ICWA in juvenile justice cases that should be subject to ICWA. Adequate funding to support this initiative should be identified and grants to document and/or advance efforts to ensure the full implementation of ICWA in this context nationally or on a state-by-state basis should be provided to tribes and appropriate Indian organizations working to achieve these goals.

LEGISLATIVE RECOMMENDATIONS

1. At an appropriate time, ICWA should be amended to address the implementation problems created by the *Adoptive Couple v. Baby Girl* decision and to strengthen federal oversight of ICWA compliance. The timing of such an initiative will need to be carefully decided by tribes and tribal advocates and the contents of any such amendments developed in close consultation with tribes.
2. In order to promote tribal capacity to exercise jurisdiction over their children, including those who are initially subject to state jurisdiction under ICWA, two additional legislative changes are recommended. First, the tribal Title IV-E statute should be amended to allow the federal government to waive certain requirements that do not make sense in the tribal context, provided a tribe can provide alternative mechanisms to protect the health and safety of children and promote permanency. Second, the Title XX statute should be amended to provide for direct tribal access to these funds. The Title XX Social Services Block Grant is a flexible capped entitlement that is often used to fill service gaps that exist in other more restrictive federal child welfare programs — specifically child abuse prevention and child protection services. The Social Services Block Grant is currently one of the only major sources of federal funding used for child welfare services by states to which tribes do not have access.

Thank you for the opportunity to present this testimony.

Written Testimony for Terry Cross

Terry Cross (*Seneca*), Executive Director, National Child Welfare Association (NICWA)

Terry L. Cross, MSW, ACSW, LCWS, is an enrolled member of the Seneca Nation of Indians and is the developer, founder, and Executive Director of the National Indian Child Welfare Association. He is the author of the Positive Indian Parenting curriculum, as well as Cross-Cultural Skills in Indian Child Welfare. He also co-authored *Toward a Culturally Competent System of Care*. From 2008 to 2012, Terry served as a member of the Substance Abuse and Mental Health Services Administration National Advisory Council. Terry has forty-one years of experience in child welfare, including ten years working directly with children and families.

Testimony begins on the next page



AMERICAN INDIAN/ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE IN THE COMMUNITY

PANEL #2

INDIAN CHILD WELFARE ACT: KEEPING OUR CHILDREN CONNECTED TO OUR COMMUNITY

TESTIMONY OF TERRY L. CROSS, MSW, ACSW, LCSW

EXECUTIVE DIRECTOR

NATIONAL INDIAN CHILD WELFARE ASSOCIATION

APRIL 16, 2014

NICWA is a national American Indian and Alaska Native (AI/AN) nonprofit organization located in Portland, Oregon. NICWA has over 30 years of experience providing technical assistance and training to tribes, states, and federal agencies on issues pertaining to child maltreatment, Indian child welfare, children's mental health, and juvenile justice. NICWA provides leadership in the development of public policy that supports tribal self-determination in child welfare, children's mental health, and juvenile justice systems, as well as compliance with the Indian Child Welfare Act (ICWA). NICWA also engages in research that supports and informs improved services for AI/AN children and families. NICWA is the nation's most comprehensive source of information on AI/AN child maltreatment, child welfare, and children's mental health issues.

I would like to start by thanking the Attorney General's Task Force on Children Exposed to Violence. They were the ones to recommend that this Task Force on AI/AN Children Exposed to Violence be convened.

In the recommendations provided in the Report of the Attorney General's Task Force on Children Exposed to Violence titled in a section titled "Creating Safe and Nurturing Homes," the following important recommendation was made:

4.10 Ensure compliance with the letter and spirit of the Indian Child Welfare Act (ICWA). Thirty-five years after its passage, full implementation of the ICWA remains elusive. Because the ICWA is a federal statute, successful implementation will be best ensured through strong, coordinated support from the Department of the Interior, Bureau of Indian Affairs; Department of Health and Social Services, Administration for Children and Families; and the Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

It is in part due to this guidance that this panel on ICWA compliance has been convened. I appreciate having an opportunity to discuss with you the positive impact of the Indian Child Welfare Act (ICWA) on tribal children who have been exposed to violence in their homes, as well as their families and communities. I will also use this opportunity to explain the challenges that arise when ICWA is not followed by state agencies, state courts, and private adoption practitioners.

Before beginning, I would also like to thank this Task Force, the Attorney General's Task Force on AI/AN Children Exposed to Violence, and its chairs, Senator Byron Dorgan and Joanne Shenandoah. I appreciate their commitment to understanding the complex and multifaceted issues related to AI/AN children exposed to violence. Further, their commitment to provide recommendations to ensure the prevention of violence against AI/AN children and when necessary to ensure that the effects of this exposure are addressed and treated is of the utmost importance. ICWA plays a key role in responding to AI/AN children's exposure to violence in the home. It provides critical legal protections for AI/AN children when intervention and treatment become necessary. The most significant protections seek to keep AI/AN children safely in their homes. When that is not possible, ICWA keeps children connected to their extended families and communities in the aftermath of abuse and neglect. **It is essential to**

remember that because of the historic treatment of AI/AN peoples, removal of AI/AN children from their homes, families and communities is itself a form of violence—one form of trauma that far too many AI/AN children still face today. ICWA ensures that only when necessary for their safety are AI/AN children exposed to this additional layer of violence in the aftermath of abuse or neglect.

To address these issues, this testimony will cover

- research on the current well-being of AI/AN children and families;
- an analysis of ICWA compliance and implementation, including best practices nationwide that encourage ICWA compliance;
- the long-term effects of ICWA non-compliance on AI/AN children’s well-being;
- the extent to which states are effectively collaborating with tribes on child welfare issues, including best practices for effective tribal-state collaboration; and
- recommendations on how best to address the challenges noted throughout this testimony.

The Well-Being of AI/AN Children and Families

Indicators of child and family well-being must be understood within the context of a particular cultural worldview. AI/AN people understand their experience as one of tremendous loss, survival and eventual adaptation and re-growth as a population (Goodluck & Willetto [NICWA], 2000). This worldview incorporates the extreme loss of a tribally centered and child-focused people of land, values, religions, languages, traditions, and creation stories (Goodluck & Willetto [NICWA], 2000). Finally, this worldview acknowledges that centuries of historical events have impacted, and continue to impact, AI/AN children and families (Goodluck & Willetto [NICWA], 2000). It is through this worldview that the research data on AI/AN children and families must be interpreted (Goodluck & Willetto [NICWA], 2000).

The AI/AN worldview is also a perspective based on balance and harmony (Goodluck [NICWA], 2002). For this reason it is also necessary to interpret the research on AI/AN well-being by examining the numerous strengths AI/AN people find in their children, families, communities and culture (Goodluck [NICWA], 2002).

The section below relays a common set of indicators that highlight the continued effect of assimilative policies and systemic racism on the well-being of AI/AN children and families. The narrative concludes with a graphic that illustrates the “Three Domains of Native American Well-Being Model” created by Goodluck (2002) for strength-based well-beings assessments in AI/AN communities. This model shows the numerous strengths present in AI/AN children, families, communities, and culture that go undocumented in mainstream literature.

Children

The AI/AN population is young. The median age for the AI/AN population is 31.3 compared to the median age of 37.3 for the general population (U.S. Census Bureau, 2013). Further, nearly

one third (29.9%) of all AI/AN individuals are under the age of 18 (U.S. Census Bureau, 2012a) compared to about one fourth (23.4%) of the general population (Census, 2012b).

AI/AN infants do not fare as well as their non-Native counterparts on two of three major indicators. Pregnant AI/AN women are less likely to receive prenatal care throughout their entire pregnancy (Department of Health and Human Services [DHHS], 2010a). For example, only 68.13% of AI/AN women who give live birth receive prenatal care starting in the first trimester, compared to 82% of the total population (DHHS, 2010a). In addition, the infant mortality rate for the AI/AN population is higher than for the general population. AI/AN infants die at a rate of 8.28 per 1,000 live births compared to 6.68 infants per 1,000 live births in the general population (DHHS, 2010b). Fewer AI/AN babies, however, are born at a low birth weight than the national average. Of all AI/AN births, 1.3% of AI/AN babies are considered to be very low birth weight, and 7.4% are considered low birth weight, compared to 1.5% and 8.2% percent in the general population (DHHS, 2010c).

Despite improvements on well-being indicators, AI/AN youth continue to face more challenges than their non-Native counterparts. For example, AI/AN children and youth are served by the Individuals with Disabilities Education Act (IDEA) at a higher percentage than any other group of children. National statistics show that 14% of AI/AN children received IDEA services, compared to 9% of the general student population (Department of Education, 2008). Similarly, AI/AN youths have the highest prevalence of type 2 diabetes of any racial group. In the 15-19-year age group, the current prevalence is 4.5 per 1000 (DHHS, 2011). For an imperfect comparison the available data show that the prevalence in the general population ages 0-19 is 1.7 per 1000 (DHHS, 2011).

AI/AN youth have more serious problems with mental health disorders and substance abuse than the general population. Specifically, AI/AN youth have documented higher rates of anxiety and depression (Olson & Wahab, 2006). They are also more likely than youths in other racial groups to report an alcohol use disorder in the past year (DHHS, 2007). Furthermore, suicide is the second leading cause of death for AI/AN youth ages 10-24 (DHHS, 2010d). Scholars consider the high rate of mental health problems to be due in part to issues of racial discrimination, geographic isolation, and cultural identity conflicts (Olson & Wahab, 2006). Scholars also recognize that these high rates of mental health disorders are rooted in historic trauma, disenfranchisement, and the relocation of entire communities from traditional lands to reservations (Olson & Wahab, 2006).

Lastly, AI/AN teen girls are more likely to have a child than the average American teen girl. In 2008, the birth rate for AI/AN teen girls (ages 15-19) was 58.4 per 1,000, while the national birth rate for teen girls was 41.5 per 1,000 (DHHS, 2010c).

Families

To understand the well-being of children it is essential to understand their families. The average number of people in an AI/AN family is 3.52 persons (Census, 2012a). This is slightly bigger than

America's average family size, 3.25 persons (Census, 2012b). AI/AN homes are also slightly more likely to have children than the average American home. Of all AI/AN households, 31.6% are families with children (Census, 2012a). Families with children constitute only 29% of all households in the general population (Census, 2012b).

AI/AN homes that have children, like all American homes with children, are more likely to consist of married parents, although a slightly lower proportion of AI/AN children live in homes with married parents compared to the national proportion. Of AI/AN families with children, 16.4% are composed of two married parents (Census, 2012a) compared to 19.3% of all American families (Census, 2012b). Of all AI/AN families, 11.6% are female-headed with no husband present (Census, 2012a) compared to 7.3% of all American families (Census, 2012b). Studies show that AI/AN female-headed households are more likely to be headed by a grandmother or a woman with an unmarried partner—as opposed to a single woman/mother living alone with her children—than female-headed households in the general population (Snyder, McLaughlin, & Findeis, 2006). These data may reflect cultural norms concerning formal marriage in some tribal communities, as well as traditional child-rearing practices. Correspondingly, AI/AN families are also more likely to be grandfamilies and/or have grandparent support than the average American family. Of AI/AN adults over age 30, 56% live with their grandchildren and are responsible for their care as compared to 41% of all Americans over 30 (Census, 2009).

AI/AN families continue to struggle in the area of economic well-being. Of all AI/AN families with children, 29.9% live below the poverty line (Census, 2012a). Only 14.8% of AI/AN families with children composed of a married couple live below the poverty line (Census, 2012a). However, 48.3% of AI/AN families with children that are female-headed with no husband present live below the poverty line (Census, 2012a). Comparative data for all American families show that 18.8% of all American families with children are living in poverty (Census, 2012b); and only 8.7% of married couples with children and 41.5% of female-headed households with children are living in poverty (Census, 2012b).

The high rate of poverty among AI/AN families is due in part to high rates of unemployment in AI/AN communities. The national unemployment rate for all AI/AN individuals is 15.9%, and the unemployment rate for AI/AN individuals living on a reservation is 22.8% (Stegman & Ebarb, 2013). The crippling of Native economies before the self-determination era left tribal citizens overwhelmingly impoverished and with few economic opportunities. The barriers to employment vary region to region in Indian Country. They include geographic remoteness, a weak private sector, poor basic infrastructure, and a lack of basic law enforcement infrastructure. (A. Ebarb, personal communication, Nov. 1, 2013).

Because of these poverty and unemployment rates, many AI/AN families depend on government assistance to provide for their children and make ends meet. AI/AN people

comprise 10.53% of WIC participants (Department of Agriculture, 2012), 1.2% of TANF participants¹ (DHHS, 2012), and 3.2% of SNAP recipients (Department of Agriculture, 2014).

Family Violence

AI/AN children experience slightly higher rates of violence in their homes than the national average. AI/AN children are physically abused, sexually abused, and neglected at a rate of 12.4 per 1,000 AI/AN children compared to the national rate of 9.2 per 1,000 children (DHHS, 2013a).² Of note, however, is the fact that AI/AN children are far more likely to become a part of the child welfare system because of *substantiated* allegations of neglect. Of all AI/AN cases of maltreatment, 79.4% are neglect, 10.6% are physical abuse, and 5.2% are sexual abuse (these numbers do not total 100% because some children face multiple forms of abuse) (DHHS, 2010e). This finding is troubling because legal definitions and worker decisions to substantiate allegations of neglect are far more susceptible to cultural bias, racism, and a misunderstanding of poverty than other forms of maltreatment (Earl and Cross, 2001).³ AI/AN families, therefore, are prone to bias treatment in child welfare and children's mental health systems.

There are currently 8,344 AI/AN children in state foster care (DHHS, 2013b). AI/AN children live with the legacy of violence perpetrated by systems that historically promoted widespread removal of AI/AN children from their families and communities. Isolated from relatives and culture, they were subjected to assimilative educational and training experiences fraught with government-sanctioned abuse (Cross, 2004). This is additional violence to which AI/AN children are exposed.

Lastly, AI/AN children are more likely than children in the general population to witness violence perpetrated against their caregivers and parents in the home. AI/AN women are more likely than any other single racial group to experience intimate partner violence (IPV; also known as domestic violence). A high percentage (39%) of AI/AN women report having experienced IPV at some point in their lives (Black & Breiding, 2008). In the general population, we know that partners who engage in violence against each other are more likely to perpetrate violence against their children (DHHS, 2003; Carter, 2000). Also, children who witness IPV or live in a home where IPV is present face the long-term effects of trauma (Carter, 2000; DHHS, 2003).

¹ It is worth noting that AI/AN families make up 11.2% of the TANF Participants in Minnesota (where they are 1.4% of the general populations), 43.6% in Montana (where they are 9.3% of the general population), 52.7% in North Dakota (where they are 8.4% of the general population), and 62.4% in South Dakota (where they are 13.1% of the general population) (DHHS, 2012).

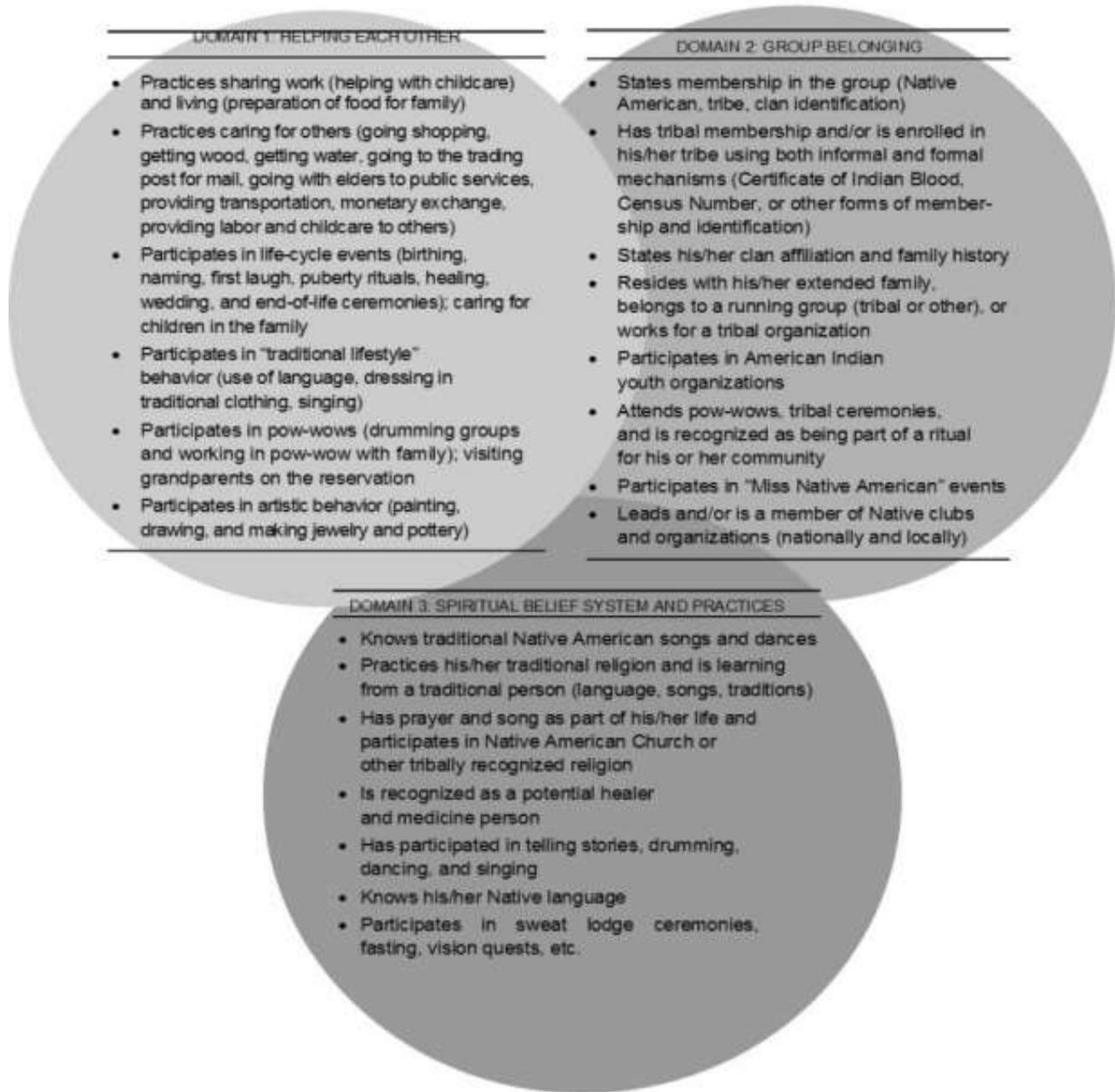
² These statistics are based on substantiated incidences of abuse and neglect. AI/AN children are often reported at a rate similar to the general population.

³ Problems with current state definitions of neglect that are particularly problematic in AI/AN communities are described by Earle and Cross (2001) as follows:

- The importance of the parental role in mainstream society, which is based on a mainstream American understanding of nuclear family and other class-based social preferences
- The importance of socioeconomic status, family circumstances, and race when determining whether or not abuse occurred; levels of reporting vary and are higher in lower socioeconomic and racially different homes, both commonalities with AI/AN communities.

The Domains of Native American Well-Being Indicator Models

The model below illustrates the many strengths identified by AI/AN scholars and authors as being present but often unmeasured in AI/AN communities. These strengths must be considered as part of the picture of well-being of AI/AN children and families (Goodluck [NICWA], 2000).



(Goodluck [NICWA], 2002)

Brief Background on the Indian Child Welfare Act

The Indian Child Welfare Act (ICWA) was enacted into law in 1978 in response to the troubling practices of public and private child welfare agencies. At the time of enactment, unnecessary removal of large numbers of AI/AN children from their homes was commonplace. This frequently resulted in the placement of these children in non-family, non-Indian homes far from their tribal communities.

A study conducted prior to the passage of ICWA sampled the states with the largest AI/AN populations. The study found that in the 1970's, 25-35% of AI/AN children nationwide were removed from their homes by the child welfare system (H.R. Rep. No. 95-1386). The same study found that 85% of these foster care placements were in non-Indian foster homes, and 90% of adoptions were to non-Indian parents (H.R. Rep. No. 95-1386). The disparity between the removal rates of AI/AN children and non-Indian children was even more striking. In South Dakota, the number of AI/AN children in foster care was 16 times the number for other children (H.R. Rep. No. 95-1386). In Washington, the number of AI/AN children who were adopted out was 19 times that for other children (H.R. Rep. No. 95-1386). The decision to remove children from their families was often based not on perceived threat or harm to the child but lack of understanding by state child welfare systems, private adoption systems, and courts of AI/AN child rearing practices and culture or bias (H.R. Rep. No. 95-1386).

The consequences of this high rate of removal and the bias toward AI/AN families were also cause for concern. Psychologists and other professionals testified before Congress that AI/AN children brought up in non-Indian homes suffered from a variety of adjustment and emotional disorders due to the removal and isolation from their families and the culture these placements created (Jones, Tilden, & Gaines-Stoner, 2008).

After years of congressional hearings and a substantial record documenting these practices, Congress intervened and passed the Indian Child Welfare Act. ICWA created procedures that must be followed by public and private agencies. The law was designed to ensure additional protections for tribal children and families and to curb bias. It does this by replacing state practices that place AI/AN children outside their communities with "minimum federal standards" that strive to keep AI/AN children in their homes, families, and communities (25 U.S.C. § 1902).

It is important to note that ICWA does not apply to all children who racially identify as AI/AN. ICWA applies only to those children who are members of, or whose parents are members and are themselves eligible for membership in, a federally recognized tribe (25 U.S.C. § 1903(4)). This is because "[t]he Supreme Court has recognized that Congress can treat [AI/AN people] differently from other racially distinct groups and not run afoul of traditional equal protection notions because of the unique relationship between tribes and the government" (Jones, Tilden, & Gaines-Stoner, 2008, p. 14). AI/AN tribal governments are acknowledged as distinct political entities in the U.S. Constitution, as well as hundreds of treaties, federal laws, and court cases. AI/AN children who are members of a federally recognized nation are therefore protected

under ICWA, and other similar laws, due to their political status, not their racial identification (Native American Rights Fund, 2011).

ICWA Compliance and Implementation

Where ICWA is followed, AI/AN child welfare goals are met. These successes include safety, permanency, child well-being, and family well-being (Limb, Chance, & Brown, 2004). The immediate impact of ICWA was to reduce the number of AI/AN children placed in foster care or adopted and to increase tribal control over these placements (MacEachron, Gustavsson, Cross, and Lewis, 1996). However, a decrease in ICWA compliance has resulted in an increase in the foster care and adoption rates for AI/AN children (Crofoot & Harris, 2012). This tells us that child welfare and adoption systems are straying from the requirements of the law. There is recent research documenting non-compliance with most of the key provisions of ICWA. These findings include

- 1) failure to identify Indian children and ensure they are receiving the protections of the law (Jones, Gillette, Painte, & Paulson, 2000 [NICWA]; Bellonger & Rubio, 2004);
- 2) inadequate or lack of notice to tribes and family members (Brown, Limb, Munoz, & Clifford [NICWA], 2002; Bellonger & Rubio, 2004; Waszak, 2010); and
- 3) placement of children outside the placement preferences without good cause or in a more restrictive setting than necessary (Jones, et al. [NICWA], 2000; Bellonger & Rubio, 2004; Carter, 2009).

Non-compliance is likely due to the fact that there is minimal oversight of ICWA implementation. ICWA was enacted without providing sanctions for non-compliance, incentives for effective compliance, a data collection requirement, or a mandate for an oversight committee or authority to monitor compliance. As noted by Silvey (2009), "You can write all the policies and procedures in the world, but without sanctions against performance, people do what they want." It is worth noting that ICWA is the *only* federal child welfare law that does not include legislatively mandated oversight or periodic review.

ICWA does not give any federal agency full responsibility for states' compliance with the law (Government Accountability Office (GAO), 2005). The DHHS's Administration for Children and Families (ACF) does review some limited information as part of their general efforts of oversight for the Title IV-B and Title IV-E funding programs. Through the Child and Family Service Plans (CFSP) mandated by ACF, states are required to develop in consultation with tribes the specific measures taken to comply with ICWA, and to report on three measures related to the key provisions of ICWA:

- 1) identification of Indian children;
- 2) notification of relevant tribes; and
- 3) adherence to the placement preferences.

Because these are the only data collected by states concerning ICWA compliance, and because the data are self-reported, these reviews have been deemed “insufficient for ACF to assess the states’ efforts to implement the law’s requirements” (GAO, 2005, p. 5; see also Brown et al. [NICWA], 2001).

GAO and NICWA studies have found that even the little information that is being collected is not used to ensure that ICWA concerns are addressed in a meaningful way. The 2005 GAO review of 51 Child Family Service Reports (CFSRs) from 2004 showed that 10 of the reports failed to provide the required discussion of ICWA. Furthermore, 32 of the reports expressed concerns with the law’s implementation, the identification of Indian children, and the training of caseworkers. For 12 of the 32 states that had noted concerns with ICWA compliance in their CFSRs, the ACF failed to report any corrective actions in their improvement plans (GAO, 2005). The GAO recommended that ACF consider using the existing ICWA compliance data they collected to provide better oversight and target guidance and assistance to states that were shown to be non-compliant. DHHS disagreed with this recommendation and subsequently has done nothing to implement it (GAO, 2005).

NICWA found that in 1999–2000, although 75% of states reported consulting with tribes, no specific information was solicited regarding the context or effectiveness of the consultation (Brown et al. [NICWA], 2001). Furthermore, NICWA found that nearly 80% of CFSRs did not respond to the three required measures for ICWA compliance. Instead, they indicated that they had in place, or would develop, specific policies or procedures for ICWA compliance (Brown et al. [NICWA], 2001). This information is consistent with the numerous reports provided by tribal governments across the United States that they are

- 1) not formally consulted regarding ICWA implementation in their state;
- 2) asked to sign on to state descriptions of ICWA compliance efforts they did not develop; or
- 3) never made aware of the requirement to consult with their state(s) on ICWA compliance.

Non-compliance is also likely due to a lack of education and understanding. There are many common misperceptions both of ICWA and of the status and unique relationship of Indian people under current law that affect practice in this area (Silvey, 2009). As Cross, Day, and Proctor (2009) note:

Although ICWA was passed thirty years ago, many social workers, and most social work students are unfamiliar with, and sometimes unwilling to comply with, this law. The lack of knowledge of the Act begins in the classroom with textbooks devoting only a short paragraph or two to the topic. The students are expected to read, understand, and digest information that is vital to the lives of American Indians, without classroom discussion or case analysis. (p. 3)

One study showed that only 45% of state social workers in a southwest state had ever read ICWA and only 55% were familiar with ICWA’s active efforts requirement (Limb, Chance, & Brown, 2004). This lack of education extends beyond social workers. As van Straaten and

Buchbinder (2012) note, attorneys and judges often simply “lack knowledge” of ICWA (p. 40). It is hardly surprising that there are problems with compliance if those responsible for implementing the law have never received any formal training on the law. It is more problematic when those responsible are unaware of ICWA altogether.

It is important to note that some instances of ICWA non-compliance occur when practitioners purposefully circumvent the law. NICWA receives thousands of phone calls a year from AI/AN parents, grandparents, tribal leaders, and tribal social workers seeking help and information on their ICWA cases. Each year NICWA is particularly troubled by the number of phone calls we receive that describe situations where social workers and attorneys appear to be willfully ignoring ICWA’s application to a case. Recently, NICWA has received a few phone calls from tribal attorneys and AI/AN private practitioners describing adoption trainings that not only questioned the importance of ICWA but also provided “tips and tricks” on how ICWA can be “avoided” in the adoption process. A review of the legal literature and case law shows that these phone calls are not isolated incidents but part of a larger pattern of problematic practice (*Adoptive Couple v. Baby Girl*, *amicus curiae* for Association of American Indian Affairs, National Congress of American Indians, NICWA, Indian tribes and other Indian Organizations, 2013 WL 1279462). Anecdotally, these unethical and illegal practices appear to be primarily focused on private adoptions and seem rare in child welfare proceedings.

Best Practices for Monitoring and Ensuring ICWA Compliance

ICWA and Cultural Competence Training for Social Workers, Court Personnel, and Attorneys

Training for state practitioners (social workers, attorneys, and judges) should always include details about ICWA, working with AI/AN families, and cultural competence. Furthermore, because ICWA is a complicated and unique part of child welfare practice and court procedure, ICWA-specific trainings are essential to ensure compliance. This training is most effective when it incorporates tribally developed training curriculum, or when the state curriculum has been developed with active tribal collaboration. To ensure tribal-state practitioner coordination that promotes ICWA compliance, these trainings should be opportunities for practitioners from the state and tribes to work and learn together, and from one another. The trainings should occur with regular frequency and include refresher courses, updates, and correspondence with trainees. They should not be one-time trainings.

The state of Washington has a model program that trains state workers with a Solution-Based ICWA Curriculum. This curriculum was created with input from the tribal communities in Washington. It integrates the state’s practice model with ICWA best practice. Training is provided for all levels of state workers. Workers are required to take refresher courses with regular frequency. Tribal workers are invited to join state workers at all trainings, and the training includes cultural competence requirements, tours of tribal child welfare programs, and cultural immersion activities. Programs like this one foster healthy relationships between the state and tribes, which improve ICWA compliance and outcomes for AI/AN children and families (Washington State Department of Social and Health Services, 2011a).

In addition there are national ICWA training resources available. This includes regular “ICWA Basics” courses presented by NICWA, and an online ICWA course that has been used by various state agencies and schools of social work to ensure that social workers receive ICWA training from a curriculum created by AI/AN people with tribal review and influence. More information is available here: <http://www.nicwa.org/training/>

ICWA Guides and Checklists

ICWA is a unique part of child welfare practice that many judges, attorneys, and social workers are not familiar with. In addition, although there are many jurisdictions where ICWA cases occur with regular frequency, there are others that only see a few ICWA cases a year. For this reason, it is imperative that practitioners have guides and/or checklists they can reference when working with a child who may be ICWA-eligible. These tools, typically created by the state, ensure compliance by providing accessible, distilled information including: ICWA’s requirements, state ICWA requirements, information on relevant tribal-state agreements, interpretations of ICWA that affect state practice, contact information for tribes within the state, and descriptions of how ICWA interacts with other laws such as the Adoption and Safe Families Act (ASFA; 105-89) and the Multi-Ethnic Placement Act (MEPA; 103-82). Practitioners who have access to these tools will be encouraged to meet each of the requirements of ICWA and double-check their own compliance with the law for each and every case involving AI/AN children. A few strong examples of ICWA guides and checklists include:

- California, Judicial Council of California, “Bench Handbook The Indian Child Welfare Act”: <http://www.courts.ca.gov/documents/ICWAHandbook.pdf>; California Indian Legal Services, “ICWA, Bench Guide” <http://www.calindian.org/icwa-benchguide>
- New York, Office of Children and Family Services, “A Guide to Compliance with the Indian Child Welfare Act”: <http://www.ocfs.state.ny.us/main/publications/pub4757guidecompliance.pdf>
- Washington, Department of Social and Health Services, “Indian Child Welfare Manual”: http://www.dshs.wa.gov/ca/pubs/mnl_icw/chapter1.asp
- Wisconsin, Department of Children and Families, “Indian Child Welfare Act Compliance List”: <http://info.dhhs.state.nc.us/olm/forms/dss/DSS-5291-ia.pdf>; Children’s Court Improvement Program, Midwest Child Welfare Implementation Center, Wisconsin Department of Children and Families, and the Ho-Chunk Nation Department of Justice, “ICWA Judicial Checklist”: <http://www.wicourts.gov/courts/programs/docs/ccipwicwa.pdf>
- National, National Indian Child Welfare Association “Compliance with the Indian Child Welfare Act”: Appendix A
- National, National Council of Juvenile and Family Court Judges, “Indian Child Welfare Act Checklists for Juvenile and Family Court Judges”: <http://www.ncjfcj.org/resource-library/publications/indian-child-welfare-act-checklists-juvenile-and-family-court-judges>
- National, Native American Rights Fund, “A Practical Guide to the Indian Child Welfare Act”: <http://www.narf.org/icwa/index.htm>

Some states have also put together guides on an issue of particular importance to ICWA cases: “active efforts” to provide remedial service and rehabilitative programs before a child is removed and to reunify families. Because this crucial requirement of ICWA should drive the details of a case plan for AI/AN children in state child welfare systems, additional guidance is necessary for effective compliance. These guides help state social workers understand when active efforts are required and how active efforts are distinct from reasonable efforts. They also help practitioners understand the treatment, interventions, programs, and services needed to comply with this ICWA requirement. Guides also provide information as to where one can access these types of services. A few strong examples include:

- Wisconsin, A Child Welfare Practitioner’s Guide for Meeting the WICWA Active Efforts Requirement Department of Children and Families: <http://dcf.wisconsin.gov/publications/pdf/464.pdf>.
- Oregon, Oregon Judicial Department “Active Efforts Principles and Expectations”: <http://courts.oregon.gov/OJD/docs/OSCA/cpsd/citizenreview/ActiveEffortsPrinciplesandExpectations.pdf>.

ICWA Compliance Monitoring through Data Collection

Data collection can help state administrators and judges who might be reluctant to acknowledge a problem with ICWA compliance see in raw numbers that there *is* a problem and provide motivation to address it. Data collection also allows states to monitor ICWA compliance and engage in continuous quality control by using the data to improve policies and practice as needed. ICWA compliance can best be monitored via case reviews, court observation, and test group interviews (National Council of Juvenile and Family Court Judges [NCJFCJ], 2014). Each methodology monitors a different aspect of agency and court practice relevant to a state’s ICWA compliance. In spite of these facts, there is no federal agency tasked with oversight of ICWA compliance. Furthermore, there are few data collection requirements associated with the law. Nonetheless, researchers in a few states, including Washington and Iowa, have effectively collected data on ICWA compliance. These data have been used to inform and improve practices affecting AI/AN children in state child-welfare and court systems.

The most successful and widespread collection of ICWA compliance data is the QUICWA Compliance Collaborative of the Minneapolis American Indian Center. This program has been so successful that it has expanded to a national consortium of Indian tribes, urban organizations, and advocacy groups (MAIC, n.d.). QUICWA uses volunteers to randomly monitor court practice and record performance measures correlated to ICWA’s provisions. The data collected are then aggregated and analyzed to pinpoint challenges with ICWA compliance in a specific jurisdiction. This information is also used to advocate for improved ICWA compliance in the behaviors, practices, and policies of that jurisdiction. More information about the QUICWA program can be found here: <http://www.maicnet.org/programs/indian-child-welfare/quicwa/>.

The National Council on Juvenile and Family Court Judges recently released an ICWA compliance toolkit that helps state courts consider methods to help improve their data

collection to ensure ICWA compliance. This toolkit is available here:
http://www.ncjfcj.org/sites/default/files/ICWA_Compliance_Toolkit_Final.pdf.

State ICWA Laws

There are a number of state laws, often referred to as “State ICWAs,” that create a complete statutory scheme for AI/AN children in state child-custody proceedings. These laws are created under the authority of ICWA, which states that any “State or Federal law that provides a higher standard of protection [than ICWA] to the rights of the parent or Indian custodian of an Indian child... shall apply” instead of ICWA (25 U.S.C. § 1921).

By codifying the federal ICWA in state law, states affirm their commitment to its application in the courtroom and administrative agencies. State ICWAs also reduce inconsistent practice and judicial interpretation of the law. In addition, the creation of a state ICWA provides the opportunity for states to work closely with tribes and within the state’s borders to gain a better understanding of the unique child welfare challenges faced by both entities. It allows them to collaborate to craft additional pertinent protections. These additional protections fill gaps in the federal legislation that are particularly troublesome for local AI/AN children, families, and tribes. For example, some states with codified ICWA laws require notice in voluntary proceedings, an omission in the federal law, and clarify “active efforts” entail.

A few examples of more comprehensive state ICWA laws include the following:

- California Indian Child Welfare Act, Senate Bill 678 of 2006;
- Iowa Indian Child Welfare Act, Iowa Code § 232B.1 et seq. (2005);
- Michigan Indian Family Preservation Act, 2012 Mich. Pub. Acts 565 (2012);
- Minnesota Indian Family Preservation Act, Minn. Stat. 260.751 et seq. (1999);
- Wisconsin Indian Child Welfare Act, Wis. Stat. § 48.028 et seq. (2013); and
- Washington Indian Child Welfare Act, 2011 Wash. Laws, S.B. 5656, 2001, Reg. Sess. Chap. 309 (Wash. 2011).

Additionally, a few state codes specifically reference ICWA and restate its general applicability without creating a full statutory scheme for AI/AN children. Although not as effective as creating a state ICWA, these provisions in state law remind practitioners that in child welfare proceedings with AI/AN children they must reference and comply with federal law—an anomaly in child welfare practice.

State Worker Job Descriptions that Include Duties Specific to Compliance with ICWA

ICWA typically applies to a small portion of a child welfare case worker’s caseload. People tend to perform better when they understand their job duties. Clear standards also help supervisors hold employees accountable. Creating job descriptions with ICWA-specific duties encourages the state to hire individuals with a working knowledge of ICWA. It also makes it clear that compliance with ICWA and effective relationships with tribes are expectations for state

workers. This ensures that the child welfare workforce is aware of and following ICWA, which increases compliance.

State ICWA-Specific Child Welfare Units

It is helpful for states to create ICWA-specific units. These units should consist of state social workers with special expertise in ICWA and AI/AN cultural competence. These units allow state workers to build expertise in ICWA practice and create strong, consistent relationships with tribes and tribal child welfare units. Currently, units like this exist in many large metropolitan areas with high AI/AN populations, such as Multnomah County (Portland, OR), Hennepin County (Minneapolis, MN), and Los Angeles, CA.

Volunteer Local Indian Child Welfare Advisory Committees

Local Indian Child Welfare Advisory Committees (LICWAC) are groups that meet to ensure cases involving AI/AN children whose tribes may be distant or lack the resources to intervene are still being monitored and reviewed by AI/AN peoples with child-welfare expertise. Washington has LICWACs that provide an example of these advisory groups. The Washington LICWACs describes themselves as follows:

LICWAC serves in an advisory capacity to [case managers] in determining case planning for Indian children when [the case manager] has not identified the children's Tribes or the children's Tribes have requested LICWAC participation in [sic] behalf of the Tribe. The LICWAC also serves as the Child Protection Team (CPT) for Indian children. LICWAC volunteers are active in every region in the state and provide a valuable service to CA and Indian families (Washington State Department of Social and Health Services, 2011b, para. 01.202).

More information about the Washington State LICWAC model is available here:

http://www.dshs.wa.gov/ca/pubs/mnl_icw/chapter10.asp

Performance-Based Contracting that Includes ICWA Related Outcomes

All states contract with and/or license private agencies to provide child welfare services. A few states require in these contracts or licensing requirements that the entity in question provide ICWA-specific training. Others require that these entities periodically evaluate their work to provide the state "assurance" that services and workers are complying with ICWA, that efforts to reduce disproportionality are being made, and that staff are working with AI/AN children and families in a culturally competent manner. These measures allow a state to ensure that the agency shares their commitment to ICWA compliance and the well-being of AI/AN children and families. Washington is an example of a state that includes this important measure.

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The Effects of ICWA Non-Compliance

Immediate Effects of ICWA Non-Compliance

Bias Treatment and Overrepresentation

ICWA was designed to counterbalance the bias in the child welfare system that leads to disproportionate treatment⁴ and the disparate treatment⁵ of AI/AN children and families. The current data available on AI/AN children's experience in the child welfare system reflects systemic bias and the significant problems with ICWA compliance documented above.

Crofoot and Harris (2012) note that, because of the historic pattern of treatment of AI/AN families, institutional racism and institutional bias are the primary cause of modern day disparity and disproportionality in child welfare. The research available on AI/AN children's experience in child welfare shows that bias against AI/AN families is present (Harris & Hackett, 2008; Carter, 2009a) and that AI/AN status is a predictive factor for out-of-home placement (Mech, 1983; Donald et al., 2003; Fox, 2004).

Studies also show that at each decision point in the child welfare system, AI/AN children face disparate treatment which, counter to ICWA, makes it more likely they will be removed as opposed to receiving the services necessary to keep them in the home (Hill, 2008; Carter, 2009b; Carter, 2010). For example, Hill (2008) found that where child abuse has been reported, AI/AN families are two times more likely to be investigated, two times more likely to have allegations of abuse substantiated, and four times more likely to be placed in foster care than white children.

Nationwide AI/AN children are overrepresented in foster care at a rate 2.1 times greater than their rate in the general population. This means that although AI/AN children are just under 1.0% of all children in the United States they are 2.0% of all children who are placed outside their homes in foster care⁶ (Summers, Woods, & Donovan, 2013). These numbers become even more staggering when you look at states with high populations of AI/AN children.

⁴ This indicator reflects the rates of AI/AN children in the general population as compared to the child welfare population.

⁵ This indicator reflects the way AI/AN children are treated in the child welfare system as compared to the way non-AI/AN children are treated.

⁶ Compare this to Caucasian/White children who are underrepresented nationwide at a rate of 0.8 times lower than their rate in the general population. Caucasian/White children make up 52.0% of all children in the United States but only 41.0% of all children placed outside their homes in foster care. (Summers, Woods, & Donovan, 2013)

State	Disproportionality Rate	% of children who are AI/AN	% of children in foster care who are AI/AN
Minnesota	12.0	1.4%	16.3%
Nebraska	6.7	1.1%	7.5%
Washington	5.0	1.5%	7.5%
Iowa	4.8	0.4%	1.8%
Montana	4.1	9.3%	38.2%
South Dakota	4.0	13.1%	52.1%
Utah	3.6	1.0%	3.6%
North Dakota	3.5	8.4%	29.6%
Oregon	3.2	1.3%	3.9%
Alaska	2.9	17.3%	51.1%
Idaho	2.8	1.2%	3.3%
New Hampshire	2.6	0.2%	0.5%
California	2.0	0.4%	0.8%
Maine	1.8	0.8%	1.4%
Rhode Island	1.7	0.5%	0.9%
North Carolina	1.5	1.3%	1.9%
Michigan	1.4	0.6%	0.9%
Colorado	1.4	0.6%	0.9%

(Summers, Woods, & Donovan, 2013)

Provisions of ICWA that require active efforts, heightened standards of proof, and the testimony of a qualified expert witness familiar with the community and culture of the child before removal all directly address systemic bias, disparate treatment, and disproportionality. However, when ICWA is not applied or is applied inconsistently, the corrective action this law mandates is lost and children face disproportionate and disparate treatment at the hands of the child welfare system.

Case Disruption

Consequences of ICWA non-compliance go beyond overrepresentation in child welfare systems. Individual case consequences include delays in state court proceedings; disruption of foster care, guardianship, or adoptive placements; and malpractice actions (van Straaten & Buchbinder, 2011). To be clear, ICWA only causes delays in proceedings when it is *not* followed. ICWA compliance integrates directly into state agency and court practice without unnecessary or unique delay. If social workers and court officials actively follow the best practices of ICWA, there will be timely identification of AI/AN children in the system and immediate application of the law. When efforts to identify AI/AN children are not made or ICWA's application is not immediately identified, delays to proceedings are required to identify the child and backtrack to comply with this federal law. In addition, ICWA includes a "safety value" to incentivize compliance. This provision states:

[a]ny Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of this title (25 U.S.C. 1914).

This provision provides that when the state or private adoption agencies do not follow ICWA's provisions pertaining to jurisdiction, court procedure (excluding placement preferences), or voluntary termination of parental rights, children, parents, and the tribe may seek to invalidate the non-compliant determination. Although state laws interpret this provision differently, states and private adoption agencies must comply with ICWA to avoid further delays and disruptions and to ensure the best possible outcomes for AI/AN children.

ICWA is a federal law, and it is the ethical obligation of judges and attorneys to follow and comply with the law. Where attorneys willfully circumvent ICWA, hide or ignore the AI/AN status of a child, or fail to understand when and how ICWA applies to a given proceeding, they are open to malpractice lawsuits and ethics complaints with state bar associations. In addition, when ICWA is ignored there are serious implications including harm to birth parents, extended family members, foster care families, and prospective adoptive parents. These practices, unfortunately, are commonplace and well-known in Indian Country.

Long Term Effects of ICWA Non-Compliance

Loss of Culture and Rights

Connection to culture, family, and community is a right in and of itself. This right is recognized by ICWA and many international forums. However, it goes unprotected when ICWA is not followed.

In addition, recent literature has found connection to culture, community, and family to be important protective factors that ameliorate the effects of trauma and reduce various risky behaviors in which children exposed to violence are more likely to engage. A 2010 study concluded, "[T]he key source for increasing [both] risk and protection for delinquent behaviors among American Indian youth is the family," (Mmari, Blum & Teufel-Shone, 2010). This study identified (1) racism, (2) socioeconomic status, (3) loss of language and culture, and (4) gangs and weapons as risk factors at the community level. Protective factors were (1) tribal language, (2) ceremonies, and (3) powwows (Mmari, Blum & Teufel-Shone, 2010). One study showed that community identity and participation, expressed when teens visited older relatives and volunteered to help elders and others, was associated with lower rates of depression, alcohol use, antisocial behavior, and levels of internalizing dysfunctional behaviors (Whitesell, 2008). Other studies have reported the positive effects of cultural identity on negative outcomes such as suicide (Chandler & Lalonde, 2004), school dropout (Feliciano, 2001), and substance abuse (Moran, & Reaman, 2002).

The awareness of and loyalty to one's culture of origin is also linked to positive outcomes (LaFromboise, Coleman, & Gerton, 1993) such as school success (Whitbeck, Hoyt, Stubben, & LaFromboise, 2001), higher self-esteem (Kulis, Napoli, & Marsigliia, 2002), higher social functioning (Jones, & Galliher, 2007), increased resilience (LaFromboise, Hoyt, Oliver, & Whitbeck, 2006), and improved physical and psychological health (LaFromboise, Coleman, and Gerton, 1993).

Continued cultural connections and the ability to pass culture between generations has positive effects on communities as a whole. In 2007, a study of two AI/AN communities found lower rates of substance abuse and related trauma in the community that had maintained its cultural traditions (O'Connell et al., 2007). For AI/AN youth, individual and community strengths are linked. The removal of children from the community hurts not only the youth but the community as a whole.

Furthermore, the relationship AI/AN children have with their tribes—as citizens of sovereign governments—is critical not only for retaining a connection to their culture, but also for retaining their future rights and benefits as tribal members. The rights and benefits at risk include voting rights, the right to run for tribal elected office, the right to employment preferences, access to social service programs, access to educational opportunities (tribal schools, tribal college member tuition rates, tribal scholarship programs), and rights to other trust resources.

Disproportionate Numbers of AI/AN Youth Face the Outcomes Associated with "Aging Out"

AI/AN children disproportionately age out of state foster care. In 2006, more than 6,000 AI/AN children aged out of care without a family, which was 7% percent of all youth who aged out of foster care (Pew Charitable Trust, 2008). These youth enter adulthood without any familial or cultural connections and face some of the worst outcomes of any Americans. Statistics show that youth who age out of foster care have lower academic success, are less likely to keep and maintain employment, and face higher rates of poverty than youth who enter adulthood in permanent homes. They also are more likely to rely on government assistance, be homeless, enter the criminal justice system, become young parents, or struggle with mental health issues (Casey Family Programs, 2008).

Emotional and Psychological Distress

This past year an *amicus curiae* brief written by adult adoptees documenting their stories of placement outside their families and communities was filed with the United State Supreme Court in *Adoptive Couple v. Baby Girl* (570 U.S. ____). The adult adoptees state their interest in the case as follows: "Amici are thus personally familiar with the serious long-term social and psychological consequences of child placement practices that fail to appreciate how important recognition of an Indian child's tribal heritage and participation in his or her tribal community

can be to the child's sense of identity" (*Adoptive Couple v. Baby Girl*, *amicus curiae* for Adult Adoptees, 2013 WL 1279463 p. 1-2). Anecdotes capture the experience of adult adoptees who suffered and still suffer psychological distress after having been placed outside their community prior to ICWA or as a result of noncompliance with ICWA. Books such as the one edited by DeMeyer and Cotter-Busbee (2012) document the effects of removal, including identity issues and psychological struggles these adoptees face as adults. Unfortunately, there is minimal peer-reviewed research available on the psychological distress depicted in these accounts.

In one important study, Locust (1998; 2000) observes that "placing American Indian children in foster/adoptive non-Indian homes puts them at great risk for experiencing psychological trauma that leads to the development of long-term emotional and psychological problems in later life" (1998, para. 4). Locust finds that these long-term psychological liabilities create a cluster of symptoms that can be recognized as a syndrome (para. 5). Locust calls this the "Split Feather Syndrome."

Split Feather Syndrome is caused by the following shared experiences of children adopted out of their families and communities: 1) loss of Indian identity; 2) loss of family, culture, heritage, language, spiritual beliefs, tribal affiliation, and tribal ceremonial experiences; 3) the experience of growing up being different; 4) the experience of discrimination from the dominant culture; and 5) cognitive difference in the way Indian children receive, process, integrate and apply new information—in short, a difference in learning style. These experiences leave adult adoptees with identity confusion, a lack of belonging, and psychological distress (Locust, 1998; 2000). Interestingly, when individuals identified as experiencing this syndrome took active steps to reclaim their AI/AN identities and reconnect with their families and communities, they reported decreases in various indicators of psychological distress (Locust, 1998; 2000). A more recent study describes similar identity loss and psychological distress in Canadian First Nation peoples who were placed outside their homes (Carriere, 2007).

In addition to these studies, there is some older evidence documenting more immediate increased identity issues and psychological distress among AI/AN youth (Berlin, 1978; Berlin, 1987; McShane, 1988; Westermeyer, 1979).

Tribal-State Child Welfare Collaboration

Because of the direct relationship between the federal government and tribal governments, tribal-state interaction has been limited. The direct tribal relationship with the federal government led to the sense that there was little role for state involvement in tribal affairs. In the limited interactions between tribes and states, there were frequently conflicts over jurisdiction and resources. As Earle (2000) notes, "Historically, relationships between states and tribes have been poorly defined and frequently problematic," (p. 13). Many of these conflicts were resolved through protracted legal battles to establish jurisdiction (Hicks & Dossett, 2000; Johnson, Kaufman, Dossett, & Hicks, 2000).

These contentious and distant tribal-state relationships have led to reluctance on the part of tribes and states to communicate with one another and to coordinate on issues of mutual interest. Some tribal governments have also feared that forming working relationships with state governments would negatively affect their direct relationship with the federal government (Johnson et al., 2000).

The trend toward federal devolution—or passing authority and resources to lower levels of government—has increased in the past decade, especially in the areas of human service delivery and community development (Johnson et al., 2000; Johnson, Kaufman, Dossett, & Hicks, 2002). With increased responsibilities and resources at more local levels of government, there is a greater need for intergovernmental coordination and cooperation among local governments—specifically states, counties, and tribes. The mutual interests of neighboring governments are numerous.

State governments and tribal governments have far more in common than in conflict. Both types of government have a primary interest in protecting the health and welfare of their people. Therefore, as tribal and state governments gain resources and responsibilities, their capacity and incentive to cooperate increases.

Relationships with All Three Branches of Government

Before identifying specific federal legislation designed to promote and incentivize tribal-state collaboration and improve tribal-state relationships, it is useful to examine the role of each of the three branches of state government and to explore those types of general efforts that may facilitate intergovernmental relationships with each branch—legislative, executive, and judicial.

The legislative branch is clearly a critical component in tribal-state relationships. Tribes and states can develop and institutionalize legislative relationships by establishing committees of jurisdiction over AI/AN issues; hiring legislative staff (at the individual representative level and/or at the committee level); developing state legislation that affirms a government-to-government relationship with tribes; providing new legislator training about the governmental status, structure, and function of tribes; sponsoring briefings and/or hearings about issues of interest to tribes; and requiring “tribal impact statements” on any bills that are introduced (Johnson et al., 2002).

The executive branch is the form of state government with which tribes have generally have had the most experience (Johnson et al., 2000). Tribes can develop strong relationships with state executives by using a number of mechanisms. These can include executive orders that establish government-to-government relationships with state agencies; development and implementation of state consultation policies; establishment of Governors’ Offices of AI/AN Affairs; training for state agency employees that addresses the governmental status, structure, and function of tribes; and quarterly meetings of state and tribal administrative staff.

The judicial branch can use a number of tools to enhance state/tribal collaboration. These include court rules; training for new judges on the governmental status, structure, and function of tribes; and issue-specific training on how to use key matters of tribal governance as vehicles for improving tribal-state relationships.

Regardless of the branch of government with which tribal relationships are being developed, a few key principles of intergovernmental relationships apply. These include a commitment to cooperation on issues that concern tribes and states; mutual understanding and respect; regular and early communication and consultation (before policies are developed and conflicts arise); an established process and accountability for addressing issues; and institutionalizing positive relationships (Johnson et al., 2002).

Federal Law Requiring Tribal-State Collaboration

ICWA offers unique opportunities for tribal-state relations. First, it provides states with the opportunity to create tribal-state ICWA agreements (25 U.S.C. § 1919). Under this provision in ICWA, over 70 tribal-state agreements have been crafted. They range from coordination and referral agreements to step-by-step plans that detail the progression of an AI/AN child through the state child welfare system. These plans may spell out how to assign jurisdiction, service responsibility, and resource provision for AI/AN children in the child welfare system. They may require collaborative steps at each decision point. Some agreements give tribes great flexibility in designing their own programs and services. Others—often those that include state resources—are very prescriptive.

ICWA also provides minimum federal standards for AI/AN children in the child welfare system as well as a provision that encourages states to create laws that provide greater protections for AI/AN families (25 U.S.C. § 1921). Many states with large AI/AN populations have worked closely with the tribes inside their borders to create state ICWAs or remedy identified ICWA issues via legislative advocacy and action.

In addition to ICWA, other generally applicable federal child welfare laws recognize the importance of tribal-state collaboration. They include the following requirements to encourage positive relationships between tribes and states:

- Title IV-B of the Social Security Act, which provides funding for child welfare services, requires states receiving funding to create a plan that: “contain[s] a description, developed after consultation with tribal organizations...in the state, of the specific measure taken by the State to comply with the Indian Child Welfare Act” (42 U.S.C. § 622 (b)(1)(9)). Although the intent of this provision is clear, its effect is minimal. As described above, there is little compliance with these provisions, and ACF rarely follows through with corrective action when these plans are inadequate or the information is not provided. Jack Trope, Executive Director of AAIA, will provide more detailed testimony on this topic, which NICWA supports in full and wishes to advocate here.

- Title IV-B of the Social Security Act contains a program that funds state Court Improvement Projects aimed at better integrating child welfare social work practice with court practice. Recipients of these funds must show “a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or other agency under contract with the state who is responsible for administering the State program...and where applicable tribes” (42 U.S.C. § 627h (b)(1)(C)). These provisions attach funding to tribal collaboration, making the position of the federal government clear: If you are working on improving your child welfare and dependency court practice, tribes and ICWA should be included in the review. This requirement has resulted in some significant collaborations specifically around ICWA in many states. It has helped produce educational videos, tribal-state court judge dialogues and exchanges, and ICWA specific guides for judges.
- Title IV-E of the Social Security Act, which funds all federal foster care, adoption, and guardianship reimbursement payments as well as some administrative and training costs, contains an important provision pertaining to tribal-state Title IV-E agreements. It requires that states negotiate with tribes “in good faith” for tribal-state IV-E funding agreements (42 U.S. Code § 671). This requires states to negotiate with tribal governments in a manner that allows for true collaboration and cooperation. Title IV-E agreements have been very successful in allowing tribes to access the resources they need to provide services for their members and exercise sovereignty (Brown, Scheuler-Whitaker, Clifford, Limb, & Munoz [NICWA], 2000). This provision appears to have incentivized a few new Title IV-E agreements. However, there is little information available on its effects to date.
- Lastly, the Chaffee Foster Care Independence Program demands a great deal of tribal state collaboration. Its requirements include:

A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; that benefits and services under the programs will be made available to Indian children in the State...and that the State will negotiate in good faith with any Indian tribe... in the State that does not receive an allotment. (42 U.S.C.677(b)(3)(G))

Due to this provision many tribes have successfully accessed funding to help with their foster populations or successfully coordinated their child welfare services with state Chafee programs to ensure AI/AN access.

Best Practices in Tribal-State Collaboration

Truth and Reconciliation Work

NICWA staff, in partnership with the Child Welfare League of America, First Nations Repatriation Institute, and the First Nations Child and Family Caring Society of Canada, have recently developed a “Reconciliation in Child Welfare Initiative.” The goal of this initiative is to “stop harmful practices that are still being perpetuated in state child-welfare systems and to promote racial healing for Indian children, families, and communities who suffer from the historic trauma of losing their family relationships and identities as a consequence of past and present institutional racism within the child welfare system,” (NICWA, 2011, p.2). The work, which is grounded in traditional values, has four phases:

- Truth Telling—The process of open exchange regarding the past.
- Acknowledging—Affirming and learning from the past and embracing new possibilities.
- Restoring—Addressing the problems of the past and creating a better path for the future.
- Relating—Moving forward together in a respectful way along a new path.

This is a promising practice model that develops trust and builds community between tribes and states through cultural values rather than mainstream values and imperatives (NICWA, 2011). It is through this trust and community-building process that ICWA compliance and tribal-state relations improve (NICWA, 2011). This process has been utilized to improve tribal state collaboration in Alaska, Michigan, Minnesota, and Washington (NICWA, 2011). More information on this process is available in the curriculum written by the project partners: http://www.fncaringsociety.com/sites/default/files/docs/Touchstones_of_Hope.pdf.

Maine has also recently begun a child welfare reconciliation process. Maine has created a Truth and Reconciliation Commission that will listen, record, and process how the Maine child welfare system has treated AI/AN children and families since the passage of ICWA. The process will involve listening sessions and ceremonial gatherings at each of the five Wabanaki communities in Maine. The purpose of the process is to give AI/AN people in the state of Maine an opportunity to be heard, to start the healing process, and to seek suggestions on how the state child welfare system can work better with tribal children, families, and communities. At the end of the project the Commission will issue a final report. More information on this project is available at: <http://www.mainewabanakitrc.org/>.

Tribal-State ICWA Agreements

Tribal-state agreements are crafted collectively by the state and a tribe within its borders to clarify procedures for ICWA implementation and to coordinate responses to child welfare service inquiries for AI/AN children. To date about 20 states have such agreements with tribes. These agreements improve ICWA compliance and outcomes for AI/AN children because they clarify jurisdictional issues, delineate roles and responsibilities, ensure the coordinated

implementation of ICWA, and provide procedures for structured conversations between the state and tribes when challenges arise.

There are significant positive outcomes for tribal-state agreements. These include increased ability of states and tribes to provide culturally relevant services, more entitlement for tribes to administer their own programs and provide services to their citizens, and opportunities for tribes to exercise their sovereignty (Hicks, 2005). The Washington tribal-state agreement is widely regarded as one of the best tribal-state agreements because it does a thorough job of detailing both tribal and state responsibilities throughout the child welfare process. Copies of this agreement are available at: <http://www.dshs.wa.gov/ca/services/srvICWAgree.asp>.

Tribal-State Children's Services Advisory Groups

Tribal-state children's services advisory groups typically meet at least once quarterly and include tribal leaders, tribal social-service workers, and state child-welfare agency officials. These groups participate in and create trainings, address programmatic and policy challenges, design and implement new projects (such as service improvement projects), and discuss necessary ingredients for evaluating child welfare quality and data collection. These groups are a venue for formal ongoing collaboration and coordination activities that foster ICWA compliance and improve the well-being of AI/AN children and families.

The Alaska Tribal State Collaborative Group (TSCG) is one example of these groups. TSCG is a partnership that includes tribal members, tribal leaders, and representatives from different levels of the Alaska Office of Children's Services. This group meets multiple times a year. Their focus is to foster collaboration that ensures ICWA compliance, reduce disproportionality, promote healthy racial and ethnic identity, and develop strong working relationships. More information is available at: <http://dhss.alaska.gov/ocs/Pages/icwa/tscg/tscg.aspx>.

Tribal-State Dependency Court Advisory Groups

Tribal-state dependency court advisory groups regularly bring together tribal judges, tribal court staff, state judges and state court staff. During these meetings the collective group problem-solves, shares information, and collaborates on systems improvement that will lead to better outcomes for AI/AN children and families. These work groups improve outcomes for AI/AN children by streamlining jurisdictional transfers, pinpointing issues that stand in the way of best court practices, encouraging peer-to-peer collaboration, and building support for culturally competent practices. When tribal access to Court Improvement Program funding opened up in 2012, tribes and states gained access to the resources necessary to participate in these important collaborations.

Sharing Resources

Many states find tribes to be an essential part of the child welfare system because of the help and relief they offer. Tribal support includes providing culturally competent services and

necessary out-of-home placements for tribal children (GOA, 2005). Tribes know the needs of their children and families best. When tribes are involved in the care and treatment of their children and families, the outcomes are better. This efficacy makes for overall long-term cost savings. Unfortunately tribes often lack sufficient resources in the area of child welfare programming. Recognizing this need, many states share resources or distribute some of their federal funding to tribal child welfare programs. Resource allocation can come in the form of contracts, grants, or agreements. This may include general ICWA agreements or those specific to federal funding streams such as Title IV-E or Title XX of the Social Security Act. When this occurs, tribal capacity to care for children and families improves, and tribal-state collaboration improves.

The most common form of resource sharing between tribes and states is via Title IV-E agreements. These agreements allow tribes to access federal funds reserved for foster care, guardianship, and adoption assistance programs. The Association on American Indian Affairs recently completed a report titled “A Survey and Analysis of Select Title IV-E Tribal-State Agreements including Template of Promising Practices” which is available here: <http://www.indian-affairs.org/programs/documents/FullTitleIV-EReport.pdf>.

Recommendations

Training and Technical Assistance (T/TA)

- *Improve the availability and quality of ICWA training for social workers, attorneys, and state court judges.* There is a lack of ICWA training available on an ongoing basis for state practitioners. Filling this void is essential to achieving ICWA compliance.
- *ACF should contract with ICWA experts to perform a thorough review of the ICWA compliance measures states are currently using. The results of this review should be compiled into comprehensive best practice documents and a toolkit for states to use to increase nationwide ICWA compliance.* There is currently no national source of comprehensive information on the innovative ICWA compliance measure states are taking and the creative tribal-state collaborations occurring. Collecting and disseminating this information would help states think creatively about what they could do to ensure better ICWA compliance.
- *Hire AI/AN staff who have experience with ICWA implementation for Senior Advisor positions at key central and regional offices of affected federal agencies (DOJ, DHHS, DOI).*
- *Require descriptions of how ICWA and cultural competence will be a part of all T/TA contractor and resource center plans for ACF.* ICWA affects all aspects of child welfare practice, from intervention to permanent placement and data collection. It is imperative that the federal resources available to states for T/TA thoroughly incorporate the provisions of ICWA and its requirements when working with state child welfare agencies and state dependency courts. It is also important to ensure that ICWA and its unique requirements are woven into all state efforts to change the child welfare system .

Data Collection/Analysis

- *Require states to collect ICWA data, as part of an existing data collection measures (Adoption and Foster Care Analysis and Reporting System and National Child Abuse and Neglect Data System).* States are already required to report a variety of measures on the children in their care. Requirements pertaining to ICWA, including a determination of ICWA eligibility, tribal notification, active efforts provided, placement according to placement preference, and other concerns related to AI/AN child welfare, should be added to these requirements. Including ICWA information in state reporting requirements would provide the information necessary to improve federal oversight and evaluate national ICWA compliance. These data will ultimately help target resource allocation and areas needing further policy development.
- *Provide tribes with more information and support to enhance their participation in federal reviews.* Tribal participation in state Child and Family Service Reviews focuses on measures of tribal/state relations in child welfare, ICWA implementation, and improvement of outcomes and services affecting tribal children and families. In many cases, tribal involvement is shaped by the state's designation of what is tribally relevant even though tribal children and families are impacted by activities in almost every aspect of the reviews. Increased tribal input combined with more federal guidance and oversight in this area would be beneficial.

Federal Administrative Policy

- *Improve procedures for the collection and review of ICWA data.* ACF should work with tribes and states to improve program instructions and internal administrative procedures regarding collection of data that inform ICWA implementation and T/TA with states.
- *Provide follow-up in states where there is knowledge of ICWA non-compliance.* When ACF becomes aware of ICWA non-compliance via Child and Family Service Reviews or other sources, it should take action to assess the source and scope of non-compliance and provide assistance to states to improve ICWA compliance.
- *Conduct Department of Justice (DOJ) ICWA compliance investigation.* The levels of disproportionality, particularly in states with high AI/AN populations, and the studies that show bias treatment of AI/AN families in state child welfare and adoption systems allude to systemic civil rights violations of AI/AN children and families. DOJ's Civil Rights division must look into these troubling practices.
- *Provide funding for research, treatment, and healing activities for AI/AN adoptees placed outside of their homes and families.* ACF, IHS, and National Institutes of Health should partner on an initiative that seeks AI/AN researchers to better understand Split Feather Syndrome and traditional healing and treatment modalities.

Congressional Policy

- *Enact legislative reform to establish a federal review of state ICWA implementation.* ICWA is the only federal child welfare law without a regular and comprehensive federal review required. Federal reviews would allow states the opportunity to gain a better understanding of their services and outcomes and make improvements with federal assistance when necessary.
- *Create incentives for state ICWA compliance.* Congress and ACF have created incentives in the child welfare arena to improve practice and compliance with federal laws pertaining to adoptions and foster care. Incentives to encourage state compliance with ICWA would likewise be a powerful tool. Congress could promote ICWA compliance by rewarding states that show evidence of substantial compliance. Federal incentives could promote innovative and successful mechanisms for measuring and maintaining ICWA compliance.

Federal Budget

- *Include an annual request in the President's budget to fund the three grant programs allocated under the Indian Child Protection and Family Violence Prevention Act (P.L. 101-630, Title IV).* This law provides resources for tribes to address tribal capacity needs in dealing with child welfare and domestic violence. The funding is used to provide treatment for AI/AN victims of child abuse in tribal communities, support child-abuse and family-violence prevention efforts, and establish child and family resource centers. These are the only AI/AN-specific grant programs authorized to address child-abuse treatment and prevention. These grant programs have been authorized since 1991 but have only received one funding request and actual appropriation from Congress since they were created.
- *Increase tribal ICWA funding.* ICWA funding supports tribal efforts to improve ICWA compliance through case advocacy. Nonetheless, this funding has been stagnant since 1996. We recognize that the President has proposed a small increase of \$5 million in his FY 2015 budget proposal that would bring the amount of funding up to \$25 million total. At the time ICWA was passed, Congress estimated that \$26 million-\$62 million would be required to fully fund tribal child welfare programs on or near reservations during the first four years of the grant program (U.S. Senate Report 95-597) For this reason funding must be increased to ensure ICWA compliance.
- *Fund the Urban ICWA Program authorized in Title II of ICWA.* The protections of ICWA apply to children on-reservation and children who live in urban areas. For this reason, ICWA authorizes child welfare funding for urban programs. From 1979-1996, funding was allocated for ICWA grants to urban organizations serving Native peoples. The off-reservation program has not been funded since 1996 despite the fact that 67% of Americans who identify as exclusively AI/AN lived off-reservation according to the Census (2012c). Urban programs perform important functions such as recruitment of Native foster-care homes, case management, identification of at-risk families for

services, and in-home support that helps children stay in their homes or be reunified with their parents safely.

- *Give States Incentives to Share Resources with Tribes.* Tribes provide more efficient and effective services to AI/AN children and families than mainstream agencies but often lack resources to do this. Encouraging states to share their resources (federal and otherwise) would improve services to AI/AN families and foster better tribal-state collaboration.
- *Fund pilot data collection projects to test the practice models, tools, and software states use to monitor ICWA compliance.*

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A Guide to Compliance with the Indian Child Welfare Act

State ICWAs and Other State law

Some states have ICWA laws. These laws may alter the best practices listed below. It is important to find out whether or not your state has an ICWA law and review it in comparison to this guide. Add any notes or differences for your state to this guide before using. Also, many states supply sample letters and checklists for compliance that should be considered equally with the information presented here. Following this guide will assure compliance with ICWA, but not necessarily state rules.

Tribal-State Agreements

The first precaution in applying the Indian Child Welfare Act is to make sure there is no tribal-state agreement that has specific procedures to follow. Many tribes have agreements with state agencies on child welfare matters that may alter the best practices listed below. It is important to find out whether or not your state has any tribal-state ICWA agreements and review their requirements. Add any notes or differences based on the tribal-state agreement to this guide before using. Following this guide will assure compliance with ICWA, but not necessarily tribal-state agreements.

When Does ICWA Apply?

ICWA applies when there is:

1. A “child custody proceeding”
2. Involving an “Indian child”

What is a “Child Custody Proceeding” for the Purpose of ICWA?

Child Custody Proceedings ICWA Does Cover

- Foster care placements
- Termination of parental rights
- Pre-adoptive placements
- Adoptive placements (includes conversion from foster care to adoptive placement)
- Both voluntary and involuntary placements if parents can't regain custody of child "upon demand"
- Divorce proceedings in which neither parent will get custody
- Juvenile delinquency proceedings where parental rights may be terminated
- Status offenses (juvenile delinquency proceedings that involve an offense that would not be a crime if committed by an adult, e.g. drinking, runaway, truancy, etc.)

Child Custody Proceedings ICWA Does Not Cover

- Divorce proceedings or custody disputes between two parents
- Juvenile delinquency proceedings (violations of criminal law) with two exceptions:
 1. Juvenile delinquency proceedings where parents rights may be terminated or the child may be placed in foster care
 2. Status offenses (juvenile delinquency proceedings that involve an offense that would not be a crime if committed by an adult, e.g., drinking, runaway, truancy, etc.)

Who Is an “Indian Child” for the Purpose of ICWA?

ICWA only protects American Indian and Alaska Native children who are:

- 1) Unmarried;
- 2) Under 18; and
- 3) A tribal member OR 3) Eligible for tribal membership; *and*
has a biological parent who is a tribal member

How Do I Figure Out if the Child is a Tribal Member or Eligible for Membership?

Does the client family identify as American Indian, Alaska Native, or Native American?

At intake with a family, and before every change or potential change in custody, the state case worker should ask a client family how they self-identified. For example, they should ask:

- Which of the following do you consider yourself a member: Asian American, Black/African American, American Indian or Alaska Native or Native American, White, Latino/a?

The state case worker should always follow up by asking:

- Do you have any Native ancestry?

If the client response that they are not American Indian, Alaska Native, or Native American and do not have any Native ancestry the state case manager should:

- Document this in case notes

If the client responds that they are American Indian, Alaska Native, or Native American, or believe there is Native ancestry the state case worker should:

- Ask the client family which tribe(s) they identify with and if they are a member and/or enrolled
- Fill out a family tree chart with the help of client family or other genealogy form provided by the agency

If, in following the previous steps, a case worker has reason to believe the child is Indian, s/he will need to identify the Indian tribe by:

- Consulting with extended family members and other relatives
- Contacting, as appropriate, the suspected tribe(s) (their child welfare units, enrollment office, [their ICW designated tribal agent for service of ICWA notice](#)), an appropriate Indian social services organization, or the Bureau of Indian Affairs

If the parents are unavailable or unable to provide a reliable answer regarding the Native heritage of their children, workers then:

- Make a thorough review of all documentation in the case record
- Contact the previous caseworker, if any
- Contact extended family identified by child or client family and ask about identification of the family

If the Family Identifies as American Indian, Alaska Native, or Native American How Do I Verify if the Child in Question is a Tribal Member?

Send notice to the child's tribe via [their ICW designated tribal agent for service of ICWA notice](#) to request:

- Confirm that the child is a member; or
- Confirm that the child is eligible for membership and confirm a biological parent's membership

Note: If several tribes are identified by client family, send the letter to *all* tribes identified.

Best practice includes telephone contact also be made with the tribe's child welfare unit, enrollment office, and [their ICW designated tribal agent for service of ICWA notice](#). Although this is not required by ICWA, it may help a case worker get quick confirmation and notate that ICWA will apply to a case. Any phone conversation that confirms that ICWA applies should be documented in the case file. Formal notice should still be set to the tribe and the written response confirming tribal membership filed in the case file.

What if the child is a tribal member?

Once a tribe has determined that a child is a member, the response must be documented in the case record, including date and source of documentation:

- File in the case record the tribe's written statement declaring the child is a member
- Incorporate in any court hearing the tribe's written statement declaring the child to be a member
- ICWA applies throughout the entirety of the child welfare case

What if the tribe responds that the child is eligible for membership?

The state case worker should confirm the membership status of the biological parent. The response to both the child and parent's status must be documented in the case record, including date and source of documentation:

- File in the case record the tribe's written statement declaring the child's eligibility for membership
- Incorporate in any court hearing the tribe's written statement declaring the child eligible for membership and the biological parent to be a member
- The case manager should assist the family in formally enrolling the child or establishing membership of the child. If necessary, the state case worker may counsel parents hesitant to enroll a child by emphasizing the positive benefits of tribal membership, particularly in child welfare and adoption proceedings.
- ICWA applies throughout the entirety of the child welfare case

What if the child is not a tribal member and ineligible for membership?

Once a tribe has determined that a child is not a member and not eligible for membership, the response must be documented in the case record, including date and source of documentation:

- Document all steps taken to determine the child's Indian or tribal ancestry
- File in the case record the tribe's written statement declaring the child ineligible for membership
- Incorporate in any court hearing the tribe's written statement declaring the child ineligible for membership
- ICWA does not apply

What if the tribe does not respond?

If the tribe does not respond, the state case workers should call the ICW designated tribal agent for service and inquire about the status of the inquiry and the membership status of the child. The state case worker should document the conversation in the case file.

What Are the Notifications Procedures Required by ICWA?

Who receives notice?

- Parents
- "Indian Custodian" (defined by ICWA as "Any Native person who has legal custody of the child under tribal law or custom or under state law or to whom temporary physical care, custody, or control has been transferred by the parent")
- The child's tribe (If child is affiliated with, or eligible for, membership in more than one tribe, all tribes should receive notice)
- The BIA (only if identity/location of the tribe and/or parent, or Indian Custodian cannot be determined)

How is notice sent?

Notice must be sent by registered mail, return receipt requested. A copy of this notice should be filed in the case file and with the court, along with any returned receipts.

When should notice be sent?

No requests for a court proceeding (with the exception of emergency removals) can be made until:

- At least 10 days after receipt of notice by parents or Indian Custodian, *or* after 30 days if 20 days is requested by the parents or Indian Custodian to prepare for the proceedings; *or*
- At least 10 days after receipt of notice by the tribe, *or* after 30 days if the tribe requests an additional 20 days to prepare or the proceeding; *or*
- No fewer than 15 days after receipt of notice by the Bureau of Indian Affairs.

What if the tribe does not respond?

Even if a tribe does not respond to an official notice sent, or if it replies that it does not wish to intervene in the proceeding, continue to send it notices of every proceeding. The tribe can intervene at any point in the proceeding and therefore it has the right to notice of all hearings related to the case.

How Does Transfer to Tribal Court Work?

Who can request a transfer of jurisdiction to tribal court?

ICWA allows the parent, Indian Custodian, or child's tribe to request that the child custody proceeding be transferred to tribal court.

If the tribe requests, orally or in writing, a transfer of the proceeding to its tribal court:

- The state case worker should inform the parents or Indian Custodian of their right to object to the transfer.

When does is the state required to transfer the case?

The state court **must** transfer unless:

- The tribal court declines jurisdiction
- Either parent objects to such transfer
- The state court determines that "good cause" exists to deny the transfer

What if there is good cause?

If any party believes that good cause exists to not transfer the proceeding:

- They should share their reasons for such belief with the court
- Other parties should be given the opportunity to respond

What does good cause to not transfer look like?

- An individual proceeding is at an advanced stage
- Child over 12 objects to the transfer
- It would be difficult to present the evidence and witnesses necessary in tribal court

Note: The perceived adequacy of a tribal court, the type of court the tribe uses, or a tribe's use of a traditional decision-making processes cannot be considered good cause to not transfer.

What Services Are Required in ICWA Cases?

When should "Active Efforts" be made?

Active efforts must be undertaken to provide remedial services after an investigation and before a decision is made to place the child out of the home.

Active efforts must also be provided after the child has been removed in order to prevent the breakup of the family by working toward reunification.

What are "Active Efforts"?

"Active efforts" means not just an identification of the challenges a family faces and providing solutions. It also requires a state case manager to make efforts to *actively assist a family* in making the changes necessary to keep a child safely in their home, or to make the changes necessary for a child to return safely and reunify with family.

These can be demonstrated by:

- Making a strength-based evaluation of the family's circumstances that takes into account the prevailing social and cultural conditions and way of life of the child's tribe
- Intervening only when necessary. Workers conducting such an intervention should:
 - Develop a case plan with assistance from the parents or Indian Custodian that involves use of tribal Indian community resources
 - Seek out the necessary family preservation and wrap-around services to support the family with the child in the home, except where imminent physical or emotional harm may result
 - Involve the child, if of sufficient age, in the design and implementation of case plan
- Assisting parents or Indian Custodian and child in maintaining an ongoing familial relationship

- Working closely with the child's tribe to access culturally relevant resources and informal support networks

When Can a Child in an ICWA Case Be Removed from the Home?

To remove a child, the state must prove (and case records should document) that:

- Conduct or condition of the parent will result in serious physical or emotional damage to the child
 - This must show a causal relationship between the conditions and the serious damage that is likely to result to the child is necessary to meet this requirement of ICWA
- Active efforts were made to support the family in overcoming the challenges that presented imminent risk of serious physical or emotional damage to the child
 - The case record cannot simply state that such efforts were unsuccessful, but must document the specific efforts and how they were unsuccessful

What burden of proof is required for foster care placement?

ICWA states that a court may not issue the foster care placement of an Indian child in the absence of a determination—by clear and convincing evidence—supported by the testimony of a qualified expert witness that the child's continued custody with the child's parents or Indian Custodian is likely to result in serious emotional or physical damage to the child.

What is "clear and convincing" evidence?

This is a higher level of proof than most states require for foster care placement proceedings. It means that in order to be successful, the side favoring foster placement must present evidence that is not just slightly more persuasive than the evidence against it, but clearly more persuasive.

Who are "qualified expert witnesses"?

Persons with the following characteristics are considered most likely to be qualified expert witnesses:

- A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices
- An expert with substantial experience in the delivery of child and family services to Native families and extensive knowledge of prevailing social and cultural standards of child rearing practices in the child's tribe
- A professional person having substantial education and experience in the area of his or her specialty along with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community.

This list is not meant to be exhaustive. The state case workers should enlist the assistance of the child's tribe to locate persons qualified to serve as expert witnesses. The BIA is also required to provide this assistance.

Where should a child in an ICWA proceeding be placed if removal from the home is necessary?

The child should be put in the setting that:

- Is least restrictive
- Is most like family
- Is within a reasonable proximity to the child's family
- Meets any special needs the child may have

Preference to the following types of placements should be given in the order provided, unless there is good cause to place the child elsewhere or the tribe has a different placement preference order:

1. Member of the child's extended family;
2. Foster home licensed, approved, or specified by the child's tribe;
3. Indian foster home licensed or approved by the state or other non-Native licensing authority;
4. Institution for children approved by an Indian tribe or operative by an Indian organization that meets the child's special needs.

The state case worker should contact the tribe to ask if they have a different placement preference.

The state case worker should perform a diligent search to comply with ICWA's placement preferences. This should include, at a minimum:

- Contact with tribe's social service program
- Search of state and county lists of foster homes
- Contact with other tribes and Native organizations with available placement resources

When placing a child in an ICWA case, what should be documented?

State case workers should document the placements of the child and all efforts to comply with the placement preferences.

Where required placement preferences have not been followed, efforts to find suitable placements within those priorities shall be documented in detail.

What if it is necessary to move the child to a new placement?

If the child is to be moved from one placement to another, or if the foster family plans to move, the child's parents or the Indian Custodian must be notified in writing. Workers should follow placement preferences outlined above, unless the child is returned to parents or Indian Custodian.

When Can a Parent in an ICWA Case Have Their Parental Rights Terminated?

To terminate parental rights, the state must prove (and case records should document) that:

- Conduct or condition of the parent is likely to result in imminent risk of serious physical or emotional damage to the child if the parent has continued custody
 - This must show a causal relationship between the conditions and the serious damage that is likely to result to the child is necessary to meet this requirement of ICWA
- Active efforts were made to support the family in overcoming the challenges making continued custody of the child by the parent an imminent risk of serious physical or emotional damage to the child.
 - The case record cannot simply state that such efforts were unsuccessful, but must document the specific efforts and how they were unsuccessful.

What burden of proof is required for terminating the rights of a parent?

In order to ask the court to terminate parental rights, the agency as petitioner must show the court by evidence beyond a reasonable doubt—including the testimony of a qualified expert witness—that continued custody of the child by the parent or Indian Custodian is likely to result in serious emotional or physical damage to the child.

What is evidence "beyond a reasonable doubt"?

This is a higher burden of proof than most states require at termination of parental rights proceedings. It means that the side favoring termination must not only put on a more convincing case than the opposition, but must be so convincing that it eliminates all reasonable doubts in the mind of the person deciding the case that the child will be at risk of physical or emotional damage if the parent maintains custody. If it fails to do so, the court is obligated by ICWA to deny termination.

Who is a "qualified expert witness"?

See above.

After the parents are terminated where should the child in an ICWA case be placed?

Preference to the following types of placements should be given in the order provided, unless there is good cause to place the child elsewhere or the tribe has a different placement preference order:

1. Child's extended family;
2. Other members of the child's tribe;
3. Other Indian families.

The state case worker should contact the tribe to ask if they have a different placement preference.

The state case worker should perform a diligent search to comply with ICWA's placement preferences. This should include, at a minimum:

- Contact with tribe's social service program
- Search of state and county lists of foster homes
- Contact with other tribes and Native organizations with available placement resources

When placing a child in an ICWA case, what should be documented?

State case workers should document the placements of the child and all efforts to comply with the placement preferences.

Where required placement preferences have not been followed, efforts to find suitable placements within those priorities shall be documented in detail.

What happens if the adoption is disrupted?

If an adoption is vacated or set aside, or adoptive parents voluntarily consent to termination of parental rights, the Indian parents or Indian Custodians must be notified.

- Notice of their right for a return of their child must include a statement that such petition will be granted unless the court rules it is not in the child's best interest
- Where parental rights have been terminated, it is up to the agency to decide whether or not to notify parents or Indian Custodian of their right to petition for a return of their child

What if There Is an Emergency That Requires Removal of an "Indian Child"?

Unless circumstances do not permit, the racial/ethnic status of the child should be immediately determined. For example, a case worker should ask:

- "Which of the following do you consider yourself a member? Asian American, Black/African American, American Indian or Alaska Native or Native American, White, Latino/a? If American Indian or Alaska Native or Native American, what is the name of your tribe?"

Emergency protective custody of any Indian child can be taken only if:

- The child is not located on the reservation of a tribe that has jurisdiction over child custody proceedings
- The child is in danger of imminent physical damage or harm

Emergency custody must be terminated when removal is no longer necessary to prevent imminent physical damage or harm to the child.

In emergency proceedings, ICWA should be complied with whenever possible and child custody proceedings that fully comply with ICWA must be "expeditiously initiated."

Where should the child who is identified as Indian be placed in an emergency?

If the child is believed to be Indian, efforts shall be made to place the child during emergency care in a setting that follows the foster care placement priorities established by ICWA (see above).

How Do You Voluntarily Terminate Parental Rights and Place a Child for Adoption Under ICWA?

ICWA requires specific procedures for voluntary consent and specific information be collected at the time of consent to protect children's future connection to their extended family and tribe.

How must voluntary consent be taken?

Consent cannot be accepted unless:

- The child is over 10 days old
- The consent is in writing and recorded before a judge
- The consent is accompanied by the judge's certificate ensuring that terms and consequences of the consent were:
 - Fully explained in detail and fully understood by the parents or Indian Custodian

- Fully explained in English or interpreted into a language understood by the parents or Indian Custodian

What information should voluntary consent include?

Consent signed by Indian parents or Indian Custodian should contain:

- Name and birth date of child
- Name of child's tribe
- Child's enrollment number or other indication of membership in the tribe
- Name and address of consenting parents or Custodians
- Name and address of prospective parents, if known, for substitute care placements
- Name and address of person or agency through whom placement arranged, if any, for adoptive placements

Where should the child be placed?

Preference to the following types of placements should be given in the order provided, unless there is good cause to place the child elsewhere or the tribe has a different placement preference order:

1. Child's extended family;
2. Other members of the child's tribe;
3. Other Indian families.

The adoption case worker should contact the tribe to ask if they have a different placement preference.

The adoption case worker should perform a diligent search to comply with ICWA's placement preferences.

This should include, at a minimum:

- Contact with tribe's social service program
- Search of state and county lists of foster homes
- Contact with other tribes and Native organizations with available placement resources

The National Indian Child Welfare Agency is available share and explain this information to stakeholders involved in tribal child welfare including court officers, tribal councils, ICW staff, and state and county agencies. To find out how our staff may assist your community or program, contact NICWA at (503) 222-4044. Visit our website at www.nicwa.org.

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Eve L. Hill
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Dear Acting Assistant Attorney General Samuels and Deputy Assistant Attorney General Hill,

The undersigned American Indian and Alaska Native (AI/AN) organizations request that the Civil Rights Division of the Department of Justice commence a prompt investigation into the unlawful treatment of AI/AN children in the private adoption and public child welfare systems throughout the United States.

In 1978, Congress found that “an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions.”ⁱ To offset cultural bias Congress found in state child welfare and private adoption systems and to ensure that AI/AN families receive due process in child custody proceedings, the Indian Child Welfare Act (ICWA) was enacted.ⁱⁱ The Act establishes minimum federal standards for child custody proceedings involving tribal members in state court, recognizes tribal jurisdiction over matters pertaining to child custody, and provides funding to tribal child welfare programs. ICWA recognizes and protects the right of AI/AN children to know, and remain connected to their parents, their families, their tribe, and their culture.

Undoubtedly, ICWA was landmark legislation that resulted in halting what was for some communities the wholesale removal of Indian children from their family, culture, and community. **There is no question, where ICWA is applied, it has been integral to keeping countless Native American families together.** ICWA is not just considered good practice for AI/AN children by experts and practitioners alike, but the principles and processes it embodies were recently described as the “gold standard” for child welfare practice generally.ⁱⁱⁱ

Yet, despite all the protections provided by ICWA, each year thousands of parents, grandparents, aunts, uncles, and child advocates reach out to the National Indian Child Welfare Association (NICWA) desperate for help. Their rights under ICWA and the Constitution continue to be violated by state child welfare and private adoption systems. NICWA frequently hears stories of adoption agencies ignoring the tribal membership of children, of state attorneys failing to provide notice to a tribe when a child is taken into custody, of child welfare workers sometimes knowingly placing children outside ICWA’s placement preferences, and of judges denying tribal representatives a presence in the court room. NICWA also often hears stories of *Guardians ad Litem* scoffing at the importance of Native culture, state workers demeaning AI/AN parents and traditional ways of parenting, and attorneys using professional networks to encourage other attorneys to purposefully circumvent the “ridiculous” or “unnecessary” adoption requirements of ICWA.

Stories similar to these have just recently garnered media attention and brought a spotlight onto the injustices that AI/AN families have faced for decades in private adoptions and in state child welfare proceedings. Recent news stories have covered a variety of topics from the placement of AI/AN foster children in white homes when relatives are ready and able to care for the children and Native licensed foster care homes stand empty, to the secreting away of children across state lines without the proper authority for the purpose of avoiding ICWA in adoption proceedings, to the thwarting of fit biological fathers willing and able to parent their children in child welfare and private adoption proceedings.^{iv}

These stories highlight patterns of behavior that are at best unethical and at worst unlawful. **Nonetheless, although these civil rights violations are well-known and commonplace, they continue to go unchecked and unexamined.** So long as this is the case, Native children and families will continue to be victims of the very systems designed to protect them.

Although there is limited data available on the experience of AI/AN children in state child welfare and private adoption systems, the data that is available reflect the unjust treatment described in the anecdotes above. AI/AN children are abused or neglected at nearly the same rate as their non-Native counterparts.^v However, AI/AN children are *far more* likely to be removed and placed in foster homes—instead of receiving supportive and family preservation services offered to other families—than any other population in the child welfare system.^{vi} In addition, the majority of AI/AN children who have been adopted out are living in non-Native homes,^{vii} despite the fact that ICWA was passed 35 years ago.

These pleas, media stories, and statistics come as no surprise. It is well known that there is minimal federal oversight over the implementation of, and compliance with, ICWA—a fact highlighted by a 2005 GAO report.^{viii} **It is in this unregulated environment that research shows non-compliance with all the major provisions of ICWA can proliferate without consequence.**^{ix}

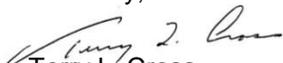
The United States, however, has an important and unique relationship with Indian nations; specifically, it “has a direct interest, as trustee, in protecting Indian children.”^x This special relationship means that the United States has the responsibility to ensure the “protection and preservation”^{xi} of Indian families as guaranteed by the mandates of ICWA. **It is the responsibility, therefore, of the Civil Rights Division of the Department of Justice to ensure these civil and constitutional rights are upheld.**

This fall, at the National Congress of American Indians annual conference, tribal leaders expressed their disgust with the way that state child welfare and private adoption systems treat AI/AN families and with the federal government’s poor oversight over a law so essential to the current well-being and future vitality of tribes and their citizens by passing resolution TUL-13-040, *In Support of a Department of Justice Investigation of ICWA Non-Compliance* (see addendum). This resolution recognizes that “no federal agency has taken action to formally examine ICWA non-compliance, which has allowed these issues to continue and worsen” and urges “the U.S. Department of Justice to launch a formal investigation of non-compliance with the Indian Child Welfare Act focusing on both involuntary and voluntary placements of AI/AN children to document the scope and frequency of non-compliance.”

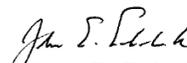
Non-compliance with ICWA harms children. Attorneys, social workers, and judges cannot, and should not, ignore federal law and the civil rights of AI/AN children, parents, and families. When ICWA is not followed, the cultural bias and prejudice present in the child welfare system goes unchecked. When ICWA is not followed, AI/AN children’s connection to their families, their communities, and their culture is severed. When ICWA is not followed, AI/AN children are subject to familial disruption, cultural discontinuity, and extreme post-traumatic stress that is unwarranted and avoidable. When ICWA is not followed, tribes lose citizens; and with them the ability to keep their traditions, practices, and culture alive. Without federal oversight, patterns of non-compliance and poor implementation will continue.

For this reason, we as national Native organizations write to echo the resolution passed by tribal leaders at the NCAI annual conference. We respectfully request that the Civil Rights Division promptly investigate the widespread non-compliance with ICWA and the unlawful and biased practices pertaining to AI/AN children by state and private child welfare and adoption systems. Our children have waited far too long to have their rights acknowledged and protected by your enforcement of this vital law.

Sincerely,



Terry L. Cross
Executive Director
National Indian Child Welfare Association



John E. Echohawk
Executive Director
Native American Rights Fund



Jacqueline Johnson Pata
Executive Director
National Congress of American Indians



Jack Trope
Executive Director

ⁱ Indian Child Welfare Act of 1978, 25 U.S.C. § 1901(4) (2000). At that time studies showed that 25-35% of all AI/AN children were being removed from their homes. Of those children, 85% were placed in non-Native families' foster homes and 90% of nonrelative adoptions were to non-Native homes. H.R. REP. NO. 95-1386, at 9 (1978).

ⁱⁱ ICWA applies to unmarried children under 18 who are member of a federally-recognized tribe, or who are eligible for membership in a federally-recognized tribe and have a biological parent who is a member of a federally-recognized tribe. 25 U.S.C. § 1901(4) (2000). This unique political status is distinct from a racial identification. See, e.g., *Morton v. Mancari*, 417 U.S. 535 (1974).

ⁱⁱⁱ Brief for Casey Family Programs et al. as Amici Curiae Supporting Respondents, *Adoptive Couple v. Baby Girl*, 570 U.S. ____ (2013) (No. 12-399) at 4.

^{iv} See, e.g., Laura Sullivan & Amy Walters, *South Dakota Tribes Accuse State Of Violating Indian Welfare Act*, NAT'L PUB. RADIO (Feb. 6, 2013) <http://www.npr.org/2013/02/06/171310945/south-dakota-tribes-accuse-state-of-violating-indian-welfare-act>; Kevin Woster, *ICWA summit seeks more tribal authority in Native American child removal, placement*, Rapid City Journal (May 14, 2013), available at http://rapidcityjournal.com/news/icwa-summit-seeks-more-tribal-authority-in-native-american-child/article_fc6e0878-c05e-5577-a492-2deaa7656f4e.html; Suzette Brewer, *Second Infant Whisked to South Carolina for Quickie Adoption*, Indian Country Today (Aug. 8, 2013), available at <http://indiancountrytodaymedianetwork.com/2013/08/13/sold-oklahoma-second-indian-infant-adopted-south-carolina-150856>; Dan Bewley, *Another Oklahoma Adoption Case Mirrors 'Baby Veronica' Case*, NewsOn6.com, (Aug 29, 2013), available at <http://www.news6.com/story/23293465/another-oklahoma-adoption-case-bears-resemblance-to-baby-veronica-case>.

^v CHILDREN'S BUREAU, U.S. DEP'T OF HEALTH & HUM. SVS, CHILD MALTREATMENT 2010 (2012), available at <http://archive.acf.hhs.gov/programs/cb/pubs/cm10/cm10.pdf>.

^{vi} AI/AN children are three times more likely than their non-Native counterparts to be removed from their homes and placed in foster or institutional care (as opposed to receiving in-home supportive services) by the public child welfare system. HILL, R. B., CASEY-CSSP ALLIANCE FOR RACIAL EQUITY IN CHILD WELFARE, RACE MATTERS CONSORTIUM, AN ANALYSIS OF RACIAL/ETHNIC DISPROPORTIONALITY AND DISPARITY AT THE NATIONAL, STATE, AND COUNTY LEVELS 11-12 (2008), available at <http://www.cssp.org/publications/child-welfare/alliance/an-analysis-of-racial-ethnic-disproportionality-and-disparity-at-the-national-state-and-county-levels.pdf>.

^{vii} Fifty-six percent of AI/AN children who are adopted are living in non-Native homes. Kreider, R.M., Nat'l Council for Adoption, *Interracial Adoptive Families and Their Children: 2008* in ADOPTION FACTBOOK V 109 (2011), available at <https://www.adoptioncouncil.org/publications/adoption-factbook.html>.

^{viii} GOVERNMENT ACCOUNTABILITY OFFICE PUB. NO. GAO-05-290, INDIAN CHILD WELFARE ACT: EXISTING INFORMATION ON IMPLEMENTATION ISSUES COULD BE USED TO TARGET GUIDANCE AND ASSISTANCE TO STATE (2005), available at <http://www.gao.gov/new.items/d05290.pdf>.

^{ix} See, e.g., BRENDA BELLONGER & DAWN MARIE RUBIO, NATIONAL CENTER FOR STATE COURTS & NORTH AMERICAN INDIAN LEGAL SERVICES, AN ANALYSIS OF COMPLIANCE WITH THE INDIAN CHILD WELFARE ACT IN SOUTH DAKOTA (2004); BROWN, LIMB, RIC MUNOZ, & CHEY CLIFFORD, NATIONAL INDIAN CHILD WELFARE ASSOCIATION, TITLE IV-B CHILD AND FAMILY SERVICE PLANS: AN EVALUATION OF SPECIFIC MEASURES TAKEN BY STATES TO COMPLY WITH THE INDIAN CHILD WELFARE ACT (2001); EDDIE BROWN, GORDON LIMB, TONI CHANCE & RIC MUNOZ, NATIONAL INDIAN CHLD WELFARE ASSOCIATION, THE INDIAN CHILD WELFARE ACT: AN EXAMINATION OF STATE COMPLIANCE IN ARIZONA (2002); B.J. JONES, JODIE GILLETTE, DEBORA PAINTE, & SUSAN PAULSON, NATIONAL INDIAN CHILD WELFARE ASSOCIATION, INDIAN CHILD WELFARE ACT: A PILOT STUDY OF COMPLIANCE IN NORTH DAKOTA (2000); Susan Waszak (2010) *Contemporary Hurdles in the Application of the Indian Child Welfare Act*. 34 AM. INDIAN CULTURE & RES. J 1, 121-135 (2010).

^x 25 U.S.C. § 1901(3) (2000).

^{xi} 25 U.S.C. § 1901(2) (2000).



**For Immediate Release
February 3, 2014**

Media Contact: Nicole Adams
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Native American Leaders Call for DOJ Investigation of ICWA Violations

PORTLAND, OR—Today, National Indian Child Welfare Association Executive Director Terry Cross formally requested the U.S. Department of Justice Civil Rights Division launch an investigation into the unlawful treatment of American Indian and Alaska Native children in private adoptions and public child welfare systems.

Cross presented a letter on behalf of four leading national Native American organizations—the National Indian Child Welfare Association, the National Congress of American Indians, the Native American Rights Fund, and the Association on American Indian Affairs—during a meeting at the U.S. Attorney’s Office in Portland hosted by Department of Justice Acting Attorney General for Civil Rights Jocelyn Samuels.

The organizations are calling for the Department of Justice to take a stronger role in enforcing compliance with the Indian Child Welfare Act of 1978 (ICWA), a piece of landmark legislation passed to offset the cultural bias Congress found in state child welfare and private adoption systems that resulted in the unwarranted removal of nearly one in three Native children from their families.

The organizations assert, “There is no question that where ICWA is applied, it has been integral to keeping countless Native American families together.” However, the letter continues, “It is well known that there is minimal federal oversight over the implementation of, and compliance with, ICWA.”

The letter cites commonly reported infractions such as transporting Indian children across state lines in order to sidestep ICWA, the disregard of ICWA’s placement preferences, adoption attorneys encouraging circumvention of the law, and judges denying tribes a presence during child custody proceedings, among others.

“These stories highlight patterns of behavior that are, at best, unethical and, at worst, unlawful,” the letter states. “Although these civil rights violations are well-known and commonplace, they continue to go unchecked and unexamined. So long as this is the case, Native children and families will continue to be victims of the very systems designed to protect them.”

As part of the U.S. Department of Justice’s Civil Rights Division Indian Country Working Group, Ms. Samuels expressed strong interest in meeting with leaders of Native American tribal governments and Native American advocacy groups to discuss civil rights issues that are significant to Native Americans and tribal communities.

Terry Cross stated, “I am very moved by the Department of Justice’s willingness to work with Indian Country and hear these pressing concerns. Our positive relationship and ongoing conversations with the DOJ convince me that this is a strong step toward addressing the longstanding issues that are essential to the future of American Indian and Alaska Native children, tribes, and cultures. It is heartening to see that the DOJ recognizes this fact.”

The full letter can be found at www.nicwa.org.

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Written Testimony for Chrissi Nimmo

Chrissi Nimmo (*Cherokee Nation of Oklahoma*), Assistant Attorney General, Cherokee Nation of Oklahoma

Chrissi Nimmo is an Assistant Attorney General for the Cherokee Nation, who has represented the nation in tribal, state, and federal courts since 2008. Her primary focuses are on the Indian Child Welfare Act and in-house counsel duties for the nation. She represented the Cherokee Nation in *Adoptive Couple v. Baby Girl* before the U.S. Supreme Court and the South Carolina Supreme Court; and in *Nielson v. Ketchum* before the U.S. Court of Appeals for the Tenth Circuit. Chrissi also serves as the Adam Walsh Act Sex Offender Registration and Notification Compliance Office for Cherokee Nation. She is the former President of the Cherokee County Bar Association and former Chair of the Indian Law Section of the Oklahoma Bar Association. In law school, Chrissi served as Vice-President of the Student Bar Association and as an editor for *Tulsa Law Review*, was awarded Gable & Gotwals Outstanding First-Year Student, and graduated in the top 5 percent of her class.

On June 24, 2013, when the United States Supreme Court issued its Opinion in *Adoptive Couple v. Baby Girl*, the opening line of the decision made it clear that the majority of the Court saw no value in Veronica Brown's connection to Cherokee Nation or Cherokee Nation's connection to Veronica Brown. On September 23, 2013, when I physically removed Veronica Brown from the arms of her Cherokee father and handed her to non-relative, non-Indian people who were, by that time, strangers to Veronica, the importance of that child to Cherokee Nation and all other tribes was felt by Natives across the country. A palpable wave of grief washed over Indian Country as another child was taken. Thirty-five years after the passage of the Indian Child Welfare Act, Indian children are still being removed from fit Indian parents and tribes by state court systems.

This written testimony is offered from the tribal perspective to share the important role that the Indian Child Welfare Act, 25 U.S.C. §§ 1901 *et seq.* ("ICWA"), plays in allowing tribes to protect and heal children who have been exposed or potentially may be exposed to violence. Specifically, this written testimony will address how the decision in *Adoptive Couple v. Baby Girl* is being and will continue to be used to hinder tribes' efforts to protect their children.

With more than 306,000 citizens, Cherokee Nation is the largest federally recognized Indian tribe in the United States. In 2012, Cherokee Nation Children Youth and Family services received in excess of 10,000 notices of child custody proceedings pursuant to the notice provisions of ICWA. Of those 10,000 notices, approximately 10% were "Indian child[ren]"¹ pursuant to ICWA. In response to these notices, Cherokee Nation Children Youth and Family

¹ ICWA defines "Indian child" as "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe" 25 U.S.C. §1903(4).

Services intervenes in all state initiated deprived/dependency proceedings², and in all contested adoptions and guardianships. In addition, Cherokee Nation sometimes intervenes in uncontested adoptions and guardianships if legal issues under ICWA arise. At any one time, Cherokee Nation is involved in more than 1,000 child custody proceedings across the United States involving Cherokee children. How state courts are interpreting and will interpret *Adoptive Couple v. Baby Girl* will have a direct impact on Cherokee Nation's rights regarding its "most valuable resource" and its ability to protect and heal Cherokee children who have been or may be exposed to violence.

ADOPTIVE COUPLE V. BABY GIRL AND ITS EXPANSION

Adoptive Couple v. Baby Girl, 570 U.S. ____ (2013), involved the private adoption of a Cherokee child who was in the sole legal and physical custody of her non-Indian mother when she was voluntarily placed for adoption at birth with a non-Indian, non-relative couple.³

Prior to the appeal to the United States Supreme Court, when Veronica was two years old, a South Carolina judge moved Veronica into her father's home in Oklahoma and removed her from the home of the Adoptive Couple. The South Carolina courts⁴, in addition to finding that it was in Veronica's best interest to be placed with her father, found that ICWA prohibited the termination of the father's parental rights because the Adoptive Couple had not satisfied "the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful." 25 U.S.C. § 1912(d).

The South Carolina courts further held that the Adoptive Couple did not, as required by ICWA, prove beyond a reasonable doubt that "continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child." 25 U.S.C. § 1912(f). Finally, the South Carolina courts held that even if the father's parental rights could be terminated, the adoption must be denied because there was no "good cause" to deviate from ICWA's adoptive placement preferences in 25 U.S.C. 1915(a), as the grandparents as well as numerous Cherokee Nation certified adoptive homes would have preference over the Adoptive Couple. The United State Supreme Court reversed the South Carolina Supreme Court and held that the Indian Child Welfare Act did not allow the unmarried Cherokee father to block the adoption because he never had legal or physical custody of the child prior to the initiation of the adoption proceeding. The Court further held, for the first time in a reported

² The term state initiated deprived/dependency proceedings is used to refer to state court cases where children are removed from the home of their parent or guardian due to allegations of abuse or neglect. Different states refer to these types of cases in different terms.

³ Cherokee Nation has always supported the biological father, Dusten Brown, and believes that he attempted to have a relationship with his daughter, however, for the sake of argument, we are bound by the factual determinations of the United States Supreme Court, those findings are used to convey the facts mentioned here.

⁴ The South Carolina Supreme Court confirmed the findings of the South Carolina Family Court. See *Adoptive Couple v. Baby Girl*, 731 S.E.2d 550 (S.C. 2012).

ICWA case, that the adoptive placement preferences of ICWA did not apply to this private adoption because no party other than the Adoptive Couple had *formally* sought to adopt the child. The Court appeared to limit its decision to a very fact specific analysis of the case before it. Supporters of ICWA and tribal representatives understood that the Court's decision should be limited to putative biological fathers who abandoned their child prior to birth in private adoption cases. Realistically, tribes understood that many people would try to use this opinion to tear apart the provisions of ICWA that keep children with their parents, families and tribal communities. Less than one year after the Opinion, these fears became reality as a state supreme court expanded the holding in *Adoptive Couple v. Baby Girl* to include state initiated deprived/dependency cases. This is the result that Indian Country feared most; that the power of states would once again be used to rip apart the lives of Indian children without regard to tribal families, governments, or traditions.

On March 25, 2014, the Montana Supreme Court extended the holding of *Adoptive Couple*, and held the heightened termination protections of ICWA did not apply to an Indian father who did not have legal or physical custody of the child when the child was removed from the mother by the state. See *In the Matter of J.S.*, 2014 MT 79. In that case, the biological father appealed a guardianship that resulted from the child being removed from the mother for abuse/neglect. The Montana Supreme Court held that the State was not required to provide "active efforts" to the biological father because he "never obtained legal or physical custody of" the child before the State removed the child from the mother. *Id.* at 16. Further, the Montana Supreme Court held the State was not required to provide expert witness testimony and prove by clear and convincing evidence⁵ that "continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child" because "the record in this case clearly establishes that [Father] never had custody of [child]. . . . Because there is no custody to 'continue,' we conclude that § 1912(e) does not apply" *Id.* at 19.

It is disappointing to note that in this case, it appears the State met its burdens of proof regarding both active efforts and whether continued custody would likely harm the child. The Montana Supreme Court could have ruled that ICWA applied in its entirety and had been satisfied. Instead, it appeared that the Montana Supreme Court was looking for the first available opportunity to expand the holding of *Adoptive Couple v. Baby Girl* to state initiated deprived/dependency proceedings. It will not be surprising to see other state supreme courts quickly follow.

ICWA TRIBAL RIGHTS AND PROTECTIONS

The previous discussion shows the result when *Adoptive Couple v. Baby Girl* is expanded to apply to state initiated deprived/dependency proceedings. It is important for this Advisory Committee to understand how decisions by state courts will affect Indian children who have

⁵ In *Adoptive Couple*, the burden of proof for this provision was "beyond a reasonable doubt." In the Montana case, the lesser burden of "clear and convincing evidence applied because the case ended with the issuance of legal guardianship instead of termination of parental rights and adoption.

been or may be exposed to violence and how it will affect tribes' ability to protect and heal those children.

First, the "active efforts" requirements of ICWA are extremely important to Indian children who have or may be exposed to violence, as well as the families of those children and the children's tribes. In all states, when any child is removed from the home of a parent or guardian because that child has abused or neglected, federal and state law requires that the state make reasonable efforts to reunite that family and/or place the child in the home of a relative.⁶ When the case involves an Indian child, ICWA requires that the party seeking foster care placement or termination of parental rights must to provide services to reunite the family that are "active efforts . . . to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful." 25 U.S.C. § 1912(d). ICWA further requires that in addition to the state law reasons for removing the child from the home, the state must prove by clear and convincing evidence⁷ that "continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child." 25 U.S.C. § 1912(e). Additionally, ICWA requires that, absent good cause, the child shall be permanently placed with "(1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families." 25 U.S.C. §1915(a).

I. ACTIVE EFFORTS

All of these provisions are extremely important to tribes. First, the heightened protections of ICWA ensure that if a child is removed from her home, there has to be proof that the child is likely to suffer serious harm if returned to that home. This balances the state's interest in protecting children against the child's, families' and tribes' interest in maintaining family unity. Next, if the child is removed from the home, the state has an obligation to offer culturally appropriate services in an attempt to reunite the family and avoid any permanent severance of family or tribal ties. If active efforts are not required in state initiated deprived/dependency cases, many parents and families will lack the resources to seek those services on their own. Without the services and programs to help remediate the parents and families, it is less likely that reunification will occur. When reunification does not occur, it is more likely that familial ties and possibly tribal ties will be permanently severed. In the event ties with the immediate family are severed, it is imperative that the child be permanently placed with a relative or member of the child's tribe, as ICWA requires.

II. PLACEMENT PREFERNCES

The placement preferences of ICWA require a child to be placed with family members or tribal members absent good cause to the contrary. Placements within ICWA's requirements allow tribes to stay involved with their children. Often placement can be made in the same

⁶ See Adoption and Safe Families Act, 45 U.S.C. S 671(a)15. There are some specific cases where the alleged abuse is deemed to contain "aggravating circumstances" when a court can find that reasonable efforts to reunite are not required. *Id.*

⁷ See footnote 5, when dealing with termination of parental rights, this burden increases to "beyond a reasonable doubt."

communities or geographic locations allowing children who have been exposed to abuse or neglect to maintain important familial, tribal and community ties.

Unfortunately, the decision in *Adoptive Couple* held that if a parent did not have legal or physical custody prior to the state removing the child and if no family or tribal member “formally” sought placement of the Indian child, ICWA simply did not apply to those parents or family members. It is easy to see the damaging results to children, families and tribes that will occur if this holding is broadly applied to state initiated deprived/dependency proceedings. Tribes will have to be diligent in defending cases in which states or non-relative, non-Indian foster and adoptive homes urge state courts to expand the holding in *Adoptive Couple* to state initiated deprived/dependency cases.

Fortunately, what was not affected by the decision in *Adoptive Couple v. Baby Girl* were some of the other substantive rights of tribes. The Supreme Court specifically held that ICWA applied to *Adoptive Couple v. Baby Girl* because Veronica was an “Indian child” and the adoption action was a “child custody proceeding” under ICWA. 25 U.S.C. § 1903. Cherokee Nation had the right to notice, the right to intervene and participate in the case, the right to seek transfer to tribal court and the right to offer alternative placements for Veronica.

III. NOTICE

The tribe’s right to notice is especially important in involuntary proceedings involving children who have been or may be exposed to violence. Early, correct notice is particularly important to allow tribes to properly identify these children as “Indian children” at the beginning of a state initiated deprived/dependency proceeding. If children are properly identified as “Indian children” from the beginning of the case, the tribe can sooner offer its resources regarding rehabilitative and remedial services, knowledge on culturally appropriate services and ICWA compliant out of home placements.

IV. INTERVENTION

A tribe’s right to intervene as a party to a child custody proceeding remains one of the most important substantive rights that tribes have under ICWA. A tribe’s ability to participate in a case, offer recommendations and be part of a team seeking to reunify a family often leads to quicker, better results for the entire family. However, even though ICWA gives tribes the absolute “right to intervene at any point” in a foster care placement or termination of parental rights, tribes are often unable to exercise this right to intervene in cases in state court because the tribes lack resources to hire local counsel or to allow in house counsel to be admitted to practice in another state *pro hac vice*.⁸ While some states such as California allow non-lawyer tribal representatives to fully participate in cases or allow tribal attorneys to participate in a case without special *pro hac vice* admission, many states forbid tribal social workers from fully participating and require tribal attorneys to seek *pro hac vice* admission to the court and hire

⁸ *Pro hac vice* “refers to a lawyer who has not been admitted to practice in a particular jurisdiction but who is admitted there temporarily for the purpose of conducting a particular case.” Black’s Law Dictionary (9th ed. 2009)

local counsel to represent them. This often has the practical effect of prohibiting tribes from intervening, as a matter of right, in ICWA cases in other states. For example, in 2012, Cherokee Nation had ICWA cases in every state in the United States except Vermont, however, attorneys for the tribe were only able to participate in cases in Oklahoma, Arkansas, Missouri, Kansas, California and South Carolina partially due to other states' requirements on tribal workers and tribal attorneys.

V. TRIBAL COURT TRANSFER

Finally, although a tribe's ability to seek transfer to tribal court remains an important provision of ICWA, tribal transfer seems to be the exception rather than the rule. There are many reasons for this: tribal courts are often small and have limited dockets, tribal courts may be physically located too far away to offer reunification services to the family, and finally many state court systems make it difficult to transfer a case to tribal court because many states still believe that the state is in a superior position to the tribe to determine what is in an Indian child's best interest.

VI. IMPORTANCE TO TRIBES OF NARROW CONSTRUCTION

ICWA is crucial to the continued existence and integrity of Indian tribes but the decision by the United States Supreme Court in *Adoptive Couple v. Baby Girl* lessens the protections of unwed fathers and families. If the decision in *Adoptive Couple* is not narrowly construed by state courts, we will see unintended consequences in state initiated deprived proceedings. If state courts expand the holding of *Adoptive Couple*, as the Montana Supreme Court did, we will see Indian children, their families, and tribes lose the benefit of the active efforts provisions, the legal requirement that state prosecutors prove the likelihood of damage to the child before removal, and preferred placement with family or tribal members. The aggregate result of losing these protections in state court proceedings will be that the most vulnerable Indian children in the country, those exposed to abuse, will be less likely to be reunited with their parents and less likely to be placed with family or tribal members if that reunification fails. In addition to dealing with the consequences of being abused, these children will also be burdened with the life changing and lifelong consequences of being removed from their families and tribes. Strict compliance with ICWA and a narrow interpretation of *Adoptive Couple v. Baby Girl* will ensure that ICWA continues to protect Indian children, their families, and tribes. It is tragic enough that Indian children are exposed to violence; there can be no justification for seeing them traumatized twice due to the failures of the institutions designed to protect them.

LACK OF CRIMINAL JURISDICTION OVER CHILD ABUSE

In addition to the decision in *Adoptive Couple v. Baby Girl* and the issues with ICWA compliance mentioned above, there is one other important issue that must be brought to the attention of this Task Force. This issue prohibits tribes from protecting their children from violence.

Prior to the reauthorization of the Violence Against Women Act, which included provisions that allow tribes to prosecute non-Indian offenders who commit acts of domestic violence against Indian women in Indian Country, we were inundated with stories that revealed

the horrors of criminal jurisdictional rules regarding prosecution of non-Indians. Non-Indian men were literally getting away with the murder, rape and assault of Indian women in Indian Country. The tribes could not prosecute the offenders because they were non-Indian, the state could not prosecute them because the crimes were occurring in Indian Country. Of the cases that the federal government had legal authority to prosecute, a majority of these cases were being declined due to prosecutorial discretion. In defense of the declination to prosecute, federal prosecutors would often reference issues surrounding the investigation of the crime, the location of the crime, or simply the lack of resources. With the reauthorization of VAWA, the law was changed to allow tribes, under certain conditions, to criminally prosecute non-Indian offenders who commit acts of domestic violence against Indian women in Indian country.

A similar epidemic is happening to Indian children in Indian Country, across the United States. In many parts of the country, if a non-Indian commits an act of violence against an Indian child in Indian Country, neither the tribe nor the state has the ability to prosecute the perpetrator. The tribe cannot prosecute because it does not have criminal jurisdiction over non-Indians absent the VAWA provisions, the state cannot prosecute because it does not have criminal jurisdiction over Indian lands. That leaves the United States as the only entity with the legal authority to prosecute. However, just as we saw with domestic violence cases, we routinely see federal prosecutors who cite “prosecutorial discretion” as a reason to decline to prosecute cases of child abuse that occur in Indian Country. Without a federal law similar to VAWA that would allow tribes to prosecute non-Indians who commit child abuse against Indian children in Indian Country, we will continue to see those who prey on children find refuge in Indian Country.

RECOMMEDNATIONS

1. A position statement or opinion from the United States Attorney General/Department of Justice that the holding in *Adoptive Couple v. Baby Girl* only applies to private adoptions and does not apply to state initiated deprive/dependency proceedings. The Department should monitor state and federal cases attempting to expand the holding of *Adoptive Couple* and intervene and/or file *amicus* briefs when appropriate.
2. The Department of Justice should investigate the non-compliance with ICWA by state courts and private organizations, including possible civil rights violations.
3. The Department of Interior should continue its review and update of the Bureau of Indian Affairs ICWA State Court Guidelines and provide education and training regarding any new guidelines.
4. 25 C.F.R. 23⁹ should be expanded to include additional regulations regarding ICWA where appropriate.
5. The federal agencies tasked with ICWA oversight should, with input from tribes, develop a plan that would allow tribes to exercise their right to intervene in state court cases without being restricted by state court rules on attorney admission.
6. The Department of Interior and the Department of Justice should further investigate the issue of non-Indian perpetrators who commit child abuse against Indian children in Indian country. Following the investigation and collection of information, the agencies should be prepared to support the passage of a federal law that would allow tribes to prosecute non-Indians who commit abuse against Indian children in Indian country.

⁹ Although the BIA ICWA Guidelines are helpful in understanding ICWA, state courts are not bound by their recommendations. The C.F.R. is legally binding on state courts so an expansion of the ICWA provisions of the CFR will help ensure compliance by state courts.

Written Testimony for Shannon Smith

Shannon Smith, Executive Director/Attorney, Indian Child Welfare Act (ICWA) Law Center

Shannon Smith is the Executive Director of the Indian Child Welfare Act (ICWA) Law Center located in Minneapolis, Minnesota. Shannon has been with the ICWA Law Center since 2000. The ICWA Law Center is committed to strengthening, preserving, and reuniting Indian families consistent with the mandates and spirit of ICWA. She has more than fifteen years of experience working in the field of Indian child welfare. She has provided direct legal representation to hundreds of Indian families impacted by the child protection system in state and tribal courts. She is respected for her legal expertise and has conducted local and national trainings furthering efforts to increase the understanding of the historical necessity, practical applications, and future implications of ICWA.

Co-Chairs Shenandoah and Dorgan and members of the Task Force on American Indian and Alaska Native Children Exposed to Violence. My name is Shannon Smith. I am the Executive Director of the Indian Child Welfare Act Law Center, located in Minneapolis, MN. Thank you for the opportunity to testify as part of a panel entitled, “The Link Between American Indian Children Exposed to Violence and Compliance with the Indian Child Welfare Act”.

The ICWA Law Center is committed to strengthening, preserving and reuniting Indian families consistent with the mandates and spirit of the Indian Child Welfare Act. Since 1993, the ICWA Law Center has advocated in more than 4,000 cases involving more than 7,500 Indian children. The ICWA Law Center provides direct legal representation to mothers, fathers, grandparents, aunts, uncles and children who are impacted by the child protection system. In most of our cases, Indian children have experienced some form of violence in their homes, community or in the system. The impact of this violence is pervasive as families struggle to heal and move forward with strength.

Collaborating with tribes, community services providers, and child protection professionals, the ICWA Law Center represents the unique perspective of Indian families impacted by the child protection system in hopes of creating a responsive and effective child protection system – a system that recognizes the fundamental value of familial and tribal connections consistent with ICWA. Through advocacy and collaboration, the ICWA Law Center is committed to the best interests of Indian children and their families and in turn the creation of stronger communities.

Before ICWA’s passage, an Indian child in Minnesota was 3.9 times as likely to be placed for adoption as a non-Indian child, and 16.5 times as likely as a non-Indian child to live in foster care. S. Rep. No. 95-597, p. 47 (1977) (“Senate Report”). Of the over 700 Minnesota foster homes caring for Indian children in 1969, *only two* had an Indian parent. 123 Cong. Rec. 21,043 (1977). Indian children lost their identities and tribes lost their future leaders at an “alarming rate.” 25 U.S.C. § 1901; 124 Cong. Rec. 38,102 (1978).

In response to circumstances like these nationwide, Congress carefully crafted ICWA “to protect the rights of the Indian child as an Indian and the rights of the Indian Community and tribe in retaining its children in its society.” *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 37 (1989) (quoting H.R. Rep. No. 95-1386, p. 23 (1978)). By purposely limiting the conduct of states in removing Indian children from their homes and delineating specific placement preferences, Congress provided a clear framework on which tribes and states could rely to foster intergovernmental cooperation in the placement of Indian children and to protect Indian children from violence.

Minnesota continues to work toward these goals of ICWA. Although significant disparities remain and considerable work is still needed, the State of Minnesota, the 11 tribes geographically located within Minnesota, and the state’s child-welfare experts have labored together to follow ICWA’s mandate in protecting Indian children from violence and addressing the disparities in Indian child placement. In 35 years of hard-won progress, Minnesota stakeholders have used ICWA as a springboard to build state statutes, tribal-state agreements, judicial resources, and processes to collectively determine how to protect Indian children from violence while safeguarding Indian children’s connection to their tribe and family. While acknowledging these successes is important, the reality is the continued disconnects in the child protection system place Indian children at significant risk of harm.

While I will use the Minnesota experience as a platform, this is not intended to be limiting, the issues facing Indian children and families in Minnesota are reflected in the reality of Indian children throughout the United States. Based upon my experiences with Indian families and children exposed to violence, my testimony will focus on strengths of the child protective system that help Indian families and disconnects in child protective system that risk harming the very children the system is intended to help. I will conclude with 4 specific recommendations as to how child protective systems can move towards more effectively responding to Indian children who experience violence and in ways that honor an Indian child’s connection to their family and tribe.

Family Perspective

Every family has a story that is uniquely their own. Honoring these stories with honesty and integrity is important. The stories are filled with complexities as life happens. The stories of families are rich with history and perseverance. Too often they are filled with tragedy of addiction and loss. The families are often strong with tradition yet desperate to find their way through a reality marked by historical trauma, grief, poverty, addiction and violence.

The family’s reality is not a constant. Having represented hundreds of mothers, I understand their realities change with time. I have seen strong families succumb to the horrors of addiction and violence. I have also seen families move from places of desperation and addiction to places of healing and strength.

Julie’s (her name has been changed for confidentiality) story reflects both tragedy and hope. Julie spiraled into darkness after her mother and sister died tragically from AIDS. Julie

experienced a tumultuous and violent relationship with the father of her youngest child. Her mother and sister had been her support. She was alone with her 4 young children and ultimately she used drugs to ease the intensity of pain. While the drugs merely dulled the pain, their strength was in addiction. She attempted several treatment programs. However, the grief, addiction, and depression were too intense and she was unable to maintain her sobriety. Julie lost contact with her children, when her parental rights were terminated. At the time of the termination, her youngest daughter was just three years-old. Julie had no contact with her children for almost 7 years. She consistently sought pictures through the tribal Indian child welfare office, but even pictures were a rarity. As time passed, Julie openly acknowledged her earlier struggles with intense depression and chemical addiction. She eventually found strength in her commitment to maintain a peaceful and healthy lifestyle in honor of her children. Believing one day she would reunite with them.

More recently, Julie's oldest daughter contacted her via social media. Through this contact, Julie learned that her children were again in foster care after experiencing years of horrifying sexual abuse in their adoptive home. At the time of the children's removal from the adoptive home, Julie had 3 years of documented sobriety, had returned to school, and was an active member of her faith community. Today, Julie has reconnected with her children, who are now teenagers. They have welcomed their mother back into their lives. She indicates the journey has only just begun and honors that the reunion while joyous is tempered by the violence and tragedy the family has known. She is committed to remaining supportive to her children and has advocated for therapeutic and educational interventions on their behalf, so they can begin to heal from the violence and move forward as a family. Julie's story exemplifies the complexities of life that many children experience.

Chemical dependency, mental health and violence impact the very core of families. They make life unpredictable and chaotic. The system is often limited in meaningful responses to these realities. Responses that purport to address these issues, without honoring Indian children and their families, risk removing a child from a violent experience only to thrust the child into a system that is rigid and unforgiving, a system that condemns all that the child has known and at its worst places the child at risk of being re-exposed to violence. Understanding the strengths and failures of the system are critical in understanding how a system can be responsive and effective in helping Indian children heal from violence. A fundamental understanding of the importance of familial and tribal connections must be the premise for a system that will help Indian families move away from violence towards healing.

System Strengths

ICWA provides the minimum standards upon which to protect the best interests of Indian children, their families, and their tribes.

In Minnesota tribal communities, as in tribal communities around the nation, Indian tribes are now understood as economic centers, self-governing bodies politic, and governmental structures that deliver critical services to their members. They run health-care facilities, schools, businesses, and police departments. And because there can be no tribes

without tribal leaders, nothing “is more vital to the continued existence and integrity of Indian tribes than their children.” 25 U.S.C. § 1902. ICWA was designed to promote the best interests of Indian children and tribes by providing procedural protections *before* their Indian children’s connections to their families and tribes are severed. See *Holyfield*, 490 U.S. at 34 (quoting 1978 Hearings at 193); 25 U.S.C. § 1902.

Following these dual federal policies of protecting the best interests of Indian children and promoting the stability and security of Indian tribes and families, 25 U.S.C. § 1902. Collaboration between tribes, the state and community organizations has resulted in a commitment to move Indian child welfare practices from their ignoble past, to a place of healing. A place where Indian families are protected, and their needs appropriately assessed and best met.

ICWA presents opportunities for states like Minnesota, which has 11 federally recognized tribes within its borders, State of Minnesota Indian Affairs Council, Overview of Indian Tribes in Minnesota, *available at* <http://www.indianaffairs.state.mn.us/tribes.html>, to improve disparities that result in devastating consequences for Indian children, their families, and their tribes and to ensure culturally relevant and trauma informed responses to families who experience violence.

Minnesota has built on ICWA to develop state statutes, intergovernmental agreements, and tools to train its judiciary.

The Minnesota Indian Family Preservation Act

In Minnesota, ICWA has been the moving force behind substantial improvements in the administration of Indian-child-welfare coordination specifically responding to and protecting Indian children who experience violence and behind a broader cooperation between the State and tribes. This ICWA-driven intergovernmental cooperation has gone a long way toward assuring that all the interested parties in any case—the State, the tribe, the parents, and the Indian child—are involved in custody and placement proceedings from the beginning and that the interests of all parties are before the court.

The state of Minnesota worked with the 11 tribes geographically located within the borders of Minnesota and Indian-child-welfare experts to in 1985 pass the Minnesota Indian Family Preservation Act (“MIFPA”). Minn. Stat. §§ 260.751-260.835. The statute mirrors and, in some cases, builds on ICWA’s construct. Minnesota has continued to learn from its experiences and has amended MIFPA several times. See, e.g., Minn. Stat. § 260.755 (1999); Minn. Stat. § 260.755 (2007); Minn. Stat. § 260.755 (2012).

Significantly in Minnesota through MIFPA, the ICWA applies to every Indian child regardless of whether an Indian child hails from an “existing Indian family.” And the statute governs the proceedings involving Indian children, including providing minimal standards for the definition of “parent” of those Indian children. ICWA recognizes and protects the relationship between tribes and their children—all of their children—and Minnesota has implemented the on-the-ground practices that give that policy vitality, child by child and

family by family. MIFPA is premised on a policy that Indian children's connection to their tribes is in the best interests of all three groups that Congress intended ICWA to protect: Indian children, their families, and Indian tribes.

In the recent Minnesota Legislative session, significant amendments to MIFPA were supported by the Minnesota Department of Human Services, in collaboration with tribes geographically located within Minnesota and community organizations to include definitions of best interests and active efforts. Despite momentum towards codification of this language, it was ultimately tabled. The Minnesota Department of Human Services and tribal leaders have committed to pursuing this legislative initiative next session. This proposed language would serve to strengthen the response to Indian families who experience violence.

The proposed state legislation regarding Active efforts follows:

“Active efforts” means a rigorous and concerted level of case work that requires local social services agency to request participation of the Indian child's tribe at the earliest time possible and actively solicit the tribe's participation throughout the case. Active efforts sets a higher standard than reasonable efforts to preserve and reunify the Indian family and prevent the breakup of the Indian family. In applying active efforts, the local social service agency must use the prevailing social and cultural values, conditions and way of life of an Indian child's tribe to preserve the Indian child's family, to prevent out-of-home placement of an Indian child, and, if placement occurs, to return an Indian child to the Indian child's family at the earliest time possible. Active efforts must be provided to the Indian child's family and to relatives of an Indian children . . . to place an Indian child within the placement preferences for Indian children as defined in 25 U.S.C. section 1915.

The proposed legislation included the following regarding the best interests of an Indian child:

“Best interests of an Indian child” means compliance with the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act to preserve and maintain an Indian child's family. The best interests of an Indian child support the child's sense of belonging to family, extended family and tribe. The best interests of an Indian child are interwoven with the best interests of the Indian child's tribe.

This proposed language would positively impacted the experience of Indian families impacted by the child protection system.

The Minnesota Tribal / State Agreement

Intergovernmental consultation resulted in a Tribal-State Agreement, just as ICWA contemplated. See 25 U.S.C. § 1919(a). The Minnesota Tribal-State Agreement established commonsense procedures to apply ICWA's minimum Federal standards and insured that Minnesota meets ICWA's overarching priorities in ways that work on the ground in individual cases. Subsequent real-world experience prompted another Tribal-State Agreement in 2007 ("the 2007 Agreement"). The stated purpose of the 2007 Agreement is to "to protect the long term best interests, as defined by the tribes, of Indian children and their families, by maintaining the integrity of the Tribal family, extended family and the child's Tribal relationship." 2007 Agreement at 2. The Minnesota Tribal, State Agreement also includes important agreement of the tribes and state as to the understanding of active efforts, placement preferences and best interests of Indian children.

Tools to Train the Judiciary

These ICWA-prompted discussions and agreements also spurred expanded coordination between the state and tribal judiciaries. Joint efforts have included education of state-court judges about tribal courts, adoption of state rules addressing the effect of tribal-court orders, creation of workable state-court jurisdictional rules that provide clarity and certainty in ICWA cases, and development of the first-ever ICWA chapter of the Minnesota Judges Juvenile Protection Benchbook ("Benchbook"). Minn. Gen. R. Prac. 10; *E.g.*, Minnesota Rules of Juvenile Protection Procedure, Rule 48 (detailing procedures for transfers of jurisdiction to tribal courts); Court Services Division of the State Court Administrator's Office, *Minnesota Judges Juvenile Protection Benchbook* (2011), available at <http://www.mncourts.gov/?page=178> (last visited Feb. 26, 2013).

In enacting MIFPA and its amendments, entering into the Tribal-State Agreement and subsequent 2007 Agreement, and adopting relevant court rules and Benchbook instructions for ICWA case procedures, Minnesota has followed the path marked by Congress to prioritize the best-interests of Indian children and sovereign interests of tribes. This ICWA-driven intergovernmental cooperation has gone a long way toward assuring that all the interested parties in any case—the State, the tribe, the parents, and the Indian child—are involved in custody and placement proceedings from the beginning and that the interests of all parties are before the court.

Disconnects in the System – How the System Continues to Hurt Indian Children Who Experience Violence.

Despite the positive procedures in place aimed at strengthening Indian families, the reality is many Indian families continue to struggle and in turn Indian children experience violence void of any meaningful response to help them heal. Studies done on child protective actions in Minnesota the last few years present a grim picture of the additional work that is needed to achieve greater stability in maintaining connections between Indian children, their families, and their tribes. For example, a report published by the Minnesota Department of

Human Services in February of 2010 acknowledged that “American Indian children were placed in out-of-home care for one or more days in 2008 at a rate more than twice that of any other group and were 12 times more likely than a White child to spend time in placement.” Minnesota Child Welfare Disparities Report at 2-3, *available at* <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-6056-ENG>. The report provides data and research that demonstrates that the disparities are tied to race and exist independent of occurrence rates and other factors, including poverty. *Id.* at 9. The report admits that “tribally affiliated children are disproportionately referred by community reporters” and that “[n]ational and local research indicates that some disproportionate representation may be due to factors other than true differences in maltreatment occurrence.” *Id.* It also compares relevant factors across racial groups and the data demonstrates that despite higher rates of poverty for African-American children, American Indian children still have higher out-of-home placements for American Indian children in Minnesota. *Id.* at 10, 21. A 2007 publication by the Minnesota Department of Human Services resulted in similar findings. Minnesota Courts Children’s Justice Initiative, Indian Child Welfare Act (ICWA) Active Efforts Best Practices at 5, *available at* http://www.mncourts.gov/Documents/0/Public/Childrens_Justice_Initiative/ICWA_-_Active_Efforts_Best_Practices_%28MN_DHS%29_%28February_2009%29.pdf (last visited March 6, 2013)

Recognizing the experience of Indian families in child protection, the system must change in order to eliminate disparities in the number of Indian children placed out of their homes and ensure a meaningful response to Indian children who have experienced violence. The active efforts and the placement preference provisions of ICWA 25 U.S.C. sec. 1912 and 1915 are two mandates that when not followed subjects the child protection system to risk of significantly harming Indian children – the same children the system is purporting to protect.

Failure to provide Active Efforts including a failure to provide access to culturally relevant and trauma informed therapeutic services harms Indian family and in turn Indian children.

The ICWA, 25 U.S.C. 1912 (d) requires:

Any party seeking to effect a foster care placement of, or termination of parental rights, to an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and these efforts have proved unsuccessful.

In Minnesota despite knowledge regarding appropriate responses to addiction and trauma, access to such services is limited. As the DOJ Task Force on Children Exposed to Violence identified “the majority of children who are identified as having been exposed to violence never receive services of treatment that effectively help them to stabilize themselves, regain their normal developmental trajectory, restore their safety, and heal their

social and emotional wounds.” Report of the Attorney General’s National Task Force on Children Exposed to Violence, December 12, 2012, page 12. In Minnesota this reflects the reality for many Indian families. Often times the entire family is experiencing the impact of loss and violence and despite the requirement of active efforts, the families struggle to access meaningful services. The traumatic experience of American Indian families is compounded by generations of trauma and loss. Repeated traumatic events including the experience of violence further delay the grieving process, transferring both trauma and grief to the next generation. (Yellow Horse Brave Heart M and DeBruyn L (1998), American Indian Holocaust: Healing historical unresolved grief, American Indian and Alaska Mental Health Research, 8(2): 60-82. Children grow-up and become mothers and fathers, if they never have an opportunity to heal from their experiences with violence the impact follows them into adulthood and the negative implications are passed on to their children. The reality is when any member of a family is struggling with the experience of violence, unresolved grief, chemical dependency, and untreated mental health issues without being able to access meaningful services, children are at risk of being harmed.

The Minnesota Supreme Court Task Force on Chemical Dependency recognized the importance of trauma-informed treatment services as critical to those involved in the child protective system. (Report on the Overall Impact of Alcohol and Other Drugs Across All Case Types, November 17, 2006). The Task Force found based on the testimony of several experts that,¹⁰ there is a clear correlation between the onset of problematic use of chemicals and trauma. (id.) Furthermore, trauma plays a clear role in the relapse of many persons in recovery. Experts in domestic violence, co-occurring disorders, and gender responsive treatment services all identified trauma as an underlying factor in the onset of addictive disorders and a barrier to the long-term recovery of many people who enter treatment for addictive disorders. (id.) Despite this understanding, accessing services that specifically address trauma is often problematic for Indian families who are involved in the system. Trauma informed therapeutic services are limited and often not integrated in to the response of the child protective system.

While the child protective system is often equipped to identify when a child has been exposed to violence, the system often fails to meaningfully respond risking that the child will be further harmed. When the system is unable to respond to the family, the child is harmed. Chemical dependency assessments can be difficult to complete and recommendation are subject to funding. Treatment facilities are often in neighborhoods plagued by violence, drug dealing and sex trafficking. Moreover, culturally relevant services are even more limited. Access to treatment programs that allow mothers to be with their children or that honor cultural traditions are often coveted as their capacity is limited. Obtaining safe and stable housing is often a barrier to reunification of a family. Because safe and stable housing is not

¹⁰ Carol Ackley, Executive Director, River Ridge Treatment Center, Testimony to the Task Force, Women’s Issues in Treatment (May 26, 2006); Dr. Larry Anderson, private practitioner/ consultant, Testimony to the Task Force, Introduction to Dual Diagnosis: Understanding the concepts of co-occurring mental health and substance use disorders (April 28, 2006); Dr. Noel Larson, Counselor, Meta Resources, Testimony to the Task Force, Domestic Violence (March 24, 2006).

affordable and simply not available, mothers are forced to live with violent perpetrators in return for shelter for her children. The child protective system frequently limits “active efforts” due to concerns regarding financial limitations. Resulting in active effort being conditioned on child protective services contracts and often void of services that meaningfully respond to the needs of the individual family. If the family is unable to conform to the expectations of the “generic” services, the family is considered non-compliant and efforts to work with the family are ceased. When the mandate of active efforts is not followed the child protection system fails. It becomes a punitive system that punishes the family rather than a system that enables healing for Indian families who have experienced violence.

The provision of active efforts is further complicated by permanency timelines set out in the Adoption Safe Families Act (ASFA). (See Adoption Safe Families Act of 1997). Families who have experienced generations of trauma and violence are afforded limited time to demonstrate healing and stability. The timelines reward case plan compliance while failing to value meaningful change and healing that is subject to time.

Failure to comply with the Placement Preferences harms Indian families and in turn Indian Children

ICWA delineates specific placement preferences for Indian children when they are placed outside of their homes. (25 USC sec. 1915 (1978)). The placement preferences are significant in ensuring that Indian children’s connection to their family and their tribe is honored. Tribes play a critical role in determining appropriate placements for Indian children. Consistent with the intent of ICWA, involuntary permanency placement determination should not be made without tribal support. When placement preferences are not followed Indian children often lose connection to their family and tribes. Siblings especially those who have different mothers or fathers are frequently separated and risk losing contact with each other.

Recommendations

- 1. Indian families must have increased access to trauma informed therapeutic services**
 - 1.1 This is consistent with active efforts requirement**
 - 1.2 Indian families need an opportunity to heal this in turn will be a positive response to the needs of Indian children who experience violence**
 - 1.3 Extending active efforts to extended family will honor Indian children’s connection to their family and their tribe.**

- 2. Indian families must have increased access to culturally relevant mental health services including chemical dependency treatment**
 - 2.1 Indian children must be allowed to stay with their family when possible**
 - 2.2 Appropriately addressing the needs of the family will limit the Indian child’s experience with violence and the necessity for out of home placement**
 - 2.3 The ASFA timelines should not be used to limit an Indian’s family to meaningfully address mental health issues including chemical dependency**

3. Placement preferences must be honored

3.1 ICWA recognizes honoring the tribal and familial connections of Indian children is in their best interests, an enforcement mechanism to adhere to the placement preferences should be enacted

3.2 Active efforts should be extended to an Indian child's extended family in order to allow the child to be placed with family

4. Permanency determinations should require tribal support

4.1 There is no resource more vital to the continued existence and integrity of Indian tribes than their children.

4.2 There must be federal enforcement of the mandates of ICWA

CONCLUSION

ICWA's protections remain as necessary today as when first passed. While there has been undeniable progress toward the Congressional goal of protecting Indian children's connection to their families and their tribes, there is still critical and considerable work to be done. *Holyfield*, 490 U.S. at 37 (citing House Report, at 23). Applying the provisions of ICWA to child custody proceedings involving Indian children promotes the best interests of those children. 25 U.S.C. § 1902; *Holyfield*, 490 U.S. at 50 n.24; 2007 Agreement at 2. The necessary corollary is that the opposite result is contrary to the best interests of Indian children. For many states like Minnesota there is an immediate need to rectify the disparate treatment of Indian children in child-custody proceedings. As the last three and a half decades in Minnesota have demonstrated, that work is best undertaken with a predictable framework outlined in ICWA that fosters coordination and cooperation. Even in Minnesota, where the State, tribes and local governments have built on ICWA with implementing statutes, intergovernmental agreements, and a judge's benchbook, the need for ICWA remains because each of these pieces rests on ICWA's core protections of the interests of Indian children and their connection to their families and tribe.

Today, with the ICWA framework in place and the Minnesota implementation continuing, the experience of Indian children in Minnesota is changing. But centuries of institutionalized assault on Indian families cannot be remedied in three-and-a-half decades or by focusing on the timelines of AFSA over the opportunity to meaningfully engage in services.

Every day, tribal agencies work side-by-side with their state counterparts doing the hard work of keeping Indian children safe, fostering their development, and supporting their families in efforts to continue to nurture their intellects, abilities, and identities. And under ICWA, every day that they do so, their guiding star is the best interests of each individual child. ICWA ensures that these workers look for these best interests using a lens that understands that "[r]emoval of Indian children from their cultural setting seriously impacts long-term tribal survival and has damaging social and psychological impact on many individual Indian children[.]" *Holyfield*, 490 U.S. at 50 (quoting House Report at 52). ICWA has formed

the foundation of the work to defend the right of Indian tribes and Indian families to their children and to ensure Indian children are able to heal from the experience of violence.

After 15 years of working in Indian child welfare, I am still awed as the stories of those I work for unfold and I witness their resolve to keep their families together despite the pervasiveness of poverty, fragile mental health, chemical dependency and violence. I am humbled as I experience families solidifying their strengths and finding comfort in their identity in order to overcome these seemingly insurmountable obstacles. I am aware that community is significant in the families ability to persevere and I am hopeful that as these families heal, they will be a foundation for an even stronger community where Indian children no longer experience violence.

Panel #3: Gangs and Sex Trafficking in Urban and Rural Indian Country

Panel #3: Gangs and Sex Trafficking in Urban and Rural Indian Country

Outcome: Provide an overview of tribal gang issues in urban and rural communities. Provide a description of sex trafficking and gangs in a rural tribal community and the impact on tribal youth. Discuss sex trafficking in urban communities and the impact on tribal youth. Provide recommendation on what can be done to improve the present situation.

Panelists:

Chris Cuestas, Consultant, National Violence Prevention Resource Center

Chris Cuestas is a nationally recognized expert in the field of street gangs and juvenile violence. Chris has built his expertise during more than nineteen years of investigating criminal street gangs, as a police officer, a school resource officer, a crime prevention officer, and a technical assistant for the Department of Justice. Chris has more than thirty-two years of experience in gang reduction, intervention, prevention, and suppression. Chris is one of the original members of the Gang Investigators League of Arizona and assisted in the writing of the Arizona street gang and criminal syndicate state codes. In 2009–2010 Chris’s gang reduction strategy received “National Best Practice” recognition for gang reduction in tribal lands. The Gang Reduction through Intervention Prevention and Suppression (G.R.I.P.S.) strategy develops a community-based collaborative, which responds to community “risk factors” that often ignite the gang problem in tribal lands. The G.R.I.P.S. strategy has shown significant success in tribal communities seeking to impact this developing subculture.

Sadie Young Bird (*Arikara and Hidatsa*), Director, Fort Berthold Coalition Against Violence

Sadie Young Bird is the Executive Director of the Fort Berthold Coalition Against Violence, which is a tribal victim service program that serves domestic violence, sexual violence, child sexual violence, elder abuse, and human-trafficking victims. She has been working within the program for more than three years. Prior to working with victim services, Sadie worked as a correctional supervisor and correctional officer for eight years at the Fort Berthold Tribal Facility, Texas Department of Criminal Justice, and GEO Private Prisons. While working at the tribal facility, Sadie worked with re-entry programs and offender services as a Case Manager. She studied criminal justice with minors in sociology and psychology. Sadie lives on the Fort Berthold Indian Reservation with her fiancée, son, foster son, and brother. She is Arikara and Hidatsa and is from the community of White Shield.

Jeri Williams (*Klamath*), Diversity and Civil Leadership Program Coordinator,
Office of Neighborhood Involvement, Portland, OR

Jeri Williams manages the Diversity and Civic Leadership Program, which funds underserved communities to engage in civic engagement with the City of Portland. Prior to her employment with the City of Portland in 2006, Jeri was the Director for the Environmental Justice Action Group, which defeated the expansion of the I-5 freeway through Northeast Portland. In 1994, while working as a hotel worker exposed to toxic chemicals, she was introduced to environmental justice and became an organizer for the Workers Organizing Committee. Jeri has seventeen years of field experience specializing in developing leadership skills for diversified communities and encouraging them to voice their opinions. She dedicates her free time to work with victims of human trafficking, sustainability, community organizing, and environment. Jeri is a native Oregonian and a member of the Klamath Tribe. Her favorite artistic hobbies include writing, painting, and making jewelry. She enjoys spending her time with her four children and nine grandchildren.

Potential Questions for Panelists

CHRIS CUESTAS

1. Based upon your experience, what types of educational and training programs on gangs and sex trafficking are available to tribal communities? Urban communities?
2. Your written testimony references the importance of collaboration in dealing with this type of violence. Based upon your experience, what are the most crucial agencies to have at the collaboration table?

SADIE YOUNGBIRD

1. Based upon your experience, what is the biggest barrier to justice for American Indian youth victims of sex trafficking?
2. Based on your experience, how are being trafficking? Based on your experience, what is the most needed resource with respect to these children?

JERI WILLIAMS

1. How are the children of adult victims of sex trafficking affected? Based on your experience, what is the most needed resource with respect to these children?
2. What resources do you identify as being the most critical with respect to being able to keep these families together?

Written Testimony for Chris Cuestas

Chris Cuestas, Consultant, National Violence Prevention Resource Center

Chris Cuestas is a nationally recognized expert in the field of street gangs and juvenile violence. Chris has built his expertise during more than nineteen years of investigating criminal street gangs, as a police officer, a school resource officer, a crime prevention officer, and a technical assistant for the Department of Justice. Chris has more than thirty-two years of experience in gang reduction, intervention, prevention, and suppression. Chris is one of the original members of the Gang Investigators League of Arizona and assisted in the writing of the Arizona street gang and criminal syndicate state codes. In 2009–2010 Chris’s gang reduction strategy received “National Best Practice” recognition for gang reduction in tribal lands. The Gang Reduction through Intervention Prevention and Suppression (G.R.I.P.S.) strategy develops a community-based collaborative, which responds to community “risk factors” that often ignite the gang problem in tribal lands. The G.R.I.P.S. strategy has shown significant success in tribal communities seeking to impact this developing subculture.

The influence of the criminal street gang phenomenon in our society cannot be understated. No subculture has captured the imaginations of our children as the gang subculture has. Seldom has our society seen a subculture have the ability to influence through fashion, music, multi-media, attitude and criminality. By using youth and representing the “thug lifestyle” in pop culture as the voice of the street, criminal street gangs have insulated themselves. In recent years, they have also expanded their criminal reach. Hybrid criminal street gangs have become more prevalent in rural area to include tribal communities. The current rate of growth in tribal lands in comparison to metropolitan communities is consistent with the acceleration on gang activity of the 1970’s. (BJS 2010)

Tribal communities have witnesses firsthand the impact of this subculture within their once isolated settings. Multiple factors have resulted in urban gangs evolving into hybrid offshoots in these communities, but simplicity for participation, involvement and belonging still seem to be the calling card for recruitment. An example of their evolvement is their increasing operations in sex trafficking rings that often overlap drug trafficking. Associated criminal gang activity such as stabbings, shootings, and intimidation are becoming all too common headlines. These hybridized gangs have developed and organized locally and regionally all without cultural specificity.

Most of the issues tribal communities face today with synthetic substances like pope, prescription pill street sales and heroin can be associated with a street gang influence. Many of these hybrid gangs recruit young girls into their criminal activity by hosting “parties” focused on providing intoxicants to these girls then performing sex acts with them, often recording the behavior to serve as future coercion. Social media in tribal communities has become the means for gangs to spread their intimidation and increase their influence. Some of these victims of sexual crimes cannot live with the guilt and remorse and take their own lives. Others continue and participate in the sex trades while looking for outlets and maim

and cut themselves. Those who try to get help or remove themselves from the gang's sphere of influence become targets of escalating threats and intimidation.

My personal experience with a tribal community attempting to deal with a missing teen brought to light this problem as we tried to coordinate the recovery of a juvenile female kidnapped on a tribal reservation and transported to Mexico. This young 14 year old female was befriended by a Mexican national adult gang member who had developed a relationship with her mother and had moved into the family home. There were early signs of problems but the girl was labeled "difficult" and shipped off to a treatment program. While at the program, the mother sold her daughter to her boyfriend's associates for cash and a vehicle. The associates drove to the location of the program and took her from the facility. She was transported across the country and crossed into the Mexican border outside of Laredo, Texas. The girl was savy enough to secretly obtain a cell phone and contacted her facility counselor to ask for help. The counselor contacted the program within the tribe that was responsible for the original placement. I was working with the tribe as a consultant on gangs and was asked to assist. We struggled with jurisdictional issues as no one seemed in a position to assist the victim. Finally, a private donor provided the funding to allow me to recover her. After some time and assistance from the Center for Missing and Exploited Children we were able to get the wheels turning. My previous experience with a Texas Police Department provided me with vital contact information in Mexico City. We were able to coordinate an operation with the Mexican Federal Law Enforcement that had previously worked with Immigration and Customs Enforcement (ICE). We waited until the victim was only watched by a lone female then had Mexican law enforcement move in. Luckily, the victim had been able to flee her captors as the cartel members arrived to transport her to a different location. Our team took custody of her and transported her to a secure embassy. Upon return to the United States, the victim spoke of horrific treatment as she was being programmed to become part of a large prostitution ring operated out of Mexico City for foreign dignitaries. This young girl now thrives in her tribal community overcoming her ordeal to earn top scholastic and athletic honors.

In my experience, there are certain strategies that tribal communities can pursue to respond to these real issues.

1. Tribal communities must organize to develop local community collaboratives to recognize and respond to local community risk factors that are encouraging the development of gangs. They must look beyond law enforcement as the only answer to the gang problem.
2. Remove the isolation in which most tribal community programs are allowed to operate. Many programs feel threatened when encouraged to work together.
3. Resist the temptation to not respond to "problem" families when youth need resources.
4. Educate and empower parents with current parenting skills to deal with the technological influence of today's society.
5. Update, motivate and direct your tribal services. Update by moving past the common "signs and symptoms" educational pieces for gang reduction. Motivate your program directors to think and look outside the box for programming that provides results.

Direct the path for the community to follow, don't wait for someone else to pick up the torch. Lead the strategy for gang reduction.

National gang experts once thought that the strength of the gang subculture was intimidation. They were able to get what they wanted by flexing their strength. Now it can be said that the greatest attribute of a criminal street gang is corruption through influence. Don't allow their influence to sway the decisions that make a difference in your community. The obligation is to pave the path for youth to be safe, healthy and successful.

Written Testimony for Sadie Young Bird

Sadie Young Bird (*Arikara and Hidatsa*), Director, Fort Berthold Coalition Against Violence

Sadie Young Bird is the Executive Director of the Fort Berthold Coalition Against Violence, which is a tribal victim service program that serves domestic violence, sexual violence, child sexual violence, elder abuse, and human-trafficking victims. She has been working within the program for more than three years. Prior to working with victim services, Sadie worked as a correctional supervisor and correctional officer for eight years at the Fort Berthold Tribal Facility, Texas Department of Criminal Justice, and GEO Private Prisons. While working at the tribal facility, Sadie worked with re-entry programs and offender services as a Case Manager. She studied criminal justice with minors in sociology and psychology. Sadie lives on the Fort Berthold Indian Reservation with her fiancée, son, foster son, and brother. She is Arikara and Hidatsa and is from the community of White Shield.

Testimony is not available prior to hearing

Written Testimony for Jeri Williams

Jeri Williams (*Klamath*), Diversity and Civil Leadership Program Coordinator,
Office of Neighborhood Involvement, Portland, OR

Jeri Williams manages the Diversity and Civic Leadership Program, which funds underserved communities to engage in civic engagement with the City of Portland. Prior to her employment with the City of Portland in 2006, Jeri was the Director for the Environmental Justice Action Group, which defeated the expansion of the I-5 freeway through Northeast Portland. In 1994, while working as a hotel worker exposed to toxic chemicals, she was introduced to environmental justice and became an organizer for the Workers Organizing Committee. Jeri has seventeen years of field experience specializing in developing leadership skills for diversified communities and encouraging them to voice their opinions. She dedicates her free time to work with victims of human trafficking, sustainability, community organizing, and environment. Jeri is a native Oregonian and a member of the Klamath Tribe. Her favorite artistic hobbies include writing, painting, and making jewelry. She enjoys spending her time with her four children and nine grandchildren.

My name is Jeri Williams, I am the Diversity and Civic Leadership Program manager for the City of Portland. I manage \$500,000 to Portland's Communities of Color and Immigrant and Refugee communities to develop culturally conscious leadership development/civic engagement community leaders willing and able to engage with the city's numerous Public engagement processes.

After escaping the life I've been on a lifelong journey to heal from the trauma I've been through. This year marks my 20th anniversary as a grassroots community organizer and activist. The last 7 I've worked for Government and have found that this structure of policy has many times supported the abuse of many in our country.

In the last 7 years our program has graduated over 600 leaders who take their knowledge to participate in the community Involvement process either through working with the city's bureaus to give input and expertise to their processes as well as evaluating the city's' ability to engage with these historically under represented communities. While the numbers are changing rapidly Portland has had the title of "The whitest city in America" several times.

Locally the Coalition of Communities of color put out "Communities in Multnomah County: An Unsettling Profile. They also broke the disparities down by race including a report on Native Americans. We are the ninth largest population in the City with over 400 tribal affiliations.

<http://www.coalitioncommunitiescolor.org/docs/AN%20UNSETTLING%20PROFILE.pdf>

When these reports came out the most startling numbers of disparity were that while Natives are 1-2% of the population, our children are 20% of the Children in foster care.

http://www.oregonlive.com/news/index.ssf/2011/11/multnomah_county_native_american.html

I am an enrolled member of the Klamath Tribe whose Federal recognition was restored in 1986 after being terminated in 1954. It was government policies that played a role in dispersing our tribe to the away from our timber rich homeland and to our larger cities to join with the other Urban Indians in the Willamette Valley.

At the time of termination, the Klamaths were the second wealthiest tribe in the US sustaining all of their members with no government assistance. To many other tribes we have been seen as “tribe that sold out.” Many refused the payments but the taking of the land by the government was non-negotiable. Despite what was heard it wasn’t a choice thing it was a force thing.” (pimp term.)

A large percentage of his family still lived on what was once called the Klamath Agency and we would visit occasionally but we were not taught our heritage. Our ancestors, for our safety told us not to tell people we were Indians –that it was not a good thing.

It was also when we visited that the bad things happened – the first sexual molestation at 4 with a family member and then when we moved to Chiloquin because my dad wanted to give back to his people more sexual abuse from extended family and then also incest. Because all the folks doing this were Indian I thought all Indians did that. They drank, they drove, they died and they beat their women and children. And when my dad moved us there it seemed he became a person different than the “Brady Bunch” that was who we were in the Urban areas. We were beat to get straight “A’s”, to be athletes and we were taught about a lot of etiquette and could not dress like everyone else in their t-shirts and jeans.

As a child I never connected the times we lived in Indian country as the most violent times. So even though I had stuffed the incidents far back in my mind I lived in constant fear. We never knew if he came home intoxicated and was “the bad guy.”

I feel it is important to examine where we are and where we’ve been to figure out at what point in time we became victims, when it escalated and also remember when we became survivor and eventually transcend into a whole new person.

- 1965 –through childhood- sexual abuse from a couple of people including incest at the age of 8.
- Self-mutilation and suicide attempts(age 11) 1973-1994
- Suicidal ideation –throughout the years- healed 2007
- 1961-2003-Domestic violence, drug abuse started at age 12
- Forced abortion – 1985
- Several years of excessive promiscuity from 18-19 and 89-93
- Trafficked- 1989 guerilla gang pimping from June 1989-September 13, 1989. Got out after being stabbed and left for dead in SE Portland. Pimp was arrested on unrelated circumstances, mostly gang related crimes.

- 1989 – Approached by Children’s Protective Services, entered treatment in into women’s group of Alcohol Treatment and Training Center, graduated from outpatient program in less than a year. Participated in parenting classes through Children’s Services Division and after graduating with a Native American caseworker, started teaching parenting classes for their office.
- I acquired a counselor and started doing personal work.
- In 1991, I entered Portland Community College to become an Alcohol and Drug counselor and was clean and sober.4.0 student.
- In 1992 I hooked up with another “former” gang member” Still was living the thug lifestyle and going to school finishing my practicum.
- 1993 -I went to jail for his drugs and lost my kids, my house and my education. I spent less than a month in county jail. Came out with a felony conviction for child neglect. I had more charges than the dealers did because the police wanted me to tell on the big dealer and I refused so they thought if they kept me in there long enough I would talk but I hadn’t learned yet how to expel my gang mentality. I had no desire to be tough, I desired to be safe. There is no doubt in my mind that the big dealer would have killed me if I told.

I told myself I was guilty because I left my kids with an idiot when I went to night classes. My now ex-boyfriend was held harmless, the dealers got much smaller charges than me. My own defense attorney told me that “he didn’t buy that battered woman excuse- if he were a women he would’ve taken the children and slept in a church somewhere.” It was my fault I didn’t keep them safe. But up until this time this was really all I knew. How can you recover what you never had?

When I got out of jail in April of 1993, I was homeless, on probation, mentally ill and my children were in foster care, first with my parents, then my sister and eventually ended up in two NICWA foster homes.

In the first home the family was uncertified and the father beat his wife and all the foster children. The protective worker who took my children to this house was the man’s cousin. When he approached my parents with my kids he told them I was lying about college and 4.0 grades. He was the liar. I had a wonderful CSD worker who listened to me and had them immediately pulled.

The second foster home seemed better but I found out later that my daughter was molested by the foster father. She was 5 when it happened. She told me about it when she was 20.

I ended up living in a women’s shelter for the next 14 months working with caseworkers, psychiatrists, anger management, over hundred 12 step meetings. The shelter was the safest place I had ever been so my mind decided to go into full blown Post Traumatic Stress Disorder with all the flash blacks and flooding. So my mind took me back to age 4 my first memories of childhood sexual abuse. I remembered the voice that had lived in my head for so long – “If you ever tell, they will take you away.”

So in the shelter at 35 years old I learned had been sexually molested as a child, raped as a teen and married someone who beat me and then forced me to have sex with him on demand.

I first escaped him from RI in 1985 with my daughter but his family was wealthy so they came to Oregon with a high-priced lawyer and the judge told me I had to go back to R.I and fight for custody. I begged the judge to stay in Oregon because I feared the violent repercussions I would experience from him the judge ordered me to go back. He said "if you were that abused, the judge out there would let you come home.

I would find myself with a legal aid lawyer who I met as we walked into the courtroom who knew nothing about me. Despite the facts of having witnesses say he beat me, isolated me, raped me and forced me to have an abortion his wealthy family with their expensive lawyer would win joint custody with no possibility of me taking my child out of the state. His mother, when asked "Does your son beat his wife?" She said "yes but he wouldn't beat her if she only did what he told her to."

After the judgment that said I couldn't leave RI with my child my husband beat me up every time we exchanged our daughter. The police got tired of being called and told us not to call them anymore. I had 2 more children both with men who didn't stick around. It was at that time I felt the need to come back home to Oregon.

I made an agreement with the ex for me to have our daughter in the summer and him to have her in the school year. Not too long after I moved back, He disappeared off the face of the earth for 20 years. I found her in 2005 and started communicating with her which was tough as he had told her I had abandoned her. I eventually got to hold her in my arms last year, 25 years later with a son of her own. If it weren't for The Survivor Leadership Summit I don't know if we would ever reconnect. When I left she was almost 6, she told me they moved so many times back then she said to herself- "Mommy's never going to be able to find me." We don't just lose them to agencies and foster care.

In 1985, had we not been terminated we may have been able to access help from the Tribe. NICWA had been created by then. My father, a great leader in the tribe told us as we were growing up that "you're a quarter Mexican, half white and a quarter nothing because the Government took it away.

Historically we have lost our children at alarming rates especially for women who have become criminalized as we were forced into selling our bodies. As children, many of us started cutting and damaging ourselves trying to die to make the pain go away and many of us succeed. If not, we medicate ourselves with anything we can find. And it's intergenerational. My son started cutting himself and trying to commit suicide. Between 2012 and 2013 he tried to jump off bridges twice and tried to hang himself in my shower.

Despite the fact the Portland Police know his issues and put historically placed him on the mental health ward, on July 9th, they beat him hogtied in the back seat of the police car

and then threw him unconscious in a cell. He weighs 105 lbs at 5'8 and was beaten by 4 officers. He filed a complaint. They never interviewed him and six months later they exonerated themselves. When it initially happened it threw me in the deepest darkest PTSD I've ever experienced. I was on one pill for anxiety/depression and have been regularly going to women's group and therapy for the last 6 years. After the incident I was taken off work for more than a month and place on 3 additional meds. I thought I had made it to wellness, it took me 6 months just to get my mental health stabilized. I used up all my sick leave, and vacation time and then just had to go without getting paid. Both the Police and I have the same boss, the Mayor and we work for the same city. City Hall became an unsafe place to go.

Not too long after I moved to Portland I made a friend who was 22 and expecting twins. She said she would watch my 2 and she could stay with me out of the hood and help her to stay clean. Not long after in the summer of 1989 he brother was released from prison and he just moved himself in with 10 of his gangbanger friends. My jumping into the gang was being gang raped by all these guys. And then I was forced to walk 82nd avenue and sell my body from 8pm to 5 or 6 am or if I earned \$300.

In 1989, on that street, "dates" were \$20 bucks, in the car or wherever which meant 15 sexual encounters each night with strange men each night. When I came home then I gave him the money, he did cavity checks to make sure I wasn't stashing any money and then I could take a shower, grab something to eat and go into my room where I was locked in the room from the outside. If I had the misfortune of catching the eyes of any of the other guys in the room I would be slapped around in front of everyone. He was paying his sister to watch my kids who were 1 and 2 with crack cocaine keeping her hooked to stay in the apartment. She eventually lost her kids when they were born – she lost a total of 6 kids that were eventually adopted out through the state. She died in a tragic accident while she was crossing the street, first being hit by a car and then he body being dragged 40 blocks down the street.

For me, this guy was not my boyfriend, he was someone who could tell I suffered from low self-esteem and had a history of violence in my life. I was the perfect victim. We call this guerilla pimping because there is no offer of a great love or romance it is just pure violence. What was interesting was that there were many Native women involved in this only for the most part after being passed around they settled with one and he became her "daddy".

Because of all the chaos going in and out of my apartment the police were there regularly and soon CPS was also there. The worker asked me if I was on drugs and then said "you are native American? You must be an alcoholic, I'm sending you to get an evaluation." She never asked questions like "are you okay? Or are you being trafficked? None of that, one look and it must've all been my fault.

First recommendation:

First and foremost our first responders need to be trained differently. For Children's Services Division, it may be we don't put the newly graduated, have not yet lived life and everything they know is from books in the role to observe family cultures other than their own. Between this group and the Police, making the recommendation 20 times more often to

pull native kids out of their homes than the other races of kids. Are we as parents more monstrous than other parents? Every Social work certification needs to have the necessary cultural awareness training. Currently the top professor of social work at Portland State University denies the existence in racism and says the only issue is class.

For the Police, survivors of trafficking have been inserting themselves in conversations with them and if that didn't work we used organizing strategies like the media to get them to change their practices.

The first issue was you cannot tell a child victim that she is a victim if she tells on her pimp and a criminal if she doesn't. This reinforces what the pimp is already brainwashing her with the idea no one cares. So we've already lost her.

Recommendation: *Abused children and victims of human trafficking need a combination of programs to become well.*

- *We need culturally conscious groups,*
- *We need Alcohol and Drug treatment; humans in pain tend to self-medicate.*
- *We need dental access- one of the first things that can help a woman see our brighter future.*
- *We need dual diagnosis programs, we need to learn and utilize our spiritual beliefs to become whole.*
- *We need our bodies and our spirits restored.*
- *We need job creation to start a new life to create a healthy future for our children.*
- *We need to not exclusively with only federally recognized tribes but all indigenous people in this country not through the taking away of resources for some but through a larger redistribution of this nation's budget.*
- *We need to find a way to work on the whole family unit- possibly not together but possibly together.*
- *Connect the intergenerational component by creating larger housing units to allow multi-generations to protect children.*
- *We need Hope*

Locally in Portland the Coalition of Communities of Color put out "Communities in Multnomah County: An Unsettling Profile. They also broke the disparities down by race including a report on Native Americans. We are the ninth largest population in the City with over 400 tribal affiliations.

<http://www.coalitioncommunitiescolor.org/docs/AN%20UNSETTLING%20PROFILE.pdf>

When these reports came out the most startling numbers of disparity were that while Natives are 1-2% of the population, our children are 20% of the Children in foster care.

http://www.oregonlive.com/news/index.ssf/2011/11/multnomah_county_native_american.html

The creation of this country (the US) for indigenous people was experiences of violence and genocide. We carry it in our DNA. We share a collective hurt that has yet to be healed. And when they took everything and we didn't perish, we still stood, they tried to extinguish our spirits.

This problem didn't start with me, it didn't start with Martin Luther King or the Civil Rights movement, looking back do you really think the colonizers chose teenage girls for their navigational abilities? There was more to it than that. Think about it.

The plan drafted for indigenous people was annihilation, not through the individual greed but the racist infrastructure created through the creation of policies used to create unequitable outcomes and disparities among the races.

In order to turn this around we MUST prioritize redistribution of wealth, understand the importance of health in all nations and develop in our minds an understanding how it benefits all of us. And our people need to be seen as our greatest asset. If there is no value, there is no priority and nothing changes. We can do it but we have to think and act differently.

Jeri Williams
DCL Program Coordinator

Panel #4: Tribal Schools Facing Violence

Panel #4: Tribal Schools Facing Violence

Outcome: Provide the Advisory Committee with a broad national overview of bullying, truancy and suicide issues related to American Indian children exposed to violence. Identify training available to teachers and other professionals working with children in tribal communities on identification, assessment and healing of American Indian children exposed to violence. Identify gaps in related services and systems. Provide concrete recommendations for improvements.

Panelists:

Iris PrettyPaint (*Blackfeet/Crow*) Training and Technical Assistance Director and Native Aspirations Project Director, Kauffman & Associates, Inc.

Dr. Iris PrettyPaint has thirty years of experience as an educator and researcher. She is a leading authority on cultural resilience, student retention, and indigenous evaluation with American Indian and Alaska Native communities. Dr. PrettyPaint serves as the Vice President and Director of Training and Technical Assistance (TTA) at Kauffman & Associates and provides administrative oversight and management for data-driven TTA engagement and planning, data collection and analysis, capacity building, implementation of evidence- and culture-based interventions, and reporting. Dr. PrettyPaint has delivered training and technical assistance on violence, suicide, substance use, mental health disorders, bullying, community-based planning, and evaluation and research methods. Dr. PrettyPaint provides training and technical assistance to tribal governments; county, state, territory, and federal agency representatives; secondary schools and postsecondary colleges and universities; public and private consumers; Indian health organizations; and other mental health and substance abuse providers.

Marlene Wong, Assistant Dean and Clinical Professor, University of Southern California School of Social Work

Marleen Wong is Associate Dean, Clinical Professor, and Director of Field Education at the USC School of Social Work. Since 1997, she has been engaged in a long-term community-based research partnership with RAND Health on the effects and prevalence of psychological trauma on children exposed to school and community violence. With colleagues from RAND and UCLA Health Services Research Center, she has been one of the original developers of evidence-based child trauma interventions being implemented in schools across the country and internationally. She has lent her expertise to the social and emotional recovery of children and families from major traumatic events, including terrorist attacks in New York and Oklahoma City, and postdisaster behavioral health humanitarian work in China, Japan, and the Philippine Islands. She served on many boards and advisory groups including the National Advisory Council of Substance Abuse and Mental Health Services Administration/HHS, National Expert Advisory Council, National Native Children's Trauma Center, and the U.S. Department of Justice, Defending Childhood Initiative/Expert Work Group.

Matthew Taylor, Associate Director, National Native Children’s Trauma Center; Director, Montana Safe Schools Center; and Associate Director, Institute of Education Research and Service, University of Montana

Matthew Taylor serves as Director of the Montana Safe Schools Center and is Associate Director of the Institute for Educational Research and Service (IERS) at the University of Montana, where he has worked since 2002. He is also affiliated with the Native Children’s Trauma Center that serves as a Category II Treatment and Services Adaptation Center within the National Child Traumatic Stress Initiative. He has participated in numerous expert review groups for the U.S. Department of Education and the Federal Emergency Management Agency. He and his colleagues are collaborating with tribes in service provision to multiple schools and child serving agencies in Montana, South Dakota, and Minnesota.

He has been extensively involved in design and service provision for the U.S. Department of Education’s School Emergency Response to Violence and Readiness and Emergency Management in Schools programs. Prior to his affiliation with IERS, he worked for the Maureen and Mike Mansfield Center.

Potential Questions for Panelists

IRIS PRETTYPAINT

1. Your written testimony referred to the importance of culturally appropriate data collection. Can you describe that in more detail?
2. Your written testimony indicates:

Proceed cautiously when recommending or requiring school-based assessment. Student assessment for suicide and other mental health disorders has serious implementation, validity, and reliability issues.”
Can you provide more detail on that recommendation?

MARLEEN WONG

1. Your written testimony mentions the profound incidents of post- traumatic stress disorder present in students, how difficult would it be to train school, court, law enforcement personnel to identify children in trauma?
2. Based on your work in this area, what do you see as the biggest obstacle in identifying, assessing and treating American Indian Children Exposed to Violence?

MATTHEW TAYLOR

1. Your written testimony mentions a lack of tribal mental health resources. Can you provide more details on this issue specifically whether this lack of resources stems from funding or professionals or both?
2. You indicated in your written testimony that far too often, in the spirit of “helping” youth, many initiatives unintentionally silence youth voice. Please describe ways initiatives can ensure voices of the youth will be heard.

Written Testimony for Iris PrettyPaint

Iris PrettyPaint (*Blackfeet/Crow*) Training and Technical Assistance Director and Native Aspirations Project Director, Kauffman & Associates, Inc.

Dr. Iris PrettyPaint has thirty years of experience as an educator and researcher. She is a leading authority on cultural resilience, student retention, and indigenous evaluation with American Indian and Alaska Native communities. Dr. PrettyPaint serves as the Vice President and Director of Training and Technical Assistance (TTA) at Kauffman & Associates and provides administrative oversight and management for data-driven TTA engagement and planning, data collection and analysis, capacity building, implementation of evidence- and culture-based interventions, and reporting. Dr. PrettyPaint has delivered training and technical assistance on violence, suicide, substance use, mental health disorders, bullying, community-based planning, and evaluation and research methods. Dr. PrettyPaint provides training and technical assistance to tribal governments; county, state, territory, and federal agency representatives; secondary schools and postsecondary colleges and universities; public and private consumers; Indian health organizations; and other mental health and substance abuse providers.

Introduction

Members of the Task Force on American Indian and Alaska Native Children Exposed to Violence, thank you for inviting me to submit written testimony on the topics of bullying, truancy, and suicide in American Indian and Alaska Native (AI/AN) communities.

My name is Iris PrettyPaint and I serve as the Vice President and Director of Training and Technical Assistance at Kauffman & Associates, Inc. (KAI). I am an enrolled member of the Blackfeet Tribe and earned a Ph.D. in social work from the University of Minnesota.

The mission of KAI is to improve the health, education, and economic status of disadvantaged people, especially American Indians and Alaska Natives. We have been in business since 1990 and serve federal, state, local, and tribal governments with training, technical assistance, communications, event planning, information technology, research, evaluation, and other types of management support. We have offices in Spokane, Washington, and Silver Spring, Maryland.

In 2005, we were asked by the Substance Abuse and Mental Health Services Administration (SAMHSA) to develop an initiative that SAMHSA envisioned would prevent youth violence, bullying, and suicide in AI/AN communities. The Native Aspirations project was a community engagement and mobilization project that supported evidence-based and culture-based interventions for tribal communities most at risk for violence, bullying, and suicide. The project was initiated by SAMHSA's Center for Mental Health Services and represented one of the more far-reaching, vigorous, and community-centered federal suicide prevention efforts in Indian Country today. The Native Aspirations approach was designed to help tribes assess community readiness, collectively address historical trauma and healing, strengthen the capacity to implement a collaborative prevention plan, and sustain effective interventions to reduce risk factors and promote resilience factors.

The Impact of Bullying and Suicides in Indian Country

National statistical data, which include the 64% of Indian children who live outside Indian Country as well as the 36% who live within, indicate that Native youth are among the most vulnerable group of children in the United States. Over a quarter of these children live in poverty, compared with 13% of the general population. They graduate from high school at a rate 17% lower than the national average and are expected to live 2.4 years less than other Americans. The rates of cigarette use, binge drinking, and illegal drug use among Native youth are higher than any other racial or ethnic group. Native youth are more than twice as likely to die as their non-Native peers through the age of 24¹. One of the causes of death that is higher for Native youth is suicide.

The suicide rate for AI/ANs of all ages is 16.93 per 100,000, much higher than the overall U.S. population, at 12.08 per 100,000. Suicide rates are measured based on number of suicides per 100,000 of the population. Suicide is the eighth leading cause of death for AI/ANs of all ages and the second leading cause of death among Native youth ages 10–24. Although more than 3 times the national average, the suicide rate is up to 10 times the average for some tribal communities. We know less about the Native LGBT youth and their rates.

The AI/AN suicide rate decreases considerably after early adulthood in contrast to the rate in the overall U.S. population, which increases with age. Despite the general decline in suicide rates as the AI/AN population ages, a recent Centers for Disease Control and Prevention study found that AI/AN men and women ages 35–64 had a greater increase in suicide rates between 1999 and 2010 than any other racial or ethnic group.² Suicide rates vary widely among tribes. For example, the rate found among one tribe in the southwest was much higher (45.4 per 100,000) than among all American Indians/Alaska Natives (13.93 per 100,000) in the same time period between 2001 and 2006.³ The suicide rate for this tribe's youth ages 15–24 (128.5 per 100,000) was much higher than the rate for all AI/AN youth of the same ages in the same time period (24.62 per 100,000).

In the years from 2003 to 2006, Alaska Natives had a suicide rate of 51.4, compared to 16.9 in the non-Alaska Native population. However, there was considerable variation in the suicide rates of Natives among the different regions of the state and the different Native ethnic groups.⁴

¹Defending Childhood Initiative Public Hearing 2: Children's Exposure to Violence in Rural and Tribal Communities Before Attorney General's National Task Force on Children Exposed to Violence, 32 (2012) (written testimony of Ivy Wright-Bryan, National Director of Native American Mentoring, Big Brothers Big Sisters of America).

²Suicide Prevention Resource Center. (2013). *Suicide among racial/ethnic populations in the U.S.: American Indians/Alaska Natives*. Waltham, MA: Education Development Center, Inc.

³ Toward Understanding Suicide Among Youths, 2001–2006, Mullyan, B., Walkup, J.T., 2008

⁴ Characteristics of Suicide Among Alaska Native and Alaska non-Native People, 2003-2008. State of Alaska Epidemiology Bulletin. Craig, J., Hull-Jilly, D. 2012

Based on data from a 2011 national survey, 13.1% of AI/AN adults ages 18 and older reported having serious thoughts of suicide in the *past year*, compared to 3.7% of adults in the total U.S. population.⁵ The percentage among these AI/AN respondents represents a notable increase over the previous 3 years since 2008.

Many tribal communities are rural, small, and isolated. A suicide—or worse, a suicide cluster— can traumatize an entire community. Communities that have recently experienced the loss of a young person to suicide often struggle to know how to respond to the tragedy and how to prevent this type of death from occurring again. Nationally, it is estimated that when a person commits suicide, it adversely affects the lives of at least six to eight other individuals. In small tribal communities, the death of a young person by suicide can affect many more people than the national average. One suicide can lead to permanent consequences on the productivity, self-esteem, or physical and mental health of those individuals touched by it. Communities experiencing a suicide cluster often reel from one tragedy to the next, never having time to heal. Addressing these issues in Native communities requires public health and community interventions as much as clinical interventions.

Bullying does not directly cause truancy or suicidal behavior. It is a complex social and emotional phenomenon that plays out differently on an individual level. However, both victims and perpetrators of bullying are at a higher risk for suicide than their peers.⁶

There are few statistics on bullying specific to tribal schools, but bullying, truancy, and suicidal behavior are interrelated parts of the picture of community violence that plagues AI/AN communities. Bullying can have devastating effects on victims, as youth who are bullied generally show higher levels of insecurity, anxiety, depression, loneliness, unhappiness, and physical and mental symptoms.

There is also a relationship between bullying and other types of violence such as fighting, carrying weapons, and suicide. The 2009 Indicators of School Crime and Safety collected statistics from a variety of studies, which indicated that:

- One third of teens reported being bullied while at school.
- About 20% of teens had been made fun of by a bully, 18% of teens had rumors or gossip spread about them, 11% were physically bullied (such as being shoved, tripped, or spit on), 6% were threatened, 5% were excluded from activities they wanted to participate in, 4% were coerced into something they did not want to do, and 4% had their personal belongings destroyed by bullies.
- 4% of teens reported being the victims of cyber bullying.

⁵ Results from the 2011 National Survey on Drug Use and Health: Mental Health Detailed Tables, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, Substance Abuse and Mental Health Services Administration Center for Behavioral Health Statistics and Quality, Revised October 2013

⁶ Bullying and suicide: A review. *International Journal of Adolescent Medicine and Health*, 20(2), 133–154. Kim & Leventhal, 2008; Hay & Meldrum, 2010; Kaminski & Fang, 2009.

- Most bullying occurred inside the school, with smaller numbers of bullying incidents occurring outside on the school grounds, on the school bus, or on the way to school.
- Only about a third of bullying victims reported the bullying to someone at school.
- 44% of middle schools reported bullying problems, compared to just over 20% of both elementary and high schools.

The high incidence of violence, bullying, suicide, substance abuse, and mental health disorders across Indian Country is well documented. This violence and victimization has a devastating impact on youth, families, schools, and communities. On March 9, 2014, *The Washington Post* stated that the experience of AI/AN youth with post-traumatic stress disorder (PTSD) “rivals the rates of returning veterans from Afghanistan.” PTSD is an anxiety disorder characterized by a fight or flight response that becomes triggered when, after having experienced a life threatening event, a person responds repeatedly with the same reactions to minor stimuli, even when their life isn’t in danger. In one population of American Indian adolescents, 61% of children had witnessed at least one traumatic event (Jones, Dauphinais, Sack, & Somervell, 1997). Children exposed to violence may perpetuate that violence in the form of bullying or they may react to bullying as if it were a life-threatening event. When one is continually responding as if in a life-threatening situation, problem-solving, decision-making, and a sense of belonging are impacted. School is often the place where these reactions are displayed.

Native Aspirations Project

In 2005, following tragic incidences of violence and suicide among Native youth, SAMHSA issued a contract to KAI to collaborate and develop prevention strategies to prevent similar events in other AI/AN communities. The Native Aspirations project was the first of its kind in terms of approach, method, and process. The Native Aspirations approach is based on recognizing not only the challenges, but also the unique strengths and cultural wisdom of tribal communities and Alaska Native villages. The initial community engagement method requires respecting local culture, local government, and community-wide input to share ownership of the prevention plan, thus respecting sovereignty and giving the community a voice in their own prevention efforts. Throughout the community engagement process, individualized training and technical assistance was provided to increase community collaboration and build capacity for planning, implementing, evaluating, and sustaining prevention efforts to address youth violence, bullying, and suicide. To date, KAI has worked with 72 American Indian and Alaska Native villages; another 32 communities will be engaged through 2018 with the new SAMHSA Tribal Training and Technical Assistance Center.

The mission of the Native Aspirations project was to develop and promote culturally relevant, community-based prevention strategies; to help communities heal from historical trauma; and to promote healthy lifestyles and choices, particularly focused on involving youth in prevention. We worked closely with local tribal leadership to strengthen capacity. Through this collaboration with communities, Native Aspirations accomplished its mission.

In the Native Aspirations project, the community engagement events lead to the development of the Community Prevention Plan (CPP). This plan describes a community’s specific approach to addressing youth violence, bullying, and suicide and connects short-term strategies with long-term outcomes. Upon review of the CPPs that were developed by the participating communities for the project, the following themes emerged and appear in order of the frequency of their inclusion within the community plans.

1. Awareness of signs of violence, bullying, and suicide. All communities included activities that would increase awareness of signs of violence, bullying, and suicide through hosting speakers, providing educational workshops, conducting poster contests,

hosting wellness and culture camps for youth, and conducting media campaigns.

2. Wellness achieved through cultural knowledge and values. Each participating community emphasized the need to provide education and awareness of culture through either culture camps, fish camps, teaching of singing and dancing, teaching of traditional values, developing youth councils, and conducting media campaigns. The provision of cultural knowledge is defined as a *culture-based intervention*.

3. Coordination of prevention efforts. Communities addressed the need for funds to provide for a local prevention coordinator position. The local lead contacts for the

tribes

generally already held a full-time job, and the work associated with Native Aspirations was, for most, yet another responsibility.

4. Evidence-based interventions (EBIs). The participating communities identified specific EBIs within their respective CPPs. The EBIs that were selected and implemented include: American Indian Life Skills Development Curriculum (AILSDC), Question, Persuade, Refer (QPR), Applied Suicide Intervention Skills Training (ASIST), Second Step, Reconnecting Youth, Native Helping Our People Endure (HOPE), and Project Venture.

With the implementation of the CPPs, community progress was identified by (1) barriers to implementation, (2) successes in implementation, and (3) training and technical assistance needs and requests.

Table 1: Community Prevention Plan Implementation Progress

Barriers to Implementation	<ul style="list-style-type: none"> Geographic isolation and remoteness Tribal elections and staff turnover Lack of skilled first responder staff Lack of grant writers Difficulties in accessing or sharing data to provide follow-up to high-risk individuals Difficulty with processing purchase authorizations for activities No after-hour or weekend services Lack of transportation and babysitting services for evening activities Weather Lack of technology (i.e., lack of high-speed Internet, lack of DSL Internet, cell phone service)
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Successes in Implementation	<ul style="list-style-type: none"> • Tribal council selection of lead agency and lead community coordinator • Individualized scheduling based on subsistence, weather, and community events • Elders involved in oversight panel, youth activities, and meetings • Matching of community readiness scores and selected interventions • Training of evidence-based, practice-based, and culture-based interventions • Gatekeeper training
	<ul style="list-style-type: none"> • Community partnership involvement • Resource sharing • Tribal leaders becoming aware and involved in bullying and suicide prevention at local, state, national levels
Training and Technical Assistance Needs and Requests	<ul style="list-style-type: none"> • Grant writing, budget management • Bullying and suicide prevention training • Digital and dramatic storytelling • Gathering of Native Americans (GONA) and Gathering of Alaska Natives (GOAN) • Training on historical and intergeneration trauma, lateral violence • Community readiness assessment

Native Aspirations implemented a strategy of promoting existing community resources, strengthening protective factors, and encouraging resilience. In addition, Native Aspirations helped communities implement evidence-, practice-, and culture-based interventions aligned with their community readiness score. The Native Aspirations lead contacts worked with existing community organizations to increase public awareness of the issues, strengthen collaborations among community agencies, and build local capacity in evaluation and sustainability.

Community Strategies and Prevention Efforts

Native Aspirations promoted individual-, program-, and systems-level resilience through a sequence of community core engagement events. These training and technical assistance events focused on listening to community voices and building on community strengths, emphasizing connectedness (especially between youth and elders), and renewing a community’s commitment to prevention. Native Aspirations facilitated community events based on traditional Native values, using culturally appropriate, hands-on activities to engage the community. The first of these events was an introductory site visit followed by the community readiness assessment site visit. Believing that communities know best what they need, the Native Aspirations team introduced the project to the community and then facilitated the community’s self-assessment of strengths and needs using the community readiness assessment instrument and community mapping.

The next engagement event was the Gathering of Native Americans (GONA)/Gathering of Alaska Natives (GOAN). Informed by the community readiness assessment, and building on the healing GONA experience, the community mobilization and planning event followed the GONA/GOAN. As part of this planning process, the Native Aspirations team used SAMHSA's sustainability categories to help the community formulate the prevention plan. Based on community input and ownership, the community scheduled prevention activities, accountability functions, and sustainability actions. Following these core engagement events, Native Aspirations provided training and technical assistance to help with plan implementation.

This included training community members in evidence-based interventions and sustainability skills. These core engagement site visits were followed by mentoring or sustainability site visits as well as regional meetings that emphasized cross-mentoring between communities. Sustainability was emphasized consistently throughout the project from the introductory site visit to the final community meeting.

In our work with AI/AN communities, we found that certain evidence-based, culture-based, and practice based interventions were preferred by communities. These included the evidence-based interventions listed in Table 1 above. The culture-based activities preferred by communities included language revitalization, talking circles, drumming and dancing, and arts and crafts. Practice-based interventions embraced by communities included prevention walk/runs, community gatherings, and after-school programming that featured cultural activities.

Overview of the Gaps in Services and Systems

The far-reaching web created by historical and current trauma that traps AI/AN communities in poverty and violence includes the ongoing legacy of institutional and psychosocial cofactors. The statistics for AI/AN psychosocial cofactors of poverty and violence must be considered in the context of the systemic and institutional cofactors affecting Indian Country, which are more difficult to quantify. There are recognized gaps in law enforcement on tribal lands. Isolated communities with vast land areas experience delayed response times. Law enforcement is stretched thin and sometimes hampered by questions of jurisdiction. Frequently the population served by law enforcement is predominantly under the age of 25, experiences high unemployment rates, and lacks municipal infrastructure, all of which contribute to higher crime rates.

Additionally, across Indian Country, the roles of courts, police, and incarceration facilities are multicultural, multi-institutional, and multijurisdictional (Champagne, 2012). Jurisdictional and systemic complexities can lead to frustration, desensitization, and hopelessness when it comes to addressing change in AI/AN communities. These gaps in the justice system have resulted in high rates of violence and low rates of intervention in many

areas that impact Native youth, including substance abuse, domestic violence, juvenile delinquency, and gang encroachment.

Similar gaps exist in mental health care in Indian Country. One in five hospitals and clinics in Indian Country provide no mental health services, according to the Inspector General's Office of the Department of Health and Human Services (2011). Only half provide drug therapy treatments, and at dozens of facilities some drug treatments are handled by non-licensed social workers, counselors, and nurses. These circumstances are compounded by the dramatic change that the Indian Health Service is undergoing as a consequence of tribal options to self-administer federal functions under the contracting or compacting provisions of P. L. 93-638.

The attendant downsizing of federal participation in Indian health care has diminished local ability to recover Medicaid, Medicare, and private reimbursement, leading to fewer resources to support health care delivery to Native people.

There are also serious gaps in data related to what works in Indian Country. One study found that only 42% of measures of health care quality and access tracked in the National Healthcare Disparities Report could be used to assess disparities among American Indians and Alaska Natives. Patient safety data was especially limited.

There is a lack of data collection methods that are culturally appropriate; most evaluation methods are not based on indigenous ways of knowing. Time or resources needed to explain evaluation tools and methods used to assess tribal activities to the intended tribal audience may not be available. One tribal audience may be different from another, culturally and demographically, and thus a tool that works for one tribal audience may not be appropriate for another. In small, rural tribal communities, validity and reliability can be impacted by who is collecting data, how it is being collected, and how the assessment process itself is perceived. External time constraints do not take into account the realities of some tribal communities, where cultural and community events can impact time schedules in ways not experienced in urban settings.

Interventions considered best practice in the general population may lead to gaps in data when applied to AI/AN populations. Most studies used to establish best practice status for evidence-based interventions are not conducted on AI/AN subjects, so the loss of fidelity in these populations is impossible to assess. There is a national effort to ready community practices, particularly cultural practices, for consideration as evidence-based called the "Service to Science" initiative. However, without adequate data, preparation and capacity, some communities may feel pressured to submit activities for consideration before they are ready. This could be a prescription for disappointment and failure.

Recommendations

Through the efforts of tribal communities and Alaska Native villages, we have learned valuable lessons about prevention in Indian Country. Beginning with Native Aspirations' first contract, significant changes were implemented that have improved the project and our relationship with the communities. Cross-cutting lessons learned resulted in the following recommendations:

- **Establish uniformity.** Create tribal school prevention programs that are strength-based and culturally respectful. Define core competencies that are applicable to American Indian and Alaska Native tribal schools and communities.
- **Acknowledge uniqueness.** Each participating community and tribal school is unique and requires a community-based approach. To better understand a community, gather more information prior to engagement about the community's culture, protocols, governance, demographics, history, programs, resources, and seasonal activities.
- **Assess community readiness.** Target suicide and bullying prevention efforts to community readiness levels for effective use of funding. If not targeted to readiness levels, a particular grant or program is providing services that may not gain traction in the community because selected interventions are not appropriate to the community's readiness levels. Tribal schools are chronically short-staffed. To force another effort on already overwhelmed staff without obtaining buy-in will result in failure. Buy-in is built by approaching staff in ways relevant to the level of their awareness of the problem.
- **Proceed cautiously when recommending or requiring school-based assessment.** Student assessment for suicide and other mental health disorders has serious implementation, validity, and reliability issues.
- **Collaborate toward a shared school and community purpose.** School-based projects need to be flexible, adaptable, and data driven to improve bullying and suicide prevention services. Communities partake in traditional activities and celebrations (e.g., subsistence hunting and fishing, annual feasts, powwows) that affect schedules. They are geographically located in remote and isolated settings often impacted by travel schedules and weather. Tribal communities frequently have limited technological capacity. Thus, the project schedule must be flexible enough to adapt to these community-specific characteristics.
- **Build toward sustainability from the beginning.** Help communities increase capacity to apply for and receive additional prevention funding and manage fiscal responsibilities.
- **Incorporate indigenous evaluation methodologies.** In collaboration with the community, define process and performance measures that are quantifiable and that provide data relevant to readiness, engagement, and infrastructure enhancement. Collect and report on these measures regularly to see trends in what is happening in communities and to provide continuous improvement data on project activities.
- **Provide highly skilled technical assistance staff.** Staff need knowledge of historical

- trauma, community readiness, and community engagement in Indian Country. The team needs to be flexible, creative, and responsive. The team needs a combination of skills that include public speaking, report writing, current computer skills, research skills, and relationship skills. Staff need a deep capacity for caring combined with the ability to remain professional. They need to be the voice of hope in the face of situations that are tragic while still getting difficult work done.
- **Provide strong management.** Those in management must be experienced in working in Indian Country and focused on staff capacity enhancement and team building throughout the life of a training and technical assistance contract.
- • **Encourage tribal law and order code review.** Review and update tribal codes in regard to domestic violence and areas related to community violence and substance abuse to support community policing and standards. Tribal law enforcement and justice systems need resources to help them develop community-specific tribal courts to address issues like drug and alcohol infractions, juvenile delinquency, domestic violence, and diversion programs.

Conclusion

Our goal is for American Indian and Alaska Native youth to experience a healthy and safe life in their communities. Native Aspirations learned that tribal communities prefer practice-based and culture-based prevention activities appropriate to their community readiness level and

culture. Native Aspirations found that youth engagement is strongest in communities that focus on offering culture-based activities targeted at youth. These activities included culture camps, subsistence activities, sweat lodges, drumming, dancing, arts and crafts, regalia making, powwows, language classes, Bible studies, youth rodeos, and talking circles. Practice-based interventions included community gatherings, community GONA/GOANs, walk/runs, digital storytelling, afterschool activities, youth conferences, and support groups. Evidence-based practices most often implemented in Native Aspirations communities included Question, Persuade, and Refer; Applied Suicide Intervention Skills Training; safeTALK (Tell, Ask, Listen, and KeepSafe), American Indian Life Skills Development Curriculum; Sources of Strength; Second Step; and Project Venture.

Native Aspirations endeavored to inspire hope within tribal communities for a healthier future. The project mobilized community members to take action on the important issues of youth violence, bullying, and suicide by spurring more collaboration among community members and community agencies and by inclusion of youth and elders. The project helped communities identify gaps in readiness, services, and prevention strategies and built community capacity and skills to fill these gaps. Based on the training and technical assistance provided by the project, communities planned, implemented, and evaluated intervention programs and then worked to sustain those prevention efforts.

The Native Aspirations approach reinforced cultural beliefs and encouraged cooperation across communities. This approach strengthened the spirit of hope by transforming the way communities plan for health and well-being. Community strengths are in the children, elders, leaders, and culture. The Native Aspirations communities embraced these strengths and committed to increasing their cultural resilience factors, which builds hope—and hope saves lives.

Thank you for the opportunity to provide you with this testimony

Written Testimony for Marlene Wong

Marlene Wong, Assistant Dean and Clinical Professor, University of Southern California School of Social Work

Marleen Wong is Associate Dean, Clinical Professor, and Director of Field Education at the USC School of Social Work. Since 1997, she has been engaged in a long-term community-based research partnership with RAND Health on the effects and prevalence of psychological trauma on children exposed to school and community violence. With colleagues from RAND and UCLA Health Services Research Center, she has been one of the original developers of evidence-based child trauma interventions being implemented in schools across the country and internationally. She has lent her expertise to the social and emotional recovery of children and families from major traumatic events, including terrorist attacks in New York and Oklahoma City, and postdisaster behavioral health humanitarian work in China, Japan, and the Philippine Islands. She served on many boards and advisory groups including the National Advisory Council of Substance Abuse and Mental Health Services Administration/HHS, National Expert Advisory Council, National Native Children's Trauma Center, and the U.S. Department of Justice, Defending Childhood Initiative/Expert Work Group.

Attorney General Holder and distinguished members of the Advisory Committee, I appreciate this opportunity to appear before you today to share with the Committee my experiences related to supporting American Indian and Alaska Native children exposed to violence. My Name is Marleen Wong, Associate Dean and Clinical Professor at the University of Southern California (USC) School of Social Work. For over 35 years, I worked at the Los Angeles Unified School District in School Mental Health Services. The last 10 of those years were spent as the Director of Mental Health, Crisis Teams and Suicide Prevention Programs. I am also the Principal Investigator for a Trauma Services Adaptation Center for Resilience, Hope and Wellness in Schools, funded by SAMHSA as a part of the National Child Traumatic Stress Network.

I am here today to speak about my work with colleagues at RAND Health and UCLA Health Services Research Center which began in 1997 when school crisis team members began to report that students seemed more emotional distressed because of not just one exposure to community or school violence but because of multiple exposures to violence in the community, in the school and in their homes, particularly in neighborhood of poverty, high rates of crime, gang activity and drug use and sales.

From 1997 to 2003, my work and the work of my colleagues focused on assessing student exposure to violence in the community, with research on the effects of that exposure. We worked with primarily Latino and African American students who represented the majority of students in those zip codes with the highest level of poverty and crime in Los Angeles, finding that almost 90% of those students had been exposed to at least one and in most cases multiple experiences with violence in the past 12 months of our survey. The questions we asked were,

“In the past 12 months, have you been hit, kicked, punched or threatened with a gun or knife?” and “In the past 12 months, have you witnessed someone who has been hit, kicked, punched or threatened with a gun or knife?” In addition to almost 90% of the students responding that they had both been victims and witnesses to this level of violence, over 40% stated that the violence included guns or knives.

Within the same study, we screened the students for posttraumatic stress disorder and childhood depression because exposure to violence raises the risk for development of those two disorders. Of the students who had been exposed to violence, we found that 27% had moderate to high levels of posttraumatic stress disorder and an additional 16% had clinical levels of childhood depression. These were startling findings which made us realize that there was a serious public health problem that had not been addressed because none of the children had been treated or even identified or referred for professional help.

There were no school based treatments for traumatized and depressed children so we dedicated our efforts to developing an evidence based cognitive behavioral treatment that would ease the suffering of children with PTSD and depressive symptoms and provide the students with coping skills to handle their anxiety, fear and in many cases, avoidance of school.

After several years of development and testing, we introduced the Cognitive Intervention for Trauma in Schools (CBITS) and the launch of the CBITS Manual in 2003. To give some background, CBITS is a group-based intervention for trauma. CBITS was developed using input from parents, students, teachers, administrators, and bi-cultural, bilingual social workers within a community-participatory framework in an attempt to design an intervention for school-based delivery. Based on this input, each of the 10 sessions of CBITS was designed to begin and be completed within one class period, “bell to bell”, during the school day when school counseling usually occurs. Sessions occur one a week for 10 weeks and students learn how exposure to violence affect their thoughts, feelings and behaviors. They are taught skills to effectively recognize and identify situations of danger and how they can find solutions to staying calm, taking actions to stay safe, and taking steps to master their anxiety and fear. Cognitive behavioral therapy includes problem solving and learning relaxation techniques because an agitated and fearful person is not functioning at the highest level to find solutions to difficult and challenging situations. Parent and teacher sessions are also offered to help important adults understand how children are affected by violence.

Two initial studies of the intervention found that participation in CBITS groups has been shown to result in improvements in posttraumatic stress disorder (PTSD) and depressive symptoms among elementary and middle school students exposed to violence, and is associated with improved school performance, with students who receive CBITS early in the school year doing better in math and language arts grades than students who receive the intervention later that same academic year. Our CBITS effectiveness study was published in the *Journal of the American Medical Association* and recognized as an “original contribution to medicine”.

In 2003, the manual for the Cognitive Behavioral Intervention for Trauma in Schools (CBITS) was published by Sopris West now Cambium Publishing. Following its launch I was invited by the publisher to speak at the conference for safe schools in Colorado. Following this talk, our work was incorporated into a Department of Defense. The publisher also introduced me to Dr. Matt Taylor, here today and Dr. Rick VanDenPol, who were interested in the application of CBITS with American Indian and Alaska Native children exposed to violence. Given the success that CBITS had shown with other minority populations, I, along with the publisher and our CBITS team, supported our Montana colleagues to submit an application to become a site within the National Child Traumatic Stress Network.

Following a number of initial discussions I flew to Montana to meet with Matt, Rick and Darrell in person. During this 10 day visit, I was taken to the Rocky Boy Indian Reservation to meet with tribal leaders. The Reservation had recently been rocked by the murder of a 30 year old tribal member. Two adolescent males had killed the man apparently because he had reneged on his promise to purchase drugs and alcohol for them. Tribal leaders were searching for ways to support the reservation following not only this incident but also the cumulative trauma on the reservation resulting from high rates of alcoholism and suicide.

During my visit to the Rocky Boy reservation I was invited to be part of a talking circle that took place in a classroom at brand new community college. A tribal elder opened the circle with a prayer in their native language. Following the prayer a talking stick was passed around the room and each person was asked to give a personal rather than professional reaction to the incident. When it was my turn to speak I found myself overcome with emotion. Not only did the tribal members look like they could be members of my own family given their shared "Asian" features, this discussion also evoked by own traumatic grief as my sister had recently passed away. There were no introductions in the group. We were not identified as "professionals" or tribal or community members. We were human beings talking about our personal reactions to the murder on the Reservations and sharing the feelings and thoughts that were triggered by loss and grief. I was honored by the tribal leaders to participate in the circle and I believe to this day that the experience sharing as people, not as titles or roles, helped to build a level of trust and allowed our work to move forward.

Discussions with tribal leaders continued. It was clear that they were concerned about a great number of social problems affecting children including incarceration, violence, poverty, domestic abuse, and substance abuse. These were not unlike the inner city issues that were addressing in the LAUSD students and families. Given these similarities CBITS was accepted by the Tribal Leaders and the educators in Rocky Boy and adopted as a strategy for dealing with trauma across Montana reservations.

My colleagues in Montana and their tribal partners have done an amazing job of modifying CBITS and disseminating in broadly across several Native American Reservations and tribes - the details of which they will provide in more detail. They have also published several research studies documenting the effectiveness of CBITS with American Indian students. (Morsette, 2009; Goodkind, 2010, Morsette, 2012).

Currently, our team with members from USC, UCLA and RAND, led by Audra Langley, has developed an adapted version of CBITS for use with elementary students from ethnically diverse backgrounds called Bounce Back. Early piloting of this program has shown promising preliminary results, including reductions in posttraumatic stress symptoms and anxiety, parent-reported behavioral improvements, and positive feedback from parents, students, and school staff.

Despite these efforts, there are still important gaps that need to be addressed particularly in the area of implementation and dissemination. We know that while there has been great progress in developing evidence-based practices this progress has not been matched by successful implementation in community settings. In fact some research suggests that it can take 15-20 years before an evidence-based practice is adopted as standard practice in a community setting. Researchers have identified a number of barriers that appear to be causing this “research to practice” gap including limited funding for training and limited personnel. These same barriers exist within American Indian communities.

Since developing and testing CBITS as well as Bounce Back our team comprised of partners from USC, RAND, UCLA and the 3C Institute for social development have begun to consider strategies for overcoming these barriers to implementation. Given the limited resources available to support training in evidence-based practices like CBITS, our team developed a web-based platform (www.cbitsprogram.org) to expand and enhance our capacity to support trainings in CBITS. We believe web-based platforms may be a useful mechanism for training and supporting the mental health workforce in evidence-based practices like CBITS and are particularly relevant for supporting trauma-related interventions, for which training in or access to implementation assistance should be available rapidly following a traumatic event.

Another promising development has been the creation of the SSET Intervention: Support for Students Exposed to Trauma. In recognition of the scarcity of mental health clinicians available in schools, the lead CBITS developer, Lisa Jaycox, adapted CBITS (Cognitive Behavioral Intervention for Trauma in Schools) so that it could be taught by teachers or other non-clinical school staff. SSET is a series of 10 lessons, complete with lesson plans, delivered by teachers or school counselors to reduce students’ trauma-related distress. SSET includes a wide variety of skill-building techniques geared toward changing maladaptive and self-defeating thoughts, promoting and practicing positive behaviors. In a preliminary study SSET been found to reduce trauma-related mental health symptoms in students.(Jaycox et al., 2009) Like CBITS, we have also created a web-based platform which contains an online training course where teachers and school staff unable to attend an in-person can go to get trained.

Finally recognizing that incidents of trauma can be reduced when schools employ a real-time strategy to protect survivors from further physical harm and to triage survivors in an attempt to identify and support those who are most distressed the Psychological First Aid is an essential strategy the schools should adopt. Psychological First Aid for Schools: Listen, Protect, Connect is available. On the Readiness and Emergency Management technical website of the US Department of Education

http://www.ready.gov/sites/default/files/documents/files/PFA_SchoolCrisis.pdf. Psychological First Aid/Listen Protect Connect is a model that can be implemented by educators and school staff (with no formal mental health training) building on everyday teaching skills which prioritizes improving communication with recently traumatized students and staff. Information about PFA-LPC can also be found of our newly launched website www.traumaawareschools.org.

Cultural adaptations and modifications of Evidence Based Practices are essential before EBPs are introduced into communities for the first time. Like our colleagues in Montana, we look forward to working with all interested Native American and Alaska Native groups that have been historically unrepresented. Their caring and careful offers of working together are infused with respect and humility and the understanding that no one “outside” a Native American community could implement an intervention without modifications which incorporate and reflect the complexity and diversity of Native American cultures and historical experiences.

I thank the committee for taking the time to allow me to share this information. You are engaged in important deliberations that will benefit American Indian and Alaska Native Children Exposed to Violence in Communities and will have significant implications for all children who live in communities where exposure to violence places them at high risk not only for traumatic stress and depression but also for school failure, school absenteeism, high dropout rates, substance use, and high rates of expulsion and suspension.

This concludes my testimony. I welcome your thoughts and would be happy to answer any questions that you may have.

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Written Testimony for Matthew Taylor

Matthew Taylor, Associate Director, National Native Children's Trauma Center; Director, Montana Safe Schools Center; and Associate Director, Institute of Education Research and Service, University of Montana

Matthew Taylor serves as Director of the Montana Safe Schools Center and is Associate Director of the Institute for Educational Research and Service (IERS) at the University of Montana, where he has worked since 2002. He is also affiliated with the Native Children's Trauma Center that serves as a Category II Treatment and Services Adaptation Center within the National Child Traumatic Stress Initiative. He has participated in numerous expert review groups for the U.S. Department of Education and the Federal Emergency Management Agency. He and his colleagues are collaborating with tribes in service provision to multiple schools and child serving agencies in Montana, South Dakota, and Minnesota.

He has been extensively involved in design and service provision for the U.S. Department of Education's School Emergency Response to Violence and Readiness and Emergency Management in Schools programs. Prior to his affiliation with IERS, he worked for the Maureen and Mike Mansfield Center.

Senator Dorgan, Co-chair Shenandoah, distinguished members of the committee; it is an honor to be with you today. I appreciate the opportunity to share reflections from the work myself and colleagues have been invited to do in partnership with tribes. My comments are informed by work as Director of the Montana Safe Schools Center and through my affiliated work with the National Native Children's Trauma Center. Both Centers are housed at the University of Montana. However, these comments are my opinions only and do not necessarily reflect those of the University of Montana or agencies such as the U.S. Substance Abuse and Mental Health Services Administration which funds both our Trauma Center and the National Child Traumatic Stress Network to which our center is a member.

First off, let me say that our organizations recognize that that most American Indian Tribes share a collective history of military subjugation; forced removal from ancestral homelands; prohibition of tribal, religious, and cultural practices; and forcible removal of children from their families to be sent to boarding schools. This is deeply tragic and represents some of the darkest chapters of our national history. As a consequence, many tribal communities suffer from the historical effects of trauma.

Mental health, behavioral health, school and child welfare systems serving Indian Country face the challenges of serving clients and students with high levels of recent, direct and historical trauma resulting from sexual abuse, suicide, violence exposure and loss. They do so with resources inadequate to address the problem. Yet, in my experience, most workers in these agencies are resourceful and hopeful. They are committed to the wellbeing of children and

adults alike. At some level, most share a belief in the inherent resilience and deep, culturally rooted strengths that these children and their families possess. At the same, time these dedicated professionals must confront their own levels of violence and loss exposure and many are faced with addressing their own secondary or vicarious traumatization because of the stories they hear from those they serve.

The research is clear, unidentified and untreated childhood trauma has deleterious effects on health, school performance, contact with the justice system and life span as evidenced by findings such as the Adverse Childhood Experiences study. Each of you are well aware that American Indian and Alaska Native children are disproportionately affected by trauma and have limited access to mental health services. Similar to others who have testified before you, my colleagues and I firmly believe that trauma is treatable and preventable. We also believe that youth, family, tribal and community resilience is a key asset in our collective efforts to improve services across Indian Country. We argue that some of the most promising approaches involve evidence-based, trauma-informed interventions joined with practices that promote tribal language, culture and traditional healing.

If we are to adequately support children and families in a lifelong journey of wellness then we must look at approaches that engage the communities they live in. However, relevant to the status of clinical treatment in Indian Country is the reality that many Native people are justifiably skeptical of western Euro-centric medicine and mental health care – even if those services are readily available. We must promote initiatives that reduce stigma associated with receiving trauma informed care and mental health services. For example, this may include involving elders in suicide prevention campaigns, partnering with tribal councils to promote resilience oriented early childhood supports for parents and tribal head starts.

I respect that many families in Indian Country are mistrustful of schools given the role many educational institutions had in perpetuating the kinds of trauma I just mentioned. If schools engage with families and the community respectfully, and in acknowledgement of this potential for mistrust, then using the public school system as a venue for some community behavioral health services can significantly reduce stigma around accessing such services. The reality is that, regardless of setting, schools are the de facto mental health provider for youth in the United States.

After fourteen years of work with reservation schools, my colleagues and I conclude that with culturally appropriate training and support, school based providers can effectively implement evidence-based practices such as Cognitive Behavioral Intervention for Schools (CBITS), Trauma Focused Cognitive Behavioral Therapy (TF-CBT), Applied Suicide Intervention Skills Training (ASIST), Sources of Strength, safeTALK (Suicide Alertness For Everyone). I also believe that promising practices such as the Child and Family Traumatic Stress Intervention (CF-TSI) and the Attachment, Self-Regulation and Competency (ARC) framework for child serving agencies are two additional approaches that merit broad implementation. Our experience has taught us that with such services, American Indian youth show significantly improved behavioral functioning, reduced symptoms of trauma and less PTSD.

Trauma interventions represent a critical, "upstream approach" for many of the most pressing and costly health issues many tribal communities face. As troubling as the impacts of trauma exposure are, the good news is they are also reversible. Indeed, the use of evidence-based interventions can be highly effective, very healing, and can even promote posttraumatic growth. Results from the National Center for Child Traumatic Stress' extensive Core Data Set help expand the knowledge base for understanding and treating childhood trauma. The Core Data Set also shows that American Indian and Alaska Native children demonstrate significant, positive gains with such interventions.

To be more broadly accepted, community outreach in native communities needs to better explain how such practices can, in fact, be complementary to traditional, spiritual practices. Such outreach also needs to engage the opinions of all stakeholders involved in creating a community of healing. In particular, this involves youth themselves and their parents or caregivers. In a 2012 publication within *Children's Service Review* entitled "Promoting Youth Voice in Indian Country" my colleagues Drs. James Caringi and Rick van den Pol along with Bart Klika, Ashley Trautman, and your fellow committee member Marilyn Bruguier Zimmerman argued that far too often, in the spirit of "helping" youth, many initiatives unintentionally silence youth voice.

Youth who have participated in advisory councils and focus groups concerning wellness and resilience describe a keen interest in learning more about their traditional tribal cultures and languages. For example, in an unpublished survey conducted at the request of one tribe's wellness council 40.4% of the students said they currently use traditional supports, 61.8% expressed interest in learning more about their culture, 11.2% said they had been given an Indian Name, and 34.8% said they wanted to be given such a name.

When the perspectives of youth are sincerely engaged, I believe the nature of clinical services and community initiatives changes for the better. Instead of a focus on reducing the negative impacts of trauma and loss, such initiatives begin to shift focus towards explicitly promoting resilience, to supporting the protective factors that give youth hope and which strengthen the social support networks they already have but which are often less known to adults.

In addition to both creating venues for youth voice to be heard and integrated into the outlining of services and the provision of trauma informed care to children and their families, we must not lose sight of the providers' own wellness. Tribal behavioral health staff, Indian Health Service employees, Bureau of Indian Affairs and tribal child welfare workers and school employees give so much of their lives to children. But those of us in the trauma and violence prevention field know that there is a cost for caring. Secondary traumatic stress (STS) - sometimes referred to as "compassion fatigue" is very real yet often unrecognized or unaddressed. It impacts employee absenteeism, turnover and significantly reduces these individuals' ability to help affected children and families. Strategies that promote collaboration, self-care and professional/personal balance can significantly offset the impacts of STS and are critically needed in Indian Country.

A community orientated commitment towards wellness, recovery from trauma and prevention of violence exposure involves many facets. Levels of trauma exposure vary considerably from individual to individual and community to community. For trauma informed trainings and clinical services to be relevant in Indian Country they need to remain flexible and respect local wisdom and practice. For issues as complex as trauma which have intergenerational impacts and historical roots, no single intervention is the solution. From my perspective, which is heavily focused on engaging with schools and behavioral health systems, here are a number of strategies that help support youth resilience and reverse the impacts of trauma:

- School systems can implement ongoing (vs. reactive) suicide prevention programs as part of their curriculum.
- School systems should develop school emergency management plans which reflect the latest guidance outlined by the U.S. Department of Education in response to President Obama's Now is the Time Initiative to reduce gun violence.
- Programs that celebrate resiliency, cultural identification, youth leadership and particularly peer support should be incorporated and sustained in schools. They should be seen not as extracurricular programming but as essential to academic and social achievement.
- Schools, law enforcement, tribal courts, child welfare and behavioral health agencies can actively promote wellness plans and support networks where staff and administration are able to seek support and advice from peers, counselors or elders.
- Self-care should be modeled and celebrated, particularly by the leaders of organizations or tribes. We must recognize that staff essential to the well-being of children may themselves become at high risk for secondary trauma, compassion fatigue or burnout.
- Schools can partner with tribal and community agencies to offer support groups for parents. Similarly, they should provide take home information regarding traumatic stress, parenting tips, and community resources for all parents but particularly those who are: responding to challenging behavior from their children, noticing increased risk taking or suicidal behavior, or responding to loss of their children's friends, pets or other family members.
- All school personnel, tribal court officials and juvenile justice staff who are in positions to support students should receive training on how to identify, support and refer youth who may be at risk for traumatic stress and suicide. This includes staff such as home-school coordinators, bus drivers, coaches and early childhood educators who may see students in after school settings.
- Parents, students and elders can powerfully advocate for safe places where students experiencing violence or at risk for self-harm can go during the evening and summer. Such resources are often sorely lacking in rural, tribal communities. Public awareness

campaigns and support for transportation to such locations should be part of this initiative.

- Communities can implement drug and alcohol prevention programs at the earliest possible grade levels so that such programs become a central part of curriculum, community outreach and after-school programming.
- Federal and tribal support can help schools provide cognitive and social skills building curriculum into the daily learning activities for all students, at every grade level.
- Support for school-wide bully prevention programs must be expanded. According to the Indian Health Service's 2011 American Indian/Alaska Native Behavioral Health Briefing Book 27.5% of Native youth in grades 6-12 experience bullying as compared to 20.1% of students nationwide. Furthermore, 30.9% Native students report engaging in bullying behavior compared to 18.8% nationally.
- Schools can embrace opportunities for tribal elders to interact with students as mentors – both during school hours and in after school cultural activities and to adopt “strength-based” programming that promotes native languages, cultural identification and community engagement.

Schools and communities must affirm their commitment to understanding the mental and social needs of their students in order to provide a safe, nurturing environment where both academic and psychosocial needs will be met. Similarly, programming decisions should be prioritized to help support school mental health and substance abuse programs.

In a community of caring, regardless of whether it is in rural or urban Indian Country, we must work harder to increase our students' feelings of belonging in the school and their connectedness to a cultural or family identity. We must also never lose sight of our children's innate resilience. In keeping with the missions of the Montana Safe Schools Center, the National Native Children's Trauma Center and the National Child Traumatic Stress Network, I join with you and local partners in the belief that through collaboration, honoring tradition, and fostering every individual's resilience we all create a rich ground where hope and healing grow strong.

I thank and respect the entire committee for your kind attention and for your dedication to children.

Respectfully Submitted,
Matthew A. Taylor
Director, Montana Safe Schools Center

Panel #5: Promising Approaches

Panel #5: Promising Approaches

Outcome: Identify promising approaches to responding to American Indian children exposed to violence in the community. Recommend approaches for responding and training on the issue.

Panelists:

Gerald Small (*Chippewa Cree*), Chippewa Cree Tribal Business Committee

Gerald Small has served his community of which he is an enrolled member of for many years. He has twenty-nine years as a Child Educator at Rocky Boy Schools, eighteen years in the tribe's Forestry Department, six years as a case worker for Temporary Assistance for Needy Families, and has held a seat on the Tribal Council for four years. Mr. Small is a great asset to the community and it shows through his dedication and longevity to the people of the Rocky Boy's Indian Reservation. Currently, Mr. Small is the chairman for the Chippewa Cree Human Services Sub-Committee and helps make some tough decisions when it comes to the families in which the Human Services Department serves.

Aisha Uwais-Savage Concha, Attorney General, Rosebud Sioux Tribe

Aisha Uwais-Savage Concha serves as the Attorney General of Rosebud Sioux Tribe–Sicangu Oyate Lakota. Aisha was raised on Taos Pueblo Indian Reservation and graduated from the University of Wisconsin Law School where she emphasized in federal Indian law and international law. She previously served as General Counsel for Kawerak, Inc., a Native nonprofit that provides services to the Alaska Native Tribes of the Bering Strait Region of Northwest Alaska. She has worked on indigenous rights issues and constitutional development in Wisconsin, Kenya, and Nepal.

Christine Meyer, Director of Education, Coeur d'Alene Tribe

Dr. Christine Meyer is the Director of Education for the Coeur d'Alene Tribe's Department of Education. She co-authored "Developing a Community-Led Education Pipeline," which was published in the Journal of Community Engagement and Scholarship. Dr. Meyer is the director for the State Board for Early Head Start and Head Start, a member of the North Idaho College Foundation Board of Directors, and a member of the Professional Non-Profit Leadership Council Advisory Council. Dr. Meyer received her bachelor's degree at Eastern Washington University, Cheney; and her master's degree in special education and doctorate in education from the University of Idaho.

Edward Reina, (Salt River-Pima Maricopa Indian Community), Tribal Law Enforcement Consultant, Retired Tribal Chief of Police

Edward Reina is a member of the Salt River Pima-Maricopa Indian Community and is a retired Chief Police Executive, who worked for five tribal governments: as Chief of Police for four (the Salt River Pima-Maricopa Indian Community, Fort McDowell Yavapai Nation, Reno-Sparks Indian Colony, and Yavapai Prescott Indian Tribe) and as Director of Public Safety for the Tohono O'odham Nation. He served on GLOBAL, a Federal Advisory Committee dealing with criminal justice information sharing; is a board member of the Tribal Law and Policy Institute; is a lifetime member of the Indian Country Law Enforcement Section of the International Association of Chiefs of Police; was the first Tribal Police Chief to serve as President of the Arizona Association of Chiefs of Police and on the Executive Committee of the International Association of Chiefs of Police; served as chairman of the Indian Country Law Enforcement Section (Arizona Tribal Police Chiefs); and served as a member of National Task Force on Juvenile Justice for Native American and Alaska Native.

Potential Questions for Panelists
Panel #5: Promising Approaches in Juvenile Justice

GERALD SMALL

1. What methods were utilized in assessing the needs of the youth in your community?
2. What would you identify as a major barrier this project had to overcome to be successful?

AISHA UWAIS-SAVAGE CONCHO

1. What methods were utilized in assessing the needs of the youth in your community?
2. What would you identify as a major systemic improvement as a result of this project?

CHRIS MEYER

1. Based on your experience, can this program be replicated easily by other tribes?
2. If you had to identify one major factor that had led to the project's success, what would that be?

EDWARD REINA

1. Your written testimony indicated that officers must receive training to increase awareness and identification of victims particularly children at risk. The officers should be able to complete an initial assessment and ensure the victim receives immediate services when necessary. Can you comment on where an officer would receive this training? What individual would be responsible for making the training mandatory in a law enforcement unit?
2. Is there a current curriculum for tribally based multi-disciplinary teams?

Written Testimony for Gerald Small

Gerald Small (*Chippewa Cree*), Tribal Councilman, Chippewa Cree Tribal Business Committee

Gerald Small has served his community of which he is an enrolled member of for many years. He has twenty-nine years as a Child Educator at Rocky Boy Schools, eighteen years in the tribe's Forestry Department, six years as a case worker for Temporary Assistance for Needy Families, and has held a seat on the Tribal Council for four years. Mr. Small is a great asset to the community and it shows through his dedication and longevity to the people of the Rocky Boy's Indian Reservation. Currently, Mr. Small is the chairman for the Chippewa Cree Human Services Sub-Committee and helps make some tough decisions when it comes to the families in which the Human Services Department serves.

Good afternoon, my name is Gerald Small, I'm a member of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation in Montana and I feel very honored and privileged to be here today.

I am the Human Services Sub-Committee Chairman for the Chippewa Cree Tribe and an elected official to the Chippewa Cree Tribal Business Committee serving a four (4) year term, for seven (7) years I was a Caseworker for the Tribal Temporary Assistance for Needy Families Program, and for 29 years I proudly served as an educator for the Rocky Boy Schools. Additionally, I served 18 years with the Tribal Forestry Department.

The Rocky Boy's Indian Reservation, located in north central Montana was established by an Act of Congress in 1916. It is the home of the Chippewa Cree Tribe (CCT). Rocky Boy's Reservation is isolated by geography, weather, and economics. Rocky Boy's Reservation is considered "frontier" by most of Montana--a designation that indicates extreme rural and isolation. The Rocky Boy's Reservation is the smallest of seven reservations in the state of Montana (125,000 acres). The nearest airport and major shopping facilities are 110 miles southwest in Great Falls, Montana. The nearest town of significant size is Havre, Montana, located 30 miles north with a population of 9,575. This geographic isolation allows the tribal community to demonstrate clear and distinct violence prevention cause and affect relationships by more effectively identifying confounding variables.

An estimated 4,000 people reside on the Rocky Boy's Indian Reservation. One of every four residents is under the age of 18 years and 50% fall between 18 and 62 years of age. The total enrolled membership in the CCT is well over 7,000. The targeted population resides in a community, which endures a variety of social problems that are interconnected and complex, such as high rates of alcoholism, drug use, poverty, housing shortages, crime, and unemployment.

With that said the Defending Childhood Initiative or Rocky Boy's Children Exposed to Violence Project (RB-CEVP) has addressed several of these issues which have afflicted our community. By design, the strategic plan for the RB-CEVP is a Chippewa Cree culture-based approach to prevention and treatment that emphasizes the Chippewa Cree way of life in terms of philosophy, traditional value system, custom, protocol, health & healing concepts, and education. The approach also integrates the involvement of tribal elders who serve as "Peacemakers" providing input on program planning and implementation to promote cultural knowledge, as well as working directly with families in need. RB-CEVP has promoted violence prevention and improved services for youth and families in many ways.

A child advocacy program was developed to provide intervention and prevention services, supportive services, law enforcement, court, and medical accompaniment, child forensic interviewing, bullying intervention/prevention, and developing proactive student-based groups. Child advocates also work in the Rocky Boy High Schools to implement the violence-prevention *Eyes on Bullying* curriculum as well as providing direct support to students exposed to violence.

Child Advocates advocate for the best interest of our children by making recommendations which will be most beneficial to them in regards to their home life (lives) in regards to the Social Service Department, Temporary Assistance for Needy Families, Tribal Courts, Law Enforcement, and in school. They are the voices of our children.

Child Advocates took a major role in the Safe Guarding Tribal Children's Taskforce to create a more effective and efficient way of managing child abuse and neglect cases which optimize the best possible services children and their families.

A domestic violence community advocacy program was established to provide emergency and ongoing advocacy services to children, teens, adults and families facing violence. The program offers confidential assistance for domestic and sexual violence victims by providing crisis advocacy regardless of age, race, gender and sexual preference by being available 24 hours a day seven days a week. Services include filing of temporary protection orders, court advocacy and identification, accompaniment to medical facilities, scheduling of doctors and mental health appointments, transportation and locating a safe place for victims and/or their children to stay in their time of need through coordination with shelters in Havre, MT and other tribal communities. Maintaining a healthy rapport with local and federal law enforcement agencies to assure victims safety and needs are met in their time of crisis.

Domestic Violence and Child Advocates are members of the Child Protection Team, Multi-Disciplinary Teams, and Sexual Assault Response Team where specific recommendations for children and adults are provided to all members.

RB-CEVP works collaboratively with many Tribal Departments in an effort to deter all forms of violence and promote the strengthening of families.

The Healthy Journey Youth Camp has been sponsored by RB-CEVP for the past two years with youth participants being exposed to cultural elements pertaining to Chippewa Cree traditions and values along with bullying intervention and teen dating violence skills.

Community Forums and Cultural Fairs have been provided for community members with the focus based around Strengthening Families where speakers provided information on various topics ranging from the Adverse Childhood Studies, Our Heroes, Peacemaker Elders Panel, Survivor Panel, Victim Witness Advocacy, Chippewa Cree Positive Indian Parenting, Historical Trauma, Bullying Intervention, and other topics.

They have sought out assistance and worked collaboratively with the United States Attorney's Office for the District of Montana and State and Tribal Programs to offer Domestic and Sexual Violence Training and information on child abuse and neglect for local law enforcement officers, caseworkers from social services and TANF, emergency medical technicians, and tribal courts to name a few so community members in crisis receive the best possible services available.

RB-CEVP has worked with partners to provide monthly Family Nights to community members where children and their parents or caregivers can participate in a variety of healthy wholesome activities such as flower planting, reading and math stations, paper art decorations, and etc. These events have been wildly successful with a 120 to over 600 community participants. A school supply drive was led by RB-CEVP staff with a mission of providing back to school basics of pencils, notebooks, pens, crayons, and other items to each and every K-12 Student at the Box Elder Public Schools and the Rocky Boy Public Schools. 977 students in our community were served.

I know that change does not happen overnight, but I believe that we are getting closer to our vision of a community free of violence. It is my hope that by strengthening our tribal programs and promoting a collaborative approach, our joint efforts will continue to build positive opportunities for our youth and families and support their critical needs in times of hardship. This echoes the words of Chief Rocky Boy who once said "Love one another and take care of each other".



Chippewa Cree Tribe and Rocky Boy Children Exposed to Violence Project

Led by the Chippewa Cree Tribe's Department of Human Services, Rocky Boy's Children Exposed to Violence Project (RBCEVP) is a collaborative effort of 11 organizations to prevent children's exposure to violence (CEV), reduce its negative impact, and increase awareness. The Chippewa Cree Tribe is targeting all of the Rocky Boy Reservation, spanning 195 square miles in northern Montana. Rocky Boy, isolated by geography, weather, and economics, is Montana's smallest reservation with a total population of 3,600 residents that includes roughly 900 children and youth younger than 18 years old.

Rocky Boy's Children Exposed to Violence Project (RBCEVP)

By design, the strategic plan for the RBCEVP is a culture-based approach to prevention and treatment that emphasizes the Chippewa Cree way of life in terms of philosophy, traditional value system, customs, protocols, health and healing concepts, socialization, and education. The approach also integrates a native epistemology (way of knowing) through the involvement of tribal elders. The RBCEVP engages both tribal programs and community members through robust strategies that incorporate culture as a protective factor in all programming to address and prevent children's exposure to violence. Technical assistance providers Futures Without Violence and Native Streams have supported the development of this work (*see bullets under each objective identifying technical assistance*).

RBCEV Project team highlights include:

1. Drafted a comprehensive strategic action plan to address children exposed to violence.
 - The strategic plan and budget were revised after a year's planning.
 - The team helped refine the strategic plan a year later.
2. Hired project staff to facilitate the RBCEVP, including a project director, community outreach coordinator, domestic violence advocate, and child advocate. The team has clarified staff roles and provided job descriptions to facilitate hires.
3. Enhanced the outcomes of the Collaborative Body (representatives from 11 tribal programs). Provided:
 - Mandatory training on DV/CEV to human services staff.
 - Guidance to Rocky Boy's Indian Child Welfare staff in best practices for working with state and county partners.
 - Health care-specific tools on routine assessment for violence.

4. Established a community domestic violence program to provide emergency and ongoing advocacy services to children, teens, adults, and families facing violence.
 - Developed a new domestic violence advocacy program that included defining the roles of advocates; identifying outlets for staff training; developing partnerships with allied organizations; developing coordinated community responses for victims; establishing emergency/crisis protocol, client intake protocol, and safety planning; support for program brochure development and increasing community awareness of services; sustainable funding; and staff safety planning and protocol for RBCEV staff who make home visits post-violence.
 - Provide case management support for complicated cases related to victims of domestic violence and sexual assault.
 - Provided October Domestic Violence Awareness month strategies and event ideas.
 - Provide confidential around the clock crisis advocacy for domestic and sexual violence victims regardless of their age, race, gender, or sexual preference. Services include filing of temporary protection orders, court advocacy and identification, accompaniment to medical facilities, assistance scheduling medical and mental health appointments, transportation and help locating a safe place for victims and/or their children to stay in their time of need through coordination with shelters in Havre, MT, and other tribal communities. The team also maintains a healthy rapport with local and federal law enforcement agencies to assure victims' safety and needs are met in their time of crisis.

5. Partnered with the two (K-12) schools in the community, Rocky Boy and Box Elder, to implement evidence-based curricula specific to bullying and violence prevention and hired a child advocate to interface with school administrators and children and provide support services.
 - Provided coaches training in the evidence-based *Coaching Boys into Men* program, which equips them to help their young athletes build respectful, non-violent relationships and to serve as mentors to other students.
 - Provided education related to the selection and implementation of the *Olweus Bullying Prevention Program*, *Families and Schools Together (FAST)*, and *Eyes on Bullying* curricula for RBCEVP staff to select the program most appropriate for their community. Also explained terminology (EBP, PBE) and fidelity.
 - Partnered with the DELTA Program to facilitate weekly meetings for the student led/based organization "Hope" to discuss teen dating violence, domestic and sexual violence, bullying intervention/prevention, and positive role modeling.

6. Host quarterly forums that include expert speakers, youth activities, and community dialogue to increase awareness.
 - Support agenda development with speaker recommendations, workshop topics, youth engagement strategies, and logistics.
 - Presented topics to the community in anticipation of educating them about child abuse and neglect, bullying intervention/prevention, domestic violence, Sexual Offender

Registry Notification Act, and other topics that are often deemed taboo in our culture, such as sexual violence and child sexual abuse.

7. Engaged elder *Peacemakers* to share culture-based programs and services (storytelling, traditional gender roles, rites-of-passage, life cycles, and ethics) with youth.
8. Engaged high school youth leaders (Tah-ka-sa-h/Hope) to weigh in on RBCEV efforts, events, and campaigns and create a radio public service announcement. Provided the script for adaptation.
9. Created a digital storytelling project facilitated by Dr. Nate St. Pierre and the Peacemakers to promote youth leadership development and a vision to share these stories both locally and nationally.
 - Identified the *Center for Digital Storytelling* and interviewed key staff to determine technical needs, implementation strategies, and expenses to execute the project.
 - Exploring the potential to engage youth incarcerated at the juvenile detention center.
10. Sponsor ceremonies to promote culture as a protective factor for youth that feature regalia making; coordinate summer youth cultural camps for summer, evenings, and weekends; and co-sponsor the Chippewa Cree Classic (youth basketball tournament). Identified potential speakers for Chippewa Cree Classic and provided education and resources for youth-themed presentations.
11. Utilized Facebook and Twitter and developed a human services link on the Chippewa Cree Tribal Web site. Provided examples of other successful social networking pages and campaigns engaging youth.
12. Partnered with U.S. Attorney Dana Jackson to co-lead trainings for judges, prosecutors, tribal police officers, and other first responders. Working with USA Jackson to grow relationship and identify common goals.
13. Developing a public education campaign to increase awareness of violence and prevention.
 - Provided education on developing positive communications campaign messages and strategies.
 - Identified *Nakota Designs*, a Native American graphic design and communications company, to develop a culturally specific public education campaign.

Other highlights:

1. In collaboration with technical assistance staff, RSTDCI staff presented at a workshop at the Women are Sacred Conference on June 10-11, 2013, in Albuquerque, NM. The two-part workshop explored how tribal communities can build trauma-informed responses for

children exposed to violence and their families, implement prevention strategies communitywide, and promote cross-program collaboration.

2. RBCEVP, in collaboration with technical assistance providers, DOJ staff, Rosebud DCI, and Nakota Designs, developed a national public education campaign and materials (billboards and posters) that address children's exposure to violence in Indian Country.
3. Peer-to-Peer calls: In March and April, 2013 a series of calls were arranged for Rosebud and Rocky Boy teams to converse about specific strategies and to address barriers they have encountered. Topics included establishing relationships with law enforcement and increasing collaboration; engaging elders (peacemakers) in prevention; cultural programs, such as regalia making; and approaches to best engage collaborative body members and partner organizations. Rocky Boy expressed interest in visiting the Rosebud reservation. Several calls were held to determine the best date, goals of the visit, and logistics. Due to leadership changes at both sites, the visit was postponed until 2014. At that time, technical assistance providers and Rocky Boy DCI team members will travel to Rosebud to focus on the following goals: law enforcement work, wellness court, domestic violence program collaboration, the Nakota Designs campaign, and next steps for localization and material development.
4. Provided technical assistance to all eight DCI sites, creating a learning community for all sites:
 - Convene bimonthly project director technical assistance calls and an all site meeting.
 - Convene Webinar series on topics related to CEV and prevention.
5. Conducted one-on-one technical assistance calls with staff from Futures Without Violence and Native Streams. To date, we have held more than 75 calls.

In person visits:

- **December 2011:** Focus on strategic plan and budgetary support, domestic violence advocacy program inception, and clarifying staff roles and new positions.
- **August 2012:** Focus on Rocky Boy cultural strengths and 50th anniversary Pow-Wow and sobriety walk, regalia making with families, meeting with juvenile justice staff, and presentation on building comprehensive advocacy responses to domestic violence/sexual assault.
- **March 2013:** Focus on appreciative inquiry; engaging students, parents, and teachers; bullying (cyberbullying, bullies and bystanders, evidence-based practices and Indian Country); domestic violence; historical/intergenerational trauma; and vicarious trauma.
- Assisted Center for Court Innovation (CCI) evaluators in navigating challenges for meaningful data collection at Rocky Boy. Provided technical assistance and linkage between CCI and Rocky Boy staff that was key to ongoing evaluation processes.

Outcomes:

- The DCI team sponsors a community domestic violence program that provides emergency and ongoing advocacy services to children, teens, adults, and families facing violence.
- Child and family domestic or sexual violence victims receive confidential assistance, including crisis advocacy, help filing temporary protection orders, court advocacy and identification, accompaniment to medical facilities, assistance scheduling medical and mental health appointments, transportation and help finding a safe place to stay in their time of need through coordination with shelters in Havre, MT, and other tribal communities.
- Children in two (K-12) schools in the community are participating in an evidence-based curriculum that focuses on bullying and violence prevention.
- Students from the youth-led organization “Hope” partner with the DCI team for weekly student discussions that have touched on teen dating violence, domestic and sexual violence, bullying intervention/prevention, and positive role modeling.
- High school youth leaders (Tah-ka-sa-h/Hope) regularly review and weigh in on Rocky Boy DCI efforts, events, and campaigns and have collaborated with the DCI team to create a radio public service announcement.
- Youth participate in primary prevention programs that promote culture as a protective factor, including involvement in ceremonies, regalia making, summer youth cultural camps, and the Chippewa Cree Classic (youth basketball tournament).

Written Testimony for Aisha-Uwais-Savage Concha

Aisha Uwais-Savage Concha, Attorney General, Rosebud Sioux Tribe

Aisha Uwais-Savage Concha serves as the Attorney General of Rosebud Sioux Tribe–Sicangu Oyate Lakota. Aisha was raised on Taos Pueblo Indian Reservation and graduated from the University of Wisconsin Law School where she emphasized in federal Indian law and international law. She previously served as General Counsel for Kawerak, Inc., a Native nonprofit that provides services to the Alaska Native Tribes of the Bering Strait Region of Northwest Alaska. She has worked on indigenous rights issues and constitutional development in Wisconsin, Kenya, and Nepal.

Testimony is not available prior to hearing



Rosebud Sioux Tribe's Defending Childhood Initiative

The Rosebud Sioux Tribe Attorney General's Office leads the tribe's Defending Childhood Initiative **Wakanyeja Ta Wiconi Ki Awayang Kuwapi** that began in 2010. The initiative is a collaborative effort of roughly 36 organizations to prevent children's exposure to violence (CEV), reduce its negative impact, and increase public awareness. It reaches all of the Rosebud Sioux Reservation, which is made up of 20 different communities spanning 1,442 square miles in south central South Dakota. The Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, funds the project under the Defending Childhood Initiative.

The Rosebud Sioux Tribe's statistics from 2009 show 28,375 enrolled members. The estimated total number of children on the reservation varies. The Rosebud Enrollment Office indicates there are 7,901 enrolled tribal members younger than 18 years old—838 of whom live on the reservation. The 2010 Census indicates that Todd County—which lies entirely within the reservation—is home to 8,468 total Native Americans and 3,857 individuals younger than 18.

Rosebud Sioux Tribe's Defending Childhood Initiative (RSTDCI)

Leaders of the RSTDCI have concluded that culturally competent and trauma-informed service providers, including education, law enforcement, and health care professionals, administering a mixed approach rooted in Lakota values will prevent, reduce, and respond to children's exposure to violence.

The RSTDCI engages both tribal programs and community members through robust strategies to address and prevent children's exposure to violence. Technical assistance providers Futures Without Violence and Native Streams have supported the development of this work (*see bullets under each objective identifying technical assistance*).

RSTDCI program highlights include:

1. Drafted a comprehensive strategic action plan to address children exposed to violence.
 - The strategic plan and budget were revised after a year's planning.
 - The technical assistance providers helped refine the strategic plan a year later.
 - They also coordinated calls with DOJ and RSTDCI leaders/team to clarify planning and implementation phases, extensions, special conditions, and revisions to plan/budget.

2. Hired seven staff to facilitate the RSTDCI, including a project director, two case coordinators, data entry clerk, two prevention/outreach coordinators, and administrative coordinator.
 - Supported development of the job descriptions.
 - Supported staffing/leadership changes through in-person technical assistance consultation advising on team transitions and new hires and conducting orientation for new project directors.

3. Regularly convened a collaborative body with representatives from 36 tribal programs to develop a strategic plan and implement comprehensive community-based initiatives.
 - Collaborated with local system of care partner to bring culturally based trauma-informed care awareness and training to the collaborative body and community (provided by Dr. Dolores BigFoot).
 - Provided targeted technical assistance to address collaboration challenges (for example: how to engage law enforcement and how to organize sub-committees).

4. Delivered presentations highlighting protective and risk factors for children exposed to violence in all 20 communities to increase community awareness.
 - Provided training resources, such as PowerPoint slides on Adverse Childhood Experiences (ACEs) and their impact on adult health, educational videos, fact sheets, and other tools.
 - Provided posters and safety cards to support community awareness and access to help/safety support (and ongoing).

5. Identify children exposed to violence and provide them with culturally specific responses, trauma-informed care, and case management support.
 - Provided information on implementing program to coincide with a Lakota culturally appropriate model of stages of life during the site visit.
 - Provided a Lakota Mental Health Train-the-Trainer's convening on September 26-28, 2012, in Porcupine, SD, for 20 first responders from a number of tribal programs.
 - Provide case management support related to serving minors (youth).
 - Arranged consultations with social workers and an attorney with the National Indigenous Women's Resource Center to tackle complex client/legal cases.

6. Developed youth-driven culturally relevant materials for public education.
 - Provided education on developing positive communications campaign messages and strategies, including several Webinars, conference calls, and in-person training.
 - Partnered with *Nakota Designs*, a Native American graphic design and communications company, to develop a national culturally specific public education campaign.
 - Facilitated group calls with Rosebud and Rocky Boy to discuss campaign messages and materials and arrived at consensus on substantive campaign content.

- Described campaign adaptation possibilities and connected team to designer for campaign localization.
7. Offered naming ceremonies, Inipi (sweat, purification ceremony), and no-cost cultural camps to children from across the reservation to promote culture as a protective factor for youth. Camps teach traditional gender roles, including teepee raising, bow and arrow making, drum making, and the significance of the buffalo kill.
 8. Provided recommendations on how to start a regalia sewing program for families and ways to engage elders to mentor youth.
 9. Implemented an evidence-based training program with cultural adaptation.
 - Trained coaches in the evidence-based *Coaching Boys into Men* program to help their young athletes build respectful, non-violent relationships and to serve as mentors to other students.
 - Provided education related to the implementation of the *Olweus Bullying Prevention Program*.
 10. Established tribal legislation and policy.
 - Identified best practice resources, identified experts in the field, and consulted on draft language.
 - Organized a Webinar on how to create tribal codes specific to child abuse featuring Anita Fineday, former Chief Judge for the White Earth Tribal Nation, and Pat Sekakuaptewa from Tribal Law and Policy Institute.
 11. Utilized social networking (Facebook, Twitter). Provided examples of other successful social networking pages and campaigns engaging youth.
 12. Developed a directory of all services and programs across the Rosebud Sioux reservation that support children and families exposed to violence. Provided examples of what other such directories look like.
 13. Developed a protocol outlining a service response for children exposed to violence who access DCI services. Provided technical assistance to support development of this tool.
 14. Began work with collaborative body to develop universal intake and service forms with emphasis on needs of children exposed to violence.

Other highlights:

1. In collaboration with technical assistance staff, five RSTDCI staff presented at a workshop at the Indian Nations Conference, Tribal Law and Policy Institute, funded by the Department of

Justice, in Palm Springs, CA, December 7, 2012. The workshop highlighted the innovative RSTDCI work happening across the Rosebud reservation.

2. In collaboration with technical assistance staff, RSTDCI staff presented at a workshop at the Women are Sacred Conference on June 10-11, 2013, in Albuquerque, NM. The two-part workshop explored how tribal communities can build trauma-informed advocacy responses for children exposed to violence and their families, implement prevention strategies community-wide, and promote cross-program collaboration.
3. Additionally, Futures Without Violence supported the travel for three RSTDCI staff to attend the National Conference on Health and Domestic Violence (March 29-31, 2012).
4. RSTDCI, in collaboration with technical assistance providers, DOJ staff, Rocky Boy DCI, and Nakota Designs, developed a national public education campaign and materials (billboards and posters) that address children's exposure to violence in Indian Country.
5. In March and April 2013, a series of calls were arranged for Rosebud and Rocky Boy teams to converse about specific strategies and to address barriers they have encountered. Topics included establishing relationships with law enforcement and increasing collaboration; engaging elders (peacemakers) in prevention; cultural programs, such as regalia making; and approaches to best engage collaborative body members and partner organizations. One outcome of these calls was Rocky Boy expressed an interest to visit the Rosebud reservation. Several calls were held to determine the best date, goals of the visit, and logistics. Due to leadership changes at both sites, the visit was postponed until 2014. At that time technical assistance providers and Rocky Boy DCI team members will travel to Rosebud to focus on law enforcement work, wellness court, domestic violence program collaboration, the Nakota Designs campaign, and next steps for localization and material development.
6. Technical assistance to all eight DCI sites, creating a learning community for all sites:
 - Convene bimonthly project director technical assistance calls and one all-site meeting.
 - Convene Webinar series on topics related to CEV and prevention.
7. Hold one-on-one technical assistance calls with staff from Futures Without Violence and Native Streams. To date, we have held more than 100 calls.

In person visits:

Futures Without Violence, in collaboration with Native Streams, conducted a site visit to the Rosebud Reservation in May 2012 to discuss Defending Childhood programming and implementation and how their CEV systems can come together in one large CEV response

system. Ethleen Iron Cloud-Two Dogs has conducted many in-person technical assistance visits to Rosebud to support their work. Since January 2013, Ethleen's onsite visits have included:

Date	Purpose/Outcome
2/13/13	Program implementation/budget modification technical assistance
6/3/13	Draft protocol for CEV referrals, outreach, and services

Written Testimony for Christine Meyer

Christine Meyer, Director of Education, Coeur d' Alene Tribe

Dr. Christine Meyer is the Director of Education for the Coeur d'Alene Tribe's Department of Education. She co-authored "Developing a Community-Led Education Pipeline," which was published in the Journal of Community Engagement and Scholarship. Dr. Meyer is the director for the State Board for Early Head Start and Head Start, a member of the North Idaho College Foundation Board of Directors, and a member of the Professional Non-Profit Leadership Council Advisory Council. Dr. Meyer received her bachelor's degree at Eastern Washington University, Cheney; and her master's degree in special education and doctorate in education from the University of Idaho.

Testimony begins on the next page

Abstract

The Coeur d'Alene Tribe, the University of Idaho Extension, and other community and regional partners have been collaborating on the development of an education pipeline as a result of several years of leadership training in the community. Through their collaboration, gaps in educational services have been identified, new partnerships are being developed, and a deeper analysis of the root causes of the high rate of school dropouts is taking place.

Bridging the Educational Achievement Gap

In the fall of 2007, the University of Idaho began an 18-month partnership with the Coeur d'Alene Tribal Reservation community in Northern Idaho through the Horizons program, a program aimed at poverty reduction through grass-roots leadership. The process included an asset-based approach to addressing long-standing issues on the reservation. Through the process, a community steering committee broadened its definition of poverty to include not just economic issues, but social, emotional, intellectual, and cultural/spiritual challenges as well. Our participation in Horizons empowered us to tackle our community's most challenging obstacle: the educational achievement gap. Although we have made great economic strides in recent years, our graduation rates have plummeted in the past decade, and recent classes have seen an average of only 25 percent of entering high school freshmen graduate.

As education director and extension educator, respectively, we realized that the collaborative community-led approach we learned in Horizons was foundational to transforming our education system from a passive recipient of state-mandated programming to an active, engaged community that meets the needs of our students. The Tribal Department of Education developed an education pipeline a linear, visual presentation, inventorying community partners and supports for education from cradle to grave. The pipeline includes the Tribe's Early Childhood Center, local schools, and the higher education programs

offered by the Tribal Department of Education, as well as all of the programs and services that support our community member at each educational stage, including family services, out-of-school-time programs, sports, tutoring, career programs, and college preparation programs. We created an interagency Team to inventory the services other programs were providing. We now meet quarterly with the Tribal Youth Activities staff, local clergy, school administrators and staff, Tribal Court, social services, and higher education representatives. We have identified where services overlap, where gaps in services exist, and where community partners need to develop shared visions for student success based on the intellectual, social, emotional, physical, and cultural needs of each learner.

The development of the pipeline led to new questions that our team is now studying, using participatory action research with middle and high school students. We are now asking when and why students disengage from the education pipeline.

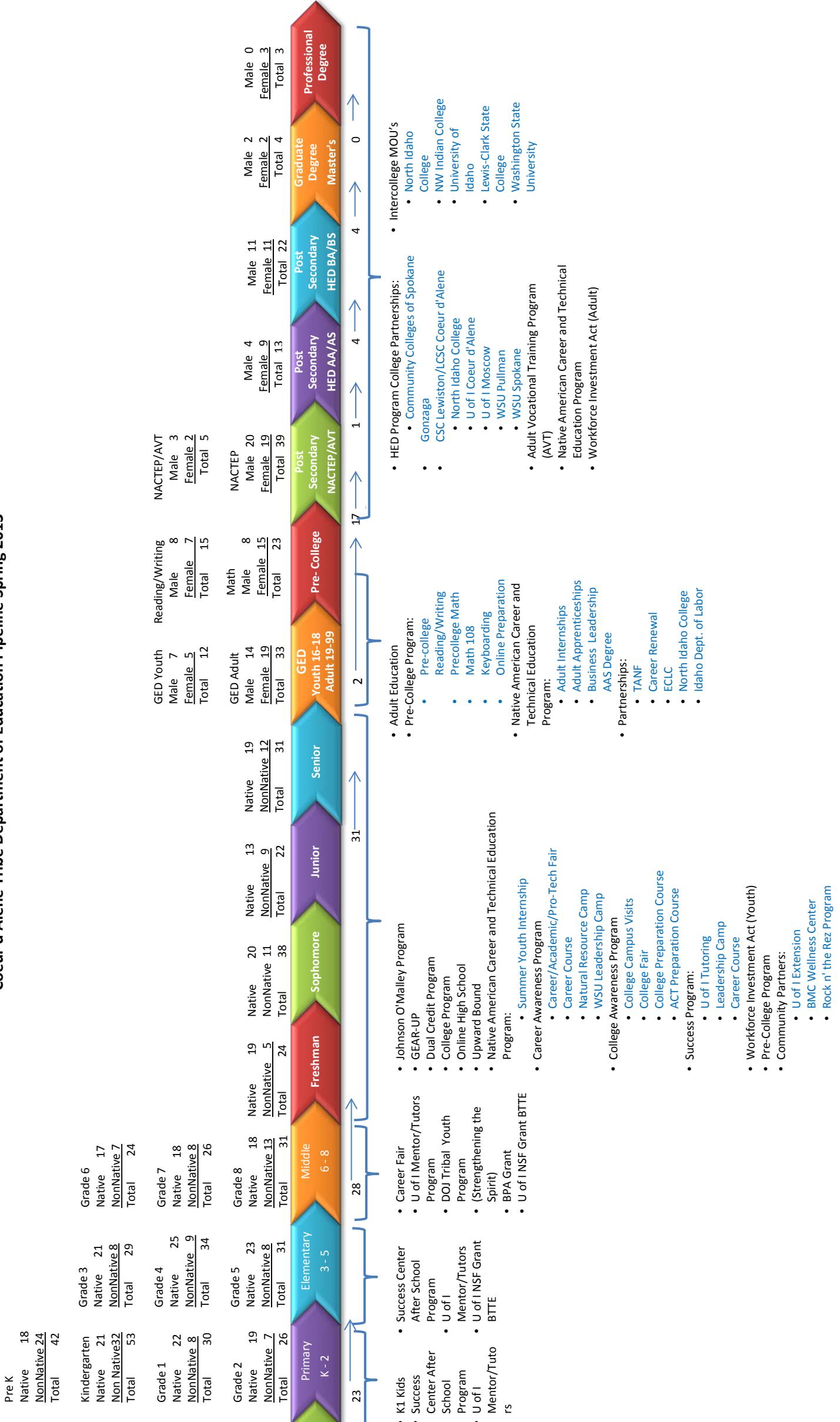
Risky Behaviors Contribute to Poverty

Our collaboration has led to deeper community analysis of root causes of our dropout issue. Our team studied five freshman classes, from 2004-2008, through their senior year. The resulting identification of drugs, alcohol, and pregnancy as primary factors in student dropouts led to our recognition that social and emotional poverty is the underlying issue that we need to address as a community. Our next phase will analyze all services or programs in our pipeline to determine appropriate interventions.

Our actions and research have empowered our team to inform community leaders and school administrators about actual student needs, rather than relying on anecdotal information. We also are better poised to work with our university partners to design projects and programs that faculty and community can co-research to help build a stronger community.



Coeur d'Alene Tribe Department of Education Pipeline Spring 2013



 Adults		Sp'ark wlaqs Family Services November Report 2013																										
		Family Risk Factors							Parent Risk Factors							Social Services			Involvement									
		Bio Parents	Kinship	Ward of Tribe	Teen Parent	Two Parent	State Assistance	Housing	Transportation	Employed	Ungraded	HS Diploma	GED	AA/AS Degree	BS/BA Degree	In School/Training	Substance Abuse	Incarcerated	ICW	Shelter	Domestic Violence	TANF	Career Renewal	Committees	Events	Volunteering	Tracking Sheets	CO-S-P
1		X				X	X		X	X	X														X			
2			X			X				X		X													X			
3				X																								
4			X	X		X	X			X		X							X						X			
5		X								X						X									X	X		X
6		X				X	X																		X	X		
7		X		X			X											X						X	X			
8							X			Temp	X						X											
9		X				X	X			X		X																
10		X				X				Temp		X													X	X		X
11		X					X	X		X																		
12		X				X	X	X	X			X								X			X		X	X		X
13		X				X	X	X	X	X		X													X	X		
14																												
15		X				X				X			X												X	X		
16		X				X				X	X														X	X		
17		X				X	X			X		X													X	X		
Total parents 28 Families 17		77%	24%	18%	0%	59%	65%	12%	18%	64%	14%	18%	29%	7%	4%	8%	18%	0%	12%	0%	0%	6%	12%	0%	75%	11%	13%	7%

Analysis:
 5 parents are unemployed. 1 of them is ungraded and in an outpatient treatment program for substance abuse.
 3 parents are ungraded.
 2 families are in an outpatient treatment program for substance abuse.
Strategies:
 Follow up with the unemployed parents and determine what barriers they are facing to becoming employed and devise a plan with them to work toward employment and follow up at least monthly.
 Refer unemployed parents to DOE for classes in job training, and pre-employment skills.
Outcomes:
 Follow up with the ungraded parents and determine what barriers they are facing to obtaining their GED and devise a plan with them to work toward employment and follow up at least monthly.
 Have parents complete DOE's registration packet for GED and send to John Maloney at DOE for follow up. Follow up with John monthly to track progress.

Coyote Attendance Data Report 2013-2014

	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug	Total/Ave.
Dropped	85%	100%											93%
# of Tardies	0	0											0
# of Late pick-ups	1	0											1
Notes re: attendance	Dropped (Date)												
Dropped	X												
# of Tardies	X												
# of Late pick-ups	X												
Notes re: attendance	Dropped (Date)												
17	85%	94%	67%	100%	80%	7%							72%
# of Tardies	1	0	0	0	1	0							2
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance	A drop letter has been sent. Child w/mom in CDA. Social services refuses info												
18		90%	87%	100%	73%	64%							83%
# of Tardies	X	0	0	0	0	0							0
# of Late pick-ups	X	0	0	0	0	0							0
Notes re: attendance	Absences are excused due to illness.												
19	85%	100%	67%	92%	93%	93%							88%
# of Tardies	0	0	1	0	0	0							1
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance													
20	69%	59%	33%	67%	100%	93%							70%
# of Tardies	0	0	0	1	0	0							1
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance	Health documented absences.												
21	92%	94%	93%	75%	60%	71%							81%
# of Tardies	0	0	0	0	0	1							1
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance	Recently returned to custody of parents. Social Services report completed.												
22	100%	100%	93%	100%	100%	100%							99%
# of Tardies	0	1	0	1	1	1							4
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance													
23	100%	88%	93%	100%	93%	100%							96%
# of Tardies	0	1	0	0	0	4							5
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance													
24	85%	76%	73%	100%	80%	79%							82%
# of Tardies	0	0	0	0	0	0							0
# of Late pick-ups	0	0	0	0	0	0							0
Notes re: attendance	Sent home sick. Absences excused												
Classroom Tardies	1	2	0	2	2	6							13
Classroom Late Pick-ups	1	0	0	0	0	0							1
Classroom ADA	88%	89%	76%	92%	85%	76%							84%

of Days in each month 13 17 14 12 15 14

Turtles																	
Health Services Report March 2014																	
Children	Asthma	Eczema	Immunizations	Not Current	Well Child Check	Height/Weight At Risk	Lead Concerns	Anemia	Dental Referral	Vision Referral	Hearing Referral	Prenatal Exposure	Premature	Food/Other Allergy	Family Engagement	Receives WIC	Has Medical Insurance
1	0	0	0	1	0	*	0	*	1	0	0	0	0	0	0	0	1
2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
3	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	1	1
4	0	0	0	1	0	0	0	0	1	0	0	0	0	0	1	1	1
5	0	0	0	0	1	0	0	*	0	0	0	0	0	1	1	0	1
6	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	1
7	0	0	0	1	1	1	*	0	0	0	0	0	0	0	0	0	1
8	0	0	0	1	0	0	*	0	0	0	0	0	1	1	1	0	1
9	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	1
10	0	1	0	0	0	0	0	0	1	0	0	0	1	1	1	1	1
11	0	0	0	0	0	0	*	0	1	0	0	0	1	0	0	1	1
12	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	1	1
13	0	0	0	0	0	0	0	*	0	0	0	0	0	0	1	0	1
14	1	0	0	0	0	0	*	0	0	0	0	1	0	0	1	1	1
15	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	0	1
16	0	1	0	1	1	1	0	0	0	0	0	0	0	0	1	1	1
17	0	1	0	0	1	0	0	0	1	1	0	0	0	0	1	0	1
18	0	0	0	0	1	0	0	0	*	0	rs	0	0	1	1	0	1
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18	5.59%	16.67%	0.00%	33.33%	38.89%	0.00%	0.00%	0.00%	33.33%	5.56%	0.00%	11.11%	16.67%	22.22%	83.33%	44.44%	100.00%
	1	3	0	6	7	0	0	0	6	1	0	2	3	4	15	8	18

Dropped	0	0	0	0	0	*	0	0	0	0	0	0	0	0	1	0	1
Dropped	0	0	0	0	0	0	0	0	1	0	0	0	1	1	1	0	1
Dropped	0	0	1	1	1	*	0	0	1	0	0	0	0	0	1	1	1
Dropped	0	0	0	0	1	0	0	0	1	0	0	0	0	0	1	0	1

Analysis

One child has asthma, two children have eczema, one child is due for vaccinations, six children are due for physicals. Seven children are above 85 percentile for BMI, seven children have dental referrals, two child has a food allergy and two children have other allergy. Seventeen children have insurance, 100%.

Strategies: Provide information to families regarding immunizations and physicals that are due.

Follow-Up:

Upcoming well child and immunization reminders sent to families. Spoke with T.S.S. regarding C.C., they will schedule appointment in Early March. LH, JS, and DV vision screened on 2/19/2014, results pending.

Strengthening the Spirit Report - February 2013

Project Objectives										Program Impact			
Stem	Culture/Language	Health/Fitness	Attendance	Grades	Behavior	Courts	Science	Language	Disruptions				
Heat reaction	Sculpture	Watersafety	STS Attendance	Math	Harassment		Science	Disruptions	Harassment				
Windmills	Quannah Culture Dept.	Cooking			Suspension			Suspension	Defiance				
Robotics Tournament	4-H	Rock Climbing											
Seashells	Field Trip to MAC	Drug Alcohol											
4-H													
Plummer/Morley School District 6th Grade													
SA	4	4	13	2	3	2	2	2	2	NA			
SB	5	4	14	2	2	2	2	2	2	NA			
SC	2	2	7	2	2	2	2	1	1	NA			
SD	5	4	14	1	1	1	1	2	2	NA			
SE	3	4	11	2	2	2	2	2	2	NA			
SF	1	3	7	1	2	2	2	2	2	NA			
SG	2	2	7	1	2	2	2	2	2	NA			
SH	4	4	13	2	2	2	2	2	2	NA			
SI	0	0	0	3	3	3	3	2	2	NA			
SJ	5	4	13	2	2	2	2	1	1	NA			
SK	6	6	16	3	3	3	3	2	2	NA			
SL	0	0	0	NA	NA	NA	NA	2	2	NA			
SM	4	4	11	3	3	3	3	2	2	NA			
SN	3	4	10	3	3	3	3	2	2	NA			
SO	3	3	10	3	3	3	3	2	2	NA			
SP	4	3	7	2	1	2	1	NA	NA	NA			
SP	51	47	143	2	2	2	2	26	26	NA			
6th Grade Totals/Averages													
Plummer/Morley School District 7th Grade													
MA	2	2	6	B	B	B	B	1	1	NA			
MB	4	5	12	A	A	A	A	0	0	NA			
MC	0	0	0	A	A	A	A	0	0	NA			
MD	0	0	0	C	C	C	C	1	1	NA			
ME	0	0	0	D	D	D	D	1	1	NA			
MF	0	0	0	C	C	C	C	0	0	NA			
MG	4	4	11	A-	A-	A-	A-	0	0	NA			
MH	0	0	0	B+	B+	B+	B+	0	0	NA			
MI	0	0	0	A	A	A	A	0	0	NA			
MJ	4	3	9	B	B	B	B	0	0	NA			
MK	0	0	0	D	D	D	D	2	2	NA			
ML	0	0	0	D	D	D	D	2	2	NA			
MM	0	0	0	D	D	D	D	2	2	NA			
MN	2	3	6	B	B	B	B	0	0	NA			
MO	16	17	44	B	B	B	B	5	5	NA			
7th Grade Totals/Averages													
Plummer/Morley School District 8th Grade													
TA	0	0	0	F	D	D	D	0	0	NA			
TB	2	3	6	B	B	B	B	0	0	NA			
TC	4	4	11	C-	A	A	A	2	2	NA			
TD	0	0	0	D	F	F	F	0	0	NA			
TE	4	5	10	C	C	C	C	2	2	NA			
TF	3	2	6	B	C	C	C	0	0	NA			
TF	5	3	9	A	B	B	B	0	0	NA			
TH	4	4	9	B	C-	C-	C-	1	1	NA			
TI	0	0	0	D	F	F	F	0	0	NA			
TJ	4	5	10	C	C	C	C	2	2	NA			
TK	3	2	6	B	C	C	C	0	0	NA			
TL	5	3	9	A	B	B	B	0	0	NA			
TM	4	4	9	B	C-	C-	C-	1	1	NA			
TN	22	21	51	C	C	C	C	1	1	NA			
8th Grade Totals/Averages													

Grade Key for 6th Grade
 4 = Exceeds Standard
 3 = Meets Standard
 2 = Working Towards Standard
 1 = Below Standards

Strengthening the Spirit Report - March 2013

STEM	Project Objectives					Program Impact					
	Culture/Language	Healthy/Fitness	Attendance	Math	Grades	Behavior	Courts	Disruptions	Harassment	Suspension	Defiance
DNA	Sun Dance Demo	KROC	STS Attendance								
4-H	NR Beading	Make Sushi									
Cabbage PH	4-H	BMC Speakers									
Ice Cube	Stick Game	KROC									
	HREI										
	Film festival										
	Dream Catchers										
Plummer/Worley School District 6th Grade											
SA	7	3	13	3	NA	2	NA				
RW	10	5	20	3	NA	2	NA				
RB	4	2	10	2	NA	1	NA				
BB	8	4	18	3	NA	2	NA				
SB	9	5	20	3	NA	2	NA				
SD	1	3	7	1	NA	2	NA				
RG	0	0	2	1	NA	2	NA				
JH	11	6	22	2	NA	2	NA				
BJ	8	3	15	3	NA	2	NA				
AN	9	4	17	2	NA	1	NA				
TS	2	6	14	3	NA	2	NA				
RS	8	4	17	3	NA	2	NA				
CS	9	5	19	3	NA	2	NA				
CW	9	4	18	2	NA	2	NA				
Tribal School 6th Grade											
BS	0	0	0	B	C-	NA	NA				
6th Grade Totals/Averages											
63	95	54	212	2	C-	26	NA				
Plummer/Worley School District 7th Grade											
MA	11	4	19	B	B	2	NA				
SB	5	2	9	A	A	0	NA				
MB	9	3	16	A	B-	0	NA				
JB	0	0	0	NA	NA	3	NA				
JD	0	0	0	F	NA	3	NA				
SH	0	0	0	MOVED	MOVED	0	NA				
AJ	9	4	19	A-	A-	0	NA				
SJ	3	1	6	B+	A	0	NA				
ZL	7	4	17	A	A	0	NA				
JW	9	4	18	NA	NA	1	NA				
CW	0	0	0	NA	NA	3	NA				
Tribal School 7th Grade											
BD	10	5	20	B	F	2	NA				
7th Grade Totals/Averages											
34	63	27	124	B	B	14	NA				
Plummer/Worley School District 8th Grade											
TA	0	0	0	F	NA	0	NA				
AS	3	2	8	B-	NA	1	NA				
IW	7	4	17	C-	A	6	NA				
Tribal School 8th Grade											
TG	0	0	0	NA	F	1	NA				
SM	7	4	13	NA	C-	1	NA				
AP	7	4	14	B	C-	1	NA				
SP	8	5	17	A	B	0	NA				
DT	7	4	15	NA	C-	1	NA				
8th Grade Totals/Averages											
22	39	23	23	B-	C-	11	NA				

Grade Key for 6th Grade
 4 = Exceeds Standard
 3 = Meets Standard
 2 = Working Towards Standard
 1 = Below Standards

Strengthening the Spirit Report April 2013

	Project Objectives										Impact	
	STEM	Culture/Language				Health/Fitness		Attendance	Grades		In School Behavior	
	Airtest PDSC Forestry PDSC Rubberbands	AI @ NIC AI @ NIC 4-H 4-H NIC-Field Trip	Racquetball Rockpaint 4-H Trash 1 Trash 2	STS Attendance	Math	Science	Inappropriate Language Disruptions Harassment Suspension Defiance					
Plummer/Worley School District 6th Grade												
SA	7	5	5	17	3	2	2					
RW	7	5	5	17	2	3	2					
RB	1	0	3	4	2	2	1					
BB	3	3	2	8	1	1	2					
SB	7	3	4	14	2	1	2					
SD	6	2	4	12	1	2	2					
RG	3	0	1	4	1	2	2					
JH	8	4	5	17	2	2	2					
BJ	5	5	5	15	2	2	2					
AN	4	0	3	7	2	2	1					
TS	8	5	6	19	3	3	2					
RS	4	2	1	7	3	3	2					
CS	8	5	6	19	3	3	2					
CW	2	3	2	7	3	3	2					
Tribal School 6th Grade												
BS	8	3	5	16	1	1	NA					
6th Grade Totals/Averages												
	81	45	57	183	2	2	26					
Plummer/Worley School District 7th Grade												
MA	4	1	2	7	C	D	2					
SB	5	2	3	10	B-	A	0					
MB	1	1	2	4	B-	C+	0					
JB	6	2	4	12	C+	F	3					
JD	3	1	2	6	C	C+	3					
SH	0	0	0	0	B-	B	0					
AJ	4	2	3	9	A-	B	0					
SJ	4	2	3	9	B-	B	0					
ZL	2	1	1	4	A-	B	0					
JW	2	1	2	5	B+	A	1					
CW	6	2	4	12	C	C	3					
Tribal School 7th Grade												
BD	8	5	6	19	B-	D+	2					
7th Grade Totals/Averages												
	45	20	32	97	B	B-	14					
Plummer/Worley School District 8th Grade												
TA	0	0	0	0	B	B	0					
AS	2	1	2	5	B	A-	1					
IW	8	3	5	16	D	D-	6					
Tribal School 8th Grade												
TG	3	3	2	8	C	C	1					
SM	6	5	4	15	B	C	1					
AP	1	2	0	3	A	A	1					
SP	1	2	0	3	A	A	0					
DT	1	2	0	3	B	C	1					
8th Grade Totals/Averages												
	22	18	13	53	B	C+	11					

Grade Key for 6th Grade
 4 = Exceeds Standard
 3 = Meets Standard
 2 = Working Towards Standard
 1 = Below Standards

STRENGTHENING THE SPIRIT REPORT - MAY 2013

STEM	Project Objectives				Program Impact					
	Culture/Language	Health/Fitness	Attendance	Grades	In School Behavior	Courts	Math	Science		
	Earrings 4-H Fish weirs	Trash-a-thon clean up 4-H Gardening Teens against tobacco	STS Attendance	Math	Language Disruptions Harassment Suspension Defiance	Theft Damage To Property Battery DOC Substance Disobedience	Math	Science		
Balloon cars	6	7	22	3	2	0	3	2	2	0
PDSC	5	6	17	2	3	1	5	5	5	1
Fish Weir -NR	1	2	5	2	2	2	1	1	1	0
Spin Tops	3	3	13	1	1	4	4	4	4	0
4-H Pinewood Derby	6	6	20	2	1	2	2	2	2	0
	4	4	16	4	2	2	2	2	2	2
	3	4	11	1	2	2	2	2	2	0
	4	6	18	2	2	7	7	7	7	0
	5	6	16	2	2	3	3	3	3	0
	4	4	14	2	2	2	2	2	2	0
	6	7	22	3	3	1	1	1	1	0
	4	4	14	3	3	3	3	3	3	0
	5	6	19	3	3	3	3	3	3	0
	4	3	14	3	3	4	4	4	4	0
Tribal School 6th Grade										
BJ	4	3	11	2	2	2	2	2	2	0
6th Grade Totals/Averages	97	71	232	2	2	43	2	2	43	3
Plummer/Worley School District 7th Grade										
MA	2	4	11	C	D	0	12	12	12	0
SB	1	1	4	B-	A	0	0	0	0	0
MB	5	6	20	B-	C	2	2	2	2	0
JB	4	4	13	C+	F	3	3	3	3	0
JD	4	3	11	C	C	13	13	13	13	3
SH	0	0	2	B-	B	0	0	0	0	0
AJ	1	1	3	A	B	0	0	0	0	0
SJ	4	5	15	B-	B	0	0	0	0	0
ZL	2	2	6	A	B	0	0	0	0	0
IW	5	6	20	B+	A	6	6	6	6	0
CW	5	5	17	C	C	3	3	3	3	0
Tribal School 7th Grade										
BD	2	4	13	B-	D+	17	17	17	17	0
7th Grade Totals/Averages	59	41	135	B-	B-	56	3	3	56	3
Plummer/Worley School District 8th Grade										
TA	1	0	4	B	B	0	0	0	0	0
AS	0	0	1	B	A	4	4	4	4	0
IW	5	4	17	D	D	24	24	24	24	0
Tribal School 8th Grade										
TG	2	2	5	C	C	17	17	17	17	4
SM	2	4	8	B	C	13	13	13	13	0
AP	0	0	0	A	A	0	0	0	0	0
SP	2	2	5	A	A	2	2	2	2	0
DT	3	4	10	B	C	23	23	23	23	0
8th Grade Totals/Averages	19	16	50	B	C+	83	4	4	83	4

Grade Key for 6th Grade
4 = Exceeds Standard
3 = Meets Standard
2 = Working Towards Standard
1 = Below Standards



Coeur d'Alene Tribe Department of Education Annual Report

June 2012 through May 2013

Early Childhood Learning Center Programs

ECLC Enrollment Spring 2013

Program	Total Number of Students
Early Head Start	39
Head Start	41
After School Care	20
Total Year End	101
Graduates	19

Native American Middle/High School Programs

Strengthening the Spirit STEM After School Program

Grades 6-8	Total
Total	52

STEM/ Leadership/Sports Camp

Grade Level	Male	Female	Total
Middle School	6	8	14
High School	14	10	24
Total	20	18	38

Natural Resources Camp

Grade Level	Male	Female	Total
5	2	4	6
6	7	3	10
7	1	3	4
8	2	1	3
High School Freshman	0	3	3
Total	12	14	26

Summer Youth Interns

Program	Male	Female	Grade 9	Grade 10	Grade 11	Grade 12	Graduate	Total
ECLC	1	2	1	0	0	2	0	3
Wildlife	2	0	2	0	0	0	0	2
Fisheries	2	2	0	1	3	0	0	4
Benewah Medical	0	2	0	0	0	1	1	2
Fuels	1	0	0	0	1	0	0	1
Forestry	2	0	0	1	0	1	0	2
Recreation	1	0	0	1	0	0	0	1
Environmental	0	1	0	1	0	0	0	1
Finance	0	1	0	0	0	1	0	1
Total Youth Interns	9	8	3	4	4	5	1	17

Success Rate		89%	
High School Graduates		11	14
High School Johnson O'Malley Enrollment: Gender / Grade Breakdown			
Grade Level	Male	Female	Total Number of Students
Freshmen	7	7	14
Sophomores	7	8	15
Juniors	1	9	10
Seniors	4	9	13
Total Year End	19	33	52
High School College Awareness Program Participants			
Grade Level	Male	Female	Total
Freshmen	14	9	23
Sophomores	22	15	37
Juniors	11	14	25
Seniors	18	15	33
Total	65	53	118
North Idaho College Dual Credit Enrollment			
Summer 2013			
North Idaho College Courses (unless otherwise stated)	Male	Female	Total
College Algebra (Math 143)	0	1	1
American National Govt. (Pols 101)	0	1	1
Dual Credit Student Total	0	1	1
Success Rate	NA	100%	100%
Fall 2013			
North Idaho College Courses (unless otherwise stated)	Male	Female	Total
US History to 1876 (Hist. 111)	0	1	1
State & Local Gov. (Pols. 27)	0	1	1
Intro. to Literature (Engl. 175)	0	1	1
Dual Credit Student Total	0	1	1
Success Rate	NA	100%	100%
Spring 2013			
Courses	Male	Female	Total
Physical Geology Lab (Geol. 101L)	0	1	1
Physical Geology (Geol. 101)	0	1	1
Principles of Economics (Econ. 202)	0	1	1
Dual Credit Student Total	0	1	1
Success Rate	NA	100%	100%

High School Career Awareness Program Participants			
Grade Level	Male	Female	Total
Freshmen	14	9	23
Sophomores	22	15	37
Juniors	11	14	25
Seniors	18	15	33
Total	65	53	118

GED Program			
Tribal GED Youth			
Male	Female		Number of Students
3	2		5
GED Adult			
Male	Female		Number of Students
8	7		15
Total Number of Tribal Students Served			20
Percent Completion Rate	0%	0%	0%
Non-Tribal Youth			
Male	Female		Number of Students
2	5		7
Non-Tribal Adult			
Male	Female		Number of Students
38	40		78
Total Number of Non-Tribal Students Served			85
Students Completed GED:	2	1	3
Percent Completion Rate	29%	10%	18%

Pre College			
Course Title	Male	Female	Number of Tribal Students
Skills Tutor Reading/Writing	3	1	4
Math	3	1	4
Completion	0	0	0
COMPASS TESTED	6	1	7
Course Title	Male	Female	Total Number of Non-Tribal Students
Skills Tutor Reading/Writing	4	3	7
Math	6	4	10
Completion	1	0	1
COMPASS TESTED	21	13	34

Native American Career and Technical Education Program (NACTEP)

Total Number of Native Students				
Male	Female	Total Number of Students		
17	10	27		
Total Number of Non-Native Students				
Male	Female	Total Number of Students		
3	9	12		
Total Credits Enrolled	Total Credits Earned	Total Credits Failed	% Unsuccessful	% Successful
645	592	53	8%	92%
Total Certificates Earned		Native	Non-Native	
16		12	4	
Total Degrees Earned		Native	Non-Native	
2		1	1	

Adult Vocational Training Program Summary

Male	Female	Total Enrolled	% Successful
4	1	5	100%
Total Number of Students Who Earned Certificates/Degrees in Associate of Applied Science			
Male	Female	Total	
3	0	3	
Training Center/College	Program Name	Gender	
Seattle Central Community College	Counseling	F	
North Idaho College	HVAC	M	
North Idaho College	Welding	M	

Higher Education Program

Associate of Arts /Associate of Science

Male	Female	Total Number of Students Enrolled		
4	9	13		
Total Number of Students Not Successful				
Male	Female	Total	% Unsuccessful	
2	3	5	38%	
Total Number of Students Who Earned Degrees in Associate of Arts / Associate of Science				
Male	Female	Total		
0	1	1		
College/ University	Program Name	Gender		
SFCC	Liberal Arts	F		

Bachelor of Arts/ Bachelor of Science

Student Enrollment

Male	Female	Total Number of Students Enrolled	
11	11	22	
Total Number of Students Not Successful			
Male	Female	Total	% Unsuccessful
4	0	4	18%
Total Number of Students Who Earned Degrees in Bachelor of Arts / Bachelor of Science			
Male	Female	Total	
2	2	4	
College/ University		Program Name	Gender
WSU		Business	F
LCSC		Social Work	M
University of Washington		Political Science/AIS	F
University of Idaho		Business Administration	M
Master Degree			
Students Enrolled			
Male	Female	Total Number of Students Enrolled	
2	2	4	
Total Number of Students Not Successful			
Male	Female	Total	% Unsuccessful
0	0	0	0%
Total Number of Students Who Earned Master's Degrees			
Male	Female	Total	
2	2	4	
College/ University		Program Name	Gender
U of I		EMBA	F
U of I		EMBA	F
U of I		EMBA	M
Gonzaga		Organizational Leadership	M
Professional Degree			
Students Enrolled			
Male	Female	Total Number of Students Enrolled	
0	3	3	
Male	Female	Total Number of Students Not Successful	% Successful
0	0	0	0%
Total Number of Students Who Earned Professional Degrees			
0	0	0	
Total Higher Education			39

Employment Assistance July 2012-June 2013

Direct Employment Program

Male	Female	Total
2	2	4

Grants

Grantor	Grantee	Title	Grades Served	Award	Status	# served	Grant Term
AT&T	Cd'A Department of Education	College Preparation Program	8 – 12	\$10,000	Funded	100	1 year
BPA	Cd'A Department of Education	Tribal Education and Training	6 – college	\$20,000	Funded	150	1 year
United States Department of Education	Cd'A Department of Education	NACTEP (Native American Career Technical Education Program)	8 – college	\$940,000	Funded	150	2 years
National Aeronautics and Space Administration (NASA)	University of Idaho	Innovation in Climate Education (ICE-Net)	9 – 12	NA	Funded	150	3 years
National Science Foundation (NSF)	University of Idaho	Back to the Earth (BTTE)	4 – 6	NA	Funded	75	3 years
Office of Juvenile Justice & Delinquency Prevention (DOJ) Purpose Area #9	Cd'A DOE/ Tribal Wellness Center	Strengthening the Spirit (STS)	6 – 8	\$463,681	Funded	30	3 years
Coordinated Tribal Assistance Solicitation(CTAS)	Cd'A Department of Education	Purpose Area #2: Comprehensive Tribal Justice System Strategic Planning	All ages	\$75,000	Funded	Tribal CTAS Grants	1 year

Written Testimony for Edward Reina

Edward Reina, (*Salt River-Pima Maricopa Indian Community*), Tribal Law Enforcement Consultant, Retired Tribal Chief of Police

Edward Reina is a member of the Salt River Pima-Maricopa Indian Community and is a retired Chief Police Executive, who worked for five tribal governments: as Chief of Police for four (the Salt River Pima-Maricopa Indian Community, Fort McDowell Yavapai Nation, Reno-Sparks Indian Colony, and Yavapai Prescott Indian Tribe) and as Director of Public Safety for the Tohono O'odham Nation. He served on GLOBAL, a Federal Advisory Committee dealing with criminal justice information sharing; is a board member of the Tribal Law and Policy Institute; is a lifetime member of the Indian Country Law Enforcement Section of the International Association of Chiefs of Police; was the first Tribal Police Chief to serve as President of the Arizona Association of Chiefs of Police and on the Executive Committee of the International Association of Chiefs of Police; served as chairman of the Indian Country Law Enforcement Section (Arizona Tribal Police Chiefs); and served as a member of National Task Force on Juvenile Justice for Native American and Alaska Native.

Mister Chairman and members of the Advisory Committee,

I appreciate the opportunity to appear before you to present the views of law enforcement, on this critical issue affecting the future of our children, family and communities, in Indian Country. I am Edward Reina, Jr. Chief Police; I retired, after serving five (5) Tribal governments, in Arizona and Nevada, a total of forty two years.

Law enforcement is difficult when it involves a response to violent situations involving children. What is particularly heartbreaking is sight of the children crying, or teary eyed as you arrest their parent. But the real tragedy is when you see the child that shows no emotion, the child that sees the situation as a matter of fact. The child that has seen the violence so often that he or she believes that's the way of life, and will likely continue the cycle of violent behavior. What I will present is, 1) what law enforcement agencies can and must do to break the cycle of violence. 2) Provide an example of a multi-disciplinary approach, 3) including the development of training and education necessary to form an effective multi-disciplinary team, a team that will close the gaps we often see within the structure of government services and 4) finally recommendations that will allow Tribal Governments to enhance and expand their current programs and provide the resources for Tribal Law Enforcement agencies to begin development of the multi-disciplinary team concept.

Law Enforcements Role

As the first responders, officers can always make an arrest and temporarily halt the violence. But Law enforcement must go beyond this "band aid" approach and seek a change that will

directly assist the victim and family. Most children look up to law enforcement, and officers are the first person they see after a violent event. If an officer leaves without recognizing and responding to the victim appropriately, the opportunity to intervene is lost. To do this officers must receive training to increase awareness and identification of victims particularly children at risk. The officers should be able to complete an initial assessment and ensure the victim receives immediate services when necessary. This is an adjustment from the traditional style of policing, which is simply arrest and incarcerate. Law enforcement must make this transition to collaborative policing to ensure our communities are safe and the quality of life for our communities is improved. We must interact with our citizen; interact with human service agencies, other service providers and any and all organizations that are willing to help. This is necessary to address the multitude of crime and social problems overwhelming our communities.

Example/Promising Practice

An example, and promising practice I'll discuss is the Prevention Coalition on the Tohono O'odham Nation which is a multi-disciplinary approach, to address the problems that contribute to violence, crime and social disorder. Because of a series of youth suicides, eight in a years' time, we recognized that each department was providing services individually that on occasion were overlapping and duplicated services provided by another department. There were gaps in the system of service providers. We had to establish a system of effective services, to close those gaps. The result was the establishment of the Prevention Coalition. The Prevention Coalition includes representatives, from Tribal departments including Department of Public Safety, Law Enforcement, Judicial, Education, Department of Health and Human Services, Housing Authority, Schools, Faith Based Community, Federal Agencies including the FBI, BIA, DEA, Customs and Border Protection, District Council Chairs and citizen volunteers.

Development of a Multi-Disciplinary Team was a process that required education on the roles of each department, some cross training including education of citizens on their role as part of the Multi-disciplinary Team. As the process developed, and grew it eventually become an essential part of a formal system. It is a style of cooperative and problem solving policing that emphasizes the safety of victims of crime, by promoting the establishment of prevention and intervention programs. With participation of human service agencies, citizens, civic organizations, not only can law enforcement develop effective programs, but other departments can strengthen their services, services that are unique to the community.

The Coalition met monthly to coordinate services and identify areas of concern. Five subcommittees were established 1) Community Policing 2) Community Restoration 3) Prevention Intervention and Treatment 4) Environmental Work group and 5) Law Enforcement. When a concern was identified a joint program was established and if necessary funding was sought.

An example was the Domestic Violence Coalition; after completion of an assessment of services, we identified that the Tribal government Domestic Violence program and the

Prosecutors office, both provided services to victims of crime. As a result a partnership was developed between the Prosecutors office and the Department of Health and Human Services, Domestic Violence program. This partnership doubled the number of personnel serving victims. Also the Domestic Violence Coalition had a concern on the weak Domestic Violence law. Working, with the Coalition which has representatives from law enforcement, prosecutors, defense advocates Tribal legislative representatives and citizens/survivors of domestic violence; they strengthened the law and drafted new laws including victims' rights and a stalking law. These were presented to the Tohono O'Odham Nation legislative council and adopted.

Training and Education

Additionally, the Domestic Violence program provided education for officers on their services and provided pamphlets for the officers to give to victims. The Advocates also agreed to respond to domestic violence calls with the officers and when an officer requested their presence no matter what time of day or night they responded to the scene. Officers teamed with Domestic Violence Advocates in the classroom to develop an understanding of each agencies roles and responsibilities. Advocates went on police ride-along, learning about police operations and the community. Officers were educated on the dynamics of Domestic Violence, to increase their knowledge of treatment issues, as well as the type of services available for the victim. A policy and procedure for the police department was developed with input from the Advocates. Cross training was implemented and as a team, joint power point presentations were made throughout the community at district meetings, faith based organizations and to tribal employees.

One point I want to emphasize is that the multi-disciplinary team concept can be started with minimal or no funding. It can be part of the tribal departments meeting schedule and responsibility. In my example, the Domestic Violence Coalition, additional funding to increase services and personnel was not necessary. By combining resources of the Domestic Violence Coalition and the Prosecutors office services were enhanced and personnel were doubled. Adding to this was trained officers which again increased services for victims.

I suggest this concept can apply to any program particularly to establish Child Protection Teams, although most of Indian Country has or should have in place the multi-disciplinary approach as outlined in the 1990 Indian Child and Family Protection Act. The act included the development of Child Protection teams, which included participation of the FBI, BIA, US Attorney office, Tribal prosecutors, Tribal Child Protection services, Tribal Police among others. Thus there is a basic structure already in place supported by the Federal Act. And the Tribal Governement.

Barriers and Gaps in Systems and Services

A substantial weakness frustrating the development of Multi-disciplinary programs is the hesitancy for change. It's necessary to transform Police Chiefs and social service managers to be effective in the use of Multi-Disciplinary Team programs. They can apply their leadership skills

to promote, inspire, motivate and support the operations of multi-disciplinary teams. The key to overcome this hesitancy is education. I use as an example, the issues we experienced during the development of the multi-disciplinary program with the Domestic Violence program. There was mistrust between law enforcement and victim advocates and several incidents occurred that hampered cooperation. The solution was education and awareness of the roles and responsibilities of both law enforcement and domestic violence advocates. Joint training and “ride along” were used to close the gap of mistrust and hesitancy, until eventually they developed an effective and model Domestic Violence program. An important element of multidisciplinary programs is identifying the gaps in the system and allow the departments to eliminate or minimize the gaps. It is also necessary that prevention programs be recognized as different from intervention programs. As an example, programs provided by law enforcement include police athletic leagues, citizen police academy, neighborhood watch, school resource officers, and others. These prevention programs are excellent but their target is the community at large. Intervention programs target at risk youth and families, children exposed to violence are always at risk. Other at risk children generally have problems at school, are runaways, or children and families that are already in the justice, or social services system. Most of these behaviors are symptoms of a larger problem and may in fact be a child exposed to violence. A multi-disciplinary program can identify the at risk child, and intervene, before they becomes involved in criminal misconduct, socially unacceptable behavior or harm themselves.

Recommendations

Development of Multi-Disciplinary Teams does take time and commitment but it is rewarding and successful program. Based on my experience on developing and participating with multidisciplinary programs I recommend the following;

1. The BIA Justice Services/Indian Police Academy develop training, on the multi-disciplinary approach in policing to be delivered in the field or on site, based on curriculum developed by a multi-disciplinary group.

2. Prevention/Intervention grant awards, be made available specifically to develop multi-Disciplinary teams.

3. COPS program, should focus on intervention in addition to prevention

4. All personnel, should be trained, who have regular contact with families and children i.e. teachers, CPS, law Enforcement and should receive ongoing training on Children exposed to violence.

6. Urge Tribal Governments to support the development of Multi-disciplinary programs within their Tribal departments.

7. Develop Policy & Procedure on “Law Enforcement response to Children Exposed to

Violence”. Law Enforcement agencies have consistently developed policy and procedures to guide officers, identify liability concerns, supported by training. I suggest a model policy and procedure be developed, by a multi-disciplinary group, to include a training key. This should be provided to all Tribal law enforcement agencies. The policy should outline an effective response that should include, but not limited to;

- Assessment of any physical harm to the child
- Minimize the impact and consequence to the children
- Maintain the safety of the child
- Maintain the accountability of the offender
- Knowledge of risk identification and safety planning
- The training key should include training officers

8. Partner with the International Association of Chiefs of Police, The IACP has a project “Enhancing Law Enforcement Response to Children Exposed to Violence” that I suggest Tribal Law Enforcement participate in this project. The IACP has a Indian Country Law Enforcement Section that can integrate Indian Country views into the IACP project. They will build on materials and resources that have been developed as best practices create a series of tools and resources that improve law enforcement agency operations, policies and procedures and enhance or develop models of training for law enforcement, and Chief executives.

Conclusion

I will close, by listing six basic but valuable elements, *stated by Larry Cohen of the Prevention Institute*, on the strength of multi-disciplinary teams. The example I used, the domestic violence program contained each of these elements, and as indicated the program was strengthened significantly.

The strength of a Multi-disciplinary team program has been shown to;

1. Influence Policy & Legislation
2. Change Organizational Practices,
3. Foster Coalitions & Networks
4. Educate Service Providers
5. Promote Community Education
6. Strengthen Individual Knowledge & Skills.

(Larry Cohen, MSW, Prevention Institute)

Again I appreciate the opportunity to present my views. I will gladly answer any questions