



COMMISSION TO ELIMINATE CHILD ABUSE AND NEGLECT FATALITIES

MEETING MINUTES MARCH 25-26, 2015

Meeting Location: Talking Stick Resort, 9800 E. Indian Bend Rd., Scottsdale, AZ 85256

Commissioners Present: Chairman David Sanders, Amy Ayoub, Theresa Covington, Bud Cramer, Wade Horn, Hon. Patricia Martin, Jennifer Rodriguez, Michael Petit, Marilyn Bruguier Zimmerman

Not in Attendance: Susan Dreyfus, Dr. David Rubin, Cassie Statuto Bevan

Designated Federal Officer: Liz Oppenheim, executive director, attended the meeting.

Conduct of the Meeting: In accordance with the provisions of Public Law 92-463, the Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF) held a meeting that was open to the public on Wednesday, March 25, 2015, from 8:00 a.m. to 4:30 p.m. and Thursday, March 26, 2015, from 8:00 a.m. to 12:30 p.m. at the Talking Stick Resort. The purpose of the meeting was for Commission members to explore key issues related to addressing and preventing child abuse and neglect fatalities in Indian Country. It included presentations and discussions related to jurisdiction, data collection and data sharing, and the quality and quantity of services. Speakers included tribal leaders, federal agency representatives, and practitioners. Commission members also continued to discuss the work plans of the Commission subcommittees, information obtained to date, and emerging high-level recommendations.

Chairman Sanders indicated that audience members would not have the opportunity to ask questions during the proceedings and requested that audience members not engage in direct dialogue with the Commissioners. He indicated that any audience members wishing to comment could submit testimony or written feedback through the Commission's website.

WEDNESDAY, MARCH 25, 2015

Opening Prayer and Welcome Remarks: *Martin Harvier, Vice President, Salt River Pima-Maricopa Indian Community*

Martin Harvier opened the meeting with a prayer. He then welcomed the Commission to the Talking Stick Resort and gave a brief history of the land, culture, and languages of the Pima and Maricopa tribes in the Scottsdale region. He spoke of the tribes' current commitment to child safety, which was sparked by the death of two siblings.

Introductions and Remarks: *Commission Chairman David Sanders*

Chairman Sanders gave a brief history of CECANF and pointed out that this meeting would focus on tribal issues. He thanked Commissioners Patricia Martin and Marilyn Zimmerman, whose subcommittee is leading the effort to address issues of safety among American Indian/Alaska Native (AI/AN) children and who structured the agenda for this meeting. Additional key points:

- AI/AN children die from abuse or neglect at twice the rate of Caucasian and Hispanic children.
- The day before this meeting began, Commissioners visited the local Family Advocacy Center, where staff spoke of opportunities for hope for their community.
- This meeting includes information about that center's programs, as well a look at jurisdictional issues, data, resources, and history in Indian Country.

The Impact of Historical Trauma: Panel Presentation

This panel included two youth who spoke about the impact of historical trauma in their native communities.

Megan Gregory

Megan Gregory is from Kake, Alaska and is a member of the Tlingit tribe. Her grandparents were punished for speaking their native language, removed from their families, and sent to boarding school to learn English. Their seven children did not always have a stable home. Gregory's parents, however, were strong role models, and she grew up safe and healthy. Her relatives were not always so lucky. Often cousins came to stay with her family when they did not feel safe at home. Drugs, alcohol, and a high suicide rate are problems in her community.

After high school, Gregory applied for the Rural Alaska Honors Institute and took college courses in Fairbanks. She then became an intern in Washington, DC for Senator Lisa Murkowski of Alaska. When she returned to Alaska, she got involved in her tribal council and native corporation. She attended Indian meetings and youth conferences, tracking positive opportunities for Native youth and explaining her tribal background to her non-Native peers. These experiences helped her build confidence, which she hopes to see in Native youth across the country. She is a champion of mentoring programs.

Philandrian Tree

Philandrian Tree is originally from Tolani Lake, Arizona, on the Navajo reservation, and she currently lives in Flagstaff. She introduced herself in her native Navajo language, listing her four clans, a tradition that was passed down from her parents. This tradition is a dying art, because so many have lost their native language by living in non-Native communities and because generations were prohibited from using their own language by federal Indian policy. Many AI/AN children today are not taught traditional tribal values or their own language and are unsure how to relate to others in the world. Tree pointed out that historically, as tribal systems broke down, so did families.

Extended family is still strong in Indian Country, where grandparents often raise their grandchildren. The court system, however, is not always supportive of such informal arrangements and often wants to move children to a "safe" place outside of the family system. As a result, AI/AN children suffer the trauma of removal and lose their Native identity at the same time, which, Tree explained, can contribute to high rates of suicide, alcoholism, and more. In addition, when families need help, they can't always get services or the services available are not culturally relevant.

Tree urged creation of a national network for Native youth leaders. There are many youth who are motivated to provide a better life for their communities, but they are isolated in their own communities and need support from each other.

Commissioner Discussion

The following key points emerged during follow-up questions by Commissioners:

- Education, on or off the reservation, is important, but it does not guarantee youth a job.
- The Center for Native American Youth has made suicide a main focus, with a goal of connecting youth and figuring out why Native youth have such a high suicide rate. In Gregory's community, involving youth in their culture created a safe place and helped address the fact that Kake had the highest per capita suicide rate in the nation in 1987.
- Traditional medicine practitioners should be sought out for advice on Commission priorities.
- To prevent abuse and neglect fatalities, it is important to start with maternal education, to ensure that single mothers have the support they need and can instill a desire for education in their children.
- Books create a positive bond between young children and parents, but AI/AN children often have no access to books.
- Life skills classes are important for both youth and adults.

Considerations re: Child Fatalities in Indian Country: *Catherine Pierce, Senior Advisor to the Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice*

OJJDP works to meet the needs of youth in contact with the juvenile justice system and to protect child victims of violence, crime, and abuse. Pierce cited a report by the Child Trauma Center that found Native American youth are 2.5 times more likely to experience trauma than their peers who are not Native American. She also mentioned a report on child violence that documented a serious lack of services in AI/AN communities. OJJDP is involved with a number of responses to protect children and eliminate the cycle of violence, including the following:

- A report focused on Indian Country—*Ending Violence So Children Can Thrive*—was presented to the Attorney General in November 2014 and included 13 recommendations directed at federal, state, and tribal governments. An implementation plan is now being developed.
- OJJDP funds children's advocacy centers (CACs) to address child abuse and neglect using multidisciplinary teams of professionals. Currently, 185 of these centers serve AI/AN children.
- The Native American Children's Alliance receives OJJDP funding to provide training to improve tribal responses to the needs of child victims of abuse and neglect in ways that honor tribal sovereignty and empower communities.
- OJJDP supports the National Center for Missing and Exploited Children (NCMEC), which added a tribal law enforcement liaison to its staff in 2014 to enhance collaboration with tribal law enforcement agencies.
- In partnership with the National Institute for Justice and the Office for Victims of Crime, OJJDP is funding development of a survey instrument to assess exposure to violence and victimization among AI/AN communities.
- The Children's Justice Act Partnership for Indian Communities is a grant program that supports tribes in developing programs to improve investigation and prosecution of child abuse cases, including child sexual abuse.

Commissioner Discussion

The following key points emerged during follow-up questions by Commissioners:

- There is a paucity of data on deaths from child abuse and neglect in Indian Country. Pierce does not have a specific number. Commissioners are interested in the characteristics of child maltreatment deaths in Indian Country.
- Pierce will get back to the Commission with information on evaluation or assessments of CACs. She believes that one ingredient in the success of multisystemic death review teams is the collaboration between participants from different fields who come together, without blame, to understand the cause of death and how to avoid it in the future. She linked this approach to the success of CACs as well, where relationships are built over time.
- Tribes often have a poor relationship with state agencies around data issues and thus do not always share information. In addition, some tribal data perpetuates negative stereotypes, and tribal leaders are sometimes reluctant to share it.
- OJJDP co-chairs a coordinating council with the Attorney General's office to bring together representatives across government around juvenile justice issues, including youth who have been in and out of juvenile justice and child welfare.
- Intergenerational trauma is exacerbated when parents are isolated, and it becomes even more difficult to treat when youth in the foster care and juvenile justice systems become parents themselves. Supporting tribal cultural traditions and language helps, as does adapting trauma therapy for tribal communities. This likely will require an individualized approach for each tribe.

Issues of Jurisdiction When a Child Dies in Indian Country: Panel Presentation

This panel explored jurisdictional considerations and challenges when child fatalities occur on tribal lands.

Judge William Thorne, Retired State and Tribal Court Judge

Judge Thorne provided an overview of jurisdictional issues based on his 34 years of experience as a judge in state and tribal courts. Key points of his presentation included the following:

- Tribes vary tremendously in geographical area, membership, and resources. However, the vast majority of tribes are very resource poor.
- Historically, many tribal justice systems required that when a person was harmed, the person who caused the harm needed to make amends for that. That focus was changed by Congress passing a major crimes act; the focus is now on retribution and punishment (detainment) rather than on healing.
- The period of removal of AI/AN children to boarding schools exacerbated problems in tribes by removing youth from sources of potential healing.
- Tribes today have limited jurisdiction over criminal matters; generally, their jurisdiction is limited to misdemeanors committed by tribal members—they have no jurisdiction over non-Indians who commit offenses in Indian Country.
- Tribal law enforcement is often told to hold off on investigating crimes because the FBI may want to investigate. In some places the two agencies cooperate, but in most cases relationships and communication are strained.
- The federal government is now required to notify tribal police about the status of investigations and prosecutions, but implementation is still spotty. Tribes have the authority

to investigate but often are not encouraged to proceed or to share information. Likewise, tribes often do not want to cooperate with the FBI.

- Tribes have concurrent jurisdiction over tribal members on major offenses, but they often lack the resources to treat offenders (particularly young offenders) effectively. Tribes do not want to give up on their youth.
- Jurisdiction is determined by many factors, including who is the offender (Indian or non-Indian), who is the victim, and where the crime took place. In some states, known as P.L. 280 states, the state legislature has assigned federal jurisdiction to the state.
- As a result, people within some communities have to look three different places for protection, prosecution, and help. When reservations cross state lines, the issue can become even more complicated.

Judge Thorne then proposed the following solutions:

- Tribes need resources to properly investigate crimes and assist victims and families. They should be able to share resources with other jurisdictions when necessary to ensure access to labs, databases, criminal records, and other critical tools.
- Tribes need resources to effectively treat offenders, to break the cycle of violence. Tribes need help to keep families together at home, where they can heal, so that there will be fewer offenders in the next generation.
- Tribes need to know when offenders are being returned to their communities, so that they can protect and prepare victims.
- Tribes need access to records of all child sexual offenders to screen their employees (both tribal and non-Native).
- Criminal databases and records ought to be shared between tribes, states, and the federal government.
- Tribal police need to be kept in the loop during investigations, so that they can support these efforts appropriately.
- Tribes ought to be able to prosecute non-Indian offenders.
- As an alternative, tribal attorneys could be sworn in as deputy assistant U.S. attorneys to be able to prosecute where the tribe does not have jurisdiction.
- Federal officials operating in Indian Country should be subject to subpoena by tribal courts, at least in matters of child safety.
- The key to breaking the cycle of violence is to build resilience in youth, by building connections to and pride in families, communities, and tribes.
- Close youth detention facilities, but allow tribes to retain those resources for prevention services.

Dimitra Sampson, Assistant U.S. Attorney, District of Arizona, U.S. Department of Justice

Dimitra Sampson is the supervisor of the Violent Crime Section of the Phoenix U.S. Attorney's office. Key points from her presentation included the following:

- The office has three tribal liaisons and 12 prosecutors who cover all federal violent crimes (e.g., bank robbery, threats, child pornography). Ninety percent of the office's work in

violent crime is in Indian Country. Tribal liaisons conduct outreach with tribal councils and agencies. Each assistant U.S. attorney is assigned to a reservation—they serve as primary points of contact for the reservation and participate in multidisciplinary review processes.

- The tribal multidisciplinary teams consist of federal and tribal law enforcement, prosecutors, CPS, hospitals, victim advocates, social workers, pediatricians, forensic interviewers at CACs, and others. They meet regularly to discuss cases involving children, making sure that the children are in safe places and nothing is falling through the cracks.
- The office also provides training for law enforcement officers on reservations, to get tribal officers commissioned as federal agents as well as to ensure that children are not retraumatized during contact with law enforcement. They also conduct outreach to high schools and other community settings to talk about violence prevention, gangs, drugs, and other issues.
- For the past three years, the local FBI task force has focused its efforts in Indian Country. As a result, federal, state, tribal and local law enforcement and prosecutors have worked together well. They have made an effort to sit down with tribal community members to learn more about the communities' most pressing concerns and how they can help.
- They also have an initiative to address domestic violence more proactively. Rather than just focusing on putting offenders in prison, they are working to provide services and resources where appropriate to help restore healthy homes for children and families.
- Sampson reiterated the importance of sharing data and intelligence among agencies.

Hannah Smith, Attorney General, Eastern Band of Cherokee Indians

About five years ago, Smith and her colleagues at the Eastern Band of Cherokee Indians (EBCI) wrote a grant to OJJDP to build a common framework to unify the multitude of agencies and programs serving the children within the tribe's juvenile justice system. A similar framework is now being used to support a new initiative to take control, jurisdiction, and responsibility for all aspects of child protection on the reservation. Key aspects of this approach include the following:

- The framework is very simple: Although there are many different agencies (sometimes in separate jurisdictions)—and within those agencies, different services and programs—they all need to speak a common language and work toward a common goal of keeping children safe.
- Data are very important: it is critical to have a "scorecard" for how the community is doing that everyone can understand. EBCI developed common, communitywide indicators (e.g., How will we know that we have healthy children and families?).
- They then identified a set of community strategies and developed performance measures for each of those strategies, so everyone understood how the community would measure itself (and its programs and services) around these strategies.
- Through this shared, results-based accountability framework, they have learned a great deal about how to achieve big population goals.
- Multidisciplinary team meetings are a perfect example of multiple jurisdictions and agencies coming together with some common and some conflicting objectives, timeframes, and policies. They are an example of how everyone's heart can be in the right place, but without a common framework—strategies/continuum of services, meeting protocols, and performance measures—meetings can quickly become unproductive.
- It is important for tribes and federal partners to take ownership of their community's children and families, even when they do not have jurisdiction over every criminal case.

- Sharing information is critical to collaboration, and it requires a data management system. Pen and paper aren't enough anymore. It needs to be the responsibility of federal and tribal governments to ensure this ability to gather and share information.
- When it comes to protecting children, there should be no law or policy that prevents tribes from having access to every piece of information about their families (e.g., criminal prosecution, medical treatment, behavioral health, social services). All of this information should be tracked in a shared database.
- Protective factors also are important: EBCI works to ensure that any time a child comes through a federal or tribal agency, everything possible is done to strengthen the child and family's protective factors to sustain them after the agency is no longer involved.

Commissioner Discussion

The following key points emerged during follow-up questions by Commissioners:

- Multidisciplinary teams should include medical providers and law enforcement (tribal, state, and federal). There needs to be an agreement that all partners come together and pool resources, even before jurisdiction is determined, to ensure each child's needs are met.
- There is no single, simple answer to the question of jurisdiction. Tribal sovereignty and local control are important, but federal resources are critical as well. All agencies need to be encouraged to share information and resources (for example, so tribes can send forensic evidence for analysis without losing control of an investigation). This kind of cooperation already happens across jurisdictions in the case of domestic violence protection orders.
- There are not data that show who achieves better outcomes when states and tribes have concurrent jurisdiction. However, there are horror stories about states refusing to take action or getting no cooperation from the tribal community. Relationship-building is critical.
- A focus on healing is important. In the case of a fatality, this healing needs to be "pushed further upstream"; many fatality perpetrators have previously been in contact with the criminal and juvenile justice systems. After an offense has occurred, the responsibility shifts to protecting and healing the family. Locking up the offender is only part of the job.
- The child welfare system currently rewards staff with longevity rather than experience and knowledge. This needs to be reversed, so that more qualified staff are in the field working directly with children and families.
- EBCI is building an integrated child welfare team with behavioral health, child protection, and foster care under the same roof. They are using Medicaid to provide services that have traditionally been provided under title IV-B, and using those services to free up social workers to monitor and support more children in the home.
- There are very few legal barriers to sharing information when it comes to protecting a child. There needs to be more education of school, health care, and criminal justice systems to address myths around barriers to sharing information and to increase access.
- Laws around jurisdiction are often beautifully written, but implementation comes down to who has (or doesn't have) resources available.
- In Indian Country, children are sacred. There is general agreement that the safety and well-being of children is a top priority. In EBCI, the point of the shared framework is to establish exactly how each agency is going to carry out that responsibility, reduce duplication, and hold each other accountable for results. To do this, they are looking at performance data on a monthly basis.

- Smith proposed that where Indian tribes can, they must take responsibility and accountability for their children, even within an environment that is multiagency and multijurisdictional.
- Circumstances for AI/AN children are different from those for other children in foster care, due to the 150-year history of removal of children from their families and tribes. This has wrought destruction in tribal communities and resulted in a cycle of violence and substance abuse. The goal must be to heal, to break that cycle. Safety is the wrong core value for tribes: Well-being must be the core value, with safety seen as a critical subset of that. If the focus is on healing, there will be fewer offenders and children at risk in the next generation.

Data Needs and Opportunities to Better Understand and Support Tribal Children and Families: Panel Presentation

The next panelists shared insights about available data, as well as additional data still needed to have accurate information about fatalities of AI/AN children. Panel members also addressed how to promote data integrity, quality, and sharing between tribal and state agencies for improved and coordinated systems of support for AI/AN children and their families, to enhance prevention and intervention efforts.

Captain Francis Frazier, Acting Director, Office of Public Health Support, Indian Health Service (IHS)

CAPT Frazier first provided an overview of IHS data in general and then spoke specifically about data collected (and gaps in what is collected) regarding child abuse and neglect. His key points included the following:

- IHS is an agency within the U.S. Department of Health and Human Services (HHS) that focuses on increasing services and access to care for AI/AN people. This work is done in partnership with tribes, who manage more than half of the agency's budget.
- IHS has been using the Resource and Patient Management (data) System (RPMS) since 1984. Data from local systems are transferred to the IHS National Data Warehouse (NDW). Data are provided by all federally managed programs; tribally operated programs may report but are not required to do so.
- Tribes may choose not to report because they are using a non-RPMS system, or because they do not want to submit their data.
- There is no national-level report of child abuse and neglect in Indian Country. IHS can pull clinical encounter data related to child abuse, but only if the data are coded that way (using ICD-9 codes) at the local level and reported to NDW. Child abuse is likely underreported. Child abuse and neglect *fatalities* are not captured within the system; IHS must rely on other data sources such as CDC and death certificates, as discussed in prior meetings.
- Data limitations include the following:
 - The NDW receives only a small sample of data from local RPMS servers. To include additional fields would require designing and structuring new data elements and modifying RPMS files and the NDW infrastructure. If facilities do not currently use RPMS, they will need new entry screens, reports, and data interfaces.
 - IHS would need to consult with tribes before adding data elements to the NDW. The agency would need to justify the purpose and how the data would be used and convince tribes of its importance.
- The Commission should make the following recommendations:

- Develop IHS policies, procedures, and clinical measures related to child abuse and neglect. Establish metrics to monitor and improve performance.
- Improve collaboration among local, tribal, state, and federal authorities to intervene in cases of child abuse and neglect among Indian children.
- Conduct research on the specific causes and extent of child abuse and neglect fatalities in Indian Country, as well as best practices for prevention.

David Foley, Navajo Child Death Review Team

David Foley is an epidemiologist with the Navajo Epidemiology Center (NEC), which is part of the Navajo Department of Health. His presentation provided an overview of NEC mortality data sources and reporting, with a focus on data specific to child abuse and neglect and other trauma. Key points included the following:

- The Navajo Nation Mortality Report includes data collected between 2006 and 2009, from Arizona and New Mexico only. It includes data from towns that border the reservation; approximately 46 percent of Navajo tribal members live outside of the Navajo Nation.
- Obtaining data on community of residence has been challenging. Tribal identification is frequently missing from the death record.
- They have not received new data since 2010. The Navajo Nation is working on updating data-sharing agreements with state partners so that the report can be updated. States have expressed concerns about data security. Ideally, the Department of Health would develop its own Office of Vital Statistics so that the tribe would not be reliant upon state offices.
- The leading cause of death for children ages birth to 9 was unintentional injury. SIDS (4.44 per 100,000) and assault (3.7 per 100,000) also are listed among leading causes. Unintentional injury is the leading cause of death for ages 10-19. Suicide is second for older children, and assault is third (4.17 per 100,000).
- Some of the primary data sources for the Navajo Nation include the following:
 - **The Youth Risk Behavioral Surveillance System** survey has been employed since 1997. All middle school and high school youth within the Navajo Nation and border towns are invited to participate. The most recent survey data available are from 2011. Another survey was completed in 2014. This survey captures violent events and suicide ideation and attempts.
 - **The Navajo Nation Health Survey** is an in-person survey of adults conducted by NEC. There is a module of this survey that may be able to measure the percentage of children exposed to sexual and intimate partner violence, but underreporting is suspected due to the survey method (questions are asked aloud, in the home, where a perpetrator may be present). The survey method will be adjusted in the future so that questions are asked via tablet for greater privacy.
 - **The Suicide Surveillance System**, recently created in partnership with IHS staff, aims to collect as much data as possible about all suicide attempts within the Navajo Nation. Data will help inform prevention and intervention strategies. Challenges include sharing of sensitive data between law enforcement and NEC.
- They have a data sharing agreement in place with IHS that will provide access to data from facilities that employ RPMS. Staff are currently waiting for training.
- The next step is to develop a Navajo-specific child fatality review team (currently under way) that will allow NEC to tell a more complete story about child fatalities.

Gladys Ambrose, Navajo Child Death Review Team

Gladys Ambrose is a department manager for the Navajo Department of Family Services. She provided a history and overview of the development of the Navajo Child Death Review Team. Key points included the following:

- A horrific child fatality case originally prompted the Nation to review and revise its child welfare system's policies and procedures. They created a partnership that included public safety, education, social services, the courts, and others; it was expanded beyond the Nation to include partners such as Casey Family Services, the National Indian Child Welfare Association (NICWA), IHS, and more.
- No tribal child fatality review teams currently operate independent of state or county teams. In December 2014, the Navajo Nation Child Fatality Review Team (NNCFRT) was created by tribal legislation. This team spans three states (Arizona, Utah, New Mexico).
- The purpose of the NNCFRT is to recognize that all children are precious and sacred and to review child fatalities (up to age 21) that occur within tribal jurisdiction. The emphasis is on taking actions together to make children safer and healthier.
- NNCFRT has encountered some challenges involving data collection and sharing with other agencies. Tribal data does not belong to the state or IHS; tribes should have free access to their data, which should be used only to benefit the tribe. State, tribal, and federal laws regarding data sharing are often inconsistent.
- Ambrose offered the following suggestions to improve the understanding of child fatalities in Indian Country:
 - Research and begin to understand tribal communities in each state.
 - Recognize and honor the differences among tribes.
 - Invite tribes to the table and begin a dialogue about taboos regarding death, cultural practices, and beliefs.
 - Understand tribal government structures.
 - Recognize that all children are important, regardless of ethnicity.
 - Create an environment to foster a collaborative relationship.

Commissioner Discussion

The following key points emerged during follow-up questions by Commissioners:

- Tribes are not mandated to report data to IHS, but they have an incentive to do so in that data are used to support the agency's overall objectives to improve Indian health. Not all tribes currently report (the exact percentage was not known by presenters).
- IHS does not currently have a specific measure to gather and report data on child abuse and neglect fatalities, but nothing prevents them from doing so.
- Tribes encounter difficulties in accessing information that they need to complete child death reviews, including death certificates and medical information from hospitals. There is no legal barrier, but state and county entities often question tribal access or require specific laws and agreements to be in place.

- Based on data provided by presenters, it appears that the death rate from child abuse and neglect within the Navajo Nation may be significantly higher than the national average (16 per 100,000 vs. 2 per 100,000). Further review may be required to verify that gap.
- Data security appears to be the primary concern that creates barriers to data sharing. New Mexico has a designated tribal epidemiologist who has been very helpful in getting tribes the data they need. They have had more difficulty with other states (Arizona and Utah).
- Data sharing *within* the tribe also has been an issue (specifically between child welfare and law enforcement).

Identifying Best Practices, Quality Services, and Effective Interventions in Tribal Communities: Panel Presentation

This panel provided examples of best practices and spoke to challenges around developing and sustaining efforts that optimally support AI/AN children and their families.

Sheri Freemont, Director, Family Advocacy Center, Salt River Pima-Maricopa Indian Community

The Salt River Pima-Maricopa community is small, with 10,000 residents, 5,000 of which are children. Everyone knows everybody else, a tribal strength. In this community, jurisdiction is not complicated, because most tribal members live within the community's borders. This exclusive jurisdiction gave the community more freedom to get creative in response to two children's deaths in 2008.

Freemont's key points about the community's Family Advocacy Center (FAC) included the following:

- The FAC is a co-located multidisciplinary team, bringing together CPS, law enforcement, prosecutors, and FAC staff in the same building to build relationships and learn from one another.
- After the tribe lost two children in 2008, tribal leadership made children "Priority 1" for every community employee, regardless of position.
- In Arizona there are at least 22 tribes. The FAC is the only tribally based CAC in the state.
- Most jurisdictions use CACs only for major crimes. The Salt River community uses its multidisciplinary team process for *all* child referrals. The community has chosen to front-load resources for low-level referrals and use them as an opportunity to learn everything they can about the family's strengths and risks.
- Their process is trauma informed, acknowledging the humanity of those accused of crimes as well as team members in the room. By the nature of a small community, some team members may have prior experience with the victim or alleged perpetrator.
- They seek to be highly collaborative, including eliminating barriers (or perceived barriers) to sharing information across departments so that decisions are well informed and in the best interest of the child, family, and community.
- The center strives to focus on outcomes. They do not want to be measured by how many interviews they conduct or how many convictions they achieve. Instead, they seek to measure themselves by things such as lower suicide rates and fewer youth in the juvenile justice system.
- Involvement of the education system is critical, including placement of tribal employees in the schools as social services representatives.
- The tribe is still working on improving reunification and other services for families. Right now, removal is happening when necessary to preserve safety. In the future they hope to have more services and fewer removals.

Dr. Earl Sutherland, Medical Director, Bighorn Valley Health Center

Dr. Sutherland is a clinical psychologist who came to work in Indian Country 12 years ago. In 2006, he saw a 13-year-old girl who had reported being sexually abused by her mother's boyfriend. In the absence of a CAC in that community, he was not able to help her effectively; instead, she was removed from her family (mother and sisters) while the boyfriend remained in the home. This became the impetus for that community to create a CAC. His key points included the following:

- Teams of individuals make the difference—it's not rules or procedures, but relationships that create change.
- Their center was created without a building or dedicated funding. It existed for 10 years with very few resources, but it lost the support of the administration and no longer exists today. Dr. Sutherland has since retired from IHS.
- A misconception about IHS is that it is a monolithic organization. Many decisions are made at a local service unit level, and capabilities of administrators vary greatly.
- One common theme among other speakers today is that change happens when tribes take responsibility for their children. If the tribe does not take responsibility and "own" a program, the effort will not last.
- Healing is a very important aspect of this work. Sending children away from their homes and communities is not the solution, and there are few safe places for children to go on the reservation. Parents must be supported with safe housing, substance abuse treatment, and mentorship.
- Dr. Sutherland sits on a joint child protection team for the reservation and off-reservation communities. In the last 3 months, 80 percent of all cases have involved meth. Prevention programs are not having an impact on meth use by parenting-age adults.
- Lack of potential income sources and adequate housing in Indian Country is a serious problem for families.

Tina Welch Saunooke, Program Manager, Safe Babies Program, EBCI

Tina Welch Saunooke manages Safe Babies, a program to improve outcomes for infants and toddlers within the EBCI. They focus on three areas: dissemination, research, and policy evaluations. Key points from her presentation included the following:

- Infants and toddlers are the largest and most vulnerable group in foster care. The longer a child spends in care, the more likely he is to experience multiple placements. These babies are spending their most critical period of development in an unstable environment with inconsistent care.
- Infants under 1 are at greatest risk of experiencing and dying from maltreatment.
- The rate of domestic violence for Cherokee families is 21 per 1,000, which is more than twice the state's rate for the general population (6.4 per 1,000). AI/AN people are also overrepresented in the state among child abuse and neglect substantiations.
- Brain architecture builds early (beginning in utero) and rapidly. Early experiences (including quality of prenatal care, environmental influences, and maternal stress) are very difficult to rewire later in life. Early experiences can either create a foundation for later learning or set the stage for delays and other problems.
- Some stress is good, but toxic stress is strong, frequent and/or prolonged activation of the body's stress-response system in the absence of stable adult support. Signs include frequent

nightmares, re-experiencing trauma, prolonged tantrums, numbing, increased arousal, and prolonged grief. These symptoms can in turn create a cycle of recurrence of maltreatment within the home.

- When children are brought into care, the products of toxic stress (including developmental and language delays, cognitive deficits, and attachment and self-regulation difficulties) must be considered and a plan developed among staff and caregivers for how they will be addressed in a consistent, helpful way. Sometimes this involves referrals to therapy, but other services (e.g., Early Head Start) also must be educated about the impact of toxic stress on children.
- ZERO TO THREE Safe Babies is a national nonprofit program that informs, trains, and supports professionals, policymakers, and parents in their efforts to improve the lives of infants and toddlers. Its mission is to promote healthy development. It is a systems change initiative focused on improving how the courts, child welfare agencies, health care professionals, and other child-serving systems work together on behalf of young children.
- It is important to focus on protective factors that can reduce risk within families, extended families, and communities.
- The Safe Babies program approach includes the following:
 - Increase awareness within the system about issues affecting infants and toddlers.
 - Change local systems to improve outcomes and prevent future court involvement, including monitoring foster care cases of young children.
 - Provide opportunities for increased visitations between young children and their families (a minimum of three per week), with visit coaching.
 - Begin concurrent planning from the start of a case.
- Their goal is to reduce time to permanency for young children, getting them in safe, stable homes as soon as possible, supported with resources as needed.

Commissioner Discussion

The following key points emerged during follow-up questions by Commissioners:

- Positive foster care interventions require a safe place for children to go and ongoing monitoring, support, and training for foster families. Ideally, there are levels of care, so that relative care is looked to as a first option when possible and safe for the child. Other key elements include bringing foster parents together to support one another, respecting the type and level of care that each foster parent wants to provide, and encouraging mentorship of birth families by foster families.
- CACs save money by coordinating investigation and prosecution functions and reducing duplication of effort. Because cases are processed more quickly through CACs, they reduce overall investigation time as well as more expensive “cold case” investigative work.
- Funding of CACs is complicated and varies by state.
- There are no standards for CACs, so they do not all provide the same services or even all have fully functioning multidisciplinary teams. The Salt River FAC is the only AI/AN CAC that operates the way they do, to their knowledge. The model is adapted from a traditional CAC model that focuses more on conviction rates, which is not necessarily a good fit for the tribal community. They prefer to measure outcomes based on long-term community values—e.g., minimization of trauma and long-term well-being for the child, family, and community. This is more difficult to measure but more trauma informed and culturally responsive.

- Salt River currently has approximately 400 children in out-of-home care, at a cost of approximately \$10 million for placement services. About 45 percent of these children are with relatives or in their homes but under legal custody of the tribe. Kinship families are supported, but the cost of providing care can still be a barrier for some families. Foster care is currently self-funded by the tribe, without the use of federal title IV-E funding.
- Multidisciplinary team reviews are conducted on every referral to ensure critical information is shared across departments and that case-specific and systemic barriers are identified and addressed. They also can be conducted at the point of removing a child, to look at what worked well and what did not in that case.
- More pregnancy prevention services are needed to address the high number of unplanned pregnancies in the community. The community is now offering an in-home service that includes a team composed of a behavior coach, a therapist, and a case manager. Parents also need a trauma assessment early in each case.
- There have been two national evaluation studies of the ZERO TO THREE program. A 2011 study looked at the program's impact on children's time to permanency and placement stability. A follow-up study was conducted in 2013 looked at time to permanency and other foster care outcomes.

Exploring the Federal Response to Tribal Issues: Panel Presentation

The final panel of Day 1 addressed how federal partners and tribes work together around all of the issues raised throughout the day's discussions.

Dr. Beverly Cotton, Director, Division of Behavioral Health, IHS

Dr. Cotton is a pediatric nurse practitioner and a member of the Mississippi Band of Choctaw Indians. She specialized in child sexual abuse before coming to work for IHS. She presented on IHS's role in addressing child maltreatment, including the following key points:

- Child maltreatment is addressed in several areas of the Indian Health Manual. The manual does not mandate services that tribes must provide; tribes develop their own health policies.
- IHS is in the process of drafting a stand-alone child maltreatment policy to address identification, intervention, and treatment.
- IHS also provides workforce development and training to its tribal and urban Indian health care programs *and* referral health care facilities. This is done using two formats:
 - The national Tribal Forensic Healthcare Training Project addresses sexual assault as well as child physical abuse and neglect. It was launched in 2013. So far the program has trained more than 90 health care providers to conduct forensic sexual abuse examinations. They are also getting ready to announce a program that will offer tele-health services and case consultations with experts.
 - Through the TeleBehavioral Health Center of Excellence, IHS offers free, virtual trainings on behavioral health issues.
- IHS also is a critical federal partner in two memorandums of agreement (MOA) for behavioral health issues—one under the Indian Healthcare Improvement Act and another under the Tribal Law and Order Act. A framework is now in place for federal cooperation and coordination.
- Several work groups have been formed under these MOAs. One is devoted to data issues—specifically, identifying existing data that could be utilized in a report on the scope of the problem of behavioral health issues and child abuse and neglect.

- Two additional initiatives are the Methamphetamine and Suicide Prevention Initiative (MSPI) and the Domestic Violence Prevention Initiative (DVPI). Both are designed to develop and implement community-driven, culturally appropriate services to address these crises. Both were funded as demonstration projects, ending this year. They are currently collecting best practices and lessons learned from these initiatives.
- In the President's FY 2016 budget, there is a \$25 million increase for the Tribal Behavioral Health Initiative to fund an additional 200 behavioral health providers to address services for children, youth, and families.
- Sustainability is very important. Funding is a big part of that, but so is mentorship and succession planning. IHS is focusing on building the next generation of leaders to run and sustain these critical programs.

Sarah Kastelic, Ph.D., Executive Director, National Indian Child Welfare Association

Sarah Kastelic is the executive director of NICWA, whose mission is to ensure the well-being of AI/AN children and families. She provided both context and recommendations for the Commission. Her key points included the following:

- Tribes are sovereign nations with a special relationship to the United States. Native nations have always had systems of government that dealt with conflict and sought to protect their families and citizens. These were largely unwritten and informal.
- Tribes' right to self-governance was not honored by the federal government until the passage of the Indian Self-Determination and Education Assistance Act, just 40 years ago. The Indian Child Welfare Act (ICWA) is rooted in the self-determination philosophy. It provided the framework and resources to support tribes' ability to protect their own children through child welfare and juvenile court systems.
- Civil jurisdiction is complicated. Tribes have exclusive jurisdiction over children living on reservation or as wards of the tribal court. As PL 280 states, tribes have concurrent jurisdiction with states. The Bureau of Indian Affairs (BIA) continues to provide child welfare services to many tribal communities, because jurisdiction is a separate legal issue from service responsibility.
- Criminal jurisdiction is a patchwork in Indian Country. Law enforcement authority, including the authority to investigate crimes, is complex.
- The bottom line is that tribes retain critical authority with regard to criminal jurisdiction. Tribes continue to work to clarify and reinstate their jurisdiction (most recently regarding domestic violence cases, through the Violence Against Women Act). But this complicated maze of jurisdiction often means that crimes fall through the cracks. Response, investigation, and authority can be the responsibility of ANY of the following in different situations: mandatory reporter, tribal CPS, state CPS, BIA, county law enforcement, tribal law enforcement, tribal health care providers, and more.
- A successful response to reports of child abuse and neglect requires collaboration and strong relationships between and among these agencies and government entities.
- The federal framework presents four key challenges: system coordination, lack of funding, lack of meaningful training and technical assistance for tribes, and lack of support for data collection.
- The federal government recently convened two independent panels to look at the issues of child abuse and neglect in Indian Country: The Attorney General's Advisory Committee and the Tribal Law and Order Commission. These reports contain critical recommendations.

- The Attorney General’s report includes the following:
 - Leaders at the highest levels of government should coordinate and implement recommendations consistent with three core principles: empower tribes, remove barriers, and provide resources.
 - Congress should restore the inherent authority of AI/AN tribes to assert full criminal jurisdiction over all people who commit crimes against Native children in Indian Country.
 - Provide funding to bring tribal criminal and civil justice systems and child protection systems into parity with the rest of the country.
 - Encourage tribal/state collaboration to meet the needs of AI/AN children exposed to violence.
- Recommendations from the Tribal Law and Order Commission:
 - Amend FBI reporting requirements to include information about the location at which a crime occurred and the victims’ and offenders’ Indian status.
 - End all grant-based and competitive funding under DOJ; instead, pool these funds and provide a permanent funding system for tribal law enforcement and justice.
 - Provide federal incentives for state and tribal law enforcement agreements.
- NICWA has five additional recommendations:
 - Recognize tribal criminal jurisdiction in cases of child abuse and neglect in Indian Country, regardless of the perpetrator’s race.
 - Provide adequate funding to tribes for child abuse and neglect reporting, investigations, CPS, and interventions.
 - Mandates on tribal child protection programs should be the minimum necessary to ensure accountability and child safety.
 - Coordination among jurisdictions should be mandated, facilitated, and incentivized.
 - Create a pilot program to support the coordinated collection of child welfare and criminal justice data regarding fatalities in select communities.

Diedra Henry-Spires, Dalton Daley Group

Diedra Henry-Spires spoke to the Commission about tribal access to title IV-E funding. Her key points included the following:

- Title IV-E was enacted in 1980 to provide entitlement funding for foster care and adoption assistance for eligible children. At the time it was created, there was no consideration for children in tribes. In 2005, a proposal to provide direct tribal access to title IV-E funding was introduced in a bipartisan undertaking. It was not enacted at that time.
- In 2008, the Fostering Connections Act created tribal eligibility for title IV-E funds. Initially, 80 tribes expressed interest. About 27 developmental grants were made between 2009 and 2014. HHS also provides technical assistance to tribes through its regional offices and the National Resource Center for Tribes. The President’s 2016 budget provides for additional startup funding support. In 2014, ACF set a goal to approve more tribal IV-E plans.
- The challenges can be summarized by these numbers: 80 tribes expressed interest, 27 had received funding by 2014, but only 5 currently run their own title IV-E program. Some of the reasons for this include the following:

- The legislation calls for tribes to run title IV-E “in the same manner as states.” This does not provide adequate flexibility for tribes to modify IV-E to fit their unique framework. Tribes are sovereign governments, not states, and should be treated accordingly. One example: AI/AN communities need adequate flexibility to implement culturally appropriate compelling exceptions to termination of parental rights guidelines.
- Data collection requirements are another challenge. The law says that tribes must submit AFCARS [Adoption and Foster Care Analysis and Reporting System] data to receive funds. Some tribes have managed to do that; others are still working toward this capacity.
- The need to create, manage, and staff the cost allocation system that accompanies title IV-E funds has been a barrier for some tribes.
- Staffing issues are also a concern. Staff in Indian Country often wear multiple hats, and turnover can be frequent in Indian child welfare programs.
- Regulatory barriers include the appropriateness and relevance of technical assistance, timeliness of reviews, and consistency of instructions.
- Lessons learned include the following. The first three are based on a recent GAO report, and the others are from Henry-Spires’s personal experience:
 - Consider, in consultation with tribes, additional flexibilities in the program that would support tribal implementation (for example, regarding TPR).
 - Create consistent title IV-E guidance for tribes. Document any changes as they are made.
 - Improve timeliness of assistance and reviews for tribes.
 - The discourse needs to change; it needs to be a nation-to-nation conversation with tribes.
 - Create an infrastructure of knowledge about tribal issues in Congress and the Executive Branch. There is a need for staff who are focused on tribal policy in each department and who are collectively accountable to the White House.

Commissioner Discussion:

The following key points emerged during follow-up questions by Commissioners:

- IHS is in the process of developing recruitment efforts to address behavioral health staffing gaps in some parts of Indian Country. Some of the ways they are addressing these gaps include the use of scholarship programs, internships, and loan repayment programs. Having funds available for tribes to hire their own staff is critical.
- The matching requirement for title IV-E (equal to the Medicaid matching rate) can be another challenge for tribes in accessing these funds. Congress built in flexibility for tribes to use in-kind matches, but it is still a barrier. Other challenges include the fact that you need a certain number of children (scale) to make it work, and the amount of required legal infrastructure. Interpretation of the regulations can vary by regional office.
- There is a perception that tribal governments lack capacity and do not know how to provide for their own citizens. This is a remnant of colonization. In order to heal tribal children and families, tribal child welfare systems must be in the hands of tribal governments who know what their children need.
- Despite jurisdictional challenges, the bottom line is that there is not one single discipline or agency or organization that’s responsible for a community’s children. All have a part to play. It must be a collaborative approach.

- BIA is an important part of this conversation, although they could not attend today. BIA and IHS work together regularly to ensure that appropriate services and programs are in place at the federal, regional, and local levels. There have been several attempts to reorganize and reconceive BIA over the years. One thought is for BIA to serve as a trainer and technical assistance provider, setting standards and sharing information. Tribes have a choice about whether they want BIA to provide services directly to their tribe.
- The Port Gamble tribe was able to use a waiver to get title IV-E funding. However, they already had the necessary infrastructure in place; that is the barrier for most tribes.
- NICWA has recommended that there could be a provision in law, parallel to the provisions in the Violence Against Women Act, that says, "Tribes have the authority to prosecute offenders, regardless of their race or ethnicity, who perpetrate acts of violence against children on tribal lands."
- Sovereignty (international law) is the basis for laws between the United States and tribes. However, there is a difference between tribes and other foreign nations, in that tribes are described as "dependent sovereign nations within our borders." This indicates that the United States has certain responsibilities to tribes (such as the provision of health care and education). These services were prepaid by tribes in the form of land.

Closing Remarks

Commissioner Zimmerman thanked the speakers and public attendees. Gladys Ambrose, a member of the Navajo Nation, offered a closing prayer in her native language.

THURSDAY, MARCH 26, 2015

CPS Subcommittee Report

Members of the CPS Subcommittee opened the second day of this meeting by highlighting some general themes that have emerged from public hearings that have influenced the Subcommittee's draft recommendations. Subcommittee members then provided an overview of recommendations (provided in a separate document), using a three-pronged framework:

- Policy and law
- Practice
- Research and data

The discussion among Commissioners that followed touched on the following topics:

- Most Commissioners agreed with the recommendations in principle, but they stated that the recommendations need to be developed further. Recommendations should be actionable and attainable, and they should identify a federal role, specific resources required, what's currently not working that might be eliminated, and how practices can be standardized across jurisdictions. For example:
 - More specifics are needed about what could be done on a federal level through CAPTA or title IV-E, particularly regarding the reorganization of child welfare agencies with more focus on teaming in cases.
 - Commissioners would like to include evidence that demonstrates the benefits of recommended approaches.

- The recommendations appear to provide little insight into what current elements of CPS would go away and what savings (if any) would be realized that might fund new approaches. There was concern about new layers of bureaucracy and services being added without removing elements that are not effective.
- States generally have modeled their quality assurance (QA) plans around the Child and Family Services Reviews, which address safety only in a limited way. There was a desire to better understand how QA varies across states.
- Thirty-two states are now operating under some form of a title IV-E demonstration waiver. The Commission needs to more fully understand what outcomes are being achieved under the waivers and how these projects make the case for greater flexibility in funding. How are IV-E funds being redirected into prevention in waiver states?
- Is the right population of children currently being served by CPS? It was noted that 68 percent of children placed into foster care are removed from home due to maltreatment, but approximately 30 percent are removed for other reasons (e.g., youth mental health issues).
- Should the Commission make specific recommendations about the population of children under the age of 4, who are particularly vulnerable? If so, what are the implications for other age groups?
- If the recommendation is made to enlist a more investigative and team approach earlier in cases, there must be attention to due process and the rights of parents.
- Civil and criminal cases move forward in different courtrooms and on different time frames. What potential conflicts might arise, especially if there is a push to have more child abuse cases being led by law enforcement?
- Attention to improving the investigative process is welcome, but there was some concern that generally too little attention is paid to services *after* investigations, including reuniting families and involving extended family members.
- Better understanding of child safety and decision-making requires examination of the practice of fielding and screening calls at hotlines.

Commission Deliberations on Cross-Cutting Issues

Commissioners then discussed how issues raised during the prior day's hearing on Native American issues cut across the work of other subcommittees. Most of the Commissioners' conversation centered around measurement and data collection, including the following key points:

- Death records often do not identify AI/AN status, which makes it almost impossible to obtain accurate tribal counts of deaths from child maltreatment.
- Tribes have difficulty getting state death certificates.
- There are multiple information-sharing challenges between states and tribes and the federal government.
- Capacity and infrastructure needs around collecting data in Indian Country are tied to funding and resources.
- Historical mistrust between tribes and the federal and state governments complicates data sharing. States need to be educated on this history and why tribes are sometimes reluctant to share information.
- Jurisdictional issues, including identifying which government agencies have responsibility for gathering data, complicate counting and measurement.

Other cross-cutting issues included the following:

- It is important to recognize and respect cultural practices when addressing child fatality prevention (e.g., safe sleep campaigns).
- Multiple systems and teams need to come together to look at services for children and families in Indian Country.
- Resource issues, including funding and training, cut across all subcommittees.
- The tribal health model uses community health representatives for home visiting and reflects the need to push services upstream so that families are not at risk of harming children.
- Jurisdictional challenges are multiplied many times over due to so many sovereign tribes.

Preparation for Upcoming Meetings

To date, Commissioners have deliberated and discussed suggestions from subcommittees that cover measurement, child protection, Indian Country, and public health. Recommendations are still to come from the disproportionality subcommittee. Upcoming public meetings will include approximately four hours of presentations per meeting, with the rest of the time set aside for deliberation by the Commissioners. The Tennessee meeting in April will include an in-depth focus on creating a safety culture and the role of CACs.

The meeting adjourned at 12:00 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



David Sanders, Chairman, Commission to Eliminate Child Abuse and Neglect Fatalities

7-26-15

Date