



Tribal Court– State Court Forum Meeting

FEBRUARY 28, 2019
9:30 A.M.–4:30 P.M.
SAN FRANCISCO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

TRIBAL COURT–STATE COURT FORUM MEETING



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OF CALIFORNIA

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February 28, 2019
9:30 a.m. to 4:30 p.m.
455 Golden Gate Avenue, 3rd Floor Boardroom
San Francisco, California

Agenda

THURSDAY, FEBRUARY 28

- 9:30 – 10:00 a.m. **INVOCATION**
WELCOME AND INTRODUCTIONS
Approve Meeting Minutes for December 13, 2018
Hon. Abby Abinanti, Cochair, Chief Judge, Yurok Tribal Court
*Hon. Suzanne N. Kingsbury, Cochair, Presiding Judge, Superior Court of
El Dorado County*
*Ann Gilmour, Attorney/Forum Counsel, Judicial Council Center for Families,
Children & the Courts (CFCC)*
- PUBLIC COMMENT**
- 10:00 – 10:30 a.m. **SESSION 1: HIGHLIGHTS OF FORUM PROJECTS**
Hon. Abby Abinanti
Forum Members
- 10:30 – 11:00 a.m. **SESSION 2: MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS
REPORT**
*Annita Lucchesi (Southern Cheyenne), Ph.D.- Candidate & Program Researcher,
Urban Indian Health Institute*
- 11:00 a.m. – 12:00 p.m. **SESSION 3: ADDRESSING TRIBAL COMMUNITIES IN RESPONSES TO SEX
TRAFFICKING**
*Hon. Stacy Boulware Eurie, Judge Superior Court of California, County of
Sacramento*
*Kate Walker Brown, Attorney, Director, Child Trafficking, National Center for
Youth Law*
*Suzanne M. Garcia, Tribal Child Welfare Specialist, Child Welfare Capacity
Building Center for Tribes*
- 12:00 – 1:00 p.m. **WORKING LUNCH: SCREENING OF DAWLAND**

- 1:00 – 2:30 p.m. **SESSION 4: MAINE TRUTH AND RECONCILIATION COMMISSION**
*Sandy White Hawk, Founder and Director, First Nations Repatriation Institute;
Commissioner, Maine Wabanaki-State Child Welfare, Truth and Reconciliation
Commission*
*Carol Wishcamper, Commissioner, Maine Wabanaki-State Child Welfare, Truth
and Reconciliation Commission*
- 2:30 – 2:45 p.m. **BREAK**
- 2:45 – 3:45 p.m. **SESSION 5: DEDICATED ICWA COURTS**
Sheldon Spotted Elk and Sheri Freemont, Indian Unit, Casey Family Programs
- 3:45 – 4:30 p.m. **SESSION 6: FORUM PRIORITIES 2019-2020 AND ANNUAL AGENDA/
WORK PLAN**
- 4:30 p.m. **ADJOURN**

This meeting is supported with funds from the U.S. Department of Health and Human Services, Court Improvement Program, the California Department of Social Services and from the Subgrant No. CW 17 16 1535 awarded by the state administering office for the STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or U.S. Department of Justice, Office on Violence Against Women.



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

December 13, 2018

12:15-1:15 p.m.

Advisory Body Members Present: *Hon. Abby Abinanti, Co-chair*, Hon. Erin Alexander, Hon. April Attebury, Hon. Hilary A. Chittick, Hon. Leonard Edwards(Ret.), Ms. Heather Hostler, Hon. Mark Juhas, Hon. Lawrence C. King, Hon. Patricia Lenzi, Hon. Devon Lomayesva, Hon. Lester Marston, Hon. John Sugiyama, Hon. Sunshine Sykes, Hon. Christine Williams, and Hon. Joseph Wiseman

Advisory Body Members Absent: *Hon. Suzanne Kingsbury, Co-chair*, Hon. Richard Blake, Hon. Gail Dekreon, Hon. Patricia Guerrero, Hon. Kristina Kalka, Hon. William Kockenmeister, Hon. Gilbert Ochoa, Hon. Mark Radoff, Hon. David Riemenschneider, Hon. Michael Sachs, Hon. Cindy Smith, Ms. Christina Snider, Hon. Robert Trentacosta, Hon. Juan Ulloa, and Hon. Claudette White

Others Present: Ms.Carolynn Bernabe, Ms. Vida Castaneda, Hon. Edward J. Davila, Ms. Ann Gilmour, Ms. Eve Hershkopf, Ms. Annita Lucchesi, and Ms. Joy Ricardo

OPEN MEETING

Call to Order and Roll Call

The co-chairs called the meeting to order at 12:18 p.m.

Approval of Minutes

The Forum approved the October 11, 2018 meeting minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-5)

Info 1

CoChairs Report

February 28, 2019 In Person Meeting

The in-person Forum meeting will be held on February 28, 2019. Judicial Council staff will email travel information to all members.

Info 2

Federal Court – Power Act Collaboration

Hon. Edward J. Davila, United States District Judge, Northern District of California

A presentation from United States District Judge Edward J. Davila of Northern District of California on possible collaboration regarding the requirements of the federal [Powers Act](#) which mandates that federal courts annually hold events that partner with domestic violence support organizations and tribes. Staff to report back with formal recommendations. Members to contact Ann Gilmour if willing to be in the planning group and continue discussion with Judges Davila and Lenzi.

Info 3

Missing and Murdered Indigenous Women & Girls – Report from the Urban Indian Health Institute

*Ms. Annita Lucchesi (Southern Cheyenne), Ph.D.- Candidate & Program Researcher,
Urban Indian Health Institute*

A presentation from Ms. Annita Lucchesi of the Urban Indian Health Institute on her work on the data gathering and information about the [Missing and Murdered Indigenous Women & Girls](#) report. Ms. Lucchesi highlighted trafficking/missing persons issues within urban areas, process in gathering data missing from law enforcement data records, and the group proposed collaborative solutions to highlighted issues.

Info 4

Bail Reform and Development of Risk Assessment Tools

Eve Herschopf, Attorney, Judicial Council Criminal Justice Services

Hon. Hilary A. Chittick, Judge, Superior Court of California, County of Fresno

Judge Hilary Chittick gave an update on developments in California's bail reform and discussed how these ongoing developments might be of interest to the work of the Forum and tribal communities in general.

She explained that every jurisdiction has some form of pretrial release. Some jurisdictions use exclusively bail either commercial bail or posting a fixed amount with the court. Some jurisdictions based on a pretrial risk assessment involving a combination of assessment and interview. An example is the Federal system. Some jurisdictions use pretrial release using a range of options, including electric monitoring and property bonds. Examples include Washington DC, Kentucky and recently New Jersey. Some jurisdictions use a combination of both.

In some jurisdictions pretrial release decisions are discretionary with law enforcement. For example, California has a misdemeanor field citation system. Nineteen California counties are subject to Federal overcrowding consent decrees which result in basically no pretrial detentions because of the overcrowding issue. California currently has a bail-based system with commercial bondsmen. The advantage is that it is quick, and if you are wealthy you can always get out. Also, according to bondsmen, more likely to return because family friends have put up the money. The disadvantages of the system are that if you are poor, it is harder to get out. Money (10%) is paid to purchase the bail bond and will not be returned even if you do everything correctly, return for every court date, and are eventually found innocent. Family and friends are on the hook for the money, sometimes for years if paid in installments, even if you show up to everything. Often you must put up collateral for the remaining 90%. Research also shows that gang members will post bond for other gang members and DV victims sometimes post bond for those who have victimized them.

The challenge is to create a system that treats everyone fairly, rich or poor, while correctly assessing risks, and the ability to mitigate them. The main risks to be considered are:

1. Risk of nonappearance pending trial
2. Risk of commission of a new offense while pending trial
3. Risk of commission of a violent offense while pending trial
4. Risk of loss of job, family and social connections while detained. (Risk of losing pro-social connections and habits and gaining criminogenic ones while detained, especially for low and medium risk people who are detained with high risk defendants.)

As an alternative to a money bail-based system is to create a system based on a correct assessment of these four risks. The higher the risk of 1-3, the less likelihood of release. The higher the risk of 4, the greater the likelihood of release. Balance these risks to determine release.

To achieve the improvements we are seeking, it is critical that this assessment be done fairly, without any implicit bias. A variety of risk assessment tools have been developed using either points or an algorithm to assess risk. It is important to assess whether they are fair. Do they either overstate or understate risks for certain ethnic or other minority groups? The advantage of tools is that, if designed correctly, they provide a baseline of information for the court in making its decision about pretrial release. Important to distinguish sentencing algorithms from shorter term pretrial risk assessment tools.

It is important that those tools be used in conjunction with other information and judicial discretion in making decisions about pretrial release. In California there is no county I think or no proposal to have these tools or algorithms alone decide about release decisions. They are just tools to be used in conjunction with other information about the individual and their circumstances. But judicial discretion depends on the information that is provided, so if I don't know that an individual is a member of a tribe and that the tribe may be able to offer services or pre-trial supervision I won't be able to take that into consideration.

A challenge in trying to mitigate risk 4, is that these determinations about whether to release an individual must be made quickly. The evidence shows that even one or two days of detention can have an impact on a person's job, housing, and family. However, to properly assess risks 1-3, it must be thorough and takes time.

Proper design of the system involves not just the assessment of risk, but the ability to mitigate those risks. It is critical for local communities and populations such as tribes, that may be impacted by the system to have input on system design. Right now, in California even if SB 10 is moot, counties are designing systems. It is important to inquire what is going on in your county, and to have input early in the system design. My pie theory – a small deviation at the center of the pie results in a much larger piece by the time you get to the edge.

SB 10 provides for input on the tools to start with, as well as a continual evaluation of their efficacy and fairness. The Judicial Council is to study and authorize the use of risk assessment tools, but local jurisdictions pick which of those tools they will use. Then there will be an ongoing assessment of the tools, but we can only assess and examine the information that we are looking for, so if we want to know whether these tools are disparately impacting Native Americans we will have to be asking about people's Native American status.

Local determination on additional exclusions for pre-arraignment release of medium risk individuals, and the creation of alternative ways to mitigate risk. Availability of tribal services, programs and pre-trial supervision would be important in determining ways to mitigate risk for tribal members.

Info 5

Recent and Upcoming Conferences

Vida Castaneda, Senior Analyst, Judicial Council Center for Families, Children & the Courts

- The *16th National Indian Nations Conference* was held last week in Coachella Valley, California on the reservation of the Agua Caliente Band of Cahuilla Indians. Many Forum members were in attendance and presented in workshops.
- The *California Partnership to End Domestic Violence* is hosting their annual conference on March 11-12, 2019 in Los Angeles at the Sheraton Gateway Hotel. There will be a tribal track at this conference and workshops will be focused on domestic violence issues. For more information about this conference please email: conference@cpedv.org
- The *Bay Area ICWA Symposium* will be held in November 2019 and the *Beyond the Bench Conference* will be held in December 2019. If you have speakers in mind, topic areas or workshops you are interested in having at these events, please let Vida Castaneda know.
- *Forum E-update Newsletter* for more information on upcoming webinars or out of state conferences.
- *Tribal Justice Project* of UC Davis, hosted by the San Manuel tribe, will be held January 31-February 2, 2019 for court personnel and tribal judges.
- *Tribal Court Advocacy Program* will hold a 3-day training for tribal courts in March 2019 at the Tule River. The Yurok Tribe will be hosting in May 2019.

Next Forum call is April 11, 2019.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 1:13 p.m.

Pending approval by the advisory body on February 28, 2019.

SESSION 1:
HIGHLIGHTS OF FORUM
PROJECTS

TRIBAL REENTRY ADVOCACY GUIDE

A Roadmap for Increasing Access
to Justice & Opportunity
for Tribal Members with
Criminal Records Through
Collaboration & Partnership



AUTHORS AND CONTRIBUTORS

Root & Rebound: Root & Rebound (R&R) is a national reentry advocacy organization that addresses racial, economic, and social inequities within the criminal justice system and the reentry process by restoring and protecting rights, dignity, and opportunities for systems-impacted people. Our mission is to transfer power and information from the policy and legal communities to the people most impacted by our criminal justice system through public education, direct legal services, and policy advocacy, so that the law serves, rather than harms, low-income communities and communities of color in the U.S.

Our Team: Thomas Alexander, Briana Barnes, Amber Dean, Eva DeLair, Omar El-Qoulaq, Felicia Espinosa, Sam Epstein, Carmen Garcia, Lupita Garcia, Jon Grobman, Nicole Jeong, Katherine Katcher, Cassandra Little, Chloe Noonan, Ana Pano, Faride Perez-Aucar (lead author), Cal Smith, K.C. Taylor, Sonja Tonnesen, Deric Washington

Yurok Tribal Court: The Yurok Tribal Court, directed by Chief Justice Abby Abinanti, is a holistic tribal court in Klamath, California that emphasizes Yurok values of healing and redemption through assumption of responsibility rather than the traditional U.S. criminal justice system values of retribution, incapacitation, and deterrence. This Court has a model which works much differently from that of traditional U.S. systems. For the Yurok Tribal Court, tribal values should drive the development of practices. This is done by supporting the traditional values of the people and having those values inform the development of the Court as a modern institution. The Court's role is to protect the values of the people, to support the development of those values within each member of the community, and to ensure that their responsibility to protect their traditions and traditional lands is carried out.

About Abby Abinanti, Chief Justice, Yurok Tribe: Judge Abby is an enrolled member of the Yurok Tribe and has been Chief Justice of the Tribe since 2008. She served as a San Francisco Superior Court Commissioner for approximately 20 years, assigned primarily to Dependency and Delinquency. Abby was the first California native to be a member of the State Bar and to be appointed to a state judicial position. She is newly appointed by Tani G. Cantil-Sakauye, Chief Justice of the California Supreme Court, to the co-chair of the Tribal Court-State Court Forum. Abby is a graduate of the University of New Mexico School of Law.

ACKNOWLEDGEMENTS

This Guide would not have been possible without the following contributors: Chief Justice Abby Abinanti, Yurok Tribal Court; Faride Perez-Aucar, Root & Rebound; Emma Marsano, Volunteer Researcher; our tribal partners at the Yurok, Hoopa, Tolowa Dee-Ni' Nation, Yuki Trails, Cahto, Round Valley, Hopland, Pomo and Karuk Tribes, as well as the Sonoma Indian Health Center, Northern California Intertribal Council, and the Consolidated Tribal Health Project. Thank you for your support and partnership!

TRIBAL PARTNERS

- Yurok Tribe
- Hoopa Tribe
- Tolowa Dee-Ni' Nation
- Yuki Trails Tribe
- Cahto Tribe
- Round Valley Tribe
- Hopland Tribe
- Pomo Tribe
- Karuk Tribe
- Sonoma Indian Health Center
- Northern California Intertribal Council
- Consolidated Tribal Health Project



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INTRODUCTION

PURPOSE OF GUIDE

Root & Rebound and the Yurok Tribal Court have developed a partnership to increase access to legal advocacy, justice and opportunity for systems-impacted tribal members in Northern California over the past two years. We believe it is critical to share our learnings, so these partnerships and accompanying reentry advocacy work can grow and replicate nationally.

By sharing our learnings and best practices for providing reentry legal clinics and advocacy support in rural, tribal communities, this Guide is meant to be a starting point for legal practitioners, tribes, philanthropists, and community-based organizations to expand or begin partnerships that increase access to justice in rural, indigenous communities across the U.S. It presents historical context, challenges to tribal reentry justice, and best practices gleaned through partnership in an effort to encourage collaborations in rural, tribal communities. By piloting this Project together as a legal aid organization and a tribal community and court, we hope our learnings can help others hone the program to the needs of Native people and develop best practices that can scale to the other 565 officially recognized tribes in the U.S. and more.

Each community is its own and knows what is best for itself. In that regard, true partnership begins with a culturally affirming, responsive approach, not a one-size-fits-all model. While this Guide will point at best practices, we believe it is critical to do the groundwork by directly engaging in conversation with and listening to tribes. In so doing we will be putting the voices of impacted tribal members front and center in designing and leading the work. The goal of such a partnership is not to replace tribal resources but instead, replenish communities with partnerships and investments in advocacy, with the hope that outside assistance will eventually not be needed.

INTENDED AUDIENCES

We hope to reach the following audiences with this Guide:

- *Legal Aid Organizations*
To provide simple, concrete steps to utilize this model, and for use as a “how to” manual for reaching underserved tribal and rural communities in individual states.
- *Tribal Members, Governments, Courts, and Staff*
To provide a model for tribal government, courts, and staff showing how they can collaborate with outside legal aid organizations to increase access to justice for tribal members with records.
- *Groups Committed to Civil Rights, Criminal Justice System Reform, and Racial/Economic Justice*
To provide context and critical considerations about the impact of the criminal justice system on indigenous rural community members, and to inform policy reform efforts intended to assist individuals with prior system involvement in attaining equal access to justice and record-cleaning remedies.
- *Private and Public Funders: Philanthropists, Government, and Foundations*
To encourage private and public funders interested in supporting underserved communities and criminal justice reform to invest in tribal justice projects across the country and within their states.

ABOUT THE TRIBAL REENTRY ADVOCACY PROJECT

The **Tribal Reentry Justice Project** is a collaboration between the Yurok Tribal Court and Root & Rebound and has since expanded into several more tribal communities in Northern California. As a collaborative project, one of our primary goals is to fill a gap in legal advocacy for Native people impacted by the criminal justice system and who are returning to their communities from prison and jail. Launched in 2016, the pilot project began with the **Yurok Tribal Court**, which oversees legal matters for California's largest surviving Native tribe comprised of 6,500 members, and **Root & Rebound**, an organization that works through education, advocacy, and reform strategies to protect and restore the rights of people directly impacted by the criminal justice system. They may include people in reentry, those with arrest and conviction records, formerly incarcerated individuals, and impacted family members and loved ones. The Project brings legal clinics, trainings, direct services, know-your-rights resources and information to underserved tribal communities to break down barriers for Native people who are systems-impacted. It is intended to improve access to employment and opportunity, and support families and communities as they heal from crime and incarceration.

Since its launch, the Project has grown and reached many additional tribes in the Northern California and Southern Oregon regions. Tribal partners now include the Yurok, Hoopa, Tolowa Dee-Ni' Nation, Yuki Trails, Cahto, Round Valley, Hopland, Pomo and Karuk Tribes, Sonoma Indian Health Center, Northern California Intertribal Council, and the Consolidated Tribal Health Project.



PROJECT GOALS & INTENDED OUTCOMES

The following are recommended goals and outcomes which helps us keep the Project's overall purpose in mind:

Restoration of Rights

By protecting and restoring the rights of Native peoples, they can have access to more agency and freedom to empower themselves and their communities, who are too often ignored or erased by criminal justice reform efforts. Attaining legal rights can increase self-reliance and self-determination in tribal communities. People with criminal records face over 48,000 legal barriers. Specifically, people with criminal records face a myriad of collateral consequences in categories such as record-cleaning, education, family and children, court-ordered debt, employment, public benefits, housing, parole and probation, ID and voting, immigration, and tribal issues.

Public Education

Through legal trainings and workshops and by creating and disseminating know-your-rights materials, Native people with prior justice system involvement can gain legal knowledge and skills to better advocate for themselves and their communities. Not knowing one's rights or not knowing the steps to access them is a key barrier to justice, especially in low-income and rural communities.

Tribal and Rural Access to Justice

By providing mobile legal clinics and remote (long-distance) legal services and follow up support, Native people can access lawyers and legal resources from within their own communities.

Racial Justice

The failure of U.S. politics and criminal justice reform efforts to include Native people and tribes has perpetuated economic and political disenfranchisement. A goal of this Project is to elevate Native voices, experiences, wishes and needs, as well as push the criminal justice reform movement with legal and policy communities to be more inclusive.

Collaboration and Organization

Through a collaborative model that unites tribal agencies with legal services providers, this approach to reentry advocacy can be replicated and scaled in other parts of the state and country. Native service providers and directly impacted Native people have shaped the design and approach of this work, with a goal to pilot creative solutions that could meet the nationwide demand for reentry support in tribal communities.

CORE VALUES OF THE TRIBAL REENTRY ADVOCACY PROJECT

The following project and organizational values have guided our collaboration and supported the positive outcomes of our work:

- Promotion of Self-Reliance, Self-Determination and Cultural Autonomy in Tribal Communities
- Humility and Respect for Leaders and Strengths of Tribal Communities
- Intrinsic Human Dignity for All People
- Democratization of Law and Policy to Serve Low-Income Communities and Communities of Color
- Equal Access to Justice
- Uplifting the Values and Culture of the Tribes
- Sensitivity to Historical and Intergenerational Trauma Resulting from Unjust Conduct

By beginning this work with purpose, intention and well-thought-out organization goals, projects can be built without risking loss of priorities and focus.

CONTEXT & NEED: WHY THIS WORK IS CRITICAL

Due to the traumatic history that exists between the United States' legal systems and tribal nations, legal practitioners (especially non-Native organizations) should be aware of unique cultural dynamics in beginning this work. Learning the context of why this work is needed is a starting point, as is an understanding that tribal partners are the leaders of this work and should be supported in establishing services that are particular to their own community.

While this section outlines historical and intergenerational traumas and common barriers to justice in rural, tribal communities, it does not replace the groundwork necessary to building a true partnership between a tribal community and a legal services provider. We hope this information is just a first step in understanding the history of the criminal justice system and other unjust actors in tribal communities, and the importance of legal advocates and criminal justice reform efforts to proactively engage with tribes, putting the voices of impacted Native people front and center in advocacy work.

HISTORICAL AND INTERGENERATIONAL BARRIERS TO JUSTICE

It is impossible to understand how the criminal justice system impacts Native people and communities without an awareness of the historic use of the U.S. legal system to criminalize indigenous peoples' cultures and very existence, and Native people's history of resisting genocide. We strongly encourage further reading on these topics.¹ This Guide will focus more specifically on common legal barriers that Native people living in rural, tribal communities face today after involvement with the criminal justice system. This Guide outlines factors that organizations partnering with tribes and tribal courts should consider to successfully support tribes in combating an unjust "justice" system.

The Impact of Mass Criminalization on Native People and Communities

The U.S. criminal justice system disproportionately impacts Native Americans, yet research focusing on Native American people in the criminal justice system is difficult to come across and policy reform efforts are very limited. The research that does exist shows that Native Americans are more likely to be killed by police than any other group² and are incarcerated at over 2 times the rate of white people.³ Native women are incarcerated at *six times* the rate of white women.⁴ In county and local jails nationwide, the overall rate of incarceration is increasing: between 1999 and 2014, the number of Native Americans incarcerated increased by nearly 90%.⁵

These disparities are especially severe in states with large Native American populations and communities. According to the Bureau of Justice Statistics, jails in the Midwest and the West—where Native American populations are higher—have the most starkly disproportionate incarceration rates⁶ and account for about 80% of Native people who are in jails.⁷

California, which has the highest population of Native people in the U.S.,⁸ has the fifth-highest number of Native people in jails.⁹ The Bureau of Justice reports that in 2011, about 8 in 10 adult Native Americans confined in jail had been previously incarcerated in jail, prison, or another correctional facility, which was higher than the rate for all other racial groups.¹⁰ Once incarcerated, many Native Americans experience injustices such as the unlawful denial of religious freedom and the right to engage in cultural practices.¹¹

Rural Service Void

Around 54% of Native Americans live in rural areas,¹² and as this Guide will explore, Americans living in rural areas face greater barriers to accessing legal services. According to a 2017 study, low-income people living in rural communities received inadequate or no professional legal help for 86% of their civil legal problems.¹³ This is deeply troubling when 3 in 4 low-income rural households have experienced at least one civil legal problem in the past year, and nearly 1 in 4 low-income, rural households have experienced 6 or more civil legal problems in similar time frames.¹⁴ In combination with the difficulty in accessing legal services, tribal community members face widespread discrimination and additional barriers, which are exacerbated by rural geographies. For example, residents living on Yurok Tribe reservations have an average poverty rate of 80%,¹⁵ and despite the lower crime rates reported in rural areas across the country,¹⁶ the pretrial populations of rural jails have increased at twice the rate of the national pretrial jail population.¹⁷ In part, this increase is the result of systemic service gaps in rural communities, including the "remote location of courts, scarce public defender services, and few diversion and pretrial services programs."¹⁸ Given the already high levels of Native incarceration, Native people in rural areas are at an even higher risk of system involvement and typically lack access to needed legal advocacy services.¹⁹

Incomplete Sovereignty

Tribes are considered "domestic dependent nations" under U.S. federal law, which means tribes should have inherent jurisdiction over their territories and communities. In practice, however, the federal government has the power to restrict and even abolish tribal jurisdiction and, in many cases, self-government. The tension between the idea of inherent tribal sovereignty and the ability of the federal government to modify the scope of that sovereignty, results in the creation of legal barriers that predate the formation of the United States.

Today, there are 566 federally recognized tribes in the U.S.,²⁰ yet many more tribes are either state-recognized or not formally recognized at all. In California, the state with the greatest number of people with Native American heritage, there are 109 federally recognized tribes and 78 petitioning for recognition.²¹ This is due to federal and state governments' shifting recognition policies through the years and the federal government's power to claim the right to "recognize" inherently sovereign nations. Unrecognized tribes are excluded from attaining certain rights, government grants, services, and other cultural, psychological, and sovereignty-related benefits. Throughout history, every U.S. administration has supported or threatened tribal sovereignty to a different degree, recognizing more tribes or terminating (de-recognizing) tribes as a result.

A lack of sovereignty becomes a barrier when communities are struggling to develop programs and resources for those who are most vulnerable. A lack of tribal recognition limits funding and derecognizes tribal government law and practice. This can ultimately erase many rights from Native people and prevents the self-determination needed to thrive. This erasure is especially burdensome for Native people living with convictions, who already face the stigmas and the removal of rights associated with conviction histories.

CLIENT SPOTLIGHT

At a legal clinic with the Sonoma Indian Health Center, Root & Rebound helped a client successfully lift a hold on his driver's license due to unpaid child support debt. After he had his driver's license restored, he was able to increase his working hours, now able to drive to work and no longer facing transportation barriers living in a rural area with almost no public transit.

In addition, states do not have authority over tribal governments unless expressly authorized by Congress.²² However, in 1953, Congress enacted Public Law 83-280 to grant certain states criminal jurisdiction over Native Americans on reservations.²³ This further complicates tribal communities' dealings with the criminal justice system, for it creates simultaneous jurisdiction under the purview of federal, state and tribal law. Essentially, a conviction can be classified under 3 systems at once, with federal and state governments usually given much more authority to dictate the lives and rights of tribal members, impacting their livelihoods and autonomy. And as mentioned, traditional U.S. courts do not have sufficient importance attached to cultural dynamics and considerations. All in all, the generational struggle for sovereignty has very real implications for the everyday function of tribal member's lives. The complications that come with varying jurisdictions and at times, the ignorance of the role of culture and traditions, can have very real consequences that must be noted when conducting this work.

Education & Colonialism

There are great disparities between the participation of non-Native communities in dominant institutions of the U.S. educational system and that of Native American communities. In 2016, 87% of Americans over 25 years old graduated from high school or completed their GEDs, and 30.3% had completed a bachelor's degree.²⁴ In the same year, 31.6% percent of Native people had high school diplomas or GEDs, while only 9.6% had bachelor's degrees.²⁵

These disparities must be understood in the context of Native American peoples' experiences with the American educational system. For hundreds of years, the U.S. government has used education as a tool to try to forcibly assimilate Native people into white-dominant, "mainstream" American culture; to erase indigenous cultures and languages; and to erode tribal sovereignty. From the 1870s through the 1970s, the federal government had a policy of removing Native children from their home communities and placing them in "Indian boarding schools," most of which were chronically underfunded, fed children poorly, and made use of corporal punishment, contributing to intergenerational cycles of trauma and violence in Native communities.²⁶ The federal government threatened tribes who resisted this system with violence or the denial of necessary resources, including food supplies. Non-Native "teachers" at these "schools" abused children for speaking their Native languages, a policy that led to the total or partial loss of many indigenous languages and other cultural practices.²⁷ The institution of boarding schools led to generations of trauma and loss in Native communities.

Today, tribal schools run by the federal government on or near reservations are among the lowest-performing schools in the country.²⁸ Native students in other parts of the public school system also face significant barriers to success. This is tied to the fact that 31% of Native students attended high-poverty public schools.²⁹ Structural racism adversely affects Native students across the board. The low rates of education—and the reasons behind them—have wide-ranging implications, which are important for outside organizations to understand and consider. Rates of incarceration are correlated to the lack of educational resources, insufficient school funding, zero tolerance policies, pressure to push out low-performing students to boost test scores, and the presence of police in schools, all of which contribute to the "School to Prison Pipeline."³⁰

To further complicate the issue of education, there are varied attitudes toward government-established education in Native communities. Many tribes focus on education and encourage students to attend college to set themselves up for success; there are also strong movements among youth communities to attain higher education and uplift their communities. That said, there remains antipathy among some regarding American "education" as a general goal, given tribes' history with the U.S. education system, which has historically misrepresented the tribes' histories, and ongoing experiences of racism and discrimination. Altogether, these factors continue to inform and are important to understand the distinctive needs of Native communities.

ONGOING BARRIERS TO RURAL, TRIBAL JUSTICE & LEGAL SERVICES

In setting up the **Tribal Reentry Advocacy Project**, Root & Rebound and the Yurok Tribe have developed strategies to work around some of the ongoing barriers that rural, tribal communities impacted by the criminal justice system face in accessing legal services. The challenges and barriers discussed here are many of our learnings to date, but are not exhaustive, as our partnership is continuously learning, growing and evolving. Every community is unique, so it will be important to learn about the challenges and barriers from community members' perspectives, and not assume the barriers outlined here will exist everywhere. For legal practitioners looking to replicate this Project, it is critical to speak with tribe members, elders and leaders about the most critical "justice gaps" in their community: *What does the criminal justice system and reentry landscape look like for your community? What are the political and other influences that will impact legal advocacy work for systems-impacted tribal members? What are the major barriers and challenges that tribal members with criminal records are facing?*

The barriers covered below range from logistical barriers to systemic and structural legal challenges. We hope these considerations will contribute to a larger conversation to support rural, tribal communities, legal practitioners, advocates and funders to identify and strategize how to mitigate and eliminate ongoing barriers to accessing justice and legal services.

Scarcity of Resources for Rural Tribes

The lack of resources many tribes face relates to rural geography and U.S. settler colonialism. Today, Native Americans have the highest level of poverty of any racial or ethnic group, double the national average in 2014,³¹ and over five times that national average on reservations.³² The lack of economic opportunity on many reservations is a driving factor behind this high level of poverty and can be traced to the federal government's power to draw the boundaries of reservations throughout the 19th and 20th centuries.³³ The poverty that persists today in rural, tribal communities has a number of implications for collaborations between tribes and outside organizations, some of which are outlined below:

- **Transportation**

There is typically limited access to transportation in rural areas. Residents in rural communities often navigate between unreliable public transportation and an inability to pay for their own form of transportation. In rural areas, driving is often necessary to work, live, and get around. For many people with system involvement, the consequence of having a suspended driver's license can be devastating to their livelihood, and many people feel they have no choice but to drive on a suspended license to survive, putting their rights and freedom at risk. The remoteness of many tribal communities can also make it difficult for clients, volunteers, and other participants to attend events, like training, legal clinics, and other mobile services.

- **Access to Technology**

Limited and spotty access to technology, Internet, and cell phone service can make it challenging for clients to get legal support—e.g., requesting, accessing and sending their legal records, communicating with legal professionals, etc. In rural communities, basic record access is a major concern and often a place where practitioners can facilitate services. For event outreach, this can also be a challenge since modern forms of advertising through social media and email are limited.

- **Lack of Basic Resources**

Some rural, tribal communities lack basic necessities, including electricity, running water, healthcare, and food. It is important to consider the implications of the scarcity of such resources for clients' lives. For instance, some communities are in food deserts, and only have access to food at gas stations, via subsistence hunting, or other limited means.³⁴

The scarcity of resources in combination with a lack of economic support compounds the need for services providers in rural, tribal communities. When legal issues arise, Native children are often at the center of this struggle, often finding themselves tangled in the U.S legal system without legal representation for themselves and their families.

U.S. Legal System and Its Impact on Native Families & Children

The U.S. legal system has had an unjust impact on Native families and children, including a long history of government-sponsored boarding schools, which forcibly removed Native children from their families and home communities. Tribal communities continue to fight against the removal of children by Child Protective Services, a government agency that removes Native children from their families and communities and place them with non-Native families at highly disproportionate rates.³⁵ The **Indian Child Welfare Act (ICWA)** is a law that passed in 1978, in response to political pressure after research findings showed that 25–35% of *all Native children* had been removed by state child welfare and adoption agencies, and placed in foster care outside of their family and community.³⁶ The ICWA attempted to alleviate this issue by including provisions which prioritized Native children’s best interests by promoting the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture. Even with ICWA in place, Native children are still disproportionately placed in the foster care system today.³⁷

In leading reentry legal clinics for rural, tribal communities over the past two years, Root & Rebound has supported clients who face systematic marginalization within the foster system, including the following:

- *Dismissal of Child-rearing Practices*

Notwithstanding the passage of ICWA, many family courts and judges still default to thinking a nuclear family setting with biological parents as primary caregivers is the ideal situation for a child. Indigenous cultures that prioritize the role of extended family in raising children do not align with these imposed western values and can make custody cases difficult from the outset. In rural, tribal communities, there is a relatively high rate of having multiple generations of family members living under the same roof. But CPS policies hold that a child cannot be placed in a home where any resident has been convicted of a non-exemptible offense, which can make it difficult for parents or family members to retain custody of their children or live with family members who have prior system involvement.³⁸

- *Dismissal of Cultural Practices*

Courts imposing federal and state policies on tribal citizens do not center or prioritize the role of tribes’ cultural practices in childcare. For example, one Root & Rebound client had been charged with child endangerment for having her young daughter in the car without a car seat. The woman was not using a car seat because her tribe’s custom is to keep children in a particular kind of basket until the age of nine months. Here, and in many other situations, custom was not deemed a legitimate excuse by the court. As in this mother’s case, the court’s lack of understanding of cultural practices led to automatic criminalization, which can lead to system involvement, a criminal record and its associated consequences, including the loss of parental rights.



- *Insensitivity to Prevalence of Domestic Violence*

Domestic violence is prevalent in tribal communities. In the context of custody, there are certain CPS policies which state that children cannot be placed in a home where any resident has been convicted of a “non-exemptible” offense. In practice, this means that a parent who still lives with a partner who has been violent toward them or towards a previous partner might lose custody of their own child, based on the presence in their home of a person convicted of a non-exemptible crime, and not based on their own wrongdoing. There is also no consideration for any mitigating factors (such as time elapsed since conviction and successful completion of recovery programs, including those addressing domestic violence) in determining the appropriateness of the child’s living situation.

Conviction-Related Issues

Members of rural, tribal communities also run into issues with the criminal justice system based on prior convictions. Certain types of convictions are prevalent, based on behavioral and systemic trends in rural areas generally and tribal communities specifically. Knowing how these trends impact a specific community is an important element of preparing for a clinic or other form of tribal-legal partnership.

- *Drug Convictions and Criminalization of Native Cultural Practices*

There is a long history of substance use in Native American communities, which is related to histories of trauma. Awareness of this history and familiarity with trauma-informed approaches to rehabilitation and recovery are crucial for successful collaborations.³⁹ The Bureau of Justice reports that American Indians have the highest number of DUI arrests at a rate of 479 per 100,000 people, compared to 332 per 100,000 people for all races.⁴⁰ In recent years the opioid crisis has severely impacted tribal communities.⁴¹ This crisis was created in part by the infusion of these drugs via the only health care provider readily available, Indian Health Services.

Another less common issue is the cultivation of peyote, which is a part of many Native ceremonial practices and is criminalized in the U.S. Cultivation of peyote appears on the California Child Protective Services’ list of offenses which is against the law in the home and exemptible⁴² only after five years have elapsed. Even if qualified as an exemptible offense, the exemption process is an arduous process which poses additional challenges.

- *Domestic Violence and Sexual Violence*

In the U.S., violence against indigenous women has reached unprecedented levels on tribal lands and in Alaska Native villages.⁴³ More than 4 in 5 American Indian and Alaska Native women have experienced violence and 1 in 2 Native women have experienced sexual violence.⁴⁴ Given the multiple risks present in Native communities, the prevalence of posttraumatic stress disorder (PTSD) is substantially higher among Native persons in the general community. It is likely that higher rates of exposure to traumatic events coupled with the overarching cultural, historical, and intergenerational traumas make this population more vulnerable to PTSD. This is an additional component to consider when servicing tribal communities.

- *Gun Rights*

Because firearm use is common for hunting and for people’s livelihood, questions about gun rights, particularly for those who have been involved with the criminal justice system, are often an area of interest. Many people in rural areas make use of firearms for subsistence and recreational hunting, so firearm use tends to be a fixture in rural, tribal communities. Many tribes also use firearms as part of ceremonial and cultural practices.

The central point to be made, based on the challenges outlined above, is that collaborations between rural, tribal communities and outside organizations present a unique set of challenges not present when working with urban populations. For a collaboration to succeed, the priority must be to promote a community's self-determined goals. As such, it is imperative not to impose a predetermined value system on a community in the course of a collaboration. Typically, the dominant culture in which most Americans participate has systematically erased the histories, cultures, and values of Native peoples, and the challenges facing tribal communities today. So it is particularly important for outside organizations to focus on being receptive and responsive to a community's stated goals and needs; to become educated on the historical and present context of the challenges facing a community; to be aware of the outside organization's culture, value system, and potential blind spots; to identify assumptions that outside organization members might make about tribal communities; and to suspend those assumptions and judgments.

Despite these challenges, the success of our collaboration has motivated Root & Rebound, in partnership with the Yurok Tribe, to externalize the model that we have developed over the course of the two-year collaboration. Strong collaborations between tribes and external organizations can have a powerful impact on legal access in rural, tribal communities. This kind of collaboration is especially important given that funders have tended to ignore the unique needs of rural, tribal communities, a problem exacerbated by the misconception that most Native people live in urban areas. In the next sections, we will provide details on the methodology of our collaboration, including recommendations and strategies that we have employed to address the challenges outlined above. The hope is that future collaborators can build on what we have learned and continue to build this work throughout the U.S.



BEST PRACTICES FOR REENTRY LEGAL ADVOCACY IN TRIBAL COMMUNITIES— A ROADMAP FOR REPLICATION IN YOUR STATE

This section discusses in more depth the collaborative approach to developing the Tribal Reentry Advocacy Project, along with best practices and tips for organizing rural tribal clinics and trainings for justice-involved people. For collaborations, we encourage legal services practitioners to take creative and holistic approaches to sharing legal resources, knowledge, and power.

BEST PRACTICES IN PARTNERSHIP & COLLABORATION

This Project began when Root & Rebound’s Executive Director, Katherine Katcher, and the Yurok Tribal Court Chief Justice, Abby Abinanti, met at a panel discussion about supporting women of color in reentry. There, the two discussed their work, visions and priorities as social justice advocates. Judge Abby later joined Root & Rebound’s nonprofit Board of Directors, and together the two organizations secured a multi-year grant to support the development of the **Tribal Reentry Advocacy Project**. In Judge Abby’s words, “It was Katherine Katcher’s vision of justice which inspired a collaboration in which [I] would provide the need and Root & Rebound would provide services.” Katherine describes “how the partnership was built on trust and mutual respect, with the needs of the Yurok community front and center, dictating the shape and form of our legal advocacy and support.”

Thus, the Project was built upon personal relationships and mutual goals to expand access to legal advocacy for people impacted by the justice system and reduce the “justice gap” in tribal communities. By coming together as leaders to share their vision and pursue resources that would make it possible, the collaboration has been a truly mutual effort, resulting in dozens of mobile legal clinics and trainings on reentry issues in rural, tribal communities across Northern California. Katherine mentions that “a door was opened for us to make an impact in a community that has long been neglected/overlooked, and we understood that, as outsiders to that community, it was on US to learn how to approach, support, serve, and advocate for that community, new to us [...] but all was done in the spirit of humility, and knowing that the skills we brought to the table as attorneys were powerful, but needed to be shared, adjusted, and molded to fit the needs of this community.”

Additionally, Root & Rebound and the Yurok Tribal Court shared a vision of a different justice system, one that values strengthening people and communities holistically. Specifically, Root & Rebound has a three-part model—Education, Advocacy, and Reform—focused on restoring and protecting the rights of systems-impacted people. This aligns well with Judge Abby’s mission to strengthen a holistic tribal justice system, based on the values of healing and redemption through assumption of responsibility.

ROOT & REBOUND’S MODEL

- **EDUCATION** Self-help resources due to lack of lawyers for poor communities, trainings to share knowledge skills between lawyers & impacted people
- **ADVOCACY** Community-based and mobile legal clinics, direct services and court representation, Reentry Legal Hotline—the only in the U.S.
- **REFORM** Impact litigation & legislation to restore the rights of people impacted by the justice system, work alongside systems-impacted people to change laws & policies

In addition to having aligned leadership and missions, it was critical to partner with local tribal service providers, tribal government agencies, and other rural community partners in bringing the **Tribal Reentry Advocacy Project** to life. Some of the key ways our teams did this was by:

- *Working with Rural Courts*

Rural courts have varied levels of receptivity to working with advocacy organizations. Hours for courts in rural communities are varied and at times unpredictable. As in most other locations, court documents and processes can vary which can add additional challenges, especially when communication is difficult.

- *Relationships to Tribal Courts*

Tribal justice systems are regarded differently by state and federal government and by tribe members themselves, on a tribe by tribe basis. It is important for partnering organizations to understand the extent of tribes' justice systems, and tribes' relationships with surrounding courts, to understand the specific needs of community members.

- *Varied Reentry Services & Policies*

The policies of rural courts and agencies are more varied than in other areas. Often, these institutions offer few or no reentry legal services. So attorneys should be vigilant in ensuring that clients' rights and remedies are respected and implemented by local authorities. For example, it might be necessary to recognize that fees are being assessed to someone who qualified for a fee waiver, or that a rural court is refusing to accept state-approved forms and contact the court on a client's behalf.

- *Connecting with Local Tribal Services & Programs*

Some rural, tribal communities have existing programs for tribal members with incomplete or underdeveloped procedures in place to address the needs of those with criminal records. It is important to understand what policies and procedures are in place in order to advise clients accurately.



PRACTICAL TIPS FOR DEVELOPING LEGAL CLINICS AND TRAININGS TO SUPPORT TRIBAL MEMBERS WITH PAST JUSTICE SYSTEM INVOLVEMENT

The Tribal Reentry Advocacy Project focuses on two main types of events: legal clinics and legal trainings. This section provides an overview of key goals, outcomes, and steps for both components of the Project.

LEGAL CLINICS

Legal clinics are organized with the goal of removing legal barriers for community members while also informing them of their individual rights. Clinics address local needs and make services easily accessible and free of charge. In addition, these clinics are intended to be holistic. The following section includes practical considerations in establishing clinics.

Finding a Clinic Location

Clinic locations can have a significant impact on client turnout. If possible, clinics should be located in central areas that are accessible through public transportation. At times, social service agencies are able to provide bus passes for free, which can facilitate client access to clinics. In general, travel can be difficult due to unreliable bus lines and limited funds for gas. Having clinics in locations near other health, public benefits, and social services facilities can also be of benefit for individuals who have limited means of transportation and use clinics as a way to complete multiple errands.

To avoid the resurgence of trauma, clinics should be held in locations which will attempt to avoid triggers associated with system involvement. For example, early in the Project, a clinic was once held inside of a courtroom. A client at this clinic mentioned she was uncomfortable staying long because she was reminded of instances in her life where a court room brought negative experiences. Because tribal communities are also highly policed, individuals are sometimes not willing to attend clinics located in areas with high police presence. Here, it is also of benefit to have developed partnerships with the community, so they can identify ideal clinic locations. Availability of internet access and telephone services is also important, as this can affect immediate access to relief (some issues can be resolved on site with a quick phone call, i.e.— a client thought the reason her license was suspended for 6 years was because she owed thousands of dollars in fees but in fact, after a simple phone call to the Department of Motor Vehicles, fees were only \$55).

Targeted Outreach

Outreach is a critical part of organizing a rural tribal clinic. Acquiring a significant turnout can be difficult to accomplish when there is a history of harmful legal policies and lawmaking which has led to a general distrust of legal service providers. Outreach should be done along with trusted partners who may be able to provide familiar and trusted spaces to hold clinics and any additional resources. Because community partners are such an important aspect of this Project, they should always be given credit for their contributions. An example of this is through flyers, which should include partner information and logos.

For a better turnout, there should also be clear communication on the availability of holistic services (this of course is reliant on the type of clinic that will be organized). For example, instead of having a flyer advertise “Record Cleaning” which limits expectancy to one service, advertising “Reentry Clinic” can promote a wider range of services. It can also help to include a list of services with examples of the types of aid that will be provided. If multiple clinics will be taking place in different but nearby locations, one flyer with all the clinic locations and contact information can facilitate the transfer of more information with the option to choose which clinic they would like to attend. Additional outreach can also be done through local newspaper listings, tribal newsletters, local radio, tribal courts, transitional housing, large local employers and other social service agencies.

Scheduling Appointments

Establishing clinics with a holistic approach means that legal topics can vary widely. By allowing clients to call in and schedule appointments before the clinic, many of these issues can be researched and/or prepared for in advance of the clinic date. For this reason, it is important to begin scheduling appointments in advance, as early as 5-7 weeks before the clinic, so that research can be done effectively. When appointments are scheduled, clients can also be prepared and asked to bring materials and other supporting documents (i.e. support letters for declarations, court ordered course completion, RAP sheets etc.) as well as what they will do at the clinic (i.e. sign documents, fill out declarations). Although scheduling appointments can be important, there should also be a consideration as to whether walk-ins will be allowed. Because these can sometimes fill an immense need in the community, Root & Rebound allows for walk-ins until the very end of the clinic. Many times, clinics are organized as one-time events and client relationships end the day of the clinic. Root & Rebound has a model in place with the goal of providing follow up as needed and within 4 weeks of meeting with the client. Because the issue may be resolved at the clinic, there is no requirement for this. When organizing a clinic, appointments should be scheduled with an eye on organizational capacity but with consideration that many times there are no shows.

Holistic Collaborative Services

For a more holistic clinic, a good strategy is to contact local legal aid organizations and fill in gaps with other services. For example, one organization who specializes in record cleaning can offer expungement services followed by a more holistic intake (including family, employment, driver's license issues etc.) completed by you and your organization. Having an intake which will ask an array of questions can be necessary in order to unearth this information from clients. If budgets allow, transporting volunteers in cars or busses can be an easy way to get volunteer attorneys and law students to participate in clinics. Partners often provide their own services, so it is also important to communicate with them about what they may be able to offer before and after the clinic.

Court Logistics and Specifics

As in any clinic, it is important to know the specific rules of local courts. At times, there may also be a number of courts with multiple jurisdictions to consider, which makes having a good relationship with local courts important. By communicating clearly, sharing documents promptly, providing information relevant to individual cases, and collaborating on record-cleaning procedures, we were able to establish a positive relationship with rural courts in the areas in which we operated. It is particularly important for outside organizations traveling to an area to be consistent and efficient in communicating with courts, to demonstrate the ability to save time for all involved and take as much of the logistical burden as possible off of the courts themselves. It is also important to acknowledge and understand any pre-existing relationships with tribal governments, community members and state courts.

Preparing and Maintaining Documents

Before arriving at the clinic, each client who has scheduled an appointment should have a folder with documents prepared. Court documents specific to clinic locations should be printed beforehand, so that they may be signed and completed on site. Having a mobile printer (with double-sided printing and scanning) can also help with maintaining documents for record keeping and future reference. One staff member should be assigned to record keeping and every other staff member should have a checklist for forms to complete with clients (i.e. waivers, limited scope agreements, follow-up steps etc.). For follow-up and future clinics, having relevant documents on file can facilitate future assistance.

Clinic Connectivity

Internet and phone service are very useful if available. In setting up for the clinic, make sure to find the nearest source of internet and phone service before beginning to see clients. It is also important to know specific court hours, which can be sporadic or shortened in rural areas. Knowing court hours in advance can inform which client appointments to prioritize, since this contact may be critical for completing paperwork.

Wait Times

While waiting for an appointment, a staff member can explain other resources available to the client before talking to an attorney. For example, Root & Rebound creates toolkits for individuals who are system-impacted that focus on various reentry issues. These materials can be disseminated before speaking with an attorney who may or may not be able to resolve their legal issue at the clinic.

Ideally, community responsive materials, such as Root & Rebound's Reentry Guide chapter on tribal law, should also be available for distribution. The tribal chapter is printed before clinics to share and ensure responsiveness to unique needs in the community. This allows for individuals to leave the clinic with a resource that they can share with others, regardless of any additional services they may receive. Likewise, making sure that there is enough space to allow for confidential communications can sometimes be difficult when location options are especially limited. When speaking with partners, ask about the location and figure out a way to have enough space to ensure confidential communications. This can be particularly important in small communities where information travels fast and clients are concerned that their personal matters will be shared. If possible, also have snacks, beverages and childcare services for clients.

Post Clinic Follow-Up Support and Communication

As discussed in the first section about resources scarcity and technology barriers, communication can sometimes be difficult in rural communities. Phone numbers are often changed or disconnected, internet service may be difficult to access, and addresses are often changed and sometimes none existent. It is important to ask clients the best way to communicate with them before communication lines become blurred. Whether there are trusted community members, family members, friends or other trusted individual informational sources, having additional contacts can be very important in maintaining communication. Follow-up should be completed within 4-6 weeks of the initial clinic. Although some clients will have more advanced issues than others, it is important to communicate and update them about their case. At Root & Rebound, cases can always be reopened and often, more issues can arise. Follow-up should involve an openness and willingness to continue support if needed.

Mobile, holistic legal clinics are at the center of this Project, helping people with prior justice system involvement who live in rural, tribal communities address the immediate needs, legal issues and barriers they are facing because of their record.

CLIENT SPOTLIGHT

At a legal clinic with the Round Valley Tribe in Covelo, California, Root & Rebound drafted legal pleadings for a tribal member asking the local court to end her probation early, which would allow her to advance her employment options. The court granted the request to end her probation early based on her strong showing of rehabilitation and accomplishments in the community, and Root & Rebound is continuing to support her in dismissing the underlying convictions so she can move up in her career!

TRAININGS

Trainings have been another important component to this collaboration. The goal of training sessions is to support and reinforce self-reliance and self-determination in rural, tribal communities. Trainings are an important way of democratizing knowledge while also transferring power and investment to under-resourced communities. The following are practical tips and considerations for setting up trainings in rural, tribal communities:

Advanced Planning and Logistics

Know the audience that you will be training and what their needs are. It is essential to reach out to partners beforehand, to determine the highest needs in the community. If there are specific legal barriers which are common in the area, significant time should be devoted during trainings for these. On occasion, the knowledge base for particular legal issues can be developed further. In these cases, more advanced courses or a series of trainings may be necessary. If certain equipment is needed for trainings (i.e. projector, screen, video, audio etc.), make sure to call ahead to determine whether this is available. Internet service may also be sporadic, so it is always important to have a presentation that is not reliant on internet access.

Targeted Outreach

Contact local service providers including: social workers, case workers, local reentry organizations, legal service providers, tribal courts, employers, law enforcement supervision and any other relevant entities to offer trainings on relevant legal subjects. Many times, rights are not asserted simply because they are not known as legal rights. Reaching out to an array of organizations can help circulate critical information about rights and resources throughout the community. Trainings can also be dedicated to the community. Trainings can be open and involve topics which have become a common question in the community. These trainings can even take place during clinics with the intention to communicate information about common or recurring issues to a larger number of people while simultaneously allocating time for one on one consultations if questions remain.

Prepare Materials

Include learning objectives and agenda at the beginning of the presentation and allow some time for participant modifications. Sometimes moving learning objectives with the most interest to the beginning of a long training can reinforce retention of the subject. Prepare visuals, such as PowerPoint, to support learning. However, keep in mind that internet access may be limited, so downloading to a computer beforehand is a good idea. Print hard copies of important resources to share, as well as a list of web links for those who do have internet access. Root & Rebound prepares a number of toolkits which cater to different audiences, which are always shared and sometimes used during trainings. Having toolkits, handbooks, and brochures to share can be a great visual for learning as well as a resource to keep and share.

“FAIR CHANCE HIRING” EDUCATION

Root & Rebound provides trainings on “fair chance hiring” to unlock opportunities for people with records and ensure employers are following the law. As part of our advocacy for tribal members, Root & Rebound has trained tribal employers including the Yurok Tribe Gaming Commission on the quickly evolving federal, state and local fair chance hiring and “Ban the Box” laws and the benefits of hiring system-impacted people. Educating local employers on fair chance hiring laws and best practices ensures compliance with applicable laws, while also providing information about the many rewards of hiring people with records.

Follow-Up Communications

Keep in touch with individuals after training sessions and figure out ways to support them in the future. Initial trainings can be a step towards a series of trainings. Offer distinct topics and continue to educate and support with ongoing changes in the law.

Collecting Data & Tracking Impact

If the goal is to create long-standing change, which would make this type of work obsolete, it is important to survey and track the assets and needs of rural, tribal communities. This allows for a compilation of information that can be used internally, to create more specialized services and clinics but also as systemic research. This information can help inform policy recommendations for local, statewide and national work. Root & Rebound maintains a database for common issues as well as surveys which can be used to calculate client satisfaction. An additional part of the work is to continue to ensure that the work is valuable and done properly. Surveys should be included either at clinics or once follow up is completed to ensure this information is tracked.

While clinics focus on providing one-on-one support to people, the reentry legal trainings complement and expand upon individual client support by sharing learnings and know-your-rights information at a larger scale and offering continued professional development for local service providers seeking to better serve people with records and abide by the law. By providing consistent trainings on relevant issues, this knowledge can continuously grow and develop.

CLIENT SPOTLIGHT

Bill is a Root & Rebound client who had a felony drug charge from 15 years ago, one he never knew he could clear from his record. Living in rural Klamath, CA he was cut off from legal aid that he might have found in a more urban area. **Bill's record narrowed possibilities in his life, and he felt there was so much he would never be able to do because of his past mistakes.** When R&R traveled to Klamath, Bill met with us and found out he had a good shot at getting his record cleaned. After R&R started the process on his behalf, he was soon asked to appear in court. Bill said that when he went before the judge, he felt proud presenting his best self, talking to the judge on his own terms. Bill's record cleaning was approved, and for the first time he felt that he could build a future he wanted for himself and his children.

"I didn't dream as big as I dream now because a lot of options were not available to me. That's a big thing. Now, I could petition for school, get a degree. Might be a lawyer, might be a nurse—now I don't know what I want to do 'when I grow up!' The world is my oyster."

SUMMARY OF RECOMMENDATIONS

Over the past two years of providing reentry advocacy clinics and trainings in partnership with rural, tribal communities, Root & Rebound ran into some challenges. This section provides a summary of developed work-arounds and relevant insights that ameliorate learning curves for other organizations hoping to build on our work. In this section, we recount important considerations in light of the prominent barriers to justice faced by rural, tribal communities and suggest ways to prepare for these challenges. These recommendations are drawn from two years of work with the Yurok and other California tribes. Every step of this process is documented and surveyed. Outcomes are collected to keep this work sustainable and constantly improving.

Though this section lays out recommendations, it is impossible to give universal instructions for building partnerships and programs with tribes. Every tribe's situation is distinct, and it is important to recognize and challenge colonial perspectives which reduce diverse Native people to a single category. In partnering with tribes, it is essential to work on a case-by-case basis, responding to the specific needs, culture, and existing legal infrastructures of a given community. Outside organizations should start by learning from existing advocacy programs and legal systems within tribes, to uplift and support a community's ongoing work. There must be careful thought given to the needs of Native communities in any social justice work, because social justice work can never be divorced from the experiences of Native American people. Native Americans have a profound history of injustice which, in one form or another, continues to the present. For this reason, social justice work should center Native people as part of any advocacy effort that works to resolve existing societal inequalities. The following text highlights suggestions based off of Root & Rebound's experiences for those who hope to engage in partnerships between tribes and outside organizations.



PRIORITIZE RELATIONSHIP-BUILDING

Having Judge Abby on the Root & Rebound Board and as a lead on the Project was crucial to our ability to respond to the needs of the Yurok Tribal citizens. To support the foundation of this Project, we work with collaborators such as the Yurok, Hoopa, Tolowa Dee-Ni' Nation, Yuki Trails, Cahto, Round Valley, Hopland, Pomo and Karuk Tribes, Sonoma Indian Health Center, Northern California Intertribal Council, the Consolidated Tribal Health Project, and Tribal TANF offices, to build professional and informal relationships. Strong relationships are crucial to creating responsive partnerships and to promote knowledge sharing in the community. Partnerships work best when there is a pre-existing relationship, with a history of collaboration and where trust has already been built. Successful partnerships will seek to encourage self-determination for individuals and communities together.

BE FLEXIBLE AND BE RESPONSIVE

Many challenges will arise when establishing a new project with an entirely new group of people. Often, individual partners who facilitate collaborations will also shape the nature of that collaboration. The key is to be flexible and responsive to the needs and criticisms of the community with which you are partnering. Being flexible with client needs will also be required, as issues may vary from place to place. Likewise, client communication may be sporadic in rural communities which means that working with clients can at times require corresponding via mail and other delayed means. Practitioners may be spending time after a clinic to do logistical work for a client and generally taking on administrative burdens. It is important to be patient, flexible and responsive to partners and clients alike.

CLEAR AND CONSISTENT COMMUNICATION IS KEY

Clear, consistent, and open communication is key if an organization hopes to be credible, trustworthy and create longstanding relationships with rural, tribal communities. As mentioned, communication can be difficult in rural areas for many reasons. It is important to communicate often with partners and clients, especially during follow up. When appropriate and with client permission, consider taking the names and numbers of friends and family who can help connect you to the client in the future. If there is a plan for future clinics, it is also a good idea to communicate the date with clinic attendees. If an exact date has not been identified, an estimated date may still help inform next steps for clients.

CONFIDENTIALITY REQUIRES GREATER MEASURES IN RURAL AND TRIBAL COMMUNITIES

Confidential communication can be an issue when clinics are organized in small areas in the community, so attempt to have distinct spaces for client meetings to ensure confidentiality. Ask permission before using social service providers, family, friends, or other community partners to follow-up with clients post-clinic.

OFFER PUBLIC EDUCATION AND TRAININGS ALONG WITH CLINICS—AND “TRAIN THE TRAINER”

Utilize a 'Train the Trainer' model to strengthen the knowledge base within the community, with the goal to transfer information that empowers the whole community. Transfer valuable skills to those who lead justice and service work in their communities. Root & Rebound found success with training partner organizations in record cleaning. For example, the Yurok Tribal Court is in the process of becoming a certified Live Scan provider, so that community access to services is not dependent upon an outside agency like R&R, and so that this service is better integrated into the tribe's justice system.

All staff members of the tribe can and should be encouraged to learn criminal justice barriers, fair chance hiring, and legal rights. This includes court staff, educators, employers, school administrators, local law enforcement (tribal and non-tribal), elders, and counselors. This can be done through workshops which take place during clinics or are organized separately. Identify tribal staff who are the most passionate about these issues and connect to people on the ground to organize these trainings.

CONSIDER MOBILE CLINICS WITH HOLISTIC SERVICES

Attorneys should be trained as “generalists” with a broad knowledge base on reentry legal issues and an understanding of specific issues and barriers unique to tribal and rural communities. Attorneys trained to conduct holistic assessments will screen for issues affecting all areas of life and prioritize based on available remedies and client goals. In holistic practice, cultural autonomy should be encouraged by allowing individuals to tell their own stories as told by themselves. Issues should be addressed in ways which are most relevant and sensitive to their given situation.

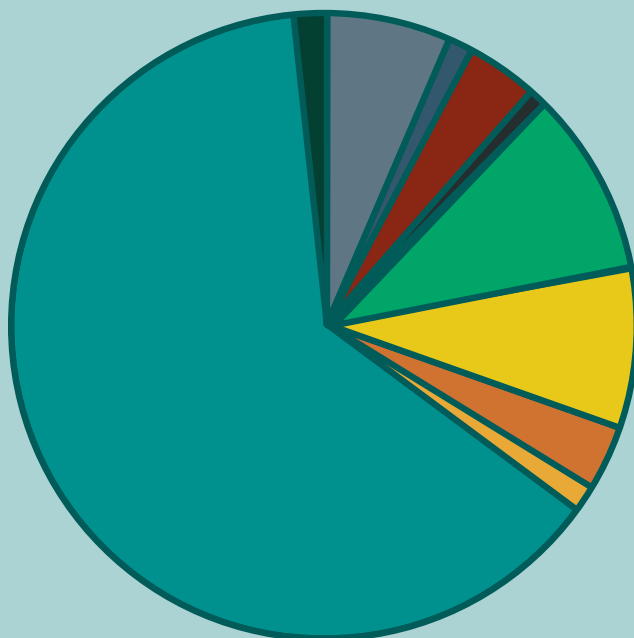
TAKE THE TIME TO ACQUIRE KNOWLEDGE AND AWARENESS OF TRIBES’ UNIQUE HISTORIES & GOALS

In recognition of the pattern of trauma described in an earlier section, it is also important to take a trauma-informed approach to offering legal services. This includes educating oneself on history and training on sensitivity and responsiveness to the ongoing forms of violence that tribal communities face.

Tribes are not monolithic. There are currently 566 federally recognized tribes, and each has a distinct relationship with the federal government; with the other courts in their state and region; with surrounding tribes, communities, and institutions; and between the tribal government and tribal members. It is always important to be aware of intertribal dynamics and not assume that nearby tribes’ leaders will be willing or able to collaborate on a project. If collaboration is warranted, knowing the history, context and need of the community is a critical step.

Tribal citizens are generally citizens of two nations, plus at least one state. They are often marginalized so that their rights are unknown to them or at least unrealized as they do not have the assistance to actually realize them, i.e., through clean slate petitions. In addition to current issues, having historical context can really inform the type of help that is needed in tribal communities. Keep informed on developing work and research. Learning from partners and community members should be ongoing.

PRACTICE AREAS



NUMBER OF CLIENTS

- ID & Voting: 20
- Parole/Probation: 2
- Housing: 8
- Public Benefits: 1
- Employment: 33
- Court Ordered Debt: 24
- Family & Children: 9
- Education: 3
- Record Cleaning: 198
- Occupational Licensing: 4

IMPLEMENT STRATEGIES THAT IMPROVE RURAL ACCESS TO REENTRY LEGAL SERVICES

Root & Rebound travels more and more to remote locations where resources are scarce. Access to transportation, internet and phone should inform the choice of location for events, to ensure maximum accessibility and relief. For an outside organization traveling to provide services in a rural area, it is important to plan for the time and travel costs associated with doing so. Budget for the time and cost of driving to rural areas to provide services. Arrange for transportation for all staff who will provide services. Advertisements can be done by reaching out to local social service providers, courts, and any relevant location which may be able to share the events information. By bringing Live Scan electronic fingerprinting technology, paying the Live Scan service fee, and working to waive DOJ fees for clients prior to clinics, it becomes possible to eliminate the main logistical and monetary barriers people face in accessing and cleaning their criminal records. This makes it possible and easy for clients to clean their records, alleviating other legal hurdles as a result. When working with rural courts, plan in advance and establish a positive working relationship with superior courts. This can be mutually beneficial to advocacy organizations and to the courts themselves. To establish such a relationship, it is important to be consistent and efficient in communicating with courts, to provide full and accurate information, and even to develop positive interpersonal relationships. Rural work can be challenging but is not impossible to do. The need will always exist and planning properly can mitigate many issues that are associated with establishing these types of clinics.

POLICY RECOMMENDATIONS

While legal clinics and trainings are at the center of this Guide, there should be significant thought put into ways other work can benefit communities served. Root & Rebound spends significant time taking the information learned from clinics, trainings, partners and the community to inform policy reform. This involves pursuing systems reform in rural California and working to make the state justice system more culturally responsive. This should be a goal for all practitioners as a means to continuously work towards larger systemic change, resulting in a statewide and national movement. Statewide and national initiatives are not the only ways to do this; there are also local ordinance and institutional policies which may better address the issues presented. For example, Root & Rebound collects information from individuals through surveys. During this process, acquiring occupational licensing became an apparent issue for those with criminal records. Root & Rebound is active in occupational licensing reform and participates in various policy reform collectives which enable them to share and develop policy initiatives. An added benefit to policy reform is the effect of changing discourse regarding people with convictions and the promotion of change in the narrative of incarceration and Native people.

CLIENT SPOTLIGHT

“In one instance when a Yurok Tribe member died in prison, Root & Rebound was able to assist us in having his body brought home for burial, which was tremendously important for his family and culturally significant.”

—Judge Abby, Chief Justice of the Yurok Tribal Court

CONCLUSION

This Guide is meant to inform and support practitioners in establishing legal clinics for rural, tribal communities. There is a high need for resources and legal support and this Guide is written as a path to facilitate and address this need. Through the initial collaboration between Root & Rebound and the Yurok Tribal Court, many peoples' lives have been affected by the establishment of this Project. In the words of Judge Abby, "The clinics have been able to assist [and] prepare applications for clean slate petitions for the formerly incarcerated enabling them to apply for benefits, seek educational opportunities and employment. They continue to act as a resource to our team as we grapple with the issues facing the formerly incarcerated, from staying child support obligations to enrolling children in their tribes to secure the child's rights." It is the combination of holistic practice and collaboration with tribal partners which make this Project a success. Although this Project exemplifies the needs in rural, tribal communities, it also shows the resilience of a community that has been consistently disenfranchised. The hope is that this work will eventually not be needed and that this Guide is improved by the experiences of other practitioners and partners to collaborate and continue this work.

"I'm no longer feeling stuck."

—a client after Root & Rebound helped clear her record



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38. If an individual has a non-exemptible conviction on their criminal record, a judge is prevented from allowing a child to live with this person, even if living with you would otherwise be good for the child. Cal.Welf. & Inst. Code § 361.4(d)(2).
39. A recent study found that Native youth use substances—including alcohol and marijuana—at much higher rates than other groups at the same age. Statistics specifically regarding the incarceration of Native Americans in jails indicate that people with drug offenses “accounted for 12% of the adult AIAN [American Indian/Alaska Native] jail population, which was significantly lower than all others in jail (24%). However, AIAN people in jail were more likely (14%) than all others (6%) to be held for a DWI/DUI of alcohol or drugs.” In other words, when Native people are arrested for drug crimes, discriminatory sentencing leads to more severe consequences for them than for people of other races.
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MEMORANDUM

To: Tribal Leaders and Representatives
From: Christina Snider, Governor's Tribal Advisor
Date: January 30, 2019
Re: Tribal Nation Grant Fund

I. Initial Panel

The Tribal Nation Grant Fund ("TNGF") Panel is made up of nine (9) members. Seven (7) of these are voting and two (2) are alternate nonvoting members.

- To be appointed to the panel, a nominee must be an elected tribal leader from a federally recognized tribe in California.

The Tribal Advisor (Christina Snider) will appoint the initial panel this year.

- The anticipated announcement will be by the end of February, with an initial meeting taking place in March.

The initial panel cannot serve past January 1, 2020 (per the authorizing statute, AB 880), unless appointed by the process that will be developed by the initial panel in consultation with federally recognized tribes.

- After January 1, 2020, the Tribal Advisor and the panel can amend the process for appointment to the panel.

The initial panel will:

- Develop the TNGF application form, with certain parameters as mandated by the authorizing statute (see Section III, below);
- Establish a compliance process that respects tribal sovereignty; and
- Develop business procedures to govern the panel's operations.

Grant applications must be considered at least once per year.

Panel members will receive \$100 per diem, plus travel costs, per meeting.

II. Administration of the TNGF

The California Gambling Control Commission will provide technical assistance and administrative support for the TNGF, but will exert no discretionary control over applications.

The TNGF only receives funds if RSTF has sufficient funds to meet its payment obligations. In order for the funds to be disbursed from the TNGF, the legislature must authorize an appropriation of the funds for distribution.

All information about internal tribal affairs is protected under the authorizing statute.

All meetings are subject to the Bagley-Keene Open Meeting Act.

III. Statutory Parameters for Grants

Only limited gaming (less than 350 Class III) and nongaming tribes are eligible for TNGF grant awards.

A request for grant funds must be in the form of an application, which the initial TNGF panel will create.

- Applying tribes must list a specific project purpose generally related to self-governance, developing a self-determined community or economic development.
- Tribes can apply for more than one (1) grant but must complete a separate application for each (unless prohibited by compact).
- Two (2) or more eligible tribes can apply jointly; however, each tribe must be eligible for the grant funding.

Grant awards cannot be used for per capita payments or gaming.

The panel can distribute part of the money equally to all grant *applicants*, but cannot distribute the entirety of funds this way.

IV. Proposed Timelines

The Tribal Advisor is accepting (i) nominations for the initial panel and (ii) comments on the makeup of the initial panel until February 15, 2019.

The Tribal Advisor will privately notify nominees of their placement on the initial panel, and anticipates making a public announcement of the initial panel by February 28, 2019.

The initial panel will likely have its first meeting in mid to late March, 2019, with meetings taking place as frequently as determined by the initial panel at its first meeting.

Meetings could take place every month if necessary to meet statutory timelines in the first year, but will likely be less frequent in subsequent years.

V. Contact Information

Please contact Christina Snider at christina.snider@gov.ca.gov or (916) 319-9219 with any follow up comments, nominations, questions or concerns.

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Date Published: 09/27/2018 09:00 PM

Assembly Bill No. 880

CHAPTER 801

An act to amend and renumber Section 12012.95 of, to add Sections 11126.4.5 and 12012.3 to, and to add Article 2.3 (commencing with Section 12019.30) to Chapter 1 of Part 2 of Division 3 of Title 2 of, the Government Code, relating to tribal gaming.

[Approved by Governor September 27, 2018. Filed with Secretary of State September 27, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 880, Gray. Tribal Nation Grant Fund.

(1) Existing law establishes the Tribal Nation Grant Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. Under existing law, moneys in the Tribal Nation Grant Fund are available, upon appropriation by the Legislature, for the discretionary distribution of funds to nongaming and limited-gaming tribes, as specified. An existing Executive Order establishes the position of the Governor's Tribal Advisor within the office of the Governor.

This bill would establish within the office of the Governor, the office of the Governor's Tribal Advisor, to be headed by the Governor's Tribal Advisor, who is to be appointed by, and serve at the pleasure of, the Governor. The bill would also establish within state government the Tribal Nation Grant Panel and the Tribal Nation Grant Fund Program, through which the panel may award grants and make other distributions from the fund to eligible tribes, as defined, with the assistance of the advisor, the Bureau of Gambling Control, and the California Gambling Control Commission, as specified. The bill would require the tribal advisor, before January 1, 2020, to appoint elected tribal leaders from federally recognized tribes in California to serve on the panel. The bill would require, after that date, the advisor and panel, in consultation with federally recognized tribes in California, to determine how members of the panel are appointed. The bill would require actions taken under these provisions to be consistent with tribal-state gaming compacts and would exempt the activities of the advisor, panel, bureau, and commission pursuant to these provisions from the Administrative Procedure Act. The bill would prohibit public disclosure, in public records or during a meeting of the panel, of all information relating to the administration of these provisions that describes the internal affairs of an eligible tribe, except as specified, and would require the panel to comply with the Bagley-Keene Open Meeting Act in a manner consistent with these prohibitions. The bill would require, commencing on or before July 15, 2020, and annually thereafter, the commission to prepare and post on its Internet Web site a report detailing the status of grants and other distributions made from the fund for the previous fiscal year. The bill would also require the tribal advisor to provide an annual report to the Senate and Assembly Committees on Governmental Organization on the status of the program, as specified.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11126.4.5 is added to the Government Code, to read:

11126.4.5. (a) This article does not prohibit the Tribal Nation Grant Panel from holding a closed session when discussing matters involving information relating to the administration of Article 2.3 (commencing with Section 12019.30) of Chapter 1 of Part 2 that describes, directly or indirectly, the internal affairs of an eligible tribe, including, but not limited to, the finances and competitive business plans of an eligible tribe.

(b) Discussion in closed session authorized by this section shall be limited to the confidential information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session, the Tribal Nation Grant Panel shall publicly announce the type of information to be discussed in closed session, which shall be recorded in the minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(e) For purposes of this section, the terms "Tribal Nation Grant Panel" and "eligible tribe" shall have the same meanings as set forth in Article 2.3 (commencing with Section 12019.30) of Chapter 1 of Part 2.

SEC. 2. Section 12012.3 is added to the Government Code, to read:

12012.3. (a) There is within the office of the Governor, the office of the Governor's Tribal Advisor, which shall be headed by the Governor's Tribal Advisor.

(b) The Governor's Tribal Advisor shall be appointed by, and serve at the pleasure of, the Governor.

(c) The Governor's Tribal Advisor shall be an enrolled member of a federally recognized tribe in California.

SEC. 3. Section 12012.95 of the Government Code is amended and renumbered to read:

12019.35. (a) There is in the State Treasury the Tribal Nation Grant Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. The fund reflects a vision of facilitating tribal self-governance and improving the quality of life of tribal people throughout the state.

(b) The Tribal Nation Grant Fund shall be administered by the California Gambling Control Commission, which shall act as the limited trustee as provided under the terms of applicable tribal-state gaming compacts and shall not be subject to the duties and liabilities provided in the Probate Code, common law, or equitable principles. Moneys in the fund shall be available, upon appropriation by the Legislature, for the discretionary distribution of funds to nongaming tribes and limited-gaming tribes upon application of those tribes for purposes related to effective self-governance, self-determined community, and economic development.

(c) The California Gambling Control Commission shall deposit money into the fund only after it determines there are sufficient moneys in the Indian Gaming Revenue Sharing Trust Fund to distribute the quarterly payments described in Section 12012.90.

SEC. 4. Article 2.3 (commencing with Section 12019.30) is added to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 2.3. Tribal Nation Grant Fund Program

12019.30. Unless the context requires otherwise, for purposes of this article, the following terms shall have the following meanings:

(a) "Advisor" means the Governor's Tribal Advisor.

(b) "Bureau" means the Bureau of Gambling Control within the Department of Justice.

(c) "Commission" means the California Gambling Control Commission.

(d) "Eligible tribe" means a nongaming or limited-gaming federally recognized tribe in California as defined in applicable tribal-state gaming compacts.

(e) "Fund" means the Tribal Nation Grant Fund established by Section 12019.35.

(f) "Grant" means an amount of money paid to an eligible tribe from the fund awarded by the panel through a competitive process pursuant to this article.

(g) "Panel" means the Tribal Nation Grant Panel established by Section 12019.60.

(h) "Program" means the Tribal Nation Grant Fund Program established by this article.

12019.40. (a) There is in state government the Tribal Nation Grant Fund Program whereby the panel is authorized to award grants from available moneys within the fund and make other distributions from the fund to eligible tribes as set forth in this article.

(b) A request for a grant shall be made by submitting an application to the commission on a form approved by the panel and provided by the commission. Unless prohibited by a tribal-state gaming compact or the panel, an eligible tribe may apply for more than one grant, but shall submit a separate application for each grant proposal. Two or more eligible tribes may apply for one grant by submitting a joint application.

(c) A grant shall be used to fund a specifically described purpose or project generally relating to self-governance, developing a self-determined community, and economic development in the application. Eligible purposes or projects may include, but are not limited to, development of curricula in a tribal language or culture, housing, support for compliance with the federal Indian Child Welfare Act, vocational training, community development, investments in tribal schools and colleges, support of tribal government institutions and tribal courts, nongaming economic diversification, or investment in public health, information technology, renewable energy, water conservation, cultural preservation or awareness, educational programs, or scholarships.

(d) A grant shall not be used to pay a per capita distribution to tribal members or an investment in a purpose or project related to any gaming operation or activity.

12019.45. (a) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop a concise application form for one or more eligible tribes to apply for a grant.

(b) The application developed pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) An identification of every eligible tribe applying for the grant and the name, signature, and contact information of every individual who is authorized by each eligible tribe's governing body to apply for the grant.

(2) A description of the purpose or project for which the grant is intended to be used.

(3) An assessment of the nature and extent of the potential benefits from the described purpose or project to each applying eligible tribe.

(4) The safeguards in place to ensure that the grant would be applied only to the described purpose or project.

(5) The amount and source of other moneys or in-kind services or goods, if any, that are available to be additionally applied to the described purpose or project and when those moneys or in-kind services or goods are intended to be applied.

(6) A list of every grant awarded or other distribution from the fund previously awarded or distributed to each eligible tribe applying for the grant and the results achieved as a result of those prior awards or distributions.

(7) A strategy for how the benefits from the described purpose or project will be sustainably maintained.

(8) A signed acceptance of the terms described in Section 12019.75 from an authorized representative of every eligible tribe applying in the application.

(9) Identification of the information provided in the application that each eligible tribe proposes is confidential and not subject to public disclosure pursuant to subdivision (a) of Section 12019.55, and a statement, in bold, that the panel may consider, but is not required to comply with, an eligible tribe's identification of information as confidential when responding to a request for public records pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(10) Any other information the advisor and panel deem valuable to evaluating the merits of awarding a grant.

12019.50. (a) The staff of the commission shall provide all of the following services:

(1) Assistance to the individuals applying for a grant on behalf of every eligible tribe in understanding the application process. This assistance shall not include completing an application for a grant on behalf of an eligible tribe.

(2) All administrative support necessary to implement this article, including, but not limited to, processing applications for grants, administrative services to the advisor, the panel, and technical experts retained by the panel, if any, and administrative assistance to the panel allocating and disbursing grants and making other distributions from the fund to eligible tribes.

(b) To the extent prohibited by applicable tribal-state gaming compacts, the commission and its staff shall not exercise discretion or control over the approval or disapproval of grant applications or the use of grants or other distributions from the fund by eligible tribes.

12019.55. (a) All information relating to the administration of this article that describes, directly or indirectly, the internal affairs of an eligible tribe, including, but not limited to, the finances and competitive business plans of an eligible tribe, is confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(b) The panel shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1), and shall do so in a manner that prevents the disclosure of information described in subdivision (a), including, but not limited to, holding, when necessary in a closed session, as authorized by Section 11126.4.5.

12019.60. (a) There is in state government the Tribal Nation Grant Panel.

(b) (1) The panel shall be composed of nine total members, of which seven are voting members and two are alternate nonvoting members.

(2) Four members who are authorized to vote are required to establish a quorum for the transaction of business of the panel. The panel may take an action by a majority vote of a quorum, except that the panel shall only award a grant or approve a distribution from the fund by an approval vote of four or more members who are authorized to vote.

(3) Any member may voluntarily recuse himself or herself from the consideration of a grant application or a particular agenda item.

(4) If one or two of the seven voting members recuse themselves from the consideration of or voting on a grant application or a particular agenda item, or do not attend a meeting of the panel, the advisor may select an alternate nonvoting member to act in the place of the recused or absent voting member for the consideration of and voting on the grant application or agenda item, or for that meeting.

(c) (1) Before January 1, 2020, all members shall be appointed by the advisor for a term of one year. The advisor may extend the term of any member for up to one year or fill a vacancy by appointing a new member. Applicable to any appointment made pursuant to this paragraph, the advisor shall only appoint an individual who is an elected tribal leader from a federally recognized tribe in California and shall endeavor to establish a panel that represents the diversity of tribes in California. No member appointed pursuant to this paragraph shall serve on the panel on or after January 1, 2020, unless separately appointed pursuant to a process authorized in paragraph (2).

(2) The advisor and panel, as comprised before January 1, 2020, in consultation with federally recognized tribes in California, shall determine how members of the panel are appointed on and after January 1, 2020. The advisor and panel, as comprised on and after January 1, 2020, in consultation with federally recognized tribes in California, may from time-to-time, amend how members of the panel are appointed as they jointly determine is necessary to fairly and equitably achieve the purposes for which the fund was created.

(d) The advisor is not a member of the panel but shall preside over the meetings of the panel in an administrative capacity. The advisor shall advise the panel on procedures for the business of the panel and encourage the use of procedures that allow for a fair process to evaluate grant applications and consider other distributions from the fund that best serves all eligible tribes.

(e) Any member of the panel who attends a meeting, regardless of whether the member votes, shall be compensated a one-hundred-dollar (\$100) per diem for each day a meeting is held and the actual, reasonable travel expenses to attend that meeting.

12019.65. (a) The panel shall meet to consider grant applications at least annually and shall consider at a meeting all completed grant applications that were submitted by a deadline established by the panel. The panel may award a grant in an amount less than requested in an application.

(b) The panel may distribute, in equal amounts, a portion of the available moneys in the fund to all eligible tribes that submitted a completed grant application within the deadline established by the panel. The panel shall not distribute all available moneys in the fund through an equal distribution pursuant to this subdivision.

(c) The panel may decline to award future grants or distributions to an eligible tribe for a specified period of time if the panel, in its sole discretion, determines that the eligible tribe had previously received and used a grant in a manner inconsistent with the described purpose or project set forth in the grant application or in compliance with conditions and limitations imposed by the panel.

(d) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop an appropriate process to reasonably ensure that grants are used in a manner consistent with this article, applicable tribal-state gaming compacts, the application, and the conditions and limitation imposed on the award of a grant, if any. The process shall be respectful and promotive of tribal sovereignty.

(e) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, may develop a process to use technical experts with relevant experience to review and score applications. The technical experts may be compensated up to a one-hundred-dollar (\$100) per diem for each day spent reviewing and scoring applications.

(f) (1) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop procedures to govern the business of the panel, including, but not limited to, the procedures for meetings, a process for evaluating and resolving potential conflicts of interest of members of the panel, the process for auditing the use of grants, and all other processes that may be required to award grants or make other distributions from the fund.

(2) Only the bureau shall conduct audits of the use of grant funds.

(g) All activities of the advisor, panel, bureau, and commission pursuant to this article are exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

12019.70. (a) The panel may, in its discretion and based upon the purpose or project set forth in the application, require an eligible tribe to encumber or expend any or all of a grant within a specified period of time from the date that the panel awarded the grant.

(b) The panel may, in its discretion, modify any deadline it established for the use of a grant.

12019.75. By applying for a grant, each eligible tribe and each individual applying on behalf of each eligible tribe shall agree to all of the following:

(a) The terms and conditions the panel imposes as a condition of awarding the grant, including the limitations set forth in this section and article.

(b) To cooperate with the panel, advisor, commission, bureau, or other state entity designated by the Governor to ensure that the grant is used in a manner consistent with the assertions in the application and any condition or limitations imposed on the award of the grant.

(c) To provide access to the panel, advisor, commission, bureau, or other state entity designated by the Governor to all documents relevant to the use of the grant to allow a comprehensive audit, to ensure a grant is used for the purpose or project set forth in the application, in compliance with the conditions or limitations on the grant, and applicable tribal-state gaming compacts.

(d) To return to the fund any amount of a grant not encumbered or expended in compliance with Section 12019.70. Any returned funds shall be provided to the commission for deposit into the fund.

12019.80. On or before July 15, 2020, and annually thereafter, the commission shall prepare and post on its Internet Web site a report detailing the status of grants and other distributions made from the fund for the previous fiscal year. In preparing the report, the commission shall not provide information prohibited from public disclosure pursuant to Section 12019.55, unless the eligible tribe that is the subject of the information authorizes the commission to include that information in the report as evidenced in a writing signed by an authorized representative of the eligible tribe.

12019.81. (a) The advisor shall provide an annual report to the Senate and Assembly Committees on Governmental Organization on the status of the program relating to the program's activities and resources needed to implement and maintain the program.

(b) This report shall include all of the following:

(1) An update and summary of the program, including recent developments, strategic priorities, and upcoming milestones.

(2) An annual fiscal report for the prior fiscal year summarizing proceeds to the fund and expenditures and grants distributed out of the fund.

(3) A general evaluation to understand and strengthen the performance and effectiveness of the program.

12019.85. The activities authorized and required by this article, including, but not limited to, the administrative and procedural support services provided by the commission, its staff, and the advisor, the costs and compensation of members of the panel, and the costs of audits, are regulatory costs in connection with the implementation and administration of responsibilities imposed by tribal-state gaming compacts, and shall be funded by moneys in the Indian Gaming Special Distribution Fund, and shall not be funded from the Indian Gaming Revenue Sharing Trust Fund or the fund.

12019.90. Actions taken under this article shall be consistent with the provisions of tribal-state gaming compacts.

SEC. 5. The Legislature finds and declares that Section 1 of this act, which adds Section 11126.4.5 to the Government Code, and Section 4 of this act, which adds Article 2.3 (commencing with Section 12019.30) to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

To protect the sovereignty of tribal nations and perform the state's responsibilities pursuant to tribal-state gaming compacts, it is necessary to limit the public's access to information regarding the internal affairs of eligible tribes seeking grants and other distributions from the Tribal Nation Grant Fund.

SESSION 2:
MISSING AND MURDERED
INDIGENOUS WOMEN
AND GIRLS REPORT



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ABOUT SBI

Sovereign Bodies Institute (SBI) builds on Indigenous traditions of data gathering and knowledge transfer to create, disseminate, and put into action research on gender and sexual violence against Indigenous people. SBI is committed to:

- conducting, supporting, and mobilizing culturally-informed and community-engaged research on gender and sexual violence against Indigenous people
- uplifting Indigenous researchers, knowledge keepers, and data visualists in their work to research and disseminate data on gender and sexual violence against Indigenous people
- empowering Indigenous communities and nations to continue their work to end gender and sexual violence against Indigenous people, through data-driven partnerships that enhance research efforts, develop best practices, and transform data to action to protect and heal their peoples.

SBI is a home for generating new knowledge and understandings of how Indigenous nations and communities are impacted by gender and sexual violence, and how they may continue to work towards healing and freedom from such violence. In the spirit of building such freedom, SBI is strongly committed to upholding the sovereignty of all bodies Indigenous peoples hold sacred—our physical bodies, nations, land, and water—and does not accept grants from colonial governments or extractive industries. Similarly, SBI's work is not limited by colonial borders, concepts of gender, politics of identity or recognition, or ways of knowing. SBI honors the epistemologies and lifeways of Indigenous peoples, and is bound by accountability to the land, our ancestors, and each other.

SBI is an Affiliate of Seventh Generation Fund, a non-profit at the forefront of Indigenous leadership for 40 years.

ABOUT US >

SBI is a home for generating new knowledge and understandings of how Indigenous nations and communities are impacted by gender and sexual violence, and how they may continue to



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NATIONAL

Doctoral Student Compiles Database Of Indigenous Women Who've Gone Missing

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Transcript

July 21, 2018 · 8:15 AM ET

Heard on Weekend Edition Saturday

NATE HEGYI

FROM YELLOWSTONE PUBLIC RADIO



Loxie Loring walks with a group of marchers to remember her daughter, Ashley Loring, who went missing from the Blackfeet Reservation more than a year ago.

Nate Hegyi/Yellowstone Public Radio

A storm rolls in over the Blackfeet Indian Reservation in Montana. The clouds are low and dark as distant lightning cracks over a green prairie. Wade Running Crane is starting to get wet.

"This is like a sign from Ashley that she's here," he says of his family friend Ashley Loring.

Ashley's mother, Loxie Loring, is standing next to him.

"She liked this kind of weather," she says. Her daughter also loved riding horses and writing poetry.

"She was outgoing," Loring says. "She wasn't scared of anything, And for how small she is, she was..."

Then Loxie holds back tears.

Ashley disappeared a year ago. At the time, she was 20 years old and had plans to live with her sister in nearby Missoula, Mont. Law enforcement believes Ashley was then taken somewhere against her will. Now the FBI, tribal police and the Glacier County sheriff's department are all investigating.

"She's not gone because she wants to be gone," Loring says. "I know something happened to her."



Ashley Loring bought a new camera and took this portrait of herself before she went missing from the Blackfeet Indian Reservation more than a year ago.

Courtesy of the Loring family

Spend time in Indian Country and you'll hear this story over and over: A niece, a daughter or a cousin who was taken quickly and violently from this world.

As many as 300 indigenous women go missing or are killed under suspicious circumstances every year in Canada and the U.S., but the exact number is unknown because the Federal Bureau of Investigation isn't really tracking the numbers.

"I would venture a guess that if we did have the data, it would show that native women are more disproportionately represented," Annita Lucchesi says.

She used to teach Ashley Loring at the local community college in Browning, Mont.

"She didn't know how smart she was," she says. "She was always so happy whenever she got a good grade. 'Really, really, I got an A?' 'Yes, you did; you're smart.'"

Lucchesi is a doctoral student at the University of Lethbridge in Canada now. Back when she was working on her master's thesis, she tried to find the total number of indigenous women who were either killed or went missing in U.S. and Canada.

"After doing some Googling, I realized nobody has the right number," she says.



Jonnilyn Loring leads a group of marchers down the main highway in Browning, Mont.

Nate Hegyi/Yellowstone Public Radio

Even if a local police report is filed some of those cases never make it to the FBI's crime database. This is because there's no requirement to file those reports nationally unless the person is a juvenile. Lucchesi says this allows many native women to fall through the cracks.

So she's creating her own database by filing public record requests with local law enforcement agencies. So far she's documented more than 2,000 cases across both the U.S. and Canada. Most occurred over the last 20 years.

Luccesi says she's shocked at how much data is missing.

"And really, it's not just data," she says. "That's someone's relative that's collecting dust somewhere and no one is being held accountable to remember or honor the violence that was perpetrated against her."

Canada has an ongoing federal investigation into the issue but data isn't really getting updated. Last year, Congress introduced Savanna's Act. It requires an annual report on the number of missing and murdered indigenous women, but since a Senate Committee hearing in October, nothing's happened.

Frustration about all this is mounting on the Blackfeet Reservation.

On that recent stormy day, a large crowd called for justice for Ashley Loring as they marched down a main highway blocking traffic.

Ashley's cousin, Ivan MacDonald, marched with them. He's getting weary.

Ashley Loring has been missing for a year, along with an estimated 270 other indigenous women in the U.S. and Canada.

"We already know this is a crisis," he says. "And we don't need statistics to legitimize it for us. We need statistics to legitimize it for everyone that isn't us."

This story was produced by the Mountain West News Bureau, a collaboration between Wyoming Public Media, Boise State Public Radio in Idaho, Yellowstone Public Radio in Montana, KUER in Salt Lake City and KRCC and KUNC in Colorado.

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MISSING AND MURDERED *INDIGENOUS* WOMEN & GIRLS

A snapshot of data from 71 urban cities in the United States

*This report contains strong language about violence against American Indian and Alaska Native women.

Link to the full report at:

SUBSTITUTE HOUSE BILL 2951

State of Washington

65th Legislature

2018 Regular Session

By House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives McCabe, Gregerson, Stambaugh, Stanford, Walsh, Reeves, Dye, Barkis, Frame, Haler, Jenkins, Kloba, Ormsby, Valdez, and Peterson)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to increasing services to report and investigate
2 missing Native American women; creating new sections; and providing
3 an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that Native American
6 women experience violence at much higher rates than other
7 populations. A recent federal study reported that Native American
8 women face murder rates over ten times the national average. However,
9 many of these crimes often are unsolved and even unreported because
10 there are also very high rates of disappearances among Native
11 American women. Furthermore, there is no comprehensive data
12 collection system for reporting or tracking missing Native American
13 women. This gap in reporting and investigation places Native American
14 women even more vulnerable to violence.

15 The legislature further finds that although violence against
16 Native American women has been a neglected issue in society, there is
17 a growing awareness of this crisis of violence against Native
18 American women, and a recognition of the need for the criminal
19 justice system to better serve and protect Native American women. The
20 legislature intends to find ways to connect state, tribal, and

1 federal resources to create partnerships in finding ways to solve
2 this crisis facing Native American women in our state.

3 NEW SECTION. **Sec. 2.** (1) The Washington state patrol must
4 conduct a study to determine how to increase state criminal justice
5 protective and investigative resources for reporting and identifying
6 missing Native American women in the state. The state patrol must
7 work with the governor's office of Indian affairs to convene meetings
8 with tribal law enforcement partners to determine the scope of the
9 problem, identify barriers, and find ways to create partnerships to
10 increase reporting and investigation of missing Native American
11 women. Collaboration with federally recognized tribes must be
12 conducted in respect for government-to-government relations. The
13 state patrol also must work with the federal department of justice to
14 increase information sharing and coordinating resources that can
15 focus on reporting and investigating missing Native American women in
16 the state.

17 (2) By June 1, 2019, the state patrol must report to the
18 legislature on the results of the study, including data and analysis
19 of the number of missing Native American women in the state,
20 identification of barriers in providing state resources to address
21 the issue, and recommendations, including any proposed legislation
22 that may be needed to address the problem.

23 (3) This section expires December 31, 2019.

--- END ---

SESSION 3:
ADDRESSING TRIBAL
COMMUNITIES IN
RESPONSES TO SEX
TRAFFICKING

Ending the Commercial Sexual Exploitation of Children:

A Call for Multi-System Collaboration in California



California Child
Welfare Council

EXECUTIVE SUMMARY

Within the United States, California has emerged as a magnet for commercial sexual exploitation (“CSE”) of children (“CSEC”). The FBI has determined that three of the nation’s thirteen High Intensity Child Prostitution areas are located in California: the San Francisco, Los Angeles, and San Diego metropolitan areas. Child sex trafficking, child pornography, and child sex tourism are all forms of CSEC. Frequently, victims are exploited through more than one form of abuse, and they cycle through the stages of exploitation many times before they are able to leave their exploitative relationships. To address this problem, California must develop a comprehensive and collaborative response to ensure CSE victims are identified and receive the services they need to overcome trauma and live healthy, productive lives.

The children who fall prey to exploiters are frequently those with prior involvement with the child welfare system, such as through child abuse report investigations and placement in foster care. Other victims should have received Child Welfare services and protections but never gained access to the system, and are instead treated like criminals and funneled into the juvenile justice system.

Chapter One portrays the horrors children experience through commercial sexual exploitation. Chapter Two of this report discusses the prevalence of CSEC and defines the scope of the problem. Chapter Three focuses on the need for child-serving systems to identify CSEC and children at risk of CSE. Chapter Four outlines models and approaches for addressing the needs of CSEC. Chapter Five identifies strategies for preventing CSE, including reducing demand for commercial sex. Chapter Six describes the response by the international community, and also explores the federal and state governments’ responses to combatting CSE. Finally, Chapter Seven provides recommendations for a collaborative and comprehensive response to CSE in California.

There are many difficulties and barriers to identifying victims of commercial sexual exploitation. Paramount is inadequate education and awareness among agencies, organizations, and providers who come into contact with CSEC. Additionally, many CSEC are not able to see themselves as victims; and either rationalize or actively deny that they are being exploited. The concealed nature of this crime also acts as a barrier to identifying and rescuing CSEC.

Exploring ways to overcome these barriers with education strategies and cross-system screening protocols may reduce the number of children who become victims of CSE. It also may give CSEC access to services and supports they need to escape a life of violence and

trauma. Screening tools, checklists, and strategies for engaging youth can also help ensure that greater numbers of CSEC and children who are risk of victimization will be identified.

CSEC present with extensive and variable needs. Because this is an emerging field, researchers and practitioners have yet to agree on the most appropriate method for providing services and supporting youth's positive growth and development. Consequently, there is no consensus on a single approach that comprehensively addresses the needs of all CSEC. Generally, service providers, researchers, and advocates have identified six components of services and strategies that should be included in any integrated strategy to serve CSEC:

- Safety planning for both clients and the staff serving them;
- Collaboration across the multiple systems and agencies;
- Trust and relationship building to foster consistency;
- Culturally competent and appropriate service provision;
- Trauma-informed programming; and
- CSEC survivor involvement in the development and implementation of programming.

Additionally, continuity of care and the provision of long-term services and supports are essential in addressing the needs of CSEC and their families or caregivers. CSE victims often relapse to exploitation many times before they permanently leave their exploiters, and interventions must take this cycle into account.

Prevention efforts also play a key role in eradicating CSE. From a victim-centered perspective, a preventive approach begins with identifying youth who are at-risk for exploitation and providing services and supports before victimization occurs. Another prevention approach targets purchasers, to reduce consumer demand for commercial sex. Organizations throughout the country have begun to explore prevention practices to end CSE of children. Many of these efforts have been developed in only the past decade, making it impossible to fully evaluate their efficacy. Prevention strategies that have emerged include:

- Curricula and other school-based approaches to educate youth regarding healthy relationships, sexual health, Internet safety, and CSE; and
- Campaigns to end consumer demand by targeting purchasers.

As human trafficking, in general, has become a more recognized and visible problem throughout the world, political leaders and legislators have responded with new laws, initiatives, and conventions to define crimes, enhance awareness, provide services, criminalize exploiters,

and track progress. The United States passed its first comprehensive human trafficking bill in 2000, the Trafficking Victims Protection Act (TVPA). More recently, legislative efforts have centered on addressing CSE of U.S.-born children, and harsher punishment of perpetrators. California, however, still lags behind the efforts of other states in the U.S. that have established policies and practices to prevent domestic minor sex trafficking, decriminalize prostitution for minors, rescue and restore victims through enhanced identification, and provide specialized placement and trauma-informed services.

California is at a crossroads. CSE of children is an epidemic spreading at an exponential rate across the state. To combat its growth, this report makes recommendations in each of the five areas discussed above. Successfully implementing these recommendations requires a comprehensive and collaborative approach. It is therefore proposed that a **CSEC Action Committee** be created to plan, develop, and oversee action steps needed to improve California's response to the growing number of children being sold for sex each night.

The CSEC Workgroup recommends that a CSEC Action Committee be co-convened by the Secretary of the California Health and Human Services Agency and a community-based advocacy organization representative—preferably one with experience working with CSEC. A CSEC Action Committee should be charged with facilitating a collaborative and comprehensive process for prioritizing, sequencing, and overseeing implementation of the recommendations adopted by the Council. Committee membership should include leaders representing state and local government agencies, CSEC service providers, youth advocates, court representatives, and CSEC survivors.¹

The Workgroup prioritized several critical initiatives for the proposed CSEC Action Committee. These include:

PLACEMENT:

- Establish safe and secure emergency and transitional placements for CSEC victims.

IDENTIFICATION:

- Implement cross-system screening tools to systematically identify CSEC and children at risk of exploitation in order to inform and improve service delivery and placement decisions.

Link to the full report at:

HARM REDUCTION SERIES

INTRODUCTION

2018

CHILD TRAFFICKING
RESPONSE UNIT



In This Issue

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Foreword

SB 855 (2014) and AB 1760 (2016) established as California policy that a child who has been sexually trafficked is a victim, not a perpetrator, of a crime. The response to their situation is to be protection, care and treatment – the services of the child welfare system.

However, translating that policy into practice confronts the challenge presented by many conditions: recovery and healing does not occur immediately, nor consistently, and is not fully within the control of the most capable and committed caregiver.

When “relapse” refers to a low-level illness, it is thought of as unfortunate. When it describes a child leaving a place of safety, reconnecting with an exploiter, and placing themselves in what may be grave physical as well as psychological danger, it offends every instinct of a responsible adult – whether professional, caregiver, or parent. And with that sense of offense is the real danger that since we cannot ensure the protection of the victimized child, we may decline to engage them because of the risk to our own reputations.

But our response cannot be *“If we can’t control you, we can’t help you.”*

As the State, our counties and our service providers develop and implement our programs and skills to serve trafficked children, we have to do so within the practice framework of harm reduction – the willingness to offer service and support to a trafficked child, not as enabling continued victimization, but as the environment in which the young person gains the sense of belonging, and self and agency to disconnect from their exploiters. It will take some victims longer than others. It will sometimes break our hearts. But the most important thing is to assure our caregivers that they are right, and we have their backs when they say *“As much as we wish you would not go back out there, we want you to know you can still come back here. This is your home.”*

“

As much as we wish you would not go back out there, we want you to know you can still come back here. This is your home.”

Will Lightbourne



Director, California Department of Social Services

Background



Over the past five years there has been a dramatic shift in the understanding of the Commercial Sexual Exploitation (CSE) of children in California. The CSE of children is defined as a commercial sex act where anything of value is given to the child, including the provision of food, shelter, or payment, in exchange for the performance of a sexual act. This growing awareness resulted in changes in state law, including [Senate Bill \(SB\) 855](#) (Statutes of 2014, Chapter 29), [SB 794](#) (Statutes of 2015, Chapter 425), [SB 1322](#) (Statutes of 2016, Chapter 654) and [Assembly Bill 1227](#) (Statutes of 2017, Chapter 558).

These statutory changes recognize these children as victims rather than criminals, and identify the need for a wide array of services to address their complex needs. In order to implement these changes and effectively serve this population, agencies and providers need guidance on strategies to build on the strength and resiliency of these youth, utilize their agency and voice in decision making, and meet them where they are in their path towards safety, independence and opportunity.

Unfortunately, many of the traditional approaches to addressing child abuse in the context of the child welfare system, alone, have been ineffective in meeting the needs of commercially sexually exploited children (CSEC). Recognizing the need for innovative, trauma informed practice-based solutions, the California Department of Social Services (CDSS) began researching relevant evidence-based practices for serving CSEC. Unable to identify any, the CDSS identified several promising approaches—all of which incorporate harm reduction principles and strategies.

Thus, the CDSS has partnered with a small group of subject-matter experts to further explore harm reduction strategies and their application to CSEC. Through this process, the CDSS and their stakeholder partners strongly encourage the use of a harm reduction approach when working with this population.

“

Changes in state law recognize commercially sexually exploited children as victims rather than criminals.

The Harm Reduction Guidance Series



To further define harm reduction and its application to CSEC and guide providers' interactions and interventions utilizing harm reduction principles, the CDSS is creating a CSEC harm reduction guidance series. This document, the first in the series, will provide background on the harm reduction approach, its benefits and limitations, how it has been applied to CSEC, and some practical strategies that can be immediately incorporated into practice. Subsequent guidance in this series will provide examples of how harm reduction strategies can be utilized within specific practitioner roles. These roles will include: social workers, probation officers, caregivers, law enforcement, mental health clinicians, health care practitioners, survivor advocates/mentors, educators, the courts, and attorneys. The series will conclude with guidance detailing the systemic adoption of a harm reduction approach.

History of the Harm Reduction Approach

Harm reduction is a framework to approach policy and practices utilized in meeting the needs of a group of people engaged in unsafe behavior or circumstances.¹ The harm reduction approach was first developed in the 1980s and was most commonly used with adults who engaged in substance abuse/misuse and in risky sexual behavior.² Harm reduction was introduced as an alternative to abstinence—focusing on decreasing the negative impact of risky behaviors that can lead to harm, rather than attempting to immediately eliminate the behaviors altogether.

Harm reduction is grounded in the principle that the individuals receiving and engaging in services, children in this context, are the central practitioners of harm reduction. The programs and service providers are the facilitators, whose role is to connect those children to the appropriate individualized programs and services. The framework acknowledges the child's own authority and centers that child in decision making.

In utilizing a harm reduction approach, practitioners (e.g. social workers, probation officers, etc.) and their agency/organization must understand that CSEC will likely continue to engage in risk-taking behaviors, such as using substances or having unprotected sex, while

accessing services. This must be viewed through the harm reduction lens and seen as a way for the individual to maintain some control when much of their autonomy has been taken away by their exploiters and even the systems that seek to serve them.³

The harm reduction approach is both a philosophy to be adopted systemically, as well as a practice to employ directly with the target population. In order to reduce the incidence of commercial sexual exploitation among children and youth in California, agencies and organizations must adopt the philosophical foundation of harm reduction and practitioners must begin collectively employing harm reduction practices.

This requires leadership support and understanding within agencies, as well as guidance to line staff on how to employ the approach directly with youth. Using a harm reduction framework allows for an analysis of the underlying reasons why individuals are engaging in the risk-taking behavior such as broader system failure, poverty and racism, among others. This allows practitioners to begin exploring why youth are leaving care, what needs remain unmet and what structural barriers exist that impede youths' progress. By identifying these reasons, both the systems as well as the line workers can begin addressing these children's needs.



“ It is essential that practitioners create opportunities for choice and more importantly, opportunities to meet the totality of a youth's needs, not just those that are met through the exploitive situation. ”

Tension of Utilizing a Harm Reduction Approach

Utilizing a harm reduction approach acknowledges that change is difficult, and that it may take a period of time before a youth is willing or able to leave an exploitive situation. Employing the harm reduction approach acknowledges that unsafe behavior will continue while a youth is engaging with services, and “waiting for young people to want to change poses particular difficulties for practitioners with responsibilities for keeping young people safe.”⁴ As such, providers using harm reduction will continue to engage and serve youth who are still being exploited and are actively interacting with purchasers and traffickers. This may seem like a departure from the traditional approach to serving high needs youth, specifically within child welfare and juvenile justice. The approach may appear contrary to the goals of safety given the intent is not to immediately eliminate risky behaviors entirely, but rather to reduce them over time.

This creates a tension with the helping professions—social workers, mental health clinicians, and probation officers, among others—whose objective is to protect and connect youth to services.

Despite these difficulties, there is a recognition that utilizing the harm reduction approach with youth abused through CSE can have long-term benefits.⁵ Given what has been learned over the years in the context of domestic violence and abuse, a rescue mentality that seeks to immediately remove an individual from an abusive relationship has proven ineffective.⁶ What has worked is encouraging help-seeking behaviors and developing trusting relationships. Research has shown that, with these skills and relationships, individuals will exert their agency when they are ready and reach out to a trusted individual for support when it is appropriate for them.



The harm reduction approach reflects a paradigm shift in service delivery, allowing for youth to be the curators of their own safety, including how they define safety. It involves promoting self-determination and essentially assisting youth in gaining, or re-establishing, their own sense of power. System-involved youth are accustomed and often conditioned to others, including agencies and caregivers, holding power and control over their lives. It is no surprise that this same dynamic occurs within an exploitive situation and is part of the draw that keeps them in those situations.

It is essential that practitioners create opportunities for choice and more importantly, opportunities to meet the totality of a youth’s needs, not just those that are met through the exploitive situation. Focus should remain on the youth as a whole—their interests, dreams and needs, and not solely what they have experienced as a result of their victimization. We can no longer deliver services to youth but through them; with them, in partnership.⁷

Application to Commercial Sexual Exploitation

Since its development, harm reduction has been applied to a wide variety of issues, and recently has been recognized as a promising strategy for serving youth abused through CSE. Harm reduction within the context of CSE, must address associated behaviors and risk factors that are often present in exploitive situations such as limited resources, unsafe relationships, substance use, risky sexual encounters, or running away, as opposed to focusing exclusively on the exploitation itself. The approach is not intended to change the person, but reduce the reliance or desire to engage in an exploitive situation. A young person may be open to accepting help, but still not be in a place to acknowledge their victimization. Thus, a harm reduction approach is aimed at reducing the impact of those behaviors, rather than trying to force a youth to leave the exploitive situation completely. In situations where a youth is at imminent risk for serious harm, a forced removal from the situation may be necessary.



In these situations, harm reduction can still be utilized through engaging in honest conversation with the youth surrounding the reasons for the move, allowing the youth to feel part of that choice and a part of where they will go next. Similarly, ensuring systems of care are able to continue to meet the needs the exploitive situation was previously fulfilling. A vital component to harm reduction is the ongoing recognition and affirmation of even the slightest of positive behavioral shifts. Practitioners must re-define success and in particular, allow youth to define their own success. For example, the likelihood of youth leaving placement is high. However, a successful use of a harm reduction approach may be to recognize a youth leaving three times in one week versus five as a success, and communicating such progress to a youth. Harm reduction assists in

building up a young person's self-efficacy and empowers them to be the primary practitioners of their own life.

It is important to recognize the limitations of a harm reduction approach in serving victims of CSE. Traditionally, harm reduction approaches have focused on the risky or unsafe behaviors of an individual. While applying harm reduction to CSEC, it is important to acknowledge that the unsafe behaviors they often exhibit are a result of their trauma and our system failures. Change for this population requires both an internal and external process. Internally, the child needs services and support to begin rebuilding their self-efficacy. Externally, the systems of care must meet the needs of the youth that the exploitive situation was, or is currently, meeting, such as food, shelter, a

sense of belonging, and affection. Thus, harm reduction strategies must be employed to holistically address the youth's needs while not blaming when a youth returns to unsafe situations or finds themselves "re-exploited". Providers within the multidisciplinary team must be aware of the totality of a youth's needs and make efforts to meet them, focusing on short-term incremental gains which will lead to long term stability and safety, building a path for a youth to turn to when they are ready to leave.



Initial Recommendations

In order to effectively employ harm reduction strategies, the multiple stakeholders (e.g. social workers, probation officers, mental health clinicians, etc.) involved in a youth's life must collectively adopt the approach and consistently apply it. Similarly important, systemic adoption is essential to the successful application of a harm reduction framework across disciplines. A true practice shift cannot occur without the adoption of policies and procedures from leadership and middle management that support the use of this framework with direct service or line staff. For example, leadership should create opportunities among staff for training, learning and discussion on harm reduction.



Training

Direct service practitioners cannot employ this strategy without the direct support, coaching and guidance from their superiors, and as such, management must have the support from leadership in order to effectively support their staff. Harm reduction is essentially a language that programs and providers must learn to speak in order for every aspect of youth engagement to be rooted in its principles.

Given California's support of a multidisciplinary approach in serving this population, members of these multidisciplinary teams, and their leadership, are encouraged



Learning

to adopt harm reduction principles to reinforce the messaging and approach with the youth. A consistent approach across disciplines will ensure better engagement with youth and work against factors that may cause the youth to further retreat into their exploitive situations and disengage from services.

To accomplish this consistency, county steering committees and/or local human trafficking taskforces should adopt the harm reduction approach as a guiding principle to all work with youth abused through CSE.



Discussion

The steering committees can disseminate materials regarding harm reduction to key stakeholders and encourage the development of harm reduction policies and procedures within interagency protocols. It is important to note that the agencies making up a steering committee may all hold a different definition of harm reduction and thus a collective definition must be made in order to effectively integrate a harm reduction approach widely.

Practical Examples

This introductory document is intended to provide the framework and background on how to begin incorporating aspects of a harm reduction approach into practice. Below is a sample of practical strategies from subject matter experts on how their agency has adopted and employed a strategy. This table is intended to be a snapshot of the guidance to come, which will expand on how role-specific practitioners can implement harm reduction into their practice, both at a ground level and systemically.



SOCIAL WORKER

Jointly develop a safety plan with the youth to utilize when absent from care and introduce services they can access when not in placement



PROBATION

Consider the entirety of the youth's circumstance when determining the level of response to probation violations



CAREGIVER

Utilize appropriate consequences for when youth return from being missing from care, while also recognizing and affirming their decision to return



EDUCATORS

Consider adjusting class schedule to meet youth's needs and allow effective participation



PUBLIC HEALTH

Provide education and access to long-acting contraceptives if desired



DEPENDENCY/DELINQUENCY COURTS

Implement specialized court rooms for victims of CSE



BEHAVIORAL HEALTH

Stay present and have consistent contact while missing from placement; reminding client that they can contact therapist or attend therapy without coming back into placement



YOUTH MENTOR/SURVIVOR ADVOCATE

Establish protocols to safely respond to youth while they are absent from care



LAW ENFORCEMENT

Determine a point of contact for each local law enforcement agency to reduce delays in multi-jurisdictional cases



And with that sense of offense is the real danger that since we cannot ensure the protection of the victimized child, we may decline to engage them because of the risk to our own reputations. But our response cannot be “If we can’t control you, we can’t help you.”



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Endnotes

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California Department of Social Services
744 P Street
Sacramento, CA 95814

<http://www.cdss.ca.gov/inforesources/Child-Welfare-Protection/Child-Trafficking-Response>

CALIFORNIA TRIBAL COURT–STATE COURT FORUM

March 2012

Native American Statistical Abstract: Population Characteristics

The Tribal/State Programs of the Judicial Council’s Center for Families, Children & the Courts has developed a series of informational abstracts that bring together the available data from various sources on American Indians and Alaskan Natives (AI/AN) nationally, statewide, and tribally specific to California’s AI/AN population. The purpose of these abstracts is to develop and disseminate justice-related information and links to reports to ensure the highest quality of justice and service for California’s AI/AN population. This information is intended for the state judicial branch, tribal justice systems, tribal organizations, state agencies, and local agencies to support effective collaboration and tribal justice development.

Note: This update was originally published in July 2011, with data from the 2000 Census. It was updated in March 2012 with data from the 2010 Census.

National Tribal Population

- According to the 2010 Census, 5.2 million U.S. residents reported being AI/AN alone or in combination with some other race, and over 2.9 million reported being AI/AN alone.¹ Among counties in the United States, Los Angeles County (CA) had the highest population of AI/AN alone in 2000 (76,988).²
- In 2010, the majority of the AI/AN-alone population (67 percent) and the majority of the AI/AN-in-combination³ population (92 percent) lived outside of tribal areas.⁴
- In 2010, Cherokee was the largest tribal population, representing approximately 16 percent of the total AI/AN population. The Cherokee population, at more than 819,000, is more than twice the size of the Navajo, the second-largest tribal population, at over 332,000. Other large tribal

¹ Tina Norris, Paula L. Vines, and Elizabeth M. Hoeffel, “2010 Census Briefs: The American Indian and Alaska Native Population: 2010.” (Bureau of the Census, Jan. 2012), p. 4, table 1, <http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf> (as of March 5, 2012).

² U.S. Census Bureau, Census 2000, Summary File 2.

³ AI/AN alone refers to the population that self-identifies as being only AI/AN. AI/AN in combination refers to the population that self-identifies as being AI/AN in combination with one or more other races.

⁴ Norris, et al, *supra*, p. 12, figure 6.

populations (roughly 170,000 or more) include Choctaw, Mexican American Indian, Chippewa, and Sioux.⁵

California Tribal Population

- In 2010, California had the largest population of AI/AN alone (362,801); the second-largest AI/AN population was in Oklahoma (321,687), followed by Arizona (296,529). California represented 12 percent of the total AI/AN-alone population in the United States. California had more than 720,000 AI/AN citizens (alone or in combination with another race) residing in both rural and urban communities.⁶
- Although California has the largest tribal population in the United States, it has very little tribal land. (See http://www.waterplan.water.ca.gov/tribal2/docs/GW_Basins_and_Tribal_Trust_Lands_map.pdf.)
- As of 2005, only 3 percent of California's AI/AN population lived on a reservation or rancheria.⁷
- California's Native American communities include descendants or members of 108 California-based federally recognized tribes (about 20 percent of all tribes in the United States).⁸ As of 2008, an additional 74 tribes in California are petitioning for federal recognition.
- The California tribal population consists of a significant number of members of tribes not based in California. More than half of the Native Americans living in California are members of tribes located outside of California.⁹
- The AI/AN-alone or -in-combination population makes up 2 percent of California's total population. Approximately 50 percent of California's AI/AN population is AI/AN in combination with one or more other races (predominantly white), and 50 percent of California's AI/AN population identifies as AI/AN alone.¹⁰
- Cherokee is the largest tribal population in California (approximately 18 percent), followed by Apache (6 percent), Navajo (5 percent), and Choctaw (5 percent).¹¹

⁵ Norris, et al, *supra*, p. 18, figure 8. These figures are for individuals identifying as AI/AN alone or in combination with one or more other races.

⁶ Norris, et al, *supra*, p. 7, table 2.

⁷ National Indian Child Welfare Association, *American Indian/Alaska Native Fact Sheet for the State of California* (2005), www.nicwa.org/states/California.pdf (as of July 8, 2011).

⁸ For a complete listing of tribal entities by state, see the Bureau of Indian Affairs' *Tribal Leaders Directory* (Spring 2011) at www.bia.gov/idc/groups/xois/documents/text/idc002652.pdf (as of July 8, 2011).

⁹ U.S. Census Bureau, Population Division, "Table 19: American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe for California: 2000," www.census.gov/population/www/cen2000/briefs/phc-t18/tables/tab019.pdf (as of July 8, 2011).

¹⁰ Norris, et al, *supra*, p. 7, table 2.

¹¹ Elias S. Lopez, Ph.D., *Census 2000 for California: A Friendly Guide* (Cal. Research Bureau, July 2002), www.library.ca.gov/crb/02/07/02-007.pdf (as of July 8, 2011).

County Tribal Populations

- Based on the 2000 U.S. Census, Los Angeles County (CA) has the largest AI/AN-alone population (76,988) in the United States.
- Ten California counties are included in the 50 U.S. counties with the highest AI/AN-alone populations. In addition to Los Angeles County, San Diego, San Bernardino, Orange, and Riverside Counties are among the top 20 in that group (see table 1).¹²
- Alpine County has the highest proportion of AI/AN-alone residents (19 percent), followed by Inyo County (10 percent), and Del Norte County (6 percent).¹³

Table 1. California Counties With the Largest AI/AN-Alone Populations

County	Population	U.S. Rank
Los Angeles	76,988	1
San Diego	24,337	11
San Bernardino	19,915	14
Orange	19,906	15
Riverside	18,168	17
Sacramento	13,359	24
Fresno	12,790	26
Santa Clara	11,350	30
Kern	9,999	38
Alameda	9,146	43

Source: 2000 U.S. Census

Education and Household Income

- Nationally, the AI/AN-alone population has a lower percentage of individuals with at least a high school diploma (71 percent) than does the general population (80 percent). This discrepancy is largely because the AI/AN population is less likely to have a bachelor's (or higher) degree (11 percent) than the general population (24 percent).¹⁴
- In California we see a similar discrepancy in educational attainment. The percentage of individuals with at least a high school diploma is lower for the AI/AN-alone population than for the California population as a whole (68 percent and 74 percent, respectively) as is the percentage of those with a Bachelor's (or higher) degree (11 percent, compared to 27 percent of California as a whole).¹⁵
- The median income for all California households is \$47,493, whereas the median income for the AI/AN-alone population is \$36,547.¹⁶
- Thirty-four percent of AI/AN households have an income of less than \$20,000. Of those, roughly half (17 percent) have an income of less than \$10,000.
- About 62 percent of all AI/AN households fall below the U.S. median household income level.

¹² U.S. Census Bureau, "Table 9: Counties with an American Indian and Alaska Native Alone Population Greater Than Zero, Ranked by Number: 2000" (Aug. 2001), www.census.gov/population/www/cen2000/briefs/phc-t14/tables/tab09.pdf (as of July 8, 2011).

¹³ U.S. Census Bureau's American FactFinder, Census 2000, Summary File 1, "GCT-P6. Race and Hispanic or Latino: 2000."

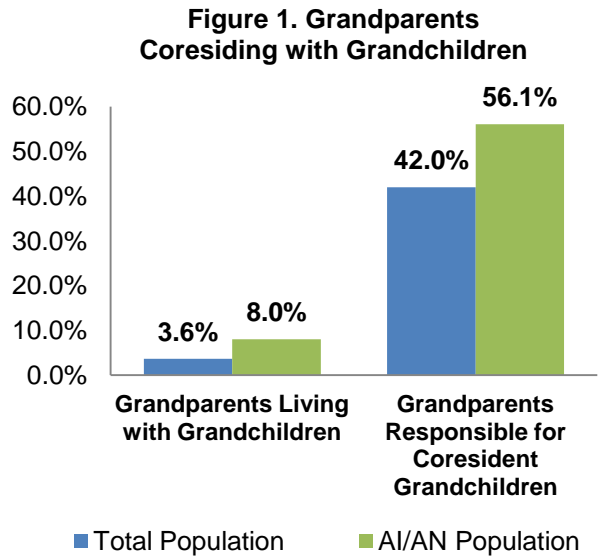
¹⁴ U.S. Census Bureau's American FactFinder, Census 2000, Summary File 2 and Summary File 4, "Census 2000 Demographic Profile Highlights: Selected Population Group: American Indian and Alaska Native alone."

¹⁵ *Ibid*

¹⁶ *Ibid*

Households and Families

- The AI/AN population has a lower proportion of married-couple households (45 percent) than does the U.S. population as a whole (53 percent) and a higher proportion of both male-headed and female-headed households with no spouse present (28 percent) than that of the total U.S. population (16 percent).¹⁷
- The AI/AN population has a higher average household size (3.06 persons) than does the U.S. population as a whole (2.59).¹⁸
- Nearly 4 percent of the total U.S. grandparent population (30 years old and over) live with grandchildren, whereas 8 percent of the AI/AN population of grandparents live with grandchildren.¹⁹
- AI/AN grandparents are more likely to be responsible for coresident grandchildren (56 percent) than is the total U.S. population (42 percent), as illustrated in figure 1.²⁰



¹⁷ Stella U. Ogunwole, U.S. Census Bureau, *We the People: American Indians and Alaska Natives in the United States* (2006).

¹⁸ *Ibid.*

¹⁹ U.S. Census Bureau, *Grandparents Living With Grandchildren: 2000* (Oct. 2003).

²⁰ *Ibid.*

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The views in this research update are those of the author and do not necessarily represent the official positions or policies of the Judicial Council of California.

The staff names listed above have been updated as of October 2013; otherwise the content of this research update remains unchanged.

Commercial Sexual Exploitation of Children and Youth (CSECY) Fact Sheet

Commercial Sexual Exploitation of Children and Youth affects communities at worldwide, national and local levels. CSECY is defined as sexual abuse of a minor for economic gain. It involves physical abuse, pornography, prostitution and the smuggling of children for unlawful purposes.

CSECY is a form of human trafficking Human trafficking is a worldwide, billion-dollar-a-year industry. According to the State Office of the Attorney General, human trafficking is the world's second most profitable criminal enterprise, with drug trafficking holding the topmost rank.

CSECY is a rampant and fast-growing problem: Three of the nation's 13 high-intensity child prostitution areas as identified by the FBI are located in California: Los Angeles, San Francisco and San Diego metropolitan areas.

VICTIMS

ALL CHILDREN (girls, boys, transgender youth) from any background can be targeted and exploited. Average age victims enter trafficking is 12-14 years old

VICTIMIZATION - HOW IT HAPPENS

- Victims are often hidden from view, often going unnoticed
- Pimps and other exploiters scout bus stations, arcades, malls and social networking websites, honing in on girls/boys who appear to be runaways without money or skills, or who may be experiencing trouble at home
- They befriend the youth by showing them affection; buying them clothes, meals, jewelry, beauty/grooming (i.e., manicures) and/or offering shelter in exchange for sex
- False promises of a "better life" are an important recruitment tool. Reality: All money is turned over to the pimp/trafficker and children are exploited for monetary gain and sexual gratification of the exploiters and their clients
- The pimp/trafficker creates a seemingly loving and caring relationship with the child in order to establish trust and loyalty.
- Pimps and exploiters eventually (as little as 2 weeks) use the child's emotional and financial dependency to coerce them into selling sex for money
- The manipulation tactics used by the exploiter ensures that the child will remain loyal to him/her despite acts of violence and severe victimization against the child
- Children are threatened or may be assaulted to guarantee obedience and prevent their escape

PERPETRATORS (EXPLOITERS, TRAFFICKERS OR PIMPS)

- Predators who seek out vulnerable victims
- Can be anyone, including family members, boyfriends or other trusted adults
- Although exploiters often target children outside of their family, a family member may also prostitute a child

CSEC INDICATORS - WHO IS AT RISK?

- Homelessness/runaway youth
- Children with sexual abuse histories
- Kids with history of violations (i.e., truancy, curfew violations or involvement with juvenile justice system)
- There is a presence of an older "boyfriend" or adult who is controlling in the youth's life
- Youth has tattoos, brandings or markings
- Signs of violence (i.e., cuts, bruises or burns on child's body)

PSYCHOLOGICAL IMPACT

Abused and exploited by the pimp, the child is then left traumatized, alone and without support. In addition, the victim may experience a range of emotional or psychological distress, including:

- Trauma (complex trauma/trauma-bonding)
- Depression
- Isolation
- Thoughts of suicide or self-destructive behavior
- Guilt
- Anxiety
- Anger control issues
- Difficulty forming positive relations with other
- Difficulty managing mood
- Attention deficit/impulse control issue

CSECY Fact Sheet (cont'd)

(As of March 9, 2017)

Department of Mental Health Responds to CSECY

- LACDMH was involved in the development of the Los Angeles CSEC First Responder Protocol (2014)
- Participation by DMH in Multi-Disciplinary Team (MDT) meetings in specialty courts:
 - Succeeding Through Achievement and Resilience (STAR) court
 - Dedication to Restoration through Empowerment, Advocacy and Mentoring (DREAM) court
- Over 1,300 LACDMH providers have been trained on “CSEC 101,” and on choice treatment interventions for working with CSECY.
- Over 75 provider agencies have been trained in one or more Evidence-Based Practices (EBPs) addressing specific mental health symptoms, trauma or emotional issues presented by the youth.
- LACDMH participates in interagency collaborations in ensuring effective collaboration in the prevention, identification, prosecution, and provision of services for CSECY in Los Angeles County—Key partners include law enforcement agencies, such as Probation and Sheriff Department; DCFS; service providers; community organizations; advocacy agencies and other key stakeholders.

Rethinking the Perception of Victims

An important part of taking action against CSECY is reframing perceptions about its victims and fighting the stigma that surrounds this issue.

Here are some facts:

- Many victims of sex trafficking have been molested, raped and/or sexually assaulted by a family member or close family friend. 95% of CSECY were victims of earlier childhood sexual abuse
- Given the few choices some youth have, when he/she sells sex at the hands of an exploitative adult, it is largely a means of survival

Shifts in Legislation

SB 855 (2014):

- Makes the commercial sexual exploitation of a minor a mandatory child abuse report
- Clarified that a child who is sexually trafficked and whose parent or guardian has failed or is unable to protect him or her, can be served through child welfare as a victim of abuse and neglect

SB 1322 (2017):

- ‘Decrim’ law: Decriminalized the crimes of prostitution and loitering with intent to commit prostitution (crimes listed in 647 and 653.22 of the Penal Code) for minors
- Peace officer who encounters a child involved in a commercial sex act pursuant shall report suspected abuse or neglect of the minor to the county child welfare agency

Resources

LA Metro Taskforce: 800-655-4095

National Human Trafficking Hotline 888-373-7888

California Human Trafficking Legislation <https://oag.ca.gov/human-trafficking/legislatio>

Shared Hope International: <http://sharedhope.org/>

SPECIAL REPORTS

U.S. Department of Justice (OJJDP)

National Institute of Justice Special Report, December 2007, “Commercial Sexual Exploitation of Children: What do we know and what do we do about it?” <https://www.ncjrs.gov/pdffiles1/nij/215733.pdf>

Child Welfare Information Gateway (2015) <https://www.childwelfare.gov/pubPDFs/trafficking.pdf>

For more information on CSECY and additional resources, please visit our Transition Age Youth website at http://dmh.lacounty.gov/wps/portal/dmh/our_services/day. Contact CSECinfo@dmh.lacounty.gov regarding information on the Los Angeles County Department of Mental Health efforts or to become involved.



U.S. Department of Health and Human Services (HHS) Child Victims of Human Trafficking



What does the human trafficking of children look like in the United States?

Across the globe, traffickers buy and sell children, exploiting them for sex and forced labor, and moving them across international borders. Child victims are trafficked into the United States from Africa, Asia, Central and South America, and Eastern Europe. In the United States, children are subjected to human trafficking in many different sectors. Examples include prostitution on the streets or in a private residence, club, hotel, spa, or massage parlor; online commercial sexual exploitation; exotic dancing/stripping; agricultural, factory, or meatpacking work; construction; domestic labor in a home; restaurant/bar work; illegal drug trade; door-to-door sales, street peddling, or begging; or hair, nail, and beauty salons. Family members, acquaintances, pimps, employers, smugglers, and strangers traffic children. They often prey upon the children's vulnerabilities – their hopes for an education, a job, or a better life in another country – and may use psychological intimidation or violence to control the children and gain financial benefits from their exploitation. Trafficked children may show signs of shame or disorientation; be hungry and malnourished; experience traumatic bonding (Stockholm syndrome) and fear government officials, such as police and immigration officers.

What is the definition of human trafficking under U.S. federal law?

The Trafficking Victims Protection Act of 2000 (TVPA) defines “severe forms of human trafficking” as:

The recruitment, harboring, transportation, provision, or obtaining of a person for

- **sex trafficking** in which a **commercial sex act** is induced by force, fraud, or coercion, **or in which the person induced to perform such act has not attained 18 years of age**; or
- **labor or services**, through the use of **force, fraud, or coercion** for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Coercion includes threats of physical or psychological harm to children and/or their families. **Any child (under the age of 18) engaged in commercial sex is a victim of trafficking.**

How do I report human trafficking?

If a child is in urgent need of assistance, contact law enforcement or child protective services to report abuse, neglect, or exploitation of a child. The Childhelp® National Child Abuse Hotline professional crisis counselors can connect a caller with a local number to report abuse. Contact Childhelp at 1.800.4.A.CHILD. (1.800.422.4453).

The National Center for Missing & Exploited Children® (NCMEC) aims to prevent child abduction and sexual exploitation; help find missing children; and assist victims of child abduction and sexual exploitation, their families, and the professionals who serve them. Contact NCMEC at 1.800.THE.LOST (1.800.843.5678).

The HHS-funded National Human Trafficking Resource Center (NHTRC) operates a hotline 24 hours a day, every day. The NHTRC will help callers identify and coordinate with local organizations that protect and serve victims of trafficking. Contact the NHTRC at 1.888.3737.888.

What are my reporting responsibilities if I am a government official?

The TVPA, as amended, requires Federal, State, or local officials to notify HHS within 24 hours of discovering a child *who may be* a foreign victim of trafficking, to facilitate the provision of assistance.

National Human Trafficking Resource Center 1.888.3737.888



U.S. Department of Health and Human Services (HHS) Child Victims of Human Trafficking



Federal, State, or local officials should notify a Child Protection Specialist in the HHS Office of Refugee Resettlement (ORR) at ChildTrafficking@acf.hhs.gov or call **202.205.4582**. An HHS/ORR Child Protection Specialist will respond to notifications to facilitate eligibility for assistance and provide technical assistance as appropriate.

How do I obtain assistance for a foreign child victim of human trafficking?

To become eligible for federally-funded benefits and services that would not be available to a child without a legal immigration status, a child victim must have an Eligibility Letter or an Interim Assistance Letter from HHS/ORR. An individual may request these letters from HHS/ORR on behalf of a child when credible information indicates the child may be a victim of trafficking. Submission of a *Request for Assistance for Child Victims of Human Trafficking* form can facilitate a determination of the child's eligibility for assistance. Obtain a form at www.acf.hhs.gov/trafficking. Submit requests by e-mail to ChildTrafficking@acf.hhs.gov or by fax to 202.401.5487. An HHS/ORR Child Protection Specialist will respond to requests and may be reached by phone at **202.205.4582**.

HHS/ORR issues an Eligibility Letter to assist a foreign child trafficking victim to become eligible for benefits and services without regard to the child's immigration status. HHS/ORR issues an Interim Assistance Letter to a foreign child who *may have been* subjected to trafficking to make the child eligible to receive benefits and services for a 90-day period. After issuing an Interim Assistance Letter, HHS/ORR will consult with the U.S. Departments of Justice and Homeland Security, and nongovernmental organizations with expertise in trafficking before determining the child's continued eligibility as a victim of trafficking. **Children are not required to cooperate with law enforcement or to have been granted Continued Presence or a T nonimmigrant visa by the U.S. Department of Homeland Security to receive assistance.**

Who provides care for unaccompanied or separated child victims of trafficking?

A child victim of trafficking with an Eligibility Letter who has no available parent or legal guardian in the United States is eligible for ORR's **Unaccompanied Refugee Minors (URM) program**. Children are placed in licensed foster homes or other care settings according to individual needs. An appropriate court awards legal responsibility to the State, county, or private agency providing services, to act in place of the child's unavailable parents. Children in the URM program receive the full range of services available to other foster children in the State, as well as special services to help them adapt to life in the United States and recover from their trafficking experience. Safe reunification with parents or other appropriate relatives is encouraged. To access the URM program for a child victim of trafficking, call an HHS/ORR Child Protection Specialist at **202.205.4582**.

What assistance is available to child victims of human trafficking?

Victims of trafficking who meet State eligibility requirements may access medical screenings, Temporary Assistance for Needy Families (TANF), Medicaid, State Children's Health Insurance Programs (SCHIP), Substance Abuse and Mental Health Services Administration (SAMHSA) Programs, Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and public housing programs.

National Human Trafficking Resource Center 1.888.3737.888



HUMAN TRAFFICKING OF CHILDREN IN THE UNITED STATES

A FACT SHEET FOR SCHOOLS

What Is Human Trafficking?

Human trafficking is a serious federal crime with penalties of up to imprisonment for life. Federal law defines "severe forms of trafficking in persons" as: "(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery." [U.S.C. §7102(8)]

In short, human trafficking is a form of modern slavery. Those who recruit minors into commercial sexual exploitation (or prostitution) violate federal anti-trafficking laws, even if there is no force, fraud, or coercion.

What Is the Extent of Human Trafficking in the United States?

An unknown number of U.S. citizens and legal residents are trafficked within the country for sexual servitude and forced labor. Contrary to a common assumption, human trafficking is not just a problem in other countries. Cases of human trafficking have been reported in all 50 states, Washington D.C., and the U.S. territories. Victims of human trafficking can be children or adults, U.S. citizens or foreign nationals, male or female.

Common examples of identified child trafficking cases include:

- Commercial sex
- Stripping
- Pornography
- Forced begging
- Magazine crews
- Au pairs or nannies
- Restaurant work
- Hair and nail salons
- Agricultural work
- Drug sales and cultivation

How Does Human Trafficking Affect Our Schools?

Trafficking can involve school-age youth, particularly those made vulnerable by challenging family situations, and can take a variety of forms including forced labor, domestic servitude, and commercial sexual exploitation.

The children at risk are not just high school students—pimps or traffickers are known to prey on victims as young as 9. Traffickers may target minor victims through social media websites, telephone chat-lines, after-school programs, at shopping malls and bus depots, in clubs, or through friends or acquaintances who recruit students on school campuses.

How Do I Identify a Victim of Human Trafficking?

Indicators that school staff and administrators should be aware of concerning a potential victim:

- Demonstrates an inability to attend school on a regular basis and/or has unexplained absences
- Frequently runs away from home
- Makes references to frequent travel to other cities
- Exhibits bruises or other signs of physical trauma, withdrawn behavior, depression, anxiety, or fear
- Lacks control over his or her schedule and/or identification or travel documents
- Is hungry, malnourished, deprived of sleep, or inappropriately dressed (based on weather conditions or surroundings)

- Shows signs of drug addiction
- Has coached/rehearsed responses to questions

Additional signs that may indicate sex trafficking include:

- Demonstrates a sudden change in attire, personal hygiene, relationships, or material possessions
- Acts uncharacteristically promiscuous and/or makes references to sexual situations or terminology that are beyond age-specific norms
- Has a “boyfriend” or “girlfriend” who is noticeably older
- Attempts to conceal recent scars

Additional signs that may indicate labor trafficking include:

- Expresses need to pay off a debt
- Expresses concern for family members’ safety if he or she shares too much information
- Works long hours and receives little or no payment
- Cares for children not from his or her own family

How Do I Report a Suspected Incidence of Human Trafficking?

- In the case of an immediate emergency, call your local police department or emergency access number.
- To report suspected human trafficking crimes or to get help from law enforcement, call toll-free (24/7) 1-866-347-2423 or submit a tip online at www.ice.gov/tips.
- To report suspected trafficking crimes, get help, or learn more about human trafficking from a nongovernmental organization, call the toll-free (24/7) [National Human Trafficking Resource Center](http://www.nhtrc.org) at 1-888-373-7888.
- To report sexually exploited or abused minors, call the [National Center for Missing and Exploited Children](http://www.ncmec.org)’s (NCMEC) hotline at 1-800-THE-LOST, or report incidents at <http://www.cybertipline.org>.

Resources and Publications

One of the best ways to help combat human trafficking is to raise awareness and learn more about how to identify victims. For 20 ways you can help fight human trafficking, click [here](#).

Information on human trafficking can also be found on the following Web sites:

- Department of Homeland Security [Blue Campaign](#)
- [National Center for Missing and Exploited Children](#)
- [National Human Trafficking Resource Center](#)
- [Readiness and Emergency Management for Schools Technical Assistance Center](#)
- [United Nations Office on Drugs and Crime](#)
- [U.S. Citizenship and Immigration Services, Victims of Human Trafficking & Other Crimes](#)

NOTE: This fact sheet contains resources, including Web sites, created by a variety of outside organizations. The resources are provided for the user's convenience and inclusion does not constitute an endorsement, by the U.S. Department of Education of any views, products, or services offered or expressed therein. All Web sites were accessed on January 7, 2013.



News Maven > Home > News



Identifying, tracking and preventing human trafficking in Indian Country

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by **Debra Krol** Feb 7 - edited



Phoenix is a top hub for trafficking—Native girls and women are 'hot commodities,' according to one expert

Valaura Imus-Nahsonhoya spoke to an attentive audience at Native Health of Phoenix



to meet the celebrities. “You’ve got beautiful hair,” he told me. ‘I just love your hair.’”



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However, the recruiter hit on the wrong woman: Imus-Nahsonhoya wasn’t just a lone Native woman ripe for the picking. She’s a victim advocate and expert on human trafficking in Indian Country who has developed programs to support victims and survivors of domestic violence, human trafficking and sexual assault.

Although she avoided being kidnapped into a life of sex slavery, Imus-Nahsonhoya did gather more intelligence for law enforcement tracking trafficking rings--another step toward addressing this difficult issue.

After working in the public sector for nearly a decade, including in trafficking issues since 2015, she created her own firm, Honwungsi Consulting Services. And, the “somebody” Imus-Nahsonhoya was waiting for was a survivor of human trafficking turned advocate who works with law enforcement and other victim advocates.

Imus-Nahsonhoya now provides training and technical assistance in these fields.

She delivered a lecture on Jan. 30 to an audience of more than 50 health care providers, advocates, community members and even two Navajo Nation Natural Resources rangers on spotting the signs of trafficking for commercial sex or forced labor.

“The U.S. Department of Justice found that Phoenix is one of the top trafficking jurisdictions,” says Imus-Nahsonhoya. And, the **National Congress of American Indians** found in 2015 that, based on a survey of four sites, an estimated 40 percent of women involved in sex trafficking identify as American Indian, Alaska Native or First





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Why seek Natives? “We’re associated with fetishes,” such as long hair, exotic looks that sex patrons perceive as Asian or Hispanic, Imus-Nahsonhoya says.”We could look like anything.”



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Enslaving Native women for sex or other purposes isn't new, either: Imus-Nahsonhoya displayed books and illustrations showing that the practice has been occurring for centuries.



Imus-Nahsonhoya says that she learned most of what she knows about trafficking from survivors of this degrading and often dangerous life. "One trafficked woman showed me a list of services and her daily quota," says Imus-Nahsonhoya. "From age 14 to 17, she had to make \$600 a day. But she never saw a dime of that." That's why sex trafficking is said to be a \$12 billion business.



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Sex traffickers prey upon young girls and women they perceive as vulnerable. Labor traffickers look for boys and young men, as well as girls, to labor in oil fields, sweatshops, "man camps" and as domestic help. The high rates of poverty and hardship in tribal communities; historical trauma and culture loss; homelessness and runaway youth; high rates of involvement with child welfare systems, including entry into the foster care system; exposure to violence in the home or community; drug and alcohol abuse; and low levels of law enforcement all add up to a community rich in targets for traffickers.

Imus-Nahsonhoya notes that boyfriends can turn out to be traffickers since an approximate 46 percent of recruiters know their victims. "They make the person trust them and get information from them, like family names and relationships," she says. "Then the 'Romeo' passes the information—and the girl—onto the pimp."

Traffickers also "shop" for victims at shopping malls, schools, parks, and bus stops. That's why it's vital for parents to know where their children are at all times, Imus-Nahsonh

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accomplice, gets herself thrown in a juvenile or adult jail to search for targets. And sadly, some trafficking occurs in “survival” situations, where desperate parents sell their kids for food or firewood. “I’ve seen this [happen] on the rez,” says Imus-Nahsonhoya.



“A lot of the girls I work with don’t have family support,” she says.



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A lot of girls targeted do not have family support. (Photo Tammy Gann)

The pimps threaten the girl with revealing her new “career” to her family in the case of a boyfriend or other such recruitment methods, shaming the girl and her family. Or worse yet, as Imus-Nahsonhoya says, “The girl says to us ‘If I go with you [to escape the trafficker], he’ll kill my family.’” Or, take the children that she may have had while working as a prostitute. The pimp holds those kids as hostages.

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And, once those girls—and on occasion, boys—manage to escape the “life,” treatment involves intensive long-term treatment and counseling to break what Imus-Nahsonhoya calls the “trauma bond.” That’s created over the time that the girl is conditioned by coercion, physical violence, and psychological manipulation.

To make matters worse, many tribes aren’t equipped to deal with trafficking. “These tribes still don’t have the right codes [laws] to prosecute traffickers,” Imus-Nahsonhoya says.

And, she says, “We’re not prepared to deal with trafficking in tribal casinos.”

For example, Imus-Nahsonhoya and a fellow advocate were observing the hotel desk as an Arizona tribal casino when she spotted the signs of a prostitution ring checking in. “But when I informed casino security, they laughed at me,” she said. She then called the tribal police. After tribal leadership became involved in obtaining evidence, the incident led to the tribe providing regular training for casino workers on trafficking, and she’s provided five other tribal casinos in the state with similar training.

Also, large events such as the Super Bowl or the Phoenix Open golf tournament brings the pimps, Imus-Nahsonhoya says. That’s why she’s working with the PGA and other sports organizations to address these issues.

Imus-Nahsonhoya stresses that tribes should adopt ordinances that align with the Violence Against Women Act, such as the ordinance that the Navajo Nation has. And, she says, a few other tribes have these laws in their books. “Tribal leadership is key to addressing trafficking,” says Imus-Nahsonhoya.

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about sexual exploitation and know the warning signs that their child is being “groomed” to be trafficked (see sidebar below).



For more information:



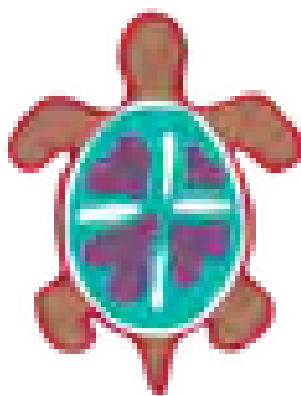
If you’re a victim of domestic violence of human trafficking: Strong Hearts Native Helpline, or 1-844-7NATIVE (1-844-762-8483).

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Home - StrongHearts Native Helpline

The StrongHearts Native Helpline (1-844-7NATIVE) is a safe, anonymous and confidential service for Native Americans affected by...

www.strongheartshelpline.org



STRONGHEARTS Native Helpline

If you’re a victim of trafficking, you can text 233733 for help.

Warning Signs Your Child May be at Risk for Human Trafficking

Money and Clothes

The grooming process often involves money, clothing or other expensive items like cell phones. These gifts will make the child feel special and could make them feel indebted. In time, they can create reliance as they become to rely on this person to meet their need x





Making new friends is a great idea, but if these friends are older or more independent—it may be a warning sign. Traffickers will often lie about their age or use teens as recruiters. If your teen starts spending time with a new boyfriend or a new group of friends, ask questions. Knowing who your child is with and what they are doing is important for their safety.

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Unexpected Absences

If your teen was missing you would call the police, but there are other instances that should get your attention. Skipping school, missing curfew or unexplainable absences should cause you to ask questions. While these signs are not proof your child is being sex trafficked, it could be a sign of other risky behaviors that are leading to being trafficked.

Change in Behavior

Teens that are being groomed by sex traffickers may also have a change in behavior. If you notice that your child has become withdrawn, angry, depressed, changes in sleeping/eating patterns or other big changes, do not chalk it up to teenage hormones. Take the time to look further, especially when presented with the other signs mentioned above. (Courtesy Catholic Charities Arizona)

The National Congress of American Indians is the owner of Indian Country Today and manages its business operations. The Indian Country Today editorial team operates independently as a digital journalism enterprise.



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3 days

for starters, this issue is fairly prevelant during annual Fair seasons, especially for the Navajo Tribal fairs on and across the tribal-lands.....July-October. It doesn't take much to find and locate this happening on RESERVATION-LANDS year after year.

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Featured 869 Community 243



Tribal colleges advocate at the Capitol for funds

Reporter, Producer **Jourdan Bennett-Begaye** 1 day

1 Comment



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SESSION 4:
MAINE TRUTH AND
RECONCILIATION
COMMISSION

TRC Child Welfare Related Recommendations and Implementation:

Develop Department of Health and Human Services (DHHS) legal and judicial trainings that go beyond the basic checklists and toolkits to recognize bias and build cultural awareness at all levels of leadership and accountability in ways that frame ICWA within historical context.

With the counsel of the tribes, develop a policy to monitor regular compliance with ICWA, the selection of ICWA liaisons and the eventual provision of a supervisory-level staff member responsible for ICWA in each DHHS district office.

Create better and more consistent supports for non-Native foster and adoptive families so that Wabanaki children have the strongest possible ties to their culture.

Explore the creation of more Native foster homes in general and additional Native therapeutic homes in particular.

Resolve as quickly as possible issues with IV-E funds.

- *Penobscot Nation has applied for IV-E funding. Another tribe is exploring this.*

Fund the renewal of the ICWA Workgroup and involve them in designing and implementing training so that all levels of leadership are involved; their work may well include training people on the new Bureau of Indian Affairs regulations being developed on ICWA.

- *ICWA Workgroup has been working since June 2015. State partners: OCFS, AG, Maine Courts.*
- *Meeting with District leadership once or twice a year.*
- *All caseworkers were trained on new ICWA regulations.*
- *ICWA Workgroup delivers training to OCFS staff, attorneys, and judges and delivers presentations at child welfare and legal conferences.*
- *Review of ICWA cases through co-case management to monitor ICWA compliance.*
- *Developing a data tracking plan by implementing changes to MACWIS and case plans/family plans to track ICWA components such as reasonable efforts, identification of Native children, and placement preferences, which have not been previously tracked.*
- *Protect the Children Initiative; CASA, QEW, resource families, respite providers, community hosts.*
- *Develop community hosts in Wabanaki communities to support non-Native resource families who have Native children to bring to the community.*

Explore the expansion of tribal courts to include the Maliseet and Micmac communities, should these communities express a desire to do so, and explore as well what funding possibilities exist for this initiative. Also hear concerns from those who do not feel well represented by the courts.

- *Maliseets are working on a plan to use Passamaquoddy court.*

Resolve problems surrounding blood quantum, census eligibility and the provision of services for children, as these issues are often contested and unclear.

- *This is an internal tribal matter.*

Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission
Mandate
Signed 6/29/2012

The Convening Group to establish the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission is comprised of individuals with a connection to Tribal child welfare and social services from each of the five Wabanaki communities (Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motakmikuk, Passamaquoddy Tribe at Sipayik, Penobscot Indian Nation), as well as staff from the Muskie School of Public Service, Wabanaki Mental Health Associates and American Friends Service Committee (AFSC), and the State of Maine Department of Health and Human Services Office of Child and Family Services (including the Child Welfare Director, Director of Policy and Practice, District Operations Managers and the Manager of Program and Quality Improvement).

Preamble

The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (TRC) is formed to uncover and acknowledge the truth, create opportunities to heal and learn from that truth, and collaborate to operate the best child welfare system possible for Wabanaki children, a goal shared by all the signatories to the Declaration of Intent. The Commission's investigation shall focus on the period from passage of the 1978 Indian Child Welfare Act (ICWA) to the authorization of the Mandate. This investigation will also include information that contributed to the passage of the ICWA in order to put understanding of the truth in a proper context.

Truth and reconciliation is an ongoing process with commitment from Wabanaki people and their respective governments, state government and the Maine Indian Tribal-State Commission. This TRC will learn and benefit from the participation of those affected including the Wabanaki people who were formerly clients of Maine child welfare, their families, communities, religious entities, former state and tribal child welfare employees, and the people of Maine. Reconciliation may occur within or between any of the above groups and includes relational, systemic and cultural change. The Convening Group will continue to support the Commission by promoting the TRC in each community, creating community and individual supports for those who will participate in or be touched by the Commission's work, acting in an advisory capacity to the Commission as they engage each community, and assuring that the intention of the TRC Mandate is being addressed and honored. However, the governmental signatories affirm the independence of the TRC to make such findings and recommendations as they deem appropriate given the testimony and information that comes before them.

The Wabanaki Tribes and the State of Maine cannot change the events that occurred and their impact on individuals, families, and communities. However, genuine healing can begin with an honest recognition of events that have occurred. By honestly examining the truth and recognizing what has been done, the State of Maine, in collaboration with the Tribes, can implement changes in child welfare practice to prevent recurrence and identify how truth and reconciliation may benefit other areas of Maine tribal-state relations. Through this, forgiveness and reconciliation may be achieved.

Establishing the Commission

The Convening Group that worked with the Wabanaki and Maine governments drafting the Declaration of Intent and this Mandate will ensure the selection of suitable commissioners and organizing the orientation process for the Commission members. The Declaration of Intent was

signed on May 24, 2011 by the Governor of Maine, Chiefs and representatives of the five Wabanaki communities, and Maine Indian Tribal-State Commission (MITSC) committing the signatories to undertake a truth and reconciliation process.

This document creates the Truth and Reconciliation process between the State of Maine and the Wabanaki Tribes. The Mandate for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission was written by the Convening Group, supported by the Maine Indian Tribal-State Commission and endorsed by the Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, Penobscot Indian Nation, and the State of Maine. The parties to this Truth and Reconciliation Commission process and mandate will work in good faith with the Commission in accordance with the expressed commitments made in this document. This will include cooperation in providing public information and confidential information when a legal release of information has been executed to help the Commission fulfill its mandate, as well as reviewing and considering the Commission's findings and recommendations. The Commission may request the production of documents in the possession of governmental and private interests in addition to testimony from individuals the Commission believes possess information important to fulfilling its work.

The Mandate sets forth the general parameters that will shape the Truth and Reconciliation Commission's (TRC) work.

The Commission shall be an autonomous body comprised of five Commissioners that are trusted by both tribal and state governments and their respective citizens. The criteria for Commissioners shall be persons of recognized integrity, stature, empathy and respect with a demonstrated commitment to the values of truth, reconciliation, equity and justice.

At least 4 of the commissioners will be current residents of the State of Maine. All will be selected in accordance with "The Selection Process for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission" document, which is attached. The Commission will designate the Commission chair(s) from within its own membership.

Objectives

Through the Declaration of Intent, the Wabanaki Tribes and State of Maine have agreed that a historic Truth and Reconciliation Commission will be established to contribute to truth, healing and reconciliation.

Built upon the Declaration of Intent, the objectives for this Truth and Reconciliation Commission are to:

1. Give voice to Wabanaki people who have had experiences with Maine state child welfare;
2. Give voice to state and tribal child welfare staff, care providers and legal community in regard to their work with Wabanaki families;
3. Create and establish a more complete account of the history of the Wabanaki people in the state child welfare system;
4. Work in collaboration with the TRC Community Groups and Convening Group to provide opportunities for healing and deeper understanding for Wabanaki people and state child welfare staff;

5. Improve child welfare practices and create sustainable change in child welfare that strives for the best possible system;
6. Formulate recommendations to state and tribal governments and other entities to ensure that the lessons of the truth are not forgotten and to further the objectives of the Commission; and
7. Promote individual, relational, systemic and cultural reconciliation.

Commission's Activities

The Truth and Reconciliation Commission will clarify the experiences of Wabanaki people with the Maine child welfare system during the time period from 1978 to the date of this Mandate with historical references as appropriate. It will seek to understand why these experiences occurred and determine any causes that yet need remedying. The Commission will seek to recognize the impact of these experiences on individuals, families, communities, cultures and state child welfare services.

The Commission will carry out its work over a three-year period, allowing initial time for securing funding and staff, developing an operational plan and beginning its activities. The Commission will convene a first meeting, as determined by the Commissioners, within 30 days of being sworn in. Within 90 days of that first meeting the Commission will undertake orientation with the Convening Group to the background, purpose and direction of the TRC, initial planning and set-up, the determination of its internal procedures and selection and appointment of its key staff. From its first meeting, the Commission will have a period of 27 months to fulfill the terms of its mandate. The Commission may call upon outside resources for administrative support during its initial planning and set-up phase. If necessary, the period of the Commission's mandate may be extended for up to 6 more months, with the permission of the signatories.

To achieve the objectives set out by this mandate and to fulfill the Declaration of Intent, the Commission and its staff shall conduct such research and receive statements and documents from Tribal people formerly in state custody, their families, community members, current and former child welfare professionals, and all other interested participants, make use of all documents and materials produced by the parties for the purpose of articulating an accurate and comprehensive understanding of the experiences of Wabanaki people in state child welfare, and analyze and discuss the information and statements it has gathered to create a common understanding, promote healing, and to make recommendations. The Commission will have no authority to either pursue criminal or civil claims or to grant immunity from such claims. The objectives of the Commission are to create a common understanding, promote healing, and make recommendations for child welfare systems reform through seeking, learning and reporting the truth, which will be accomplished by activities that include, but are not limited to:

1. Utilizing the Convening Group's support and guidance regarding TRC activities and engagement of the communities, including participating in up to 6 statewide events that may be hosted by each community.
2. Engaging communities in identifying individuals to be interviewed and to provide information to be reviewed by the Commission.
3. Seeking any information that would be relevant to creating common understanding, promoting healing, and making recommendations towards child welfare systems change.
4. Coordinating truth seeking activities with Wabanaki communities and the State of Maine.

5. Planning and implementing public outreach and media activities to fulfill the purpose of the Commission.
6. Within the parameters of state and tribal law, ensuring that ownership of information produced through the proceedings respects requests for confidentiality and assures privacy to protect individuals from experiencing further harm.
7. Summarize truth seeking activities (e.g., statement taking, hearings, examination of archives, etc.) with each community in a format that is preferred by each community (e.g., circles, forums, written draft findings and/or celebration, etc.).
8. Publish an overall report at the conclusion of its investigation. The report shall document an accurate accounting of the experiences of Wabanaki people with Maine state child welfare from 1978 to the signing of this Mandate with historical references as appropriate. The report shall include any recommendations to effect individual, family, community and cultural healing as well as changes to child welfare practice that can assure that detrimental experiences will not be repeated.
9. Providing the Commission's report to the public and specifically to the Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, Penobscot Indian Nation, the State of Maine, Maine Indian Tribal-State Commission and the Convening Group for review and consideration of the Commission's findings. Additional individuals and organizations which are recognized as parties to the TRC will be provided with the final report as well.
10. Holding a closing ceremony that includes the presentation of its report and recognizing the findings and recommendations that have been determined.
11. Archiving all such documents, materials, and transcripts or recordings of statements received, in a manner that will ensure their preservation and accessibility to the public and in accordance with agreements with individuals, between the Maine State and Wabanaki governments and any other applicable legislation.

We believe that these goals and activities will promote healing for Wabanaki people and communities which have been impacted by generations of trauma and will result in recommendations towards child welfare systems improvement.

By signing this mandate, the governments of the State of Maine, Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, and Penobscot Indian Nation are expressing their support for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission's exploration of what has happened, what is happening and what needs to happen in relation to state child welfare practices with Wabanaki children and families. Our commitment is to uncover the truth, embrace its lessons and collaboratively focus our efforts on activities that will help us learn from the past so that we might move forward as equal partners invested in promoting best child welfare practice for the Wabanaki people of Maine.

To support the purpose of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, the governments of the State of Maine, Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, and Penobscot Indian Nation agree to:

- Publicize and encourage participation in the Commission events and hearings.

- Educate and inform state agency staff about the Commission's purpose, proceedings and implications for their role.
- Provide state agency staff release time and ensure that they are not penalized if they talk with or present to the Commission.
- Produce documents requested by the Commission in a manner consistent with applicable laws, in a timely manner, and at no cost to the Commission. This may necessitate advance investigatory work to identify the storage locations of historical documents and records.
- Provide meeting space for the Commission's events, meetings and hearings in spaces suitable to provide access for these activities.
- Encourage and make available government representatives to attend Commission events, meetings, ceremonies and hearings.
- Encourage state agency participation on sub-committees and workgroups that support the work of the Commission.
- Make space available for visible display of information and exhibits about the Commission and its work.
- Read and take into consideration the report and recommendations of the Commission. This includes participating in presentations of and discussion forums about the Commission's report.

We welcome the Commission to our communities, facilities and agencies as it carries out its activities as spelled out in the Commission mandate. We commit ourselves to carry out this process with integrity; promoting truth, understanding and genuine reconciliation.

Chief Richard Cetchel
Aroostook Band of Micmacs
Date 6/29/12

Chief Bruce Commanche
Houlton Band of Maliseet Indians
Date 6/29/12

[Signature]
Passamaquoddy Tribe at Motahkmikuk
Date 6/29/12

[Signature]
Passamaquoddy Tribe at Sipayik
Date 6-29-12

[Signature]
Penobscot Indian Nation
Date 6-29-12

Pam R. LePage
State of Maine
Date 6-29-12

Protect the Children

Wolankeyuwon Wasisok ~ Wali-nenawelamak Awassisak

All our children deserve a strong, protective circle of caring adults to make sure they are loved, safe and connected to their community, tribe and culture; our continued tribal existence depends on it.

The Indian Child Welfare Act (ICWA) of 1978 is a federal law that recognizes how important tribal connection is. ICWA provides extra protection for native children involved in state child welfare and views the tribe as that child's third parent. ICWA was passed in response to the high rates of native children that were being removed from their tribes and raised in non-native homes.

There are many ways to become part of the protective circle for our children who cannot be with their own families; helping them maintain connection to their tribe. Learning about and sharing information about Indian child welfare is one way to help, here are some other ways:

- *Nikiigook* ~ **Foster Families** provide love and care to children who are not able to be with their own families, they play an important role in helping children and families reunite and in ensuring the child maintains a connection to their tribal community.
- *Nenawelaket* ~ **Respite Care** providers care for children who are either in foster care or with their own families; respite care is usually for a weekend to give parents a break and sometimes is a first step in deciding to become a foster family.
- *Nenawelaket* ~ **CASA Volunteers** serve as Guardians ad litem (GAL) for children who are in the child welfare system. CASA volunteers interview the child, family members, and others and provide a report to the judge about what is in the best interest of the child. The GAL works for the child and is usually an attorney.
- *Namihawet* ~ **Qualified Expert Witnesses** provide testimony in court about the specific facts of each case, focusing on the child's needs and considering the cultural and social standards of the child's tribe. The QEW also looks at how well the state did in providing active efforts and culturally relevant services to the family.
- *T'ankeyuwal* ~ **Community Hosts** are those who agree to be hosts or guides for children and their foster families, welcoming them into the community, taking them to community events and sharing their community and cultural knowledge.

For more information about how you can become part of the circle and help Protect the Children, please contact Tribal child welfare staff in your community or ICWA Workgroup staff person Esther Anne at 615-3189 or esther.anne@maine.edu

Link to the full report of the Maine Truth and Reconciliation Commission at: http://www.mainewabanakitrc.org/wp-content/uploads/2015/07/TRC-Report-Expanded_July2015.pdf

**SESSION 5: DEDICATED
ICWA COURTS**



County of Los Angeles, Indian Child Welfare Act (ICWA) Courtroom



By Hon. Amy Pellman

In June of 2013, I was assigned the ICWA courtroom at the Edelman Children's Court in Los Angeles. We are one of the only courts across the country that designates a courtroom to hear all the ICWA cases (approximately 250 children); we also have a specialized unit of the Department of Children and Family Services designated for the Indian cases. Although I had spent the bulk of my professional life working in the child welfare area, I knew very little about the Indian Child Welfare Act (ICWA). Not only did I know very little about the laws, I knew very little about the culture, and within my first two weeks, I inadvertently offended the community when I rearranged the décor in the courtroom. Luckily, I was introduced to a social worker from the Indian Unit, who kindly explained to me the significance and why the community was upset.

I realized at that moment that there needed to be healing between the court and the Indian community. Not just to address that small misunderstanding, but to address communication on a larger scale. I wanted to set up a meeting with community members, service providers for the Indian community, and the attorneys who worked at our court. I was fortunate to utilize the assistance of Vida Castaneda and Ann Gilmour from the Tribal/State Programs Unit at the Judicial Council of California (<http://www.courts.ca.gov/programs-tribal.htm>) and Tom Lidot and Margaret Orrantia from TribalSTAR, a training academy program based at San Diego State University (<http://theacademy.sdsu.edu/TribalSTAR/Welcome.htm>). We discussed at length creating an ICWA Stakeholders' Roundtable for Los Angeles County that would be inclusive rather than exclusive. After the first meeting, we decided to break out into smaller subcommittees dedicated to addressing a few of the most important issues. These issues included: improving communication, engagement with local and out of state tribal communities, addressing the lack of Native American foster homes, learning of the resources for Native American families, fostering ICWA compliance, collaborating between tribal and non-tribal communities, improving ICWA education, and increasing trust between the court, child welfare system, and tribal communities. The roundtable has successfully brought together parties who ordinarily had little opportunity to speak directly to one another. Not all conversations have gone smoothly but we endeavored to actively engage in problem-solving to begin to address some of the long-standing issues that have plagued our Los Angeles child welfare system. By allowing the tribal communities to speak, many of us have learned how important it is to listen. Perhaps what has been most exciting has been seeing some of the tribal community's concerns incorporated into court coordinated community responses.

One example, and a top priority for me, was addressing the lack of Indian foster homes. Despite Los Angeles being the largest urban Native American community in the country, we had not one certified or licensed ICWA compliant foster home. By shining a light on this very important issue, the subcommittee, with the full support of the Department of Children and Family Services (DCFS), created a public service announcement to recruit Native American foster homes that will air on local radio stations, and brochures to encourage Native American families to become foster families, and began recruiting inperson at local Native American community events. Currently, we have five families who are going through the licensing process.

The roundtable has expanded over the past year and we have been honored that tribal elders, ICWA advocates, tribal community leaders, tribal TANF providers parent's attorneys, children's attorneys, county counsel, private adoption attorneys, representatives from DCFS, tribal representatives from tribes located outside California, service providers, Los Angeles County juvenile probation representatives, Casey Family Foundation, and a host of others have been in attendance.

Another first was an effort to provide specialized ICWA education to judicial officers and attorneys working at the Edelmans Children's Court. With over more than 20 courtrooms devoted solely to abuse and neglect cases, organizing training was challenging. With the blessing of the Honorable Michael Nash, a former presiding judge of

the Juvenile court, however, we were able to bring together nationwide ICWA experts and conduct a court wide program on December 5, 2014.

My vision was to bring together the ICWA stakeholders in Los Angeles for quarterly meetings to improve relations, increase effective communication, work on collaborative solutions for long standing issues, and provide better outcomes for Native American families. I am pleased that we have successfully established a strong collaboration among equal partners, working together in a culturally respectful way to address issues of mutual concern.

We are also working to establish our own version of a peacemaking project in Los Angeles. With the assistance of the Center for Court Innovation (CCI) and the Judicial Council's Tribal/State Program unit, we are in the process of making this vision a reality.

Creating a roundtable is challenging but, thanks to the great dedication of all the roundtable volunteers, the community has come to a greater understanding of the juvenile dependency system and ICWA and developed momentum to implement innovative solutions.

If you would like additional information on the ICWA Stakeholders' Roundtable and quarterly meetings, please contact Vida Castaneda at (415).865.7874 or vida.castaneda@jud.ca.gov.

National CASA Association | 800.628.3233 | 100 West Harrison, North Tower, Suite 500, Seattle, WA 98119 | staff@casaforchildren.org

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New court to connect Native American foster kids with family

Sun., Sept. 10, 2017, 8:32 p.m.



In an Aug. 31, 2017 photo, Bonnie Littlesun poses with three of her grandchildren, DeQuisyan Littlesun, Kayenta Tsosie, and Dominic Roundstone, in Billings, Mont. Bonnie Littlesun is raising eight children, all but one of whom are her grandkids, and she wouldnt have it any other way. (Casey Page / Billings Gazette)

By Phoebe Tollefson

Billings Gazette



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BILLINGS – Bonnie Littlesun is raising eight children, all but one of whom are her grandkids, and she wouldn't have it any other way.

“They're crazy,” she said, laughing. It was midmorning and she had a brief break while her grandbaby slept and the others were at school. The kids range in age from 13 months to 18 years old.

Littlesun has legal guardianship of some of the kids and is caring for the others as a licensed foster care provider through the Northern Cheyenne tribe.

She speaks Cheyenne at home with the kids, even when they don't understand it all, and they make regular trips to Lame Deer to visit extended family for birthdays and family dinners.

Officials involved in Montana's foster care system lament the shortage of homes like Littlesun's, where Native American kids who have been removed from their parents can still grow up with family and their cultural identity intact.

And they're hoping a new specialty court in Yellowstone County will improve outcomes for all Native American kids experiencing abuse or neglect.

ICWA

In July, Montana's 13th Judicial District began operating the nation's fifth Indian Child Welfare Act court. It will handle all ICWA cases in Yellowstone County for Northern Cheyenne, Crow, Assiniboine and Sioux children, since those are the tribes with the highest number of cases in the district.

The new specialty court doesn't have the resources to handle all of the county's ICWA cases, so cases for members of other tribes will still be seen in regular district court proceedings.

In Yellowstone County last year, 43 percent of the 550 civil child abuse and neglect cases filed involved children who are tribal members or eligible for membership. Native Americans make up about 6.5 percent of the state

population. The vast majority of these child welfare cases are neglect cases where parents are using meth.

Each week, state and tribal officials who have worked for more than a year to start the court convene for hearings. Those involved say poor communication and lack of relationships in the past stymied progress on the cases, but all that is changing.

Other ICWA courts are in Los Angeles, Denver, the north Denver metro area and Duluth, Minnesota.

Under ICWA, which Congress passed in 1978, officials who remove Native American kids from their homes must work to keep the kids as close to family as possible. The first preference for placement goes to the child's family members. If none are able, officials then try other members of the child's tribe, and next members of different tribes. After all of those options are exhausted, social workers then place the kid in a non-Native foster home.

At every stage in the process of an ICWA case – from the initial inquiry by social workers to the decisions judges make about removal – officials must meet a higher burden of proof that the child's home is unsafe. That burden of proof is lower in child abuse and neglect cases for non-Native kids.

The law was passed in response to what Native American leaders saw as an alarming trend among their children: 25 to 35 percent were being removed from their homes due to concerns about abuse or neglect, and 85 percent of the placements that followed were in non-Native foster care settings, even when suitable family members were available.

Many feared they were losing the younger generation.

Edie Adams, who worked for the Bureau of Indian Affairs for decades and has lived on five Indian reservations, said that in the summers she often saw young adults come back to the reservations during powwows, looking for relatives.

“(They’d) say, ‘ think I’m from this tribe, I think my parents are from this tribe. I was adopted out,’ ” Adams said. She’d ask around, trying to “find out who they belonged to.”

History of noncompliance

Although the law has been in place for nearly 40 years, many say state officials were slow to comply.

“There were courts out there that had no clue – still don’t have a clue – what ICWA’s about,” said Crow Chief Judge Leroy Not Afraid.

Not Afraid said that in the past, state courts in Montana, Wyoming and other states did not properly notify the tribe when removing Crow kids from their homes, leaving it no chance to intervene.


“We would lose the Crow child in the system,” he said.

Noncompliance with ICWA is still widespread but difficult to address, said David Simmons, of the National Indian Child Welfare Association. That’s because unlike other federal child welfare laws, ICWA does not require regular data collection or reviews, making it hard to pinpoint problem areas.

In one Oregon county, for example, Simmons found that social workers were routinely recording Native American kids as racially “unknown,” and not working to determine whether they were members of one of several nearby tribes. Identifying kids as Native American is the first step in applying ICWA.

That was roughly 20 years ago, and Simmons stressed that many states, not just Oregon, have failed to comply with ICWA.

Social workers

 Social workers are the first point of contact on abuse and neglect cases. They’re responsible for notifying the state when they’re concerned about kids’ safety.

And their job isn't easy.

"You have parents who will try and take their kids and run," said Heather Eleazer, Child and Family Services Division supervisor for the Billings area. "We have parents who get very angry and violent. Social workers are threatened a lot."

Once a dad picked up a grill and tried to throw it at the social worker.

"It's emotional every day," Eleazer said. "It's draining. I think workers get a bad reputation that they don't care, that they just go out and remove kids whenever they want. And that's not the case – they don't want to remove kids."

Because the number of foster homes run by Crow, Northern Cheyenne or other Native Americans is so limited, it makes social workers' jobs harder when trying to place kids according to the law.

Eleazer said social workers must carefully document all the circumstances that warrant concern, such as evidence of illegal drugs, unsanitary conditions or unexplained injuries to children.

"And even when all of that is true, it's just heart-wrenching to have to take children from their parents," she said.

A turning point

State, county and tribal officials involved in the new court say it marks a turning point that promises better relationships between the state and the tribes and better outcomes for children.

The team of attorneys, social workers, ICWA specialists and others working on the new court have designated primary contacts to speed up communications.

"There's no lag time," said Fort Peck Chief Judge Stacie Smith. "There's no question of, 'Are we contacting the correct people or not?'"

Judge Rod Souza, who presides over the new court in Billings, agrees.

“It’s a lot easier to work with someone and come up with effective, collaborative solutions on a problem if you know the person you’re working with,” he said, “if it’s not just a number in a phone book. If it’s not just an email.”

The group has set up cultural competency trainings for social workers and regular meetings between state and tribal officials – a practice that social workers in Miles City say they’ve taken up. A new form that better documents efforts to place children with family members has been shared around the state. And those involved with the court are hoping to partner with area nonprofits or law firms to expand their work.

Those involved say they feel a new spirit of teamwork since the court has started up.

“The No. 1 goal is always reunification with parents, if that can be done in a safe way,” said Brooke Baracker-Taylor, a Montana assistant attorney general.

But when that can’t be done, “the state has an obligation to make sure that those kiddos are connected to their extended family, their tribe and their culture.”

Wordcount: 1366

Published: Sept. 10, 2017, 8:32 p.m.

Tags: [foster kids](#), [ICWA](#), [Native American](#)

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Parenting Abused Children: Hope, Healing & Insight

Information, Links, Inspiration on Child Abuse, Domestic Violence and Healing

July 9, 2017

Indian Child Welfare Court Offers Innovative, Culturally Sensitive Approach to ICWA Cases

Posted by EJ under [Child Abuse](#), [Government Corruption/Abuse](#), [Personal Stories](#) | Tags: [American Indian Families](#), [Child Protection](#), [Cultural Genocide](#), [Cultural Trauma](#), [Foster Care](#), [ICWA](#), [Indian Boarding Schools](#), [Indian Child Welfare Court](#), [Native Children Taken Into Foster Care](#), [St Louis County Minnesota](#), [trauma](#) |

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(Duluth, St. Louis County, Minnesota: Jan 28, 2017) **In 2015, an Indian Child Welfare Court was established in Duluth, headed by Judicial District Judge Sally Tarnowski, to offer a better informed, culturally sensitive approach for Native American families involved with the legal system. Professionals working in the Indian Child Welfare Court are specially trained in ICWA (the Indian Child Welfare Act), the historical context leading up to ICWA and other relevant legal and cultural issues in order to better meet the needs of families, and to better collaborate with tribal communities.**

Read more about the court: [Indian Child Welfare Court in Duluth aims for better outcomes for Native American families \(Duluth News Tribune\)](#)

The Indian Child Welfare Court was created in response to ongoing concerns, validated by research, that shows Native children are being placed into state care at high rates – taken from tribal communities and placed into non-Native families. This is significantly harming families and communities. In Minnesota, statistics consistently show, that Native children are placed into state care at earlier ages, have multiple placements, and spend longer amounts of time into foster homes or institutions.

In October 2014, David Glesener a Child Protection Supervisor for St. Louis County Public Health and Human Services reported that, *"As of this week, we have 540 children in out of home care, up from less than 500 two years ago. The percentage of those in care that are American Indian has also been rising and is at 40% – up from 30% two years ago. The numbers are similar in counties across Minnesota. The situation is truly epidemic for American Indian families and tribes..."* [The crisis of Indian children in Minnesota](#)

In another somber report (August 2016) the Star Tribune reported that, *“Of the 1,300 Indian children discharged from Minnesota foster care in 2013 and 2014, the most recent years available, only 58 percent were reunited with their parents or primary caregiver, according to a Star Tribune analysis of federal data. That’s the lowest of any racial or ethnic group...”* Saving themselves, then their family.

The Indian Child Welfare Court is designed to work in the best interest of the child’s well-being and safety while also considering their cultural needs, and utilizing community resources where appropriate.

The result has worked to build closer relationships between all those involved – including tribal governments and authorities, social services and the court system. The court room is also designed so that every sits together at one table, in a square, *“In the middle of the tables inside the courtroom sit the Native American medicines sage, tobacco and sweetgrass. Everyone — from the clients to the judge — sits on the same level in a square. ICWA cases can include multiple attorneys and parents, social workers and a guardian ad litem. Before this court, all child protection cases were heard in a smaller, more intimate court. But it meant that people were talking to the backs of heads..”* (Duluth News Tribune)

Currently, there is only one Indian Child Welfare Court in existence in Duluth but if this court proves successful, others could be modeled after it. The court operates through a grant issued from a federally funded study. UMD Leads American Indian Child Welfare Act Project

History of Native Children Being Taken from Home, Community

The history of Native children being taken from their homes is long, and complex, and involves actions taken by the U.S. government on Native people, and consequences that resulted within families, and Native communities as a result of these actions. **Native communities, and families have been significantly impacted by the destruction of their traditional way of life and along with it, the destruction of community and family ties, and destruction of values and teachings that provided ways to raise and care for children. Poverty also remains a serious issue that is impacting Native families.**

Janice LaFloe of the American Indian Family Center (AIFC) says, *“For years and years, American Indian people have worked together to protect their community, as decisions were made for them, through the signing of treaties and breaking of promises, through the forced system of tribal governments and the forced assimilation of taking children into mission schools...The forced removal of children to go to boarding schools was the most detrimental thing you could have done to Indian community. There was a whole generation or more of children removed from their homes. The amount of abuse that happened to children in those boarding schools led to a perpetual cycle of learned behavior that surfaced and continues to play out...”* American Indian children in Minnesota disproportionately placed in foster care (TC Daily Planet).



(PA) Carlisle Boarding School. Wikipedia Commons.

Out of home placement for Native children can be traced back to boarding schools (1860-1973), which were operated by the U.S. government through the Bureau of Indian Affairs, or by religious missionaries. The purpose of boarding schools was to educate and assimilate Native children into the mainstream “American way of life”, and to shed their Native identity entirely. At boarding schools, Native Children were given a new name, forbidden to speak their Native language, their hair forcibly cut, clothing changed, and they were taught to be ashamed of their identity and encouraged to adopt American practices. Abuse (physical, mental, sexual) and neglect was common place at boarding schools, as was forced labor. Many children died as a result of abuse or disease, resulting from overcrowding or neglect in boarding schools.

Government policies forced Native children into boarding schools – many children were kidnapped or parents were threatened, including use of physical force, to gain compliance. In many areas, racism kept Native children out of public schools so their only choice of education was a boarding school. Or, extreme poverty caused parents to send children into boarding schools. **In Minnesota, in 1971-1972, 1/4 of the total population of Native children under the age of 1 years old had been adopted, and 90% were adopted into non-Native homes. According to the Native American Rights Fund (NARF) 2013 Legal Review, 60,000 Native children were enrolled in boarding schools in 1973, when the boarding school era was coming to an end.**

Children being taken out of Native homes and placed with non-Native families has created a crisis that threatens the existence of Native people, and the preservation of their culture. The trauma caused by boarding schools is experienced in Native families, and communities to this day. According to experts, and health care professionals, there is a direct relation between the trauma and destruction of family ties caused by boarding schools and the high rates of depression, post-traumatic stress disorder (PTSD), drug and alcohol abuse and suicide among boarding school survivors and their families. In addition, survivors of boarding schools were instilled with shame, and taught to believe they are at fault

or to blame for the abuse inflicted on them. There was no help, support or resources offered to cope with what happened, or to address the harms inflicted. Another disastrous effect was that the passing down of Native teachings, languages and customs was interrupted, and in many cases not passed down – and children were taught to be ashamed of their identity, and encouraged to separate from family and community.

In 1978, the Indian Child Welfare Act (ICWA) was established out of a response to rising concerns about the well-being of Native children who were being taken, at high rates, from their homes by public and private institutions and placed into non-Native families. Cultural genocide remains a very real concern for many Native communities, as does the fate of their children – many who have never returned. The intent of Congress under ICWA was to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA applies when there is an Indian child involved in child custody proceedings including foster care placements, CPS and family court proceedings. The goals of ICWA are to strengthen Native families, protect tribal interests and keep decisions within Native communities. Minnesota has added an additional layer of protection for children under the Minnesota Indian Family Preservation Act (MIFPA), passed in 1987.

For More Information:

[ICWA – Historical Context, Information & Application: Powerpoint Presentation by Evie Campbell, MSW \(UMD\)](#)

[The sad legacy of American Indian boarding schools in Minnesota and the U.S. \(Minn Post\)](#)

BREAKING Jury: Police officer justified in shooting death

https://billingsgazette.com/opinion/editorial/gazette-opinion-bringing-indian-foster-kids-home/article_d0fe1a36-6e03-5855-bb62-341ee2d0ef78.html

Gazette opinion: Bringing Indian foster kids home

Aug 7, 2017

TRY 1 MONTH FOR \$5



Judge Rod Souza presides Jan. 5. Souza is one of six Yellowstone County District Court judges. An independent study concluded that the court needs six more judges to handle its heavy and growing workload. The Judicial Branch asked the Legislature to add two.

BOB ZELLAR, Gazette Staff

The most difficult cases in Montana District Courts involve children who have been abused or neglected in their own homes. When children are in danger, judges must decide where and with whom they will live, making rulings that could affect the children for life.

When Native American children are involved, the legal situation is more complex. In addition to state law, the federal Indian Child Welfare Act must be applied, and the child's tribe is part of the decision making.

At any given time, the number of Native American children in Montana's foster care system is much higher than their 10 percent share of the total child population would suggest. In Yellowstone County last year, 43 percent of the 550 civil child abuse and neglect cases filed involved children who are tribal members or eligible for membership. But there hasn't been court resources dedicated specifically to improving outcomes for ICWA children — until now.

4 courts collaborate

This month, the Yellowstone County District Court launched an ICWA court with Judge Rod Souza presiding. Souza's court is one of the first half-dozen in the nation, following models used in Denver and Los Angeles. Setting up the court required months of

planning, training and communication between Yellowstone County court officials and tribal courts on the Crow, Northern Cheyenne and Fort Peck reservations. State and tribal child protection workers also have been meeting.

“The concept is relationships,” said Souza. “We’re going to do a better job of communicating; we’re going to do a better job of complying with ICWA.”

The Yellowstone County ICWA court team includes Deputy County Attorney Heather Sather, Assistant Attorney General Brooke Baracker-Taylor, guardian ad litem Scott Pederson and two Montana state social workers, Naz Sanks and Megan Tenney. Souza said these professionals volunteered to be part of this new program.

The court has received substantial support from Casey Family Programs, a private nonprofit that works nationally to benefit children who are or have been in foster care. Nicole Walks Along and Yellowstone CASA (Court Appointed Special Advocates) also provided lots of help.

On Friday, about 50 people gathered for a day of training to kick off the ICWA court. Staff from the Montana Public Defender Office attended along with private attorneys who represent parents in civil child abuse and neglect cases.

Friday’s training concluded with a panel of ICWA directors: Rebecca Buffalo of Crow; Phyllis Spotted Wolf and Twila Red Eagle, of Fort Peck; Michelle Littlewolf-Sandcrane and Joetta Yellowrobe of Northern Cheyenne.

BREAKING Senate OKs border deal; Trump will sign, declare national emergency for wall

https://billingsgazette.com/news/local/year-into-native-foster-care-court-most-kids-taken-from/article_d709c08a-b094-5ef2-b4f0-d5ff77b82762.html

1 year into Native foster care court, most kids taken from unsafe homes are placed in tribe-approved homes

PHOEBE TOLLEFSON ptollefson@billingsgazette.com Jul 24, 2018

TRY 1 MONTH FOR \$5



Yellowstone County's Indian Child Welfare Act team members meet in a 5th floor jury room at the courthouse on July 20.

LARRY MAYER, Billings Gazette

When social workers take a Crow, Northern Cheyenne, Assiniboine or Sioux child from their parents in Yellowstone County, 75 percent go to live somewhere with a Native connection — mostly to relatives or a tribe-approved foster home.

That's under a specialty court in Yellowstone County that began a year ago.

"I felt really pleased with that number," said Heather Sather. Sather, a deputy Yellowstone County attorney, files the paperwork to remove children from unsafe homes.

Sather said it was a sign of progress that the rate was "that high."

But despite the good news, Sather and others agree there's still room to improve.

The other quarter of children in Yellowstone County from the four tribes are in non-Native foster care. And a shortage of Native American foster families often leaves social workers scrambling to find an appropriate placement when relatives aren't available.

"Especially right now, I don't even know if we have any foster homes available," said Brooke Baracker-Taylor, an assistant attorney general for Montana who also files removal cases.

The two attorneys and others gathered Friday to provide updates after a year of operating Montana's only Indian Child Welfare Act court.

ICWA, passed by Congress in 1978, aimed to reverse decades of placing Native foster kids in non-Native care, separating them from their communities and fracturing their cultural identities.

The law requires a higher burden of proof at every stage of the process — from the initial inquiry to a judge’s placement decision — than in non-Native child removals, according to District Court Judge Rod Souza, who presides over the ICWA court.

While Montana is home to 11 tribes, the court has the capacity to serve only the nearest reservations of Crow, Northern Cheyenne and Fort Peck.

All involved in the court — including attorneys for the children and parents, social workers and ICWA specialists — say improved relationships are key to the court’s success.

Souza said he’d recently eaten lunch with the ICWA coordinator for the Crow Tribe, Rebecca Buffalo, who gave him feedback.

“In her assessment, having worked in this area for many years, it was the best it had ever been, as far as the relationship between the department here in Billings and Crow Tribe,” Souza said. “And in my mind that speaks volumes.”

Buffalo did not return calls from The Billings Gazette.

Members of the year-old court say because of it, social workers more quickly identify family members a child can live with, which is the No. 1 preferred placement under the law.

The court team says it is better able to reach key offices in tribal governments, even as those positions change hands.

And kids are more aware of resources at their disposal, like a summer camp with a Native focus, while parents who want their kids returned are getting more information on offerings like recovery programs.

The court, which began operating in July 2017, is only the fifth in the nation, but more are likely to start up. The Yellowstone County team has heard interest from judges in Missoula and Great Falls, as well as in South Dakota, Minnesota and Colorado.

In August, the Capacity-Building Center for the Courts will visit Billings to compile data for an analysis on the effectiveness of ICWA courts.

But while the court team celebrates initial successes, they say the work is not done.

The foster care system is becoming increasingly strained as child removals climb — a direct consequence, the team says, of the state's ballooning meth problem, as well as growing heroin use. The county has seen a nearly fivefold increase in child abuse and neglect cases during the past eight years.

“We get a list on Friday of homes that have openings,” said Heather Eleazer, a supervisor with the Department of Public Health and Human Services. “And it's maybe four or five families on the list.”

One positive change in the first year of the court was that there were fewer re-removals in Yellowstone County's ICWA cases (12 percent) than in non-ICWA cases (16 percent). In other words, Native parents last year were less likely to lose their children a second time.

Juli Pierce, guardian ad litem, attributed the development to proactive relatives of Native children intervening earlier to correct risky situations.

Jim Reintsma, a public defender who represents parents, agreed, saying convening all the stakeholders was one of the biggest benefits of the court.

“And I think that’s a plus with this particular court because it identifies so many people,” he said. “When we get a Native family involved, we’re not just getting a grandparent, like we do normally. It’s sometimes 20, 30 people.”

MORE INFORMATION



📷 +2

On Fort Peck Reservation, where 107 kids are in foster care, tribes ask feds for help with drug problems

- Can non-tribal cops chase alleged criminals onto the Crow Reservation? Some law enforcement say yes
- New court aims to keep Native American foster kids connected to family, culture
- Tribal law complicates which green card carriers can have medical marijuana on Fort Peck Reservation
- 2 killed, 4 injured in rollover during chase with BIA officers on Northern Cheyenne Reservation
- Cascade County jail overcrowded, won't book misdemeanors
- Half of sex offenders on Crow, Northern Cheyenne reservations out of compliance, check shows
- Report: Crow Agency nursing home failed to act on patient's allegations of sexual assault

- Honduran sentenced in drug conspiracy that brought pounds of meth to Montana from California
 - With 300 new child abuse cases in Billings this year, more foster parents are needed, panel says
 - Community helps update Billings foster parents' home after husband's leg amputation
 - Car dealership, anti-bullying group partner to give away 2,000 backpacks in Billings
 - Fort Peck Tribes owe feds more than \$435K for mishandling low-income energy assistance funds
 - Fighting Montana's meth problem will take a focused effort, law enforcement leaders say
-

Phoebe Tollefson

Justice Reporter

Justice reporter for the Billings Gazette.

SESSION 6:

FORUM PRIORITIES

2019-2020 AND ANNUAL

AGENDA/WORK PLAN

Tribal Court–State Court Forum
Annual Agenda¹—2019
Approved by Executive and Planning Committee:

I. COMMITTEE INFORMATION

Chair:	Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court Hon. Suzanne N. Kingsbury, Presiding Judge, Superior Court of California, County of El Dorado
Lead Staff:	Ms. Ann Gilmour, Attorney, Center for Families, Children & the Courts
Committee’s Charge/Membership:	
<p>Rule 10.60 of the California Rules of Court states the charge of the Tribal Court–State Court Forum (Forum), which is to make recommendations to the Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlap. Rule 10.60 (b) sets forth additional duties of the Forum.</p>	
<p>The Forum currently has 30 members.</p> <ul style="list-style-type: none"> • Fourteen tribal court judges (nominated by their tribal leadership, representing 20 of the 23 tribal courts currently operating in California; these courts serve approximately 36 tribes) • The Governor’s Tribal Advisor • The Director of the California Department of Social Services Office of Tribal Affairs. • One appellate justice. • Seven chairs or their designees of the following Judicial Council advisory committees: <ul style="list-style-type: none"> ○ Advisory Committee on Providing Access and Fairness ○ Governing Committee of the Center for Judicial Education and Research ○ Civil and Small Claims Advisory Committee ○ Criminal Law Advisory Committee ○ Family and Juvenile Law Advisory Committee ○ Probate and Mental Health Advisory Committee ○ Traffic Advisory Committee 	

¹ The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

- Five trial court judicial officers.
- One retired judge (advisory)

The current [roster](#) is available on the committee's web page.

Subcommittees/Working Groups²:

- Participate in the joint ad hoc rules and forms subcommittee to implement Tactical Plan for Technology, 2017–2018.
- Subcommittee on the Indian Child Welfare Act (ICWA) to review and respond to California ICWA Compliance Task Force Report(ongoing project #1) and federal *Regulations for State Courts and Agencies in Indian Child Custody Proceedings* and *Guidelines for Implementing the Indian Child Welfare Act* enacted in 2016 and AB 3176 *Indian Children* (Waldron;2018 Chaptered as 833) (ongoing project #2), 2018–2019.

² California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

II. COMMITTEE PROJECTS

#	New or One-Time Projects ³	
1.	Project Title: Implement Assembly Bill 3176 <i>Indian Children</i> (Waldron; Stats. 2018, ch. 833)	Priority: 1b ⁴
<p>Project Summary: AB 3176 <i>Indian Children</i>, amends provisions of the <i>Welfare and Institutions Code</i> to conform California law to the requirements of the federal Indian Child Welfare Act Regulations and Guidelines adopted in 2016. The legislation directs the Judicial Council to enact rules and forms necessary to implement the legislation.</p> <p>Status/Timeline: The Forum will work with staff and other relevant committees to make recommendations for Rules and Forms revisions to the Judicial Council during the Spring RUPRO cycle for an effective date of January 2020.</p> <p>Fiscal Impact/Resources: Judicial Council’s Center for Family, Children & the Courts (CFCC), Governmental Affairs, Legal Services, and Center for Judicial Education and Research (CJER) staff.</p> <p>Internal/External Stakeholders: External stakeholders include the California Department of Social Services, the California Attorney General’s Office and the California Tribal Families Coalition.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee, with respect to recommendations that impact the work of those bodies.</p>		

³ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

⁴ For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	New or One-Time Projects ³	
2.	<p>Project Title: Revise ICWA Rules and Forms to Comply with Court of Appeal Decisions in <i>In re E.H.</i> (D073635) and <i>In re. J.Y.</i> (C082548), and Make Any Other Technical Amendments as Appropriate</p>	<p>Priority: 1a</p>
<p>Project Summary: While implementing AB 3176 above, the Forum will also incorporate amendments and revisions to ICWA rules and forms required by the Court of Appeal decision in <i>In re. E.H.</i> suggested that the ICWA-030 should be revised to conform with requirements to include all available lineal descendancy information relevant to the possible Indian status of a child. The decision in <i>In re. J.Y.</i> finds that California Rule of Court, rule 5.725(e) implementing Tribal Customary Adoption is inconsistent with statute and suggests the Judicial Council amend it. Finally, additional technical revisions to ICWA rules and forms that have been suggested by users, courts, and others since a comprehensive revision of these rules and forms was last undertaken in 2006.</p> <p>Status/Timeline: The Forum will work with staff and other relevant committees to make recommendations for rules and forms revisions to the Judicial Council during the Spring RUPRO cycle for an effective date of January 2020.</p> <p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: California Department of Social Services, tribal governments and entities, and other child welfare practitioners.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee, with respect to recommendations that impact the work of those bodies.</p>		
3.	<p>Project Title: Explore Feasibility of a Legislative Proposal to Authorize and Facilitate Remote Appearances by Tribes in Cases Governed by the <i>Indian Child Welfare Act</i></p>	<p>Priority: 2</p>
<p>Project Summary: Federal regulations governing ICWA adopted in 2016 stipulate that if possible, state courts should allow alternative methods of participation in cases involving an Indian child, such as participation by telephone, videoconferencing or other methods.⁵ In addition, the California ICWA Compliance Taskforce Report commented that court and agency failure "...to allow tribes to participate remotely in court proceedings denies tribes the ability to participate and exercise their rights under the Cal-ICWA."⁶</p>		

⁵ See 25 C.F.R. §23.133.

⁶ See California ICWA Compliance Taskforce Report [at page 40 \(side note\)](#).

#	New or One-Time Projects ³
	<p><i>Status/Timeline:</i> The Forum will work with staff and other relevant committees and staff of the Office of Governmental Affairs to potentially make recommendations for legislation for the 2020 session.</p> <p><i>Fiscal Impact/Resources:</i> CFCC, Governmental Affairs, and Legal Services staff.</p> <p><i>Internal/External Stakeholders:</i> External stakeholders include the California Department of Social Services, the Legislature and the California Tribal Families Coalition.</p> <p><i>AC Collaboration:</i> Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee, with respect to recommendations that impact the work of those bodies.</p>

#	Ongoing Projects and Activities³	
1.	Project Title: Review and Respond to California ICWA Compliance Task Force Report and Recommendations	Priority 2
<p>Project Summary: In March of 2017, the California ICWA Compliance Task Force presented its report to California Attorney General Xavier Becerra⁷. The report includes issues and recommendations related to compliance with the Indian Child Welfare Act in California. Several of the findings and recommendations relate to the work of the judicial branch. These recommendations include:</p> <ul style="list-style-type: none"> • Mandating increased ICWA training for bench officers, attorneys and Court Appointed Special Advocates (CASA);⁸ • Support the development and implementation of consolidated ICWA courts or calendars and joint jurisdiction courts;⁹ • Facilitate remote appearances by tribes in ICWA cases; • Addressing challenges of out-of-state tribes and their members located in California in ICWA cases; • Seek funding for appointed counsel for tribes in ICWA cases; and • Ensure that tribes get access to all paperwork, pleadings and minutes on the same basis as other parties. <p>Status/Timeline: Continue to work on implementing recommendations from the California ICWA Compliance Task Force report as feasible.</p> <p>Fiscal Impact/Resources: CFCC, CJER, Governmental Affairs, and Legal Services staff.</p> <p>Internal/External Stakeholders: External stakeholders include the California Department of Social Services, the California Attorney General’s Office, and the California Tribal Families Coalition.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee, Probate and Mental Health Advisory Committee, and the Center for Judicial Education and Research Advisory Committee, with respect to recommendations that impact the work of those bodies.</p>		

⁷ Available at <https://www.caltribalfamilies.org/news/ICWAComplianceTaskForceFinalReport2017.pdf/view>

⁸ See recommendations 6 and 7 of the California ICWA Compliance Taskforce Report.

⁹ Recommendations 16 and 17.

#	Ongoing Projects and Activities³	
2.	<p>Project Title: Develop a Legislative Proposal to Facilitate Recognition of Tribal Court Orders Regarding the Division of Marital Assets as “Qualified Domestic Relations Order” Within the Meaning of 29 USC §1056(d)(3)(B) to Divide Pensions and Other Benefits Within the Scope of the Employee Retirement Income Security Act (ERISA) and Other Pension Plans.</p>	<p>Priority 2b</p>
<p>Project Summary: As part of its charge under Rule 10.60(b)(2) the Forum is to make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines. Domestic relations is an area where tribal courts in California are increasingly exercising jurisdiction. The effectiveness of these orders is undermined when they are not fully recognized and enforced. Tribal courts report that some of their clients are having difficulty having division of marital assets orders issued with respect to pension benefits subject to ERISA recognized by plan administrators. As part of its statute governing the recognition and enforcement of foreign money judgements, Oregon has adopted a provision to recognize qualifying tribal court orders as domestic relations orders for ERISA purposes. The Judicial Council sponsored legislation in 2014 to establish the Tribal Court Civil Money Judgement Act (Code of Civ. Proc. §§1730-1742). A provision could be added, like the Oregon provision, to clarify that qualifying tribal court orders must be considered as domestic relations orders for ERISA purposes under California law.</p> <p>Status/Timeline: Subject to approval by Judicial Council and Legislature: likely effective date would be January 1, 2021.</p> <p>Fiscal Impact/Resources: CFCC, CJER, and Legal Services staff.</p> <p>Internal/External Stakeholders: External stakeholders could potentially include members of the family law bar and pension plan administrators.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee.</p>		
3.	<p>Project Title: Policy Recommendations: Judge to Judge Communication Between State and Tribal Court Judges</p>	<p>Priority 2</p>
<p>Project Summary: As part of the Forum’s charge under rule 10.60(1) and (2), the Forum considers whether, in different case types, it is necessary and appropriate to facilitate judge to judge communication between state and tribal courts to promote the recognition and enforcement of orders across jurisdictional lines. Provision for such communication is included in California Code of Civil Procedure section 1740 and in Family Code section 3410. As tribal courts in California expand their activities, it may be appropriate to include such provisions in relation to other case types.</p>		

#	Ongoing Projects and Activities³	
	<p><i>Status/Timeline:</i> Ongoing.</p> <p><i>Fiscal Impact/Resources:</i> CFCC staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> None.</p>	
4.	<p>Project Title: Policy Recommendations: Legislation to Improve the Recognition and Enforcement of Tribal Court) Orders</p>	<p>Priority 2</p>
	<p>Project Summary: As part of its mandate under rule 10.60(b)(2) to make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the Forum continuously looks for areas where legislative action would be appropriate. In the past the Forum has partnered with the Civil and Small Claims Advisory Committee to recommend legislation (SB 406) which established the Tribal Court Civil Money Judgement Act (Code of Civ. Proc. §§1730-1742). As originally passed, that Act was to sunset on January 1, 2018. During 2017 the Forum worked with staff of the Judicial Council’s Governmental Affairs to provide information to the California Law Revision Commission studying the effect of the Act and other statutes governing recognition and enforcement of foreign orders. Legislation was finalized that lifted the sunset.</p> <p>This coming year the Forum will further this objective through item 2 in ongoing projects above. Work with the Traffic Advisory Committee to determine if it would be feasible to create a proposal to improve the recognition and enforcement of tribal court traffic orders issued by tribal courts related to impaired and dangerous driving is currently on hold as the Traffic Advisory Committee focuses on the recommendations from the Future’s Commission report.</p> <p><i>Status/Timeline:</i> Ongoing. This was not advanced this current year as the Traffic Advisory Committee was prioritizing other work. The Forum will continue to consider whether it is feasible to advance this initiative.</p> <p><i>Fiscal Impact/Resources:</i> CFCC and Governmental Affairs staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> Traffic Advisory Committee.</p>	

#	Ongoing Projects and Activities³	
5.	Project Title: Policy Recommendations: Ethics	Priority 2
<p>Project Summary⁵: State and tribal court judges may sit on each other’s benches and hear cases in the other jurisdiction through a joint-jurisdiction court or on an ad hoc or ongoing basis. The Forum will continue to work with the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics and make recommendations and request advisory opinions or amendments to the canons as appropriate and necessary to facilitate such collaborations.</p> <p>Status/Timeline: Ongoing.</p> <p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: None.</p> <p>AC Collaboration: Advisory Committee on the Code of Judicial Ethics.</p>		
6.	Project Title: Policy Recommendation: Tribal Access to the Child Abuse Central Index	Priority 2
<p>Project Summary⁵: The Tribal Access to the Child Abuse Central Index (Index) is used to aid law enforcement investigations and prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information is also used to help screen applicants for licensing or employment in child care facilities, foster homes, and adoptive homes. The purpose of allowing access to this information on a statewide basis is to quickly provide authorized agencies, including tribal agencies, with relevant information regarding individuals with a known or suspected history of abuse or neglect.</p> <p>While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index.</p> <p>This practice poses several problems:</p> <ol style="list-style-type: none"> (1) Suspected or known abusers may remain in the home of a child posing safety risks; (2) Unnecessary duplication of effort by agencies; (3) Delays in entry into the Index due to double investigations; and (4) Barriers to sharing information among tribal and nontribal agencies that should be working together to protect children. The forum will explore consulting with the Department of Justice to consider executive branch action to permit tribal access to the Index. <p>Status/Timeline: Ongoing.</p>		

#	Ongoing Projects and Activities³	
	<p><i>Fiscal Impact/Resources:</i> CFCC staff.</p> <p><i>Internal/External Stakeholders:</i> California Department of Justice.</p> <p><i>AC Collaboration:</i> Family and Juvenile Law Advisory Committee.</p>	
7.	Project Title: Policy Recommendation: Technological Initiatives	Priority 2
	<p>Project Summary:</p> <p>(A) Both federal and state law require mutual full faith and credit for domestic violence restraining orders issued by tribal and state courts. A crucial aspect of promoting the mutual recognition and enforcement of such court orders is facilitating knowledge between state and tribal courts as to the protective orders issued by their respective courts. The Forum and staff have worked to provide tribal courts with the ability to read orders contained in the California Courts Protective Order Registry (CCPOR) and to facilitate entry of appropriate orders issued by tribal courts into CCPOR.</p> <p><i>Status/Timeline:</i> In 2018 tribal courts were invited to and participated in the CCPOR user forum.</p> <p><i>Fiscal Impact/Resources:</i> CFCC, CJER, and Information Technology (IT) staff.</p> <p><i>Internal/External Stakeholders:</i> External stakeholders include tribal courts.</p> <p><i>AC Collaboration:</i> None.</p>	
	<p>(B) Since its inception, the Forum has been exploring ways to improve and simplify the process of doing inquiry and providing notice in cases governed by the Indian Child Welfare Act (ICWA). The Forum will continue to explore these opportunities, including whether document assembly programs might be helpful in reducing the time required and errors in ICWA inquiry and populating forms with the information gathered. The Forum will also monitor any ongoing e-notice pilot programs or other technological advances in other jurisdictions and make recommendations to the Judicial Council on replicating those in California.</p> <p><i>Status/Timeline:</i> This is an ongoing Forum charge.</p> <p><i>Fiscal Impact/Resources:</i> IT and CFCC staff with document assembly expertise.</p> <p><i>Internal/External Stakeholders:</i> None.</p>	

#	Ongoing Projects and Activities³	
	<i>AC Collaboration:</i> None.	
8.	<i>Project Title: Policy Recommendation: Funding for Innovative Practices and System Improvements</i>	<i>Priority 2</i>
<p><i>Project Summary:</i> The Forum seeks to support innovative practices and system improvements including seeking funding for such initiatives as a pilot program to facilitate tribal participation and improve outcomes in ICWA cases by providing appointed counsel for tribes in these cases.</p> <p><i>Status/Timeline:</i> In 2017 the Judicial Council submitted a federal grant application which would have provided inter alia funding for a pilot project to provide appointed counsel to tribes in ICWA cases. The Forum and Tribal/State Programs Unit staff will continue to seek out available funding.</p> <p><i>Fiscal Impact/Resources:</i> CFCC staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> None.</p>		
9.	<i>Project Title: Increase Tribal/State Partnerships: Sharing Resources and Communicating Information About Partnerships</i>	<i>Priority 2</i>
<p><i>Project Summary:</i> One of the guiding principles of the Forum is to improve access to justice by providing tribal and state courts access to resources for capacity building and collaboration on an equal basis, sharing resources, and seeking out additional resources.</p> <ol style="list-style-type: none"> 1. Identify Judicial Council and other resources that may be appropriate to share with tribal courts. 2. Identify tribal justice resources that may be appropriate to share with state courts. 3. Identify grants for tribal/state court collaboration. 4. Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter. 5. Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues. 6. Disseminate information to tribal court judges and state court judges monthly through the Forum E-Update, a monthly electronic newsletter with information on the following: <ul style="list-style-type: none"> ○ Grant opportunities; ○ Publications; 		

#	Ongoing Projects and Activities³	
	<ul style="list-style-type: none"> ○ News stories; and ○ Educational events. <p>7. Foster tribal court/state court partnerships, such as the Superior Court of Los Angeles County’s Indian Child Welfare Act Roundtable and the Bay Area Collaborative of American Indian Resources—court-coordinated community response to ICWA cases in urban areas and the providing technical assistance to the joint-jurisdiction collaborations between the Yurok Tribe and the Superior Court of California, County of Humboldt and the Shingle Springs Band of Miwok Indians and the Superior Court of California, County of El Dorado.</p> <p>Status/Timeline: Ongoing. During this year two tribal court systems were provided with access to unlocked Judicial Council Juvenile, Family, Probate and Domestic Violence forms that the staff of the court systems adapted for their use.</p> <p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: None.</p> <p>AC Collaboration: None.</p>	
10.	Project Title: Increase Tribal/State Partnerships: Tribal/State Collaborations that Increase Resources for Courts	Priority 2
	<p>Project Summary: A primary goal of the Forum is to improve relationships between state and tribal courts and foster collaboration between those courts. There are currently two active joint-jurisdiction projects ongoing between Forum member state and tribal courts – the Superior Court of California, County of El Dorado collaborative with the Shingle Springs Band of Miwok Indians Tribal Court and the Superior Court of California, County of Humboldt collaboration with the Yurok Tribal Court. The Forum will explore ways to assist courts that wish to expand their joint-jurisdiction programs to include veteran’s programs or other specialized focus areas. The Forum will explore ways to support and increase the numbers of joint jurisdiction courts and other innovative models such as regional ICWA courts and dedicated ICWA courts or calendars, including providing education, developing tools and resources and seeking opportunities for additional grant funding to support such courts.</p> <p>Status/Timeline: Ongoing. This year the JCC staff are supporting these collaborations by sharing resources and agreements and offering technical assistance on collaborations.</p>	

#	Ongoing Projects and Activities³	
	<p>Fiscal Impact/Resources: Collaboration and joint-jurisdiction courts should provide fiscal savings by improving the sharing of resources across jurisdictions. CFCC staff will continue to provide support to this project.</p> <p>Internal/External Stakeholders: External stakeholders include superior courts and tribal courts.</p> <p>AC Collaboration: None.</p>	
11.	<p>Project Title: Increase Tribal/State Partnerships: Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</p>	<p>Priority 2</p>
	<p>Project Summary: The Forum will continue to develop educational events, resources and tools, and provide technical assistance to promote partnerships and understanding between state and tribal justice systems including:</p> <ol style="list-style-type: none"> 1. Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian country. 2. Make recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model. 3. Make recommendation to the Judicial Council staff to continue developing civic learning opportunities for youth that exposes them to opportunities and careers in tribal and state courts. 4. Make recommendation to explore, at the option of tribes, opportunities for state and federal court judges to serve as a tribal court judge. 5. Collaborate with federal courts and federal justice partners on educational and other events related to justice and safety in tribal communities. 6. Develop and implement strategy to seek resources for tribal/state collaborations. 7. Continue to provide the State/Tribal Education, Partnerships, and Services (S.T.E.P.S.) to Justice—Domestic Violence and Child Welfare programs and provide local educational and technical assistance services. 8. Continue the first joint jurisdictional court in California. The Superior Court of El Dorado County, in partnership with the Shingle Springs Band of Miwok Indians, is operating a family wellness court and next year will provide technical assistance to evaluate the joint jurisdictional court. (See Court Manual). 9. Establish partnership between the Superior Court of Humboldt County and the Yurok Tribal Court to develop a civics learning opportunity for youth in the region. <p>Status/Timeline: Ongoing.</p>	

#	Ongoing Projects and Activities³	
	<p><i>Fiscal Impact/Resources:</i> CFCC and CJER staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> Center for Judicial Education and Research Advisory Committee.</p>	
12.	Project Title: Education: Judicial Education	Priority 2
	<p><i>Project Summary:</i> CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law. Develop 10-minute educational video to be posted online and shared statewide with justice partners. In collaboration with the CJER Curriculum Committees, consult on and participate in making recommendations to revise the CJER online toolkits so that they integrate resources and educational materials from the forum’s online federal Indian law toolkit. Forum judges are working together with committee representatives from the following curriculum committees: (1) Access, Ethics, and Fairness, (2) Civil, (3) Criminal, (4) Family, (5) Juvenile Dependency and Delinquency, and (6) Probate.</p> <p><i>Status/Timeline:</i> Ongoing. This past year Forum members and staff of the Tribal/State Programs Unit are collaborated with CJER to create a “Continuing the Dialogue” episode on the Indian Civil Rights Act of 1968 which was screened by CJER and is now available on the CJER and Tribal/State Programs webpages. In the upcoming year the focus will be on a toolkit on tribal issues in human trafficking cases.</p> <p><i>Fiscal Impact/Resources:</i> CFCC and CJER staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> Center for Judicial Education and Research Advisory Committee.</p>	
13.	Project Title: Education: Truth and Healing	Priority 2
	<p><i>Project Summary:</i> Consider collaboration among the three branches of state government in partnership with tribal governments to promote a truth and healing project that acknowledges California’s history, as described in Professor Benjamin Madley’s book, <i>An American Genocide: The United States and the California Indian Catastrophe</i>, with respect to indigenous peoples, fosters an understanding of our shared history, and lays a foundation for healing, which promotes a call to action.</p>	

#	Ongoing Projects and Activities³	
	<p>Status/Timeline: Ongoing. As a step towards the goal of Statewide Truth and Healing, Forum members and staff of the Tribal/State Programs Unit are participating in a civic engagement project in Humboldt County which will infuse curriculum with an understanding of local Indian history.</p> <p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: External stakeholders include Tribal Governments and Humboldt County Civic Engagement Project.</p> <p>AC Collaboration: None.</p>	
14.	Project Title: Legislation	Priority 2⁴
	<p>Project Summary: Review and recommend positions on legislation related to tribal courts, tribal justice systems and the Indian Child Welfare Act.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: CFCC and Governmental Affairs staff.</p> <p>Internal/External Stakeholders: None.</p> <p>AC Collaboration: None</p>	

III. LIST OF 2018 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	<p>Education: Indian Civil Rights Act: Fifty Years Later (Video in the series: Continuing the Dialogue) Tribal/State Programs Unit staff collaborated with CJER staff on this video program featuring current and former Forum members. Attempting to impose certain constitutional restrictions and protections upon tribal governments and to guarantee Native Americans equal protection under the Bill of Rights, Congress passed the Indian Civil Rights Act. The history of the Act, the effects of the Act, and the state of tribal courts fifty years after enactment are discussed in this edition of the Continuing the Dialogue broadcast series. Chief Justice Abby Abinanti, Chief Judge Claudette White, Tribal Advisor to the Governor Cynthia Gomez (retired), and Professor Joseph Myers, moderated by Chief Judge Christine Williams, explore California tribal court issues and how they relate to and are intertwined with the work of the state’s judicial branch. The video is available here: http://www2.courtinfo.ca.gov/cjer/judicial/3422.htm</p>
2.	<p>Policy Recommendation: Rules and Forms – Revise Pro Hac Vice Requirements for Attorneys Representing Indian Tribes and Indian Parents in Indian Child Welfare Act Cases The Forum worked with the California State Bar and the California Supreme Court through the Spring 2018 RUPRO process to develop and vet amendments to California Rule of Court, rule 9.40 which governs out of state attorneys wishing the practice before California courts.</p>
3.	<p>Education: Joint Jurisdiction Courts Presentation at Collaborative Courts Conference The California Association of Collaborative Courts’ annual Conference took place in Sacramento September 12–14, 2018. For the first time ever, the conference featured a tribal track. Staff and Forum members worked to coordinate these sessions with the organizers. In addition, Forum Cochairs Presiding Justice Dennis M. Perluss and Chief Justice Abby Abinanti presented a session on the collaborative work of the Forum, and Forum members Chief Judge Christine Williams and Presiding Judge Suzanne Kingsbury participated in a presentation on their joint jurisdiction court. The documentary, Tribal Justice was screened and Forum members Chief Justice Abby Abinanti and Chief Judge Claudette White whose courts are featured in the documentary were in attendance and held a question and answer session after the screening.</p>