



COMMISSION TO ELIMINATE CHILD ABUSE AND NEGLECT FATALITIES

ARIZONA PUBLIC MEETING TRANSCRIPT

March 25-26, 2015

Scottsdale, Arizona

Presenters: Martin Harvier, Vice President, Salt River Pima-Maricopa Indian Community; Philandrian Tree; Megan Gregory; Catherine Pierce, Senior Advisor to the Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice; Judge William Thorne, Retired State and Tribal Court Judge; Dimitra Sampson, Assistant U.S. Attorney, District of Arizona, U.S. Department of Justice; Hannah Smith, Attorney General, Eastern Band of Cherokee Indians; Captain Francis Frazier, Acting Director, Office of Public Health Support, Indian Health Service (IHS); David Foley, Navajo Child Death Review Team; Gladys Ambrose, Navajo Child Death Review Team; Sheri Freemont, Director, Family Advocacy Center, Salt River Pima-Maricopa Indian Community; Dr. Earl Sutherland, Medical Director, Bighorn Valley Health Center; Tina Saunooke, Program Manager, Safe Babies Program, Eastern Band of Cherokee Indians; Dr. Beverly Cotton, Director, Division of Behavioral Health, IHS; Sarah Kastelic, Ph.D., Executive Director, National Indian Child Welfare Association; Diedra Henry-Spires, CEO, The Dalton Daley Group

DAY 1: MARCH 25, 2015

CHAIRMAN SANDERS: Good morning. We're going to get started in just a minute, so people can take their seats.

Good morning to everybody. I'm David Sanders, the Chair of the Commission to Eliminate Child Abuse and Neglect Fatalities, and we are very fortunate to be here today at the Salt River Pima-Maricopa Community. And we have the Vice President, Martin Harvier, who's here to welcome us, so I'm going to turn it over to the Vice President.

MARTIN HARVIER: Good morning, everyone. I don't have a microphone so I'm going to talk as loud as I can here. I don't have a problem with that either, so -- it's good to see everyone here this morning.

Under the agenda it says we're going to start with a prayer. I'm going to go ahead and offer the prayer before I make any comments this morning. So in just a moment I'll just go ahead and offer that prayer this morning to start the meeting.

(Microphone was provided.)



Let us pray. Our Father in Heaven, as we humbly bow our heads before Thee, Heavenly Father, we come to give Thee thanks for the many blessings. We're grateful for this beautiful morning that we've risen to. We're grateful for the rest that we've received over the night.

And Heavenly Father, at this time, as we gather here, we pray, Heavenly Father, through the discussions that will take place this day that the Spirit will be here, that the discussion that will take place about the children and their safety, Heavenly Father, we pray that those that will be here will be able to give remarks and give encouragement in ways to protect our children.

We are grateful for those that are around this table for giving of their time in this issue. We are grateful for the tribal leaders and the representatives from the tribes that are here.

We ask you to bless them with the issues that they face in their communities, and, Heavenly Father, we ask you to bless our communities that we reside -- our homes. We ask you to bless our families while we're away that they be watched over and taken care of until we return back to them.

We ask you to bless our communities with health and safety. We ask you to bless our parents of our children that they'll have the understanding to know that they've been given gifts from our Father in Heaven, to take care of these children while they're here in this world.

Heavenly Father, we ask blessings upon our communities that we reside, our elders, our youth. We ask blessings on our military, our men and women serving our country. We ask you to bless them wherever they may be, that they be watched over and taken care of until they return home to their families.

Bless those that are sick and afflicted in hospitals, that they be healed, Heavenly Father, and be able to return home to their families if it be thy will. Bless those that are mourning this day for whatever reason and send thy comfort to be with them.

Heavenly Father, again, through the discussion today, this issue of protecting our children, not only in Indian Country, but throughout the world. We pray for those that have been called to sit around this table, that their minds may be open to discussions that are going to take place to help them to set a path to help in these areas.

So again, Heavenly Father, we're grateful for this day. We ask that you be with us. Forgive us of our shortcomings, help us to always do better. Bless the refreshments that are here, the meals that will take place, that they will be nourishing to our bodies.



We pray for these blessings in the name of Jesus Christ. Amen.

Again, I want to welcome everyone here this morning. How many, by show of hands, first time being here? So we have quite a few first time being here. Again, this is the home of the Pima, the Maricopa tribes.

If you look at the history of the tribes that are here, if you look just down on the map to the south, there's a tribe called the Gila River Indian community, and the same two tribes of the Gila River Indian community are represented here at Salt River, the Pimas and Maricopas.

And the history says that the Pimas have been here since time immemorial. I hope you have an opportunity to walk around in the building. And if you get lost -- you can go downstairs and get lost and look at a lot of the pottery and some of the work that the Pimas and the Maricopas were known as making pottery and basketry.

So there's opportunities to see those items that are here in the building. Some of the old pictures that are here in the area show of a time long ago. And again, the history says that the Pimas, the Othama, have always been here.

But the Maricopa tribe actually resided, they say, along the Colorado River, along in the Yuma area. And they say that something happened in that area, that the tribes had a dispute and the Maricopas came into this area, and they say the first recordings of -- actually, Father Kino, when he came into the area, reported that the Pimas and the Maricopas were already together as one tribe.

The two tribes here, their language is totally different, a different dialect, so if you go speak to a Maricopa, it's totally different than speaking Othama Pima. So I just wanted to talk a little bit about the two tribes that are represented here. We have a land base here of about 53,600 acres of land, and the history says the reason that the people that are here in Salt River migrated to this area from the south was that we were known as farmers and farmed off of the Gila River, which is to the south along in Gila River.

And when settlers started coming into the east and damning up the water, families started moving up into this area to continue farming off of the Salt River. That's why we're known as the Salt River Pima-Maricopa Indian community.

Again, I told you our land base consists of 53,600 acres, approximately. Our land was given to us by executive order June 14 of 1879, of that amount of land. Six months prior, in January, that same year by the same president, Rutherford B. Hayes, by executive order, our land base consisted of over 800,000 acres. So we lost quite a bit of land over a six-month period. But you hear about that a lot in Indian Country, how land base had been given and then taken back. But we're known as a peaceful people.



History says that when people came in, the Pimas helped them. Especially the settlers that came through, we helped.

I wanted to thank all of you for being here. And the issues that you face for our community, I think this came to light a few years ago. I think we all knew that there was issues that were happening in the community. But unfortunately, it took a tragedy of losing two children in the back of a car.

That really kind of, I think, put a spark into council to say something needs to change here, something needs to happen. And just like everything else, you know, when you start making people responsible for their actions as far as children, you're going to get others that oppose what you're trying to do, especially those that are having their children taken away from them because they're not caring for their children.

But that's the responsibility that we feel as a tribal government. We need to make sure we try to protect our children the best we can. And that's calling on our law enforcement and the departments to come in and make sure that families are taking care of their children.

You know, I don't know what happened. I had a visit from an elder of our community, a decorated Vietnam veteran. He just stopped by, used the open-door policy. I have no clue why he was there. And when he came to my office, he sat down and he looked at me and he said, "Vice President, what happened?"

And I was wondering what did I do or what is he talking about? And he said -- I said, "What do you mean?" And he goes, "What happened to us as a people?" And he goes, "I'll tell you, I don't like going to council meeting because all I hear is people get up and complain. Complain about how their children are not being treated well, and they're not children, they're adults, that they're talking about."

And he said, "You know, when I grew up, the responsibility of how I was taught and how I was supposed to respect people, that was my parents' responsibility to teach me that. It's a responsibility of the parents today to teach their children, but they're not being taught, they're not being taught."

I thought about that, and you know, as a parent -- and I'm not sure if Native Americans are any different, but I think growing up, as a parent, we always want to try to make things easier for our kids, make it easier than we had it growing up.

And in my own family I'll tell you that my kids were given chores growing up, maybe emptying the trash or vacuuming the floor. But if I got up early enough, there was dad taking out the trash, there was dad vacuuming the floor, or there was dad changing the oil in the car.



And then my wife's telling me, "Why did you do their job for them?" And I said, "Well, they were asleep. I didn't want to wake them up." But what did I do? And now I say to my wife, "Our kids are so lazy." And you know what she told me? "Go look in the mirror." Not because I'm lazy but because I caused the problem. I caused the problem.

And that needs to be looked at, you know, as parents, what are we doing as far as even being parents of setting that example so that our children know how to be parents.

There's a story that I read about an oak tree, and the oak tree was small. There was a farmer that was out cleaning some brush and he stuck a wedge between the limbs of the small oak tree and he forgot about it. And over the years, that oak tree grew, and it grew to be real strong, and it was a pretty big oak tree that was sitting out in the open field.

And then when the first -- when one of the icy storms came, the next morning they went out and that oak tree had split and all the limbs were dead. Nobody knew what happened until they went over and they saw this little wedge that was put that somebody forgot years ago.

And I think about that, what are the wedges that today are we putting into our children that are affecting them in their lives. We need to make sure we teach our children.

Like I said in the prayer, I truly believe that when I grew up -- and I'll just tell you, when I went to church, we were taught that we were children of God. And children are a gift from God and it's our responsibility to take care of the children.

And we need to make sure that when parents have children, that they can look at that child and realize that they have been given a gift to create, that that child is now part of them, that's their child, that they created that, and they're going to protect that child and teach that child to grow up strong.

There was research that was done on the little chimpanzee or -- and from birth they took this chimpanzee and put it on the side and they watched it as it grew with no love or care from the mother. And they gave this little chimpanzee a little doll and that chimpanzee would grab that doll, but did you know that that chimpanzee died? Because he didn't have any love. Somehow we need to bring back the importance of family, the importance of being a family.

We have fatherhood groups here. It's important that fathers know their role, that mothers know their role. That's the most important part, that children can see that their parents love them and they have responsibilities. We shouldn't be taking those responsibilities away from them.



This morning I want to thank all of you, Chairman and Commissioners for being here in Indian Country. My understanding, this is the only meeting that you're going to have, to this point, in Indian Country. I really appreciate you being here and looking into some of the areas that the tribes here have concerns of and maybe have some advice that maybe can help, and I'm sure they do.

I'd like to thank all the tribal leaders that are here, the tribal representatives. This is a big issue. It's an important issue, because we always say the children are our future. So what is our future going to be? What is our future going to be?

So again, I want to welcome you all to Salt River and blessings to each and every one of you. Thank you.

(Applause.)

CHAIRMAN SANDERS: Thank you very much, Vice President.

And I know that we will hear today about how this community faced the tragedy six years ago and has made changes, basically through the kind of leadership that the council has provided both in direction and resources and a commitment to children. So I'm really excited to be here. I think this is quite a remarkable lesson that we'll hear about today.

So we're honored to be here and we are the Commission to Eliminate Child Abuse and Neglect Fatalities, the *Reader's Digest* version, as we were established by Congress in 2012, and have two years to complete a report for Congress and the President that really does three things.

One is provide direction on how to reduce or eliminate child abuse and neglect fatalities.

A second is how we better count and identify the children who are being killed due to abuse and neglect.

And third, how do we create a national strategy to move this away from just a community-by-community issue and create a national strategy. And I think the choice of Salt River was intentional, because it appears there are a number of things that we can learn from what you've done here and we're excited to be here.

Today we're going to focus on tribal issues, and I want to thank both Commissioners Martin and Zimmerman, who have co-led the effort on addressing American Indian children and really structured today's agenda. So thank you for that.



American Indian children die at twice the rate of Caucasian and Hispanic children as a result of abuse or neglect. The rate is slightly lower than the rate for African American children, but either way, it really identifies an incredibly vulnerable set of young people. And if we're to be effective as a commission, we really have to address this issue and understand some of the challenges and some of the opportunities.

As I said, though, we really saw yesterday, we had a site visit through Salt River and the Family Advocacy Center, and really saw that, I think Sheri called it -- the director called it an opportunity for hope for people, that there are many challenges, but that this is a community that's addressed this issue head on and we can learn a lot from what's happened.

Today we'll hear primarily about jurisdictional issues, we'll hear about data issues, we'll hear about resources, we'll hear about history. And we'll also hear how those challenges as well as opportunities can help us in putting together our final report and making sure that we are addressing the issues of American Indian children.

So let me ask the Commissioners to introduce themselves and then we'll get started with our first panel.

COMMISSIONER ZIMMERMAN: Good morning, everyone. I am Marilyn Bruguier Zimmerman. I'm an enrolled member of the Fort Peck Assiniboine and Sioux tribes in the northeast corner of Montana. And I currently serve as the director the National Native Children's Trauma Center at the University of Montana, and also serve as one of the Commissioners on this Commission to Eliminate Child Abuse and Neglect Fatalities.

And I just want to thank all of you for being here and for being the voice of our children. Thank you.

COMMISSIONER MARTIN: Good morning. I am Patricia Martin. I am a judge and I serve as the presiding judge of the Child Protection Division in Cook County, Chicago, Illinois. Likewise, I'm a Commissioner and co-chair of this subcommittee.

And I want to echo what the Vice President said this morning. First of all, we are all here for one purpose, and we welcome your insight and we look forward to having an exchange about our children. Thank you very much for being and participating in this important endeavor.

COMMISSIONER AYOUB: I'm Amy Ayoub from Las Vegas, Nevada. I feel very at home here, and I'm just a long time child advocate and I'm a survivor of sex trafficking. Thank you for being here.



COMMISSIONER RODRIGUEZ: I'm Jennifer Rodriguez. I'm a lawyer and the Executive Director of the Youth Law Center. We're a national advocacy organization who works on behalf of children in the child welfare and juvenile justice system.

And being here is particularly meaningful for me, because I both grew up in the foster care system and my grandfather was half Pima Indian. So I don't know much because of my own experience in the child welfare system about that part of my heritage or culture, but I definitely feel like in many ways it's probably a homecoming for me.

And I also want to really echo the vice president's comments about our joint commitment to children and how appreciative we all are of you for sharing your day with us.

COMMISSIONER PETIT: I'm Michael Petit with the Every Child Matters Education Fund in Washington, DC, a national child advocacy organization.

At one point I was the Commissioner of the Maine Department of Health and Human Services, which had responsibility for child protection, and for many years I worked with the Child Welfare League of America, and I, too, am appreciative of you being here and look forward to a very informative day.

COMMISSIONER COVINGTON: Good morning. I'm Teri Covington. I'm the Director of the National Center for the Review and Prevention of Child Deaths. And I would really echo what everyone has said. And I also thank the community for hosting us here and your generosity, including our visit yesterday to the advocacy center. So I'm really looking forward to today's presentation.

COMMISSIONER HORN: Good morning. I'm Wade Horn. I'm with Deloitte Consulting, where I lead our health and human services practice nationally. I'm a clinical child psychologist by training, spent two tours of duty in the federal government, most recently as the Assistant Secretary overseeing Administration for Children and Families in the U.S. Department of Health and Human Services where most of the child welfare programs are located.

And, Mr. Vice President, also my background, I'm the founder and first president of the National Fatherhood Initiative. So I appreciate your remarks earlier about the fathering programs you have going in Indian Country.

CHAIRMAN SANDERS: And we will have Commissioner Bud Cramer join us tomorrow morning.

We have three other Commissioners who are unable to be here, Susan Dreyfus, Cassie Bevan, and David Rubin.



I'm going to call the first two speakers up, and while they're coming up, I'll do a couple of other announcements. Philandrian Tree and Megan Gregory can please come up to the microphones.

So for each of the presentations, we have a very informative set of presenters for the day. We also know that we have limited time and so each will -- has a set number of minutes to present. And I will -- we will try and be as unobtrusive as possible, but we'll make sure that I let you know when the time is up.

We also just -- Dr. Horn just mentioned, and many of you knew him, Jerry Friedman, who's a former president of APHSA [American Public Human Services Association], just passed away last night. So wishes to his family and all of his friends.

So this first panel will really focus on the impact of historical trauma, and we have two young people who have been able to observe that in their communities. I also understand that it's a special day for Ms. Gregory. It is her birthday. So thank you for sharing that with us, sharing the day with us.

(Applause.)

CHAIRMAN SANDERS: So I will turn it over to the two of you. I'm not sure who's going first, but go ahead.

MEGAN GREGORY: Well, thank you for having me here today. It's really an honor and I couldn't think of a better way to spend my birthday. So I'm happy to be here.

As I mentioned, my name is Megan Gregory. I'm originally from Kake, Alaska, and I'm from the Tlingit tribe. My Tlingit name is Kootgwaatl. And it's just an honor to have the opportunity to speak about some of the issues that are very near and dear to my heart.

Kake is a very beautiful community and I absolutely loved growing up there, but as I was growing up, I witnessed a lot of issues within my own family. I knew from a very young age that I was a fortunate young woman because I had two parents that were fabulous. They loved and cared for me. They made sure that I had a roof over my head, and that I was -- I felt loved, and I grew up eating healthy food and that I was active and physically fit, whereas some of my cousins didn't have that opportunity.

And I think it stems back to the fact that my grandparents were punished for speaking their own Native language when they were sent away to boarding schools, which, when they came back, had an effect on them.

Because a lot of that led to substance abuse, and my grandparents had seven children.



So their children didn't always have a stable home growing up. And somehow, my mom, she was so strong. She never let any of that get to her. She didn't grow up to become an alcoholic or a drug -- she didn't use drugs.

She was such a strong role model for me, as well as my father, who's originally from Seattle. But oftentimes on the weekends, you know, my cousins would have to come and stay with us because they were afraid of what might happen to them.

And this is a huge issue not only in Kake, Alaska. It's all over the state. As you know, Alaska is a very vast state, but I believe there is ample opportunity for great things to happen. And apparently -- I hadn't become aware of this until later on, but in 1987, Kake, Alaska had the highest suicide rates per capita in the nation.

When I was growing up, there weren't a lot of after-school opportunities for me. I wasn't aware of opportunities after high school that I could get involved with, but I was hungry and eager for change. I wanted to see good things happening in my community.

And the one way I found that was immediately after high school, I applied for a program called Rural Alaska Honors Institute, and it allowed me to go and live away from home for six weeks in Fairbanks and attend school and take college courses. And following that, I had also been accepted to intern for my senator, Lisa Murkowski, in Washington, DC.

As you know, coming from a small town, this was a major culture shock for me. I honestly don't know that I would be sitting here today talking with all of you if it wasn't for that opportunity.

I was able to go and live in a different culture on the opposite side of the country and learn about things that mattered to me, and it encouraged me to go back and get involved in my tribal council. I served on there for a year-long term as well as my native corporation.

And I became aware of the high suicide rates facing Indian Country. Specifically, native youth deal with this more so than any other youth. And I wanted to find ways to bridge the gap between young people and adults, because I think that it's important that they know that people care for them and they're listening and they want to be there to help them.

So I created a program called the Youth Ambassadors Program in southeast, and unfortunately, it didn't go the way I wanted it to. I was a young person at the time and I didn't quite have it figured out. But these opportunities also led me to Washington, DC, with my tribal council to attend the National Congress of American Indians. And it was there that I heard from senator Byron Dorgan that he was interested in creating



something specifically for native youth, not just to talk about the bad things that are happening to native youth across the country but also to talk about all of the good things that are and can be happening.

So he had a million dollars left over in campaign funds, and of course everybody knew what he could do with it, but he decided that he was going to establish the Center for Native American Youth.

And so I was about 23 at the time, I believe, when he was talking about this, and I ran up to him and I said, "Senator Dorgan, please, if there's anything I can do to help you make this successful, please feel free to call me. I know I'm in Alaska and it's a long ways away but I really like the sound of this." And he actually asked me to serve as a board member, and it's been such an honor and they've come such a long way.

I don't know if you're familiar -- you've probably heard the "Champions for Change." And I think that that is a fantastic program because it's a spin-off of a White House initiative, allowing students to have the opportunity to go to Washington, DC, get involved, and also create a network across the country. And that's what we need.

Senator Dorgan always says, "Bad news gets around the world before good news has a chance to put its shoes on." That's exactly what I was trying to create within my region in southeast Alaska, just because I think it's important that these kids have the opportunity to see what other students are doing and what they can be doing in their communities to get involved. And as I mentioned, I'm all for mentoring programs because one thing leads to another.

I mean, I don't know that I would be this involved if it wasn't for Senator Murkowski believing that young native people -- well, it's for non-Natives as well, that if you give them the opportunity to go out and broaden their horizons, great things will happen and come to fruition.

So I'm just so very honored to be here. I would love to answer any questions you might have. I'm sorry, I'm a little nervous. But I would like to introduce my fellow council member. We also serve on the National Council of Young Leaders, which is just another opportunity that I found out about by getting involved and trying to make a positive change, not only in my community and my state, but in my nation, and I think that's confidence we need to instill in all of our native youth and youth across the country.

PHILANDRIAN TREE: Thank you for that.

Good morning, everybody. Thank you for having us and allowing us the time and space to be here to speak with you on this matter regarding our children and my peers within our tribal communities.



Just briefly, I'd like to give a little self-introduction. (Spoken in Native language.)

So I'm the Towering House clan born by the Edgewater clan. My maternal grandfather is the Saltwater clan, and my paternal grandfather is the Bitterwater clan. I'm originally from Tolani Lake, Arizona, the Navajo reservation. Currently I'm living and residing in Flagstaff and working there.

And so this morning we were asked to speak regarding a lot of our experiences and observations with historical trauma and some of the implications it's created with the rearing and raising of children and of tribal communities.

And the way I introduced myself this morning was our traditional way of introducing ourselves, and the way I was taught was no matter where you are, no matter who you're in front of, you always introduce yourself with your four clans, because you're acknowledging yourself in relationship to the universe and your presence, your current presence. So that's always been taught to us. It's always been passed down. You have the lineage in the clan system, the way it works.

When you run into fellow Navajos, even non-Navajos -- it can be other members from other tribes -- they relate to you through these tribal clan systems. And that's how you understand your kinship. And the minute you were born into Navajo, they say you already are a grandmother, you're a grandfather. There's so many relations that you have, just the second you're being here.

And that's something that's not always passed on anymore through our languages and through our relationships and acknowledging one another anymore. And I think a lot of that is because, as Megan said earlier, they'll -- prohibiting the youths in speaking of our Native languages historically and how that's been implemented, not just through treatment in non-Native communities but through federal Indian policy.

And I think that some of the ramifications of, you know, a lot of the cultural loss and a lot of the language loss in our communities and how it affects -- because you have these children now that aren't taught those traditional values, that aren't taught the language.

So they're unsure of how they relate to other people in the world and they're unsure of their importance of their existence because they don't have these understandings. And around these clan systems we had a lot of our government structures. You know, we didn't have the formal government in which you see our tribal nations as they are today. And a lot of our governing structures were based on these clan systems. They were based on their relationships. When there was conflict, we had our own traditional forms of mediation for conflict resolution.



So you have a lot of these systems that were so reliant upon our languages, reliant upon our clan systems and our relationships. And through some of the implications of western colonization, you start to see that deteriorate. And as a result, you start to see a lot of the family breakdowns through these systems.

An example of that could be -- Megan mentioned a little bit earlier about the boarding school system and that was the institution that was placed onto tribal nations to educate them and have them understand, read, and learn English.

The result of that was they took them away from the families, they took them out of these clanships, they took them away from the language, and so they were just kind of out there floating and just trying to survive.

And I think with a lot of these communities, they really need to understand that we are not so much trying to survive anymore, we're trying to sustain ourselves, because we are still here today. And I think that it's moved beyond survival, that we're looking at ways to sustain ourselves in a way that's non-harmful and in a way where we contribute to main society.

And we look at these implications and the historical traumas, and that's only one way of looking at it, and I could give several examples. I could talk about all the statistics, all the high abuse rates.

But with these clan systems there is something that still exists today that has always been there and it's the multigenerational families. So you have grandparents raising grandchildren and that's not a new concept to Native American families.

A lot of the extended family is involved heavily in the rearing of children, and so when you bring that to conflict resolutions in the formal court system, in the judicial system, it's not something that's always accepted and it's not something that's always acknowledged. And a lot of times, the judicial system makes it hard for the extended families to take control and raise the children.

They see it more as being able to take the children out of the family system and put them in a safe place. Well, sometimes putting them in a safe place means just moving them to the other side of the family structure and leaving them in the culture with the language.

And that's not something that's always been accepted and acknowledged as a practical way of conflict resolution with children. So you look at that, and so then what you have as a result of that is kids that grow up that then have all the issues of being removed but then still have the identity issue, and that results, again, you just create the cycle



of high suicide rates, alcoholism, and they're -- not understanding their values and their culture.

And you move that into the way services are delivered in a formal manner as a result of these resolution processes, and anybody that has a family, anybody that has kids knows that raising a family, raising your kids does not happen on a 9:00 to 5:00 schedule. However, a lot of the services that are provided are only offered from 9:00 to 5:00.

So even when you have young parents trying to raise their children, they know a right way to raise them and have a good idea and a mindset, but they're struggling. It's because these support services that are there to help them actually hinder them, because in addition to trying to raise the child, they have maybe school going on, they have work going on, and then they have other family things going on. And it's harder for them to meet, you know, trying to get the resources within only those 9:00 to 5:00 hours, Monday through Friday.

And then on top of that you throw in a lot of the cultural traditional practices that we still heavily are a part of and those can happen at any given time almost. And once that happens, you know, a lot of people, they drop everything they do. They'll call into work and they'll just go and take part in their community, but that's not acceptable in mainstream society.

So they're constantly balancing their priorities of do I participate in these ceremonies and take the child out of school, or, you know, if this child has too many absences, is that a mark against me as parent -- when you're really trying to do something good.

So it's kind of a double-edge sword with rearing a child in Native American communities because when they see they're doing something right, the system marks it as them doing something negative.

So I think there's a lot of other implications that need to be taken into effect around the child abuse and neglect. Especially the neglect, because sometimes it doesn't always -- and I think this is a common stereotype -- that it happens at the hand of the parents, and a lot of times it doesn't.

A lot of times, like I mentioned earlier, there's a lot of extended family that have a lot of say in the upbringing, the rearing of the child. So sometimes it happens at the hands of the family members. But ultimately it's the parent that is the one that's held responsible.

And I think we need to acknowledge that there is this multigenerational family in the rearing of the child, and I know it's a hard topic for a lot of people to talk about and it's not something that you wake up on a Monday morning or on a Wednesday morning,



looking forward to addressing these issues.

But from the work I've seen and done with a lot of the youth and a lot of my peers, a lot of the things -- their biggest request, over and over again, hands down by a lot of the tribes, is just they want a safe place to go. And it's hard to think that they can't find that safe place within their home.

But I know that they can find it somewhere within their community because they still have these clanships that exist. So you don't need to take them out all the time. It's just trying to find that place for them and then allowing it to be there, and then a lot of the other services that they liked were things that were culturally relevant.

They've asked me a lot of times, too, that, you know, like the federal government can push us and tell us, you know, English only. Why can't they do the reverse of that and tell us, okay, you can only speak your Native language only and have the revitalization of languages that way and have it imposed in our Indian education systems as well as our curriculum.

And the U.S. history should be more inclusive of a lot of the tribal nation history, because that's a big part of our U.S. history. And without teaching that to their peers, whether or not they're from their communities or across the United States, other people have a hard time relating to them.

And it just perpetuates a lot of the stereotypes that go on. So when they do find a way out of these communities and find a way to make it in the regular, like through Megan's experience, being on the other side of the country and being there, they find themselves having to do a lot of education to their non-Native American counterparts and that's all they spend their time doing.

I can say that from experience that everywhere I go people ask, they're so curious, they want to know, but the education system, the public education system doesn't allow that dialogue within the classrooms.

So there just are a few recommendations of how we can keep growing momentum. Also, when we look at young leaders within these Native American communities, a lot of them, they have a lot potential, they have the motivation to go above and beyond and provide a better life for their communities.

But because they're so isolated, a lot of these tribal communities are so small that they feel -- it's overwhelming to address all these issues. And creating a nation-wide network for youth to have this dialogue and give each other support, I think is more helpful.

Because time and time again, when we have larger meetings with tribal youth in



different regions of the U.S., that is their ask, because they get so much out of just attending conferences and being with like native youth with them, amongst themselves and giving that support and running ideas by each other of how they can do change in their local communities. They just get so excited and they're just so loving and they want to give back so much. But they just don't have that opportunity to do so.

So finding a way to create those networks for them to have support and support each other would probably be the biggest takeaway we could have.

And that's all I have for right now unless anybody has any questions.

CHAIRMAN SANDERS: Thank you. I'm sure there will be questions, so I'll see if -- turn it over to the Commissioners. Actually then, seeing no quick hands, I'm going to start.

So, Ms. Gregory, you mentioned the National Council of Young Leaders and both of you are on the board, I believe. So can you say a little about -- you and Ms. Tree mentioned the idea of a network. Has that been in a place where discussions like what you're talking about can occur and provide some leadership around direction or are there other things that you're thinking about?

MEGAN GREGORY: I would say definitely it's a diverse group of leaders from across the nation, and Philandrian and I are actually the only two Natives currently serving on the council but we're looking to expand.

To me, it's kind of like the Champions for Change. We all have the opportunity to come together three times a year. We just recently had a meeting in Seattle and met with top executives from Starbucks at their headquarters and talked about the expansion of creating 10,000 positions for at-risk youth or opportunity youth, is what they're calling it, to get more involved. And you know, eventually, they'll have -- if they stick with the program for two years, they'll be able to go to the University of Arizona.

And I think those are important because you get one organization talking about it; why not everybody else? What more can we be doing as a nation? I think there are untapped resources within these youth and it gives all of us the opportunity to look at what's happening in different areas of the country. Because all of us are from different states.

So I think creating this dialogue and giving young people the opportunity to talk about these issues, because a lot of them aren't aware of the issues that Native Americans, especially youth, are facing across the nation.

So I feel like Philan and I have really been a voice and we bring a lot to the table and I'd love to see more young native people at the table. So I look forward to talking with the National Congress of American Indians to hopefully continue supporting this council as



we move forward. We're fairly new. We've only been around for about two and a half years. So I'll Philan add to that.

PHILANDRIAN TREE: I think it definitely is a platform to bring a lot of Native issues to. And again, I said when I first joined the council, I had a lot of education -- well, a lot of educating to do amongst my peers because a lot of them weren't aware that -- you know, they talk about the crime rates in their city, they talk about a lot of the despair and poverty and the homelessness.

But then when I got to the council and I told them we have all that and we have a lot of families that lack running water, a lot of families that lack electricity even.

So even if you do provide these opportunities to these young people, it's a matter of getting there. And a lot of times we can even make that same argument with our education system. You can have the best schools in the world on the Navajo reservation, but if it's still taking them three hours through unpaved roads and it's money that they don't attend school, then you're not really doing anything for the students.

You have to really understand their well-being as a whole and every step it takes for them to get to even an opportunity.

CHAIRMAN SANDERS: Commissioner Martin.

COMMISSIONER MARTIN: First of all, ladies, thank you so very, very much for coming and sharing your insights with us. I have a couple of questions and I'll try to make them very, very brief.

I am particularly interested in the work that you've talked about around education, and so I think that the federal government in many states are slow to realize that safety permanency and well-being are not independent goals but are interrelated, so you have to have well-being, really, to have safety and permanency. I think we've been kind of slow to get on board with that so I appreciate your last comments.

One of the things I did not really recognize until you brought it to my attention, education is not only from your end but it's also from our end. So history includes Native American history and oftentimes that's eliminated when we get state side. So it's not just your responsibility. We have some responsibility in learning about your culture as well.

Can you tell me, when you look at your educational systems, aside from getting there and the transportation issues, how does education enrich your life such that it provides the opportunity for young people to become whole members of our society? Do you



understand my question?

PHILANDRIAN TREE: Speaking from experience with this, if you have -- I was fortunate enough to go to a -- well, a public school. You know, it was still public. It wasn't private or charter or anything. I did go through the regular public school system.

And I think -- and it was off the reservation so there was a lot of exposure. But you also have a lot of programming that you wouldn't really get on the reservations. Even just comparing and contrasting students, sometimes it depends on the school but sometimes they'll receive a better education off the reservation than on, and I say that because of the exposure of different cultures that they are thrown into.

I learned through -- I learned French so I'm fluent and I can speak, read, and write French, Navajo, and English. And that was a result of being in an off-reservation school.

The other thing that I noticed with our reservation schools is that they use the programming Teach for America. So a lot of that -- what I've noticed is the teaching in the school is different because you don't have somebody there from the community invested in the community, invested in the education of the community.

So there's a couple of different things that would kind of play into being successful in education and how that leads to opportunity. And that's just getting the child K through 12. What they decide to do after high school, then it would be totally up to them. I know a lot of the tribal members don't always try to push them into higher education. They say, "I don't care where you go. If you go to a trade school, that's fine. You don't need to go to a big university. If you go to a tribal college, that's fine. If you can get into a trade and jump-start your career, that's great. Just be successful."

That's a lot of what they carry back. What I do notice is that when kids do attain higher education, they come back with this myth that there's going to be a job waiting for them. That's something that I have always tried to get a lot of youth away from thinking about, that the tribe is going to provide a job for them.

You have to remind them and educate them again that no, you got that education so you can provide a job for yourself. Nobody's going to give you a handout with these opportunities. But it is a foot in the door.

And I really, when I was at the university, I got involved in doing weatherization. I was thinking I was just going to address the housing issues on my reservation, but it was so much more than that. And the program was fortunate enough to have AmeriCorps programming funds, so in addition to the tribe -- because the tribes aren't always able to provide scholarships especially at the bigger tribes.



So when you can find services and find programs that you can run jointly, it would alleviate a lot of the congestion in people applying for scholarships.

COMMISSIONER MARTIN: Thank you very much.

And my last question -- you talked about suicide in young people in particular, and you gave some tangential connection with the intergenerational trauma.

I've tried to read as much as I can in preparation for this meeting and for work on the Commission about intergenerational trauma and I don't think I've really found a direct connection. I don't think that I've found much literature that would bring me to the conclusion that there has been research done to provide a direct link between the intergenerational trauma and the high rates of suicide, particularly in native country.

Do you have any references that I might be reviewing that would give me a more direct connection?

MEGAN GREGORY: I would just really encourage you to get in touch with the Center for Native American Youth because they have made this their focus. They have made this their mission to connect youth and figure out why it is that it's Native youth have the highest rates in the country.

So I think Erin Bailey, who's the Executive Director, she would know if there's a reference that you haven't already seen and she could share that with you.

COMMISSIONER MARTIN: Thank you, ladies.

PHILANDRIAN TREE: I'd like to address that one quickly. And the reason why you might find it a little problematic to find a lot of resources and references around the issue is because for Native American culture, for a long time, it's kind of taboo for us to speak of suicide.

So it's a very sensitive issue, and so it's hard to research just in general. But using Megan's resource would be good.

COMMISSIONER MARTIN: Thank you.

MEGAN GREGORY: Actually, I have one more thing to add. As I mentioned, in 1987, Kake, Alaska had the highest suicide rates per capita in the nation, and it wasn't until the federal government started funding programs to raise awareness about drugs and getting children involved in culture camps is when it stopped the suicides in my community.



Children having the opportunity to go and be with elders and learn about their culture, it was a safe place for them. It was a place for them to go and learn more about how to subsist.

And so I think encouraging that, not just in the summertime, but also teaching kids how to grow their own gardens. I honestly believe that getting kids' hands in the dirt and connecting it with schooling when it comes to math and science, teach them about the PH levels, allow them to volunteer in their community, and donate it to elders or serve it at their school lunch; not only, you know, growing their own fruits and vegetables.

I mean, I think every school should have one but also the fished school program is big in our state and making sure that our kids are eating quality meals. I'm on board with Michelle Obama's "Let's Move" initiative. Let's keep that momentum going, take a more holistic approach and give these kids an opportunity to live a healthy lifestyle.

CHAIRMAN SANDERS: Commissioner Ayoub.

COMMISSIONER AYOUB: I know it's your birthday but you've been quite a gift to us with your testimony. Thank you so much.

As Ms. Tree mentioned how this is overwhelming sometimes, all the obstacles and challenges, and I think we feel like that on this Commission, too. It's the Commission to Eliminate Child Abuse and Neglect Fatalities. It's a huge commission. If you were sitting on this Commission, what would you say would be -- we'd need to look at as a priority?

Because you've brought so many great points to us and things that I know I haven't thought of, you know, the cultural ceremonies that take you away from school or work, things like that that I didn't know, so what would you say if you're on the Commission to Eliminate Child Abuse and Neglect Fatalities would be, what you could look at? What the priority would be?

PHILANDRIAN TREE: Well, I think the priority with all of us is just the overall well-being with children.

But what I use and what a lot of our tribal people use for guidance with these difficult topics and just to seek overall understanding is we often seek out our traditional medicine practitioners, and I would recommend you speaking with several different tribes and they could be able to probably better enlighten you with where we are as tribal nations in these processes and why it is our children are suffering so much.

Because they would be able to give you a lot of insight, but a lot more guidance. And it would be relevant, because the outcomes of that would then translate into further recommendations of how to better provide services of where our systems' modifications



need to be. They would be the ultimate guides of assisting you with identifying these key issues, and they would be able to tell you stories behind it and the reasoning and everything.

So I would make that recommendation, in addition to some of the references you're already looking for as moving to look to our traditional practitioners because that's what we do, as tribal people do.

COMMISSIONER AYOUB: Thank you so much.

CHAIRMAN SANDERS: Commissioner Horn.

COMMISSIONER HORN: First I want to thank you for being here today. One of you said you were nervous. You sure as heck didn't show it. So thank you for being here.

So I'm going to follow up a little bit on the previous question. So as I know you know, youth have a habit of becoming young adults and young adults have a habit of becoming older adults and somewhere along the line they become parents, many of them anyway.

So what would you say we should be doing with Native youth now if we are looking at a longer-term strategy to prevent child abuse and neglect fatalities? What kinds of things should we be doing within youth now so that when any of them do become parents later on they're much less -- they're more likely to not abuse their kids or neglect their kids and certainly not cause a fatality?

MEGAN GREGORY: Well, I have been working in the early childhood area for the past two years, and it became very clear to me that we're starting too late.

We're looking at prevention programs when children are in middle school and high school, when really it starts at birth. It starts from the womb.

I mean, mothers should be educated. Children should not grow up without books, and in Alaska, I worked for an organization, a nonprofit called "Best Beginnings," focusing on early childhood -- early childhood programs around the state, and not just having more places to take our kids but having quality care for our kids.

We collaborate with Dolly Parton's Imagination Library, which allows children to receive a book in the mail every month from birth until five years old. Because in Alaska a lot of kids might not have access to books. Their parents might not have money for books.

And I think it's important to provide services to young single mothers who might not have the support that they need. And just having a child alone, I don't have any, but I



can imagine it would be pretty overwhelming and scary for your first time. So we focus a lot on cradle to career rather than when a child gets to kindergarten.

So I think just having children be able to have a book in their hands also has -- creates a connection with the parents, because they're learning together, they're having that closeness from a young age. And I think that those are things that need to be focused on right now, along with all of the cultural connecting -- connecting children culturally. So I'll let Philan add.

PHILANDRIAN TREE: So in addition, as Megan said, for us, we look at child development during the womb and we count them as a person from then. We don't count them as a person when they're out here, we can see them. That is a cultural thing with Native Americans as well. We understand and perceive that.

But then using education as a way to talk to these kids. Young people spend eight hours a day at school. And you split that up, eight hours a day at school, eight hours sleeping, they're only with their parents for another four hours throughout the day; another eight hours split, four before, four after or with their friends. And so the timing we would actually have their full attention is -- and I say that lightly -- it would be during the school hours.

And that would be the time where you implement services like a lot of the life skills classes, educating them how to balance a checkbook, basic financial literacy, and then also opening those opportunities up to the community.

Because as I said, we are multigenerational so a grandparent could be raising grandchildren. Yes, they may have reared several children in their lives but there's always new services available. There's always new systems, changing systems that they have to go through.

So opening it up and getting the community involved as well as where these resources lie would be good and more helpful. Because grandparents raising grandchildren, they don't know about how to go about applying for WIC [Special Supplemental Nutrition Program for Women, Infants, and Children] programs or that they're even eligible, or just a lot of these things that the kids have benefited from so much. So not just focusing their education on children and young people, but opening it up and understanding that you're educating families.

CHAIRMAN SANDERS: Thank you very much for the very informative testimony. I think you've introduced ideas that I'm not sure we've heard before so they're really very good. Thank you.

(Applause.)



CHAIRMAN SANDERS: Our next speaker is Catherine Pierce and she will present on some of the considerations for child fatalities in Indian Country. She is a Senior Advisor to the Administrator at OJJDP. So thank you.

And, Ms. Pierce, I think you have about 20 minutes and we'll want to make sure that we have plenty of time for commissioners' questions, so go ahead.

CATHERINE PIERCE: I have a prepared statement and then I'm happy to answer questions.

Thank you, Chairman Sanders and Commissioners Marilyn Zimmerman and Judge Martin and the entire Commission for inviting me to participate in this very important one of your meetings.

Administrator Bob Listenbee regrets that he could not be here, but looks forward to hearing about our discussion today. I'm Catherine Pierce. I'm one of his senior advisors at the Office of Juvenile Justice and Delinquency Prevention, often called OJJDP.

Our office works to address the needs of youth who come into contact with the juvenile justice system and at-risk youth, and we focus on protecting children who are victims of violence, crime, and abuse.

The work of your Commission to reduce fatalities across the country resulting from child abuse and neglect directly aligns with our work to address childhood trauma and victimization. We commend you.

During a recent meeting with representatives from your Commission and department officials, we discussed OJJDP's work in this area. Today I'd like to continue that conversation and expand on what was discussed as it relates to American Indian and Alaskan Native children.

The National Survey on Children Exposed to Violence funded by OJJDP and the Centers for Disease Control [CDC] shows that more than 60 percent of children surveyed were exposed to some form of violence, crime, or abuse as victims or witnesses in the previous year.

In 2008, a report by the Indian Country Trauma, Child Trauma Center calculated that Native youth are two and a half times more likely to experience trauma than their non-Native peers. The Department and OJJDP are working diligently to address this disturbing epidemic through the Attorney General's Defending Childhood Initiative. OJJDP funded programs, research, and evaluation, and victim assistance.



The Defending Childhood Initiative, launched in 2010, established the Attorney General's national taskforce on children exposed to violence to address and find solutions to mitigate the effects of children's exposure to violence.

In December 2012, the task force submitted a report to the Attorney General, which noted that American Indian and Alaskan Native children lack the much needed services and support to prevent and respond to unprecedented levels of violence experienced in tribal communities.

In response, the Attorney General's task force recommended a second task force on American Indian and Alaskan Native children exposed to violence and asked that it be established to examine the scope and impact of that problem.

The task force was anchored by an advisory committee consisting of non-federal experts in the area of American Indian and Alaska Native children exposed to violence and a federal working group consisting of federal experts working in areas related to American Indian and Alaskan Native children.

Starting in December 2013, the advisory committee convened hearings around the country, gathering information and listening to tribal leaders, judges, advocates, and interested citizens to develop a comprehensive list of recommendations to the Attorney General.

Marilyn Zimmerman is a former member of that advisory committee, and I'd like to take this time to thank you, Marilyn. And I believe I saw Anita Fineday as well. I'd like to thank both of you for your service from the entire advisory committee for your hard work.

On November 18, 2014, the advisory committee presented their final report entitled, "Ending Violence So Children Can Thrive."

They presented that report to the Attorney General at a meeting of the Coordinated Council of Juvenile Justice and Delinquency Prevention. The report has 31 recommendations directed to federal, state, and tribal governments calling for systemic change regarding the way American Indian and Alaskan Native children are treated.

The Department is reviewing the recommendations from this report and working on an implementation plan.

In addition to Defending Childhood and programs -- and other programs touched on during a previous meeting, we also support programs that may reduce the occurrence of child neglect and abuse fatalities. The Children's Advocacy Centers [CACs] funded



through OJJDP's Victims of Child Abuse Act grant, coordinate investigation, treatment, and prosecution of child abuse cases.

The Child Advocacy Centers carry out their work through -- as you know, because you saw yesterday, an excellent example at Gila River -- through multidisciplinary teams of professionals involved in child protective and victim advocacy services, law enforcement and prosecution, and physical and mental health.

There are currently 185 Children Advocacy Centers that indicate they are serving Native American and Alaskan Native children.

Also, through Victims of Child Abuse funding, OJJDP supports the Native American Children's Alliance. This organization provides regional and national trainings to improve tribal communities' response to the needs of children who have been victims of child maltreatment, most often physical and sexual abuse.

Their work helps to support the CAC's and multidisciplinary teams in tribal communities. The mission of the Native American Children's Alliance is to protect Native children and eliminate children's physical, sexual, psychological, and spiritual abuse through awareness, training, and building partnerships in respectful ways that honor tribal sovereignty, empower communities, and develop tribal readiness for seven generations.

Among the services it provides, it can assess tribal communities' preparation for accreditation by the National Children's Alliance.

It has expanded its outreach to urban Indian populations and has developed Native specific guides and materials to support the development of Child Advocacy Centers in tribal communities.

The alliance has trained prosecutors, law enforcement officials, child protection investigators, mental health and medical professionals, victim advocates, volunteers, and other stakeholders to improve the response and services to victims of child abuse.

If you would like more information from the latest progress report from the Alliance, I'd be happy to provide that to you at a later time.

OJJDP also provides funding to the National Center for Missing and Exploited Children [NCMEC] to support a collaboration with tribal leaders and communities to address pressing issues such as multigenerational intra-familial sexual abuse, substance abuse across generations, and sexual exploitation of women and children.

In 2014, NCMEC added a tribal law enforcement liaison to its staff to help enhance



collaboration with tribal law enforcement agencies, host tribal cultural awareness training for staff, and work with tribal communities, schools, and law enforcement to offer additional training.

The Office of Justice Programs' National Institute for Justice is in partnership with my office, OJJDP, and OJP's Office for Victims of Crime is now funding a study to develop and test a survey instrument and different administration modes that can effectively assess exposure to violence and victimization in American Indian and Alaskan Native communities.

The goal for the instrument or a questionnaire is to be comprehensive and include information related to exposure to abuse, neglect, sexual offenses, property crimes, hate crimes, bullying, peer and school assault, and domestic and community violence. The instrument is also intended to be easy to understand, flexible in its utility, relevant to American Indian and Alaskan Native culture and environment and to agencies involved.

The researchers will pilot the instrument and design with youth in three geographically and demographically different American Indian and Alaskan Native communities, collecting a total of two to 500 interviews.

OVC also funds the Children's Justice Act Partnership for Indian communities, a grant program that is dedicating \$8.1 million to support tribes to develop, establish, and operate programs to improve the investigation, prosecution, and handling of child abuse cases, particularly cases of child sexual abuse.

And they are working with the Flandreau Indian school, a Bureau of Education boarding school in South Dakota to provide specialized mental health services to students identified as victims.

Through our programs, we are working to protect children and eliminate the cycle of violence that often leads to child abuse and neglect.

I hope the information I've provided this morning is helpful to you, and I thank you for your time and welcome your questions.

CHAIRMAN SANDERS: Thank you very much.

Are there questions? Commissioner Petit?

COMMISSIONER PETIT: Thank you for that information. A couple of questions. Our principal interest is child abuse and neglect-related fatalities. You're looking at a number of other fatalities as well.



But the first question I have is, what is the number that the Department of Justice is working off of in terms of the numbers of child abuse and neglect-related fatalities in Indian Country?

CATHERINE PIERCE: I don't know the answer to that question. I think there will be people here later today who might be better at answering that, but I will also look for that information and get back to you.

I will say that what we know from what we heard at the hearings that the previous advisory committee sat through is that there is a paucity of data here, and that what data there is, is often not complete, and that is something that I think you all will want to take a look at.

And Commissioner Zimmerman can definitely fill in the blanks there. But there was -- data is a huge problem.

COMMISSIONER PETIT: The second question I have is, we did attend a family advocacy center yesterday and we're very interested in the work the Child Advocacy Centers do, which you talked about.

I understand there's \$19, \$20 million annual appropriation that goes to the Child Advocacy Centers. I also have been informed that the Administration, for several years in a row, has proposed zeroing out of funding for the Child Advocacy Centers. Is that so and why is it so?

CATHERINE PIERCE: That is not a question that I can answer for you. I am a social and a civil servant, so I'm not a budget person, but we can get back to you on that as well.

COMMISSIONER PETIT: Does anyone here on the panel have the answer to that question? And Bud Cramer has talked about it, and we've talked about it at the National Children's Alliance, but this Child Advocacy Center approach that we are all interested in, and we saw an example of yesterday working in a positive way, that my understanding is that the Administration is proposing elimination of funding for that. And I'd like to know if that's true or not.

CHAIRMAN SANDERS: So it's specific to the actual budget that's submitted, or before the budget, a recommendation, or --

COMMISSIONER PETIT: No, I think in terms of the proposed budget that's submitted. And I'm not sure if there's an understanding at the rarefied atmosphere that that takes place, just what that means at a ground level in terms of what we saw yesterday.



CHAIRMAN SANDERS: -- and report on what it's been for the last several years, sure.

I had a follow-up question about the CACs. I'm assuming that there has been some evaluation, although I guess that would be part of the question, and it seems that goals related to, ultimately, reduction of violence or improved or increased prosecutions, do you know, has any of that information been tracked, that we have a sense of the effectiveness of the CACs?

CATHERINE PIERCE: That is also something I'm going to have to get back to you on.

CHAIRMAN SANDERS: Commissioner Covington?

COMMISSIONER COVINGTON: Can you tell us a little bit more about the new appropriation for investigation of sexual abuse in Indian Country?

I know the -- I think you talked about the \$8.1 million to improve sexual abuse investigations. And how that's being -- where that's going, how it's being implemented?

CATHERINE PIERCE: I think it's a new program and it hasn't been implemented. And obviously, input on that is welcome.

COMMISSIONER COVINGTON: The other thing is I know OJJDP, for years, funded death scene investigations, which really, I think really did terrific work in improving investigator skills around the country in looking at child physical abuse. Is that still an active program at OJJDP?

CATHERINE PIERCE: I don't know if that was OJJDP or not. That's actually something that I specifically asked about before I came out here. That may have been Bureau of Justice Assistance funds.

And I know about death review committees with regard to domestic violence from my many years at the Office on Violence Against Women. And I do know that obviously -- and you're going to hear from someone later on who sits on a child death review committee. But I definitely will get back to you about where those funds are coming from and have come from in the past.

COMMISSIONER COVINGTON: I think it's important for us to figure out what's going on with those because they really did promote multidisciplinary death investigation, which I think ultimately really leads to an improved multidisciplinary response to child abuse fatalities and it has a percolating effect.

CHAIRMAN SANDERS: Commissioner Horn?



COMMISSIONER HORN: First of all, thank you very much.

And I think one of the themes of your testimony was there's a paucity of data in Indian Country around some of these issues related to child fatalities.

So in addition to Michael's -- this is more of a request. I know you don't have this. Maybe you're not even the right person to ask to get this information, but in addition, just to count, it seems to me that what we would like to know is if you have it or someone in the government has any information that would be helpful is what -- how are the -- what are the characteristics of the deaths?

Are they more due to neglect? Are they more due to abuse? And what are the characteristics of those -- what triggers these fatalities and what are their circumstances? I think the more we can understand about that, the context, the better that we'll be able to sharpen our recommendations about what to do.

My feeling is, for example, there's a big -- there's a difference between children who die because of neglect, closely being parents not knowing that children should be on their back, not on their stomach when they're sleeping and so forth, and someone who bludgeons a child to death, for example.

So I'd like to have a little bit more context about particularly in Indian Country. And my guess is the answer is going to be, "We don't have a lot of that data." And so part of what we may want to think about as a Commission is recommending that we have better data sources so we can better understand the situation.

CATHERINE PIERCE: I agree with you. We did inquire a similar, we looked for similar data when we were working with the advisory committee, and we went to our colleagues at the Administration on Children -- ACYF, Administration on Children, Youth and Families.

And we were able to get some, but not a lot, and I think that's something we will continue to be working with them to develop. But any specific questions that you have that you'd like me to take back to them, I'd be happy to.

COMMISSIONER HORN: Great. For example, I think I remember correctly that, in a prior testimony in a different hearing, that tribes don't participate in NCANDS [National Child Abuse and Neglect Data System], is that right?

I found that stunning. And it wasn't because they didn't want to. It's we don't ask them to participate. And it's almost -- and I have to raise my hand and say I'm partly at fault. I ran that thing for a while. If I only knew then what I know now, I wouldn't be bald, I guess. So we just need better data, it seems to me.



CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: I don't know if this is appropriate. I don't really have a question for Catherine, I just want to make a comment about -- I'm sure we'll hear that from the data collection panel this afternoon or later this morning.

But one of the issues around tribes not sharing is often that tribes in states have a poor relationship with state agencies, and the agencies often have exercised -- they behave badly with tribal data, where they apply for federal grants, they receive a lot of grants, and then the resources are not shared with the tribes.

The other is that some tribal data perpetuates negative stereotypes. So tribes are loathe to sort of be a part of that conversation unless they understand exactly what the data is going to be used for, where it's going to be used and in what circumstances.

Because we experience both perceived and actual racism, which feels the same as -- perceived feels the same as actual, and so that is a huge piece of the conversation. It's really about not wanting to exploit or co-op our resources any more than they've already been historically.

CHAIRMAN SANDERS: Commissioner Petit.

COMMISSIONER PETIT: I have a question for Ms. Pierce, just in response to Marilyn's point. I agree completely on the issue that you raised in terms of the use of the information, the stereotype of the information, how it gets applied.

On the other hand, we have a collective process in which data is intended to drive decision-making. Now, that's the ideal. We know that that doesn't necessarily happen. But if somebody is going before a legislature and is asking for money, there has to be some presented evidence that says, "Here's what the research shows. The numbers are getting better, the numbers are getting worse. It would help if you did this, it would help if you did that."

Otherwise -- so my point on this is there's a stalemate, I think, on this question. We've heard it from federal agencies responsible for collecting information. We've heard it from state agencies, and we've heard it from tribes themselves. Somehow, there has to be some ability to build an information base that everybody can rely on and make decisions on.

The question I have for Ms. Pierce is I think DOJ administers the Violence Against Women Act, and I was at a meeting with White House staff earlier this year in which everybody was applauding this act, that 50 states now had commissions on women and



girls.

And when I look at numbers on domestic violence and sexual assaults and suicides, the overwhelming perpetrators of victims are men. I wonder if there are any commissions on men and boys in the country or if DOJ has ever considered that question. What is it that's causing men to behave the way they are?

CATHERINE PIERCE: So I did work at the office on Violence Against Women for 15 years, and I've been there longer than I've been at the Office of Juvenile Justice and Delinquency Prevention.

A couple of things. I know that there is a funding stream within the Violence Against Women Act that addresses the question of engaging men and boys as solutions to the problems.

And that, frankly, is work that we have promoted, if you will, through Defending Childhood. A number of the sites have developed local community projects, predominantly through coaches and fatherhood programs, to look at the role of engaging men and boys in solving the problem of violence of abuse against women and children being part of the solution. So I think you've hit on something that's very, very important and something that we're learning about that's absolutely critical to change.

I want to go back to somebody's question -- I think it was Chairman Sanders -- about the evaluation, which I do not think -- I don't have information on it. But I do want to say, and this goes back to what I know from the Violence Against Women Act, I think the most successful Child Advocacy Centers are those that have a very strong coordinated community response. Where they have engaged everyone in their community, from the Rape Crisis Center to the Domestic Violence Program to programs that work with men and boys, to sexual assault advocates. That they work collaboratively with all of the partners that have anything to do with responding to child abuse and neglect or any kind of violence in the community.

The most effective are going to be these multidisciplinary teams that you saw yesterday, but also in a big city it's going to be those that work collaboratively with one another.

COMMISSIONER PETIT: Thank you.

CHAIRMAN SANDERS: Thank you. Commissioner Martin.

COMMISSIONER MARTIN: First of all, thank you again for being here. It's a delight to see you again and we certainly welcome your comments. I think you may have answered my question but let me be direct about it.



The center that we saw yesterday was a phenomenal example of how a community can come together and really put in resources to address a specific problem and it appears to be working tremendously well.

After those two children were found in the trunk, I believe the next death they experienced was last year, and it was a drowning. So off the top of my head, I would say they're extremely successful in doing what they're doing.

After our visit, I was thinking to myself what is the thing, what is the element that makes it work so well? Why is it that they've been so successful? How have they been able to get buy-in from the community members and the stakeholders?

My question to you is what does OJJDP see in the Child Advocacy Centers that's the ingredient that makes it work? Is it the collaborative spirit? Is it the ability to make community leaders and tribal leaders understand that children are important? Is there an element that OJJDP looks to as the seed of success for the CACs?

CATHERINE PIERCE: So I'm going to speak more from my personal experience about what I think works there.

But somebody raised the issue of the death review panels in the past. I think part of why that is such an important piece of this work and part of the philosophy that I would take into responding to your question is that when there is no shame or blame necessarily placed on the prosecutors or on the cops or on the judge, you did this or that, but that everybody comes to the table understanding what their personal role is and not how who can we blame this on this time, but how can we avoid this in the future and doing work where you unpack the role of every single player in the system. That's one thing.

I think the other thing is building relationships over time, respectful relationships where you have advocates and law enforcement and the prosecution and the judiciary at the table, looking together at how you work -- how you make things successful. I know that was the case when we looked at coordinating community responses to domestic violence. I'm sure it's the same here. It's got to be.

But it has to be -- it's long term. It takes time. You have to build respectful relationships with everybody in the community who has a role.

COMMISSIONER MARTIN: Just to respond to Commissioner Petit's question, there has been allocation in this current budget for CACs. I don't know the amount or the level but there has been allocations.



COMMISSIONER PETIT: I think it's less than what they're currently receiving.

CHAIRMAN SANDERS: Let me ask a question, and then we have Commissioner Covington followed by Commissioner Rodriguez, and it's -- you may not have the information but it would be helpful for us to get it.

Within the allocation for CACs exactly what is funded? Because clearly, the cost is much higher than the \$19 to \$23 million that's being provided. And I'm just not clear exactly what DOJ is funding versus what communities are funding.

Commissioner Covington.

CATHERINE PIERCE: Let me just respond and say I'll get you that breakdown. I'll be happy to provide that information to you.

COMMISSIONER ZIMMERMAN: So I've been handed a note from one of our speakers. Apparently, according to Dr. Earl Sutherland, fiscal year '16 funding for the Child Abuse Act was \$20 million that was requested, but the President's budget is at \$11 million, and for '15, \$19 million. I can't read your writing, sorry.

\$19 million was approved by intense lobbying, but the President's budget was --

CHAIRMAN SANDERS: Why don't we get something more official than a -- either his testimony. Maybe we can have it as part of testimony this afternoon, because I believe you're going to speak this afternoon. So we may want to ask again. And also maybe in the interim, staff can look up and just give us a figure over the last few years. That would be helpful.

Commissioner Covington.

COMMISSIONER COVINGTON: I just have another thought. We've been doing a lot of work talking to different federal agencies in our other subcommittee work, the prevention committee, the measurement committee and what-have-you, and one of the things that keeps coming back is looking at federal -- where the federal agencies are starting to do more cross-cutting work as well.

And kind of models, what we're talking about at the local level when you're looking at a CAC or a child death review or whatever, the interagency coordinated response. I know we have another panel later this afternoon to talk about some of the federal issues, but is OJJDP engaged at all in any kind of cross-cutting federal initiatives that would really try to address the child welfare issues?

CATHERINE PIERCE: We are. I'll give you a couple of examples but one that I'm



particularly looking forward to.

First of all, the Attorney General and the administrator of the Office of Juvenile Justice and Delinquency Prevention co-chair a coordinating council, which brings together representatives across the government to look at issues with regard to juvenile justice. But obviously, as -- we are also looking at dual system involvement, kids who have been in and out of both systems. And that's constantly something that is a common theme on the minds of the folks who represent those federal agencies who come to those meetings.

The second thing is through the Defending Childhood Initiative we have started something called the State Policy Initiative. It's an idea that we actually got from SAMHSA, where we're taking a particular problem -- in this case, how can states go about effectively identifying, screening, assessing, and treating children for trauma?

And so we asked -- we invited all the governors to submit us applications on what they would like to do with regard to that. And we've selected teams from California, Michigan, and Massachusetts who are going to come together this summer and look at how their states can effectively -- sorry for the lingo, but blade and blend different funding streams to address the problem. And we'll be bringing together representatives from each of the federal agencies that have the opportunity to, or that -- whose funds could be used for that purpose.

So CMS handles Medicaid and Medicare, Administration on Children, Youth and Families, folks from the Department of Education, and obviously different offices within DOJ will be there to work with those state teams. So we're very excited about that.

CHAIRMAN SANDERS: Commission Rodriguez.

COMMISSIONER RODRIGUEZ: So reflecting on the panel that we started with this morning with the young leaders, I was particularly struck by their description of how the intergenerational trauma sort of leaves them floating and completely disconnected from their communities, which seems like it's probably a theme for many at-risk parents. But I think it probably is the umbrella that exacerbates every single risk factor that's there when parents are isolated.

So I guess I'm thinking about the disproportionate amount of Native American youth who are in both foster care and the juvenile justice system and how many of them end up parenting while they're in both of those systems. And wondering if you have any thoughts about what a federal strategy could be around supporting youth who are parenting, who are involved -- and I think maybe if you have thoughts generally and also specifically thoughts around Native youth in particular.



Because I'm thinking quite a bit about what they said about the importance of the connection between elder generations and younger generations and really getting young people back in touch with their culture.

CATHERINE PIERCE: So I would definitely echo the two speakers you heard from this morning. I think lifting up cultural practices.

One of the things that we heard from testimony from the first Attorney General's task force from young people who represented their tribes is that they felt like, not necessarily addressing parenting specifically, but that for their own health and well-being, they needed to know their own language, they needed to know their own cultural practices. And that when they had that grounding, they were healthier people.

And this was particularly brought to light by the testimony of a young man who represents the Mescalero Apaches. His name is Colorado Menges. And if you go back and look at his testimony before that advisory committee, I think it's very powerful. So I would definitely echo what the two earlier speakers said.

The other thing that I think we're learning a little bit more about and I think it's very important to take a look at further, is the adaptation of what we keep calling evidence-based practices for tribal communities.

So I do think through the work of the National Child Traumatic Stress Network, and in particular, the center that Commissioner Zimmerman runs in Montana, it's important to look at how what we know about trauma-focused cognitive behavioral therapy and parent child psychotherapy can be adopted appropriately for purposes of different tribal communities. And not one tribal community is the same as the next tribal community.

It's not -- what works for the Rosebud Sioux is not going to work for the folks at Rocky Boy in Montana. So it is a very individualized sort of thing.

I think the other thing -- I was listening this morning, and what came to mind for me is how effective home visitation is. I know you all know about this, but I'm wondering how that could be adapted and -- in tribal communities, and perhaps it isn't just nurse practitioners but any advocate who comes into the home and would work with a young parent. But ideally, the home visitation program and some replication of that I think would be extremely effective and important.

I kind of wanted to go back to your earlier question, Commissioner Martin, on intergenerational and historical trauma. I think something you might want to read is the testimony of Chairwoman Erma Vizenor, who's from the White Earth Ojibwe tribe. She testified before the advisory committee on American Indian and Alaskan Native children



exposed to violence at our hearing in Miami last year.

I don't know how anybody could have left that room not understanding the impact of intergenerational trauma, especially on Native Americans and Alaskan Native people. She is brilliant, and what she had to say was extraordinary. And I think listening to the stories -- not just listening to stories, but maybe -- I think the two women earlier today spoke very articulately to the issue as well.

I think it's very important to take a look at, as you think about this, not just for Native American communities but all communities.

CHAIRMAN SANDERS: One last comment. Dr. Horn.

COMMISSIONER HORN: I want to respond to something that Commissioner Petit said and that will lead to a question for you.

I know you didn't mean to imply it, but not all men are running around beating up women and children, and fortunately it's a small percentage of men that do that. There is a funding source within ACF, about \$75 million I believe, for responsible fatherhood programs. And obviously, a responsible father is someone who knows how to positively parent their kids, treat the mother of their children with respect and dignity, and conflict, resolve conflict in healthy and nonviolent ways.

My question to you is, does your office coordinate with the Responsible Fatherhood programs at ACF? And one of the things we may want to find out is if there are grants through that program that are going to Indian Country. So does your office --

CATHERINE PIERCE: There is a fatherhood initiative that we contribute to and HHS is a part of that, as you said, as well as other parts of the Office of Justice programs.

So yes, and I will find out whether or not any of the applications we received or the programs that were funded -- I think there were like a hundred plus applications received and funds to fund, maybe, a very few of those, but I will find out about how many tribes applied, if any, and how many were funded. I'd be happy to do that.

I want to go back to engaging men and boys. This was as a prevention program. I mean, that funding stream was intend -- and there was no intention of saying all men are batterers. But I do think that men have to be part of the problem, not just women, and if you engage men and boys as part of the solution early on, then I think you'll have less violence.

COMMISSIONER HORN: I agree a hundred percent with what you just said.



CHAIRMAN SANDERS: Thank you very much, Ms. Pierce.

CATHERINE PIERCE: Thank you all.

(Applause.)

CHAIRMAN SANDERS: And for all of the Commissioners and audience, at this time we will take a break until 10:00 o'clock.

(Recess was taken.)

CHAIRMAN SANDERS: We have had incredible information presented to us so far this morning, and I'm sure this panel will continue that.

I'm going to turn it over to Judge Martin, Commissioner Martin to introduce the panel.

COMMISSIONER MARTIN: Thank you so much Chairman Sanders.

Ladies and gentlemen, our next panel is going to focus on the issues of jurisdiction when children die in Indian Country. We have three renowned experts on this area. I'm going to introduce each of the speakers and then allow them to continue through their presentations without interruption.

Our first panelist this morning is Judge William Thorne. Judge Thorne has worked both in Indian Country and stateside, as I learned yesterday, as a judge. He is very familiar with the jurisdictional issues. He's also been a very big advocate for Native children -- actually all children, but particularly bringing attention to Native children and the needs of Native children and families.

In addition to Judge Thorne, we have Dimitra Sampson. She's an Assistant U.S. Attorney for the District of Arizona, U.S. Department of Justice, and we're very happy to have you and very excited about your presentation this morning.

And then, of course, we have Hannah Smith. Ms. Smith is an Attorney General for the Eastern Band of Cherokee Indians. And so likewise, we are delighted and look forward to your presentation.

With that, Judge Thorne.

JUDGE WILLIAM THORNE: Thank you. I appreciate the chance to talk with you all, see faces I've worked with for many years as well as new faces, people I know by reputation. So it's nice to be able to accept the invitation to join you here.



Just very briefly, I've spent 34 years as a judge but I've learned how to be a judge in tribal courts. That's where I learned what it was like, and that's why I approach it differently than, I think, some of my colleagues.

I've been asked to talk about the jurisdiction issues and to do sort of an overview of that, so let me start with a very, very brief history lesson.

The tribes vary tremendously. There are tribes that have thousands of square miles for Indian Country. There are tribes who have a handful of acres. There are membership. There are tribes that claim over a 100,000 members. There are tribes that are fewer than a hundred members.

Resources vary. There are tribes that have independent resources to do virtually anything they want. But that's a handful. The vast majority of tribes are very, very resource poor. I think I saw that nine out of the ten poorest counties in the country are in Indian Country.

Legal backup, very quickly. It used to be that tribal justice systems operated when somebody was harmed, the person who created the harm had to make up for that. If, in a dispute, I killed somebody, I was now responsible, along with everything else, for taking care of that person's family.

Case went to the U.S. Supreme Court, *Ex Parte Crow Dog*, where the Supreme Court basically said the federal government has no authority over Indians on criminal matters. They're upset because tribal tradition said that this man, Crow Dog, who killed somebody was responsible for taking care of his family.

Congress considered that to be uncivilized. The civilized approach was to lock people up. They passed a major crimes act. As a result of that, the whole focus of justice in the Indian Country changed to one of retribution and punishment, instead of one of healing and making up for the harm that you caused.

The boarding schools and removal programs further that disconnect by separating people with problems away from the very people who could help them resolve those problems.

So we get to questions, then, of jurisdiction. Tribes have limited jurisdiction over criminal matters. Generally, misdemeanors, without taking special steps that are limited by the Indian Civil Rights Act to one year in jail. If they take additional steps, they can qualify to do up to three years.

Their jurisdiction is limited to tribal members, either of their tribe or other tribes. So they have no jurisdiction over non-Indians who commit offenses within Indian Country.



Law enforcement for tribes are often told to hold off on their investigation because the feds may come in and investigate. The FBI [Federal Bureau of Investigation] working relationship with tribal police is strained at best.

There are some places that do it well. The vast majority, it's -- you get a similar approach when the FBI and state officers investigate. It becomes a turf battle. But there's one sort of big brother/little brother when the feds basically say don't contaminate our evidence. Don't contaminate our witnesses. Essentially telling them don't do anything until we decide what to do. So there's been little communication or cooperation between the feds and police.

The Attorney General now requires that tribes be informed of declination of prosecutions. It used to be it would go to the U.S. Attorneys' office. Tribes would never hear back about are the feds going to do something or not. Can we go ahead with our investigation or not?

Attorney General Holder has changed that but it's still spotty in terms of its atrophy on the ground. The goal, though, is that U.S. Attorneys' offices communicate with tribes, let them know, we're going to go forward, we're not going to go forward, so that then the tribes can go forward. Tribes all along have had the authority to investigate. They just haven't been encouraged to go forward or even to share information.

And I have to tell you that FBI agents investigating things on reservations don't get a lot of local cooperation, whereas if tribes and tribal police and the FBI cooperate and share resources, they share information, that just generally doesn't happen very well except in just a couple of places.

So the tribe -- tribes have concurrent jurisdiction over tribal members or other Indians who commit offenses. Both the feds and the tribe have jurisdiction and there's no double jeopardy. They're two different sovereigns.

Tribes, however, do not have the resources to effectively treat, particularly, young offenders. Yet they don't want to give up on their kids. With the task force on violence, there was a panel of three judges, and without coordinating our testimony, we all three essentially testified that we can't this is way up on our kids. We need to break the cycle of violence, break the cycle of abuse. But we can't, this is way up on kids. Every child is too valuable to simply call them a throw-away.

Federal jurisdiction, the federal courts have jurisdiction when tribes have not prosecuted in Indian for a misdemeanor. General Crimes Act, Assimilative Crimes Act, if the tribes prosecute a misdemeanor, the federal court can't prosecute it as a misdemeanor, but they can prosecute it as a felony. And tribes have jurisdiction over



both Indians and non-Indians who commit felonies when the Indian is the victim. If the non-Indian is the victim, the feds don't have jurisdiction.

So again, with exceptions, most assistant U.S. attorneys are not interested in making their bones in a career by prosecuting crimes with Indian victims in remote locations. Again, there are exceptions. There are some people who are extraordinarily good and work in partnership with tribal communities. But that's the exception, unfortunately.

Same thing for FBI doing investigations. Some of it is the unwillingness of the local community to trust the FBI. The other is, that's a long way and they're not going to, again, further their career by making those kinds of prosecutions. Again, there are exceptions of people who do it extremely well.

State jurisdiction, there's misdemeanor and felony jurisdiction for non-Indian offenders when there are non-Indian victims. So you can already see, it depends on who was the offender, who was the victim, and where it happened. There's an additional complication in the Public Law 280 states, where some states' Congress has given the federal share of jurisdiction to the states.

So within the Public Law 280 states, like California, for example, states would have the authority to prosecute both Indian and non-Indian offenders, concurrent with the tribe's ability to prosecute.

So again, for somebody who doesn't want to get into this, it's easy to throw your hands up and say this is way too complicated. I've got way better things to do. The difficulty is the people in the community have three different places they look to for protection, for prosecution, and for help.

That state jurisdiction gets further complicated because there are tribes whose reservation extends into two states or even three states. Washoe tribe of Nevada, part of their reservation is in California, which is a Public 280 state. So the state has jurisdiction. Part of the jurisdiction is in Nevada, where the state has no jurisdiction, and yet, that's within the same bounds of the relatively small reservation whose political structure has to deal with two different states.

Navajo is complicated by having three states. Arizona, New Mexico, and Utah are portions to their reservation. And the service regions for services come from two different regions. So they can't even look to the feds for consistency. One region does things different than another region.

So when I talked on the phone, I was encouraged to come up with solutions. So there are 11 things I would like to propose. Three each in three areas dealing with jurisdictions and two that I think are just too important not to mention.



Within the "Resource" category, tribes need resources to properly investigate crimes and to assist the victims and their families. They ought to be able to share resources and authority when those services are available in non-Indian jurisdictions. Yet, it's the rare jurisdiction that does that.

It's not that long ago that tribal officers were arrested by sheriff's officers for crossing between two isolated parts of the reservation. They had to cross non-tribal land. The tribal police were arrested, because under state code, only state-certified officers could have the flashing light bar on top.

I mean, that is not the way that you encourage people to find joint cause and joint effort to solve problems.

Again, there are some tribes that have lots of resources and some that don't. But tribes don't have access, for example, very often to labs, to databases, to criminal records. And those are the basis for trying to decide who you need to protect, who you need to prosecute, and when you don't have that information available to you in a partnership that you can use, you then see why they so often defer to the feds on a prosecution when they simply don't have the means to do that. They need the resources to effectively treat offenders to break that cycle.

One of the things I have seen in my 34 years as a judge is you see second, third, fourth generation families. You need to be able to break that cycle, and we don't break that cycle simply by removing the child and putting them someplace else. The legacy of the boarding schools, the Indian adoption program from the '50s, child welfare services now, removing children and putting them someplace else may suppress a certain amount of conduct but we haven't healed.

When the goal is to get a child to 18 safely, you make different decisions. When the goal is to get that child to the point when they become parents, they're ready to be good parents themselves, you make different decisions when that's your goal.

Tribes need the resources to try and keep families together and at home, and to have the resources to do the healing so that the next generation has fewer offenders, fewer people who are abusing and hurting children, or fewer children -- parents who don't understand what it is to be a good parent.

Third, they need the resources to know when the offenders come back. If the feds have locked somebody up for a heinous crime, tribal communities oftentimes don't know when that offender has been released and when they're coming back to the community. So that they can prepare the victims to cope with that and so they can take steps to make sure those victims and their families will be safe, particularly if they testified



against that offender. But all of a sudden you're in a community that so-and-so is here and nobody knew that they were out. So that's under the "Resource" section.

Under "Access to Information," tribes need access to records of child and sexual offenders in order to screen their employees, both Indians and non-Indians, both those who work for the tribe, tribal government, and those who work for tribal enterprises, businesses, casinos, other things.

If you don't have the methods to do those screenings, you don't know who you're hiring, and again, 20 years ago, offenders would move from one reservation to another as a school bus driver or something, because once the investigation started, they'd simply move to a different reservation where nobody knew them. They didn't have a way of checking backgrounds.

Arizona is replete with child sexual abuses that occurred from a reservation from somebody that people knew was an offender in other places but they didn't know when he went to a different reservation. Criminal databases and records ought to be shared between the tribes and the states, and the tribes and the feds. And currently, most tribes don't have access to criminal databases from either source.

Tribal police and appropriate authorities need to be kept in the loop during the investigations so that they can suggest, "Well, you might want to talk to these people rather than just sit back and wait for 18 months before you get a notice that the prosecution has declined." So they can truly be partners in protecting their communities and not be sort of an afterthought. So that's the "Access to Information" section.

Under "Authority," tribes ought to be able to prosecute non-Indians for offenses. In the alternative, tribal attorneys or prosecutors ought to be sworn in as deputy AUSAs [Assistant U.S. Attorneys] or county prosecutors so they can prosecute in those jurisdictions. So the tribal interest in safety in their community has a voice and somebody who can advocate for them either in state court or in federal court.

And we ought to clarify that federal officials operating within Indian Country are subject to subpoena by tribal courts and prosecutors. Particularly, when the safety of a child is at stake. I can remember as a tribal judge ordering a physical examination by an Indian Health Service doc to examine this child, and then they refused to release the information to the court, citing privacy. They wanted the father to consent. Well, the father was the suspected perpetrator. They wouldn't release the report back to the court that ordered the report.

I had to call a friend at the U.S. Attorney's office and he basically said, "You release the information or I will prosecute you." But we just ought to be clear that if you're working for the federal government, you're subject to subpoena by the tribal officials, at least



in the areas of child safety.

And then two miscellaneous suggestions, the key to breaking that cycle is to build resilience in our kids. The research is pretty clear that some kids manage to get through the very worst physical abuse, sexual abuse, they have resilience. We know how to build resilience and that's connections.

We ought to be building those connections in family, in community, within the tribe so that when we fail, and we will, because our human system is not going to protect every child that needs to be protected. Please understand, I'm not saying that we shouldn't try, but we won't be a hundred percent successful.

So we need to be inoculating our children with resilience. We need to equip them, just like we inoculate them for measles, for other things, for polio. We ought to be inoculating them to make sure we have programs that build resilience for those children in the communities, to this is way those kids a sense of pride in their context, in the family they come from, the community they come from, the tribe they come from, and real opportunities to have a future without having to be extraordinary, where the ordinary child has a chance to succeed.

I heard the two young women testify this morning. These are extraordinary young women. The ordinary child in the Indian communities ought to have a chance as well. You shouldn't have to be extraordinary to be successful.

And then second is a pet peeve of mine. I'm working with the Mississippi Band of Choctaw Indians. They have a federal detention facility on the reservation for holding youth. They're working at trying to not use that as much, to find alternatives in the community. But if they get to the point where they're not utilizing that facility very much, the jobs will disappear. The BIA will simply take that funding and put it someplace else.

So we now have resistance within the facility that says, "You succeed at helping kids and keeping them out of the institutions, twelve of us are going to lose jobs." It would be nice if they could repurpose that money, the facility, at least the portion of the facility that's not needed and the staff, so they could use those officers as mentors. They could use those officers to check to see are the children at home when they're supposed to be, so that we don't have to lose jobs, but we don't have to lock kids up, either. Thank you.

(Applause.)

DIMITRA SAMPSON: Good morning. Thank you for having me here. My name is Dimitra Sampson. I'm with the violent crime section of the U.S. Attorney's office here in



Phoenix, Arizona. As of November of last year, I became the supervisor of that section.

Just to this is way you a little bit of background, I started actually as a prosecutor in Maricopa County in 1998. I worked primarily doing crimes against children. I did child sexual abuse cases primarily over there for approximately five years.

I did a little stint in private practice defending medical malpractice lawsuits, and then I came to the U.S. Attorney's office about seven years ago and have been working in Indian Country ever since.

A lot of my focus has been on crimes against children, but I want to tell you just a little bit about what I have done at the U.S. Attorney's office in hopes that it can provide you a little bit of perspective of what we do over there, And, hopefully, it will be helpful to this Commission. So again, thank you for having me.

I started off as a prosecutor in violent crimes working primarily cases off the Fort Apache Indian reservation. That's where I've done most of my work. Approximately, almost three years ago, I became the tribal liaison for the U.S. Attorney's office for the Central Arizona states. We currently have three tribal liaisons, one in Tucson, one in Phoenix, and one in Flagstaff.

Upon my promotion recently, somebody else has taken my place. She's actually an assistant supervisor in our group and she actually serves now in a dual role as the tribal liaison for the Central Arizona tribes as well, but do have experience doing that.

We have 12 prosecutors in our section, in our violent crimes section, and we cover all -- basically all federal violent crimes, which would include bank robberies, threats, child pornography cases. But I will tell you, and I was speaking with one of the other panelists this morning and she was shocked when I said that 90 percent of what we do in violent crimes in Phoenix is in Indian Country.

We have each of our AUSAs, each of our Assistant U.S. Attorneys are assigned to a reservation. Some assigned to multiple reservations in Arizona, and they are the primary points of contact for those reservations. They're the primary prosecutors for those reservations. They are involved in the MDT [multidisciplinary team] process, which I'll talk about a little bit in a minute. I think you all know a little bit about that process, but we'll talk about that a little bit more in just a second.

So our office definitely places a high priority on Indian Country prosecution and outreach to Indian Country. Our tribal liaisons kind of play a little bit different role than the prosecutors do. They're more involved in outreach, meeting with the tribal councils, meeting with the tribal agencies, but our prosecutors are very involved in that role as well.



Some of the successes I think that we've had is our prosecutors -- in fact, some of them run the MDTs, some of them attend the MDTs, but everybody participates regularly. As I think you all know, the multidisciplinary teams that I'm talking about consist of federal and tribal law enforcement, prosecution, individuals from the hospitals, victim advocates, social services, child protective services.

In the MDT that I used to attend on Fort Apache, our pediatrician from the hospital was very involved. Our forensic interviewers from the Child Advocacy Centers often will go from MDT to MDT in Arizona and attend those as often as they can.

So it's a wide array of folks that get together. Depending on the location, they may happen once a week, they may happen once a month, they may happen every quarter. It depends on the needs of each of those communities. But we attend regularly. We talk about cases, and they're mostly focused on crimes against children and focused on making sure that children are in safe places. That nothing has fallen through the cracks, that we're all on the same page about what is going on with, not only a particular case but a particular family and a particular situation. To make sure that we're bringing in all of our resources to try to make sure that we're ensuring safety and also seeking interests of justice, of course, at the same time.

So we have also Special Assistant SAUSAs -- I think Judge Thorne may have touched on this briefly, but we work with our tribal counterparts, at least in Arizona. I can only speak for Arizona, of course. We work very closely with our tribal counterparts. We also work very closely with our federal counterparts.

One of the things I wanted to talk about, in addition to the outreach that our individual prosecutors do, which includes not just meeting with the agencies I'm talking about, but we do a lot of training out on the reservations. We do special law enforcement commission trainings to get tribal officers commissioned as federal agents so they can bring cases directly in the federal systems. We provide those trainings often.

But we also provide first responder training to the tribal officers. And we try to work very closely with our federal counterparts to do workshops and trainings with our tribal partners to make sure that especially with these cases involving children, that we're not re-traumatizing them. That we're approaching these cases in the best way possible so that each of those community members and their first contact with law enforcement is a positive one and not one that re-traumatizes them.

With our federal counterparts, we also try to do outreach to the high schools, the communities. I know, me, myself, I have attended numerous workshops, trainings, sessions, outreach at the high schools, at the -- just community sessions, just to talk about prevention -- violence prevention, crimes against children, gangs, drugs, you



name it. So that's something that our office is very dedicated and committed to doing, along with our federal counterparts.

One of the things that I really wanted to talk about, and I think it piggybacks nicely on what Judge Thorne was talking about, because I hear him, and I see it every day and I live it every day in what I do. One of the things that I was very fortunate to have the opportunity to do was work on an FBI task force and that started about three years ago.

I was asked, based on my work on Fort Apache, to participate in a violent crime task force to address drug offenders, gang offenders. We were actually targeting a particular gang. It was actually just a 60-day surge with five FBI agents sent to do work out there. Resulted in 25 indictments with drug and firearm -- we had drug crimes, firearms crimes. We also solved kind of a gang-related assault that had taken place out there.

So it was a very successful initiative, and after that the FBI had asked if I would be the prosecutor for their task force and I said I would happily do that. And as a, I guess, negotiating chip, I asked if we could focus our interests in Indian Country and they were happy to do that.

And ever since that time, three years ago, we have focused all of our efforts with this task force in Indian Country. And one of the things that I have seen come out of that, that I just find so enriching in the work that I do is that the federal and state and tribal and local communities and law enforcement and prosecution have all come together and done really good work in Indian Country.

One of the things that I think we have found to be most successful is that we would actually sit down with the tribal communities. And again, it varies from location to location. Every community's interests are different. Every community's problems are different. But what we tried to do was sit down -- we've done three different initiatives on three different reservations, and we have sat down with the community members. Some tribal council members, some community members in community sessions, prosecutors, probation officers, law enforcement, social services, CPS, and just tried to find out what is it that we can do, working together as partners, what can we do to maybe try to address some of the most significant issues that you see in your communities.

A lot of them, we would hear some of the same answers. Gangs, drugs, alcohol, bootlegging, domestic violence, and so we have done a lot of drug work out on the reservations, and we have also done some bootlegging. Our Flagstaff office takes care of a lot of those cases.

One of the other things that we did in the last two initiatives that we found to be very



successful -- and I know it seems like I'm running a little bit afoul of what we're talking about today, but I'm not. We did a domestic violence initiative. Any time I give any presentation, I say domestic violence prosecution is homicide prevention, and I've seen that in my practice on a daily basis.

So I know it seems strange to address domestic violence from a proactive angle but we have done that. We've done that in working with the tribal communities in identifying some of the chronic offenders, and we have had some success stories. It's not all about just putting them in prison for as long as we can do that. That's not our goal. We truly are in the justice-seeking business.

And for a lot of these families we saw that they restored a healthy home for their children, for themselves. That they've sought treatment and counseling and that sort of thing, once there was intervention with the federal and tribal systems together.

We worked with our tribal counterparts to determine where are these cases best handled. Some of them went tribally, some of them went federally, some of them, we both did. But we tried to identify what resources would benefit these particular families in these particular situations.

And so we found those initiatives to be very, very successful. So we are continuing our work. Now I'm in a different capacity. I'm not actually boots on the ground doing those cases, but in my supervisory role. And I know with the support of our U.S. Attorney, we have been continuing these task force efforts to reach out to our tribal counterparts in law enforcement to encourage them to work on these task forces with us so we can address some of these issues in the community. Help provide them some of the resources that they need to continue to empower themselves to handle these cases.

I feel, from my perspective, obviously, everything that we can do on some of the -- if you want to call them smaller cases, whether it's child abuse, domestic violence, every intervention that we can make on that end -- it doesn't always have to be to put somebody in prison for ten years.

It can be -- a lot of these cases, these initiatives that we've done have resulted in probation sentences with resources and treatment available, particularly with our juvenile offenders, which isn't often available in the tribal system as I think Judge Thorne touched upon. So that's kind of what we're doing from our perspective.

We also work -- I thought I would just mention, because it resonated with me when Judge Thorne was talking about the data sharing, intelligence sharing and I couldn't agree more with that. We do work closely with the Indian Country intelligence network. The tribal police chiefs, our office does, as well as the Arizona Tribal Prosecutors Association and the Tribal Court Forum.



We try to attend all those meetings, participate in those. I know that one of the top priorities on their agenda is working on intelligence sharing and data sharing, so that individuals who go from reservation to reservation, particularly here in Arizona where we have a lot of them that are close together, they know, they have the information to share with one another.

So again, they can protect their communities in the best way possible. And I think the federal government is trying to assist with that as much as possible.

So I hope that I've given you some perspective on what we do. I thought I would try to talk about some of the things that I think that we do that work. Certainly, we all run into barriers and issues, and we run into those on a daily basis and we try to get around them as best we can, but I'm happy to answer any questions, and thank you for having me here today.

(Applause.)

HANNAH SMITH: Good morning, Commission. Thank you for having me here today. I'm Hannah Smith. I'm from Cherokee, North Carolina. I have been back home working with the Eastern Band of Cherokee Indians in our Attorney General's office for about 11 years now, and have spent a lot of my time kind of sitting back and looking at systems.

We live in a multi-jurisdictional, multi-agency world in Indian Country. It's complicated criminally, but it actually is about the same when it comes to just having multiple agencies all by policy, by law, kind of swimming towards the same goal. And what I've been noticing is everyone purports to be working towards the same goal, everyone's heart is in the right place, and everyone is working really hard within their silos.

And so probably about five years ago, I was fortunate enough to pinch hit for our juvenile prosecutor, and that pinch hitting and taking over juvenile court led to being able to do something about the services and the multiple agencies that are highest risk -- well, one of our highest risk groups of children received.

And we wrote a grant and got some money from OJJDP in order to build a framework, and that framework is something that will be used in the tribe's new initiative to take control, jurisdiction, and responsibility over all of the child protection aspects of our children on the reservation back home.

But the framework that we learned about and have implemented successfully within our juvenile justice system is very simple in concept, but -- and the concept is simply recognizing the different agencies, and sometimes they lie in separate jurisdictions, the agencies do. And then within those agencies, looking at all of those different service



programs, whether they be prevention programs or behavioral services, services and programs, and we started speaking a common language about the common goal, the community goal, keeping our kids safe and healthy. Everybody's working towards that.

But not everyone is sharing the common language that it requires to actually achieve and change the numbers on that goal. In fact, when we started thinking about the common goal, which is keeping our children safe and healthy, we didn't have numbers. We have to go back and find the numbers.

So the realization that our data management -- we have data, it's just not managed. And it's not really accessible. It is critical to have a scorecard and know how your community is doing. So when we got into this framework and started speaking a common language with regard to yes, indeed, everyone, all the multiple agencies and the multiple jurisdictions that are working for this high risk population, the children in the families in our juvenile delinquency system, we started talking about what are the indicators, how will we know if we have healthy children and families. And then we started breaking it down to every program or agency or service provider and started talking about, well, exactly what strategies are your programs responsible for.

And again, it could be this is the behavioral health component, this is the mentoring and community service component, the restorative justice component. This is the actual juvenile service agency component in the court process. We started identifying to the group that these are our strategies, and then we focused on performance measures for those strategies, so that every agency that is working towards the same goal has shared and identified with one another how we will measure ourselves and our performance measures on the strategies that we choose. And strategies can also be said as programs and services.

And so measuring on the actual service provision, that performance measure, for how many children are actually getting the service that was recommended in the service treatment plan.

When we started with this results-based accountability framework, we started speaking the same language, we started recognizing that in order to be accountable to our community, we have to be accountable for the system that we're working within. And in order to honestly and earnestly not just work hard, but work smart, and recognize that just because we checked the box on the referral being made to behavioral health, doesn't mean behavioral health services are getting there.

So with this framework, we have -- at the Eastern Band, we have learned a lot with regard to how to achieve big population goals. And I want to lay this conversation over the top of MDT meetings. MDT meetings are the perfect example of multiple jurisdiction, multiple agencies, often with conflicting and also very much in common



kinds of objectives, policies. There are different timeframes that these different agencies have to meet. CPS has to meet a very different timeframe on investigation than in the criminal system. So MDT is just a beautiful example of how everyone's heart is in the right place and everyone is working toward the same goals.

But oftentimes these meetings, unless there is a framework and a protocol for every single meeting and someone keeping score, performance measures, on exactly what strategies everyone is using within this particular case, unless you have a very organized framework with identified strategies, and also, very importantly, an identified continuum of services so that everybody knows what are the services that are available, what are the services that aren't available, so that we can work on it.

But in a way that can be a uniform and really predictable system so that the meetings don't become unproductive and it doesn't become an opportunity to simply sit around and talk about families. I know that every tribe is different, and I know that every region is different in a state or in a federal system. However, the safety of our children and the services that we provide to children and families, if we don't start treating those cases and those kind of services with the same level of organization and documentation and accountability that, say, the health system has, then we are really spinning our wheels.

And so the testimony today for me, and on behalf of the Eastern Band of Cherokee Indians, is to really encourage tribes and the federal partners to take ownership of your children, take ownership of them when you don't have jurisdiction over all of the criminal cases that may arise that they're involved in. Take ownership of these, all of these type of cases.

If your tribe does not do child protective services, they are still your children. These things are still happening within your jurisdiction. Take ownership and require information to be shared.

The heart of any multisystem collaboration is shared information. If you are doing that by pen and paper, you are behind the times. With this -- and there are people that are still doing this with pen and paper and paper files in this day and age. Not everyone has access to the kind of data speed or data management systems, but we can get there.

I feel like it's the responsibility not only of the federal government, but for tribal governments, too, to acknowledge that the ability to have information and to share that information is essential. We have, just like in multidisciplinary teams, there will be barriers that are thrown up by the different agencies because of their different mandates or laws.

However, nothing is insurmountable. When we are dealing with children and child abuse



and protecting and trying to prevent abuse and fatalities, there should be no law or policy that prevents a tribal government from having access to every essential piece of information about how that case is going. From the criminal prosecution to the behavioral health services to the medical services and the CME services, and to all of those other ancillary kind of social support services. And we should be able to track that in a shared database.

We're building it for ourselves. We know that it's possible. We know other jurisdictions where this is done. We want to encourage to build at and not just focus on the services that are being provided and kind of case management, but we want to build on protective factors into the longevity of the well-being of these children.

Because oftentimes in CPS cases or cases that come before MTD, when the child and safe and sound and everything is all tied up and the case is over, then nobody's looking anymore. We want to make sure that any time a child comes through the window of a federal agency or a tribal agency window, that we are doing everything we can while we have the jurisdiction. While we have the authority through an agency, to set that child and family up with the protective factors that will sustain them after we're gone.

Building that piece on and tracking and monitoring that with case management is also a critical component that I see that is lacking everywhere. We have talked to our Cherokee school system and have learned they have a beautiful database. Apparently, BIE schools have this very expensive Cadillac kind of database that can capture all kinds of data. We should be able to, and can, actually, if we can get through the policy issues, we can connect to NASIS [Native American Student Information System], this database, and keep track on some indicators of these protective factors like attendance and grades if a child is in our caseload.

We should make this fast. We should make it a regular part of our accountability of children, not just focusing in our silos on the behavior health component or the foster placement component, but the whole child. And focusing on their long-term well-being.

Thank you.

CHAIRMAN SANDERS: Thank you.

(Applause.)

CHAIRMAN SANDERS: Thanks to our group. I'm going to recognize Commissioner Martin but I had just a follow-up for Judge Thorne.

And it's tying, I think, to the other two witnesses. We've heard a lot, and I think are strong proponents of multidisciplinary teams, but you threw a monkey wrench into that



with your description on jurisdiction.

So I was thinking, a common issue, for example, might be an assault on a child on the reservation. Can you just walk through who even might be conceptualized as being part of a multidisciplinary team? Because it seems like the jurisdiction issues would drive who could be at the table and what information to have. Just as an example just to help us.

And then, Commissioner Martin.

JUDGE THORNE: It ought to be the medical providers. Some places, that may be Indian Health Service, and other places it may be the local county hospital or the county hospital two counties over. It ought to be the police agencies, both the tribe and the state or the feds. The difficulty is if you don't know who did it, you don't know who has authority, so you don't know who has the resources.

If there was a pooling effort or some agreement that when we get a child fatality, for example, or a serious child abuse, that the team will respond without knowing who the perpetrator is or even who the victim is, for that matter. Because there are non-Indian children living in Indian Country, just like there are Indian children, and they all deserve that same kind of protection.

So you have a team of forensic people, of medical people, and attorneys, trying -- along with law enforcement trying to get there.

That requires, again, sort of an enhanced multidisciplinary team where you have representatives sit on a governing group from all three jurisdictions, and then make sure all three jurisdictions are pooling their resources without regard to who the victim is or who the perpetrator is to get to the bottom of who did it, how to prevent it from being ongoing, and how do we help heal that child.

CHAIRMAN SANDERS: Thanks I think.

Commissioner Martin?

COMMISSIONER MARTIN: So when I began working on these issues, I'm kind of a general rule person.

So I went to the first person I met and asked, "Well, who has jurisdiction?" And they started going through these scenarios about who's the victim and where did the crime -- I said, "No, no. Just tell me the bottom line about it." And every time I hear about these jurisdictional issues I begin to think, "Why can't we just have a bottom line?" I'm saying it somewhat facetiously but not really.



So if there -- I'm asking two questions. One, if we own the world and Indian Country had the resources, although all tribes are different, all lands are different, all tribal leadership is different, would it be preferable to have jurisdiction within the tribe? Or is it better, simply because of a resource issue, to have some jurisdiction rest with the feds?

And the reason it's important to me to understand this, when I come to Indian Country, we talk about healing. When I go to state side, when I go home to my court, we don't talk about healing.

And so although we say we're looking for the same goals, I'm not sure we are. I'm not sure when I go home to Chicago, I'm looking for -- I want people to be healed, I do. But that's not really the goal I'm working towards. Every time I come to Indian Country, the first thing people tell me is, "We need to work on healing our people." And if that's the goal, I'm not sure the feds is the right answer.

JUDGE THORNE: I agree on a couple of levels. The healing part I think is essential because we have so much to recover from.

I'm also a strong advocate of tribal sovereignty, of local control. I think the more local control and the less federal control is the ideal. But there's a place for cooperation and resources so that we don't have 586 different tribes trying to reinvent a wheel for each. But the vehicle that they use has to be able to maneuver on their ground, not just on somebody else's ground. So there has to be variation.

But there's a way to cooperate so that you don't get a county who may have a very good Child Advocacy Center, very good forensic interviewers, not share with the tribe that's literally within their community, some encouragement to share those resources so that when a tribe gets forensic evidence, they have a place to send it for analysis without necessarily losing control of the investigation.

You could build three separate systems or you could require that they cooperate. I mean, we have done this with domestic violence protective orders where we allow one jurisdiction to issue orders that are honored in other places.

I think that would be a model for how you get one system to maybe take the lead on this case with the cooperation of others and maybe even rotate that lead. I'm not worried about who does what. I'm worried about making sure it gets done.

And from my perspective, healing is important to break that cycle of violence, of drug abuse within Indian Country -- that simply punishing offenders, taking an offender out of the community, we have been doing that for 150 years in Indian Country and it only



exacerbates the problem. We need to heal the families so that we break that cycle.

COMMISSIONER MARTIN: My last point is on cases where there's concurrent jurisdiction, is there any literature or are there any statistics to tell us that when the state takes over versus when the tribe takes over, that you have better outcomes or different outcomes or anything close -- don't smile that broadly.

JUDGE THORNE: I don't know of any statistics. I know there are lots of horror war stories out there about the fact that somebody went to his sheriff's office and complained and nobody ever did anything. I've heard the reverse side. There was a complaint, they went out to investigate, and the investigators got cold shoulders from everybody in the community.

I mean, in order to build trust, you have to have the little successes and then you build. And when you encounter a problem that you can't solve, then you can say, "I honestly disagree with you, not because you're an SOB and you don't understand what's going on, but because we just see it differently."

But there are many places where the states and the tribes -- for example, the counties -- don't have that kind of a trust relationship to start with.

COMMISSIONER MARTIN: Thank you.

CHAIRMAN SANDERS: Commissioner Horn and then Commissioner Covington and then Commissioner Petit.

COMMISSIONER HORN: I want to push you a little bit harder on this issue. I'm trying to understand it from an operational point of view. Before I get there, I want to say a common theme across all three presentations seem to be the need to share information.

And I absolutely agree with you. It's a theme we've heard in a lot of different aspects as well. I think it's exacerbated by the legal jurisdictional issues, but sharing information is also a problem, even when there aren't jurisdictional issues. So it's more complicated. But clearly, that's something that needs to happen.

So here's what I'm struggling with and I need you to help me with this. So we know about 40, 45 percent, I think that's right, of all child fatalities due to abuse and neglect are known, the family was known in some way to the child welfare system.

So the first question is, given that, there is a strong requirement under the law to protect children's well-being and safety. And So I want -- and there's always a tension between -- most kids who are reported to CPS and even substantiated abuse cases don't



get removed from the home.

But there's a tension between, you know, when do we take a kid out in order to make sure they're safe, and obviously, in some cases we're not right in that judgment because 40 percent of the fatalities are happening to kids who are known to the child welfare system.

So the first question is help me understand the uniqueness, again, and how you would operationalize this in Indian Country. How do you resolve that tension between safety and making sure that a child doesn't wind up dead in preservation of the family in Indian Country? That's the first question.

The second question is maybe a little bit more straightforward. I'm trying to understand what you mean in the context of healing when somebody is a perpetrator and has killed a child. And what -- do you see that -- how do you see that within the context of healing and what should we do operationally?

Because I agree that healing should always be a part of the criminal justice system as well, but I'm trying to dig down deeper. What would we actually do in those two circumstances?

JUDGE THORNE: Let me start with the second question first, the healing part. I would like to push the healing further upstream so that the person who commits that murder isn't in the frame of mind to do it. So they're not under the influence, mental illness, or of drugs or of anger or other things.

But to push that healing up -- for example, there's a large percentage of our prison population in this country who have come out of our child welfare system into the child justice system into the adult criminal system.

If we did a better job of helping them heal when we came into contact with them, 20 years later, we might not be seeing them in such numbers in prison and committing those offenses.

But after -- I think the second part of your question is after that offense has happened, we have to protect the family. If that person who committed that heinous offense was a member of that family, we still have to heal that family. It doesn't necessarily mean that person is ever going to be a part of their life again, but we have to heal that family so that the children who are exposed to that don't end up suffering the ill consequences.

So moving the offender out, locking the offender up is only part of the job. The other part is healing the family so there are not repercussions and later the lives of those



children or in the next generation.

And the safety versus healing, I think it's the same kind of thing. It's like amputating just in case.

You don't go to the hospital with a broken ankle and they say, "Well, you're under some risk to develop cancer so we're going to amputate."

Because a family is at risk, we're never going to be a hundred percent sure, but if we remove children from their homes just in case, we know the harm that's going to come from them being in the child welfare system.

COMMISSIONER HORN: Right. There's two types of errors. You can remove a child when they really weren't at risk, and that's what you addressed, or you can leave a child in the home who is at risk and they end up dead. So that's the latter error.

How do we reduce the latter error, that's the question.

JUDGE THORNE: In my mind, you provide the resources for the initial investigation. You have people who are trained and who know. I mean, the average career of a social worker in child welfare is less than two years. You get young people just out of college who have no life experience who come in and are basically working on a check sheet.

It used to be that we would have the experienced workers who knew their way around families and people. You pay them a premium to do that work because their information is valuable, rather than moving them to a desk in the back of the room and making them a supervisor.

We faced that when we dealt with court clerks. It used to be that the newest people who have the least information are the ones who dealt with the public.

When we started paying a premium for working that front counter, the senior people started working the front counter and were available to deal with the public.

If we prioritize and reward the people who understood and had experience to work with families, to be able to go in, just gut level know what's going on, that there's something fishy here, if we have them doing the investigations instead of somebody without the experience.

I mean, our whole system rewards longevity when it really ought to reward experience and knowledge of those people in the people field working with the families and investigating.



CHAIRMAN SANDERS: Let me also make sure that the last question I think -- the first question is opened up to the other two panelists if you have anything you want to contribute on that.

HANNAH SMITH: I don't mean to jump in front of you, but I really do want to contribute to that question. One very specific way to try to keep children in their home so we don't traumatize them by removing them, but also ensure that they are safe while they're there, is to look at some reform with our current CPS child welfare protocols.

We are a -- we're building an integrated child welfare team which means that we have behavioral health, child protection, your traditional social workers, as well as a foster care team under the same roof, part of the same team --

We have been successful at figuring out the Medicaid problem in Indian Country for behavioral health.

We are using behavioral health dollars through Medicaid to provide the kind of services that have traditionally been provided under [title] IV-B.

We are using those services and that money so that we can free up our social workers to go and monitor, monitor, and support and support while the child's in the home. We're not hoping that everyone does their job. We're monitoring it.

That is a very concrete, direct way that we can address your issue, and I don't think it's being done system-wide, but it is a multi-systemic, integrated, monitored with performance measures way to ensure safety, while also addressing the services that need to go to the family.

JUDGE THORNE: I had the opportunity to go out to Eastern Cherokee and see what they do. And they have built a system around how do we help our families, not around how do we have a system. And it's extraordinary what they're putting together.

CHAIRMAN SANDERS: Thank you.

Commissioner Covington and then Commissioner Petit.

COMMISSIONER COVINGTON: You just opened up another whole level of things I want to hear about and it's really fascinating. That's really exciting. I wish we had a lot more time. I have a couple specific questions.

One is we were given this lovely flow chart to help us understand jurisdiction. What makes a state a 280 state or not a 280 state and why would you become one or not become one? That's just for information.



JUDGE THORNE: Congress, in the '60s, designated in some states that in general have very small reservations and didn't have a functioning law enforcement system in place.

With the passage of the Indian Civil Rights Act, tribes now have to agree to that process and no new ones have been added.

COMMISSIONER COVINGTON: That's what I wondered, if it was something you agreed to or not agreed to.

Specific questions, when you were talking about Eastern Cherokee offender questions, you talked about coming through this window, and any time a kid comes through a window, we start thinking about how we're going to get information on the child and how we share information.

What are some of the specific barriers in law to information sharing that you experience in Indian Country that we maybe as a Commission could address?

HANNAH SMITH: When I actually started looking into those legal barriers, I found very few, because when you are addressing children in a CPS or a child welfare system, even a juvenile justice system, the laws are pretty clear. You get the information that you need to treat the child.

Where we could do better is to be able to share the information and to educate school systems, healthcare systems, even criminal systems. I mean, the criminal justice system, just to educate around the need to share and the myths around the barriers to sharing information.

However, there are real situations that my colleagues here spoke to earlier about criminal information. I still am finding -- it just boggles my mind that there are tribes out there who cannot get access to NCIC.

I looked to our federal partners to say, "Who's measuring that component?" There are legal mandates, legal responsibilities, and really, kind of, legally generated or trust-generated partnerships. And if every system is different and not all tribes are being treated the same and have the same access, who is overseeing that?

But to, you know, go back to the nutshell answer, I actually don't find too many legal barriers. There are some education law that appear to be a barrier, but if they're in -- if they come through the window of child welfare or juvenile justice, those barriers fall down pretty quickly.

COMMISSIONER COVINGTON: Thank you.



My last question is, you had talked -- Attorney General Smith, you had talked a little bit about making decisions even if they didn't fit neatly into the boxes on whether a case goes tribal or federal or maybe even state or local.

What's some of the thinking that goes into your minds as you do that, in making those sorts of decisions about where a case should move?

HANNAH SMITH: With regard to the -- to criminal prosecution?

COMMISSIONER COVINGTON: Or even civil, around children's issues, child welfare issues.

HANNAH SMITH: Around the child welfare issues, those decisions, we were not making those decisions as a tribe previously, because we, at some point in time, in history, the Bureau of Indian Affairs and our tribe agreed that the state and county social services would have jurisdiction. And our law recognizes that we divested our jurisdiction over abuse and neglect cases, and we've been operating like that for a long time.

We had MOUs with our seven surrounding counties in North Carolina. DSSs are county-based and they're all very different. But we had some understanding, and worked closely with our counties that were very close to us where a lot of Indian children resided. We also have trust property in five counties around us.

So we never really had to answer the question of where should this case go. Should it go tribal or should it go to the state. We were in the state voluntarily.

However, it -- regardless of where a case is prosecuted, either criminally or -- and adjudicated for abuse and neglect, if tribes are at the table, if you were close enough in proximity to be at the table and operating under state law, state law is beautiful, every law is beautifully written. It all has this very high ideal. It comes down to the policy of the individual counties, how they interpret the law.

And unfortunately, whether they have the funding to actually interpret in a way to carry out the law.

The policy decisions that are made in the boots on the ground office are often so driven by resource, unfortunately, that actual laws that really are beautifully written and the idea is there, they don't really get carried out, because we have to go back and actually create our policies around what kind of money do we have and what kind of resources do we have.

I hope that answered your question.



CHAIRMAN SANDERS: Commission Petit.

COMMISSIONER PETIT: Several observations and comments on this for the Commission as well in terms of what we're hearing, and I think this is a very illuminating and a lot of excellent information. But I just want to this is way a few pieces, one at a time.

One is on the healing versus the safety issue. I don't think they're mutually exclusive, nor are they equal. If you come around a corner and you see a guy punch a woman in the face, you don't start with, "Why are you doing this and what can we do to help you stop doing it?" You make them stop doing it.

I think, Judge, that in law, non-Indian law, that there is an element of healing in terms of a very strong commitment to reunification in many jurisdictions to work with the families.

I think here -- you know, yesterday when we listened to Sheri and the family advocacy center said, I think you said 9 percent of the children in the county, I think we figured that out is 400 children in care. And I think you went on to say that there are none that you regret having made that decision, they all seemed appropriate, correct?

SHERI FREEMONT: Yes.

COMMISSIONER PETIT: That's a 90 percent rate. Nationally, it's one-fifth of that. If you have the same number of children in the country removed as you're removing here, you'd have six or seven million children in custody, as opposed to four or five or six hundred thousand. And I think one of the things it reflects is all of what you've been saying, historical interruption with the care of children by families over the decades was destroyed for many families.

And this is not an overcompensation, a compensation to come in and say, "We're going to help raise these children no matter what the history was on this thing."

The other piece, just in terms of South Carolina that I thought was very, very strong with what you described, is this notion of mutual accountability within the system. So I would assert flat out that there are very few lawmakers that understand the child welfare system and there are almost no members of the public who understand the child welfare system.

So to think that legislators are going to hold these organizations accountable is, in my view, naive and unrealistic. Holding each other accountable is a much stronger force, and the memorandums of understanding that you talked about and the protocol you talked about, I'd very much like to see. I think we would benefit from seeing those.



But if your job is to let us know when the guy gets out of prison, and you don't let me know when the guy gets out of prison, you're not holding up your end of the bargain. And we agreed that you would do it and why aren't you doing it, because otherwise you're putting this kid at jeopardy and at risk.

The last thing I would just note is that I hope that the CACs, and I think that's what we've heard, but I want to state maybe the obvious. We have two systems for protecting the children. We have criminal proceedings which removes the perpetrator from the child, and we have civil proceedings which remove the child from the perpetrator.

I'm presuming that both at the family advocacy center level, the CACs in South Carolina, and I hope every place else that we go to, that the ability to compare notes on both of those things and to act in accord with both one or the other as needed, or both, is something that is just built into your systems.

And maybe you could comment on that in terms of -- as the Attorney General or Assistant Federal Prosecutor. Does that conversation take place with CPS and other elements of the civil proceedings, including the courts, the dependency clause?

DIMITRA SAMPSON: It's actually a great question and I think it goes back to something that we were talking about earlier and I think the question was, are there legal barriers? I think from my perspective there aren't necessarily legal barriers. I think there's a perception that there are legal barriers.

So when we're dealing with child protective services, social services -- and this is not true for every place, but in a lot of the locations where I have worked, I feel like we're fighting battles to get information that really legally is not prohibited from being shared.

So I think there is a perception that maybe HIPAA [Health Insurance Portability and Accountability Act] or other things preclude information sharing, when I don't think that there necessarily is a legal barrier there.

So we do run into that in our practice. It's very important to us to know what's happened in the dependency proceedings at the tribal court level when we're prosecuting these types of cases.

That is something those folks at many of the MDT meetings do show up to the table, and so luckily the representatives that come are usually in the information sharing business. But if they don't come to the table, I have to say, from our perspective, it is difficult sometimes to get that information. But it's critical to know what's happening



on the civil side, as you said.

COMMISSIONER PETIT: I would just hope the civil side has a lower standard in terms of being able to act versus beyond the reasonable doubt standard that the criminal justice system has to apply, right, which I think was intentional when creating the law, would be get the kid out of that situation.

But I don't know how much communication there is between the criminal court and the dependency court, is there? How does that work in Chicago?

COMMISSIONER MARTIN: Some jurisdictions there is. I mean, it really depends on the jurisdiction.

CHAIRMAN SANDERS: Commissioner Rodriguez?

COMMISSIONER RODRIGUEZ: I just wanted to clarify on something Commissioner Petit said, and that's that I didn't hear yesterday that there was an effort to either compensate or overcompensate for the past harm.

What I heard was that really, the higher rate of removal has to do with a leadership that prioritizes the safety of all children in the community, and that has figured out that in order to do adequate investigations, that you need really a combination of skillsets and experiences that goes beyond what we typically think of as just child protective services.

And to me, that's a really important distinction. Because I think one of the things that I find so impressive is that it sounds as if in Indian Country you have managed to make children's safety and well-being sort of part of mission critical of a number of agencies, not just child protective services. And that that means that you have more folks who feel the responsibility and the obligation to engage in supporting families, keeping kids safe and doing that healing process.

And I think that's the piece -- that's the piece that I know this is not a policy, it's much less tangible, but around that leadership and agencies that are not child protective services, do you all have any thoughts on how you've been able to accomplish getting other agencies to see the safety of children as a critical part of what they do?

HANNAH SMITH: We have not taken an initiative to actually go around to all our tribal stakeholders and talk about children being taught priority.

As you can recognize in Indian Country, they are, children are sacred. There didn't use to be violence against children. And if we were to survey our stakeholders back home, everyone would agree, we just assume that the safety and well-being of children is at



the top of the list.

But the point about having a framework that all of these agencies who are stakeholders to that common goal, the point about that is to ensure that yes, we all shake our head, of course, we're all in it for the safety of children, but exactly how are you doing that, what is your role and how are you carrying out that responsibility.

And thank you for identifying that for me because we don't want to be doing the same thing. We want our strategy to be different so that we're not spending the same dollar on the same thing.

But then the next question is okay, and so how are we accountable to one another about how you're doing.

So we get to see your performance measures. If you said that you had these three strategies and you measured those three strategies with these six measures, we get to see those.

And we're not just looking at them at the end of the year. I love data, but it doesn't help me when that data is five years old or even a year old. We have to be looking at those performance measures, because the performance measures show a picture of the system, a very complicated, multijurisdictional agency system, so that we can manage with the data on a monthly basis and not just wait until the end.

I just can't say enough how important it is and how I wish there were more incentives for multiple stakeholder systems to be incentivized to actually have an identifiable, very organized framework -- framework with measures.

CHAIRMAN SANDERS: Thank you.

We have two more short questions I'm sure.

COMMISSIONER AYOUB: I have just a follow-up.

CHAIRMAN SANDERS: Commissioner Ayoub and Commissioner Martin.

COMMISSIONER AYOUB: You just said that children are sacred and that there wasn't violence against children until -- you said there used to not be violence against children. Until what?

HANNAH SMITH: If you were to ask the old folks back home, they would say until things got out of balance. Traditionally, children were not harmed in our community, and I would -- I can't speak for all Indian tribes, but, you know, that's not how children were



honored.

There was little violence between communities, simply because those old ways took care of that balance in the community.

Things were different. I understand that. I don't purport to be an expert on my culture or anyone else's culture, except for today. I understand what's going on today. I know that there is an unfortunate and higher rate of harm that comes to our Cherokee kids.

And we are trying to turn that curve down, in the downward direction, and the way that we have to go about doing it is by taking ownership. It makes me shake my head with the PL 280 states who find it more difficult to take accountability and responsibility through their self-governance in these PL 280 states.

But where Indian tribes can, they must take accountability and responsibility, and they have to do it within the system that they live in. That is multijurisdictional and multiagency involved.

And to actually have a finger on what's happening within all of that and how everyone is contributing, there's got to be a framework that tribes initiate. They go to their counterparts and they say, "U.S. Attorney General's office, I understand that the responsibility to my tribe is that we actually get letters now, declination, and that you're working with us to have a -- well, we're going to just measure that. We're going to take that opportunity to be accountable for that relationship.

CHAIRMAN SANDERS: We're going to have to move on to the last question.

Commissioner Martin.

COMMISSIONER MARTIN: My question is, and I hope it affords you an opportunity to kind of close out this panel.

Can you tell me why Native American children are different than white children, Hispanic children, black children, and foster care? Why is healing different than just return home? Why is safety within my community different than just safety?

JUDGE THORNE: I think it's because of 150 years of removal of those children as a way of intervening, that we see the destruction it has wrought in our communities, that we see a cycle of people who are addicted to drugs and alcohol, a cycle of violence, that simply removing children has not worked. The families are not intact.

I think the goal is to heal to break that cycle.



Safety, I think, is the wrong top value. I think well-being is the value of our kids and our families. And safety is a critical subset of that.

But I think if we heal and we do well by our children, we will have fewer offenders in the next generation. We'll have fewer children at risk, and I think if we continue to do what we've done, which is to break families and to separate, then we're going to get the same results.

COMMISSIONER MARTIN: Thank you.

CHAIRMAN SANDERS: Thank you very much to the panel.

(Applause.)

CHAIRMAN SANDERS: I'm going to call up the next panel and move to the last presentation before lunch.

We have Captain Francis Frazier, David Foley, and Gladys Ambrose. This panel is going to focus primarily on data needs and opportunities to better understand and support tribal children and families.

So I believe Captain Francis Frazier is starting.

CAPT FRANCIS FRAZIER: Thank you. Captain Francis Frazier from the Indian Health Service, Acting Director of the Office of Public Health Support. I'm here for Dr. Carol. She wishes she could be here but I'm here for her. She had other engagements.

What I wanted to provide was just a general overview of where we are with Indian Health Service [IHS] as far as data in general, because I'm not quite sure what the background of the Commission is with the knowledge of what we have, and then move into -- specifically to information that we do or don't have on child abuse and neglect. I think that, and I wanted to frame this in the context of the national data reporting at the federal level.

What I've heard today from testimony that I have reviewed, it's -- I think this just adds another perspective for your consideration. And because, you know, the work -- what I'm seeing is the work in Indian Country is occurring, but when it comes to that data being captured from a national perspective for Indian Health Service there are gaps in it. So how do you -- what does that framework look like for capturing that data on a national perspective, and I think that's what many of the federal agencies face.

So with that, I'll be quick because I know we're limited on time. But as we're within -- Indian Health Service is within the Department of Health and Human Services,



and we're really focused on our mission of increasing services and access to care for American Indians and Alaskan Natives. We do this in partnership with tribes. We have, you know, with self-determination, over half the budget is managed by tribes so we are a partner with tribes.

I think when it comes to our electronic data that we have, we're relying on the RPMS, Resource and Patient Management System. We've been using that since 1984. That's based off of the VistA system from the VA [Veteran's Administration].

It is patient-centered and it has the potential to provide, I think, good information on our population, but it also is designed for programs at the local level. This is for providers to use. This is to look at their patient panels. This is to look at managing the care of their patients.

And I think that's part of the focus of what this electronic health record can do and then the RPMS system and that's how it's utilized. That's one aspect of it.

When you start rolling that up, you look at the RPMS servers that are housed at local sites. That information can be transferred to the National Data Warehouse [NDW], the Indian Health Service repository.

This is a statistical database for the Indian Health Service, broad range of retrospective information, is clinical and administrative information, and it's there to help local facilities, area offices, IHS headquarters and national programs to manage and provide required reports.

When we look at the data extracts that come into Indian Health Service, number one, all federally managed programs are required to report. Tribally operated health programs can choose to export their clinical data. It's not a mandatory reporting requirement. For urban programs, if they're using RPMS, they can also submit data to the National Data Warehouse. And I think that's real important to take into consideration.

I won't go into -- I mean, I did provide some additional -- you know, the write-up that has a little more specifics, and in the interest of time I won't get specifically into exactly what's in there. But I think that related to child abuse and neglect, we have information that comes into IHS, into the National Data Warehouse, that goes to specific data marts that programs can use, public health nursing, VIP centers, CHR's, dental. They each have a data mart where they have their own repository to generate reports and look at information related to their discipline.

There's also another -- a behavioral health data mart and reporting system that is a separate, sort of data mart. That information that's exported to tribes -- tribes from IHS



sites goes directly into that data mart. It is very sensitive information. And like I said, it receives that information directly, and it is treated very sensitively by IHS. It's limited access, it's role-based access to the data mart. And data transfer into that is a local choice. The programs and tribal programs determine if that data is going to go into the National Data Warehouse.

So those two systems are the major sources of data for the Indian Health Service. I think with tribal health programs there is that mechanism in place to submit data into the National Data Warehouse but tribes may choose not to report. This could be for a number of reasons.

If a tribe is using a non-RPMS system, which many tribes do, they go to commercial off the shelf packages for -- it's just a better decision for them. In order to submit data to the National Data Warehouse, they have to build a transmission standard, set of transmission standard in order to get the information in there. That has costs associated with it. For some programs they may just come to a decision that they don't want to submit their data. That is a choice that is respected.

So I just wanted to say that brief overview of how we receive information and sort of the context for that. I did review previous transcripts and tried to put some information together that sort of gets to some of the questions that I saw.

So as far as -- there are no national level reports for child abuse and neglect. When we look at NDW, we can pull -- encounter data related to child abuse, and I did supply the ICD-9 codes associated with that. But that's only if the local site that is exporting the data decides that it's okay for that information to go into the NDW and then it's -- DSM codes are changed into the ICD-9 codes and then we can see that data.

So that's -- you know, it is likely under represented, I'm sure. And it's only the data that's reported to NDW. That's not coming out of the behavioral health data mart. So that's the information you have.

As far as data related to child abuse, neglect and related fatalities, we do not capture data within the system for national level reporting related to fatalities. We rely on the same sources of other information that was, I think, reviewed quite extensively in the last hearing that I saw. The CDC and NCHS death certificates for children, actually they're the same ones that were listed in the previous discussions that I saw.

What are the data limitations from a national perspective? I think that the National Data Warehouse only receives a sample, a small sample of data from local RPMS servers. And when I think of designing something for -- potentially for child abuse, neglect kind of reporting, what would those data elements be? That information would have to be designed and structured.



And if a program is not using RPMS, they'd have to build an interface in order to transmit those new kind of datasets. So there are a lot of issues surrounding that any time we make a change to RPMS. And we need to go to tribal consultation when we're changing the data structure of the system that entities would be submitting into.

I think that's a really important point, because as I listened to the conversation today and listened to the issues that were -- that are being discussed, I think there was some real resonance with the last panel as -- from my perspective -- I look at things from a national perspective. I know the work is being done in the field. How do we capture that nationally?

That is the perspective that I am coming from? So what are those measures associated with child abuse? What are the measures associated with neglect? How do we capture those and how is that rolled up to the national level? What is the strategy behind that?

I think those are really key, important issues. When I think of recommendations, what's the larger framework?

I'm a family nurse practitioner by training, what I call a jack-of-all-trades. I'm not a child health specialist, a behavioral health specialist, so when I think of these issues, what is the framework behind that?

It's such a complex issue. What is the clinical piece, the behavioral health piece, the justice piece, the social service piece, and how is all that information -- at least from our perspective, what is our contribution to that bigger piece of the puzzle when we're reporting? Because that would be an investment in time, energy, and resources in order to structure something like that.

And I think in the interest of time, I'll stop there.

CHAIRMAN SANDERS: Thank you very much.

DAVID FOLEY: Good morning. My name is David Foley. I'm the epidemiologist with the Navajo Epidemiology Center. I think I may be the first with slides up on the board.

I'm very impressed with all those who have spoken extemporaneously. I am not the type who is going to do that here, especially as I'm being recorded. So I'll have some slides and hopefully the fine print will be readable for all you here in attendance.

I do work, as I said, for the Navajo Epidemiology Center, which is part of the Navajo Department of Health. This Navajo Epidemiology Center is one of twelve tribal epicenters that are funded by IHS.



I don't, myself, have expertise in this specific area of childhood trauma and abuse. I actually am not -- I'm funded by the diabetes program and by the health education program.

We had data, mortality data that had been sitting around the epicenter for a number of years. We didn't have the staff to take on any analysis reporting of it, and after I got my footing -- I should say I've worked for the epicenter for about four years. After I got my footing, I said somebody ought to take a look at this to at least establish leading causes of death among the Navajo people. And so that's why I was invited here today is because I did that report.

So I said yesterday I'm going to learn a whole lot today and hopefully you'll learn a little bit from me. My approach is to this is way you an overview of what the Navajo epicenter, what kind of data sources we have, what kind of reporting we work on, and I tried to specifically tie in those data elements that apply to childhood abuse and neglect and trauma.

And so, as I said, I took on the task of creating a mortality report. This is from data collected from 2006 through 2009, and it includes only data from Arizona and New Mexico. The data sharing agreement that was in place was created prior to my arrival.

I'm not sure why Utah was not included in that data sharing agreement, but at least at the Navajo epicenter we kind of take it as it comes and we try to work partnerships with who we can, and it may have just been that there wasn't somebody there at Utah Department of Health that was willing to work with us just yet.

And this data also, it includes not just fatalities that occurred within the boundaries of the Navajo Nation. We also included data from several of its border towns found in Arizona and New Mexico. And as I have it written up there, we have about 46 percent of our tribal members who live outside of the Navajo Nation at this time and that number living outside continues to grow.

And the number living within, at least in the data we've seen, has decreased slightly over time. So we are very much concerned about those Navajo tribal members who are living outside of the Navajo Nation. So we're trying to capture as many as we can within the data that we work with.

Some of the challenges and weaknesses of the report is we're working off community residents. A lot of times that comes from zip codes. Many of our tribal members have their addresses from a post office box that's well outside of where they actually live.

And so there may be some of our data that's included in this report that is from people



who are outside of the Navajo Nation, maybe Hopi residents, for instance, who live within the Navajo Nation or vice versa.

One of our communities, Hard Rock, as I understand it, is about 20 minutes from a post office in Hopi and much farther from a post office in the Navajo Nation. So that's where their residence might be. So at the same time there are probably a number of Navajo Nation members who are not included in this report as a result of that.

Another common challenge we face is, not just for this mortality report but for all the data we work with, is tribal identification. We have better success on the New Mexico side than we do on the Arizona side with tribal identification.

And so that's one area that really does need to be improved, and I know there are a number of people at the states who are working with that. Probably at the national level as well working with vital statistics, but we really do want to have tribal identification on there so we know exactly who it is we're focusing on and who we're capturing in our data.

We have been working on updating our data sharing agreement. The agreement we had in place expires this year, and we haven't received any additional data since 2010, even though we had the agreement in place. There was staff turnover at some of the states who were not as willing to share, even though the data sharing agreement was in place.

So we've been working for 18 months on an agreement that would be the same with Arizona, Utah, and New Mexico, to include all the states together. And 18 months is a long time, I thought it was a long time. We hired -- I think we got some new legal counsel that came to work for the Navajo Nation. She came to one of our conference calls here recently with the states, and when it was over, she said, "This is ridiculous. I've never seen one take this long."

And so we're trying a new strategy now, bilateral agreements with each of the states. Hopefully that will expedite the process and that we can get these updated so we can update this report.

Somebody mentioned earlier about one of the challenges is the delay in receiving data. 2009 is a long time ago. And because of the number of fatalities that occur on the Navajo Nation, if we want to do some real good analysis with it, we have to combine years. Anyhow, it's time to update, and so we're really trying to get the data sharing agreement in place.

It seems like the main concerns obviously are with privacy, with data security, both electronic data security, who has access to it, as well as physical security. Are the servers under lock and key, who has access to the servers. And so we're trying to



demonstrate that we can both provide electronic and physical security for that data.

And recently we became a department of health rather than a division of health, so there will be some changes happening in the next five to ten years, I'm sure, with our operations. And one of the things that we do hope to develop over time is to have our own office of vital statistics so we wouldn't necessarily have to go to the states to obtain those records.

What I have here, I've got a few slides that will just highlight some of the data we have captured in this report. So here we have leading causes of death from birth through age 9, and as you can see, unintentional injury is the leading cause of death in this age group.

On the left-hand side, that axis, that's rate per 100,000. So that for unintentional injury, that's 24.43 deaths per 100,000. And then what is probably not read to all of you back there, it was red on my laptop, the line going across is cumulative percentage of deaths. And so with unintentional injury, that's 27 percent of all deaths in this age group. As you move across, I think assault then comes out as the seventh leading cause of death for this age group at 3.7 deaths per 100,000.

Similar chart now for ages 10 through 19. Again, unintentional injury, the rate's even higher. It's still the leading cause of death, I think, for the Navajo Nation. It's the leading cause of death through age 59, is higher than the national number.

Then we have suicide now. That's the second leading cause of death. And assault tied with cancer as the third leading cause of death. And unintentional injury, suicide, and assault for this age group account for almost three quarters of all fatalities.

We don't get a whole lot of insight into the circumstances of these assaults. That's one thing that we can pull from the vital records is the means of assault. I think that's how it's categorized. So here I've got by gender and age group, and this is just a count. These are obviously pretty small counts. But for males, one hanging, strangulation, or suffocation, this is under the age of 10.

Other specified means, birth to nine, that's something else I've noticed. I need to do some more research as I look at vital statistics. For lots of our causes of death there's not a lot of information. And so for instance here, other specified means, well, it doesn't say what those other specified means -- there's no detail on there.

We see something similar with a lot of our cancer data, where the death is just defined as, ill-defined cancer death. It doesn't give us a specific location or any more information. So I don't know if that's a problem that's unique to the Navajo Nation or Indian Country, if that's national. But even in those data, if we can get a little more



specificity, it would be nice.

You'll notice with the -- I don't want to take up too much time either, but with the age group 10 to 19, for male and female the only means of assault is with a sharp object.

We also try to capture as much survey data as we possibly can. One of the surveys that our health education program takes the lead on is the youth risk behavioral surveillance system. I don't think I have it listed here, but we've been conducting this since 1997. That was a pilot test in the Shiprock agency or the Shiprock area, but it's since been expanded throughout the Navajo Nation.

So all middle schools and high schools found in the Navajo Nation and its border towns are invited to participate in the survey. And the border town schools are included if they have at least 50 percent Native Americans enrolled in that school.

We report aggregate data as the epicenter. We receive that data back and can report on it, and it's de-identified. The schools, though, can get a specific report to their schools for their own program planning and grant writing. And if we want to get the specific information by the school, we then have to request it from the school.

And the most recent survey data we have is from 2011, although we did just finish a survey in 2014. We hope to get the data back this year and we can update this report. With the fatality report we just have one with these wire--. We have a number of years of data so we can start to look at trends a little bit across time.

So just one sample slide, some of the data as it relates to violence. We've got physical fight in the past 12 months, 34.7 percent, this is among high school students. That's about one in three. Fight on school property in the past 12 months, almost 16 percent, about one in six. Dating violence, that's whether a boyfriend or a girlfriend hit or slapped them or hurt them in any way, that's almost nine percent, about one in eleven. And then forced to have sex, 7.7 percent or about one in twelve, I believe.

Something that I have been impressed with during this meeting is we used to have resiliency questions in our survey. I think most of those have been removed, primarily because of time. The survey is about a hundred questions, but after being here at this Commission, I'm going to talk to our health education program and see if we can get many of those resiliency questions -- not all of them -- reinstated, as it certainly is an important issue to continue to track and to monitor.

And then also from that same survey, this is in 2011, suicide ideation and attempts. Now, with the violence, I didn't know offhand how we compare with other states with the national numbers. I do know here, though, with the suicide numbers, it is higher. The percentages are higher than we see I think both in New Mexico and Arizona as well



as Utah and the nation.

So we've got, "felt sad or hopeless," in this list was that they felt sad or hopeless for two consecutive weeks and it in some way interrupted their normal activities. It's almost 30 percent that said that that had occurred within the past year.

Over 18 percent had considered suicide. 16.6 percent had made a suicide plan. Almost 15 percent had attempted suicide. And those numbers are all very close together. So it certainly seems that if there begins to be ideation, they are acting upon it. And then suicide attempt that required treatment from a medical personnel, a doctor or a nurse was over five percent.

Something that we as an epicenter are proud of is we've taken the initiative to try to generate some of our own data sources. We do a Navajo Nation health survey.

Some of you may be familiar with the Behavioral Risk Factor Surveillance System or BRFSS, as it's sometimes known. We were attempting to do our own BRFSS. We made ours Navajo-specific enough that the CDC [Centers for Disease Control] asked for us to change the name of it to make it more specific to the Navajo Nation. So that's why we call it the NNHS. This does include only adults 18 and over.

We have to roll it out in phases. Ideally we would capture this data across the Navajo Nation each year. However, with the limited funding that we have, it's become a challenge to do so. So we're doing it in phases.

The first phase was done in the Chinle agency two years ago, and we have just begun now this year work in the Shiprock agency. And within this survey there's a module that includes questions regarding sexual and intimate partner violence.

Like I said, I'm not an expert here, but I wonder if -- in that survey we can establish the number of children in the household and we can look at the percentage of children within these agencies that are exposed to violence. And I'm seeing some heads nodding so that probably is a smart idea. We can begin to look at that.

However, as we have begun to report to our partners and to our stakeholders, specifically within the Chinle agency, there is some concern about our results. They think the numbers that are reported are pretty low. This is a in-person survey. We have research assistants that go knocking on the doors and from house to house, which if you're familiar with the Navajo Nation, is very challenging.

I spend a good portion of my time looking at satellite images to locate with GPS coordinates homes and directing our research assistants to find these homes. And while they're in the home, they're talking to -- you know, a single adult is selected, but there



could be another adult in the home who is a perpetrator of violence that may influence those reporting results.

We do ask them if they feel safe to answer the questions and they can skip those modules if they like, but we have, I think, about 70 percent that still responded. But because of these concerns, we've adjusted the way that we're going to ask these questions in Phase II. We've partnered with some folks at Johns Hopkins University where we're going to use some tablets now where they can read the questions themselves so nobody in the home will know what questions they're looking at.

Or if they need it, they can listen to those questions and answer right on the tablet and then we can upload that data to the rest of our datasets. So we're hoping that that will address some of those concerns that our partners have raised.

So here are some of the results from that survey. So that first column, "Has anyone ever had sex with you after you said or showed that you didn't want them to?" It's only 2.1 percent. It seems very, very low. And as we compare -- I don't have a slide here to show it -- as we compare to national numbers, it was significantly lower both for men and women. And like I said, this raised a lot of alarms. And among those who had ever experienced that has this happened in the past 12 months, 34 percent. So again one in three of those who had ever experienced it had in the past year.

"Has an intimate partner ever threatened you with physical violence?" Nine percent. "Has an intimate partner ever hit, slapped, pushed, kicked, or hurt you in any way?" 10.6 percent. "And in the past 12 months have you experienced any physical violence or had unwanted sex with an intimate partner?" That's about 10.8 percent.

One of our -- I didn't mention our staffing. I'm one of three epidemiologists that works in the tribal epidemiology center. One of our epidemiologists is devoted essentially full time to our behavioral health program and he works a lot with substance abuse issues as well as suicide.

So he's been working closely with IHS staff to develop a suicide surveillance system that would capture as much data as possible for all suicide attempts within the Navajo Nation. And they hope that data, once it's analyzed, will help develop prevention efforts as well as post prevention strategies.

Some of the challenges they faced, and I wish JB was here so he could talk a little bit more about it, but was, what data -- we've heard it repeatedly, data sharing and with law enforcement and our epidemiologists, and it's interesting, this is not with outside law enforcement. This is with our Navajo police department and criminal investigators who are very reluctant to share that information.



And I don't know all the concerns with that. Certainly with privacy issues is what they're concerned about. But they have been making inroads, I think, with law enforcement agencies and we're trying to get passed that hurdle.

We also have a data sharing agreement in place with IHS, with the Navajo area IHS, that we can gain access to the epidata mart and the hospitalization data. That's something we're very excited about. Just getting data on some risk factors and on mortality is usually not enough to completely address and define what the problems are that were facing the Navajo Nation.

It will exclude facilities, as I understand it found within the Navajo Nation that use alternative data systems. I think the RPMS was mentioned before. We are now waiting for training. We've got this agreement in place. I think they want both HIPAA [Health Insurance Portability and Accountability Act] training as well as this training on how to utilize the system. But I think that's forthcoming in the next few months. So it should be a very short time before we're able to access that data.

And we do have some facilities that we call--638 facilities--that essentially are operated by the tribe at a local level. Some of them use different systems. And so we're going to have to develop relationships, I think, with many of these facilities build that trust up so we can then begin to share data and receive data from them to get a more robust system in place to capture all the information that we need to get.

And these next steps -- I wasn't sure if Gladys was going to make it here or not -- she's going to address many of these. But we're doing better and better as the epicenter to capture the what, what's happening, but we definitely need to make improvements on the how and the why. And that's where this development of the Navajo-specific child fatality review team comes into place.

And hopefully we'll be able to go beyond the space, line, and prevalence data and link all these sources together that paint the full picture of what's happening with children.

And as I understand it, and Gladys can probably address it more, this is certainly in progress. We've been working it for over a year now and now have the legislative support from the Navajo Council. So we are making great progress here. And I think that is my last slide and I'll turn the time over to Gladys.

GLADYS AMBROSE: Good afternoon. (Spoken Native language greeting.)

I introduced myself in Navajo, which has been a practice within our culture. I'm Gladys Ambrose. I'm the department Manager for Department of Family Services with the Navajo Nation.



My maternal clan is the Black Street forest people. My paternal clan is the Cliff Dwellers, and my paternal grandfather's clan are the Towering House, not townhouses. And my maternal grandfather's clan is also the Cliff Dweller people.

It's a great honor to be here with you this afternoon, and I hate to be the in-between person to your lunch so I will speed this up.

I want to just share a little bit of information regarding the history of creating the Child Fatality Review [CFRs] teams on Navajo Nation. The way that we started the discussion was the unfortunate finding of a child in an ice chest. That prompted the Navajo Nation to review the overall child welfare system and how Navajo Nation was responding to child fatalities.

There were created partnerships that included public safety. This is the Navajo Nation public safety, as well as looking at, with the three states that we work with, with county, and also state police and so forth.

The division of education, social services, the public defender's office, the prosecutors, Department of Justice, Indian Health Services, they came to the table to begin some of the discussions -- Division of Health, which is now Department of Health with the Navajo Nation and our Navajo Nation chief justice.

We expanded our partnerships because we embarked on some very critical issues that were unaddressed for so many years, that we reached out and included in our partnership is the Casey Families, the National Indian Child Welfare Association, our partners on Indian Health Services, the National Center for Review and Prevention of Child Deaths. We were able to reach out to these folks to begin the creation of the Navajo Nation Child Fatality Review team.

We also looked at the policies, procedures, the laws that we have on Navajo, and began the revision of our children's code to be responsive to the current situation, because we were dealing with a law that has been in place for 25 years that was adopted from the state of New Mexico.

And so we revamped it and made it very Navajo-specific, and we looked at the revision in creating new policies and procedures for our child welfare system. This, of course, took a period of time that -- over a course of a few years. So there's no existing tribal fatality review teams that operates independently from the state or the counties that I'm aware of. And so Navajo Nation would be the first nation in Indian Country that will have a child fatality review team.

In December of 2014, just a few months ago, the Navajo Nation Council, by legislation, created the Child Fatality Review team on Navajo. As it has been reported, and you



probably know through history, is that Navajo Nation spans across three states, Arizona being the largest state, Utah, and New Mexico. Geographically Arizona covers the largest land base of the Navajo Nation. So we have partnerships with most of the counties within Arizona in establishing and developing the Child Fatality Review team.

Reviews of child fatalities occur with usually established state or county teams currently, and they're usually facilitated by an appointed county or our state representative and not necessarily invite Navajo Nation or any other Indian tribes to the table to either facilitate or to be part of the team.

I just so happened to bounce on the fatality team in Apache Country and that's how I learned about the Child Fatality Review team and learned that there was teams within every state nationally. So that was something that's interesting, and it still exists that way today with many of the Child Fatality Review teams that are operating currently.

We recognize that all children are precious and sacred. We want to protect them, want to be able to provide a safe place for them. Even as adults, we have the right to feel safe wherever we are. Review of child fatalities occur within the -- we're responsible for all of the fatalities that occur within the territorial jurisdiction of the Navajo Nation.

Judge Thorne had mentioned earlier that there are really big issues about jurisdiction and those are sometimes barriers to effectively getting and reviewing these cases, because those walls are built and it's really difficult sometimes to penetrate through those walls.

Review of child fatalities across the country and the research that, and the policies that are available is traditionally reviews of birth to 17 years of age, but with Navajo Nation, we decided that we would review cases up to age of 21, which is going to be slightly different and will support the data collection that's already in progress.

Our whole emphasis, yes, is keeping children alive, and together we can definitely take the steps and the initiatives to keep these children safer and healthier in the communities that they're in.

One of the biggest challenges that we have, and these are opportunities that I want to speak to, is that the collection of data, as you can tell, is that it's very difficult to get the data information and to be able to gather the information from the entities that hold that information. Like, for example, with the Department of Health, with Indian Health Services, they don't share the information, and they necessarily don't share the information with us.

It takes an agreement or some kind of drafting of some kind agreement, and I've always



asked the question, "Why is that necessary? Why is it that we're not able to just freely be able to share that information?" Because it is information that is pertaining to our Navajo people or our Indian people. So that makes it very difficult to share the information together, and you know, not to break policies or violate policies somewhere, you know, we come up with this HIPAA stuff, and we -- you know, those are all barriers that end up having to play a role.

And the restriction of sharing that data, due to jurisdictional issues. The states don't want to share data with us. You know, certainly with the entities, Indian Health Services, you know, any department that has the epi [center] people, they don't have the capacity to be able to just hand us over data information that would aid us in at least looking at the trends and what are some of the things that can be done to prevent some of these fatalities that do happen.

Who actually owns the data, you know, the ownership of the data. When we say that these children that we unfortunately lose through some type of fatality is that -- we're the ones that are hearing their story that they're not able to tell.

If we can save another child from dying because we study the trends of the data information that's coming forward, that, to me, would be the focus of being able to having to access to the data. You know, the data doesn't belong to the state. The data doesn't belong to in-house services. It's information that we should be able to have free access to.

What are the benefits of having the data information? Certainly we know that when data is collected, it's used primarily to solicit for funding. "If you take my data, then I'm giving you my share of the dollars that possibly could come to me so I'm not willing to do that." That's basically the message that comes about. And it seems to me that that seems to be the bottom line.

We have to look at the state, tribal, and federal laws, and as you can see, and have heard already, you know, throughout the morning, is that there is inconsistencies. They don't support one another. One thing says another and the other says another. So that becomes a fighting battle in just sharing some of that data information with entities that we're working with.

The opportunities, and this is through experience with going through and accessing direct funding for IV-E, that I speak to some of these things, because these are the same things that we're experiencing, is that there really needs to be a research and begin to understand tribal communities in each state. How many tribal communities are there? Are they sitting at the table, having the discussion and coming up with policies and procedures that will be able to effectively work and address some of these unfortunate fatalities of children.



Recognize and honor the differences of tribes. A lot of times I really feel like we're being all put into and banged into the square peg and the cookie cutter approach to resolving all issues. Invite tribes to the table and begin a dialogue about taboos regarding death, cultural practices and beliefs, because sometimes there's just an assumption that yeah, you can't talk about death, you know, that's just something that you don't do. But you really don't go and really ask the question. But, yes, there are some taboos about it, but it doesn't go across the board for all tribal communities.

Understand the tribal government structure and support the sovereignty of the nation. And that's really big for me just as well as what was expressed by Judge Thorne in his presentation. Recognize that all children are important regardless of ethnicity. And we're the ones that put color to these children, but as a human person, every person has the right to feel safe.

Create an environment to foster and have a collaborative relationship and be able to bring down those silos that we have and those walls that are there so that we can be one voice for the children. Because if this is our only opportunity to be able to do so, we better take this opportunity because there may be not another one for us to be able to do that.

So that's all I have for you this afternoon, and I'll be happy to entertain any questions, and thank you for your time.

CHAIRMAN SANDERS: Thank you.

(Applause.)

CHAIRMAN SANDERS: Commissioner Zimmerman?

COMMISSIONER ZIMMERMAN: Sort of a comment. So it is my understanding for Indian Health Service that if a child, for instance, is fatally injured but the child does not die in the IHS facility, rather they're flown out for more care and they die in that other facility that's now off the reservation, that they are -- that unless they report back that the child dies, that Indian Health Service doesn't count that death or doesn't --

CAPT FRAZIER: I would have to check specifically on that. I could provide an answer on that. I don't know off the top of my head.

COMMISSIONER ZIMMERMAN: That's a personal experience and comment that I heard from somebody in my own tribal community in Poplar.

The other is there's this -- the Bureau of Indian Affairs does a really good job of knowing



about the death of a tribal member because they have to manage the resources that may be allocated to that tribal member and their inheritors.

So if BIA can do it, I think Indian Health Service can do it. Is there any conversation happening at the federal level or at the national level between IHS and BIA and a collaboration around data collection, particular to child abuse and neglect issues?

CAPT FRAZIER: I don't know but I can check on that.

CHAIRMAN SANDERS: I had a couple of questions, too, for Captain Frazier.

You walked through the system that you have through Indian Health Services and mentioned that reporting in for tribes is not mandated. Can you say a little about what incentives there are for tribes to report? What do they get either way?

CAPT FRAZIER: I think, you know, when we're using the information to support the agency's overall objectives, especially with budget justifications, making the case for funding, program activities, just having the additional information adds to the complete picture of the situation, depending on what program it is.

But that's the real -- I guess that would be considered an incentive. I mean, it's contributing to overall Indian health would be my -- only thing I could say to that.

CHAIRMAN SANDERS: Thanks. Just a couple of follow-ups. I guess a question would be what is the ideal? And I'm not sure I understand it well enough.

So there are 562, 564 tribes. Would the goal be for all to report in? And if so, what percentage are, how -- what should we see to get that kind of national picture?

CAPT FRAZIER: I think ideally for any program that is 638, I don't think there's a specific number that is ideal, but the concept is we can -- the more data we have on various topics that we're reporting on as an agency, the more complete picture we have on that situation, whether it's child abuse and neglect, diabetes, heart disease, whatever the situation is.

CHAIRMAN SANDERS: So would we, do you know or do you have off the top of your head, how many report in, how many of the tribes do report in?

CAPT FRAZIER: Not right off the top of my head, no.

CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: This is off topic a little bit. But, Gladys, I just want to



clarify what's so important about what you're doing is your Child Advocacy Center or your Child Fatality Review team that you're developing for Navajo Nation is the only one in Indian Country across the nation, is that correct?

GLADYS AMBROSE: Yes, that's correct.

CHAIRMAN SANDERS: Commissioner Petit.

COMMISSIONER PETIT: Two questions, one for the Captain and one for Ms. Ambrose.

Captain, the question of collecting data on Indian child deaths, I know you said that you don't collect it currently but have you asked to collect it? Have you asked the tribes to provide that information?

CAPT FRAZIER: Not to my knowledge.

COMMISSIONER PETIT: What prevents you from asking?

CAPT FRAZIER: I think that with -- specifically related to that situation, I think if -- we're not reporting on neglect and fatality data on a national basis and we don't have a specific measure to support that, that's designed for reporting on that.

COMMISSIONER PETIT: But you could.

CAPT FRAZIER: We could.

COMMISSIONER PETIT: Let me ask Ms. Ambrose. How many Navajo children are there?

GLADYS AMBROSE: In terms of --

COMMISSIONER PETIT: Just the totality of children that are on the reservation, but nationwide.

GLADYS AMBROSE: On Navajo Nation? According to the latest statistics that's available, there was over -- the largest number of children are under the age of 18 and that was the latest number. Of the total population, the percentage that they gave us was 27 percent of the total population on Navajo.

DAVID FOLEY: I was going to add, on the Navajo Nation, the latest data we saw, it's about 176,000 total residents. So a quarter of that, we're looking at probably close to actually 60,000, I would say, that are less than 20 that live on the Navajo Nation.

We have an additional approximately 150,000 that live off the Navajo Nation, many in



metropolitan areas close by. But we're looking at at least 60,000, I would say.

COMMISSIONER PETIT: So nationally, just what I found, is about a million Native children, roughly, depending on how you measure it. So if there's two per hundred thousand that die nationally, that's a general statistic and that's what we heard is the Indian community as well, if you've got 200,000, it's not that many, it's 150,000 children, is that what you said?

There might be two or three deaths a year, is what I'm getting at, within the Navajo community. Does that sound right or what's the number?

DAVID FOLEY: The number for the age group that Gladys and the CFR team is going to be looking at is probably closer to about 65 per year, 65 deaths under the age of 20.

COMMISSIONER PETIT: From abuse and neglect?

DAVID FOLEY: Oh, from abuse and neglect? No, we're looking at closer to 10 to 12 probably from abuse and neglect. Again, this is old data, 2006 to 2009. But, yeah, probably 10 to 12 deaths per year.

COMMISSIONER PETIT: On the reservation or across the country?

DAVID FOLEY: That's just on the reservation.

COMMISSIONER PETIT: And it's about 60,000 children, you said, that are on the reservation. So that would be a much higher rate than nationally, if it's two per hundred and there's eight, 10, or 12 per 60, that would be --

The other question would be, is the other 75 percent of Native children dying at the same rate? They must be dying at a much lesser rate, if this one accounts for 25 percent of the children and maybe 35 percent of the deaths.

It's an issue that we've been asking from the beginning, is trying to sort it out, and just don't know yet what it is in terms of total number of Native children that are killed each year from abuse and neglect.

GLADYS AMBROSE: I think the numbers would all make better sense if all the entities are able to share that information together. Because Indian Health Services collects some of that data that we don't have information to, and then the Navajo Nation, the epicenter, they also collect information.

And when all of that data -- I think what's really important and what would behoove us would be to come to the table and say, "This is the data that we have," and so let's start



plugging them in. So we won't be asking the question, "Is there any statistic available out there that will tell me how many Native American children died from abuse and neglect," and we'd be able to produce those numbers.

And that is our hope, by creating this Child Fatality Review team, is to allow us to be able to have that communication so that those data can be collected. I do know that within our department, Department of Family Services, which is responsible for the child protective services' piece, our recidivism rate is 24 percent.

So that means that we're not breaking that cycle that needs to be broken, and that's the cycle that we've been talking about all morning, and we're constantly chasing our tail, looking at those numbers.

And my goal for the Navajo Nation, by doing this, is to be able to identify some of those resources or preventive activities, that we'd be able to reduce that recidivism rate from 24 percent to a much lower number which is the goal that I have in mind.

CHAIRMAN SANDERS: Commissioner Covington.

COMMISSIONER COVINGTON: Thank you all for this presentation, and for me there's absolutely an underlying frustration in the inability of you to be able to access the information you need to try to understand what's going on.

And I know because some of that are based on records that are generated by states. So death certificate, for example, trying to create an often vital statistic. Death certificates are state records, and I know you're having trouble getting access to those. And they would tell you a lot, if you were able to get access to the death records so you can at least identify kids that died who are Navajo.

There's a part of me that I think you were just being too nice in your presentation. Could you kind of tell us specifically what sort of records you're just not able to get and where -- because I've been trying to get to this all day, is where are these barriers and what can we as a Commission do to try to break some of those barriers, through legislation or whatever.

I think one of the things coming to me just listening this whole morning is it never seems like there's never any sanctions against states for not giving you information. It's almost the flip of that. I'm starting to wonder, where are the penalties for states that refuse to share information with you when there's no legal barriers to sharing that information?

So I'm trying to get a handle on what exactly is it that you're not able to get when you ask for it from the states. Because I know it's kept your team from having effective



review meetings, because you're waiting to have information on kids that you can't get.

GLADYS AMBROSE: As we were in the development process of developing the Child Fatality Review team, we had the opportunity to coordinate with the county teams and the state teams, the representatives that were coming from the state and from the county. And those meetings were somewhat bittersweet in a sense.

You know, the opportunity and the invitation was there. But at the same time we also felt that because this was something, an initiative that a Native tribe was pursuing, I really felt like sometimes this was the thing. Very subtly, questioning the ability of Indian Country to be able to successfully and adequately run these teams, review teams.

And so one of the questions was that, "Well, how are you going to access the death certificates?"

"We need an agreement."

"An agreement with who?"

"With the state Department of Health. That's the only way that you will be able to get death certificates that will be available to you."

And the other one is getting information, medical information from hospitals. We'll be able to get information from the local Indian Health Services. But if the child -- I think you, Commissioner Zimmerman, described earlier was that what happens to a child who is seen on the Indian Health Services?

They get transported or get flown out to, you know, a metropolitan hospital, a larger hospital to get their services, and they expire there. How is that information captured, is that we won't be able to get the information from the other hospital, other than the local hospital. Because we will have those folks on our team.

And so they said, "Well, we have a law. The state law says that we have the ability to be able to get that information. So, Navajo Nation, where's your law that says that you can access that information and get it from the Children's Hospital here in Phoenix, to allow for your team to be able to review."

So that's where the frustration is. And yes, Teri, you're right. I was a little bit nice, but I'm not always that nice.

CHAIRMAN SANDERS: We'll take a couple more questions. Commissioner Petit.



COMMISSIONER PETIT: If I can just return to the line of questioning I had a minute ago about what the actual rate is on the Navajo Nation. Because we know the federal statistics significantly undercount the number of children who are killed.

So when you see -- and it's closely linked to poverty rates. We know there's a very high poverty rate within the Indian community. But if you do the math on what I thought I heard you say, which is ten to twelve deaths or 60,000 children or so related to abuse and neglect, on a per one hundred thousand basis, that gets up around 16 per hundred thousand and not the two that NCANDS or the federal government is reporting. So there's a big gap between two and 16, right?

So I'm just wondering if you could help the Commission with maybe looking at those numbers more closely and clarifying for me whether or not that's really an accurate interpretation. Because if it is, the death rate from abuse and neglect associated with tribes is much higher than is being reported federally. Much higher. Right now it's equal to the rest of the country, except for the African American community.

DAVID FOLEY: I do have a report that's the 2006 to 2009 data. I'd be more than happy to make that available to the Commission to review so you can get an exact figure on the number of deaths as well as the rate of deaths. That shouldn't be an issue.

I just wanted to say about what kinds of records we need. Something that we've been working at in epicenters is getting these big data loads of all these deaths from previous years. Well, for the Child Fatality Review team, as I understand it, and I'm a novice, to work effectively we need to get real-time data, real-time deaths, which is a whole other can of worms probably.

I should say that our relationship as an epicenter, that's all I can really speak to, within New Mexico is very good. And when we have asked for additional data, they have provided it. The issue has been more on the Arizona side and we're just building a relationship with Utah. So I can't say a whole lot to that. But it probably would have been good to have states here, represented, to answer these questions. Because I honestly don't know.

Trust seems to be the only issue from my end, that they don't trust that we will keep that data secure, that we will release private information, either intentionally or unintentionally. So they won't trust us with that data just yet.

I should say I don't know the whole organizational structure with the Arizona Department of Health. But I know in New Mexico they have an epidemiologist who is a tribal epidemiologist and so we have a specific epidemiologist who we can go to with our data needs and data concerns and he's been working very actively to improve all the data for tribes, not just for the Navajo Nation, but for all the Pueblos as well found



within New Mexico.

I know they have a tribal liaison in Arizona. I don't know if they have a tribal epidemiologist who has the same kind of education or background that the epidemiologist in New Mexico has that knows how to kind of work through the system a little bit better, understand exactly what we need.

CHAIRMAN SANDERS: Can I ask for clarification? This has been incredibly helpful. The issue of sharing information -- because I wrote this down and I want to make sure I captured what you said, Mr. Foley, that it was also an issue within the tribe, the sharing of information. Did I write that incorrectly?

DAVID FOLEY: That is correct. It was with law enforcement agencies specifically. And like I said, J.B. Kimiji is the one who has been working more closely with those agencies, and so he'd be able to speak a little more clearly on exactly what their concerns have been. But that has been an issue as it pertains to suicide attempts or suspected suicide attempts, getting reports from law enforcement. They have been very hesitant to share that information.

CHAIRMAN SANDERS: Thanks to the panel again.

(Applause.)

CHAIRMAN SANDERS: We have a lunch break scheduled until 1:30. We'll reconvene at 1:30.

(Recess was taken.)

CHAIRMAN SANDERS: So we are fortunate to come back with a discussion on best practices, and we have, I think, an outstanding panel. We've heard references to some of the work already.

So I'm going to turn it over to Commissioner Zimmerman to do the introduction.

COMMISSIONER ZIMMERMAN: Thanks, everyone, for coming back this afternoon. And again, the speakers this morning provided us with such rich information. I want to thank them again.

This afternoon we're going to be looking at best practices in Indian Country, and I want to introduce very briefly the names and the roles of the panel. The first speaker will be Sheri Freemont, who's the Director of the Family Advocacy Center for the Salt River Pima-Maricopa Tribal Community. And the program that the Salt River Pima-Maricopa people have created, that Sheri has helped create, I think is not just a best practice in



Indian Country, but it's a best practice for anywhere in the United States, in any community, whether it's tribal or non-tribal. So I want to welcome her.

Our next speaker is Tina Saunooke, Program Manager for the Safe Babies Program for the Eastern Band of the Cherokee Indians. I'm very interested to hear conversation about your role and the good work that it sounds like the Cherokee Nation is doing in the framework for creating a safety net for kids.

And then finally, Dr. Earl Sutherland, who was a long-time employee at the Indian Health Service, service unit for the Crow Nation in Montana. Dr. Sutherland and I know each other personally and have worked together on trauma-informed care issues in the state of Montana with the tribes of Montana. So I'm excited to have him here and welcome him and welcome his conversation about an adapted version of a Child Advocacy Center that he created for that Crow Nation that he hopes to replicate in a border town community that also serves Crow tribal members and Northern Cheyenne tribal members.

So, panelists, I'll let you get started.

SHERI FREEMONT: Thank you, Commissioner Zimmerman.

I'm Sheri Freemont. I'm currently the Director of the Family Advocacy Center at Salt River Pima-Maricopa Indian Community, where I've served for over three years. Previous to that, I was the chief prosecutor here in this community for seven and a half years, and before that I was a prosecutor in the state of Arizona doing felony work, child abuse, and family violence. I'm certified in federal Indian law, and I'm a member of the Turtle Mountain Band of Chippewa Indians. I'm also an Omaha descendant.

So we've heard already today about all the challenges and differences and barriers for Indian kids in Indian Country and the overwhelming bad news for tribal kids. However, by the small nature of a closed community, the fact that many of the people for this community that I've served for ten years are within the tribal boundaries and under the control of our tribal police, our tribal CPS, our tribal schools, our tribal courts, our tribal justice system, we've had the opportunity to kind of be creative about what we can do in what I call an exclusive agency, right.

So yes, you heard about the complicated world of jurisdiction, and it's true, it exists. But what I'm going to talk about today is the model we've created for the things that happen within our boundaries. So you're hearing about a small community of 10,000 people within the community, 5,000 of whom are children. Everybody knows everyone, right, that's a strength in the community. Many of the people view it otherwise but it's a strength.



So I have to wonder, and I think it's an important question, in some ways all tribal people in their communities are related, right, extended or otherwise. So how can a child die in a community such as this? How can that happen? With their family around, their neighbors around, an economically sound system with CPS, police department, justice system, and all these other things, how can it still happen?

Well, we were faced with that issue in 2008. Well, it was not the first two children that have died in this community, but it was the first one that got us to look inside and try to be creative. So with that, we have created what is our model. So while we reference the Family Advocacy Center, which is a location, it is a place which many of you had the opportunity to visit, it is where we bring children. It's a child-friendly, trauma-reducing facility to do investigations.

Fundamentally what we are is a co-located, multidisciplinary team with our core team members being CPS, police, prosecution, and the Family Advocacy Center staff all together, working every single day, day in and day out, on the same issues so that we are building those water cooler relationships, trust relationships, and learning from one another from cross disciplines, day in and day out.

So when we lost those two children in 2008, what was different in this community is that the elected officials, the tribal leaders said, "Okay, priority one will be kids first. That's for every single community employee, regardless of whether or not it's your duty to be CPS or your duty to be a child crimes detective.

"If your job requires you to accept a paycheck from this community, you're going to care about kids." And I think that that's an opportunity that all jurisdictions can learn from.

Of course, tribal leaders are politicians by trade and all politicians everywhere will probably say that they care about kids. But getting people to walk the walk is much different than being elected. So I'm proud to say that the tribal leadership that we've had here really has walked that walk. And one of the key pieces that I've seen is that they're open to learning, open to science and research, open to staff and data, and, "Tell us what can we do to do better."

And while true that stories and anecdotes make a big difference, too, they've been open to learning. And I think that is -- to be humble and open to learning is such a key aspect of any leader.

So for the purposes of today's meeting we want to emphasize how our MDT model is different. Yes, MDTs are our best practice, and advocacy centers are already accepted in general as the best practice, but we are slightly different because we've adapted and have made it fit our community. I would like to say that it's been an ongoing process, of



course.

In Arizona there are 22, at least 22 tribes. And we're a member of the Arizona Child and Family Advocacy Network, our advocacy center. And if you're familiar with them, we are the only tribally-based advocacy center within that network. Other tribes within the state use some of the other centers. So they -- a few of them use the Child Help Center in downtown Phoenix and some of them use the one in Flagstaff. But overall, we're the only one that's tribally-based.

I saw a report that indicated that the Southwest Center in Tucson, in 2011, reported that they saw six tribal children from Pascua Yaqui, and only 28 from Tohono O'odham. And that's really low, considering the population base and the rates of child abuse and neglect that we know happen in those communities.

So what that means to me is that most jurisdictions are still only using advocacy centers for major criminal events or investigations, right. The biggest distinction between RMDT and those is that we use our MDT process for all referrals that are requested. You can have a child who was wandering in the street and we will do a full MDT.

So is that a criminal offense? Maybe, maybe not. We don't know. But we will treat it as if it is, because we're not going to have any impact if we only come after the big federal-level felony cases. We want to have an impact at the low level. What we learned from our death of our children here is that there were a lot of red flags that were missed.

So this community has chosen to front-load the resources on low level referrals and grasp everything we can about the strengths and the risks in that family environment. Not just the home environment, but also the witnesses in the child themselves. Because we can't fix what we don't know, and they're not going to tell us if we can't respectfully communicate with them. So we try to also be trauma-informed, right.

So a small, close community where we're dealing with our relatively limited portion of the community anyways, we're going to know, by nature of our history here, some of their stories. Not just because it's in our databases but because you just can't un-know what you know, right. So if I'm dealing with a sex assault of a child and the reporting party walks in and I recollect that that person was once accused of a very horrendous crime, I have to remember today this is the victim.

And it's an important lesson for those of us in this system to understand that we are all people, too. So when I heard the question earlier today about why healing, right, as opposed to justice, I reflect back when I was a new prosecutor and it was all about justice.



But what I remember, and as I viewed in a tribal community, if jurisdiction means low incarceration rates, everybody comes home, right. And everybody -- the person who did the offense, while nobody likes what they did, a lot of people still love them and their absence is felt throughout the home. So even if it was because they weren't watching and the child died, it doesn't mean they stopped loving that person and feeling their loss.

And that's hard to understand when you're a police officer or anybody who is a first responder and sees the traumatic incident, because that's their frame of reference. Everybody else had 25 years with that person or 30 years. So we include that piece at our MDT. We want our CPS, our police, all of us people that are at that table, to come to the table representing their discipline but also their person.

I'm a mom, I'm a sister, I'm an auntie, I was a child, I was a grandchild, I am a grandchild, right, and so how does it feel to people? Because that's important. Because we can't respectfully relate to people and understand their story and their incident if we don't remember that. And nothing happens in just a closed, little incident, right.

We are collaborative. We want to help and ensure that every decision-making party or group or department, whether it be the U.S. Attorney's, the CPS division, tribal prosecution, or perhaps even the education team, makes a fully informed decision.

What we don't want to hear is, "Well, we would have made a different decision if we would have known that." And that was information that was readily available by another tribal department -- unacceptable, absolutely unacceptable. So if there are barriers that exist or at least are perceived to exist, as one of the panelists earlier described about sometimes people think that all of these laws keep us from sharing information, we want to knock those down.

We want to use our legal team to analyze is that true, can we really not talk about that, can we train every single person who has contact and eyes on a kid with whether or not they can make a CPS referral or not. What does that really mean? When are they protected? Does it mean the child will be removed, or does it become a part of the aggregate history that not only captures risks but also strengths? We want people to know that.

So what we do is we share the information, cross sections, to make sure that every decision is made for the child, also for the family, and also for the community. Those things all matter. And it's not the immediate result but also for outcomes. So we're an outcomes-based mission statement about -- so we don't like to be measured by how many convictions we had. We don't like to be measured by how many forensic interviews we conducted.



What does that tell us? That doesn't tell us anything about what happened to that child in the long run. I was thinking earlier what outcomes would I like to be measured by. I'd like to see a lower suicide rate. I'd like to see, in the long term, less kids in the juvenile justice system or even as an adult. I'd like to see less children being treated for PTSD [Post Traumatic Stress Disorder]. But those are difficult things to, difficult to relate to what we do at the center.

What I do know is that we have safer kids because we share information and it is a mandated commitment from tribal leadership for all tribal employees. One of the key pieces of our team is that we involve our education team. Salt River has its own schools, but we also place tribal employees in our nearby schools as social services liaisons. So they track our tribal kids, and they can say, "This child is having all of these incidents," and then think about it, reflect on it. Does this meet the buzzwords, the legal basis for, "I'm concerned for their health, safety, and welfare," right?

Training them to understand the semantics or the terminology of when they're allowed to make a CPS referral and not just shutting them down. Bringing it to the table and saying, "Is this new information? Is it isolated or were you guys already worried about 17 other things that were going on," and this is going to push that decision?

That piece means that we know what's going on, and we don't want to recommend a death review or look at a dead child and say, "But four other departments knew something was going on but nobody felt like they had enough information. Nobody felt confident that abuse was actually happening," right?

So of course we -- one of the things that makes us different, like I said, is that we are immediate and we will meet on any low level referral. So we will put -- before a child is removed from a home, at least six, seven, up to 20 people have met in that case and advocated and shared all the relevant information that's legally available to consider what's there, right.

And so as I say, we try to treat the children of the community as our own children. So if somebody was going to try to take my child, whether it was valid or not, I'd like to know that at least more than one person or even two people were involved in that decision-making process, that they thought about what it would do to the child, what it would do to our family, not just today but in the long run.

And we do that. We do that for Salt River children. Now, I cannot yet advocate for our reunification or service programs. We are still in the creation phase or improving those phases. So when the quote about -- I wanted to touch on -- I feel confident that the removals that we did, which are a lot or appropriate, that's because we don't have -- well, we are doing much better now, but for most of those children, the only reaction for safety decision was removal because there were no remedial services to



put into place.

It doesn't mean that all those children had to be removed, if we had other programs. And I think that that's an important distinction, because many places are unaware of service providers, are unaware of in-home services and those types of things. So therefore, because they're so worried about safety, removal is the only answer. And as a prosecutor who's been to autopsies and seen dead babies and just been through the horror of it, I can see why that's a reaction.

What I would love for prosecutors to see is those babies that are removed and cry for their parents, that want to go home, that are scared in a place they've never been with people that don't look like them, "They can't pronounce my name right," right? I want us all to understand that there's that piece, too, and it is not easy.

So it does take a team. CPS makes their own decisions. PD makes their own decisions. We're just making sure they have all the relevant information and make the best decision that they can on behalf of those kids.

Some positives -- we share good news when we have a success story. There is nothing better to me than freaking out that we have this horrible story and that child comes in -- and we do a forensic interview on every child, whether it's criminal or not, and it's nothing.

That's great news. Hopefully we didn't traumatize him in the process, but I love when we discover, "I feel confident that that child is safe." I love it. We want to share that good news. Or we want to hear about parents that reflect back and say, "You know what? I was on the cusp. I wasn't doing very well. But thank goodness you guys came in because I don't know." And we hear that. And that's great, and if we can get in on the lower level cases, maybe we won't be surprised.

We have the opportunity to let officers learn what it is that CPS team does, and CPS learn what the risks and measurements are of what a police officer does. And our education team can share information about what life looks like for these kids in the daytime and what they're being treated like in the schools. And we can really weigh what all that is.

I think it took a lot of work, technology, policy writing, reviewing the legal drafts, and mandated cooperation from leadership, right. Because I'd like to say that everybody just got on board and said, "Yeah, this is great," but that didn't happen. It was really hard. But tribal leadership said, "This will happen," and we've made it happen. I think I'll close for now and then answer any questions later.

DR. EARL SUTHERLAND: Thank you. I want to talk about some wonderful things that we



have done and then I want to tell you that I'm a failure.

I'd like to tell you that I'm proactive. My original training was a child clinical psychologist. I became a prescribing psychologist, and all of that wasn't supposed to happen. I came to Indian Country twelve years ago, thinking that I'm going to wind down, never going to be in charge of anything. I just wanted to do some clinical work and kind of fade.

So in 2006, I was working as a psychologist at one of the satellite clinics for Crow, and a 13-year-old girl came to me, and she had done everything right. She reported being sexually abused by her mother's boyfriend.

We didn't have a Child Advocacy Center then. There was an FBI forensic interviewer who could fly in from Denver, if everything went right. And so I sat on my hands, trying to do the best I could for her, but I can't ask some questions because that might mess up the prosecution, et cetera, et cetera.

So she hung in there with me for six months and then looked at me and essentially, in very graphic language, fired me, saying that she had done everything right, and she couldn't see her mother, she couldn't see her sisters, the boyfriend was still there, and she's the one who's being blamed for destroying the family.

That's when we decided we'd do a Child Advocacy Center. Some amazing things happened. Two service unit directors from two separate services unit, one on the Northern Cheyenne reservation, one on the Crow, pediatricians from both service units got together. And this was largely spearheaded by an unsung hero who happens to be a Crow tribal member but is also the FBI victims specialist.

So we did that because we were outraged, and I'm embarrassed to tell you that, because I should have been proactive. I should have said, "This is the right thing to do," and I just got fed up. I got into trauma-informed and I picked up an additional license, went back to school when I was in my something or other 50s, because we lost our child psychiatry contract.

And over and over again I would see Native children who were heavily medicated and diagnosed with heavy duty mental illnesses when they'd been ripped out of their home, dropped somewhere else in contravention to state and federal laws, and you scare a child sufficiently and you traumatize them and they have all kinds of behavioral problems.

So I didn't do that to fix anything. I wanted to prescribe so that I could un-prescribe. So I don't want to stand here and tell you that I am an advocate or forward-thinking or anything. What really embarrasses me is in 2007, I got a National Directors Award from



the Indian Health Service and they gave me the credit for what our team did. But you can't say "No," so I stood up there and I have the plaque and my team members will accept the plaque.

A little later on I was given a national award by the director of the FBI for community service, and I asked again if they would please make that a team award and they didn't do that so -- I think it's easier to send a little short furry-faced white guy up there because I'll wear a tie. The point of all that is it's a team and I would like to tell you that it's a competent, capable system that makes things happen. And it's not true in my part of the country. It's individuals. It's not rules, it's not procedures. It's relationships.

So we hung in there for ten years and our model basically boils down to Legos. And if you've ever played with Legos, you put them together and you make something. And then if you still want to play with it, it's there.

There's this other cool thing that you need so you take it apart and you put the pieces together differently. That's a model that works for us because we don't have anything, enough. So we didn't have a building. We didn't have funding. We made our Child Advocacy Center with a total amount of \$5,000, that was donated in terms of equipment from the FBI Indian Country unit.

A little later on, amazing things happened in the state of Montana. The Attorney General decided that tribes really are part of the state and suddenly Native, tribal MDTs got votes. Our Child Advocacy Center state chapter has representatives from CACs and MDTs in Indian Country. So we didn't have any money but what we had was dedicated people who got aggravated enough together to where we could work and do things.

So now I'd like to be offensive to everyone. You asked someone earlier if they were being too nice, and I'm too old to do that anymore. So my Child Advocacy Center doesn't exist anymore. I lost the support of the administration for my service unit. I left the IHS, fortunately being able to retire since I reached 65, most likely before I was going to be fired because I couldn't keep my mouth shut anymore.

It's very easy to bad mouth the Indian Health Service, and there are many misconceptions. Number one is that somehow it's a monolithic organization and if Rockville shakes their finger, that's going to happen and spread throughout and that's not true. Individual service units vary, like many other things, in terms of the capabilities of their administrators.

You've heard wonderful things from tribal programs, and the one thing I would ask you to remember in common is what they have said, which is the tribe took responsibility for things. Being a state program is not synonymous with being either competent or



well-managed. A federal program is not synonymous with being either competent or well-managed. And being sovereign also is not synonymous with being either competent or well-managed.

I have hope. We have a younger generation of leaders in the Crow Nation. Our chairman adopted a developmentally disabled child way before it was popular to do so, has hung in with that child and walks the walk.

Unfortunately, we have many, many problems in Crow, and one of them is an acute housing shortage. So someone asked earlier -- I have slides up. My first grade teacher, Mrs. Lamb, worked very hard to get me to be able to read, so if you'll just flip through the slides, everybody else can read and I won't read them to you.

But what has happened is very common, that you may pull something good together. If the tribe does not accept responsibility for it, if the tribe does not own it, it's not going to last. And I'm saddened by that. So I'm going to try to do it all over again just over the rez [reservation]. But what happened is, in hindsight, pretty predictable. To do prevention, to do work in child abuse, it's neither glamorous and it's very expensive. CAC saved money. There's lots of data.

Earlier I wanted to be the little boy at the back of the class raising his hand and saying, "Ask me, ask me." I was on the board of the Native American Children's Alliance. I'm our representative when we go to DC for the National Children's Alliance. I have a wealth of information.

But the bottom line is reality in the trenches is dramatically different. You asked about healing. Healing is important because we can't ship all the kids out. I was asked to speak on behalf of grandmothers when I came here today because we've burnt out our grandmothers. We have great grandmothers now on their fifth and sixth round. And couch surfing is a pejorative term but it's reality. There are three or four families in one house.

Another friend asked me to remind people that a strength can be a greatest weakness. So the strength of the Crow people is the family and it's also the weakness. And I can rail you with stories, but the bottom line is we have nowhere to send children. If we wanted to dump every child into foster care, we'd have no more left on the reservation. If we wanted to send the children somewhere safe, we have very, very few safe places on the reservation. And not because people want to hurt children but because they care about their family.

The other one is there isn't a whole lot of difference in people who kill because very few murders are premeditated. They're most often impulsive acts and substance abuse is rampant.



So if we don't support families, if we don't give mothers a safe place to live and provide treatment for them, and, by the way, let them have their children with them and let's give them a coach, let's give them a mentor, let's teach them how to be competent parents, but in a safe place to where they can have clothing, they can have food, and they can be safe. So that's why healing is so important, because we can't get enough resources to be punitive or to do anything else. We have to build this talent and the abilities within the tribe.

Lastly, I want to sound overly dramatic and I apologize for that. I keep thinking I'm too old to be overly dramatic. I also sit on the Child Protection team. We have a joint team for the reservation and for the off reservation community. In the last three months, 80 percent of all our cases have involved meth. When I first came to Crow Hospital, I, psychologist, data, whoop de do, so it took a while to get me credentials so I went around gathering data.

That was the first big meth crisis when meth houses -- bad, bad, bad, what happens, and lots of money and interventions. So I looked at our ER logs. And we did a great job. We dramatically reduced the incidences of overdoses coming into the ER for people under age 20 and for people over age 35. We never made a dent, and this is going back ten years, in the overdose of the parenting age folks and we're not making a dent now. And it's really frightening.

So I no longer have a best practice. I no longer have anything, but I'm going to start over again. And I strongly encourage you to listen and to remember what you've heard from the tribal programs. If the tribes don't accept responsibility, you aren't going to fix it.

And lastly, the reality is that grants that -- special money and special programs from my part of the country are jobs programs. There's no housing. The only source of income is either a tribal job, you work for a federal agency, or you don't work. And so the implications of that are frightening. There are elders who are held hostage by their children because the elders' disability payment is the only source of income for two generations. The house that's in the elders' name is the only source of shelter for three or four families.

So when you say, "Here are the rules and play by them," that doesn't match the realities of survival. You get elected in many tribal communities by the size of your family and the way that they vote. We're talking survival. We're not talking about bad people, or, "I don't want to play by the rules." We're literally talking are you going to have a roof over your head, are you going to have something to eat?

So there are many good things that work, but I have a list of what I think are the



summaries for that and I'd be very happy to answer any questions that you may have.

TINA SAUNOOKE: Good afternoon. (Greeting spoken in Native language.)

My name is Tina Welch Saunooke. Sorry for my voice. I lost it on the way out here and am still trying to find it so bear with me. I do have a PowerPoint and I'm so thankful for that because I will try to keep my voice going as long as possible.

For the last, since 2009, I've participated in a special team program for the Eastern Band of Cherokee Indians, which is our Safe Babies program. And I've lived and resided in the Cherokee community my whole life.

Just a little background. I have served in a number of positions within the tribe, serving children and families such as family support services, new and adolescent parenting, parenting support program, was the distributor of Early Head Start and Head Start for a number of years where we were fortunate to do a Cherokee total immersion program for babies and an infant mental health program there as well. And served as a coordinator for adult ed and secondary education and working with teenagers and young adults looking forward to going to college, and to present, doing the Safe Babies program.

So we're going to talk about improving outcomes for infants and toddlers. And just a note, we were re-awarded in March for a year for a new full-time position. So we're looking forward to bringing that person on. We have some new partners at the table in regards to zero to three and that's the quality improvements in our research base for infant toddler core teams. That's a long title.

So we look at three areas, which is dissemination, research, and policy evaluations. And a couple of those partners include the Center for the Study of Social Policy and the National Council for Juvenile and Family Court Judges.

The biggest percentage of children in foster care are under the age of three. Infants and toddlers comprise the largest cohort of young children entering foster care, and infants stay in foster care longer than older children. It's important to note that the longer the child remains in care, the greater likelihood that she will experience multiple placements. Placement instability greatly increases each year the child spends in care.

Once in care, infants and toddlers are more likely to be abused and neglected. Half of the babies who enter care before three months spend 31 months or more in placement. There's an 88 percent chance that once a Cherokee child is placed in the state's custody and placed into foster care, he or she will not be reunited with his or her parent. These babies are spending most of the critical period of development in an unsettled living



situation with inconsistent care given.

What we know about maltreated infants and toddlers, they are the most likely to be maltreated. Under the age of one is the greatest risk to be victimized, most likely to die from maltreatment. Every 13 minutes they suffer from abuse or neglect. And every seven minutes in the U.S. an infant or toddler comes into care. And also, locally, the rate of domestic violence for Cherokee families is 21 per thousand, which is more than twice the state's rate of 6.4 per one thousand.

And also, the American Indian population in Swain County -- let me back up, our reservation covers a number of counties, and Swain and Jackson County makes up the largest population of our reservation. The American Indian population is -- one county is 38 percent but accounts for 52 percent of the substantiated child abuse and neglect cases. In Jackson County, the American Indian population is 17 percent and accounts for 25 percent of child abuse and neglect substantiations.

So they suffer more placement changes than any other age group, and the majority of them live in foster homes. What that tells us is that young parents, impoverished parents have the greater likelihood of abuse.

What we'd like to look at is that brain architecture builds early. You've heard it said and we all know that it starts in utero. And then the quality of prenatal care, environmental influences, and maternal stress can impact the brain development. After birth, during the first years of life, a baby's brain develops basic thinking and reasoning capability capacities in the brain regions for governing, planning, self-control, and emotion, and they actually develop very rapidly.

The pattern of brain developing incorporates experiences, both typical human experiences, such as sound, language, and movement and gravity, and that individual experience which is nurturing or, in some cases, abusive care, each of which shape the brain's development and strengthens certain neural pathways, which allows others to erode if not used.

So if you're a mom, pregnant, and experiencing DV on a regular basis, just imagine what the baby's first experiences are going to be, even before they're born and that continues after the baby gets here. So they're not coming into a warm, stable, safe, nurturing environment. It's hostile.

So the influences, you know, a double-edged sword, those early experiences can either help create a sturdy foundation for later learning and behavior or delays in learning and be more difficult to rewire later in life. When early experiences fail to support an infant's desire to learn and grow and succeed, a child's motivation diminishes and problems begin to emerge.



We all have good levels of stress. There's always a need for cortisol in our bodies to help us get moving in the right direction. Toxic stress over the long haul is not good. And when it happens, when a baby can't get back to normal, and even worse when they are uprooted and removed from what they know and there's absolutely no familiar thing around them, it's hard to bring that baby back into balance.

So how are these changes manifested in infants and toddlers, their social and emotional development? They can be easily recognized in the form of flashbacks, nightmares, prolonged tantrums, regression, attention problems and depression, amongst others. It creates a cycle of reoccurrence of maltreatment in a home without re-thinking intervention and multiple placements within the child welfare system, without providing training and support to foster parents and job care providers.

So it's a vicious cycle. If we don't offer support to those foster care parents that are taking in these children, when they have a child that has PTSD issues, then we're really not moving forward in the right direction.

So some of these products of toxic stress we need to consider when we make behavior modification plans prior to removal from a class or a center. We have babies that are coming into care as early as six weeks old in Early Head Start and other early childhood development programs across the country. So we look at knowing the root and consideration of behavior manifested and should be able to generate a plan on how to address the behaviors amongst staff and meeting with caregivers to create a consistent strategy for addressing these issues.

We look at considering a referral for child parents, psychotherapy parent/child interaction therapy, if the behaviors are severe. But there also has to be that kind of training in these federally funded programs, like Early Head Start and Head Start, to be able to recognize this is not just a troubled child, but there really might be some more deep issues going on at home that warrants conversations with families and checking in when they come in.

It really is a partnership when children are placed in other care. So where do we come in? Zero to Three Safe Babies is a national nonprofit organization that informs, trains and supports professionals, policymakers and parents to help improve the lives of infants and toddlers. Our mission is to help professionals and policymakers and parents promote healthy development of these babies.

It is a systems-change initiative focused on improving on how the courts, child welfare agencies, child advocates, healthcare professionals, and related child service organizations work together, how we share information and how we expedite services for young children.



We have to continually look at the ten top protective factors that reduce the risk for children in the child welfare system. In working with families, we can look at that at the individual level, what's going on in their immediate families at their relationship level. Who's their best parent? Who's their best support systems? And in the community what's that extended network that's made up around them, where they go to, after they go home or what happens at nighttime, in any case, is that a positive influence or not?

When we look at how we put it all together, it's designed to promote the best of outcomes for infants and toddlers who have been removed from parental custody due to abuse or neglect. This is done by, one, increasing the awareness of all those who work with maltreated infants and toddlers about the negative impact of abuse and the impact on very young children.

It's not surprising anymore to me when we go in and start talking to moms about what's going on in their home environment, and to them it's normal. Because it is such a historical violent cycle that they've grown up in. If moms and dads went to boarding school or day school and they were mistreated for speaking their language, if they were beaten, if they were sexually abused, then it's no wonder parents don't know how to parent.

Secondly, changing local systems to prevent outcomes and prevent future court environment in the lives of very young children include monitoring foster care cases involving infants and toddlers. We have to continue to work with our local DSS agencies sooner rather than later and that means improving relationships.

We look at providing opportunities for increased visitations with visit coaching. Currently, because of the number of caseloads that our local DSS agencies have, they count one visit per week good, if they can have them. If not, it's sometimes once every two weeks.

So I'd just start out with the get-go, that we recommend three visits at a minimum per week. If the caseworker is not available, then let's look at other ways that we can make that happen. If that means somebody from our agency, myself or a grandparent, then how are we looking at home visitation and increasing it? If we're talking reunification, then visits may be started as early and soon as possible.

Also, we want to build in a concurrent plan from the start. We recognize that not all babies are going to go back home with their parent, but we ask, with the end in mind. With babies, we do have to ask them, if you're not going to take this baby back home at the end of this court, who's most crazy about the baby? Is it granny? Is it auntie? Is it where the child is placed right now so we can have successful placements.



CHAIRMAN SANDERS: We're going to have to wrap up in just a minute.

TINA SAUNOKE: Okay. So our Safe Babies' core teams look at integrated models with the end in mind, that we want to cut down the time for permanency, to get children placed into homes as soon as possible, to work with our moms on an intense level so we can help make that happen by surrounding them with the selected resources that they need to make that happen.

And we look at involving the judge, involving our community court team which meets monthly, and going back to the court system every six weeks as opposed to every three months to really monitor cases so we can have case closure as soon as possible. Thank you.

CHAIRMAN SANDERS: Thank you.

(Applause.)

CHAIRMAN SANDERS: We have a number of questions, and I think we might have a little information about the funding of the CACs, which I'll get to in a second.

Commissioner Rodriguez.

COMMISSIONER RODRIGUEZ: I have a question about -- I was really interested to hear what the focus of the panel was going to be, because I know one of the things that we're struggling with on our subcommittee is what intervention is actually available to assist families and to assist children.

And after hearing your presentation, I'm hearing that sort of the primary intervention is removal and placement in foster care currently in the existing system that we have and that -- I looked at your slides as they were zooming past, and so it sounds like it can either be a really ineffective intervention when systems don't have capacity and they're forced to either use caregivers who are substandard or resort to things like congregate care, which have a particularly historical detrimental impact on families who are from Indian Country because it's just replicating the similar situations on children who don't get parenting.

But it also sounded like in your presentation you were talking about how caregivers could actually be a positive intervention in terms of young children, both healing, but then I also heard, and maybe I'm piecing it together in terms of mentoring the parents, and being the ones, sort of the elders who are teaching the parenting to struggling young parents.



So I'm just wondering if any of you could talk about how you've seen that work, when foster care is a positive intervention for families and for kids, and what type of systemic supports are necessary to really promote that and facilitate that.

What can we as a Commission recommend that would help, if -- right now -- I mean, I think we're going to get to the point where we recommend some other interventions as well.

So hopefully we don't just have to rely on foster care. But if foster care still will be the intervention for a number of children, how do we really make that intervention a meaningful one that helps both families improve their parenting and helps children heal?

EARL SUTHERLAND: I'm not shy or retiring so I'll be rude and jump in.

There are two separate components. The -- I was talking with the lady from Cherokee who was a former prosecutor and she beat me to the statement which was Henry Kissinger's response to the strategic arms limitation which was trust but verify.

So the first part is having a safe place to go, and then the second is what happens in that safe place. And unfortunately, in my part of the country, there's an assumption that if it's a Native family, it's competent. And I don't mean that as an insult, but what they need is ongoing monitoring and they need ongoing support and training.

It was a delight to hear about the Cherokee intervention. We have a Best Beginnings program in ours, and if we can get one visit a month, that's great. But we -- it's an at-home program, and we don't have a home, but the funding requirement, you should go to the home and do that. Well, chances are if you've got a home, you don't need the services as much.

So the two components are critical. What are the services that are going to be there if you're in a foster home? And then who's going to monitor and ensure those services are adjusted, modified, added, subtracted, if the foster placement does occur?

TINA SAUNOKE: I'll just quick add to that, when we look at the eastern development of our use of foster care system, we'd like to have levels of care in our community, foster care being last, but look to relative care, and that we could have some tie-ins to those families and still go in and have a look-see to make sure the child in relative care is in a safe and stable place. And also guardianship care where we can have legalities with those caregivers.

When moms have opted out and abandoned children, that there's that level of care, as well as foster care, and that we need to support our foster care families. We need to



check in with them and ask what's going on and offer them additional trainings.

How do you handle a child with PTSD in your home? Who can you call during the daytime or at night and not just get a telephone number that says, "Dial 911"? But there's actually a human voice on the other end of the call, because when those crisis happens, it's usually after 9:00 o'clock p.m.

Foster care parents could come together. That's the thing that we've heard in our community most of all. Where's our support group for taking in these difficult children and how can we help them? Not to share all the bad and the ugly about it, but to know that there are go-to people and some of them will have different levels of care and are we respecting that when we put children in their home.

Do they want respite care, do they want full-time care? Do they want just teenagers? So we really have to be sensitive and ask those kind of questions, too, of our foster parents.

COMMISSIONER RODRIGUEZ: And the foster parents working with and mentoring birth parents, are you seeing that at all happening in your communities?

TINA SAUNOOKE: I am, and we just got to go -- we were working on a PSA [public service] announcement for foster care that I hope we get to show this weekend.

And when we went to the foster home, the mom and dad had had over 232 children in their home, and now that they're getting older, they wanted to move to respite care. And when I was looking at the future of all the children that they've had in their home over the years, I said, "I know this little boy," and she said, "We just kept him last week." So they are forming those relationships when children do get to go back home. Or if they're still in another kinship placement with an auntie, then they're maintaining those lines of communication and our being a support system for them.

CHAIRMAN SANDERS: I had a question. I can't remember if it was Earl or Sheri, but you mentioned CACs save dollars. Was that you?

EARL SUTHERLAND: Yes, sir. The national CAC.org is a website. They collect data and other things and have details in general. If you go to a CAC, just in terms of the healthcare savings, it averages \$1,200 per child.

The other is that CACs, it's helpful to think of them in terms of a team, the home for the MDT. So you've heard mentioned coordinated services, coordinated investigation. So CACs reduce trauma in terms of you have only one interview for the child. Children who go to CACs are eight times more likely to receive a forensic medical examination than children who don't have access to one.



CHAIRMAN SANDERS: It seems like we have information on outcomes related to the functioning. But the dollars, can you say a little more about how dollars are saved?

EARL SUTHERLAND: So let me try to bring that up. So there are multiple ways to measure dollars. If you think just in terms of cost of prosecution for investigation, if you don't have a coordinated investigation, the case gets handed off to someone else. You now have, over time, having to play catch-up.

So for CAC case processing time, 80 percent of them are done within one to 60 days. If you stretch out the investigative time, cold casework and other things, I forget the term economists use, but I believe that's an opportunity cost. For our CAC at the Indian Health Service we provided our services to eligible children. So to go out and receive a psychological evaluation, Medicaid billing rate is \$120 an hour. On average it's two to three hours to do an evaluation. And that does include the interview time to, for instance, gather history from a non-offending parent.

And if you then think in terms of clinical social worker, Medicaid rate can vary from \$80 to \$100 an hour and the clock's ticking for each separate service. And I'm not giving you the detailed dollar amount because I'm trying to pull that up. In terms of the cost of benefit analysis from the National Children's Advocacy Center, average per case cost for CAC investigation is \$2,902. For a non-CAC investigation it's \$3,949. And that's before you get to any treatment components.

CHAIRMAN SANDERS: Thank you, it's helpful to have that raised for us.

Let me just mention -- and then see if we have any other questions. Earlier there was a lot of discussion about the CAC funding and what had been proposed over time. And you don't have that at this point, but there are three possible federal funding sources that are used.

So it's not just the one funding source from the Crime Control Act of 1990, which I believe -- the Victims of Child Abuse Act, which I believe is the reduction that was talked about earlier, the zeroing out using that. But there's a Victims of Crime Act, Crime Victims Fund that's used to fund CACs apparently, or could be, and the Children's Justice Act.

So we need a little more information, it seems, to get a sense of what's actually been proposed and how much is going to the CACs, unless there's additional information anybody else has.

EARL SUTHERLAND: I can provide you information on Montana, which is only specific to that. So the recurring message you're getting is it's complicated.



So for rural areas, funding through the National Children's Alliance is critical if there is no state-supported funding. So Utah, the state funds Child Advocacy Centers. In Texas, the state legislature has direct funding for Child Advocacy Centers. In Montana, we have a state chapter, the NCA. Each NCA certified center receives approximately \$10,000 direct. That's passed from our state organization through -- our state chapter receives funding from NCAA. We have the Attorney General's office providing a match for that \$9,000.

So we were able to take that money and go to remote rural areas and provide MDT training, recording equipment, and other things. If that funding dried up, Montana would have all funding essentially for Child Advocacy Center services and MDT training and support services cut in half, if not completely gone.

CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: Sheri, I have a question. This is maybe for all three of you. Do we know how many Child Advocacy Centers serve American Indian and Alaskan Native communities nationally?

And then, Sheri, could you describe why you don't use the Classic National Advocacy Center guidelines or policies, why you had to adapt for your tribal community?

SHERI FREEMONT: I was going to mention with respect to the funding, for instance, Salt River is exclusively tribally funded at this time. There are nonprofit agencies that could support us. There are some states that have line items based on fines, et cetera, that can go towards that. So there are some other sources.

But for us, we chose to be tribal. I don't know the exact answer to how many there are. What I will say is just because somebody says they're an advocacy center does not mean they do the same thing as the other ones.

And so for instance in Tulala they have an advocacy center, but it doesn't have a fully functioning multidisciplinary team. And so in Indian Country, the ones that I'm aware of that operate the way we do, we're the only ones that operate the way we do.

Many Indian kids don't just live on reservations. So Indian kids can be served anywhere. So when I heard the statistic earlier about 185 reported that they serve tribal children, my guess would be that that's because those kids might not live in urban areas. I don't know that they were in relationships, former relationships with tribal agencies.

We chose to adapt because what we don't -- I sort of mentioned the NCAC model or the National Children's Alliance Model in some ways focuses on conviction rates and justice



rates and their perceived idea of what justice is.

So the outcomes that are measured don't necessarily fit a tribal community. If I said my goal is to put some measurements on well-informed decisions, how do you measure the minimization of trauma? How do you really measure that? How do you really measure whether or not you've protected a child, if you didn't remove him?

So you can measure how many cases you investigated. So when we would submit, we would say, "How many cases did you investigate, how many resulted in this?" But I don't know that that means success. You can do a hundred investigations badly and still record a hundred. And some of those might even get prosecuted because some prosecutors decide whether or not to prosecute a case whether there is a reasonable likelihood of conviction, which has nothing to do with whether it was best for anybody.

So ours was based on long-term community values. In our mission statement, it talks about honor and tradition and the cultural values of the community, which is long-term well-being for the child, family, and community, which is difficult to measure.

I will give a lot of credit to the advocacy center for the concept, the idea of protocols and collaborations and competency training, et cetera, but understanding that our measurement and our mission is different. Ultimately, we want to reduce risk to children.

One concept was how do you work with kids who are removed? One of the best ways I think to work with children who are placed in foster care is to truly understand your parents as much as possible as you make contact. Because you're building relationship from the very beginning.

So if you understand the possible victimizations or traumatization of the respondent parent, maybe you're going to have a better chance of getting best information. Whereas if you go in angry, you go in judging, as a police officer with my badge and my -- we're not building relationships. And so I think it's all connected in the sense of best outcomes. Trauma-informed, culturally aware, and trying to get the best outcome.

CHAIRMAN SANDERS: Commissioner Petit.

COMMISSIONER PETIT: Going back to yesterday, and related to what I was just hearing. You have 400 children in out-of-home care and the cost is about \$10 million. That's about \$25,000 a year per child. Does that include the staff apparatus, the administrative support. Does it include treatment services?

SHERI FREEMONT: Yes.



COMMISSIONER PETIT: Mental health services?

SHERI FREEMONT: Well, placement services. And that's not an exact number, it's a guesstimate. But I would say the ten million, when we talk about that, is placement cost, which could include treatment if they are in a residential facility.

COMMISSIONER PETIT: Would it include services to the parents?

SHERI FREEMONT: No.

COMMISSIONER PETIT: So it's basically services to the kids and the support of the foster?

SHERI FREEMONT: Yes.

COMMISSIONER PETIT: And are the 400 mostly on the reservation or are they outside this reservation?

SHERI FREEMONT: Most are out. But I want to remind, that of those children, 45 percent or more are with relatives and some are even still in home but they're still in care, legal custody.

We are making dramatic increases in having out-of-home off reservation placement. But out-of-home off reservation placement is very expensive. Especially if you're talking about treatment facilities, residential treatment facilities.

COMMISSIONER PETIT: I'm just thinking of the payment rate to the families that are caring for the children.

SHERI FREEMONT: Kinship care is what we would refer to that as and it's slightly different. It's comparable but not as significant as the out-of-home placement cost.

So we do support families in this community. Families who take in relatives, they are supplemented. They are eligible to be supplemented for funding to have extra children in the home. Because that can be a barrier, unfortunately. It's a reality of having more kids. Well-meaning relatives have had to say, "I can't take kids because I can't afford them."

COMMISSIONER PETIT: Are the tribes reimbursed under IV-E for any of this care?

SHERI FREEMONT: Some tribes are eligible, can be eligible, but it's a very complicated process with a lot of regulations and rules that many tribes are uncomfortable with, unfamiliar with, and unprepared to apply for.



COMMISSIONER PETIT: Are you drawing it down? Do you use IV-E?

SHERI FREEMONT: Salt River is not yet. We have a planning grant to ultimately apply for such a grant.

COMMISSIONER PETIT: So does the tribe self-fund on this?

SHERI FREEMONT: Yes. We are a gaming tribe so we are wholly funded. Not only is our center wholly tribally funded, but our programs are tribally funded as well, which is significantly different than most tribes in the nation. I just want to keep that clear. I don't want to represent that it's easy for tribes. It absolutely isn't. This tribe is situated differently, which is why we've had the opportunity to be creative and progressive.

CHAIRMAN SANDERS: Commissioner Rodriguez.

COMMISSIONER RODRIGUEZ: I wanted to ask a follow-up question about something you mentioned yesterday about removals, case reviews on removals.

We've had discussions and heard testimony about case reviews, obviously, on fatalities and also on near fatalities, but yesterday was the first I've heard around sort of a multidisciplinary response to doing case reviews on removals. It was a very interesting concept. You were saying you wanted to know how it got so bad to the point where you actually had to step in and do a removal.

I was wondering if you could speak a little bit more about do you do that on every case. Are there certain cases that trigger it? What type of findings have you found, and how have those changed your practice over all?

SHERI FREEMONT: So, for instance, on a low level neglect referral, and I say low level, an unattended child or a grandmother who's not making it to all of her IEP meetings and this kid is acting out, well, you don't see plain physical abuse, plain neglect.

We will -- that can come to our multidisciplinary team as a group and we can flesh out the referral. And I like to make sure -- because as that family has mentioned, there may be more critical information. So if somebody's holding onto that, because they're not quite sure they have a concern, but CPS already has seven other mini concerns, this might be the one that pushes this over.

So we can talk about what interventions have we previously tried, because everybody might be treating them as a first-timer, everybody might be treating them like this is their only barrier. Meanwhile, PD can say, "Oh, actually we've been at that residence nine times this year," and nobody else knew that.



So we want to flesh out every referral and make sure that PD, education, prosecution, and CPS and whoever may be a critical party there, are sharing the critical information if it's legally available in the best interests of that child. So we will do a full MDT staffing on a wandering kid, a truancy referral, or a kid who keeps getting arrested for drinking.

COMMISSIONER RODRIGUEZ: So maybe I misunderstood. So your case reviews are happening in real-time to determine --

SHERI FREEMONT: Yes.

COMMISSIONER RODRIGUEZ: So I thought you were talking about case reviews that happened at the point of removal, looking backwards to say how did we get to the point that we had to remove.

SHERI FREEMONT: We can do that as well because we also do reviews. So we will also say what worked, what didn't work, what was successful. Because sometimes what we'll find in this community is even though it's a CPS-dominated case, that family has a strong relationship with the education and social worker.

So that person may take a lead in helping that family get to the intervention programs because there's already a rapport there. We've had cases that police have a good rapport with that family for another reason. And so we want to find the strengths and do that, but make sure that it'll still be consistent in using actual evidence and not just gut instincts or wishful thinking.

So there are -- to be fair, we're represented on that team by some people who are very afraid that children are going to die, and then we have other people on the team that are on the other side that are worried that removal is always bad. So we have to really negotiate through those discussions.

COMMISSIONER RODRIGUEZ: But you're primarily using them for the purposes of making a decision about how to proceed with that individual case as opposed to looking for like sort of system level challenges or barriers that you can address in future cases, is that correct?

SHERI FREEMONT: If we run into an issue where somebody says, "Well, I tried to do this but the school wouldn't tell me," and somebody else says, "Yes, that's happened." Then we see a systematic barrier that we will take away, research, and fix. So we identify case-specific barriers as well as systematic barriers.

COMMISSIONER RODRIGUEZ: Thank you.



CHAIRMAN SANDERS: Commissioner Covington, and then I think we'll close with Commissioner Petit.

COMMISSIONER COVINGTON: Sheri, you had mentioned that -- and I don't have the quote down exactly -- but the fact that you feel that there's a lack of remedial services, and that's, you said, one of the reasons why the removal is so high is there's nothing there to back up.

What, in your dream world, would be there in terms of remedial services for families?

SHERI FREEMONT: Well, one of the main -- I would love to see more pregnancy prevention early on with children, because a majority of our children that come into care were unplanned and unexpected and unprepared for.

But we are offering a program that is in-home based. When the risk level is such that we can do in-home services, includes a behavior coach, a therapist, and a case manager, a team of three per family, and then those teams are maximized at four families. I think that's going to be highly successful -- in-home, accessible, and culturally respectful and therapeutic all the way around. I would love to see that in the long term.

I think it's also important that we really assess -- the system has been slow to understand that parents need a psychological assessment or some sort of trauma assessment early on to understand what are we really working with.

You can see substance abuse by seeing alcohol bottles and the rest, but what's really going on is the hard part. And it's very difficult to identify it because judges are resistant to order the tribal communities without feeling overly invasive. So they don't do it or it's not asked for.

So really getting behind the issues, getting behind the substance abuse and treating that. Treating substance abuse is a band-aid, because there's something more that led us to that. So I would like to see more deeper investigations.

CHAIRMAN SANDERS: Commissioner Petit.

COMMISSIONER PETIT: In North Carolina, I presume that you're -- I presume you're somehow affiliated with Zero to Three in Washington, the national, but you run the tribal version in North Carolina.

Do you know if either you or Zero to Three nationally has conducted any kind of control group outcomes showing that -- I mean, I imagine you're not having very many child



abuse deaths in your community. I'm assuming if there are any, it's a very small number, right? Yes.

But you're doing some other things like presumably reducing the number of children that you refer to CPS or taking CPS cases and helping them not repeat. Have you or national done something on that that shows what those numbers look like, especially maybe against maybe a control group?

TINA SAUNOOKE: There's been two studies done so far Zero to Three, not locally. James Bell & Associates looked at the time to permanency and reducing the number of children that are in foster care, and the stability piece of that in 2011. So our tribe, because we come on in 2009, that study was already being looked at so our tribe wasn't included.

And there currently, Kim McCollum did another follow-up study I think in 2013, continuing to look at time to permanency for children that come into the foster care system. And are they going back home, are they staying in foster care, and what are the means of support around those children? And how are the courts involved, how are the multidisciplinary teams involved? So that's why we look at it from a sick baby's perspective as really bringing all the team players and --

COMMISSIONER PETIT: Do you know what any of the numbers look like in terms of the outcome?

TINA SAUNOOKE: The numbers, I can't quote off of the top of my head or the PowerPoint. When you look in there, it talks about the percentage of children that are going back home sooner than later.

COMMISSIONER PETIT: So we have all of that. I know it's in the slide but is there additional -- should we see this Bell report?

TINA SAUNOOKE: I think it's referred to in there and you can also go to the Zero to Three website under the maltreatment piece and it's listed there as well.

CHAIRMAN SANDERS: Just to follow up, if I'm not mistaken, there are few, if any, states that actually have a different policy for how they address kids birth to three.

So what's -- is it the additional services that they're getting is the idea being tested? Because if the same thing is being done for kids zero to three regardless, I'm not sure what exactly is being tested that you were -- because it sounds like you were asking is there evidence of something that has been --

COMMISSIONER PETIT: They could take a sample of five thousand or one thousand or



ten thousand children nationally who are not getting Zero to Three intervention that are in open CPS cases that fit the same description and then they can do a group that was receiving treatment.

CHAIRMAN SANDERS: I think I was wondering what -- I wasn't clear on what the path of interventions was.

COMMISSIONER RODRIGUEZ: I think it's a different intervention and --

TINA SAUNOOKE: It does vary from court teen to court teen, but the main interventions are including that the judge is on board with looking at time to permanency, that cases are reviewed every month instead of every other month or once every three months because babies grow so fast.

CHAIRMAN SANDERS: So you're looking at time to permanency, and the frequency of court hearings is -- so it's not related to safety directly. I mean, they're not unrelated but it sounds like you're focused on time to permanency.

TINA SAUNOOKE: Well, safety is a crucial factor in that as well. We want all children to be safe and stable in nurturing environments, and so we focus on that zero to three population because of the brain development and that babies do need that one person that's crazy about them and have that bonding and attachment in place to have -- stimulate healthy brain development.

CHAIRMAN SANDERS: I think we'll -- I think this is really a critical issue for us to understand so -- and what has been tested that seems to improve safety and particularly if -- I don't think we have anything related to reduce fatalities but at least improve safety.

And I wasn't aware that that's what was being looked at. I knew that time to permanency was. So we can take a look at that.

COMMISSIONER PETIT: You're not just looking at kids that are moving out of foster care and adoption; you're looking at also return to family, right?

TINA SAUNOOKE: One of the things that is measured is the frequency of parent/child contact, and I mentioned that the bulk of the time DSS workers are only allowing parents and those babies to visit one time a week, if that. So we come at it with let's do at least a minimum of at least three visits a week.

If the end goal is reunification, then visits have to start happening early. And if mom is in the throes of addiction and is not able to do that, then who's the end person that has a relationship based with mom that we can start the frequency of contact with.



COMMISSIONER PETIT: Thank you.

CHAIRMAN SANDERS: Thank you very much.

(Applause.)

CHAIRMAN SANDERS: We're scheduled for a 15-minute break and we'll do that and come back with our final panel at 3:15.

(Recess was taken.)

CHAIRMAN SANDERS: So every panel, we've truly had three or four outstanding presenters, and we're looking forward to that at 3:00 o'clock in the afternoon here where you have to keep us all interested, and you will, because this is the -- the way that the day flowed was really intentional.

And certainly Commissioner Martin and Zimmerman took the lead on that to make sure that our knowledge is building as the day has gone on. And the issue of the federal role in this is vital for us to understand.

But really on top of the things we've heard all day, I think this will be a very full discussion. Looking forward to hearing from Dr. Beverly Cotton, who is the Director of the Division of Behavioral Health at IHS; Sarah Kastelic is the Executive Director of NICWA [National Indian Child Welfare Association], and Diedra Henry-Spires with the Dalton Daley Group and formerly a senate staff, senate finance committee staff.

Dr. Cotton.

DR. BEVERLY COTTON: Good afternoon. On behalf of the Indian Health Service and Dr. Susan Karol, who is the IHS Chief Medical Officer, I want to say first and foremost thank you to the Salt River Pima-Maricopa Indian Community for hosting this wonderful event.

Chairman Sanders, Commissioners, a special thank you to Commissioners Zimmerman and Martin for the invitation for Indian Health Service to be at the table today and provide a response and highlight some of the things that we do as far as the federal response to child maltreatment.

I don't want to continue without also saying a special thank you to those frontline workers in the field, whether they're healthcare or child welfare, law enforcement, child advocacy. I want to remember the hard work that they do.

We've heard lots of highlights on the strong work that they're already doing in the field



now and some of the challenges that they face, and I think it's important to recognize all of those frontline workers that face these issues every single day in under-resourced communities and do and bring forth the work and save lives every single day. And I look forward to working with the Commission on reducing those child abuse and neglect fatalities.

I'm a member of the Mississippi Band of Choctaw Indian. And career background, I'm a pediatric nurse practitioner so this issue is a personal passion and interest of mine. I specialized in child sexual abuse before I came to the Indian Health Service and moved into an administrative role. And so I thank you for the special focus in this area and especially for focusing on the issue related to American Indian and Alaska Native children.

I just want to provide a few highlights on IHS's role in addressing child maltreatment. Child maltreatment is addressed in various portions of the Indian Health Manual. The Indian Health Manual serves as the national policy for IHS or federally operated hospitals and health clinics.

The Indian Health Manual doesn't mandate the services that tribes provide. So if those facilities or health clinics are tribally operated, they may use the Indian Health Manual as a guide in the development of their own health policies.

The IHS is in the process of drafting a standalone child maltreatment policy that will be used to comprehensively address the identification, intervention, and treatment of child maltreatment services provided through the Indian Health Service, as well as address a coordinated response to child maltreatment.

While that policy is under review, we also provide workforce development to our healthcare providers working through IHS tribal and urban Indian health programs. But we also provide that training to our referral healthcare facilities. So not only within the Indian health system but also those referrals.

So you'll hear a lot about, or you have today, heard about the referral system, so those children that are referred outside of our healthcare system. We also provide no-cost training to those healthcare providers, and that workforce development is primarily delivered under two formats.

There's a national tribal forensic healthcare training project that IHS developed and it comprehensively addresses mainly sexual assault, but there's components within the tribal forensic healthcare project that addresses child maltreatment, child physical abuse and neglect for our healthcare providers. That project formally launched in 2013. So we are just embarking on our third year and have seen lots and lots of successes underneath that, that training project.



For example, over 90 healthcare providers have now been trained to conduct pediatric sexual abuse evaluations. And we've also developed a brand new clinical skills training lab where providers can actually go and work one-on-one with another healthcare provider to develop their competency and their clinical skills when conducting child sexual abuse examinations.

We are proud to -- we're getting ready to announce an arm of that project that will deliver tele-health services and case consultation for providers in the field.

So what we've learned through our project is that oftentimes our healthcare providers don't see a whole lot of patients that it requires to become the subject matter experts in the field, and they need the clinical case support or consultation services from a subject matter expert, from a child abuse pediatrician, from an experienced sexual assault nurse examiner.

So we are excited this year, fiscal year 2015, to start those services.

IHS provides tele-behavioral services and have been providing other telecom services in other fields in the medical area in addition to tele-behavioral health, but we are excited to get the child maltreatment side off the ground.

Other trainings also provided to our providers through the tele-behavioral health center of excellence, we provide virtual training. It's no-cost training again to IHS tribal, urban Indian healthcare providers, and referral providers that -- on current and pressing behavioral health issues. Those trainings include issues on parenting, historical trauma, and children's mental health issues.

Last fiscal year, over 8,000 healthcare providers received free continuing education units from that tele-behavioral health center of excellence, and over 50 percent of those providers were non-behavioral health. So it's an integrated approach. We train our permanent care providers, our nurses, our now pharmacists through that platform as well.

The IHS is also a critical federal partner in two memorandum of agreement. There's one that was issued underneath the Indian Healthcare Improvement Act and then one underneath the Tribal Law and Order Act. And it requires the coordination and collaboration of services related to behavioral health issues, such as alcohol substance abuse, mental health, as well as child abuse, child welfare, and neglect issues.

So the framework is already in place for federal agencies to conduct that coordination. The TLOA, or Tribal Law and Order Act memorandum of agreement requires coordination between IHS, SAMHSA, Department of Justice, as well as the Bureau of



Indian Affairs and Bureau of Indian Education. Whereas the Indian Healthcare Improvement Act memorandum of agreement requires coordination between IHS, BIA, and BIE.

So there is the framework in existence for the coordination and collaboration around the specific issues to ensure that the services are coordinated, that we are leveraging the resources out there, and we're preventing duplication as well as identifying and addressing the gaps in services in American and Alaskan Native communities.

There is several work groups that work underneath both of those memorandum of agreement, and there was a newly developed, just in the last month, workgroup devoted to data issues and bringing in either federal agencies that are not specifically named underneath the memorandum of agreement to identify existing data that other federal agencies have, and -- that could be utilized, and a report on the scope of the problem of behavioral health issues and the child abuse and neglect issues.

So the work of the Commission is timely, and will only work to assist and strengthen the response and the requirements and responsibilities underneath those existing memorandum of agreement. And I wanted to take just a short time to highlight two of our initiatives. There's a methamphetamine and suicide prevention initiative and a domestic violence prevention initiative.

The MSPI started, or we've referred to it as MSPI, it started in 2009. It's an approximately \$15.5 million project. We fund 130 IHS tribal and urban Indian healthcare projects. The domestic violence prevention initiative is approximately \$10 million, and we fund 57 IHS and tribal projects underneath there.

We've had some really great results. So those projects, both of those initiatives are designed to develop and implement community-driven, culturally appropriate services related to addressing the dual crisis of methamphetamine and suicide, as well as domestic and sexual violence, as well as family violence underneath the domestic violence prevention initiative.

As a result of those initiatives, over 500,000 youth have been served through evidence-based and practice-based encounters. Over 38,000 referrals for culturally based services, offer domestic violence, clinical behavioral health services, and over 50,000 direct service encounters, which include things such as crisis intervention, victim advocacy and counseling services have been provided as a result of those initiatives.

As a result, we're currently working on the lessons learned and the best practices that we've learned from those -- both of those initiatives. MSPI was originally funded as a six-year demonstration project and the DBPI was funded as a five-year demonstration



project. Those both come to a close underneath the demonstration phase at the end of August 2015, with a new funding cycle set to begin with using fiscal year '15 funds.

And then finally, if you're familiar with the fiscal year '16 President's budget, you may have noticed that there's a \$25 million increase in there for the tribal behavioral health initiative. That funding, \$25 million, would come to IHS in the hopes to fund an additional 200 behavioral health providers focused on child, youth, and family services.

Our hope is that youth and families receive the services when they need them most and in the settings that they need them, especially for youth. So that means making sure that those providers are available in youth-based programs.

We've heard some discussion from the last panel about sustainability. We know funding is such a huge part of sustainability, but we also know that it's critical to work on the mentorship and the succession planning. There are various programs. So that those critical programs that are built don't go away when the funding is still there but people move onto new job opportunities.

And so through those two initiatives that I mentioned, MSPI and DBPI, we've been working hard with our programs to ensure that we are equipping and building up the next set of leaders to run those services and run those programs. And while we recognize that there's not a single approach or not one single agency or organization that will be able to work to end child abuse and neglect fatalities, we do -- IHS looks forward to the Commission's recommendations. We know they'll be comprehensive and multifaceted, and look forward to partnering with you as well as all of our stakeholders in ending child abuse and neglect fatalities.

Thank you for the opportunity to speak with all of you this afternoon and I look forward to your follow-up questions.

CHAIRMAN SANDERS: Thank you, Dr. Cotton.

Dr. Kastelic.

DR. SARAH KASTELIC: Good afternoon, my name is Dr. Sarah Kastelic. I'm Alutiiq and enrolled member of the Native village of Ouzinkie. I serve as the Executive Director of the National Indian Child Welfare Association or NICWA.

NICWA is a Native nonprofit organization headquartered in Portland, Oregon. Our mission is to ensure the well-being of American Indian and Alaskan Native children and families. NICWA has over 24 years of experience providing technical assistance and training to tribes, states, and federal agencies on issues that impact Indian child welfare, children's mental health, and juvenile justice.



We provide leadership in the development of public policy that supports tribal self-determination in child welfare and children's mental health systems as well as ensures compliance with the Indian Child Welfare Act.

I'd like to start by thanking the Commission to Eliminate Child Abuse and Neglect Fatalities and Commissioner Sanders for inviting me to provide testimony at this hearing. I'd also like to express my true gratitude for your dedication to this topic and your diligent efforts to formulate solutions to protect America's children.

My written testimony today builds on and supplements the testimony provided by Teri Cross, NICWA's former executive director, which was presented to this Commission in November of 2014. This afternoon I'd like to provide you with some initial context from my testimony and then focus the bulk of my time on recommendations to eliminate child abuse and neglect fatalities in Indian Country.

To understand how programs in Indian Country respond to child abuse and neglect fatalities, it's important to understand tribes as sovereign nations with a special relationship with the United States. It's also necessary to understand the complicating factors of tribal child welfare jurisdiction and service provision as well as criminal jurisdiction and law enforcement as other panelists have already discussed.

Native nations have always had systems of government that addressed internal conflict and provided for the needs of their families. Historically these systems were informal, unwritten, and based upon a holistic philosophy which sought to encourage a balanced way of life. These governing systems are acknowledged by the U.S. Constitution, hundreds of treaties, and some of the earliest U.S. Supreme Court cases. Over the course of time, a fundamental contract between Native nations and the federal government has been created.

Native nations ceded millions of acres of land and enabled the U.S. to expand its territory and in return were given a guarantee that their continued existence and inherent right to self-government will be protected. Unfortunately, for the vast majority of our history, this relationship was not honored by the federal government, which actively worked to extinguish tribal self-governance and in some cases tribal people.

It was not until the Indian Self Determination and Education Assistance Act of 1975, just 40 years ago, that the federal government formally recognized and pledged to support the inherent rights of tribes to exercise self-determination in a meaningful way. The Indian Child Welfare Act, or ICWA, which was passed in 1978, is rooted deeply in this self-determination philosophy. It provided the framework and resources necessary for tribes to revive or recreate their courts to assert jurisdiction and child welfare



systems to administer necessary services.

These services ranged from a program with one tribal child welfare specialist who works primarily with state agencies and courts to ensure ICWA and related protections are provided, to complex systems that provide comprehensive services from prevention to child protection, in-home services, foster care, and permanency.

Many tribal child welfare systems also employ a juvenile court in the execution of their services and responsibilities. And of note, some tribes continue to utilize the federal government through the Bureau of Indian Affairs to directly implement important child protection and child welfare services.

Civil child welfare jurisdiction and service provision in Indian Country is complicated. ICWA recognizes tribes' exclusive jurisdiction over children who are domiciled on the reservation or who are wards of the tribal court.

It also guarantees that tribes who live in certain states, known as PL 280 states, have concurrent jurisdiction with the state over civil matters on tribal lands. These arrangements are often complicated and perform best when the state and tribe enter into an intergovernmental agreement that specifies the roles and responsibilities of each government in the operation of child welfare services.

The entity with jurisdiction has the authority to adjudicate the case. Frequently this means that corresponding service providers aligned with the entity with jurisdiction will respond to reports of abuse and neglect or child deaths related to abuse and neglect, but this is not always the case. This is due in part to the fact that BIA continues to provide direct child protection services to many tribal communities and because service provision and jurisdiction are distinct legal concepts.

As the Native American Rights Fund notes, how jurisdiction and service responsibility are applied, it can vary from state to state. In some areas state agencies routinely participate in tribal court custody proceedings as the entity with primary service responsibility, while the tribe exercises jurisdictional authority over the case.

In other areas, tribes may have both jurisdiction and service responsibility or the tribe may not have jurisdiction but retains some level of service responsibility. With regard to child fatalities, the law enforcement system, not the child protection system, is often the first to respond in states. This is often true in Indian Country as well.

Criminal jurisdiction in Indian Country has a history fraught with the federal government taking increased amounts of tribal authority, sometimes taking tribal authority only to later give it to a state. A series of laws and cases, most of which have occurred before the federal commitment to self-determination, have left Indian



Country in a patchwork of overlapping jurisdictional schemes, often referred to as a maze because of their complexity to navigate. Thus, law enforcement authority, including authority to investigate, is incredibly complicated.

In my written testimony I provide more information about the complexities of jurisdiction. The bottom line is that tribes retain important authority with regard to criminal jurisdiction. In addition, tribes continue to work to clarify and reinstate tribal jurisdiction. The most notable of these actions was the reinstatement of jurisdiction with regard to incidents of domestic violence and the 2013 reauthorization of the Violence Against Women Act.

Nonetheless, this complicated scheme often means that crimes fall through the cracks or are lost in the process of prosecutorial discretion. Based on these jurisdictional schemes and potential discrepancies between service provision and civil jurisdiction, the response, investigation, and reporting of child abuse and neglect could be the responsibility of any of the following practitioners, or as most commonly occurs, a combination of the following individuals: Mandatory reporter under state, federal, or tribal law; tribal child protective services; state CPS; federal BIA social services; tribal law enforcement; county law enforcement; federal BIA law enforcement; FBI; federal Indian Health Service workers; tribal healthcare providers; and/or private healthcare providers located on or near the reservation.

Not surprisingly, the complexity of this scheme confuses the response, investigation, and reporting of child fatalities in both the civil and criminal systems across Indian Country. Successful responses in reporting require strong collaboration and relationships across different agencies and government entities, though cross-governmental collaboration is something that in and of itself can be complicated to accomplish.

A quick note about Alaska. Because of the Alaska Native Claims Settlement Act and *Alaska v. Native Village of Venetie Tribal Government*, the Alaska Attorney General has historically asserted that there is little Indian Country in Alaska. Under this view, Alaska, unlike other PL 280 states, believes that its law enforcement and jurisdictional authority is exclusive throughout the state. Specifically, the state asserts that because tribes have no land base on which to exercise any inherent criminal jurisdiction, they have none.

My written testimony describes a variety of federal programs that create the federal framework for the identification, reporting, and prevention of child abuse and neglect fatalities. For the sake of time, I will only briefly mention four primary challenges in the existing federal framework, most of which other speakers have already addressed.

So the four I would point out to you are the challenges around system coordination, lack of funding, lack of meaningful training and technical assistance, and support for data



collection. So I will turn quickly to what specifically the federal government can do.

Recently the federal government has convened two different independent panels to address issues closely related to child abuse and neglect fatalities in Indian Country, the Attorney General's Advisory Committee on American Indian Alaskan Native Children Exposed to Violence, and the Tribal Law and Order Commission.

Each of these reports contains recommendations that provide concrete solutions to the challenges tribes face with respect to the current federal framework for child abuse and neglect. I'll briefly highlight just a few recommendations most relevant to this Commission.

From the Attorney General's advisory committee report, leaders at the highest levels of the executive and legislative branches of the government should coordinate and implement recommendations consistent with three core principles -- empowering tribes, removing barriers, and providing resources.

Congress should restore the inherent authority of American Indian and Alaskan Native tribes to assert full criminal jurisdiction over all persons who commit crimes against Native children in Indian Country. Congress and the executive branch shall bring funding for tribal criminal and civil justice systems and child protection systems into parity with the rest of the U.S. The legislative and executive branches of the federal government should encourage tribal/state collaborations to meet the needs of Native children exposed to violence.

Recommendations from the Tribal Law and Order Commission: To generate accurate crime reports for Indian Country, especially in tribal areas subject to PL 280, Congress should amend the FBI reporting requirements for state and local law enforcement agencies' crime data to include information about the location at which a crime occurred, and on victims' and offenders' Indian status. Similarly, it should require reservation-level victimization data in its annual reports to Congress on Indian Country crime.

Congress should end all grant-based and competitive Indian Country criminal justice funding in DoJ and instead pool these monies to establish a permanent recurring-based funding system for tribal law enforcement and justice services. And federal policy should provide incentives for states and tribes to increase participation and deputization agreements and other recognition agreements between state and federal law enforcement agencies.

In addition to these important recommendations, NICWA has five other recommendations I would recommend to you.



One, recognize tribal criminal jurisdiction in Indian Country in cases of child abuse and neglect, regardless of the perpetrator's race.

Two, provide tribes with adequate funding for child abuse and neglect reporting, investigations, child protective services, and preventions.

Three, mandates on tribal child protection programs should be the minimum necessary to ensure accountability and children safety.

Four, coordination between and among jurisdictions should be mandated, facilitated, and incentivized.

And five, create a pilot program to support the coordinated collection of child welfare criminal justice data with regard to child abuse and neglect fatalities in select communities.

And with that, I'll close. Quiana, thank you for your time and attention. I look forward to working with you on implementing recommendations and addressing this issue as urgent. Our children can't afford to wait.

CHAIRMAN SANDERS: Thank you very much.

Diedra?

DIEDRA: I was about to say, "Chairman, you can call me Diedra; no Ms. Henry-Spires."

Good afternoon. It's an honor and a privilege to sit before you. You know that I hold each of you and, and you collectively, in high esteem. So I'm really honored to be here.

I have a piece of good news for the entire room. I am the last speaker of the day. So understanding that you've made it to the end of the day and it's been an informative and helpful day, I will be brief and efficient.

I'm Diedra Henry-Spires. I'm the CEO of the Dalton Daley Group. We are a nonprofit advocacy group that's committed to the lives of children, families, and communities. I'm the daughter of Sybil and Theo Henry, Jamaican immigrants of Arawak descent.

So why do I care about Native American and Alaskan Native children? It's because I'm told my people no longer exist. But I know that my parents existed, I know that their parents existed and their parents before them existed. So to state it simply, hearing about Native American children is in my blood. That said, I have been asked today to talk about tribal IV-E and direct access to IV-E for tribes.



So what is title IV-E? It was enacted in 1980, and provides entitlement funding for foster care and adoption assistant services for income eligible children. But at that time there was no contemplation about children in tribes or in tribal consortium or tribal organizations. So I'm going to do five things and I'm going to do them relatively quickly so I'm not between you and the door.

I'll give you a little brief history, talk about some of the opportunities that direct tribal IV-E provided, some of the challenges, and I'll spend a little more time on the challenges, and then lessons learned, which will include recommendations and how we go forward.

On March 17, 2005, then Senator Gordon Smith, a Republican from Oregon, introduced direct tribal IV-E. He was joined on that legislation by Senator Max Baucus and Senators McCain, Bingaman, Johnson, Cantwell, Cochran, and Domenici. I focus on that, not just to give you a list of names, but to make clear this was a completely bipartisan undertaking.

I'm honored to sit beside Sarah because NICWA has been a part of this movement for a long, long time. This language, this provision of direct access to IV-E was also in the 2005 Senate Finance Committee Welfare Reform Legislation, but it never got enacted.

So in 2008, we had a conversation about Fostering Connections, but a little something happened right between 2005 and 2008. I was hired by Senator Max Baucus to work on human services and that included child welfare. So I got to really hear his views on what he thought was best for Montana, and what he thought was best for Montana also included what was best for the Nations within Montana borders. There's seven tribal nations -- well, reservations. Eleven nationals but seven reservations within Montana's borders.

So then some opportunities came out of the passage of Fostering Connections. One, it made federally recognized tribes eligible for direct IV-E funding for the first time. There was a recognition of tribal sovereignty. We heard Hannah Smith earlier today talk about really taking responsibility, and the ability to do that was affirmed by the passage of direct IV-E.

Eighty tribes initially expressed interest in running their own IV-E program, and from 2009 to 2014, about 27 developmental grants toward direct IV-E were let out. So then HHS -- and I'm telling you the good news -- HHS provides technical assistance to tribes via nine regional offices, and then also the National Resource Center for Tribes was providing additional technical assistance.

The President's budget proposes providing startup funding -- this year's President's budget, 2016, implementation of tribal IV-E. And then the last thing, in 2014, ACF, in



their strategic plans for the Administration for Children and Families, has as a goal approving more tribal IV-E plans.

So the challenges -- the challenges for me are summarized in three numbers: 80, 27, and five. Eighty tribes initially expressed interest in direct IV-E. Twenty-seven, by 2014, got direct IV-E funding developmental grants. Only five run their own tribal IV-E programs. That, to me, when you go from 80 to five, is indicative of the challenge.

So how do we sum up the challenges in just a few minutes? I think the first thing to note are the words, "In the same manner as states," and I think those -- six words, I think. "In the same manner as states," I think is a big umbrella for what the challenges are in tribal IV-E.

And I say this as a staffer who worked on it on behalf of a boss who worked with other staffers in great, good faith on a very bipartisan effort. So this is the work of a reformed senate staffer who can now, outside of that experience, hopefully bring to this Commission information that's useful, as you think about your recommendations going forward.

So in the same manner of states, what does that sum up? It says it doesn't provide flexibility, there's not the ability to really modify tribal IV-E to fit the framework of states. So under that rubric there's not a conversation of a nation-to-nation conversation. We were having a nation-and-state conversation, which is not the right conversation for tribal government.

So on one hand we're trying to affirm sovereignty but treat tribes like state governments. Therein lies the challenge. You are creating a system that's going to be a bit challenging. In all fairness, members considered that and thought that there was certain flexibilities that would help us deal with cultural and organizational differences. But explicitly, it did not.

One example of not dealing with cultural differences is termination of parental rights. We know anyone that has spent any time in Indian Country knows that's an idea that's an anathema. Not just to Native Americans but to many, many racial groups. African Americans don't like it, Hispanics don't like it, but it is a particular anathema to Native American communities.

Within the law we had extensive conversations about how to deal with that. Still working in this state-tribal equivalency that's false, but nevertheless, we thought we'd put some flexibility, and that there is flexibility in the law to allow exceptions that are compelling. And we believe at the time that tribal communities had an already existing compelling exception. I just don't think the program has been implemented with that thought in mind.



Another challenge that I think is particularly impactful to the work of this Commission is the challenge around data collection. So in the same manner of states, in order to administer IV-E, you've got to provide the same updated AFCARS [Adoption and Foster Care Analysis and Reporting System.]

Well, for this Commission, that's actually exciting because you've been looking at data so much and you want to get that information. And so some tribes in the direct IV-E pipeline have developed data collection procedures to meet AFCARS requirements and some have gone beyond that. But the number's not huge, and I'm not sure of the exact number but there are tribes working towards this.

Another sort of bureaucratic and management obstacle is the cost allocation system that comes with direct IV-E. So managing that system, creating that system, and hiring staff, that instead of really looking after the welfare of children can really just spend their time figuring out how you're going to account for every expenditure of staff time and administrative resources only for the IV-E program. If you spend any time in Indian Country, you realize there is not that luxury for most staff to have a staff person assigned to only one program.

That brings us to another challenge, which is staffing issues. So staff in Indian Country often handle more than one issue. Okay, so we all multitask; but I mean entire programs. So your child welfare director may also be your TANF director. And I don't mean the supervisory director. I mean handling the day-to-day issues. We thought we accounted for that in the legislation with some of the acknowledgment of the in-kind resources, that if you had anything that you were using towards the welfare of children, you could count that towards title IV-E, even if it came from another program.

What we didn't account for is the actual human capital, the staff person necessary to do the work. So there's been a lot of staff turnover in tribal child welfare programs. You have a GAO [Government Accounting Office] report in your binders. I think you'll find there's some information about at least one tribe that said they had about four different child welfare directors in six months. I mean, that's a lot of staff turnover. But good news, many tribes use their developmental grants to address staffing needs.

And then the last challenge that I'll address is regulatory issues because some of these things HHS really can take care of or may be responsible for. I said it. I don't work for the federal government anymore. Yay.

One, the appropriateness and relevance of technical assistance, and I think this is something the Department has recognized; that in their attempts to provide technical assistance, sometimes the tribes that were calling for technical assistance would have to be the teachers and the trainers of the people who were supposed to help them.



That is a waste of everyone's time. Those were some of the first anecdotal stories we heard back after enactment. So they are taking steps to alleviate that and move things along.

On the timeliness of reviews, this process is time-consuming, takes entirely too long, and there are no real guidelines or dates set in statute or in regulation for HHS to meet. I think the biggest one is the consistency of information. If you're a tribe in one region, you may get one set of instructions or hear about one set of possible remediation than a tribe in another region. And by some anecdotes, you can be talking to the same office and get different answers. I think HHS, once again, is starting to recognize the need for consistency.

Part of the answer you would get from HHS is that, "Well, every tribe is different," and we've heard that today. But there are some basic, clear things that can be put in guidance that build on each other. So as you make an accommodation for one tribe, you can document that so that similar tribes can get that information in a transparent way.

So this process has led to some lessons learned, and the wonderful thing about legislation and program development is that it's not a one shot deal. I think if there was an expectation that Congress got things right on the first time out, there's a whole lot of folks on a big old hill that would be out of a job because there would be nothing left to do. They don't, and they know it, and there's always this opportunity for the field to grow, for information to grow, and for changes to happen.

So some of the recommendations I'll make are based on the GAO report, and they're the first three, and then some are just from my experience working with Senator Baucus on this policy.

The first is considering consultation with tribes, flexibilities in the program that will help the tribes implement it. So once again, the latitude in termination of parental rights. That's a big one and that's already in the statute and folks are already -- put it in guidance. That could do a lot to help.

Create consistent title IV-E guidance for tribes. Be consistent in what you're telling folks, and then as you innovate and adapt, document it.

Improve the timeliness of the assistance and reviews for tribes.

Those first three were based on GAO. The last three are going to be based on my experience.

The discourse needs to change. The discourse we were having during this conversation, that does impact child abuse and neglect fatalities, because it impacts, as Hannah told



you, the ability to take ownership and responsibility of your children and also have the funds to provide for their care. But the discourse is supposed to be around sovereignty and it wasn't at the time. It was around, "If you want to behave like a state, you have to act like a state."

And one of the things that I think, in hindsight, I would offer differently is conversations with my colleagues that work in trade and international agreements and international foster care, because this is a nation-to-nation relationship and conversation.

Create an infrastructure of knowledge in the Congress. It'd be one thing if all legislation that impacted tribal communities came out of the Indian Affairs Committee. It doesn't. It comes out of just really well-meaning, well-intentioned, wonderful people and other committees of jurisdiction; some who have no tribal communities that they're aware of in their states or that they're not as focused on. So that's a really high hill to climb for members who are incredibly focused on tribal communities.

That infrastructure of knowledge can be as simple as recommendations that, you know, Indian Affairs continue to conduct briefings or conversations or just are a little more engaged in the education of their colleagues but that infrastructure also goes to the executive branch.

Senator Heitkamp, joined by Senator Thune, right now has a bill out that would create coordination across the federal government. They do it in the form of another commission. Most sitting commissions can't imagine another commission, but there's this conversation that it has engendered around coordination and the need to have, in every department, an oversight person that really is looking at the tribal policy that happens in that department that answers to someone in the White House with the power -- that's the optimal word -- the power, to convene them and hold them responsible.

Having had conversations to try to solve small issues, on behalf of Senator Baucus, if you talk to HHS separately from BIA, you're going to get two different and conflicting answers. And sometimes you have to call someone from the White House OMB to be a part of that conversation to really figure out who's responsible for what. That shouldn't have to be on a case-by-case basis. That can be an overarching, in-place infrastructure. Increase coordination through delineated staffing at the executive branch.

The last thing I would say going forward, the Dalton Daley Group is committed to adding to the spaces to have a dialogue in improving direct IV-E for tribes. So we've embarked on focused conversations with tribes and tribal organizations on how to improve this program, and we'll share those results with the Commission, and we'll share the process with the Commission or whoever else is interested.



But I think the time has come and the conversation has matured that we can really look at this program and do better than 80, 27, and five. Thank you so much for your attention and that's it. Thank you.

(Applause.)

CHAIRMAN SANDERS: Thank you, and thanks to the entire panel.

We have time for questions. Yes, Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: This is quasi-directed at Indian Health Service but also thinking about BIA, who's not represented here.

So I'll just talk about the Rocky Mountain Region of the Bureau of Indian Affairs CPS. They have open positions and they are staffed at only 47 percent. So that means that these positions have been open. There's funding for it. These positions have been open sometimes for a couple of years. And during sequestration -- I've said this before -- during sequestration on one of our reservations in Montana there was one social worker covering over two million acres and that was it, 24/7.

So when you talked about -- Beverly, when you talked about the \$25 million to recruit behavioral health, there's certain, I'm sure you're aware, there's certain regions, the Rocky Mountain Region, the Aberdeen region, it's very difficult to recruit. Is there any sort of incentive that Indian Health Services is thinking about for behavioral health and addiction providers that's incentivized the way medical doctors are incentivized where there's a payback program?

DR. COTTON: We have thought about that. We know that it's an ambitious project to make the recruitment of that many behavioral health providers and we're in the process of developing plans to address the recruitment issues around just the influx of that many providers.

Part of that is utilizing the scholarship program that's already in existence. So looking at those Indian scholars that are already in school that are working toward a degree in the field of behavioral health and providing an internship. So that those students, that once they graduate, actually have an option to gain their clinical hours in the systems and in the communities where they want to work. That's one solution.

And then secondly is through the loan repayment program ensuring that that is widely broadcast that we are delivering strong customer service to those providers that are interested in working in Indian Health Service and that are eligible for the loan repayment program.



So within the division of Behavioral Health, we have staff, and then we have our area of behavioral health consultants that work on recruitment of those providers.

So it's certainly an issue that we have been thoughtful about, and we know that it will require additional strategies to make sure that we have the avenues in place to bring that many folks on board, but we also know that they're not all federal providers' efforts that are going to come into the system.

And having the funding available for tribes to hire their own staff will be a critical first step in helping to meet one of those provisions in the Indian Healthcare Improvement Act, which was an unfunded mandate. And I just believe that this funding will help with Section 127 of increasing the number of behavioral health providers in the Indian health system.

CHAIRMAN SANDERS: Commissioner Petit.

COMMISSIONER PETIT: Is there a matching requirement in IV-E with the tribes?

DIEDRA HENRY-SPIRES: Absolutely. That's one of the flexibilities that we tried to add. And it was a far bridge, but one of the things that we were able to advocate for -- and by we, I mean Senator Baucus was, in kind, really taking all the resources of a tribe to add up to the match. But the match is another huge barrier.

COMMISSIONER PETIT: Is it the same as the Medicaid matching rate?

DIEDRA HENRY-SPIRES: It is.

COMMISSIONER PETIT: Do you know what Arizona's is, off the top of your head?

DIEDRA HENRY-SPIRES: I do not.

COMMISSIONER PETIT: So let me ask, you started out with 80. But in fact, there are hundreds of tribes, so could you have started out with a higher number than 80?

DIEDRA HENRY-SPIRES: I think absolutely we could have, if we had had a different conversation.

COMMISSIONER PETIT: All of us, given the fact that there is a Medicaid reimbursement rate, which in Arizona -- does anybody know what it is in Arizona? It could be 75/25. That means that the state or the tribe would put up \$25,000, the feds would put up \$75,000.

And so we heard an organization earlier say they're spending \$10 million on out-of-home



care, but they're not getting IV-E money. And if they put up two and a half million, they'd get seven and a half million back. So to reject that, there must be something that they view about the process that is hostile to their doing this.

So what is happening now with IHS, BIA, and HHS to actually help the tribes develop the paperwork necessary to get it submitted, given the fact that so much of the Indian Country is remote? You're not going to ever have an easy time bringing in a specialist. I can see a heavy reliance on kinship care and families, et cetera.

All of sudden you're saying three out of those four dollars can be paid for by Washington. So why not go all out and help the state, help the tribes submit the paperwork necessary to become eligible? What's standing in the way of either IHS, HHS, or BIA doing it with them?

DIEDRA HENRY-SPIRES: I think each of us can probably add something to this answer.

A lot of what you heard today, Commissioner Petit, whether it's the history -- I'm remembering, I don't remember which speaker made the comment -- I think it was Gladys, made the comment, that there is a subtle doubt that the tribe can actually do it. So there's sometimes an impediment at a regional level. The termination of parental rights is a huge barrier. I think some of what's happened recently with the large scale acceptance of kinship care and other means of caring for children will also help tribes now.

I think there's an opportunity to really look at IV-E again and make some adjustments that will make it more attractive to tribes.

COMMISSIONER PETIT: Why is TPR interfering with applying for IV-E reimbursement?

DIEDRA HENRY-SPIRES: Because the interpretation that tribes have received from HHS about the need to do TPRs I think has been a barrier. I think it's been a misinterpretation and it's been a tribe-by-tribe, region-by-region exception. It's not a wholesale exception.

COMMISSIONER PETIT: But foster care doesn't require that parental rights be terminated.

DIEDRA HENRY-SPIRES: I think the interpretation of HHS and what is required by the tribes is so at odds with the cultural and organizational values of the tribe so that it is seen as a huge impediment.

COMMISSIONER PETIT: Is this a topic that you guys have -- with all the consulting that you guys have done with technical assistance, what's the issue here?



SARAH KASTELIC: I think there are a number of things. One is that you need a certain number of children to make this program work. So part of it's about, kind of, scale, and the matching resources are certainly significant. There are also questions about infrastructure and the kind of legal infrastructure a tribe needs to have in order to be able to take on something like this.

So at one point in time -- for example, I'll just say HHS was -- certain regional offices were telling tribes that they had to amend their tribal codes to include these certain kinds of provisions in order to be eligible to run IV-E.

So I think there are a variety of disconnects here, and as Diedra said, we have a ways to go to make this really worthwhile.

COMMISSIONER PETIT: Seems to me like it's very fertile territory. You're talking about maybe the last entitlement available for children, or one of the last, it's up for grabs. And the question is how do you construct something that allows you to successfully leap over whatever hurdles are put in front of you. Wade, you must know something about this.

COMMISSIONER HORN: First of all, it's important to keep in mind that not all children who are in foster care are entitled to a IV-E payment. So it's not a hundred percent of the population. In fact, with the AFDC lookback provision, it's a declining percentage of population each year.

So we can't look at the total spent in foster care because only a portion of those -- I don't know what it's like in Native populations, but nationally it's under, it's like 40 percent now of all the kids in foster care who are eligible for IV-E payment.

COMMISSIONER PETIT: It's still a huge number.

COMMISSIONER HORN: I'd rather get -- 75 percent of something is better than 100 percent of nothing. So yes, I agree with that. But I didn't want to leave anyone with the impression that 100 percent of the kids' costs of foster care in any county could be paid for with 75/25 or whatever the match rate is, because that's not the way it works.

There are certain things that you have -- to be eligible for title IV-E, you do have to have an approved title IV-E state plan. And I assume that's required also. And there are certain other conditions that are required in the state plan to be eligible for those funds.

So it's not just simply, "Gee, we want to participate, give us our match rate for kids who are IV-E eligible." And that may be where some of the interpretations are coming



from.

In my experience, different regional offices sometimes have different interpretations and that can be very confusing. It's one of the reasons, when I was Assistant Secretary, I did that big reorganization, to try to get a single IV-E program, not 10 different IV-E programs. But it gets even more complicated in Indian Country because, as you know, you're not actually supposed to be answering to regional offices, you're supposed to be answering to, even before, the national office. But I agree with you, I think there are perceived and real barriers to the participating IV-E program in Indian Country.

My question, I think you've answered it with nods of your heads, is it does operate like a state-run IV-E program. In other words, you can't pay for services for kids with IV-E dollars in tribes. You can pay for the cost of foster care, at-home care. You can pay for administrative costs associated with running it, and you can pay for training, but you can't pay for services.

So even with IV-E, if you want to provide services to the kids in that care, that's one of the problems with the IV-E programming, is it's our biggest pot of money in child welfare and you can't spend any of that money for services for kids.

DIEDRA HENRY-SPIRES: That's right.

COMMISSIONER HORN: I'm not sure I agree with those that say it creates perverse instead of to put kids in foster care, because you still have to put up your share. But it sure as heck is not providing incentive to provide more services for those kids. Sorry for the speech. I actually had a question. There's a question in there somewhere.

So I want to get to your testimony, your recommendations, because when -- I would like to start with, first, principles, and then flow from there. And the first principle that I feel very deeply about, and I know you do, too, is that tribes are not protectorates in the United States. They are sovereign nations. And yet, we treat them as if they are protectorates and not sovereign nations.

So I was sitting here thinking about all of your recommendations and I said there's not a single one of those I would disagree with. Why then, what's the resistance -- you didn't come to us and say, "You know what, recommendation one, give us 16 trillion dollars and everything will be fine."

Every single one of those recommendations seemed reasonable, thoughtful, and when put through the lens of we're dealing with sovereign -- if somebody in the United States, a citizen goes to Canada and kills somebody, we don't say, "We'll try him here." They try him in Canada. In fact, if they run here, we'll send him back to Canada and say, "You try him." They couldn't try him as a U.S. citizen.



So what is the resistance to -- I mean, if I were emperor of the universe, I'd pass all of these tomorrow. What's the resistance to it?

SARAH KASTELIC: I think there are -- there's a huge education curve here. There really is a widespread sense among the general public and among policymakers that tribal governments are baby governments, that we don't have the capacity, that we don't know how to provide for the care of our citizens, that we can't do what states and the federal government should do for us.

Sadly, that is a widespread perception in my experience. I think what gets in the way is policymakers and the general public, who influences them, holding onto this notion of tribes as being incapable of not knowing the needs of their families and children and not being able to serve them fast.

It's a remnant from colonization. So our Executive Director, Terry Cross, talks about the colonization process, which is the same the world over. In any country you go to, the colonizers come, they take the land, they control the natural resources, especially food and water. They delegitimize indigenous ways of knowing and being, and then finally, you have to break the socialization process. That's the way you colonize people. So you control the children.

So in order to decolonize ourselves, in order to redesign our programs, in order to serve our families and children in the way we know they need to be served, the way that can help them heal, we have to decolonize the child welfare system. The resources, the authority needs to be in the hands of tribal governments who know what their people need.

COMMISSIONER HORN: I agree one thousand percent.

(Applause.)

CHAIRMAN SANDERS: I know we have at least two more questions. I actually have a question probably for each of you that I just wanted to run by. I won't give a speech.

The first is going back, and, Dr. Cotton, maybe this one is addressed to you. But going back to the question this morning that I had raised with Judge Thorne, it seems that the jurisdictional issues really challenge who's at the table for a multidisciplinary team, and partly because of the sense of urgency and the sense that everybody sitting around the table needs to be advantaged in some way, they need to get something out of the discussion.

You talked about some of the characteristics necessary for improvement. I'm



wondering, who do you think ultimately -- let's say it's a complicated jurisdictional issue on a tribe, on tribal land. Who is it that should be responsible? Who actually, where -- is it with law enforcement, which law enforcement? Is it child protection? Can you say a little about that?

DR. COTTON: Absolutely, and I think I partially started to address that at the end of my comments; that there's not one single discipline or agency or organization that's responsible. We all have a part to play.

CHAIRMAN SANDERS: Just for a second, because I think that's clearly the case. I'm trying to think of the fact that we have to communicate to Congress and then potentially to the Administration in a way that results in legislation that makes a difference for kids.

And I -- the philosophy that everybody's responsible probably doesn't translate well into, kind of, what we do with Congress and the President. So I just want to get a sense of that, recognizing what you said being absolutely critical.

DR. COTTON: Of course, coming from a healthcare arena, I'm going to always focus on the health and well-being of children. But we know when you're dealing with this comprehensive of an issue, that if there's one area or one arena that should take the lead, I think we missed the mark.

And that it has to be a collaborative approach, that we definitely have to make the responsibility multipronged and it has to be a comprehensive public health approach, a public safety issue, and it has to rise to that level. And I don't know that we've always put the importance and the focus on children at that level.

CHAIRMAN SANDERS: Teri, did you have a follow-up to that? I have two more questions.

COMMISSIONER COVINGTON: Well, I'm sort of thinking where's the BIA today, and what are your feelings on where the BIA should be in child welfare in the future?

DR. COTTON: I had the opportunity to actually sit with BIA yesterday at a meeting on suicide prevention at the Pentagon and heard directly from Ms. Ortiz, who had a conflict and was unable to attend. And these are issues that we work on collaboratively with our federal partners within Bureau of Indian Affairs as well as Bureau of Indian Education.

And while I don't speak on behalf of those bureaus, I do know the daily work, especially at the national level that we're working on collaboratively to make sure that we're addressing and ensuring that the services and programs are in place and that it trickles down to the regional and then to the local level. But they are an important piece. They



can't be left out of the conversation.

COMMISSIONER COVINGTON: As you would think about really achieving sovereignty and in taking control of your own child welfare systems, is there a place for BIA in the future for that?

SARAH KASTELIC: I think a number of senior officials at the Bureau of Indian Affairs have tried to re-conceptualize the agency's role in recent years. I've seen a number of attempts at reorganization and sorting out what responsibilities should happen at the central office versus regional offices.

The re-conception of the Bureau of Indian Affairs that I most appreciate is one of conceiving of BIA in a role as a trainer and technical assistance provider, being a place where there's a lot of information that gets shared out.

I know the Bureau of Indian Affairs is working on updating their Child Protection Manual. So I think they can perform a role in terms of helping to be a standard-setter and sharing information, making sure meaningful technical assistance is available to tribes. But because of the federal trust responsibility, tribes still have a choice about whether or not they want the BIA directly involved as a service provider. But I think there is a larger role for them.

CHAIRMAN SANDERS: And my last question, actually, is for both Dr. Kastelic and Diedra Henry-Spires.

So we talked about IV-E, and Port Gamble, if I'm not mistaken, was able to skip the traditional IV-E process and go immediately to a waiver.

Is there a reason that just can't happen to others? Does it -- it seems that best addresses a lot of the issues of having to go through the IV-E process to build the infrastructure and so forth.

What's the likelihood of something like that? Particularly as there's evidence that it translates into the tribe being able to provide services directly consistent with the philosophy and beliefs of the tribe.

DIEDRA HENRY-SPIRES: Dr. Horn and -- well, Commissioner Horn pointed some things out. One, that really, the direct IV-E is exactly as the state IV-E. Meaning not all of the children all of the time and it's really about the plan requirements.

So a tribe like Port Gamble was able to skip the developmental stage. They were able to skip some of the iterative process with HHS because they were ready, without some of those steps, just to go straight to writing a plan that got approved.



I think really looking in-depth at what Port Gamble did and how they resourced themselves to be able to be in that place could be instructive. But for most tribes, the plan requirements are what is really taking a long time. It's about getting your plan approved. And that timeline is on HHS. But being prepared, and as my colleague Dr. Kastelic said, having the infrastructure.

And as I said in my presentation, the management and bureaucratic needs met to prepare an effective IV-E plan that can be approved by HHS is what's taking tribes a very, very long time, never mind the issues of size and scale.

We did allow in statute for consortium to apply. But nevertheless, it's the same process that a state goes through but tribes haven't prepared and aren't organized necessarily in the same way as a state to meet those plan requirements.

COMMISSIONER MARTIN: So to that response, I saw a lot of heads in the audience nodding in agreement to your answer.

I have a question, but I also want you to finish your answer. Commissioner Horn kind of took and stole my thunder on the question of sovereignty, and I saw you start answering. So can you finish that answer so I can ask my question.

DIEDRA HENRY-SPIRES: I think we've gotten there a little bit with sovereignty because if you just -- Dr. Kastelic's comments about the history, and some of the issues that are holding up the wholesale acceptance of the recommendations she made actually really do color the comments about sovereignty. What specifically -- I'm sorry, I want to make sure --

COMMISSIONER MARTIN: I thought you had something to add.

DIEDRA HENRY-SPIRES: I think there was progress, though, and when I mentioned the ACA, I don't mention it in terms of whether you agree with the policies in it.

But I know that the conversation around tribal governments and sovereignty certainly matured from the time of Fostering Connections until we got to mental health and healthcare conversation on tribal lands in the ACA. That conversation was much more about sovereignty than the Fostering Connections conversation. And that makes me hopeful that through the Commission's work, whatever conversation comes next, should be even more wholly about sovereignty.

COMMISSIONER MARTIN: My question goes back to jurisdiction. I'm still stuck on this thing. One of you mentioned during your testimony about the reauthorization of VAWA and how jurisdiction was cleaned up, for lack of a better term, in some instances in the



reauthorization of VAWA.

I'm looking for like a one-answer jurisdictional question for child abuse and neglect. Like VAWA got, they took some cases and decided that jurisdiction would rest. I believe it was actually the change when the victim's on the reservation, if I'm not mistaken, so they could start prosecuting non-Native people on the reservation for victim crimes.

So is there any hope of looking for an answer like that to child abuse and neglect? So taking child abuse and neglect as a subset of cases that come on jurisdictional or Indian land and see whether or not there is some type of appetite for carving out certain types of abuse, certain types of cases that result in deaths, something where we can have a start and have those prosecuted and stay on Indian land.

Let me explain why this is so important to me. If I understand correctly, when a child dies on Indian land, a lot of times that child's body is taken from the land to do investigations and autopsies. That causes some problems with my brothers and sisters on territorial property. So what I'm trying to do is see, is there a way, some appetite to include the cultural richness that we find on territorial lands but allow to help build the infrastructure so that we have the ability to take care of and make a good investigation?

DR. KASTELIC: It was the 1978 Supreme Court decision, Oliphant decision, that limited tribes' ability to prosecute non-Indians on tribal land. And in 2013, the reauthorization of VAWA basically overturned that aspect of the Supreme Court's decision.

So the Congress said, "Actually, tribes do have jurisdiction over non-Indian perpetrators on tribal lands." And the way they tested this out -- because again, there was that pushback about tribes, "Do they really have the capacity? Do they really know how to do this? Are they going to bungle this up?"

So the first step was let's have some pilot projects. So there are three tribes that had demonstration projects about how the extension of this authority would work. And so I would say, and we made the same recommendations to the Attorney General's Advisory Committee on American Indian and Alaskan Native Kids Exposed to Violence, "You can have a parallel provision that says tribes have the authority to prosecute offenders, regardless of their race or ethnicity, offenders who perpetrate acts of violence against children on tribal lands."

So we can easily have a parallel position in law that would fix that issue. We would just need to make sure that it also includes Alaska.

CHAIRMAN SANDERS: I have a question to follow up.



So is there a difference, a legal difference, in the relationship between Navajo and the United States versus Nepal and the United States? Are there some very specific understandable differences legally?

DR. KASTELIC: You're asking a question about international law and I'm not an attorney so -- I'm a social worker by training.

But I would say the history of federal Indian law comes out of a body of international law. It's about recognizing sovereigns. So that's the basis, but I don't feel qualified, as a non-attorney, to address aspects of international law.

DIEDRA HENRY-SPIRES: I'm not an attorney, either, but I know that -- I do know that the answer is yes, there are differences, and I think the State Department, in their literature, and I know I have it written somewhere, describes the relationship with Native American communities as dependent sovereign nations within our borders.

That is not the same definition given to Nepal or given to any other state. And there is, as one of the earlier speakers talked about -- well, and even Dr. Kastelic talked about the trust relationship, the numerous treaties that have come out of that and that lead us to that definition.

So that dependent nation within our borders is not just -- it's not an interpretation of, "You're dependent on us," it's also the interpretation of, "We owe you and we are responsible for providing health care." There are certain delineated responsibilities in trust. So I'm sorry, I didn't come prepared with all of that today, but that's information that can be provided.

COMMISSIONER ZIMMERMAN: Just to be clear that the trust responsibility and the healthcare and the home security and the education provisions that remained through treaties was in exchange for land.

And so we prepaid and we've never -- we've never really been paid. But that's how American Indian tribes view that trust responsibility. We paid for it.

CHAIRMAN SANDERS: Well, we're at the end of our day, and from my perspective, I've learned an incredible amount. This is probably more notes than I've ever taken, probably since college.

I'm going to turn it over to Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: Again, thank you, everyone, for attending all day, those of you that stayed with us all day. We have asked a Salt River member to say a closing prayer. They were unable to stay here with us, but they have asked that a Navajo



member provide the closing prayer for us. So we've asked Gladys to do that. If everyone would stand and we can have a closing prayer.

But before we get started, we are inviting all of you down to Roadrunner C, the floor below, we have a reception where you will have an opportunity to visit with one another, to visit with Commissioners. There will be food and beverages for you and you are all welcome to attend that reception.

Gladys?

GLADYS AMBROSE: Thank you again, and please bear with me. I will say the closing prayer in my Native tongue.

(Prayer spoken at this time.)

Thank you.

(MEETING ADJOURNED AT 4:36 p.m.)

DAY 2: MARCH 26, 2015

CHAIRMAN SANDERS: Good morning. Welcome to the second day of the Commission to Eliminate Child Abuse and Neglect Fatalities meeting.

Yesterday was incredibly informative. We have a half day today with the agenda focused on deliberations among the Commissioners, and we have our Children Known to the System, Child-Protection System Subcommittee that will spend the first couple of hours reviewing their initial recommendations, and the goal will be for the Commission to be able to have a discussion on those ideas and give feedback to the subcommittee about is this the right direction.

So I'll turn it over to Bud Cramer and Jennifer Rodriguez.

COMMISSIONER RODRIGUEZ: Thank you. Good morning, everyone. So at our last meeting we presented sort of one of the areas that we had focused on around safety assessments, and we heard feedback from the whole Commission, that it would make more sense actually, as opposed to starting with a small specific part, to be thinking about the overall framework for these recommendations.

And so we've gone back and we have very "draft" recommendations for you. So before I go through them, just a few things. One is that the language in many places, what you'll see is really just placeholder language. It's not meant to -- doesn't have a lot of the



details that we know we'll have down the line. It's meant to give you something to chew on and to give us feedback on today.

So that's one, and then second is that I think it might be helpful, in terms of the overall presentation, Michael is going to be taking a lead on presenting when he arrives. But I'm filling in for him right now. It might be helpful to hear all of the recommendations sort of as a whole and then at that point give comments and feedback because they are set up in a particular way to flow.

So with that, I guess we'll get started. So this document that you have in front of you has sort of several principles, and these are principles that we've derived from findings at past meetings on the presentations.

And I will let Michael get a chance to get himself settled. I'll start moving through.

So you'll see the first thing here is that we've heard all of the testimony about how much variation there is and how child protection work is actually done, both across states and across local jurisdictions. And so that, we definitely have to keep in mind when we're talking about what law needs to be put in place, what policy needs to be put in place, what current practices, what practice we're moving towards, what resources are available. We recognize there are literally thousands of different responses and tactics and strategies that are being used across the country. That's our first reality.

The second reality is that we know that no matter what, we're going to need a child protective response. No matter how good the work of the, sort of, Public Health subcommittee is, no matter how comprehensive the support system we set up for families, there still will be a need to have a safety response and that safety response will result in some children needing to be removed from their home and placed into foster care.

COMMISSIONER CRAMER: Jennifer, could I --

COMMISSIONER RODRIGUEZ: Yes.

COMMISSIONER CRAMER: -- participate with you in this. And I don't want to get us bogged down because we want to rough through the five pages. And I know that our draft was put with you just yesterday, but from the previous discussions that I've tried to tap into, mainly by telephone, while our subcommittee is called, "Children Known to CPS," it was my hope, and I see it in here, that what we're addressing is not just the Child Protective Service state agency as we all know that bureaucracy, and not just focused on their needs and what they should do. Because so often law enforcement is one of the first responders there, too, so we want to make sure the entire team is



spoken to by what we do.

COMMISSIONER RODRIGUEZ: Yes, and I'm sorry, I jumped the gun here. There is a copy of these recommendations at the back of your binder, the last tab marked, "Other." Oh, it's actually -- okay, in mine it's, "Other." In everybody else's it may be under, "CPS Subcommittee," so one of the two spots, so now you can follow along here. Sorry about that.

Yes, and to echo what Commissioner Cramer just mentioned that our -- the idea is to focus on the children as opposed to the system, and the recommendations are meant to get at constructing a system that will best respond to those children's needs. So we also know that there are -- we heard wonderful testimony yesterday and we've heard testimony in other states. We know that the forces that families are facing and the challenges they're facing, that they're extreme, and that these are challenges that CPS agencies, from what we've heard so far, are really struggling to actually develop effective interventions around.

We know that there's wide variation in states. Commissioner Petit has, many times, said that geography in many ways determines whether a child is able to be kept safe, what kind of resources they'll receive, what kind of response they'll receive. And so we know some states are doing a better job than others right now and some jurisdictions are doing a better job than others.

And then federal leadership around preventing child fatalities due to abuse and neglect and compliance, that it's weak, that this is contributing to our inability to keep children safe.

And we also know that child protection and keeping children safe requires the resources, skills, and commitments of agencies beyond child protective services, like law enforcement, public health, community agencies.

This goes to Commissioner Cramer's earlier point that we really are recognizing that the investigative response and the safety response, it's a really specialized skillset. It requires a multidisciplinary response.

So these are our general realities. And I will turn it now over to Michael to walk us into the recommendations.

COMMISSIONER PETIT: Thank you, Jennifer. I was upstairs looking for a pair of glasses. I have about eight pair with me on this trip but see there were two here waiting for me. I should have just come directly here.

The way that this has been divided is -- the paragraph you can see on the bottom of the



first page, "Unfolding Recommendations," so we're not in, you know, firm, final mode with any of this yet. And we're presenting it in terms of policy and law, practice, research and data, and then the financial resources necessary to back this up.

The first piece, the policy in law piece, is actually one that is talking about lowering the threshold for intervening when a child is in harm's way. The current statute sometimes limit the ability of the agency to become involved because it hasn't reached a particular threshold of endangerment or risk to the child, that there may not have been abuse and neglect, but it appears that there's a likelihood that abuse and neglect will take place. And this one is, I think -- I would just broadly say that the statute, as we've heard yesterday, as we've heard other places, and we heard them yesterday around confidentiality, the statutes are actually, in most places, pretty well written and cover a lot of what it is that needs to be done.

It's really the execution of some of that that is more of a problem in some areas. I'd ask Tom, who has spoken to this extensively, or Jennifer or Bud who are lawyers, to speak more on this particular piece if you want to do so now.

COMMISSIONER RODRIGUEZ: I was just going to say that I think we already --

Sorry, I know -- so I was just going to say that I think we had a pretty good discussion on this at our last subcommittee presentation, about the difference between looking at whether there's a risk that a child will be harmed versus looking at a specific incident that happened.

So it sounded like there was agreement, overall from the group, that it made sense in terms of an approach, to be taking a more expansive definition and allowing agencies to act when they see there may not have been something specific that happened, but everybody knows and has a feeling about a child, that they might be in harm's way.

COMMISSIONER PETIT: So that recommendation, Bud, did you want to comment on that, too?

COMMISSIONER CRAMER: Only this way. As we all know, most states have responded to child deaths over the years and have enacted general laws that speak to multidisciplinary team review of cases.

What we're trying to hone in on, our recommendation, is that there should be, in this day and time, a broader mandate for a protocol or -- that focuses on the threat, the harm. It gets us into a safety assessment. I think it gets us into not just a recommendation that speaks to the state child protective services agency but just speaks to the ability to protect children at risk.



COMMISSIONER PETIT: Yeah, and I think it doesn't necessarily mean that CPS takes over that particular case. It just means that we're now more alert to it and you would bring to bear the particular resource that this problem presented. So I think that's an important piece.

COMMISSIONER COVINGTON: So do you think it would just mean more cases would be investigated?

COMMISSIONER PETIT: Well, one thing that we know is --

CHAIRMAN SANDERS: I think that one of the suggestions is that we go through the recommendations and hold questions. We can do it either way but I thought that --

COMMISSIONER PETIT: It'll take the three of us, doing this running commentary we're doing, maybe a half an hour to go through it, but I think --

COMMISSIONER CRAMER: And you will see under there the resource implication, how many additional cases would be generated by an expanded definition. So that was a consideration we had as well.

COMMISSIONER PETIT: Yeah, yeah. So just leaving this, and all the way through, the business about -- one particular recommendation here and the way that this has been lined up, we're going right to the Affordable Care Act [ACA], which has to do with treatment related issues, which is what would follow if there were, in fact, more investigations, undoubtedly would reveal more cases that ought to be brought to somebody's attention, right.

So one of the suggestions that is being made is that there be a carve-out within the Affordable Care Act. Let me just say something about this one. First of all, the Affordable Care Act, we don't want this Commission to get caught in the crossfires that are going on between the Congress, the Administration, Supreme Court. That's all way above our pay grade.

What is possible to think about is given that home visiting, substance abuse, and mental health are three of the principal means of treatment and intervention in households where there are problems, that Medicaid actually funds a lot of that.

And the question is, could you expand it to include more people who are narrowly defined as abused and neglected? Could you pull money out of the Affordable Care Act the way -- for example, right now, they're doing a hundred percent reimbursement in the states, I think for three or four years, and then it's 90, 95 percent after that.

Without having to open the entire Affordable Care Act, which begs the question, I



mean, that would be a challenge, could there be a carve-out, given the strong support to create this Commission, strong bipartisan support to create the Commission, the 330 to 77 vote in the House, and the 100 to nothing vote in the Senate, is there sufficient cross concern about this that this new Medicaid opportunity and option could be opted for by all the states. So that is a piece. I don't know if, Bud or Jennifer, do either of you want to comment on this particular piece?

COMMISSIONER RODRIGUEZ: Just to say quickly that it also -- I think thinking about health response to some of these issues is also consistent with the way we're beginning to look at the overall issue around child fatalities of being a public health issue, and that the substance abuse and mental health treatment is going to be a critical part of actually having something to offer to families once we do intervene and investigate.

COMMISSIONER HORN: Do you have any idea of what this would cost?

COMMISSIONER PETIT: No, but I think it could be -- I think it wouldn't be too difficult to come up with a ballpark figure. So I think back to the envelope estimate.

CHAIRMAN SANDERS: I think it would be most effective if we have the presentation and then have the conversation versus --

COMMISSIONER CRAMER: But we knew you were going to ask that.

COMMISSIONER PETIT: Not yet, but we know how to do it and it wouldn't be that hard to do. All we need to remember is to adopt the Defense Department model, just say everything that you need ends with two zeros. So you need a hundred jet fighters, not 99 or 98, do something like that with this.

I would note on the prioritization of services which Jennifer just alluded to is that in different surveys that have been done on families that were screened in and families that were screened out, that in many cases their needs are the same. They just did not climb to the threshold yet of a certain amount of abuse and neglect, which eventually a number of them fall into.

The next piece is to eliminate various collaboration and sharing of info across agencies that would allow effective safety investigations. I thought we had quite a long discussion about that but I'd ask Jennifer or Bud. I mean, this is one that we all talked about a lot. Do either of you want to comment on that particular piece, number four?

COMMISSIONER CRAMER: Well, I would offer this -- and this, inevitably, I think, causes us to consider funding sources but also the way agencies are organized, trained, and dedicated to respond with existing funding in cases that are out there.



Again, not too much to have to repeat myself, but local communities have done a pretty good job in the last 20 years, in some extraordinary jobs, of bringing mature multidisciplinary teams together that do have workers working side-by-side together, out of, in a lot of cases, Children's Advocacy Centers where you've got a Child Protective Service worker that does in fact specialize and is dedicated to working with the law enforcement, said law enforcement folks. Depending on the size of the community, it could be various jurisdictions working side-by-side with a prosecutor that's giving advice.

But there are still gaps in the system, there are still patches of funding sources for that. Those of us that met with the justice department a few weeks ago, we pointed out from the Crime Victims Fund that there's some forensic interview monies that could be available to the multidisciplinary teams for them to pay for specialized interviewers of children that could be used to gather information that could offer protection for children.

We're just saying eliminate barriers to collaboration and sharing of information across agencies that would allow effective safety investigations.

COMMISSIONER RODRIGUEZ: And I guess I do want to add something. I mean, this is something we talked about very early on in the Commission. I know Commissioner Rubin felt strongly that there may be families who are seen in the emergency room where there's critical information about what happened. They've been in three times for a child who has fallen.

And law enforcement might have really critical domestic violence information, and it's almost an impossible scenario to have an investigator who goes out and has zero context for what they're looking at as they evaluate the situation in the house unless there actually is some way to get the information.

And hearing what we heard from the Family Advocacy Center and the testimony yesterday, I think it's encouraging that there are -- that there are folks who are figuring out how to do this and how to work collaboratively together.

And I guess I would just add in eliminate real or perceived barriers. I'm not sure all of the barriers that people have identified do actually exist, but they're certainly interpreting statutes and regulations to think that they exist, so --

COMMISSIONER PETIT: We know this is a big one and it also is an important piece in different parties holding each other accountable for this. And we had a quite lengthy discussion about that yesterday.

I was especially impressed by the work that was being done in, I guess it was in South



Carolina or perhaps it was North Carolina, but I thought she laid out very well what happens in the best situations, which groups hold each other mutually responsible for producing information.

Number five, "Create federal incentives and leadership to move other agencies to prioritize child safety as a critical part of their mission." Bud, is this one that you were principally putting out there, yours, Jennifer?

COMMISSIONER RODRIGUEZ: I mean, Commissioner Cramer could actually speak to this equally well. This I think is important because of -- for a couple of reasons. One is that if we really want other agencies like law enforcement or public health to be thinking that child safety is not just sort of something that they do because child protective systems ask them to do it, but that it's a critical part of their role, then I think that we need to figure out how to incentivize and send a clear message across the country that that is the expectation.

I mean, we heard yesterday the best possible reality which is here in this community, that anybody who receives a check from, basically, the tribal government is told, "Tribal safety is your number one priority."

I don't know that we'll get there, but I think that is good modeling of leadership, and particularly for law enforcement it's critical. We've had discussions on our subcommittee about how important it is that sheriff's offices and police departments, that they really step up and take some leadership around their response.

COMMISSIONER CRAMER: I just want to add that while on a local level we talk about how effective multidisciplinary teams are or how ineffective multidisciplinary teams are, how they still missed gaps in the system, what's the reason for that.

But on the federal level you've got agencies that to a certain extent adopt federal policy funding priorities in isolation from one another. So that you need justice -- the way we've taken our issues to the federal agencies, justice, understanding what they're doing. But they're doing a good job of reaching across the mall in Washington, D.C. to other bureaucracies there and saying, "You've got these demonstration projects going, we've got these demonstration projects going, we can use the Victims Crime Fund, you're using this," but also it's important for us and down line we need to talk about how we present our products.

Because I came from the Congress. I know that when we were created, the very committee that created us said, "Challenge the status quo, tell us what's working, tell us what's not working." Because those oversight committees that may have oversight over law enforcement justice fund or another one that might have the health and human services, which has the big umbrella over there where a lot of local money



comes from, they need to hear from us and have us report back to them what we see as the problems.

COMMISSIONER PETIT: The six items, sharing of information between jurisdictions when families are mobile, we've discussed this before about crossing state boundaries, going from jurisdiction to jurisdiction within a state.

Jennifer, is this one you want to comment on?

COMMISSIONER RODRIGUEZ: Sure. I think this is critical, because we don't live in a society where families stay in one place. And you may have an open case with a family who suddenly disappears and moves into another jurisdiction, and there has to be an ability, if there is a subsequent referral to CPS or to law enforcement, for them to know what happened previously.

I think it's just as important as information sharing across agencies, this ability to be able to get full information from other jurisdictions, and it's just the reality of the time that we live in.

COMMISSIONER PETIT: Bud, did you want to say something on this one?

Going to number seven -- I think this is leading into the recommendation below. This is one of the major changes in policy and practice that we would see in the United States across the entire child protection system. Not just the CPS agency but the entire child protection system. Basically, the principle is more than one set of eyes, more than one perspective is needed in looking at these cases in trying to figure out exactly what is going on.

In this case what we're basically saying, if you look at the recommendation, is that everywhere, all the time, there would be a multidisciplinary team review of cases, except when there was a legitimate basis for a purposeful departure that you did not subscribe to. But the default position is more than one set of eyes looks at these situations.

And the recommendation is that, whether through CACs or similar vehicles that have already been created locally, build on this network to expand across the country so that there would be more careful scrutiny, more capacity to assess what the level of risk and danger is in a child's home.

COMMISSIONER CRAMER: Look, this number seven here, to me, strikes at the heart of what we're trying to struggle with here.

And it's easier said than done. Because it's been said for many, many years, and I hope



part of what we do is to kind of dissect what at-risk cases we are expecting reaction to, who's got the lead on those at-risk cases, why aren't they responding to those at-risk cases more completely. But when we say in recommendation Congress should fund, that again, I don't know -- I don't know how we do that, but I do believe there are components of money, existing monies that are there as long as we insist that this be made a priority.

COMMISSIONER RODRIGUEZ: And more than one set of eyes. I think it's the recognition that there are so many complexities in the dynamics in a family that actually require somebody who really specializes in that area.

I mean, we were having a discussion last night about, for example, if you look at the pattern of fractures that a child has had over time, it's just unreasonable to expect that a CPS social worker might be able to look at that case and figure out what does that mean in terms of the risk to the child.

Or if a parent is seriously mentally ill and not taking medication, it's not realistic to expect that a CPS social worker would be able to take a look and see the type of medications, the duration, and to be able to clue into issues around how much that presents a risk to the child.

So I think the idea is we're saying families' needs are very challenging and that it really takes a specialized set of professionals to take a look at that family and to figure out how to support them.

COMMISSIONER CRAMER: As we're moving through with our next sessions, for example, when we go to Memphis, Tennessee, we will be hosted there by a Children's Advocacy Center and we will have two presenters there, one from the National Children's Alliance, which is the membership arm of the Children's Advocacy Centers, and you will have a presenter there, Chris Newlin, who's the Executive Director of the National Children's Advocacy Center.

What we've -- what we are asking them to do is look at these recommendations, look at their seven, eight hundred centers that are around the country, tell us what's in practice, what exists there. How are they funding components of what they do, what's working, what's not working. How is CPS working side-by-side with law enforcement, how are they trained, how are they specialized, how are they organized, what are they struggling with?

We hope it's not just up to us to make these recommendations blindly, but it's up to us to raise the question and then hear from folks that are actually on the front line doing this.



COMMISSIONER PETIT: So the next finding, recommendation is one that I think deals with the immediacy of the problem of kids who are in harm's way right now.

We know that there will be somewhere, 2,500/3,000, upwards of that, deaths in the next 12 months. I think it's been established or can be established that the majority of those kids are already known to the system. We don't know who the kids are individually, but we know that they are within the scope of protective services' open cases across the country.

So drawing from George Bush, drawing from Barack Obama with a surge concept, we are proposing that -- there are a number of high risk jurisdictions right now where there is a disproportionately large number of children that are killed -- that there be a lookback, a review by a panel of maybe retired judges, social workers, prosecutors, others, to look and see -- to revisit those cases and see how they're doing.

We know that in many jurisdictions the families are not seen even once a week. We know that the dynamics in the household can change in terms of who's moving in, who's moving out, and we know that in a number of states they are way behind in reviewing cases. They have a backlog of cases.

So this would clear those backlogs in certain jurisdictions. It would bring different perspectives and authority in reviewing them and it would serve as a basis for either confirming that a case was on the right track or that there needed to be adjustments made right away.

So this is one that gets at -- when we talk about what we do right now, this is specifically one thing that we could do right now following the approval of the resources necessary to fuel it.

But you could do it on a model basis. You don't have to do the whole country all at once. We could test it in several jurisdictions. HHS could test it in several jurisdictions with DoJ and see if it made a difference over the course of a year or two in the number of kids that were being killed in a particular jurisdiction.

There are some places in the country, Texas being one, but there are others -- but Texas probably foremost -- where year in, year out, year in, year out there is the same high number of kids that are killed. This would be meant to address that.

Jennifer? Bud?

Leaving number eight and going on to number nine, this is -- Bud, you were just basically talking about this with the MDTs.



COMMISSIONER RODRIGUEZ: I think we were all talking about it. So I mean the principle on the first one was actually the death reviews. This is the investigations, but the same idea applies to both, that we are looking either prospectively or retroactively at having a team of specialized folks really be evaluating the case.

COMMISSIONER PETIT: Right. And again, there would be resources used for this.

I think one of the things to think about with all this, and I think we heard it yesterday around the application of IV-E waivers by the tribes, and doing certain other things, is that there are some people that are frequently dismissed as bureaucratic.

But within any corporation and within governmental programs there are people who kind of like tie things together. Their jobs are somewhere maybe in the middle, but they tie different things together so that you can ensure that certain things are going to be done as efficiently as possible.

This gets into that, that there would be -- these set of recommendations, they look soft in terms of administrative, some of them have that focus. But without that set of hands that expedites the process, it facilitates the process, it convenes, defines, et cetera, it's just not going to get done. Because people have other responsibilities, they're not going to be able to pay attention to it. So again, this one, I think, is a resource question. And again, the issue could be, could you move into it gradually on an incremental basis over time?

The issue of number 10, I think is one --

COMMISSIONER CRAMER: Michael, could I interrupt?

With regard to nine and 10, and, quite frankly, with regard to a lot of our recommendations, I think there's been Commission discussion in general about the way the state agencies are organized. And I for one have for years said I'm not sure that model, the way they're organized, the way they're funded, the way the workers are assigned -- you'll see that we speak to inadequate training. You'll see we speak to inexperienced workers being out there on the front line.

I think some of what we're talking about here is a forced reorganization of the way the local teams are constructed, the way the workers are assigned to those teams, so that we do get more of an investigative, experienced team out there and not this random, sort of a new --

I know in the district attorney's office, speaking on the prosecution level, the newest, greenest prosecutor was put in juvenile court to work with social workers to give them advice because none of the other lawyers wanted to go there. They dreaded that



assignment. They only did it because it got them into the other more attractive cases that from a lawyer's point of view, from a prosecutor's point of view, they wanted to get to do.

So I think even at CPS, the way they're organized, they need to relook at that, and that's part of what we're trying to get at.

COMMISSIONER PETIT: Then there's this issue of workload and training that is implicit with what -- some of what Bud has said. But what we know is that we have a workforce that in many places has high turnover rates, it's not well-trained, does not have the experience, does not meet national standards in terms of what the number of families are that work's responsible for.

It was interesting to me to hear the Family Advocacy Center here say that workers I think had two families or four families, that's it, that's what they were dealing with at a time.

It was a very positive ratio of staff to cases on this one. So this is, again, workload, caseload, and it also relates to the question of who's going out and conducting preliminary investigations, and I think it's in this piece -- I think it's in this piece, number nine, Bud and Jennifer, that we're saying two people go out, is that -- I don't see the word that says two people, but basically --

COMMISSIONER RODRIGUEZ: It's close to last, "Initial CPS response should consist of the CPS investigator and another professional."

COMMISSIONER PETIT: Yeah. Again, that particular piece says that the default position on going out is a CPS worker and somebody else, whether it's public health, whether it's law enforcement, somebody would go out, and we think that would make -- lead to stronger decision-making, that's exactly what the child was facing, what kind of danger the child was in.

Bud, did you want to speak to that?

COMMISSIONER RODRIGUEZ: I mean, just to speak on that particular piece on the second person, I mean, I think in just about every other industry it's considered to be not even a best practice, but just a standard practice that you have -- always have a second review when there's a decision that's a critical decision.

So regardless of whether you're talking about a manufacturing decision or a healthcare kind of world, so when we are talking about this type of a decision about whether to remove a child or leave them in the home, I think it only makes sense that we're talking about the same sort of principle, that it's a critical decision -- a child's life and safety



and well-being is on the line.

And so having a second party who's there is really important, and I think we're also thinking that this is a way to improve practice on a daily basis as well. So no matter what, there will also be a process improvement that happens in terms of -- in addition to the better outcomes, that as folks work together as a team, that you'll also have an improved sharing of ideas, and gradual improvement of practice as folks are out there, particularly when it's people who are from different disciplines.

And then the last thing I'll say is that the work of re -- investigating these cases and removing children is really stressful work for workers. And so I think re-conceptualizing this to be a team approach that when you are out there with a family, that you're with somebody else, you're not working in isolation, that that is better for our workers as well. It's going to lead to better decisions, better morale and ability to do the work.

COMMISSIONER PETIT: And doing that means that you increase your workforce, which has resource implications, but what we're talking about is building in a certain redundancy in these programs that creates a more failsafe kind of a system.

The other piece I just would return to, when we say, basically, going out on all cases. As I've noted, if the kid's stockings don't match or the mittens are different colors, that doesn't trigger a response, but for almost everything else, it does. That is that fire department analogy that we've used about, you know, the dispatcher doesn't ask you how hot the flame is or how high it is and what the fabric is that's burning. They send fire trucks out there.

And I've been in situations where fire trucks have come to a scene and are embarrassed by the fact that, gee, there was really nothing there. And every single time these firefighters say, "Better safe than sorry. We would prefer to come out and we'll figure out if it's a problem or not. And if you're wrong, don't worry about it. It's worth our time."

So we're talking about a universal process of investigation in almost all referrals. I have to note something yesterday I think the judge made reference to. They were talking about young workers, and then he was talking about, you know, then you've got these more mature workers or more experienced workers and you've got them in the back someplace doing supervision. With all due respect, I think that it is critically important that the supervisors be experienced individuals.

So the front line should be too, the appropriate amount, but you can't have inexperienced supervisors. In many cases as it exists right now, that is the last set of eyes that makes a determination about what happens to the child, and if you've got a supervisor who's got nine workers and the workers have 30 cases each, that supervisor



has some responsibility to oversee 200, 300 cases.

So I don't see the -- us diminishing the number of supervisors but maybe diminishing the caseload of the workers.

Then on -- go all the way to 10 -- which number are we at?

COMMISSIONER CRAMER: Before we get into 10, I just want to add once again, the harder part in all of this, as we all know, is deciding what is reviewed, what is not reviewed, why is it reviewed. You can only react to what you know, you can't react to what you don't know. What cases are in fact brought to a multidisciplinary team, what cases are not. What cases present is there an at-risk assessment that's done either by law enforcement or by CPS that would help to determine what's brought to an experienced team.

Because even an experienced team cannot have the chance to review something -- if a teacher at a school sees something or if a nurse practitioner in a hospital setting sees something and it alarms them but it doesn't present extreme indications of that child's well-being or life being threatened, those are the harder to determine parts of this, that even the best of systems can't prevent.

COMMISSIONER RODRIGUEZ: The other thing I wanted to add that maybe would have been helpful to say at the beginning but let me just say it now, is that in terms of the resource question on many of these issues, I don't think that we're imagining that the system would operate exactly as it operates right now, and that we would add these layers on. I think we're envisioning that there's sort of some fundamental shifts in overall what Bud said before about the way departments are managed and organized.

And so the question of how much do each one of these things cost is not a question where we would look at the existing system, say, and on top of what we have happening right now, there's this extra price tag. But I think what we're saying is that it's time to look overall at the system and figure out how do we have resources allocated. Is that the most appropriate way to allocate resources, and then what do we need additionally to do that?

COMMISSIONER PETIT: Yeah, and policy-wise, I think we've just said three big things that deal with the question of kids that are in harm's way and the question of how to best implement them, how to phase them in. One is this idea of a surge in which you go back and take a look at kids in certain districts right now that we know are at risk and there is not enough resources, not enough eyes taking a look at them. That's one.

The other is instituting this multidisciplinary team across the country in every jurisdiction that there be that type of a vehicle. And the third was this team approach



in conducting investigations.

Those are three things. The other things that support that are things like improved staffing ratios, the elimination of certain barriers around communications and so forth. But the core hands-on work, I think are those three pieces that I've just noted.

Number 11, "The quality assurance plans," Jennifer, Bud, did you want to discuss that? And if not or in addition to, Tom, do you want to speak to that because you've done quite a lot of work on this? Bud, Jennifer, Tom?

TOM MORTON: Commissioners, in the work that I've done in support of the subcommittee, I've looked around the country, I can't say that I've taken a totally systematic look, but what I look for is quality assurance efforts that specifically examine safety critical practices.

A lot of states have modeled their quality assurance around the Child and Family Services Reviews, case review, which does include some attention to safety, but again, it pretty much models the outcome indicators in the CFSR. Meaning, as they review cases, they look for whether or not there's been recurrence in the past six months. Of course in the new realm that'll be a little bit different. They look for examples or instances of abuse and inadequate home care.

I did find a very interesting example in Oregon, which is a result of their Critical Incident Review teams, and the findings, which basically told them that their safety model was not being implemented correctly.

They implemented a very specific QA approach in going out and looking at safety practice. That is, the quality of safety assessments and safety plans and follow-through on safety assessment throughout the life of the case.

So in essence, as I look at other settings, Rachel Berger, Dr. Berger and I have talked, for example, about her hospital. Secondary infections are a major issue in hospital settings, leading to deaths in her hospital. They actually have installed cameras above sinks to monitor hand washing, which is a critical preventative measure. You can't see the face of the person but you can see their hands.

And their standard for performance is very high. For example, I think she told me in a recent review, 97 percent of people wash their hands correctly. That was considered substandard in that particular setting.

So part of the impetus here is to encourage or incentivize states to additionally provide quality assurance reviews of specific safety critical practices throughout the life of the case, in addition to general case review.



That is most often or commonly done for compliance issues. Did you do this, check the box; did you do that, check the box.

COMMISSIONER RODRIGUEZ: This recommendation is really about the fact that at the end of the day, somebody said it yesterday, that what we're dealing with are people. It's not a system. It's a person who is doing the investigation, who's doing the case mapping.

I mean, I think about when I was growing up in care, there was one particular staff member at one of my group homes that every time they were on staff, we knew they were going to call the police on one of us because they just didn't have any ability to manage conflict. And so that was -- somebody needed to do quality assurance on them to see what the issue was.

And we were talking last night, Dr. Berger was sharing research that she's looked at that shows how important an element the individual social worker is on a case; that you can actually track whether families have good outcomes or poor outcomes or sort of patterns across different workers for that.

And so this is designed to say it shouldn't be that way. There shouldn't be so much power and responsibility in one person. If you have an appropriate quality assurance plan, then you have a second level of protection or review for families and for children to make sure that what we hope is getting done actually does get done.

COMMISSIONER PETIT: On this particular piece, which we've been talking about from the beginning, which is protection sometimes is an accident of geography, I have been involved with studies that do state comparisons on -- just take any statistic you want. Say, separation from families.

The variation from the lowest states' removal of children from families to the highest states can be four- or five-fold. Take any category you want and among the states, the difference between the high and the low is several hundred percent.

It's also true between counties within a state, and it's also true within units of child protection, that you have some workers that just do more than the other. I think this notion of quality assurance is a critical one and it means the same high levels of standards every place, wherever a child is hurt.

Anything else on this one, Bud?

The next one, the role of law enforcement, let me just say I know Bud has a lot to say about this and so does Jennifer, and Jennifer just said every time you were at their



facility, you could be assured of a cop being called.

Unfortunately, there are situations where the cops and the police should be being called and they're not being called. And one of the sad things about all of this is that there are criminal offenses being committed in a small percentage of these cases, and in too many instances the police may be on the sideline with some of these things; CPS is not engaging them.

And my own experience is that this business of collaboration between police, prosecutors, and CPS is critical, critical, critical, in protecting children who are in immediate trouble, whether it's enforcing a domestic violence order or whether it's arresting somebody or whether it's going to the home and finding out that nobody is there or they're not willing to open the door.

I know that from my part, I recall one time we were trying to find a family, and our social workers, for two or three straight days, kept reporting, "We can't find the family." At some point the question was, "Have you talked to the chief of police yet? That's what they're in the business of doing, is finding people." And we ended up entering into a protocol with the police in which that's exactly what happened. We had trouble finding the people, we called the police to help us find the people, much more likely to find the people. So on this one, Bud, why don't you speak to this one.

COMMISSIONER CRAMER: I think we've essentially spoken to it. Under our recommendation, we are -- it's a broad statement there saying that law enforcement should be involved in all physical abuse responses.

Again, I don't know how you do that. That gets back to a safety assessment issue. But I think, more importantly, it gets down to an effective team that's sitting down with one another that is sharing information about what they're reacting to.

If a kid has got a bruise at school that needs to be investigated, police need to know about it. Broken arm is a different issue. Concussion is a different issue. The age of the child presents different issues in there as well, but we are holding a place here, saying -- trying to promote the fact that law enforcement needs to be involved on the front end with discussions that these experienced workers are having with the reports that the agency is receiving.

COMMISSIONER PETIT: Jennifer, did you want to say anything on this?

The next one is one that we've all talked about many times and that is prioritizing preventions for services to prevent abuse and neglect in the first instance. However, I would just remind us all that the charge to the Commission was not to figure out the elimination of child abuse neglect deaths -- death, child abuse neglect, but child abuse



and neglect deaths, which is a different but related problem.

But the notion of investing in a whole host of health and social services on a par with some other jurisdictions some other places in the world, it varies strongly from state to state. So the question is, will the Congress address more of these so-called upstream kind of services?

But many of the families who were identified earlier will be problematic if not intervened with early on, whether it's substance abuse or whether it's mental health issues, whatever it happens to be. So the question of how the U.S. does on this issue is a question mark. It's much stronger in some parts of the country than other parts, in some states than other states.

Jennifer, do you want to speak to this?

COMMISSIONER RODRIGUEZ: Yes. This recommendation isn't actually about broad scale preventing abuse and neglect. It's specifically about young parents who are in the foster care and then the juvenile justice system.

We've heard so much about, really, what the risks factors are, and about the fact that these young parents in particular have all of the risk factors, but we have full access to be able to prioritize them for services. And most of the information that's out there, we don't have a lot of data, but really what it shows is these parents are actually getting less support rather than more support, and so it gives us that opportunity to do the intergenerational approach that we talked about.

So it's a very specific population. It's not a broad approach.

COMMISSIONER PETIT: Yeah, and I missed that. Something was added, and I think it's a good one exactly as it stands. The larger question of early intervention and prevention is being dealt with by another subcommittee.

On the research and data, I mean, this is something that we've all talked about, how unsatisfying it's been in looking at what research has been done that would provide a guide on how to best deal with these issues. I don't think we've seen too much that speaks directly to this question on research. And so the recommendation is that the federal government support very specific research on fatalities to a greater degree than it has at present.

Bud or Jennifer, do you want to speak to that?

COMMISSIONER CRAMER: Again, my mantra is I don't think safety assessment should speak strictly to CPS. I think it should speak to law enforcement as well in that the -- as



we've heard, there've been child deaths where law enforcement has taken the lead. It's not law enforcement's job to go to court and remove children. It's the protective service state agency's job it is to do that. There are occasions when law enforcement should have involved CPS.

COMMISSIONER PETIT: And then the last one, "Develop effective interventions for at-risk families, engage child protective services."

COMMISSIONER RODRIGUEZ: So I think A and B under this are not supposed to be here.

COMMISSIONER PETIT: Yeah, right.

COMMISSIONER MARTIN: They're not supposed to be here?

COMMISSIONER RODRIGUEZ: They are not. B speaks more to this, but this is just a recommendation that's just a placeholder, it's not fleshed out. But A definitely doesn't belong there.

This recommendation is really about once we do a safety -- once we do a safety investigation, then what? What do we have to offer to really heal that family? What do we have to offer to heal the child from what they've experienced?

So it goes to what we heard on the panel yesterday, that it appears that right now much of what we have to offer is foster care. And that that can either be an effective intervention or an ineffective intervention for the child, but then for families what works. Because in many cases children are returning to families, and we do want to -- we can only use foster care to protect children for a certain period of time, and I think we really want to think about developing a body of rigorous research that tells us what is helpful for families in the long term.

COMMISSIONER PETIT: I would just note, there have been many studies on reducing child abuse and neglect. There are many programs that show if you do certain things, you can reduce child abuse and neglect. You can reduce repeat offenses.

But the issue around reducing child abuse and neglect deaths, which you would think would follow reducing child abuse and neglect, that is still a question mark. And part of it is because the sample sizes required to actually make two comparisons would have to be very, very large because the numbers are so small.

Bud, anything else on this piece?

I think that wraps it up. I think we've been working on this. Tom has been terrific. We've been working with Dan Scott, a retired police officer from Los Angeles County,



who has spent a lot of time on this issue. And this is a work in progress. We have more things that we want to add. We're going to develop these further. But I think now it would be helpful to us in getting ready for our next meeting, which I guess is in Tennessee in about a month or so, and we'll be working on this, but now what we'd like to do is have a discussion with you guys going through.

CHAIRMAN SANDERS: Just a couple of things. One, you mentioned a couple of times about the issue of prevention. That is one part of the enabling legislation that specifies its prevention of abuse and neglect, that we are to look at methods to prioritize, not just prevention of abuse and neglect fatalities.

So that's section IV-E, I believe, in the legislation.

The second piece is the conversation, it seems should be similar to conversations we've had in the last couple of meetings about just our general sense of support. Are we generally supportive, are we not supportive, or is there more information that we feel we need before we could make a decision one way or the other.

So I'll start with Commissioner Ayoub.

COMMISSIONER AYOUB: Thank you. I just have a couple basic questions to clarify for me.

When we do this report, for instance, you talked about risk versus incident, waiting for that, so when we talk about expanding that definition, does that mean -- will you have specific wording for that or will you just say expanding definition? Will you be recommending wording, very specific?

COMMISSIONER RODRIGUEZ: I think we would be recommending both wording and how to interpret that wording. What we are wanting is to move to more consistency and to develop a different threshold, basically.

So I think it won't be a broad, kind of, suggestion, but it will be a pretty specific suggestion about a different threshold.

COMMISSIONER AYOUB: And along the same lines, will it give specific wording -- in number four it says, "Allow effective safety investigations." I think you mentioned that, Bud, so what would be effective? That could be -- that's up to the person what effective is, so would we get that specific with recommendations?

COMMISSIONER RODRIGUEZ: Are you looking at number four on page three?

COMMISSIONER AYOUB: Yes. Well, I'm not sure. I wrote a note but I think it is, sorry.



COMMISSIONER RODRIGUEZ: Can you tell me where you're --

COMMISSIONER AYOUB: Number four, it says, "Eliminate barriers to collaboration and sharing of info across agencies that would allow effective safety investigations."

My question is, do we go further in the actual recommendations of what we think is effective or is that something that would be left out?

COMMISSIONER RODRIGUEZ: This is definitely an example of a recommendation that's a placeholder. That needs a lot more detail.

COMMISSIONER AYOUB: So whenever there's things like that, we're going to get very specific, is really my question.

COMMISSIONER RODRIGUEZ: I think some of them we'll get -- like effective safety investigations, I mean, my own opinion is probably that effective means you have the information necessary to make a good determination about whether a child is safe.

So to me, that's not as much a term of art as the other, but maybe other folks have different opinions. But this is in response to -- we know what's currently happening is pretty ineffective, that folks are saying we have only one piece of the puzzle, we don't know what law enforcement's contact is, we don't know what health's contact has been. We have no idea what the criminal justice system interaction is with the family and so we're not able to do an effective safety investigation.

COMMISSIONER AYOUB: I understand, and I agree with all of that. I'm just wondering how specific we're going to get, because I just know how people have their own meaning for that and maybe to be able to do the least amount of work.

COMMISSIONER PETIT: I think some of this in the end, on those pieces that require model legislation or model interventions or proven interventions, whatever, we're going to need some help in the end afterwards from HHS. I don't mean in terms of issuing the report but I mean in the future. Some of the questions that are being asked, they should be readily available but they're not.

Can I suggest, David, that we go through this section-by-section just in terms of keeping track on this thing in how we're going to follow this thing?

CHAIRMAN SANDERS: Sounds like the general discussion is going to be more helpful for most people.

COMMISSIONER AYOUB: I just have one final question. In this world when we say



incentives, does that always mean funding?

COMMISSIONER PETIT: Yes.

COMMISSIONER AYOUB: Thank you.

COMMISSIONER MARTIN: My issue is about process, David, and maybe I misunderstood you, but I thought you were asking us to basically give a thumbs up, thumbs down, or kind of a middle of the road need more information and then we were going to go back and have a discussion about the specifics.

And I think that's helpful before we get into the specifics. I tend to like to know where everyone is before we start in the specific conversation.

CHAIRMAN SANDERS: My sense, I think we need the thumbs up, thumbs down, thumbs sideways by the end of today. Because I think the committee is going to have to go forward.

I think that -- my sense is that people will process it a little differently. So I'm really open to a more general discussion at the same time that that assessment is being provided. But I think the subcommittee needs to have some idea.

COMMISSIONER PETIT: Yeah, go ahead.

CHAIRMAN SANDERS: Actually, Commissioner Covington, I think you had some things earlier as did Commissioner Horn.

COMMISSIONER COVINGTON: I'm confused, some things, do you want my thumbs up, thumbs down, comment?

CHAIRMAN SANDERS: I want your comments and whatever -- if you have some.

COMMISSIONER COVINGTON: Were you finished, Commissioner Ayoub? Were you thumbs up, thumbs down, or in the middle? You don't know?

COMMISSIONER AYOUB: I'd love to hear more discussion, too, before.

COMMISSIONER COVINGTON: I kind of think how I want to approach this, intuitively, I really support these ideas as I hear them, because it seems to me in my world this is the way you do things right.

But what I'm not getting, I think it was you, Michael, when you said they looked soft when you read them, and that was my first impression, is that they seemed soft to me.



My thought would be if we're going to put these through -- because this seems to me to be a list of how you would go to a state and say, "This is how you can really improve what you're doing currently."

I don't feel that there's a force to these in terms of thinking through how you're going to make this happen. So it seems to me like it's more of a wish list to the states on what you could do to make -- to change practice.

So I'm thinking through what could you do at a federal level, for example, through CAPTA [Child Abuse Prevention Treatment Act] or IV-E or whatever it is, to sort of force some of these changes and do some more of a forced reorganization on child welfare agencies.

Another thought was you talked about how QA varies by state, some have high level of standards, et cetera.

I don't get a sense through this that we're going to get to forced standardization across practices around states. I think if we put out this list -- I don't mean -- I'm not trying to minimize it as a list but a cluster of really good ideas.

I still don't see -- I still think, at the end, geography is going to matter unless we think of a way to work through the federal system to really try to force some of these changes.

COMMISSIONER PETIT: I don't think we've developed, yet, the full tirade and the full positive recommendations concerning the federal role, because in the end that's what we're asked to do, is to comment on the federal strategy on this thing.

As far as I'm concerned, we said it only lightly in this document, and this is a document that's a composite of self-thinking. It's not the same as when one writer goes at it. But there's no question in my mind, point blank, that the federal oversight and leadership on this issue is weak, weak, weak, and it allows and permits the shop variations that deliver different justice and outcomes to children, depending on where they're at.

As far as I'm concerned, we'll say that more strongly as part of what this thing is. At this point, it's the ideas that go within that. And I think saying things like two people should go out on investigations, there should be a multidisciplinary team in all these cases, there should be staff that meet national standards, et cetera, I don't think those are small things. But they're not written sharply enough to get what's there. I can tell you if we put these things out there tomorrow, we'd certainly get a very sharp reaction from a bunch of people, in agreement and disagreement.

COMMISSIONER COVINGTON: My other thought would be as we push through and go



with them, one of the reactions are going to be, "Well, where's the evidence that what you're suggesting has worked any different than what the current practice is?"

So I think that we need to do some background to kind of build that in. So if what they did in Tampa, for example, really showed a difference or what they did here at Salt River, if their heavy, heavy MDT investigative approach early on made a difference, I think we need to just -- that has to be kind of a foundation to these as we proceed further.

COMMISSIONER PETIT: I want to respond to this. Perhaps let me say strongly, is that the research has not been particularly useful on this thing. The places like Florida, and here are tiny, tiny, tiny samples that you cannot draw any conclusions from. And in some instances somebody proposes something that hasn't been tested before. It's the best thinking of things that you bring together and hope they're going to work, and then you measure it in terms of whether they do.

But I have not seen any guidance, except in a negative way, from the research on this that says, here's what it is that we need to do. So personally, I'm not worried about putting some methods out there that we haven't necessarily done before, and there's no research that proves it, other than, you know, deductively you just say, "This is worth trying because what we're doing right now is certainly not working."

COMMISSIONER CRAMER: Did you get to make your points, mainly?

COMMISSIONER COVINGTON: Yeah, I mean, I really like the ideas. I just --

COMMISSIONER CRAMER: Let me say, at the risk of interrupting you, we've had two responses so far. This has been very difficult for us to channel categories that we want to take on and then recommendations that we want to make.

For example, I think practice, what is working, what is not working, what were we doing ten years ago, what are we doing now; as we've done these field hearings, hearing from folks about what is working, where's the money coming to do what they are in fact doing before we haul off and say --

I'm not as convinced that federal oversight is as much the problem as it is practice that's going on. As I look at the way the money comes to those front line folks, a lot of it is state money that the state agencies use. They've become -- have become and are bureaucracies that soak up that money in different ways.

It's our job to challenge the practices and the organizations that are going on and say, "This is a better way to do it." But if you really get into, "We need new federal laws, we need more oversight, we've got to be very specific for what we're putting out there."



So we need your reaction, critical or otherwise reaction.

COMMISSIONER COVINGTON: I should have prefaced all of this by saying you guys really had a hard job. I think you have the hardest of all the committees. You really do. Better than I, that's for sure.

CHAIRMAN SANDERS: Commissioner Horn?

COMMISSIONER HORN: So as I read through the recommendations, in principle, who could be against them without being accused of hating kids? So in principle, I agree with all of them. But there are nine spending provisions in these recommendations, two entitlements.

So I'm also a realist, and I would like this report and this Commission to actually make a difference. And I think that -- and this is just one subcommittee. My guess is this is not the end of recommendations that have -- creating new entitlements and spending.

So I'd really like for us to struggle with what I think government is about, which is the art of the possible. And so when we look at and say things like, "Agencies should ensure adequate resources to serve these vulnerable families and children," and you include child care support, housing, substance abuse, mental health treatment; of course, who could be against that? But "ensure" is an entitlement.

And I just think we have to be a little bit realistic about what it is that we can actually convince the United States Congress to agree to, to put into law, to find money to spend, to find money to support it.

And so the side of me that says, "Hey, we're the richest nation on earth, we can't afford not to do all these things," says, "Yes, I'm in favor of everything." The side of me that's realistic says, "I think this is dead on arrival, two new entitlements." I don't think Congress is going to pass that.

But here's my question. So you said this is not layering on top of the current system, other things are going to go away. What specifically is your subcommittee -- have you talked about what's going to go away that will help maybe fund some of this?

COMMISSIONER RODRIGUEZ: Well, I think what we realized at the last Commission hearing was that it's really important for our subcommittee to work with the public health subcommittee to figure out what they're doing and how we're doing.

Because one of the things that happens right now currently is I think that the CPS investigator -- investigatory response resources get eaten up by trying to do a lot of the, sort of, preventative case management services that potentially public health is



thinking about developing a new system to do.

So things that might have been traditionally done by the CPS agency in terms of, you know, offering parenting coaching to families who are really struggling, or support with managing anger, that not only are they currently doing but they're probably not best positioned to offer family support in those areas.

If I'm not mistaken -- we haven't had our joint meeting yet, but if I'm not mistaken, I think the Public Health committee is thinking about how do you bring in other agencies to really be able to do some of that work and to collaborate with CPS?

So I guess my answer is I think it's a work in progress in terms of thinking about what the broader reorganization of the work is. That what we know is that there needs to be some re-bolstering of CPS to really focus more intensively on doing investigations and doing the safety response, and be thinking about all of the other mismatch of things that CPS agencies currently do, are there other agencies that can take some leadership in actually providing the services.

COMMISSIONER HORN: But I didn't hear anything of that that said there's certain aspects of the child welfare system today that are currently being funded that we are not going to overlay all of this on top of but actually substitute for.

The idea of multidisciplinary teams, all for it. The idea of greater information sharing so that people know what's going on with kids and there's a -- all for it. I really like the idea of this, sort of, response sort of the similar to a fire, that fire station's response.

You know, in the last three years, to your point, my CO2 detector went off in our house and we called and they said, "Get out of the house," they came in, wasn't a problem. It's a -- little bugs can crawl into those things, set them off. And they didn't say, "How foolish of you to have come out here." They say, "Hey, better safe than sorry, and we're not going to send you a bill. This is part of the public service."

I agree with all of that. Where my struggle is, is not in the principle. My struggle is in how it is that we come to terms with translating them into things that are actionable and are doable, not necessarily next week, but I'll even take a timeline that says four or five years.

But when I see two new entitlements on a list of nine, again, this is just one subcommittee, that includes a broad range of, sort of, supportive services -- and I'm not against supportive services.

And I think that CPS is woefully underfunded, and if you want a recommendation -- if we look to the CPS system, we spend about \$200 million that's -- it's woefully



inadequate, but if you say, "So therefore, we need to double, triple, whatever," give me a number. I can deal with that. But when you say, "Let's create two new entitlements," that's the problem I have.

COMMISSIONER PETIT: Look, this is a -- at the heart of a lot of what it is that we're going to do. So the first question I'd ask is not what does it cost? The first question is does what we're proposing have a reasonable likelihood of addressing the problem? And if it doesn't, what else is it that we're hearing that would address the problem.

I don't think we're at a phase yet -- and I appreciate what you're saying, Wade, in terms of the Congress and everything else -- but we have not been charged with -- we should not preempt ourselves from putting forward what we think it's going to take to solve the problem.

Congress doesn't just accept this stuff, as you know. They'll debate it, they'll decide what it is they want to do. And maybe in the totality of what we're talking about, there is going to be new spending.

I doubt that very much, and in addition to asking Jennifer what she thinks could be knocked out, I'd ask you, what do you think could be knocked out? What would you say? Let's just get rid of these things in child welfare because they're clearly not working. I haven't seen it yet.

COMMISSIONER HORN: Thank you for asking the question. I'm going to give you an answer.

COMMISSIONER PETIT: I'd like to hear it.

COMMISSIONER HORN: We've heard a lot of testimony in different places, Florida and Texas, that said title IV-E is broken, and one of the reasons it's broken is because you can pay for the cost of out-of-home care, administrative cost and training, but you cannot spend a penny of that for services.

So I think that with -- currently now, as I understand it, David, you and I have, in different roles, served on a little work group that's looking at child welfare financing reform. Last time I heard, 32 states are now operating in some fashion under a flexible funding waiver in title IV-E.

The states are saying give us more flexibility so we can use that money to also pay for services. So yeah, one of the things I would say is if we want to provide more of these kinds of services, one of the things we should look at is flexible funding under the title IV-E program so that states can use that money for things that include services to the kids that are in foster care. So yes, I'm very willing to look at that.



COMMISSIONER PETIT: But I'm not sure that that in any way reduces the amount of spending necessary to address these problems on the scale that we're talking about.

I'm glad 32 states have done it, but before we jump into child welfare financing reform, I don't believe that it's been presented to this Commission in any way yet in terms of what that would look like. We haven't seen what the specifics of that mean.

COMMISSIONER HORN: We haven't seen a ACA carve out, not word one, until this came today. So don't -- I'm just saying don't say it's illegitimate to bring up a topic because we haven't heard somebody testify. We have heard two people testify about --

COMMISSIONER PETIT: It's not illegitimate to bring up a topic. All I'm saying is that we haven't seen the specifics of what anybody is proposing. Sure, we can all say let's reform child welfare spending, but what does that mean? I'd like to just see what it means, that's all. I'm not saying I'm for or against it. I'd like to just see what it means.

COMMISSIONER HORN: And people that came here this morning thought it would be a boring conversation.

COMMISSIONER PETIT: What's that?

COMMISSIONER HORN: The people that came this morning thought it would be a boring conversation.

CHAIRMAN SANDERS: Maybe I can build a little on what Wade is raising, from a slightly different perspective. It seems to me that part of what we are attempting to do is to be as clear as possible, and you said it is part of one of the recommendations to prioritize child safety and to have a focus on -- within the system on that.

So a couple of things I would at least raise as specifics, partly to Wade's question, but I think it's as much how do you get improvement.

One is the -- and I'll use recommendation one as an example. The -- we don't speak about a potential concurrent reduction in things that are not as effective, and that's clearly one of our charges, so I'd say a couple of things.

One right now, and this isn't something we've heard testimony on, but right now, about the last AFCAR's report, about 68 percent of the cases open are open due to abuse or neglect or things related to abuse or neglect, meaning 30 some percent are open for other reasons within the child protection system, according to the state's own report.

So I think one of the questions we have to ask is are we serving the right population?



And I have some thoughts about areas that it seems we would be hard-pressed to say that's a group of children whose safety is compromised. I think that's one.

I think that we heard from I think consistent, both in the incidents for child fatalities as well as the risks and vulnerability, that is children birth to five. About 50 percent of the cases open are children birth to five. I think it raises questions about is that -- should resources be dedicated more directly to that most vulnerable population or should they be dedicated across the full age spectrum?

I don't know, but I think that is at least worth some conversation. Because it seems if we are wanting to have two workers go out for an investigation, or two individuals, I think we have to look at do we dedicate the resources across the full spectrum as we've done historically, do we need to think differently?

I think there are some services that we -- that are -- that there are heavy expenditures towards that it seems would be -- we would be hard-pressed to say they're contributing to safety or to other things. One is long-term foster care, and we have more than 25 percent of kids in care for longer than two years.

Is that -- how do we weigh that against investigation of infant and how are we thinking about that? Do we think the system should do both? Maybe we do, maybe we don't, but it seems one of our charges is to come back to Congress with what things do and don't work.

We also know that general residential treatment is questionable in terms of its effectiveness, especially over a long period of time.

Those are things -- do we raise those questions at least to say there may be ways to do this, or not. I mean -- but I think if we don't raise those questions, I think we're not carrying out part of our charge.

COMMISSIONER PETIT: David, if I may, I don't think we were charged with reforming the foster care system, what's happened in foster care, which produces a lot of young parents who are going to be sending children into protective services at some future date.

But I have a ten-year-old grandson. I can't imagine saying, "Listen, you're old enough to run away from the situation," which is what I run into in some states. If they're ten years old, they don't go out because they say they can run on their own.

I think if you put that in front of a hundred grandmothers and said, do we just run the ten-year-old because it's not a priority, I don't think we'd get much public support for saying that ten-year-olds are on their own. The foster care piece is a separate piece



from this, and again --

CHAIRMAN SANDERS: Foster care is paid for under title V. We were asked to look at effective and ineffective services under title V. That is one of our charges. Now, we may decide that exactly as you said, but without having some discussion of what's effective and ineffective, we aren't carrying out our charge.

COMMISSIONER PETIT: Well, we haven't spent much time talking about foster care. I don't think that we're -- as a group, we're, at this point, equipped to assess the effectiveness of the foster care system. We haven't been listening to testimony on foster care.

COMMISSIONER COVINGTON: I thought it was really to be tied back to fatalities rather than just the general foster care system.

CHAIRMAN SANDERS: No, I agree entirely. I think that that is one of the things that we have to look at is this -- for example, in the recommendations we made an assumption that foster care will continue as part of the system, which may be very legitimate.

But it is a question -- we are charged as much as looking at the effectiveness of those things currently funded under title V as we are -- title IV, I'm sorry, I keep saying title V, title IV, as we are with other things.

And I think to identify there are new things that we want to do, which is certainly legitimate, it seems to do that, without at least saying we looked at those services provided under title IV and made some determination, we need everything that's currently being done and we need new things or we need to relook at some things. I think that's a question we have to address.

COMMISSIONER HORN: And title IV-E, flexible funding waivers, one of the purposes that most states are using them for is prevention services.

Specifically, Florida has been operating under a title IV flexible funding waiver, and one of the ways that they have been able to fund the prevention services in a differential response is precisely because they've been able to use title IV-E foster care funds in flexible and creative ways, including differential response and prevention. So there's a direct connection between title IV-E, in my mind, flexible funding in the testimony we heard, and the purposes of this Commission.

COMMISSIONER COVINGTON: Okay. Were they using it for foster kids, though, services for kids that were already in foster care? Because that's different than early safety assessments of kids --



COMMISSIONER HORN: No, for both. So they -- one of the ways that they fund the CVCs in Florida, not the only way but one of the ways, is through the flexible funding waiver. So what I heard the Secretary tell us in Tampa is, "Don't take away that flexibility because I'm going to have to pull a lot of that money out of the very services that we just described to you because we won't have that flexibility to spend in that way anymore."

COMMISSIONER PETIT: Wade, since we were there, in Florida, there have been numerous news reports coming from that state about the shortcomings and the failures of that system and a large number of children are still being killed in Florida. You may be right on it. I'm just saying I'd like a fuller presentation.

Let me just toss something out --

COMMISSIONER HORN: You can't just throw that out there, David, because you yourself at this point to Florida, in a program in Florida --

COMMISSIONER PETIT: Yeah, a little tiny county that has had a handful of deaths. But just process-wise, David, these are deep, deep, deep complex issues. And in terms of our drawing conclusions that gets us close to a unanimous consent on this thing, much more discussion like this needs to take place. And we're just warming up in the discussion.

There are numerous elements here that need to be discussed, and I'm concerned that in terms of how we're allocating our time over the next six to 12 months -- not 12 months, God forbid -- but the next three, four, five, six months, there needs to be more opportunity -- we're going to adjourn this section of it in 15 or 20 minutes. Then we don't resume it again until another month. I think we need to spend more time on the content of what we're all putting forward here.

And for me that -- I keep returning to a couple-a-day session, I don't care where, anyplace, that just locks us in a room, and let's just go at this and see what we can agree on and what we do disagree on.

And there may be some places that are just irreconcilable and that's fine. But I think we need more of this. And again, we're not engaging the full committee yet. There are four people that are missing. And I'm thinking that we need to just to be in a place more than we have to catch planes, we're out of here in a couple of hours.

COMMISSIONER MARTIN: So I was a little uncertain about how we were going to go in the process. So what I want to just say is, first of all, there's been a tremendous amount of work by this subcommittee, and I, on behalf of the entire Commission, I really thank you for your diligence.



I think globally, just like Wade, Commissioner Horn, I think that these recommendations are something that you can't disagree with. I think the general premise that more eyes on our children, the better. So in that light, I think that there is nothing I can disagree with.

I have some concerns. So I have a general concern about the balance between due process, and I use that term very loosely, and the protection of children. I think that when we start getting into multidisciplinary teams to investigate alleged or potential child abuse and neglect and serious injuries and fatalities, that may be one thing. But when we start utilizing that investigation and streaming that into removing children, which is ultimately the goal, we need to start talking about how we're protecting the rights of parents and the children, and we need to start talking about not just prosecutors in this Child Advocacy Center and not just police officers in this Child Advocacy Center, but we need to start talking about GAOs and respondent attorneys.

We need to start talking about also affording the opportunity of the persons who are allegedly committing these offenses some kind of opportunity for due process. I'm not saying what that is, but in general, we don't want to be a police state, and I use that term loosely, I'm not trying to be derogatory, but I think we have to put some thought into that.

That was one of my concerns at the program we went to yesterday. And, Mike, in particular, you've been talking about how many kids they're taking in. So one of the things I'm thinking about as you're talking and presenting this in general is you're kind of recommending that we start taking more kids in. And I don't have a problem -- I want any kid that is potentially abused or neglected to get to our attention.

I think we have to, though, also make certain if we're making a conscious effort to do that, we need to also afford the persons who are allegedly involved in the abusing some protections as well. So I think we need to think about that.

I think in a practical term, and just one example, when you start talking about your practice section, which I think is a phenomenal thing to do -- and I think we need to talk about practice. One of the things that I was so impressed about at the advocacy center we went to the other day, is that they have the national -- I apologize, they have the Indian leadership on board that children are a priority. And one of the questions I've had since we visited there, you know, in general, how do we get the federal government to say that kids are a priority?

So if I read your recommendations, in general, you're telling me that we're trying to make -- we're making kids a priority. But then I get to your practice section and you tell



me in criminal cases you want the police to lead the investigation. In a practical sense -- all I know is Cook County Chicago, Illinois, but in a practical sense, what that boils down to is the criminal case go first. My kids stay in foster care and I can't do my adjudicatory hearing within my 90-day statutory period. I literally have to force the parties to waive that so they can do the criminal case.

In Cook County, because the criminal cases are all behind, we're over-populated in our Cook County jail, and depending on, good God, if it's a murder, I'm waiting years. If it's an aggravated assault, I'm waiting a long time. So that doesn't put my kids first, and I argue that every time I have the opportunity.

So what I'm saying is you guys have done a great deal of work here, and I appreciate it and I agree with you in theory. But when we start bringing it to practice -- and again, I only know Cook County so I'm not suggesting this happens nationwide -- I would suggest to you, what little I know, it happens more often than not. You can't say kids are priority, make everybody say kids are a priority and then put the criminal case first. Mike, I'm just bringing out one example of where I see what may be potentially a conflict in putting kids first.

So what I'm saying is I agree with the principles. I think there needs to be more attention paid to areas where there may be potential conflict. It's not a criticism. I'm just trying to be critical of my thoughts.

So my answer is I agree in principle, but I think we need more information and we need to flush out some of these things, and maybe it would be helpful to go from section to section, recommendation to recommendation, but that's my overall general impression. I'm not looking for a response. I'm just saying that's what I get on the first read.

COMMISSIONER RODRIGUEZ: I also want to appreciate everyone's comments. I don't consider anybody's critical comments criticism.

I mean, I would much rather hear everything that's on everybody's mind at this stage in the process, because we have time right now to consider it and having your eyes look at it through your perspective. I mean, for all of you -- personally, it's really important to me that these are reflective of the whole Commission, not just of the three of us sitting together and vetting. So please let us have it. Don't hold back and say -- you don't need to premise it with I appreciate how much work.

COMMISSIONER CRAMER: If I could jump in, too, why you might not want a specific reaction to what you just said. I did not mean in the practice session to communicate that I thought law enforcement should take the lead. I felt like they should be at the table, that they should be involved with CPS, but not that they should take the lead. And I was reviewing here where we might have said that.



COMMISSIONER RODRIGUEZ: This is recommendation number 12. So we can go back and relook at that, that wording, to make sure that it says what we meant it to say.

COMMISSIONER MARTIN: Don't misunderstand me. That was just one example while we were going through. And I think there are a series of things that we need to look at and make certain we're saying what we're trying to say. That's all I'm trying to bring to your attention.

COMMISSIONER CRAMER: Okay. And, Wade, if I could come back to the funding issue, my idea on the funding was not that we should step back and say in order to do what we're recommending to prevent these child abuse fatalities, that we need X funding, Y funding.

What I see that needs to be done is just attention paid to the way existing monies are spent and the way existing agencies are organized and their existing priorities for protecting children. I think that's as important.

Now, there are pockets of money that could be accessed from the Justice side, from Health and Human Services side, as well, that could help keep this in the forefront, that we are not completely protecting children. There are gaps here. The agencies are trying hard to fill those gaps.

But I think on a local level you've already heard and you will hear that the Children Advocacy Centers, 80 percent of their funding comes from the private sector. They raise a lot more money. They create a place where the public sector agency folks get to work that their agencies could not afford to provide them with.

And then they're coming together in those places with other members of the multidisciplinary team. So I think some of this is funding related, but not -- from my point of view, it's not completely necessary for us to have new funding in order to do what we're recommending.

COMMISSIONER HORN: I appreciate that clarification. I also want to be clear. I actually agree there should be more funding. I actually think we are underfunding CPS woefully. I just want to know what the number is.

The problem I have with nine spending recommendations, two entitlements, is I don't know what that number is. So if we say -- again, I may even be off even by a magnitude on what CPS is, you know, through CAPTA -- but let's say I'm right, it's about \$200 million. Maybe it should be \$800 million, and I might even be able to support that. I'm not saying I'm not. I'm not saying I couldn't support any new spending. This is not my position. I'm just saying I want to know what the number is.



So if there's a way for us to struggle with what that number is as opposed to just words that -- because, you know, you in Congress, you say the word ensure, that's an entitlement. Because if it's not an entitlement yet, it will be when somebody sues the state because their legislation says ensure and you didn't ensure and now it's an entitlement. So we have to be careful with our words, which I know everyone intends to be, and I just want to know what the number is.

COMMISSIONER PETIT: Wade, you're right. I want to know what the number is. First what we had to do was agree on as a subcommittee, which we think is drawn from both the literature and the research and the testimony and the Commission members themselves, on what it is we want to do. We think we have an idea now of what it is we'd like to do.

You've seen at the end of each of those sections where there's money, there's a question that says how much will this cost. We haven't gone through the exercise yet of how much it will cost. Part of it is framing what it is. Are you going to say with child welfare workers that it has to meet national standards of 10 to one, or are we going to say 15 to one, or whatever it is.

So our group, I expect that we will be sitting down and tapping not just into Tom but other staff as well, other organizations as well, to help us cost out what these would be. Then we have a basis for discussing whether this number is appropriate or not.

COMMISSIONER HORN: I think that's great. It leads to -- I don't think we're ready yet with a yay/nay or even like this vote on the recommendations because we don't have some critical pieces of information.

COMMISSIONER PETIT: But wait, let me just ask you, forget the cost for a moment. From a substantive policy point of view, do you think that what it is that we're putting on the table in its totality, without endorsing any particular individual piece or not, does it get closer to the question of stopping child abuse deaths, do you think that?

COMMISSIONER HORN: Yeah, but that's like my daughter saying, "I'm getting married, will you pay for my dream wedding?" I don't know what that means.

COMMISSIONER PETIT: Wade, all I'm saying is you don't need to endorse any particular piece. I'm just saying forget the cost for a moment. Whether it costs nothing or whether it costs something, do you think that what we've laid out roughly addresses and is reflective of the conversations that we've had and gets us closer to stopping child abuse fatalities?

If not, tell us now what it is that we should be thinking about to stop child fatalities at



this point. We're all for front-end interventions. Whether it's IV-E or not is a different question. But of course, we're for front-end, so it's not a question of invoking IV-E at this point.

It's just do the things of a multidisciplinary team improve relationships with law enforcement, going back and seeing this kind of surge thing, doing two interviews at a time; I mean, do you think those things contribute to the reduction of child fatalities?

COMMISSIONER HORN: I would answer it this way. With Judge Martin's caveats about due process, I absolutely agree that we have to be much more multidisciplinary-focused, no question about it.

I also very much agree with the position that you have stated, and now it's stated through the subcommittee, in the past, that we should be more like the fire department in responding to CPS. Absolutely, I agree with that.

I also completely agree that we have to ensure that there is better information sharing across agencies, because in many of these cases if CPS doesn't know about it, somebody knows about it.

On those three key principles I'm absolutely with you. But that's not what was presented. What was presented was something more.

COMMISSIONER PETIT: It included those.

COMMISSIONER HORN: On those three principles, absolutely, let's go forward and figure out how to --

COMMISSIONER CRAMER: We've got to have your specific feedback and you just gave that. So we need that communicated as clearly as you can communicate that to us so that we can eliminate, add to, expand on, what we as a full Commission want us to do.

Because to me, what we're attempting to do in here is making a huge statement about where this Commission is coming from. So it's not just your subcommittee. It's all of us that are involved.

CHAIRMAN SANDERS: There are probably two things I think that make sense at this point. I think one is that we should make sure that everybody is able to weigh in just on the general direction, and then I do think it makes sense to go section-by-section with some specific pieces, if people have specific feedback on sections.

I would say to the question that you asked, Wade, though, you didn't ask me, Michael, but you did ask it generally enough that I'll respond.



I think that we have heard considerable amount about the most vulnerable population, and I don't think we should have resources allocated equally across the full spectrum of children and families seen in the child welfare system, and there's nothing here that I read that actually distinguishes what we would do different for children birth to three or birth to five or infants than we would do for 16-year-olds.

And while I agree we can't say we're not going to serve a group of people, I think to say we do the same thing and continue to do the same thing, I don't think that's nearly as effective as it could be.

COMMISSIONER RODRIGUEZ: So we included some of that in our previous recommendation, so we'll go back and look at that and re-add back in around the --

CHAIRMAN SANDERS: So maybe we should just make sure everybody has a chance to weigh in on the general feedback as well as let's go section-by-section.

Marilyn?

COMMISSIONER ZIMMERMAN: I have nothing to say. No questions.

COMMISSIONER CRAMER: How is that possible? That's remarkable. Thank you.

But I do want to go back. I agree, we need more work sessions together to where we're going through this.

CHAIRMAN SANDERS: I know you don't have questions, but we probably at least need some sense for the committee, are you -- is this generally the right direction? Because if not, then we could end up with a lot of time wasted at the end that the subcommittee spent on.

COMMISSIONER ZIMMERMAN: I think that the questions and the comments that have been made by the previous Commissioners to sort of requiring much more detail, that this is very broad-brushed stroke recommendations and that there has got to be some fleshing out of some details before we can really make it a part of the ultimate report; I agree.

COMMISSIONER PETIT: On that particular point, Marilyn, I think you're right, but it's not the same level of detail that a federal agency charged by the Congress with tasking out this problem, we don't do that detail. They have anything from 50 to 50,000 to 500,000 employees in some places and that's who they charge with doing it.

I don't think we are a substitute for that. So I think there's more detail that's needed,



but I don't believe we're going to start saying, "And within this organizational chart, that makes your head spin, we should locate this there and locate this there." That's what the Congress and the President are paid to do once it's agreed upon that this is a priority issue.

COMMISSIONER MARTIN: I have one other general comment before we really get to the specifics.

In reading through this -- well, let me start from this way. I think the majority -- I would suggest and proffer that the state is a pretty poor parent and that children who are in foster care and live in foster care for long periods of time, in general, do poorer in well-being and outcomes than children who did not have that same type of experience.

Given that I think the state is a poor parent, I would like to see some kind of, for lack of a better term, family preservation kind of thought put here.

Because I think one of the issues we have in CPS for the kids who are known to the CPS system is that even once we do a halfway decent investigation, get them in services -- and we can talk about the quality and the nature of services -- but the problem is we have such a difficult time getting kids back to families. And because of that, I think we need to rethink taking kids out and removing kids to begin with, and that does not mean you don't remove kids that need to be removed.

What that means is you have a better opportunity, a better risk assessment in the beginning of -- and I agree it should be multidisciplinary so that we can make the critical decision about which kids need to be removed and only remove those. Because, as I see in Cook County, once we take a kid out, you have to climb Mt. Everest and move it before we give a kid back.

I think that's one of the areas of foster care and payment that we -- reunification services and placement services, we can really do something about, if we really put more time, effort, and energy into making the decision about removing kids.

So it does not -- as a practical matter, it does not make sense to me when a worker goes in a home on a Tuesday and schedules the TC hearing in my courtroom on Friday and comes in and tells me that there's an immediate need to remove this kid, and she left the kid in placement, in the home.

So those are the types of decisions -- we can say something, but how it happens on the street is different. And I think we need to make certain that we're clear that we are not talking about removing of a kid and put some kind of parameters and some incentive to look at keeping kids in home and treating families as a unit because that's when kids



thrive.

COMMISSIONER RODRIGUEZ: I couldn't agree more with you, personally. I mean, one of the things that's frustrating to me is that we identify extended family at some point in the case, and typically it's not when we should identify extended family. There are thousands of children where we don't ever reach out to the paternal side of their family at all.

Relatives come in 12 months, 18 months down the line, and say, "I just heard that my child is in foster care." To me, that is the type of, sort of, up front thing that we could do to really support families and bring in that -- if there was a family member who was willing and able and protective, they could be brought in immediately into the case as opposed to having a child sort of languish. And so I think there's a range of things like that that we can think about.

There are direct family preservation services, there are things that we currently do later on down the line that we can move up front in the process as part of our trying to build protective factors around the child. So I think we're willing to consider all of those things and we should.

COMMISSIONER MARTIN: I think the point you made is great. We need to do better on finding family members, particularly paternal family members. What I'm talking about is mom's house. Some people say return home is giving the kid to auntie because they're biologically related. That's not when I talk about return home. When I talk about return home, I'm talking about sending the kid back home to mom and dad where we took the kid.

So all I'm saying is that I would feel more comfortable if we also put some emphasis about keeping family units together and treating families as a whole, because our kids do not do well raised in state care.

COMMISSIONER RODRIGUEZ: I'm agreeing with you. The reason I brought in the family is I think oftentimes family members have ways of supporting each other so that auntie might actually have a way of supporting that child to be in the home, that we as a system could never develop an intervention that serves as well.

So both -- and I didn't mean to bring up family finding, just to suggest that it gives us another place to put the child, but really thinking about how do you build in natural support systems around families that can hold and protect the family in a way that intervention that we come up with can never do. That was so striking about what we heard yesterday is about how important elders are, how important family is to holding families.



COMMISSIONER MARTIN: I agree with you five million percent, but mothers and fathers still have a constitutional right to raise their kids. So we cannot eliminate and jump over the fact that we have to look at minimal parenting skills and we have to be cognizant of the fact that there are some parents who can utilize supports while parenting and that we can't just eliminate that.

We can't just take the step and go to auntie. We have to really examine not only the risk factors for a family, but the protective factors and what we can build on and add to those protective factors. So I don't disagree with you. I agree with you a thousand percent.

I'm trying to institute where we do diligent searches throughout the life of the case. I agree with you. I make an effort to get fathers involved and fathers' families. So please, don't misunderstand me. I think there's a step before that, though, and I think we really have to look at whether or not we're actually giving parents an opportunity to learn the services, learn the talents, learn the tools they need to be better parents to get to that minimal parenting standards. Because we're not looking for Ozzie and Harriet. We're looking for people who can keep kids safe.

COMMISSIONER RODRIGUEZ: I think we're saying the same thing, actually. I'm not talking -- I'm not talking about family finding for what we use it for in child welfare. I'm not talking about finding a place to put the child.

I'm thinking about how do you build in national support systems for mom and dad? And one of the ways we can do that is by finding the family and bringing them into the case early on so that they can really support that parent. I think that's what we heard yesterday from folks. What they were saying is it's so important for families who are really at risk to feel like they have a community and a natural support system and somebody to teach the parenting.

It's my personal opinion that you learn parenting a million times better from somebody who's a good parent, sitting there with you, with your child, coaching you and supporting you than you ever do sitting in a class, where they -- you know, ten times they go over and tell you how to deal with discipline. I think we're saying the exact same thing.

COMMISSIONER PETIT: But we're not all saying the exact same thing. Just in terms of clarification on this, Pat, do you agree that there is an irreducible number of children living in households that would be killed and we don't know what to do in those particular circumstances?

COMMISSIONER MARTIN: Mike, I began this by saying that there are kids that have to come out of the home.



COMMISSIONER PETIT: Okay.

COMMISSIONER MARTIN: But I do think that we can always do better about making determinations. So what I'm suggesting the subcommittee consider, just a suggestion, that not only do we use a multidisciplinary team for investigation but allow that team to also look at the question of removal.

Because once we remove, as a nation, we don't put kids back and we start forgetting about supporting parents, the bio-family, we start looking for alternatives so quickly. All I've suggested is -- let me just finish my thought. All I've suggested is that the committee also consider the bio-family. That's all I've suggested.

COMMISSIONER RODRIGUEZ: It's really -- it's an expansion on number 15. This is the, "Developing the Effective Interventions for Families," you would like that recommendation to have more detail to really include a strong family preservation component?

COMMISSIONER MARTIN: Yeah.

COMMISSIONER COVINGTON: If I could say a couple of things. I think, one, these recommendations, you know, at first read, until you get to the last piece, really are focused on child safety. But I think one of the values of an MDT team is it can have a safety focus as well as a service focus.

When you have an MDT -- I'm thinking back to the number, and number, and number, and number of child fatalities where we've looked where there was prior safety assessments, there was prior CPS work, but there wasn't wrap-around services brought into this family in a multidisciplinary setting.

So the mental health services might have been referred by a worker but community mental health was never brought into this family's life in a wrap-around kind of coordinated way. That's just one tiny example but we see it all the time. I think the value of an MDT, not just in the safety assessment piece but in thinking about services, is to me what would be really valuable.

That's one of the things -- I mean, I really feel like what we learned in our visit two days ago and yesterday, one of the things that's been troubling me is the comment that was made, and I may be hearing it wrong, that they really did focus on safety, but the services, the remediation and the services piece, isn't there yet.

I think as we advance this, those two have to go hand in glove, and I don't want to just do the safety without the service piece. So maybe one way to do it is to not have that



last recommendation be at the end, but wrapped into how you're thinking through some of this MDT piece in terms of services.

COMMISSIONER PETIT: That is implicit -- or I think it's explicit within the multidisciplinary team that they're looking at both of the pieces. The look back going into the last -- say in a place like Texas, I mentioned going back with a group of people and ascertaining the conditions of the kids.

Pat, I think it's safe to say, there are kids in care that shouldn't be there and there are kids that are not in care that should be in care, right. And that when we looked at family preservation stuff, there have been huge problems with family preservation, including defining what it is.

Illinois had a particularly difficult problem with family preservation for a number of years. They were showing five or six times more kids killed in Michigan, which had much comparability between it and Illinois in this thing.

The differential response thing is all kinds of stuff. It's been written about how it's not working. We haven't actually discussed those kinds of things or reviewed that kind of stuff, so I don't think there should be any more children living out of home than necessary, but there are some children that just aren't going to make it at home.

CHAIRMAN SANDERS: Part of the idea was to have feedback from each of the Commissioners. I don't know if it was to necessarily debate every issue, although we could choose to do that.

But it seems like part of the debate requires us to have the information to debate from. So I think we were providing general feedback in that direction.

I'm not being critical of the exchange, because I actually think we do need to get into that, but I want to make sure everybody has a chance to at least say kind of where they are on this, and then we should go back and we can go section-by-section.

We have three sections that we can just walk through, and if there are specific concerns, make sure that we address those, and then we'd wrap this up with at least enough, hopefully, information for the subcommittee to go back and say they're on track, these are the things to work on, and then have further discussion next time.

COMMISSIONER MARTIN: I apologize, David, but the discussion about whether we talk about family preservation in general, I think is necessary. The discussion about whether we talk about finance reform is necessary.

And so I think two things. I think we need some house rules. One, we don't talk over



each other and we allow people to get their thoughts through, because I think it's really rude when someone's trying to express their opinion and others jump in and try to be defensive about it without allowing one Commissioner to get their thought through.

The second is I think these global principles, and maybe I'm wrong, will allow and afford us an opportunity to look at the specifics in a way where we might be able to come to some agreement or compromise or understanding.

CHAIRMAN SANDERS: My comment was not addressing what you said. I agree entirely. I think you raised an issue that is very direct feedback for the subcommittee about what needs to be followed up on.

It was really more just generally because we haven't heard from Amy. We need to hear, I think, more from Teri. So it was just to move that along. No, I think that was exactly --

COMMISSIONER AYOUB: What came to mind for me when was Congressman Doggett addressed us in the first meeting and said something like of course we need to recognize the budget challenges when we're making these recommendations, acknowledge it, but keep it in mind, but not limit our recommendations or our deliberations over that budget, because we don't know what they might do or figure out a way to do.

So when we're talking about the budget, we absolutely need numbers to be able to say, yes, thumbs up or thumbs down.

But also, I just -- it just came back to me so I wanted to share that, that we might make recommendations. And a lot of them are taken -- there's action taken on a lot of them, and some there might not be, and that'll be on the Congress to explain to their constituents why they didn't think that was important enough.

We can only do what we feel is -- concentrate on what do we really believe will save children's lives and make those recommendations. So that's more of a general than the specifics that other Commissioners can suggest.

And then we talked a lot about standardizing. We've heard testimony that a lot of people feel that things have to be standardized and definitions, things like that. So just always keeping that in mind that I think sometimes we can come up with recommendations that sound great but can every state do that or can we get -- you know, what are we looking at. Is that going to be mandated?

And then Commissioner Cramer brought something up for me that there's a lot of state funding on this.



So I'm anxious to hear -- learn what most of you might already know but learn how that plays into our recommendations, that some of the recommendations there might already be state funding for that. We're not asking for extra money, from my understanding, but obviously that's limited and I look forward to hearing more about it.

COMMISSIONER CRAMER: I don't know that I necessarily meant to say a lot of state funding.

COMMISSIONER AYOUB: And you might not have. I might have misquoted you.

COMMISSIONER CRAMER: What I wanted to do, and this process has even caused me to go back and figure, where does CPS money come from, how are they spending the CPS money, where does the sheriff's department money come from? And I know that.

Where does district attorneys' offices funding come from and what parts of the federal budget do they depend on, what parts of the federal budget have they become more dependent upon? There's some areas that do go after federal funding, and I was one that knocked on every door I could find to try to see what demonstration projects might exist out there that we as a team could take advantage of. But I think we as a Commission need to know those things.

COMMISSIONER AYOUB: And then just finally, I think this conversation for me has brought up how much community involvement is going to be necessary, because as much brain trust as there is here, we have great ideas, but then we need to take it -- Commissioner Cramer mentioned getting more input in Tennessee from the centers.

So we're already starting that, but definitely there's going to be so much need to get that community involvement probably at the beginning from really trusted allies that won't take this out as recommendations but answer some questions that will help us. Is this really doable in your state or is this really doable in your area? So the gathering of that community involvement is so critical, as I said before.

We just need more information, but definitely the direction that this is going and then with the input from specific areas that need fleshed out, I support and appreciate all the work the committee did. Thank you.

CHAIRMAN SANDERS: Commissioner Zimmerman, then Commissioner Covington.

COMMISSIONER ZIMMERMAN: So I just want to add on to a little bit of the conversation from a couple of things folks have said around the table.



So the piece about the multidisciplinary teams with the -- to review cases in which serious harm or endangerment has occurred. I think we heard yesterday from one of our folks from the Child Advocacy Center here at Pima Maricopa, that they're investigating everything.

They're going out and making contact with families before there's serious harm when there's just a referral, and that that has got to be a big reason why they've gone from two child deaths to zero in five years, right, after five years, because they've got people's eyes on the families.

I think what I'm hearing from the recommendations is that the child welfare or MDT, multidisciplinary teams need -- we are just asking the community to come together, wherever that is. It's maybe a little bit easier in tribal communities because the tribal leadership being sovereign nations, they can declare that the children are their priority and they can make those changes in how their tribal programs respond to the needs of children. And they can offer much more support and services to that local family.

And I think that's going to be a great model as we go forward, and I appreciate the recommendations that in order to end fatalities, that we go way upstream and provide the supports for that family so that the removal doesn't even have to occur.

COMMISSIONER PETIT: Can I just say something? What we heard from the group, they have 5,000 children and the fatalities rate is two per 100,000 children, so they could go 10 to 20 years with no children dying from no reason than just random.

They have very heavy investment in CPS investigations, which is good. That's what this subcommittee is recommending, heavy-duty investigations by a bunch of people, but they're also spending \$10 million on out-of-home care, which in a place the size of Chicago would be about two billion dollars.

So it's a very resource rich situation and they have an extraordinarily high number of children living in out-of-home care, and they're able to pay for almost any level of care that kids need.

I don't think we can draw the conclusion, since no children have died in five or six years, it has to do with what they're doing, given how few children are killed anyway.

COMMISSIONER ZIMMERMAN: I'd like to respond that I like the rate. No children have died in five years for them until just recently, and that, to me, says something changed.

Something has had to have changed, because the lifestyles or the poverty levels or the mental health needs or the substance abuse issues that the families are facing in the



community that contributed to the death of those children in 2008 had to be addressed. They began to look at all of the issues that that family faced and whose eyes were on it and which systems weren't notified and weren't being communicated with. So that, to me, says that what they did in response to the death of those two children made a difference.

COMMISSIONER PETIT: I'm sure the children are better off. I'm just saying I'm not sure that it has anything to do with no deaths, and we'll see what the Navajo epidemiologists comes back with their number of deaths on the reservation. The number may be much higher than what we think it is.

COMMISSIONER ZIMMERMAN: Navajo would have to replicate what they did.

CHAIRMAN SANDERS: Commissioner Covington.

COMMISSIONER COVINGTON: I just have a question or a thought about process, moving forward, because as you know, we got an email earlier this week asking us to sort of time out or give an estimate of time, how much time we thought we needed for deliberations for our different subcommittees, which I didn't respond to because I really haven't figured out what that answer is.

But just thinking of this work coming out of your group, I think there's a lot of time that we need to talk. I think part of the reason people interrupt is we're feeling anxious because we don't have that much time. When you get two hours blocked to go through this enormous amount of recommendations, you get --

COMMISSIONER MARTIN: There's some frustration.

COMMISSIONER COVINGTON: Well, that's true, too, okay.

But I don't ever feel we have enough time for us to all be calm and get through this because it's so much and it's so deep. So I'm wondering if there's a way, moving forward, where we can devote a good amount of time to this -- to your work so that we can do justice to it, rather than feeling like we're just grabbing at it in terms of, you know, we've all thrown around ideas today.

The funding piece is huge. The thinking through the -- we haven't even got into the specifics yet.

COMMISSIONER CRAMER: Channeling this back into a response that includes all this is going to be difficult.

COMMISSIONER COVINGTON: Is really going to be difficult. So I don't know what the



plan is, but I'm just recommending that we find some way to have some real time, devoted time to --

CHAIRMAN SANDERS: Everybody says they don't have time, so --

COMMISSIONER COVINGTON: They don't have time. Oh, well everybody --

CHAIRMAN SANDERS: We'll come back to that, because I will talk a little about the next couple of meetings and what we're thinking about, and then the timing over a period of time. I'll do that at the end today.

COMMISSIONER PETIT: Can we use the days in Wisconsin and New York for this?

CHAIRMAN SANDERS: We have come up with an agreement about how we're going to spread our time. We can change that. We can do whatever we want, because it really is how we decide. This meeting was handled a little differently, I think consistent with the information that we wanted. Otherwise, we've said four hours dedicated to hearing and the rest dedicated to discussion. And I think we'll just have to see at the end of today, as we're talking about it, is that sufficient or not.

Anybody else want to provide general feedback? And then we should go section-by-section if there are things people want to address. I think, Pat, you have some ideas section-by-section, because I know I do.

COMMISSIONER RODRIGUEZ: I'm sorry, before we leave this section, can I just sum up what I think I heard around general feedback to make sure I got it all?

CHAIRMAN SANDERS: Sure.

COMMISSIONER RODRIGUEZ: So the general feedback I heard is that there's a desire that we look at how to make these recommendations actionable and attainable. So that means adding more specific language, making sure that there's some sort of federal hook in each recommendation, addressing resource questions, and that includes both looking at funding sources as well as concurrent identification of what's ineffective.

And thinking about standardization of what can be, sort of, suggested across jurisdictions and what's unrealistic to do so. That was the first area.

The second area was to look for where there's inconsistencies between our goal of making sure that children are a priority and where our recommendation may have had unintended implications, so the law enforcement lead recommendation being the example of that.



The third being considering the balance between the due process of the family and protecting children. So going back and looking at all of the recommendations with that eye.

The fourth being -- looking at the recommendations to make sure that we're considering the particular vulnerability of young children, children under five.

The fifth is going back and ensuring that these recommendations have equal emphasis on safety and support of at-risk families so that we're healing and preserving families, including the role of community.

Does that sound right in terms of what everybody's concerns were?

COMMISSIONER ZIMMERMAN: I think -- I just want to emphasize again that early intervention is a big piece of how to end fatalities down the road, that we're not going to wait for a severe incident of near fatal, right, that's my hope.

CHAIRMAN SANDERS: We're going to finish this and then we'll break.

COMMISSIONER MARTIN: I have one other global issue. Again, I'm not being critical of the subcommittee, because I think you did a phenomenal job. I'm not sure I could have gotten to where you are at this point.

Just as Commissioner Zimmerman pointed out, the issue of front loading services, which I think we've all kind of come to the understanding is better for families, and particularly when we're looking at fatalities in terms of getting a closer, a quicker eye on the kids and the kids of high risk, that also -- all I'm saying is that we also have to consider this whole issue of due process when we do that.

I'm not saying that's wrong. I'm not saying that issue is not a valid concern and something we should work towards. I'm just saying that there are balancing factors that also have to be contributed -- considered. So that's what I'm trying to ask us to consider as a Commission; not that removing kids is bad. I just need us to be clear that when we do it, we're making the best decision at the best time for that family and that child.

That's what I mean about global issues. That's what I mean about putting our preliminary recommendations and broadening the conversation about them.

CHAIRMAN SANDERS: So anybody have comments section-by-section, with the first section particularly? Because we probably have covered most of them but there may be --



COMMISSIONER COVINGTON: I do have a comment about the broader statutory language and protocol and threat of harm, thinking through how that would get operationalized, and if that's something you would want to build into CAPTA.

It goes into the comment about the geography, again, and I know you talked about the Congress, the government taking a leadership role in that.

But is this the time that we get really bold and we start recommending that there be a national definition, a national standard on what that means, rather than leaving it to every single state to have their own definitions through their own statutes on what child abuse and neglect is? It's just a thought I had as something to think about.

COMMISSIONER MARTIN: When we started this work and I started meeting with you guys and -- Commissioners, and we started talking about whether or not we need to get engaged in trying to find a national definition for child abuse and neglect fatalities, I thought immediately, wow, that's a great idea, particularly with the issue of counting and how we count different situations differently depending on the jurisdiction.

My question, though, now, after being around a little bit and hearing more and learning more is how does that get us to the goal, though? So I think it's a good idea and I think it would be very helpful in being consistent with our numbers, if nothing else. Is that the goal of the definition or what would be the reason we need -- that's kind of a bad question, I guess, but why would that help us get to reducing fatalities, or how does that help us get it?

COMMISSIONER RODRIGUEZ: So in my mind, I guess -- there may be different opinions about this, but this idea that if I live in California and my neighbor calls in an abuse complaint, that the investigator may use an entirely different standard, may look to just see oh, the caller said that there wasn't food in the refrigerator and I see your refrigerator is stocked so I'm closing out this case, or I'm never going to investigate to begin with because it doesn't sound like there was an incident.

Whereas in Michigan an investigator might go out and immediately decide there's food in the refrigerator. However, I see all these other things I'm worried about so I'm going to remove that child.

It seems to me that it's just a more fair way of saying no matter where you live in the United States, that if we feel like there's -- that you're at risk, that we'll have the same response and that it's not left to sort of an individual state's discretion about whether to set their threshold very high or very low, that we're all coming to agreement and saying this is when we feel like people should act.

COMMISSIONER ZIMMERMAN: I just want to add, the food in the fridge issue or the



looking around issue is so often our families face issues of poverty rather than really safety and love and care.

TOM MORTON: If I could add a comment about the first recommendation. I think this point was illustrated by the case we used at the last meeting, the case in Florida about the father who threw his daughter off the bridge. In most jurisdictions CPS can only respond if there is a specific allegation.

I don't think that the subcommittee is recommending that this necessarily be an allegation of abuse or neglect but create a circumstance in which CPS could go make a welfare check. Law enforcement can go make a welfare check without an allegation but CPS can't.

And I think that the dilemma with law enforcement doing the welfare check is that it -- law enforcement agencies don't use specific safety assessment protocols. I mean, they look for very specific things -- is the child being abused or not and make a decision.

If this were adopted, it would create -- and I realize there are dangers in anything that creates this kind of an area -- but kind of a parallel to mental health law where if you have reason to believe a person is a harm to himself or others, you can do certain things.

We're not talking about removing kids, although that could happen, perhaps, but I think the issue is it would create a set of circumstances where you have a caregiver acting dangerously but has not made a specific threat of harm or acted in a way to create a threat of harm to that child, but there's reason to believe that if that behavior or condition continues, that will occur.

So it would allow CPS to respond with an assessment, go out and make contact with the family, do an assessment earlier before the child is endangered. Because right now CPS has to wait until the child is endangered in order to have a response. I hope that clarifies a little bit about the thinking.

COMMISSIONER MARTIN: So with the utmost respect, we kind of do that with voluntary cases, right. We send a worker to respond to a hotline call. The worker goes in and determines that there's enough to be concerned but not enough to file a petition.

And so then what they say to the mom is if you voluntarily send your kid over to your sister's house, then I won't file a petition and take your kid into care. You go to substance abuse and depending on how well you do in substance abuse -- and that's not really what we evaluate. We evaluate how you comply with my directive, which is voluntary, and then we'll keep your kid out of care. If you don't, if you stop going to



substance abuse, if you start testing positive, then we get tired of you and we file a petition.

So my question to you is, how is that different than our current practice of voluntary? That's all I'm trying to find out.

TOM MORTON: Well, let me try to clarify. The difference is that in the case you described, there has been a specific allegation of endangerment, either of neglect or an act or failure to act on the part of the parent that specifically endangered the child in the current time or within whatever time frame the statute specifies.

The difference here is that there would not necessarily need to be a specific act of endangerment. But rather, you have being described to you a set of caregiver actions or behaviors that would be dangerous to a child and might likely lead to that. So it's a semantic difference in terms of what the hotline is receiving.

As you saw in Florida when the hotline received notification about the erratic behavior of this father, per their rule and statute, they said, "We cannot respond because we don't have an allegation."

COMMISSIONER MARTIN: But that's a hotline training. That's not a definition of abuse and neglect. In different states there are different -- there are certain buzz words that you can use that will get DCFS to go out and respond to an investigation.

To me -- and I agree, that's a problematic issue that we saw in Florida. I don't disagree with you. I look at that as a hotline training. So how are we training our hotline responders? If you got that call, I assume based on what little I know about you, you would do something about that.

The issue is whether or not we are affording our hotlines the opportunity -- first of all, do we have experienced people answering the hotline, not just some Joe Blow who doesn't know what they're doing. And if we have someone who knows what they're doing in answering the hotline call, are we giving them the adequate tools in which to respond to what they're hearing, or are we telling them, "Unless you hear buzz words A, B and C, you don't send someone out."

So I guess I'm just saying that I look at the same thing you're bringing to my attention as another area of a problem. So rather than a definitional issue of abuse and neglect, I'm looking at whether or not that's a practical consideration of how we train our hotline responders.

CHAIRMAN SANDERS: Can I suggest for this one, at least as I read this, there isn't a recommendation here yet. It's just framing this as an issue. So I don't know that we



have, yet, a recommendation. I think it was raised as a question, should we look at the definition, but I don't know that that's included in this yet.

COMMISSIONER HORN: I'm very intrigued by this recommendation, and I'm wondering if the use of multidisciplinary teams that would include law enforcement, may allow a more aggressive response in cases where there's a threat of harm than if it's just CPS alone, since you've said that law enforcement is able to go out on calls.

And I'm not an attorney, I don't play one on TV, and so -- and I take your concerns very, very seriously because this is your area of expertise and I respect them and I want to understand them. But I'm wondering, as I understand what you said, Tom, law enforcement can investigate based on threat of harm, CPS cannot, is that right?

If you have a multidisciplinary team that includes law enforcement, does that provide the ability to intervene in cases of -- because I understand what you're saying. You got a guy who -- now I'm talking like Michael -- I got a guy, a violent guy, went to prison, gets out of prison, has got a history of beating up people, but there's no specific threat to the child. Somebody ought to, ought to be able to intervene and at least let people know the guy's out of jail, and maybe even go to the guy and say, "Hey, look," you know -- I mean, so that's what I'm wondering.

CHAIRMAN SANDERS: I'm still -- is there a recommendation here? I didn't see that.

COMMISSIONER MARTIN: David, I apologize. My question still remains, how does that get us to making a definition eliminates --

CHAIRMAN SANDERS: I'm saying I don't see a recommendation to do that here.

COMMISSIONER MARTIN: The recommendation is to define abuse and neglect. And so what I'm asking is if we define abuse and neglect, how does that minimize or eliminate fatalities?

CHAIRMAN SANDERS: I don't see the recommendation that a single definition of abuse or neglect.

COMMISSIONER RODRIGUEZ: I think there was a question about whether it is time to develop a national standard. But that was the question.

CHAIRMAN SANDERS: So it's not -- I didn't hear it coming as a recommendation. I heard that was an issue for conversation. Probably with all of the things that you're raising. Unless I'm mistaken, I didn't hear the subcommittee was saying there should be a single definition.



COMMISSIONER COVINGTON: What I hear is that there should be some standards around considering perceived harm as well as looking at actual threat of harm. I can tell you, you know, you think about whether that would prevent fatalities. I can tell you many, many cases where, similar example to Florida, would have identified some real threats to kids that would have saved them.

TOM MORTON: I guess what I can tell you is from my 22 years of being a national consultant, Co-Director of the National Resource Center on Child Maltreatment, working with pretty much all 50 states, that the first question the hotline worker has to answer is if what the reporter is telling me were true, would that constitute abuse or neglect under the state's statutory language? If the answer is no, it's screened out. If the answer is yes, then it's screened in.

COMMISSIONER HORN: Clarifying question. So did you mean to say is there a threat -- because they can respond to specific threats. The child does not have to have been abused or neglected in order for CPS to investigate a threat of -- maybe I'm wrong about that. If somebody threatens a child, can CPS intervene?

TOM MORTON: Well, if there's a credible threat to harm a child, then you might consider that meeting the language. Thirty-seven states, I believe, have threat of harm defined within their statutes. But mostly it's a narrow definition.

And so, for example, if I swing an ax at my child's head and miss, there was a time in one state in this country where that was not either abuse or neglect. It was only abuse if I hit the child. So neglect is basically threat of harm.

COMMISSIONER HORN: Is that still true in any state?

TOM MORTON: Well, it's not true in that state. But I don't know. I can't answer your question. But consider the fact that there may be as many as 13 states that don't have threat of harm in their statute.

So for example, in Nevada, where I worked last, I had an instance of a father who used to discipline his child with canoe paddles, wooden canoe paddles. He swung so hard that he broke the wall, but he missed the child and that was not considered an allegation because --

COMMISSIONER HORN: Hitting your kid with a canoe paddle --

TOM MORTON: Well, I mean obviously, but it's endangerment.

COMMISSIONER HORN: Tom, I'm not getting clarification of my question.



CHAIRMAN SANDERS: I think we don't have to, at this point, go into this level of detail about this issue. Because it seems that the feedback is there's enough concern here that we need more information to -- including kind of --

COMMISSIONER PETIT: And the recommendation speaks to the federal government leading a process of defining that. It isn't up to -- we're not defining it, that they develop a model that the states would be part of constructing, and then what we get into with the idea, I think, is that they're not Texas children, they're not Mississippi children first, they're American children first.

CHAIRMAN SANDERS: So while I thought we could finish it, it's obviously taken just a tad bit more time than I might have anticipated on certain things.

So why don't we take a break for 15 minutes and we'll reconvene and continue with this, wrap it up, and then finish up on the cross-cutting issues where there's certainly similar themes.

(Recess was taken.)

CHAIRMAN SANDERS: We are going to get started again, and we're going to actually move to our last agenda item and then come back to anything -- any other final things we want in the Child Protection subcommittee.

Actually the second to the last item, which is issues that cut across the different committees from what we heard yesterday.

And there clearly are a number of things that we heard around the American Indian youth tribal issues that cut across previous -- all of the subcommittees, as well as some of the recommendations.

So we want to talk about those and just make sure that we have a way of handling them.

And since we have the Measurement subcommittee in here, we should talk about those.

Teri.

COMMISSIONER COVINGTON: Yesterday I heard a lot of issues related to measurement that I think really can be addressed by our committee or we can have a discussion with you to talk about them.

We heard really really clearly from a number of speakers, including Indian Health Service, the epidemiologist from Navajo, the difficulties that they have -- oh, and our



Navajo Child Death Review team member. A couple issues that I heard that have real relevance to measurement.

One is just the difficulty getting identification of American Indian status, for example, on death records. So that it's almost impossible to even do tribal counts, counts among the sovereign nations and how many of their children are dying, because they can't get that information off the death certificates and how could that be fixed.

The other issue that ties into that is their own difficulty in getting state death certificates. It just is mind boggling to me. But I've heard it in the past, and I would love to address that through the measurement committee, through recommendations working cross cutting, figuring out where we want to place those, and how we want to do that in terms of measurement.

The third one, it's an age-old problem, but the information sharing dilemmas that the states -- I mean that the tribes face in giving information from states and the prohibitions that the states put on them to be able to access information. What was it yesterday that Gladys had mentioned, is that she's told since she doesn't have an agreement in place within Navajo statute to access information, then how can she even ask for it? Sort of bizarre stuff.

I think we can address how difficult some of the measurement issues are among the nations in terms of ever being able to identify and measure their own child abuse deaths and where we see some of the barriers. And my interpretation of what I heard yesterday was the barriers are coming state side.

COMMISSIONER MARTIN: I just want to add a little bit to the last comment.

So we heard yesterday, and I also believe that there is some hesitation on behalf of the Native people for sharing information that they gather because of culture and past history. And I think there is room to work on both sides, because I would hope that Native territories would also recognize the need for states to have some of their data as well as the data the state is gathering for the Native tribes.

So I'm wondering whether or not there's room to not just say that it's from one side to the other, but both sides need to work together to figure out how to resolve and come to some understanding about what the statistics would be used for and who controls them and who would be able to add to them, manipulate them, and the other. Because I think it would be unfortunate if only the tribes collect data from the states and the states don't use this opportunity to also look at some of the best practices that are on Native land and start utilizing some of those in our state courts as well.

CHAIRMAN SANDERS: Commissioner Zimmerman.



COMMISSIONER ZIMMERMAN: I guess one of the things that I want to caution us, though, is that -- and it'll be -- it's at the forefront of the recommendations that I think will come out of the American Indian/Alaska Native children's committee, subcommittee, is too often one of the -- the history between states and tribes is long and not -- and a rocky road to where we are today.

And so I think that the other recommendations from, like the tribal law, the order commission, the Attorney General's Children Exposed to Violence -- American Indian Alaskan Native Children Exposed to Violence, both of them want authentic consultation with tribes that states do it, the federal government does it, that any other government has an authentic relationship, an authentic consultation with the tribal folks that they are either in their state or they -- a consortium who they work with.

So that's going to be a part of the opportunity to have those data sharing agreements or discussions where there is a lot of education on the state side, I think, about the why of it, the why of the history and the why of -- why we're not willing to share necessarily, but in limited capacities.

I think many tribes would be willing to do that, if they are really having that initial conversation around services. If we want your data to provide services, we will be able to give your tribe these sorts of services. I think it'll be -- how we frame it is going to be important.

COMMISSIONER COVINGTON: I had a question, too -- it was addressed yesterday, sort of subtlety -- the whole issue of a national reporting system for tribes around child maltreatment in general.

And I started wondering about that in terms of how does that cross with the sovereign status of individual nations.

COMMISSIONER MARTIN: I think aside from just the desire or lack of desire, there has to be capacity. And I think that gets us to the question of infrastructure and the ability.

So I think, you know, what little I know about Indian Country and the opportunities that I have had to learn through this process, it's not always a lack of willingness as much as there are lack of resources to do. And so I think that one of the recommendations that I hope will rise to the surface is a way in which to get some consistency about the numbers in Indian Country, and I hope that goes along -- that puts us on the path to somewhere where we can actually get numbers all across the U.S.

But I think we have to start talking about building capacity first before we can make a recommendation and get national Indian numbers or something.



CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: So that conversation is very much tied to financing. You know, building those tribe-by-tribe, reservation or community-by-community, being able to build those software databases with the authentic consultation of the tribes about what it is they want to measure, along with what it is the states would like to measure.

They might have a -- they might have a stronger belief that truancy has got to be a part of any sort of child database, you know, so they've got to have agreements with their schools and that sort of thing.

The other piece is that conversations around the who has responsibility has got to come to the forefront, too, because Indian Health Service and the Bureau of Indian Affairs have been traditionally those federal agencies that are responsible for the gathering and the -- of the data from tribes, if they so elect to give it to them.

COMMISSIONER COVINGTON: I was sort of intrigued by the Indian Health Service presentation, how it's a voluntary system in a sense and there's not much mystique there at all, if any. And I don't know what the resources are. The RPMS, just the healthcare database system.

COMMISSIONER MARTIN: But does it make sense to you -- so I would envision that any kind of recommendations directed or specifically about Native children and families would have a great component of including their culture.

And that's hard to do, I know, since every tribe has a different culture and every tribe is different. So we've heard so much on this trip about the power of tribal leaders, and so I'm wondering rather than -- whether or not for -- you know, just to make it simple, whether or not we can have conversations with tribal leaders, in the larger tribes at least, to start talking about the importance over why we think it's important to start looking at the fatalities as opposed to truancy as the top issue for kids, for instance. And then start building the capacity, at least the will.

So if Pima and Maricopa can get their tribal leaders to determine that kids come first and kids' safety is paramount, why can't we use that kind of process at Navajo and other tribal communities to start looking at counting, for instance - maybe?

CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: It's a wonderful, wonderful, wonderful model that we can provide for other tribes to take a look at. But again, this particular tribal council had



the will to do this. They had the political will and the power to convene.

And depending on the priorities of the tribe, it is not -- and it's not like a tribal leader saying, "We don't care about our kids," because every tribal leader cares about their kids, but the way that they believe that that care and what that care looks like can differ dramatically.

And the resources are put other places. Often, for example, around employment issues, because they believe that the well-being of the family is directly impacted by poverty. So they want to try to address that issue as a part of their greater plan to support children.

COMMISSIONER MARTIN: Help me understand what is -- well, okay, I guess I answered my own.

So Indian Country is sovereign, and by -- I apologize -- yes.

And so I guess one of the things I'm trying to figure out, knowing the diversity of tribes and knowing that tribes are all different and have different priorities and the right to establish their priorities, is there a way or is there a need to think about how to have conversations about the importance of fatalities for kids, knowing that everyone's different, every tribe is different and their structures are different and their priorities are different?

COMMISSIONER COVINGTON: Some tribes may never have a child maltreatment fatality, either. Because it depends.

COMMISSIONER ZIMMERMAN: Some tribes don't have that issue of child fatality so children aren't dying in their communities. Other tribes may.

But there are mechanisms where tribes have -- provide what -- sort of that authentic consultation with the federal government. Through the Domestic Policy Council, I believe, there are some tribal consortiums, for lack of a better word -- I'm using the wrong language -- that do have face-to-face consultations with the federal government.

So it's looking at those mechanisms about how -- but as far as educating tribes about fatalities, I think it would be tribe-by-tribe as they respond to, as the Salt River communities did, as they respond to a fatality that they don't ever want to see again in their own communities.

COMMISSIONER MARTIN: I guess my question, again, is, is it important -- is it necessary to count fatalities in Indian Country? And my answer is, yes, of course it is, because every death of a child, Indian or non-Indian, is imperative we learn from and try to



prevent. But how do we get to the point of where we allow tribes to appreciate the importance of it as well?

My thing is I want the exact number of kids who die, but what's more important to me almost is getting the consistency about the number. So I would prefer -- if I can't have the whole world, I would prefer at least knowing that we're counting similar ways on different territories so that we get some idea of what we need to focus on. We, as a nation. And so I guess I'm struggling with how do we even approach that goal, if that's the goal.

COMMISSIONER ZIMMERMAN: I think the conversation around data collection and the infrastructure in building that is where we have that conversation.

So it's about deaths and births and, you know, miles -- develop child development milestones, whatever the tribe wants to have, but getting those discrete measurements.

Yes, I think that becomes part of the measurement conversation rather than all of the super-loaded, you know, what does it mean when a child dies from your community? What does that say about your community? Without all that loaded spiritual, psychological, emotional conversation around why children die.

CHAIRMAN SANDERS: So the Measurement Subcommittee then will take much of what we heard yesterday and work to develop some recommendations that we can present maybe in a couple of -- the meeting after next.

COMMISSIONER COVINGTON: I'm also thinking that it might be useful for staff, if they could or would, make contact with the 12 tribal epicenters, epidemiology centers -- they're funded through the federal government -- to see if they're doing any counting at all around child mortality in general where they can identify tribal affiliation and then some of the violent deaths to see if they're even doing that.

I know Navajo, for the first time, is trying to do it. They found that the data was sitting there. No one had ever done it.

CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: I think it would be great also to -- there are some states that do identify American Indian or Alaska Native in their death certificates, so it would be great for the states that have tribes in them to be contacted and see if they have that identification on their death certificates.

CHAIRMAN SANDERS: A question and maybe -- I think, Pat, this is what you were



asking. Maybe I'm thinking of it from slightly a different perspective. But I heard Judge Thorne suggest strongly that we focus on sovereignty and we focus on history. So it seems that's something we want to think about in our entire process. And certainly in the recommendations.

And I'm assuming that that will be true of the American Indian Subcommittee, because I think as we try and make sure that what we say is aligned, we should be considering those issues as framing whatever recommendations we made.

COMMISSIONER MARTIN: I think it's imperative. I think that what little -- the few conversations we've had with particular leaders and experts in Native American issues, the first thing that comes out almost is the need to make certain that we're sensitive to the issues of that culture. And without that, we're going to have very little opportunity to really make any kind of impact and find information from Native country, as well as give information to Native country.

And the way I explained that is, you know, if I understand the statistics right, when you talk about children -- deaths for Native children from zero to three, a lot of that comes from suffocation. I think that's one of the first or the second highest rate of deaths for that population. That's the rollover of parents in co-sleeping.

So rather than trying to convince people that co-sleeping is bad, that's not the bad thing, the bad thing is when you roll over and suffocate the kid. So the issue is whether or not we can protect kids while parents still co-sleep. So encourage the culture of co-sleeping but make it safe.

So that's what I'm -- where we were seeing things. Like wasn't that in Texas when we saw putting the box -- the baby in the welcome-home box and putting the baby in that little like -- you know, so there are opportunities to look at safer ways -- or ways to make co-sleeping safer. So rather than trying to change the culture of co-sleeping, let's make co-sleeping safer for our kids. That's kind of what I'm trying to say.

CHAIRMAN SANDERS: So any other things that were cross cutting issues that we need to consider for the subcommittees? Well, particularly for American Indian -- I mean, cross cutting with American Indian -- what we heard yesterday.

COMMISSIONER COVINGTON: For the Prevention Committee, since I'm the only one left from my Prevention Committee -- actually, I think I'm the only one that's been here. There were a lot of issues related to our Prevention subcommittee in terms of looking around -- multiple systems coming together around -- looking at cross linkages around wrapping services around kids. There's a lot there. My head's not wrapped on it right now.



COMMISSIONER MARTIN: One of them is resources, again, and structure. From my understanding, the different tribes have different structures so that there's not one common element in each tribe or each territory.

There's not a medical examiner-type person on each tribal land. So the issue is when you start talking about multidisciplinary teams, it comes down to resources again, and if we decide that that's the Golden Rule and that's the best thing to ever happen for kids, do the tribes have the capacity to build those multidisciplinary teams?

And that came up in one of our discussions about the forensic investigator, whether or not there's some element about having regional or tribal investigators to investigate deaths so that we have some common way of looking the -- what is a child abuse and neglect death in Indian Country?

So I think -- I hate to say it's always money. I don't know if it's even money as much as it's resource in terms of training. So whether or not you can take someone from the Indian Health Services and train them to be a forensic investigator -- you know what I mean. I think it's building to capacity is what I think we need to really look at.

COMMISSIONER COVINGTON: We didn't really talk about it yesterday, but I think one of the cross-cutting issues would be looking at the Indian Health Service model, or not just Indian Health Service, but the tribal health model of using community health representatives and their long-term history of doing home visiting.

Not using the traditional home visiting model that we think of with the home nurse, but using community -- I mean, paraprofessionals that have been really engaged in Indian Country.

Navajo was talking about dual systems, looking at dual systems of care for kids early upstream and often in identifying their high-risk families and how they do that. I think there's some places there we can talk about. I was trying to wrap my head around whether I got any recommendations that came out of that yesterday but I didn't know. Judge Thorne said -- I loved his comment when he said, "I want to push healing upstream so that families aren't even in a place where they're going to harm their kids." I think that's totally what our committee is about on the prevention side.

COMMISSIONER MARTIN: I really want to explore further this issue of whether or not there's the opportunity to look at a one-line cure to jurisdiction. I keep --

COMMISSIONER COVINGTON: Good luck.

COMMISSIONER MARTIN: Everybody laughs at me, but I look at the fact -- even Dave's laughing -- I look at the fact that with the reauthorization of VAWA [Violence Against



Women Act], there was push, there was will, there was power. People went to the Hill and they were actually -- they were successful in carving out a type of case that dealt with domestic violence where they put jurisdiction in one spot and it's known.

So I'm just saying, is there a type of child abuse and neglect case that we think that is -- that needs attention because of potential fatalities where we can justify having jurisdiction settled one place so we don't have to fight about jurisdiction and we can get to the issues about protecting kids?

CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: To just sort of flesh out the reauthorization of VAWA in Indian Country, it is true that tribes can prosecute non-tribal members in their tribal courts. However, the tribes have got to be able to provide a defending attorney to that non-tribal member, and there are tribes that exist that go to tribal court where they don't even have to for their own tribal members.

So it's an authorization and it's an initiative that's not funded. So there's that piece. There's many jurisdictions, I would have to say a great number of jurisdictions, where children in juvenile justice have no advocates. They don't have guardian ad litem, they have no one. They stand before the judge by themselves or with their grandparent or a caregiver.

So it's wonderful to say, yes, we can do that now, but now we have got to build the capacity to be able to do that.

CHAIRMAN SANDERS: Can I ask a question? And actually, Judge Martin, I was thinking along the same line. So I'll try a different direction, as least as a question.

The question that I asked Judge Thorne, and it may not have come across as clearly, but it does seem, if we're looking at a multidisciplinary approach and there's acceptance that that's a significant improvement in decision-making, and some of them cut across responsibilities that prosecution or law enforcement may have and so forth, and maybe even a federal agency, that the, kind of, labyrinth that they described to go through to get to even who's sitting at the table seems it's going to be potentially harmful for kids.

Because you're not going to be able to get the information, and by not having the right people at the table, because it doesn't fall into so-and-so's jurisdiction or a decision has been made, then information will be lost, which defeats the purpose. And I do wonder, is there a way to think about particularly those high-risk situations where it's a crime on the reservation land, but it's -- I don't know all of the things that make it so confusing. I mean, is there a way to say there are certain circumstances where this -- it really



does have to be clear much earlier?

COMMISSIONER MARTIN: So one of the recommendations or potential recommendations that was presented today with the CPS group was something to the effect and I'm not going to have the exact language --

CHAIRMAN SANDERS: Jennifer is on the phone, too. She may weigh in on this. Go ahead. I just wanted to announce that she was on the phone. She may weigh in on this.

COMMISSIONER MARTIN: Was some idea of looking at the higher risk cases and putting the resources in the higher risk cases, looking at the jurisdictions that have the largest number of deaths or the most deaths.

So whether -- is there an idea of looking at the Indian territories, countries, that have the most deaths and focusing on developing or helping build the resources within those territories. And so then when you talk about a multidisciplinary team, making certain we build the infrastructure in those areas?

COMMISSIONER ZIMMERMAN: I feel like Debbie Downer. The issue is that the tribe has got to have that as their priority. The tribal governing body has got to say, "This is what we want to do." And then it goes back to court. Who, which tribe has the most fatalities? We don't know. We really just don't know because we don't have data.

But the other piece is that -- so how we've tried to address it in the past, for instance, is you heard from the U.S. Attorney or others talking about the U.S. Attorney who said sometimes they just decided that it's two years and finally they decide to prosecute or they don't decide -- or it's two and a half years.

The Bureau of Indian Affairs has provided for, unfortunately not many, but provided for a crime victims' advocates through the Bureau of Indian Affairs to be there on behalf of the family and to keep the family informed of the process and then help the family find resources to support the victim, if they are still alive, and the victim's families. So that's one piece, except that we've got one crime victim advocate covering an entire tribe, which can be very large territory again.

COMMISSIONER COVINGTON: Or even a service region.

COMMISSIONER ZIMMERMAN: Even a service region, exactly. They're not even state-by-state. It's regions. It's regional crime victim advocates.

So the jurisdiction issue, then, is not just about the will of the tribal leadership. Then it's the will of the FBI. It's the will of the U.S. Attorney. It's the will of the states. It's the will of everybody that's connected with providing those jurisdictions in those tribal



communities. And for Navajo, three states, right, to try to negotiate, depending on where the crime is committed and who the victim is and who the perpetrator is.

There's -- sorry, Debbie Downer, it's too complicated and I don't know that we can solve it. We've been at this for 150 years and we still haven't solved it. And we're making great inroads, and one of the inroads is to honor tribal sovereignty and try to build up the capacity of the tribes for themselves to be able to do -- provide the services, the investigation, the prosecution of the crimes. That is going to be what's going to help answer the jurisdiction question, I think.

CHAIRMAN SANDERS: So it sounds like, at least for our subcommittees, anybody working on our report, staying away from the jurisdiction issue is pretty much what we would --

COMMISSIONER ZIMMERMAN: I think we just have to -- the reason that I particularly -- and Pat and I wanted that jurisdiction panel, is because I wanted the Commissioners who have never worked in Indian Country and don't know Indian Country to at least hear the complicated issues around the investigation and prosecution of child fatalities; that it's just not that simple, and that because we've had so many hearings and all we hear is the state side, the states are talking about it, the states have jurisdiction, whatever, so it's just not that simple. And I wanted that to come forward.

So I would like to acknowledge that in this report that we acknowledge the jurisdiction issues. But we also acknowledge communities like Salt River that have the capacity within their own sovereign nation to provide the services and do the investigations and prosecutions.

COMMISSIONER PETIT: Well, I mean part of the problem is the numbers, the reported numbers are so small, 20 deaths a year, and the rate is two per 100,000 children. It's tough to say where it's going to strike because it's so random.

However, the Navajo child death review process and the epidemiologist who we talked to yesterday around the 10 or 12 deaths in a year, I think could prove or provide some insight in selected places on how to go about doing this.

CHAIRMAN SANDERS: Commissioner Zimmerman.

COMMISSIONER ZIMMERMAN: So I guess I'm just a little bugged by the comments about it being such low numbers. Because you know we all love children and we all want to be politically correct. But we have communities of maybe a thousand people or five thousand people and 20 kids dying or 10 kids dying or two kids dying is a dramatic number to us as tribal community members living in our communities because we are so



interrelated.

It's not just about, "Gosh, I'm going to go to Joe's daughter's funeral, she was hit by a car." It's, "Joe's daughter is my niece. Joe's daughter is my daughter's sister."

COMMISSIONER PETIT: I'm not minimizing in any way the size, and the organization I founded called "Every Child Matters" means that. It's every child. We're interested in every single one.

I'm saying the tools that we have in terms of statistical analysis and projection and so forth are very limited because they rely on large sample sizes. That's all I'm saying. It's hard to measure where to target your resources when we have as little information as we do.

When I heard yesterday the epidemiologist say, "We've got 10 or 12 in a community of 60,000," then that may provide us with something in between what we have and nothing.

COMMISSIONER MARTIN: Some time ago we had talked and I can't remember -- so when I say "we," I can't remember if it was a larger discussion or a discussion with just a couple of the Commissioners. We had talked about whether or not our recommendations would look something like suggesting that these are things that we think may be effective in eliminating abuse and neglect, A, B, and C, but we would make the recommendation that the feds put out a RFP or a grant proposal to bring communities in to try them for a certain period of time and evaluate it, and et cetera.

If I remember that conversation remotely correctly, I'm wondering whether or not it would behoove us to think about looking at a Nation, working with Navajo, okay, since they have a lot of infrastructure in place right now, but looking at a Nation and talking about what's best for Native countries, Indian children on that territory, and this infrastructure that needs to be put in place to better protect children, and then have a separate or a part of that experiment that's devoted specifically to Indian children. Primarily because the infrastructure is so vastly different and every tribe is so vastly different.

CHAIRMAN SANDERS: So let me see if there are any other cross-cutting issues because I'm going to come back -- because actually, at the end I was going to talk a little about the next meeting and some ideas, including outline of the final report for us to begin to talk about. And I'll touch directly on that.

Are there any other things we heard yesterday that we need to make sure we're addressing across subcommittees?



We heard about the multidisciplinary teams, many of the issues related to measurement and counseling as well as prevention.

So if not, then we should spend a few minutes, and we will be done, on the next couple of meetings.

And I mentioned to Michael, part of the reason I hadn't responded to the issue of time, is I actually think much of our focus is going to be on the Child Protection Subcommittee. I think we've done a lot of work to now be better educated on the American Indian issues.

I think that -- I have some thoughts, and I'm sure you do, too, of how that can be highlighted in the report. I think we have -- we've had discussions about the Counting Subcommittee's measurement. We've had discussions about the Public Health recommendations, and I think -- I'm not sure they're going to take nearly as much time as the Child Protection ones.

So our remaining meetings right now are scheduled as four hours or so of presentation and the rest is deliberation. So a little more than a day of deliberations in our remaining meetings. If we are able to stick to that, I think we have enough time to cover Child Protection in three more meetings.

The other piece is that we've not scheduled anything after August, and we will clearly have to have meetings after August. And so we'll -- so I think that we should wait and see next time how much we get to, because we'll come back and probably spend seven or eight hours on child protection and see where we are with that.

The other thing that I hope to do next time, not hope to do but plan, is that it seems it would make sense to begin, based on the material that we've heard from all of the subcommittees -- because I think we now have pretty much the recommendations, at least initial thoughts from all of the subcommittees -- that I can outline what a final report might look like just at a very high level, to include where we have some detail or seems like some areas that we have some consensus and then have a conversation around that.

Not that that's the final report, but that we have something that just lays out these are the things, what are we missing, is this on base, and that can also help to determine how much more time we might need. If everybody says, "This is the craziest thing I've ever seen, we're not even close," that's a long time. If there's a sense that we're close, maybe it's less time.

So we would -- most of the time, then, we have -- do you know how much we're planning, four hours or so of testimony in Tennessee?



COMMISSIONER ZIMMERMAN: Eight hours or so --

CHAIRMAN SANDERS: So assuming six or so of that is devoted to child protection and another couple on kind of what the final report would look like, I think that would help us to gauge our time. So that at this point is what I'd be thinking, but I'm open to other thoughts.

Commissioner Ayoub.

COMMISSIONER AYOUB: What's the testimony around in Tennessee?

CHAIRMAN SANDERS: So Tennessee has done a lot of work on putting together, what is it a safety -- well, in addition to the CAC, but they have a safety-oriented culture that they've kind of pulled from other industries and really looked at other industries that deal with low incidence, high challenge issues like child fatalities. Airline industry is an example, and really look at what they've done to try and address issues.

So we'll hear about that and we also have a CAC that I believe is considered a real model CAC that we'll also have a chance to hear about. So those are the two major areas.

COMMISSIONER AYOUB: Is there an extra day like there was this time or is it just those two?

CHAIRMAN SANDERS: We don't have anything planned -- the CAC, that's right.

DR. RACHEL BERGER: Teresa Renzent and Chris Newlin are coming to present on all the CACs across the country.

CHAIRMAN SANDERS: That was the organization that was, along with Every Child Matters, part of the initial consortium, if I'm not mistaken.

COMMISSIONER MARTIN: With respect to your recommendation, I think the only subcommittee we really haven't heard from is the Minority Subcommittee.

In our last subcommittee meeting, we were talking potentially about asking for time on the agenda in New York to have a panel because there were a couple of issues that we really wanted to bring to the Commissioners.

So I would just ask that to be taken into consideration so that if in fact we agreed with you about doing a draft of the final report, that we would know that there will be a couple -- there is some more information to come to us for that subcommittee, okay?



CHAIRMAN SANDERS: Yeah, and there's a lot more information than what's been presented so far including, obviously, that subcommittee.

Because it seems we've focused a lot on the Public Health approach, which I think is the right thing. We also know that there are at least two populations that, if we don't address, we're not going to deal with the issue. And that's American Indian children and African American children because of the rate of reported fatalities.

So I think that -- assuming that we will not have a full set of recommendations from the American Indian Subcommittee or disproportionality, those are things they'll just be kind of placeholders in the -- but thinking of what it might look like.

So just to be specific, I think we should have a separate section on American Indian children, I think, because I think there are enough issues that are distinct that we heard yesterday that it's not to be woven throughout but really separate. So that's the kind of thing that I would be proposing. And again, we can then decide are we close or not.

COMMISSIONER AYOUB: Chairman, are we keeping to the meetings that we mentioned before? There was some conversation about changing, so we're in New York in August, we're in Utah in May?

CHAIRMAN SANDERS: Yes.

COMMISSIONER PETIT: Can I ask --

CHAIRMAN SANDERS: Tennessee and Wisconsin, right.

COMMISSIONER PETIT: This is a loose question, too, but at what point are you going to outline what a report might look like, just in terms of the sections and all of that kind of stuff, and then how is the writing going to be done?

And I'm wondering at the next session or the session after that, we list the 10 or 20 or 30 or 50 or 100 recommendations that we're making and have something like yes, no, maybe, in terms of where we are as a Commission on them to see what we don't need to spend a lot more time on, what we should spend more time on, but something that allows us to see just how much consensus we have on each issue.

CHAIRMAN SANDERS: I think we should go as far as we can. What I will present will include probably something initially very high level but enough detail for us to have further conversation about it. These are things we've talked about is general recommendations, are we -- you know, where are we with these kinds of things?



COMMISSIONER PETIT: Yeah, and then how it's going to be written.

CHAIRMAN SANDERS: I think at this point that we will -- we, as we outline the direction and outline the topics, et cetera, that we would look to staff to write big parts of it based on the subcommittee's discussions and based on the recommendations.

There may be sections that we need to consider differently, but at least for a big part of it, it seems like we want staff, based on the conversations that we've had as Commissioners, to put pen to paper.

COMMISSIONER PETIT: Are we walking with an end date at this point?

CHAIRMAN SANDERS: We have the same end date, end of September. We've requested the extension, and I don't think we have a final response.

DR. BERGER: We should have a response from the White House from the President --

COMMISSIONER PETIT: Extending it to what?

CHAIRMAN SANDERS: Until February, end of February.

COMMISSIONER PETIT: Right now, it's end of September?

CHAIRMAN SANDERS: Yes, okay.

COMMISSIONER MARTIN: So just to answer your question, I think that's a great way of proceeding, your recommendation of doing a draft of a draft to basically do space holders on issues.

And so I just want to add, for the record if nothing else, I don't think Native American children should have a separate section just because of the difficulty or the complexity of tribes and the whole issue about being different and having different priorities and customs.

I personally think the reason Native Americans should have a separate section, whether it matters or not what I think, is because of the importance of the fact that as a country we haven't paid much attention to Native American children, particularly because the numbers in general are small. And I think it's imperative that we look at all of our children, and our Native children are included in that, "all of our children."

So whether I -- I don't know if it matters, the purpose of it, so I agree with the conclusion. But I think it's more of an importance of our Native children in recognizing that their deaths matter, too, why we need a subsection.



CHAIRMAN SANDERS: Sure. If somebody hadn't already taken Every Child Matters, that could be the headline of our report. I think you're absolutely right.

Anything else that we need to cover today?

COMMISSIONER AYOUB: I just want to thank Commissioner Martin and Zimmerman and the staff, Cheryl, for the work from yesterday. That was so many eye-openers for me. I really appreciate it. Thank you.

CHAIRMAN SANDERS: Anything else?

All right. We'll adjourn. Thank you.

(MEETING ADJOURNED AT 11:38 a.m.)