



COMMISSION TO ELIMINATE  
CHILD ABUSE AND NEGLECT FATALITIES

**CHAPTER OUTLINE**  
**ADDRESSING THE NEEDS OF AI/AN CHILDREN**

**Introduction/Themes**

The Commission took a focused look at the needs of American Indian/Alaska Native (AI/AN) children, in part due to (1) the rate of AI/AN child abuse and neglect fatality victims being nearly two times the rate of white children per 2013 NCANDS data and (2) AI/AN children representing child abuse and neglect victims at a rate of one-and-a-half times that of white children per 2013 NCANDS data ([confirm data and source](#)). While these examples of disproportionality reflect only available data, are likely not comprehensive, and do not include complete data from tribes, the Commission has prioritized looking closely at the needs of AI/AN children in its work to develop a national strategy to reduce child abuse and neglect fatalities of all children.

Through testimony during CECANF meetings in Burlington, VT, and Denver, CO, as well as a meeting dedicated to discussing tribal considerations in Scottsdale, AZ, the Commission heard from a wide range of speakers about the specific topics of data, jurisdiction, and services related to AI/AN child fatalities. The overarching theme from the testimony across the multiple Commission meetings was that child abuse and neglect fatalities of AI/AN children can be properly addressed only when tribal nations take responsibility and are allowed to take responsibility for their children. This can be achieved only as the U.S. federal system acknowledges and participates with Indian Country under a paradigm that views each individual tribe as a sovereign nation. Specifically, the federal response to the question of child fatalities in Indian Country must accept the U.S. government's own description of Native American tribal nations as "domestic dependent [sovereign] nations within our borders." Therefore, the U.S. government is bound to operate with the tribes under the principle of a trust relationship. In addition, the federal government has a "duty to protect" the tribes, implying the necessary legislative and executive authorities to effect that protection. Further implied is the federal government's debt of care to these sovereign nations based on history and treaty.

The Commissioners heard about the impact of historical trauma, poverty, substance abuse, teen suicides, and the exposure of children to violence that tribes have faced for generations. The other side of those challenges highlighted by speakers is the resiliency of the clan and family structures within tribes to maintain their sovereign tribal communities. It is with that lens that several examples of work within specific tribes were highlighted through testimony. The following are two examples:

- **Pima-Maricopa Family Advocacy Center’s Multidisciplinary Approach:** The Pima-Maricopa Family Advocacy Center uses a multidisciplinary approach to addressing the child abuse and neglect investigative function. This work is highlighted in an earlier section of the report. The Commissioners were able to conduct a site visit to the Family Advocacy Center and also heard testimony in Scottsdale, AZ, from the center director.
- **Eastern Band of Cherokee Indians’ Multisystem Collaboration Example:** The Eastern Band of Cherokee Indians has developed a multijurisdiction, multi-agency, and multidisciplinary approach in juvenile justice built on common goals and a common language across all systems and jurisdictions involved. This multisystem collaboration has focused on services and accountability, using a results-based accountability framework to measure and monitor progress and areas for continued development. The Eastern Band also has developed an integrated child welfare team that has child protection, foster care, case managers, and behavioral health staff all working in one central place to promote teaming in working with families. To enhance that work, the Eastern Band is also leveraging Medicaid dollars to free up other resources to provide more in-home supports to families.

Some distinct challenges highlighted through testimony included the following: (1) the lack of data and data systems within many tribes to track key data around child abuse and neglect and child abuse and neglect fatalities, (2) the multiple jurisdictional challenges when a child abuse and neglect fatality of an AI/AN child occurs on tribal lands and on nontribal lands, and (3) the numerous challenges that continue to persist around tribes being able to remain sovereign and at the same time access funding, training and technical assistance, and developmental opportunities that will promote parity between tribal child protection/child welfare agencies and state child protection/child welfare agencies.

The Commission also heard several suggestions from speakers about strategies that could prevent child abuse and neglect and child abuse and neglect fatalities within tribes, including preventing teen suicides:

- Fatherhood initiatives
- Home visitation programs that include in-home parent/family coaching
- Connecting youth to their cultural traditions, particularly around native language renewal
- Improved drug abuse education
- Early literacy services
- Enhanced U.S. history curriculum that includes comprehensive information on Native American history
- Promoting access to services outside of 9 a.m. to 5 p.m.
- Service approaches that prioritize keeping children within their tribes as a primary alternative to out-of-home placement
- Developing a culturally accurate assessment of how to provide services optimally within tribes, being informed by tribes, particularly being informed by traditional

medicine practitioners within tribes, in the context of federal funding opportunities and practice standards/requirements related to child and family well-being

- Addressing poverty within tribes to support child/family/tribal access to needed services, supports, and education

With all of the above in mind, the Commission has set out to develop a set of recommendations around the needs of AI/AN children that (1) aligns with the CECANF National Strategy, (2) promotes an actionable and focused approach to address clearly identified challenges, and (3) develops an improved set of conditions in how tribes, states, and the federal government work together around the investigation, reduction, and prevention of child abuse and neglect fatalities.

## **RECOMMENDATIONS**

### **Collective Responsibility for Safety**

#### **Lead Recommendation and Related Strategies**

- **Address Jurisdiction Issues - The federal government should require that there be a jurisdictional committee composed of both state and tribal leaders to determine jurisdictional issues in criminal matters associated with child abuse and neglect fatalities.**
  - The legislative and executive branches of the federal government should encourage tribal/state collaborations to meet the needs of native children exposed to violence.
  - Congress should end all grant-based and competitive Indian Country criminal justice funding in the Department of Justice and instead pool these monies to establish a permanent recurring based funding system for tribal law enforcement and justice services. 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.
  - The federal government should recognize tribal criminal jurisdiction in Indian Country in cases of child abuse and neglect, regardless of the perpetrator's race.
  - Tribes should be provided with adequate funding for child abuse and neglect reporting, investigations, child protective services, and prevention.
  - Mandates on tribal child protection programs should be the minimum necessary to ensure accountability and children's safety.
  - Behavioral health dollars through Medicaid should be used to provide the kind of services that have traditionally been provided under title IV-B. Use those services and that money to increase the availability of social workers to go and monitor and support while the child is in the home.
  - Coordination between and among jurisdictions should be mandated, facilitated, and incentivized.

## Leadership and Accountability

### Lead Recommendations and Related Strategies

- **Tribes and States Sharing Data** - Recognize the sovereignty of tribes and the shared interests among tribes, states, and the federal government to protect all children both on tribal and nontribal lands and to ensure that families have the supports they need. Tribes, states, and the federal government should have a common goal for sharing data across tribal and state child protection/child welfare systems that would be supported by the provision of resources and support for a data infrastructure to support tribes collecting and providing needed data.
  - Mandate, with equal responsibility, information sharing between the federal government and the tribal governments.
- **Federal Executive Branch Oversight** - Mandate the appointment or strengthen an existing role of a staff person within the Executive Branch with oversight over every federal department concerning Indian affairs. This person should be looking at tribal policy in each department and reporting to someone in the White House with the authority to convene federal departments and hold them accountable.
  - Congress and the Executive Branch should bring funding for tribal criminal and civil justice systems and child protection systems into parity with the rest of the United States.
  - In consultation with tribes, the federal government should consider flexibilities in the title IV-E program that will help the tribes implement it and rethink direct tribal IV-E in the context of sovereignty, not same-as-states equivalency.
  - Create consistent title IV-E guidance for tribes.
  - Improve the timeliness of the title IV-E assistance and reviews for tribes.
  - Conduct longitudinal research about the leading factors related to child abuse and neglect fatalities of AI/AN children, 18 and under. It may be possible to integrate a longitudinal research component in the Tiwahe Initiative (a partnership between HHS, DOJ, and DOI) currently being piloted in four tribes.

## Measurement and Classification

### Lead Recommendations and Related Strategies

- **Accurate Data** - Ensure the accuracy of data/information and ensure that tribes have the capacity and tools to provide that data/information.
  - Link data between tribal child welfare and tribal law enforcement.
  - Require that tribal data on AI/AN child abuse and neglect and AI/AN child abuse and neglect fatalities be reported in NCANDS.
  - Increase reporting upfront to the Bureau of Indian Affairs (BIA) on tribal and state child welfare cases involving AI/AN children.

- Mandate that death certificates should indicate if the child is an AI/AN child, if enrolled or not enrolled, and tribal affiliation.
- Provide training and technical assistance for tribes around collecting data and building data systems.
- **BIA and FBI Data Coordination - Bureau of Indian Affairs (BIA) and Federal Bureau of Investigations (FBI) data collection about AI/AN children and child fatalities should be coordinated to be complementary and comprehensive.**
  - FBI should identify key data that tribes could track that the BIA could collect.
  - FBI should ask BIA to use NIBRS (the National Incident-Based Reporting System) or request that BIA provide more detailed child-specific information.
  - Law enforcement should distinguish child and adult homicide victims.
  - To generate accurate crime reports for Indian Country, especially in tribal areas subject to P.L. 280, Congress should amend the FBI reporting requirements for state and local law enforcement agencies' crime data:
    - (1) To include information about the location at which a crime occurred and victims' and offenders' Indian status and
    - (2) To require reservation-level victimization data in its annual reports to Congress on Indian Country crime.
  - Create a pilot program to support the coordinated collection of child welfare criminal justice data related to child abuse and neglect fatalities in select tribal communities.

## Strengthen Child Protection and Develop New Tools and Strategies

### Lead Recommendations

- **Promote Peer-to-Peer Connections** - Using the Commission's framework of (1) collective responsibility for safety, (2) leadership and accountability, and (3) measurement and classification, the federal government should facilitate peer-to-peer connections around examples of well-formed efforts focused on AI/AN children and families.
- **Promote a Multidisciplinary Approach** - The federal government should release an RFP for demonstration projects using a multidisciplinary approach to address the needs of AI/AN children and their families that requires tribal, federal, and state partnerships and is aligned with the Commission's three-pronged framework of (1) collective responsibility for safety, (2) leadership and accountability, and (3) measurement and classification.

### QUOTES FROM TESTIMONY *(to thread throughout the chapter)*

- *Loss of Culture/Historical Trauma - [Treatment in non-Native communities and federal Indian policy has caused] a lot of the cultural loss and a lot of the language loss in our communities and how it affects [tribes] 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...[W]e 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. (Philandrian Tree, pages 12-13, CECANF - Scottsdale mtg transcript)

- **Rates of Suicide/Historical Trauma** - *[I]n 1987, Kake, AK, 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.* (Megan Gregory, page 19, CECANF - Scottsdale mtg transcript)
- **Rates of Suicide/Historical Trauma** - *[W]hen I talk to our young people about what is driving this high rate of suicide, it is a sense of helplessness, of hopelessness, a lack of self-determination.* (Terry Cross, page 17, CECANF - Burlington, VT mtg transcript)
- **Importance of Culture/Historical Trauma** - *[B]y the end of the day 1,026 kids are going to be entering into foster care. Of those, 10 of them might be American Indian. How are we going to keep them connected to their culture? How are we going to keep them from going through the child abuse that we've taken them away from? How are we going to help them break the cycle?* (Daryle Conquering Bear, page 8, CECANF - Denver mtg transcript)
- **Unique Risk Factors in Tribal Communities** - *[S]ome of the risk factors for our children are that our children are more likely to have special needs; fetal alcohol spectrum disorder and other learning disabilities. And those children are more vulnerable to child abuse and neglect, and particularly children with special needs and the environment of poverty and the lack of resources to deal with those issues create a situation in which child neglect of children with special needs is particularly difficult....We have family risk factors, social isolation, lack of services, low income and domestic violence...[T]he community risk factors are high concentrations of poverty and low access to services. We have high rates of criminal victimization...and lack of policing protection [in some tribal communities].* (Terry Cross, pages 17 - 18, CECANF - Burlington, VT mtg transcript)
- **Sovereignty** - *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...[So] 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. (Dr. Sarah Kastelic, pages 133, CECANF - Scottsdale mtg transcript)*

- **Jurisdiction Issues** - *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. (Dr. Sarah Kastelic, pages 119-120, CECANF - Scottsdale mtg transcript)*
- **Jurisdiction Issues** - *[Regarding jurisdiction issues]... for somebody would 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. (Judge William Thorne, page 40, CECANF - Scottsdale mtg transcript)*
- **Data** - *The heart of any multisystem collaboration is shared information. If you are doing that by pen and paper, you are behind the times. (A.G. Hannah Smith, page 50, CECANF - Scottsdale mtg transcript)*
- **Accountability** - *[T]he challenges...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...when you go from 80 to five, is indicative of the challenge...[T]he first thing to note are the words, "In the same manner as states," and...those six words, "In the same manner as states,"... is a big umbrella for what the challenges are in tribal IV-E. (Diedra Henry Spires, page 124, CECANF - Scottsdale mtg transcript)*