

Appendix D:

Recommendation Analysis



Recommendation 1. Enhance the capacity of Tribal social services and Tribal courts

The Federal government shall provide sufficient funds and design appropriate processes for distributing those funds so that all Tribal social services and Tribal courts are funded adequately to address child welfare. Tribes should receive full financial support from all relevant Federal sources from which states receive financial support, at levels that are proportionate to their populations and community needs and that create equity with state funding. Thus, Congress, the Bureau of Indian Affairs, the Department of Justice, and the Department of Health and Human Services shall fund, pursue, and implement:

- An amended process for Tribal access to Social Security Act Title IV-E funds and Family First Prevention Services Act funds, including:
 - » Streamlined Tribal IV-E applications and reporting requirements, as distinguished from those required for states, appropriate to Tribes' child welfare systems and smaller populations
 - » Provision for Title IV-E agreements with states that allow Tribes discretion to decide which Title IV-E program components to be funded to operate
 - » Waivers for Tribes and Tribal organizations of requirements in state Title IV-E plans that exceed minimum Federal requirements
- Changes in legislation related to state foster care and other supportive funding, if required, so that Tribes and Tribal organizations are able to bill states for maintenance, services, and administrative case management costs when a Native child's case is transferred from state to Tribal court, including but not limited to provisions that:
 - » Allow Title IV-E funding provided by states for foster care, kinship guardianship, or Adoption Assistance services for a Native child under state jurisdiction to follow the child if their case is transferred from state to Tribal jurisdiction.
 - » Provide funding for special education and other social services/behavioral health resources that a Native child in care may require
 - » Include funding for Extended Foster Care for youth aging out of foster care at 18 if the state includes Extended Foster Care in its child welfare program
- Legislative or regulatory changes if necessary to allow for Title IV-E and other Federal child welfare programs to be combined into P.L. 102-477 plans, P.L. 93-638 Self-Determination contracts, and Self-Governance compacts so that Tribes and Tribal organizations are able to use resources in the most flexible, effective, and cost efficient ways possible
- Legislative changes to create a Tribal set-aside and formula-driven, noncompetitive distribution of funds to Tribes from the Social Services Block Grant (SSBG) and a Tribal specific, and larger, set-aside for monies distributed to Tribes under the Child Abuse Prevention and Treatment Act (CAPTA) Community-Based Child Abuse Prevention grant program. The overall funding for CAPTA also should be increased to ensure that all Tribes have the capacity to operate a basic child abuse prevention program as states currently have with these funds
- Fully funded Tribal courts, including in P.L. 83-280 states, at documented need, which is annually reported by the Department of the Interior to Congress pursuant to the Tribal Law and Order Act, and expanded funding and scope for Tribal Court Improvement Program funds under Title IV-B
- Appropriations for the creation of appeals processes for Tribal court decisions regarding child welfare in Tribal courts
- Passage of the Tribal Family Fairness Act, which has been introduced in two Congresses—first in the 117th Congress in 2021 and again in the 118th Congress in 2023 as HR 2762

Analysis

A clear theme emerging from the Commission's regional hearings and virtual panels concerning child welfare was that Tribally led child protection processes have transformed outcomes for Native children and families. These processes deserve to be expanded. The Commission's detailed recommendation is intended to bolster Tribal capacity for the provision of child welfare services and generate greater resource equity as compared to state and local government social service agencies and courts. Additionally, the recommendation will assist Tribal governments, courts, and social services systems to strengthen American Indian and Alaska Native (AIAN) families, protect AIAN children and youth, and ensure that AIAN children and youth have and maintain familial and cultural connections with their Tribes and extended families (as defined at 25 U.S.C. §5304). Many of the components of the Commission's recommendation already are incorporated in the Tribal Family Fairness Act, which Congress should pass and appropriate adequate funds to implement. The proposed legislation increases flexible funding for Tribes for child welfare services so that all Tribes may receive Title IV-B funding. It also expands the Tribal Court Improvement Program, while streamlining program reporting requirements to align with smaller grant amounts that many Tribes receive.

Titles IV-B and IV-E of the Social Security Act provide core funding for state child welfare systems and make Federal funding contingent on the inclusion of certain requirements in state statutes. Titles IV-B and IV-E are intended to operate in tandem to prevent the need for out-of-home placement of children, and where such placement cannot be avoided, to provide alternative permanent placements for children who cannot be returned home. Together, Titles IV-B and Title IV-E are the basis for the organization and operation of most nontribal child welfare systems across the United States. Title IV-E also requires the collection of foster care and adoption data which has been implemented through the Adoption and Foster Care Analysis and Reporting System (AFCARS).

Tribes also may receive direct funding from the Department of Health and Human Services (HHS) under Title IV-B; an "Indian Tribal organization" may receive direct Title IV-B, Part 1 funds if it has a plan for child welfare services approved under the subpart. In fiscal year 2016, for example, 179 eligible Tribal entities received a total of \$6,437,417 in Title

IV-B, Subpart 1 funding; the amounts distributed ranged from a low of \$651 per Tribe/Tribal organization to a high of \$930,302. In the same year, 130 eligible entities received a total of \$10,320,750 in Title IV-B, Subpart 2 funding, and the per Tribe/Tribal organization distributions ranged from a low of \$10,225 to a high of \$1,546,523. As with states, HHS has promulgated specific regulations with which Tribes, Tribal organizations, and Tribal consortia must comply to receive IV-B funds. Receipt of IV-B monies is also a requirement before Tribal entities can participate in some other child welfare funding and training opportunities available through HHS. The Commission notes that there is scope for both increased and more flexible funding for Tribal entities through Social Security Act Title IV-B and much more Tribal participation in the funding opportunity.

Tribal entities' experience with Title IV-E is even less positive. While Title IV-E was created in 1980, Tribes, Tribal organizations, and Tribal consortia did not have the option until 2008 to apply directly to HHS to administer the Title IV-E foster care and adoption assistance entitlement programs and receive direct funding from HHS.¹ Except in limited circumstances, however, Tribal plans for administration of a Title IV-E program must fulfill requirements similar to those that the statute specifies for state plans.² These heavy administrative burdens, while appropriate for states with large populations and governmental infrastructure, are not always appropriate for Tribal entities, and only 14 out of 574 Tribes currently operate direct IV-E programs (six additional Tribes with approved plans have decided not to move forward with direct implementation).³

For this reason, the Commission strongly recommends a more streamlined process for direct funding for Tribes.⁴ In addition, Tribes may be ready and willing to take on some portions of IV-E but not others; therefore, partial IV-E agreements should be permitted and encouraged. Tribal-state agreements are an alternative to direct funding from HHS. When a Tribe requests to enter into a IV-E agreement with a state, the state is required to negotiate with the Tribe in good faith.⁵ When states go beyond the minimum Federal requirements under their Title IV-E plans, under no circumstances should Tribes be required to meet these state requirements in order to receive Title IV-E funds through an agreement with a state. Therefore, the recommendation requires that Tribes and Tribal organizations in Title IV-E agreements with states be afforded the same flexibility as Tribes and Tribal organizations

that operate Title IV-E directly through the Federal government, in terms of discretion to define evidence-based services, trauma, and other relevant terms under the statute. Finally, to better align with Tribes' economic realities, this recommendation provides the Secretary of HHS with the authority to waive or modify non-Federal match requirements for Tribes and Tribal organizations that operate the Title IV-E program.

Significantly, ICWA contains two statutory provisions that would provide additional resources to Tribes and Tribal organizations to operate their own child welfare systems: 1) a section that permits HHS to enter into agreements with Interior to make funds available for Indian child and family service programs (25 h §1933(a)), and 2) a section that authorizes ICWA funds to be used as match for programs under the jurisdiction of HHS, including Title IV-B and Title XX (the Social Services Block Grant) (25 U.S.C. §1931(b)). At minimum, these statutes highlight an opportunity for cross-agency work: they indicate that HHS and the Bureau of Indian Affairs, which also provides funding for Tribal child welfare and social services programs, should coordinate to promote stronger Tribe and Tribal organization child welfare programs to benefit Native children youth, and families. HHS also could act on these provisions to support implementation of many aspects of the Commission's recommendation.

Furthermore, state governments have access to Federal and state resources that Tribes do not have but that would be helpful in fortifying Tribal child welfare and court systems. These include Federal funds that Tribes are not eligible to receive directly from the Federal government (the Social Services Block Grant, for example), and state general-fund-supported child welfare services. Some of the Federal and state funding sources that Tribes do not receive also support specialized services, such as medical resources for high risk foster and adoptive children, which are vital to keeping children in their homes and Tribal communities. When a Tribal child is transferred from state court, those resources should follow the child via contracts between the Tribal and state governments. (States could further support the effective transfer of cases to Tribal court by making other funds, such as state non-Federal match monies, available to follow a child after transfer.)

CAPTA and SSBG, important sources for state child welfare, are only minimally available to Tribes and Tribal organizations,

and only by competitive grant funding. Because the Commission recommends that both CAPTA and SSBG be made available by stable formula funding—and because CAPTA already is significantly underfunded—a large increase in the CAPTA appropriation for both states and Tribes is imperative. In addition, child welfare is an essential component of healthy Native communities; therefore, Title IV-B and IV-E funds as well as foster and adoptive support funds should be eligible for inclusion in Self-Determination Act contracts and Self-Governance compacts under both P.L. 93-638 (as amended) or P.L. 102-477 (as amended). This administrative tool will allow Tribes and Tribal organizations to utilize funds in the most efficient and effective way to ensure child and family wellbeing.

Even if Tribes receive adequate funding for social services programming, however, limited Tribal court capacities can hinder efforts to ensure child safety and wellbeing. Tribal courts have never been funded at the stated need, and many Tribes do not have an appellate process in place for redress of Tribal court decisions. As was recommended by the Not Invisible Act Commission, Tribal courts must be fully funded, even in P.L. 280 states, with an additional allocation for the development and support of appellate courts.⁶

Tribes and Tribal organizations that are able to assemble adequate funds to transform their child welfare systems by imbuing cultural values and traditions in all their services have demonstrated success. The Tiwahe Initiative within the Bureau of Indian Affairs is one option Tribes have to accomplish this change. Through Tiwahe, Tribes and Tribal organizations have the flexibility to combine certain Bureau funds related to child welfare, including social services, job training and placement, housing, anti-recidivism, law enforcement, and Tribal justice into a consolidated, multiyear program to effectuate meaningful change for Native children and families. Red Lake Nation, Pascua Yaqui Tribe, Association of Village Council Presidents, and Ute Mountain Ute Tribe, among 65 others, have all shown significant improvements in their comprehensive Tribal child welfare and justice systems utilizing this innovative initiative.⁷

For example, Red Lake Nation created a new system for child welfare, using language that clearly expresses a different way to support families in crisis. *Ombimindwaa Gidinawemaaganinaadog* (Uplifting all of our Relatives) focuses on relationships; uses the Ojibwe Grandfather

teachings (love, respect, courage/bravery, honesty, wisdom, humility, and truth); and refers to clients as “relatives,” staff as “community service providers,” foster homes as “relative care community service providers,” and investigation as “response.”⁸ The Nation’s culturally aligned system design and whole family approach support and sustain adult recovery and have led to a 63% reduction in the number of children in out of home placement from 2017 to present.

Inaja-Cosmit Band of Indians, La Jolla Band of Luiseño Mission Indians, Los Coyotes Band of Cahuilla & Cupeño Indians, Mesa Grande Band of Mission Indians, Pauma Band of Luiseño Indians, Rincon Band of Luiseño Indians, and San Pasqual Band of Mission Indians have taken a different approach, relying on pooled resources and effort and collaboration with the state to achieve their goal. Working through the Tribal Family Services Department of the Indian Health Council in San Diego County, the seven Tribes have engaged in an intensive 20-year collaboration with county social services programs to respond to child abuse and neglect referrals. Their comprehensive, wraparound approach has reduced the number of Tribal children in state custody from over 400 to four (as of August 2022).⁹ The key to achieving this outstanding result was the Tribes’ ability to concentrate their efforts on prevention—a focus that was supported by effective coordination with the county and by an increased allocation of county funds to the Tribe’s social services department.¹⁰

- 5 | K. Fort, (2023).
- 6 | Not Invisible Act Commission, (2023), *Not one more: Findings and recommendations of the Not Invisible Act Commission*, https://www.justice.gov/d9/2023-11/34%20NIAC%20Final%20Report_version%2011.1.23_FINAL.pdf (see Chapter 6, Recommendation B1); C. Williams, (2022, August 25), *The juvenile justice system for Native children: Building Tribal justice responses and capacity* [Testimony], Panel on Child Welfare, Juvenile Justice, and Violence, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 7 | Bureau of Indian Affairs, (2023, March 29), *Indian Affairs announces expansion of Tiwahe Initiative*, U.S. Department of the Interior, <https://www.bia.gov/news/indian-affairs-announces-expansion-tiwahe-initiative>.
- 8 | C. Goodwin, (2022, September 16).
- 9 | K. Kolb, (2022, August 25), *Presentation* [Testimony], Panel on Child Welfare, Juvenile Justice, and Violence, Pacific Regional Hearing, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 10 | W. Thorne & K. D. Kolb, (2022), A better way needed: A different path for child welfare, *Family Integrity & Justice Quarterly*, 1(2), 144-155, <https://publications.pubknow.com/view/1055841541/144/>; D. L. Lomayesva, (2022, August 25), *Intertribal Court of Southern California (ICSC): An overview of ICSC services to Native children and families*, [Testimony], Panel on Systems Innovations and Best Practices in Native Communities, Pacific Regional Hearing, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.

Notes

- 1 | N. F. M. Sayer, (2012), *Timeline of major child welfare legislation*, Child Welfare League of America, <https://www.cwla.org/wp-content/uploads/2014/05/TimelineOfMajorChildWelfareLegislation.pdf>; L. Marcynyszyn, H. Ayer, & P. Pecora, (2012), *American Indian Title IV-E application planning process: Tribal progress, challenges, and recommendations*, Casey Family Programs, <https://www.casey.org/media/AmericanIndianTitleIVe.pdf>; K. A. Cluff & M. Castagne, (2022, August 25), *California Tribal Families Coalition* [Testimony], Panel on Child Welfare, Juvenile Justice, and Violence, Pacific Regional Hearing, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 2 | C. Emig, (2021), *Child Trends comments on improving and strengthening the Title IV-E Prevention Services Clearinghouse*, Child Trends, <https://www.childtrends.org/publications/child-trends-comments-on-improving-and-strengthening-the-title-iv-e-prevention-services-clearinghouse>.
- 3 | Children’s Bureau, (2023), *Tribes with approved Title IV-E plans*, Department of Health and Human Services Administration for Children and Families, <https://www.acf.hhs.gov/cb/grant-funding/tribes-approved-title-iv-e-plans>.
- 4 | K. Fort, (2023), After Brackeen: Funding Tribal systems, *Family Law Quarterly*, 56(2&3), 191-230, <https://ssrn.com/abstract=4404078>.

Recommendation 2: Ensure compliance with the Indian Child Welfare Act

Federal and state government agencies shall be required to adopt and implement policies and procedures that promote greater state compliance with the Indian Child Welfare Act (ICWA), long considered the gold standard for child welfare practice, to better ensure Indian child and family wellbeing and limited removal of children from their families and/or communities. Such policies and procedures shall include:

- Efforts to support the inherent authority of Tribal courts to make decisions about their children, such as removing barriers to transfer to Tribal court
- Training and technical assistance on ICWA requirements and best practices for state child welfare agencies and courts, developed and delivered by Native professionals with appropriate content area and local community expertise
- A requirement that the U.S. Department of Health and Human Services (HHS) collect data from the states on their implementation of ICWA, utilizing, without exclusion, the Adoption and Foster Care Analysis and Reporting System (AFCARS) and Child and Family Services Review as vehicles for new data collection. The data collected should be used to measure state ICWA compliance, performance improvement plans, and demonstrate progress on improvement, including, but not limited to, diligent inquiry, notice, Tribal intervention, active efforts, placements, transfer of jurisdiction, and permanency
- A requirement that HHS assess states' progress in ICWA compliance improvements and make achieving benchmarks in improvement plans either a condition of receiving IV-E or other Federal child welfare funding or a condition of receiving additional funds as an incentive for improved compliance
- A requirement that in cases where a Native child is adopted by a non-Native family, state court orders shall include an enforceable provision (for example, a Post-Adoption Contact Agreement and Culture Plan), to preserve connection to the child's Native community
- A requirement for diligent and documented inquiry before a court makes a finding that a child is not eligible for membership and therefore ICWA does not apply based on current information
- Implementation of Administration for Children and Families (ACF) Policy Manual Question 31, which ensures that states may subaward IV-E funds to Tribes to pay for attorneys to represent Tribes in state child welfare cases
- Funding and resources to create specialized ICWA courts and to lower attorney and social worker caseloads in those jurisdictions with higher Native caseloads
- Funding and resources to create Tribal-state joint jurisdiction wellness and child welfare courts
- Technical and financial support so that Tribes and Tribal organizations have stable infrastructure and capacity to identify and maintain access to ICWA compliant homes, thus providing an incentive to states to use such homes for out-of-home care
- Adherence to the provisions of ICWA related to parents' wishes

Analysis

Nearly 50 years after passage of ICWA and in the wake of the Supreme Court's decision in *Brackeen v. Haaland*, the time has come for Federal and state governments to fully support ICWA implementation. Because ICWA focuses on how state courts and social service agencies implement Federal and state rules concerning child welfare cases involving Native children, the Commission's recommendation addresses both current gaps in Federal and state systems and opportunities to scale effective practices.

First and foremost, the recommendation seeks to remove barriers to transferring Indian child welfare cases to Tribal courts. The primary barrier for Tribes is lack of resources, an issue the Commission addresses in Recommendation 1. A major barrier for states is limited capacity: they are better able to implement ICWA when staff members are knowledgeable and when systems are designed to support Tribal sovereignty. A key need for states, therefore, is more and better training and technical assistance (TTA) for staff of state child welfare agencies and state courts. TTA should address ICWA requirements, the political status of Native people as members or citizens of sovereign nations, Tribes'

relationship with the Federal government, and principles of effective Tribal-state relationships; it also must assist non-Native staff in understanding that connections to Native culture and to extended family/Tribe are vital to the “best interests of the child.” Special state-level ICWA certifications may be one way to incentivize and realize greater ICWA implementation capacity among social workers and other child welfare staff.¹

The need for TTA signals another barrier: states do not adequately comply with ICWA.² Several mechanisms exist by which HHS could enforce better compliance: 1) Two child welfare provisions of the Social Security Act, and 2) various auditing functions such as the Adoption and Foster Care Analysis and Reporting System (AFCARS), state IV-B plans, Annual Progress and Services Reviews, and Child and Family Services Reviews. To date, HHS has not used these mechanisms; considerations for how it could do so follow.

The child welfare components of the Social Security Act contain important provisions that relate to ICWA compliance and confirm that HHS should be actively advocating for and leading coordination between states and Tribes/Tribal organizations. The most direct reference to ICWA is a requirement that Title IV-B state plans “contain a description, developed after consultation with Tribal organizations... in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act” (42 U.S.C. §622(b) (9)). Other provisions mandate Tribal-state collaboration, including the Title IV-B requirement that recipients of Court Improvement Project funds meaningfully collaborate with Tribes (“where applicable”) and a requirement that states negotiate Tribal-state Title IV-E agreements with Tribes when requested to do so.³ These provisions directly contribute to improving ICWA implementation, yet states rarely comply with them.

In 2016, HHS proposed new AFCARS data measures that required ACF to collect key ICWA-related data. While these regulatory changes were part of a final rule published in December of 2016, ACF promulgated another final rule in 2020 that eliminated all but a few of the new 2016 AFCARS data elements related to AIAN children in state care. These data points must be reinstated in AFCARS, so that HHS can collect information about state compliance with ICWA. In the spirit that “what gets measured gets done,” the measurements are critical means through which Native

children and families can gain better state court and agency cooperation. And, to the extent that states are not compliant, merely establishing a plan to achieve compliance is not enough; HHS must require action plans and demonstrated progress regarding key components of the law, such as diligent inquiry, notice, Tribal intervention, active efforts, and placement preferences. Furthermore, as an enforcement measure, HHS must make achieving benchmarks for compliance either a condition of receiving IV-E or other child welfare funds, or a condition of receiving additional IV-E funds. Congress must appropriate sufficient funds for this purpose.

Utilizing an expanded AFCARS and other regular information gathering tools (such as the State Automated Child Welfare Information System, Child and Family Services Reviews, and Annual Progress and Service Reviews), ACF should collaborate with Tribes to focus data analysis on improving AIAN children and families’ health and wellbeing. Such efforts better position ACF to assist Tribes in meeting established Tribal priorities for child protection, family preservation, and community thriving.⁴

In order to better ensure a Native child’s connection to community, the recommendation includes a requirement that if a Native child is adopted by a non-Native family, the court shall issue an enforceable order that the child must maintain contact with its Native community.⁵ One such example is found in the California Post-Adoption Contact Agreement and Culture Plan, which should be used as a model for other states.⁶

The recommendation additionally requires implementation of ACF Policy Manual Question 31, which allows states to use Social Security Act Title IV-E funds to make subawards to Tribes to cover the cost of Tribal attorneys in ICWA cases.⁷ A Tribal attorney present from the beginning of the case assists in ensuring that ICWA is honored.⁸ In part this is because a Tribal attorney is well positioned to facilitate better coordination between state or county and Tribal child welfare systems and courts, including assisting them to find services and placements that support Native child success, which has been shown to improve outcomes for Native families.⁹ A recent Notice of Public Rule Making will provide regulatory structure to this important resource.¹⁰

In high-volume ICWA case jurisdictions (such as Denver, Minneapolis, Detroit, Los Angeles, and Phoenix), specialized

ICWA courts have greatly improved outcomes for Native families.¹¹ These courts allow judges, attorneys, and social workers to develop expertise in ICWA cases and better coordinate with Tribes and Tribal organizations.¹² By convening in designated locations and on designated days of the week, and by investing in robust remote appearance capabilities, this court model also makes it easier for Tribes to participate. It should be scaled to all jurisdictions with larger Native child caseloads.¹³

Similarly, the recommendation urges increased funding and resources (including training and technical assistance) for Tribal-state joint jurisdiction wellness and child welfare courts and for Tribes and states to work together to identify ICWA-compliant Native foster homes. Although currently rare, joint jurisdiction courts facilitate better communication among state and Tribal social service agencies, create more opportunities to be proactive and flexible, and provide increased resources to at-risk families.¹⁴

Finally, the recommendation recognizes that ICWA's many provisions protect parents' wishes with regard to placement, transfer to Tribal court, and opportunity to be heard.

Notes

- 1 | See, for example, 1) the ICWA Specialist Program, a continuing and professional education offered by the University of California, Davis (UC Davis) Resource Center for Family-Focused Practice in partnership with the California Tribal Families Coalition and the California Department of Social Services, <https://humanservices.ucdavis.edu/icwa-specialist-program>; and 2) the foundational and advanced ICWA Training offered through the Tribal Training and Certification Partnership, a collaboration of the Minnesota ICWA Advisory Council and Tribes that share geography with the state of Minnesota, <https://mntribaltraining.com/training/>.
- 2 | J. R. Williams, E. J. Maher, J. Tompkins, L. F. Killos, J. W. Amell, J. E. Rosen, C. Mueller, A. Summers, S. M. Cain, M. Moon, G. McCauley, & L. Harris, (2015), *A research and practice brief: Measuring compliance with the Indian Child Welfare Act*, Casey Family Programs, <https://www.casey.org/media/measuring-compliance-icwa.pdf>.
- 3 | M. L. M. Fletcher, (2022, August 5), *Indian child welfare jurisdictional provisions* [Testimony], Virtual Hearing on Overview of Jurisdiction and State/Tribal/Local/Federal Collaboration to Protect Native Children, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 4 | Williams et al. (2015); see Recommendation III.
- 5 | C. Tso, (2022, April 22), *Navajo Indian Child Welfare Act Program* [Testimony], Panel on Child Welfare, Juvenile Justice, and Violence, Navajo Regional Hearing, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 6 | K. A. Cluff & M. Castagne, (2022, August 25), *California Tribal Families Coalition* [Testimony], Panel on Child Welfare, Juvenile Justice, and Violence, Pacific Regional Hearing, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 7 | Cluff & Castagne (2022, August 25).

- 8 | Capacity Building Center for Courts, (n.d.), *ICWA baseline measures project findings report*, <https://www.wacita.org/wp-content/uploads/2020/03/ICWA-Baseline-Measures-Report-Final-Draft-1.21.2020.pdf>.
- 9 | See, for example, *Memorandum of Agreement between the Jamestown S'Klallam Tribe and the Washington State Department of Social and Health Services Children's Administration for Sharing Responsibility in Developing Child Welfare Services to Children of the Jamestown S'Klallam Tribe*, <https://tribalinformationexchange.org/wp-content/uploads/2019/03/Jamestown-SKlallam-Tribe.pdf>.
- 10 | Children and Families Administration, (2023), Foster care legal representation, *Federal Register*, 88, 66769-66780, <https://www.federalregister.gov/documents/2023/09/28/2023-20932/foster-care-legal-representation>.
- 11 | M. L. M. Fletcher, (2022, August 5).
- 12 | A. Korthase, S. I. Gatowski, & M. Erickson, (2021), *Indian Child Welfare Act (ICWA) courts: A tool for improving outcomes for American Indian Children and families*, National Council of Juvenile and Family Court Judges, https://www.ncjfcj.org/wp-content/uploads/2021/04/NCJFCJ_ICWA_Tool_UMD_Final.pdf.
- 13 | C. Tso, (2022, April 22).
- 14 | K. Wahwassuck & A. Abinanti, (2023), *Intergovernmental collaborations to heal, protect and find solutions: Joint jurisdiction courts 101*, Tribal Law and Policy Institute, http://walkingoncommonground.org/files/Joint%20Jurisdiction%20101%20FINAL11_3_2023.pdf.



Recommendation 3: Strengthen advocacy for Native children and youth in child welfare cases

Because children in child welfare cases are the only parties not appointed counsel at public expense, Congress shall fund and state and Tribal governments shall improve the advocacy resources available to Native children and youth by appointing advocates, which shall be a guardian ad litem (GAL) and a separate attorney for every American Indian, Alaska Native, and Native Hawaiian child involved in a state or Tribal welfare system. To be effective, these advocates must have knowledge of and receive specialized training in cultural intelligence, the Indian Child Welfare Act (ICWA), Native family connections and relationships, and be familiar with the customs and traditions of the Tribe where the child is enrolled/enrollable and/or of the Native community where the child lives.

- In all child welfare cases under state jurisdiction that involve an American Indian, Alaska Native, or Native Hawaiian child, judges shall appoint 1) a GAL for the child, who will serve at public expense and whose responsibility is to recommend to the court what is in the best interest of the child; and 2) an attorney for the child, who will serve at public expense and whose responsibility is to convey the child's wishes to the court, including where the child would like to live and other vital matters. Compliance with this mandate shall be a condition of the receipt of ongoing state Title IV-E funding.
- In all child welfare cases under Tribal jurisdiction, Tribal court judges shall appoint and Congress shall appropriate funds for 1) a GAL for each child, who will serve at public expense and whose responsibility is to recommend what is in the best interest of the child; and 2) an attorney for the child, who will serve at public expense and whose responsibility is to convey the child's wishes to the court, including where the child would like to live. Congress shall appropriate sufficient funding to cover the costs of attorney and non-attorney Tribal GALs and separate attorneys for children and youth as part of Title IV-E or provide a noncompetitive grant program for Tribes to cover these costs, if such representation is appropriate in the context of the child's case and the Tribe's chosen method of addressing such cases.

Analysis

Child welfare cases include a multitude of parties, and many are provided with legal representation at state expense. Importantly, children themselves are not included in this group. Therefore, it is imperative that Congress allocates funding and Federal, Tribal, and state governments take steps to enhance advocacy resources for Native children and youth. This is particularly crucial given their overrepresentation in state court child welfare cases.

The Child Abuse Protection and Treatment Act (CAPTA) of 1974 laid the foundation for state child welfare practices, requiring the appointment of GALs to represent the best interests of children who are victims of abuse and neglect.¹ This recommendation augments CAPTA by ensuring that American Indian, Alaska Native, and Native Hawaiian children receive comprehensive and culturally sensitive GAL services. It also recognizes that the CAPTA grant program as a whole is significantly underfunded and has heavy administrative burdens, which must be addressed with much greater appropriations, improved access to funding, and streamlined reporting requirements to make it a feasible funding stream for Tribes and Tribal organizations.

Research documents the need for legal representation of children in state child welfare courts, especially those who are aging out of care.² Findings from this research are reflected in a variety of practice models, policy guidelines, and training materials.³ For example, in its *Enhanced Resource Guidelines*, the National Council of Juvenile and Family Court Judges (NCJFCJ) observes:

Because fundamental rights of the child—as well as the parents—are at stake in these proceedings, best practice calls for the appointment of an attorney who will advocate the child's position from the very beginning of the case.

The *NCJFCJ Key Principles for Permanency Planning* also state that children should be parties to their cases and are “entitled to representation by attorneys and Guardians ad litem and that judges must ensure the child's wishes are presented to and considered by the court.”⁴

The NCJFCJ discussion goes on to clarify the distinction between attorneys who advocate for the wishes of the child

and guardians ad litem who argue for the best interests of the child. While GALs represent the child's best interests, attorneys advocate for children's wishes.

Both types of advocates for Native children and youth must have extensive understanding of and appreciation for cultural connections, the applicability of ICWA, and the principle that the best interests of the Native child include connection to culture and to extended family/Tribe.⁵ This includes foundational knowledge of the Tribal relationship with the Federal government, the political status of Native people as members or citizens of sovereign nations, and principles of effective Tribal-state relationships. For state GAL programs, the Commission recommends that cultural knowledge be a condition of receiving IV-E funding or, in the alternative, of receiving additional IV-E funding as an incentive such that HHS is authorized to enforce this provision.

This recommendation for GALs and attorneys who advocate for the wishes of the child applies to both state and Tribal courts, but because the resources and systems differ, it takes into consideration and addresses those differences. For example, while states have access to resources to appoint GALs and attorneys at state expense, Tribes do not. This is in part due to the limitations of IV-E funding, which require that GALs be attorneys, and in part because Tribal courts are drastically underfunded (see Recommendation 1). The Commission notes, however, that a new Notice of Proposed Rulemaking will allow states to use Title IV-E funding for court-appointed counsel for children in child welfare cases.⁶

States can use other funding to support the appointment of GALs and attorneys, but Tribes do not have resources outside of IV-E (which few Tribes receive) for this purpose. The Commission therefore recommends that the requirement for GALs to be attorneys be removed from IV-E in both state and Tribal courts, a change already authorized under CAPTA. This change will expand opportunities for effective GALs in both state and Tribal courts and will allow for more community member participation as GALs in both systems. Furthermore, supplemental funding is needed to cover the costs of GALs and children's attorneys in Tribal courts. Because so few Tribes have engaged in direct IV-E and the process has been so burdensome, the Commission does not recommend that IV-E funding be withheld as an enforcement tool for Tribes.

Finally, a significant aspect of this recommendation is the emphasis on involving Tribal members in advocacy roles.⁷ These advocates, who may or may not be attorneys, are more likely to have knowledge of community customs and

traditions, which supports the provision of culturally sensitive and competent representation. Like non-community member advocates, they should be well trained in the applicability of ICWA and be provided with opportunities to deepen their capacities for cultural responsiveness. This also aligns with the fact that many Tribes have alternate court structures, such as Peacemaking or Circle Courts, that include advocates for the child that might match neither the GAL nor attorney descriptions.⁸ These alternate systems should be supported and not disqualified based on this recommendation, provided that advocates for the child are part of the alternate structure.

Notes

- 1 | C. Collins-Camargo, B. L. Jones, & S. Krusich, (2009), What do we know about strategies for involving citizens in public child welfare?: A review of recent literature and implications for policy, practice, and future research, *Journal of Public Child Welfare*, 3(3), 287-304, <https://doi.org/10.1080/15548730903129954>; P. Litzelfelner, (2000), The effectiveness of CASAs in achieving positive outcomes for children, *Child Welfare*, 79(2), 179-193, <https://www.jstor.org/stable/45400211>; J. Poertner & A. Press, (1990), Who best represents the interests of the child in court?, *Child Welfare*, 69(6), 537-549; A. C. West, J. L. O'Gara, & J. Harder, (2015), Judges' perceptions of the Nebraska CASA program, *Child and Adolescent Social Work Journal*, 32(5), 429-441, <https://doi.org/10.1007/s10560-015-0384-6>.
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Recommendation 4: Follow local community standards for Native foster and kinship placements

State government licensing agencies shall ensure that local American Indian, Alaska Native, and Native Hawaiian community standards are used in the licensing of Native foster or kinship homes by, for example, incorporating local community standards in licensing rules and regulations and making liberal use of waivers.

Analysis

One of the major obstacles to Indian Child Welfare Act (ICWA) compliance in state courts is the lack of ICWA-compliant foster placements. To ensure that states and local agencies do not inadvertently apply standards that create barriers to approving Native foster home placements, it is important to utilize the standards of the communities in which the children and families live. By requiring state government licensing agencies to apply local American Indian, Alaska Native, and Native Hawaiian (AIANNH) community standards when licensing Native foster homes, the recommendation reduces the potential for discrimination when state agencies and courts make decisions on behalf of Native children and families.¹ It also has the benefit of connecting Native children to their communities and cultural identities—a key principle of ICWA—and of supporting other positive outcomes for Native children, such as improved mental health. In Alaska, for example, the Office of Children’s Services long has waived window or bed requirements in off-the-road-system villages as a way to keep children in their communities, with the understanding that village housing conditions do not always lend themselves to non-village or urban standards.

Child welfare in general and child safety efforts involving Native children in particular have increasingly turned toward kinship care (foster placement with relatives or individuals otherwise considered kin).² Research shows that these placements generate numerous benefits and better outcomes as compared to peers in non-kinship placements.³ For any child, these include: 1) lessened removal trauma and a sense of belonging;⁴ 2) better educational outcomes and educational stability;⁵ 3) fewer behavioral problems and improved mental health;⁶ and 4) greater placement stability.⁷ For Native children, relative and kinship care better maintains the child’s connection to culture, heritage, and traditions and builds relationships that can continue throughout the child’s lifetime.⁸ Thus, placement with relatives and kin when safely

possible also is consistent with ICWA, which emphasizes the importance of the extended family in Native American cultures and of the importance to children of sustaining family, community, and cultural ties.

In 2008, the Fostering Connections to Success and Promoting Adoptions Act (P.L. 110-351) authorized the waiver of non-safety licensing standards by states and Tribes for relative foster family homes. In September 2023, the Administration for Children and Families, which oversees Federal funding for foster care, issued regulations that allow states and Tribes to establish separate licensing standards for relative and kinship foster family homes.⁹ This new rule reduces states’ barriers to Native children’s kinship care by making it easier for them to tailor foster home standards and requirements, and it reduces barriers for Native kin families by enabling fair reimbursements for foster care provision and by reducing training burdens. The rule also opens the door to increased state-Tribal collaboration in the creation of culturally appropriate standards and training protocols.¹⁰ For example, the Port Gamble S’Klallam Tribe worked with the State of Washington to expand the definition of “family” used in determining placements to include the Tribe itself, thus expanding opportunities for kinship care.

By providing flexibility without impeding safety, the new regulation upholds the Commission’s stated principle, that it is best to utilize the standards of the communities in which the children and families live. The further step taken by the Commission in its recommendation, however, is to *require* states to adopt such standards and to do so for *all* Native foster homes—moving beyond optional differential licensing standards for homes that formally are identified by state social service agencies and courts as kinship placements. These ideas recognize and extend the benefits of kinship placement and ensure that wherever possible, Native children, regardless of their Tribal affiliation, are afforded the opportunity to live in homes that value and support their Indigenous identities.

To the extent that states are concerned about the difficulty of a flexible approach that is responsive to Native community needs, policy advocates and technical assistance organizations have provided guidance.¹¹ For example, the seminal 2015 report from the Center for the Study of Social Policy describes a step-by-step approach to meeting the goal:

Community Collaboration. Licensing boards should establish collaborative relationships with AIANNH communities. These collaborations should empower these communities to actively contribute to the development, oversight, and enforcement of standards aligned with their cultural traditions and values.

Cultural Competency Training. Licensing boards and child welfare professionals should undergo comprehensive cultural competency training. Training must equip them with in-depth knowledge about the diverse cultural practices and expectations within AIANNH communities, enabling culturally sensitive assessments.

Local Oversight Committees. Forming local oversight committees composed of community leaders, elders, and cultural experts is essential. These committees will provide guidance, recommendations, and oversight for licensing decisions to ensure adherence to local community standards and the preservation of cultural practices.

Regular Reviews and Adaptations. Licensing boards should periodically review and update licensing rules and regulations to incorporate and reflect local community standards. The process of assessment should be inclusive of AIANNH communities' input and account for their unique cultural contexts.

Flexible Use of Waivers. Licensing agencies should judiciously employ waivers to introduce flexibility in applying standards. This approach enables the accommodation of cultural variations in licensing decisions while keeping child safety as the foremost priority.

Culturally Informed Assessments. Licensing boards should devise assessment tools that consider the unique needs and expectations of AIANNH children and their communities. These assessments should prioritize the preservation of cultural connections and emotional wellbeing.

Data Collection and Reporting. Licensing agencies should systematically collect data on placements and outcomes for AIANNH children and youth. Regular reporting and analysis of data are crucial for monitoring the effectiveness of the policy and making necessary adjustments.

In sum, this recommendation is intended to ensure that, when necessary, AIANNH children are placed in foster homes and kinship placements that respect and preserve their cultural connections. In so doing, it promotes child welfare practices that prioritize the best interests of the child and better aligns state and county systems with key principles of ICWA.

Notes

- 1 | American Indian, Alaska Native, and Native Hawaiian (AIANNH) children within state and county child welfare systems often experience multiple and interconnected forms of discrimination and disadvantage, arising from factors such as race, ethnicity, class, sexual orientation, gender identity, disability, and immigration status; see M. Martin & D. D. Connelly, (2015), *Achieving racial equity: Child welfare policy strategies to improve outcomes for children of color*, Center for the Study of Social Policy, <https://eric.ed.gov/?id=ED582913>.
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- 7 | E. Koh & M. F. Testa, (2011), Children discharged from kin and non-kin foster homes: Do the risks of foster care re-entry differ?, *Children and Youth Services Review*, 33(9), <https://doi.org/10.1016/j.childyouth.2011.03.009>; M. A. Winokur, G. A. Crawford, R. C. Longobardi, & D. P. Valentine, (2018), Matched comparison of children in kinship care and foster care on child welfare outcomes, *Families in Society*, 89(3), 338-346, <https://doi.org/10.1606/1044-3894.3759>.
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- 11 | See, among others: Casey Family Programs, (2020), Information packet: *Strong families—How can we prioritize kin in the home study and licensure process, and make placement with relatives the norm?*, https://www.casey.org/media/SF_Adapting-Home-Studies-for-Kin_fnl.pdf; Children’s Bureau Child Welfare Information Gateway, (2022), Placement of children with relatives, Department of Health and Human Services Administration for Children and Families, <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/placement/>; and M. Martin & D. D. Connelly, (2015).



Recommendation 5: Promote family dependency treatment courts

Congress shall appropriate sufficient funds to state and Tribal courts on a noncompetitive basis through the Departments of Justice, Interior, and Health and Human Services for the ongoing and expanded use of family dependency treatment courts (also sometimes called family drug courts, healing to wellness courts, peacemaking circles, or other similar names) or other courts to address child welfare as the Tribes so choose for American Indian, Alaska Native, and Native Hawaiian communities.

Analysis

Because a significant percentage of child welfare cases involve substance abuse and/or mental health issues—such that parental fitness is actually a function of parental wellness—a less adversarial and more holistic approach to those cases can result in improved access to treatment resources, more focus on healing, and better long-term results for children and families.¹ Generally known as “family dependency treatment courts” (FDTCs), the approach is inclusive of healing to wellness courts, family drug courts, family group conferencing, and circle peacemaking. In Native communities, FDTCs often involve a return to traditional Indigenous forms of conflict resolution, a shift that offers the additional advantages of connecting families to culture, engaging culturally appropriate strategies for healing, and advancing broader approaches to family preservation.² Over the last 30 years, researchers have produced a large body of work that supports the efficacy of treatment courts, especially where substance abuse is a primary issue,³ and in Indigenous settings, where they help restore the fabric of the community.⁴

Writ large, FDTCs are court-centered treatment collaborations founded in therapeutic jurisprudence⁵ in which a judge-led interdisciplinary team engages directly with parents, children, and other stakeholders to support readiness for change and forestall family separation. Using a therapeutic rather than a legalistic approach shifts the dynamics of the case. Positive reinforcements contribute to parental success, while deep involvement by treatment and other social service providers allows for real-time accountability with the judge and child welfare staff. The process is intended to provide the parent(s) with the support needed to address the underlying and often complex causes of their family-disruptive behavior. Tribal courts and social services also work closely together to create wraparound plans for the whole family, so that children and

other family members also receive the support they need in the healing process.

Advantages of a FDTC include:

- A non-adversarial judicial milieu in which parents receive intensive monitoring and services
- A collaborating team with representatives from the judicial, child welfare, health care (especially treatment and mental health care), social services, and related agencies that also may include key community or extended family members
- Guaranteed rapid entry into substance abuse treatment as needed
- Close communication among treatment providers, child welfare caseworkers, and the judicial system to monitor the participants’ progress
- Incentive-based encouragement (consequence-driven rewards, such as more frequent family visits given positive parental progress)
- Swift, non-punitive intervention should relapse occur

The Commission identified this model as an alternative that provides better outcomes for American Indian, Alaska Native, and Native Hawaiian children and families in state and Tribal courts than standard approaches to child welfare proceedings and recommends that more FDTCs be developed. Yet the Commission also observed that current Federal funding is scarce and uncertain. In Federal fiscal year 2021, for example, the U.S. Department of Justice Bureau of Justice Assistance (BJA) awarded only \$13.8 million to states and Tribes for family drug treatment courts;⁶ BJA awarded only \$61.6 million in fiscal year 2021 to treatment courts overall.⁷ All of these funds were awarded through competitive grantmaking processes. Thus, scaling will require not only more funding but also a different funding approach. As emphasized in other recommendations, and especially Recommendation 26, the Commission’s preferred approach to resourcing critical programs and services is formula funding with Tribal set asides. With regard to FDTCs, the Commission recommends formula funding for both Tribes and states, with a Tribal set-aside to guarantee Tribes and Tribal organizations an appropriate proportion of the total funds.

Notes

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- 6 | Office of Juvenile Justice and Delinquency Prevention, (2021, May 25), *Family treatment court program*, U.S. Department of Justice, <https://ojjdp.ojp.gov/programs/family-treatment-court-program>.
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Recommendation 6: Redesign Federal programming and funding for Tribal juvenile justice to maximize trauma-informed, community-based care

Native youth who come into contact with Federal, state, local, or Tribal juvenile justice systems or who are at risk of doing so (whether delinquent, runaway, homeless, or truant) shall be placed, to the extent possible, in community care and under community supervision, including in diversion programs and in family-centered, community-based alternatives rather than in secure juvenile detention centers or other secure facilities, which should be utilized as the last resort and not as a general or permanent placement.

To do so:

- Congress and executive branch agencies shall revise statutes, regulations, and policies that prevent Tribes from flexibly using funds currently devoted to detaining juveniles—whether provided by Department of Justice (DOJ), Department of the Interior (DOI), or Department of Health and Human Services (HHS)—for more demonstrably beneficial programs, such as trauma-informed treatment and greater coordination between Tribal child welfare and juvenile justice agencies; new rules shall permit alternative uses for Federally funded secure detention facilities, including their use for prevention, reentry services, treatment, rehabilitation, and shelter care, but with residential placements used always as a last resort to community-based placements.
- Congress shall appropriate funding for Tribes, Tribal organizations, and Native Hawaiian entities to:
 - » Widely utilize and, if necessary, create Native community-based outpatient care programming that includes culturally relevant trauma-informed care for all affected parties (youth, victims, and their families), so that recovery can occur in the least restrictive setting appropriate to the circumstances of each case
 - » Construct and create treatment and rehabilitation facilities that serve American Indian, Alaska Native, and Native Hawaiian children and youth who experience trauma (personal, intergenerational, and/or historical), including but not limited to facilities for service provision, shelter and respite, and constructive youth activities
 - » Construct and establish safe homes, group homes, shelters, day and evening reporting centers, and drop-in centers for Native youth who commit non-violent offenses, who go missing voluntarily for whatever reason, and/or who are habitually absent from school without permission, as alternatives to their placement in secure juvenile detention centers, but only for the shortest possible placement periods.
 - » Construct and create cultural facilities, recreational facilities, theaters, sports centers, and other options that create positive environments for youth and promote resilience
- Federal, State, and local law enforcement and juvenile justice agencies shall coordinate with relevant Tribes, Tribal organizations, or Native community entities to expand programs and to ensure placement of Native youth in appropriate community-based supervision and treatment settings, whether Tribal or nontribal.
- Status offenses shall not be handled in delinquency court but shall be handled in child welfare court to the extent they are in court at all.
- Congress shall fund creation of a comprehensive education and training program for Tribal, Federal, state, and local law enforcement officers, judges, court staff, prosecutors, probation officers, and service providers who work with Native youth that addresses the evidence-based preference for community-based supervision and treatment of Native youth who come into contact with the legal system or who are at risk of doing so.

Analysis

This recommendation recognizes the need for a profound shift in the way legal systems respond to Native youth who engage in prohibited activities. To the extent possible given the circumstances, Native juveniles' actions and behavior—whether status offenses, common criminal violations, or inappropriate sexual behavior—must be addressed through comprehensive, non-residential, treatment-focused, culture-based programs that keep youth connected to the community, offer alternatives to drugs and alcohol, and contribute to protective factors such as positive identity formation.

First and foremost, this recommendation responds to the extensive body of research that demonstrates the benefits of rehabilitation and community-centered programs for all Native youth as compared to secure detention.¹ Secure detention often reinforces the cycle of offending.² The alternative—building diversion programs and other forms of community care that can be tailored to the nature of the offense—offers promising avenues to prevent re-offending.³ Recognizing that many offenders, runaways, or addicts have experienced trauma, the Commission also urges increased trauma-informed approaches in community-based care, aligning with recent DOJ Tribal consultations that prioritized treating children within their homes and communities while recognizing that barriers to their success exist within the system.⁴ Native communities are ready, willing, and able to implement a wide range of programs beyond secure detention to provide prevention, intervention, and response services, including through treatment or diversion programs.⁵ The focus of the recommendation is rooted in the principle that youth should not be incarcerated merely due to a lack of alternative placements. The “Where else are you going to go?” predicament should never serve as a justification for locking up a Native youth.

Second, the recommendation’s emphasis on community care also responds to the troubling reality of disproportionate police contact, arrest, and severe punishment rates among Native youth. These disparities have been evident for many years.⁶ While all other ethnic groups have demonstrated a large decline in arrests over the last decade, American Indian and Alaska Native youth have experienced more of a leveling off.⁷ Fueled by high arrest rates, the AIAN confinement rate remains high⁸: in 2020, AIAN youth were more than three times as likely as White youth to be placed in a juvenile detention center, residential treatment center, group home, or youth prison.⁹

The Commission intends this recommendation to apply to all parties—that is, to Federal, state, local, and Tribal government law enforcement and judicial systems—that would have the opportunity to choose between placing a Native youth in a secure detention facility or in community care under the collaborative supervision of a Native community (Tribe, Tribal organization, urban Indian organization, or Native Hawaiian entity). Of course, both non-Native systems and, especially, Native systems will need significant capacity to address the multifaceted needs of troubled Native youth.

One form of necessary capacity development is the focus of Recommendation 7, which requires notice and intervention

opportunities when AIANNH children/youth are taken into custody for delinquent behaviors. Without workable systems through which local, state, and Federal governments can inform relevant Native communities concerning the involvement of a Native juvenile with that local, state, or Federal legal system, it will be difficult for Native communities to assist in diverting truant or delinquent youth from secure detention centers or other forms of state or Federal incarceration.

For Tribes, physical infrastructure is a significant capacity concern. It is the understanding of the Commission that arbitrary appropriation restrictions create barriers to using existing detention facilities in Native communities for rehabilitation and positive youth programming.¹⁰ Legislation in the late 1990s prohibited Tribes and Tribal organizations from using their public safety and justice funds for mental health and substance abuse treatment by requiring such programs to be funded through SAMHSA or IHS; therefore, rather than being able to use detention facilities for a wide variety of interventions, Tribes have been forced to staff them as secure detention with correctional officers.¹¹

The Commission recommends and requests that Congress remove any legislative barriers, and that DOI, DOJ, and HHS remove any programmatic barriers, so that secure detention facilities can be staffed primarily as sites for positive youth programming (rather than for secure detention) and so that detention becomes a true last resort for youth who come into contact with Tribal justice and social services systems. In order to do so, Tribes and Tribal organizations should be able to combine and consolidate funds from DOI, DOJ, HHS, and other departments for the creation of comprehensive mental and behavioral health programming aimed at achieving the best outcomes for delinquent children and youth.¹² For example, wherever funding is authorized or appropriated for probation officers, it should be permissible to be used for counselors, coaches, etc. In other words, funds from any source, regardless of origin, should be able to be used in the manner determined to be most effective for the community in which the youth live; this change may require new authorizing and appropriations language as well as reformed departmental policy and actions (see Recommendation 25).

Beyond the transformation of existing secure detention centers into places capable of more strength-based, trauma-informed programming, system transformation relies on Native communities’ ability to provide needed services. They may need to bolster community-based, trauma-

informed outpatient care and construct additional treatment and rehabilitation facilities. Additionally, funding is needed for safe homes, group homes, temporary shelters (including separate shelters for status offenders), day and evening reporting centers, drop-in facilities, and respite centers. For all youth, there is a need for additional cultural, recreational, and arts facilities to prevent misbehavior and for culturally responsive support programs to address misbehavior when it occurs. The new programs and services will allow for greater coordination between Tribes and Tribal organizations with Federal, state, and local law enforcement and juvenile justice agencies in order to connect youth with community-based supervision and minimize risk factors. Again, interagency collaboration is vital to overcoming funding limitations and ensuring the flexibility to allocate resources based on the specific needs of Native youth in their communities.

While the Juvenile Justice and Delinquency Prevention Act (JJDP) provides that status offenses must be handled in child welfare court or other alternative venues rather than delinquency courts, all too often these cases end up in delinquency court. Native children are over-represented among children who are confined for status offenses; therefore, the Commission urges compliance with JJDP so that status offenses are handled in child welfare or other specialized courts such as truancy court. This protocol can further interrupt the school-to-prison pipeline.¹³ At their site visit to Shingle Springs Rancheria in Northern California, the Commissioners were shown an example of a partnership between state and Tribal entities, which resulted in Tribal social services assisting in truancy prevention. Through cooperation, the school, the Tribe, and county agencies are able to ensure that notice and an appropriate response occur when Native children and youth begin to slide—reducing status offenses and enabling therapeutic Tribal action over punitive state action.

This example also points to the benefits of cross-fertilization and understanding between Tribal and state legal systems; more importantly, none of these solutions will achieve their goal unless state and local law enforcement, courts and corrections, social workers, educators, and other service providers understand the research basis and successful track records for community-based programs for both status and delinquent offenders. The recommendation recognizes this need and includes extensive training and professional development to support these efforts.

In short, the recommendation urges a paradigm shift, from a focus on punishment and secure detention to a focus on

healing and holistic wellbeing and, thus, on responses to inappropriate youth behavior that are community-based, culturally sensitive, and trauma-informed. At the same time, the Commission recognizes—and reminds Congress and the President—that this recommendation is not new. It tracks recommendations made a decade ago by the Indian Law and Order Commission and by the Attorney General’s Advisory Committee on Violence Against American Indian and Alaska Native Children. Like those entities, the Commission on Native Children seeks to address the systemic issues that contribute to disparities in Native youth involvement with justice systems via a multifaceted approach that reflects Native values and protects Native youth and communities.

Notes

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Recommendation 7: Keep track of Native youth in Federal, state, and local juvenile justice systems

Federal, state, and local juvenile justice systems shall be required to maintain complete records concerning Native youth who have come into contact with those systems, including their American Indian, Alaska Native, or Native Hawaiian affiliations. If Federal, state, and local systems are uncertain whether a juvenile is Native, they shall be required to verify with the relevant Native entity and make a finding as to whether a youth is affiliated with a Tribe, Alaska Native entity, or the Native Hawaiian community.

For those children and youth in these systems who are verified to be affiliated with an American Indian Tribe or Alaska Native entity or with the Native Hawaiian community:

- Federal, state, and local governments shall create mechanisms to report back to juveniles' Native communities and guardians as to their placement, location, and status on a regular basis, but in no case less than annually.
- State courts shall provide notice, as required by the Indian Child Welfare Act, about all status offenses committed by Indian children, with regular reporting back to the Tribe or Tribal organization and guardians, and Tribes or Tribal organizations shall be offered the opportunity to intervene and provide services; furthermore, the same notice and opportunity to intervene and provide services shall be provided to Native Hawaiian entities, although not required by ICWA.
- In all other state and Federal juvenile cases (i.e., non-status offenses), notice shall be provided, and Tribes, Tribal organizations, and Native Hawaiian entities shall be offered the opportunity to intervene and provide services.
- If Federal court takes jurisdiction over a juvenile case that occurred on Tribal land, the U.S. Attorney must use the same certification process with the Tribe that they use with states as required under 18 U.S.C. §5032, which provides that proceedings cannot be initiated against a juvenile in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate U.S. District Court that (1) the juvenile court or other appropriate court of a State does not

have jurisdiction or refuses to assume jurisdiction over the juvenile with respect to the alleged act of juvenile delinquency; or (2) the state does not have available programs and services adequate for the needs of juveniles; or (3) the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. §841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. §952(a), 953, 955, 959, 960(b) (1), (2), (3)), section 922(x) or section 924(b), (g), or (h) of this title, and there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

Analysis

The Commission heard concern from Tribes and Tribal organizations about Native youth lost in state and Federal justice systems.¹ While evidence from the Department of Justice indicates that there are fewer than fifteen American Indian, Alaska Native, and Native Hawaiian juvenile offenders in Federal prison,² state and local courts supervise and detain AIANNH youth in numbers disproportionate to their population in the community.³ In fact, while all other ethnic groups have demonstrated a large decline in arrests over the last several years, American Indian youth have experienced more of a leveling off.⁴

Although the Commission recognizes that collection and storage of juvenile justice data varies greatly from government to government, it also recognizes the importance of a systematic method that ensures that American Indian, Alaska Native, and Native Hawaiian youth do not get lost in Federal, state, and local justice systems—and that Native communities have a right to be notified of their children's and youths' presence in those systems. It also identified the lack of notice and reporting as an additional affront, one that echoes the information vacuum Native families and communities experienced following child removals to boarding schools and through nonconsensual adoptions in the 19th and 20th centuries. The Commission further observed that American Indian, Alaska Native, and Native Hawaiian entities and organizations often are best positioned to assist

in assessment, rehabilitation, treatment, and prevention efforts and in identifying alternatives to detention. Thus, to ensure that Native communities are afforded opportunities to intervene and assist, this recommendation requires notice to relevant Native entities when an American Indian, Alaska Native, or Native Hawaiian child or youth enters a nontribal justice system and, at very least, annual reporting concerning the placement, location, and status of Native children and youth who remain under Federal, state, and local juvenile justice systems' supervision and care.⁵

Such notice, the opportunity to intervene, and collaboration in the provision of services in community settings will greatly improve outcomes for Native youth offenders.⁶ Native status offenders are one key subgroup that stands to benefit. As described in the discussion of Recommendation 6, states generally do not adequately follow ICWA's provisions regarding status offenders, which include a requirement to provide notice to Tribes. While beneficial to all youthful Native offenders, Tribal intervention and culturally centered solutions-focused engagement can be especially impactful for status offenders:⁷ the correlation between status offending and later juvenile delinquency emphasizes these youths' vulnerability and the need for Native community-led efforts to keep them on a positive life path. The Yurok Youth Diversion program provides an instructive example of how such community collaboration can occur. Having identified truancy as a problem among Yurok youth enrolled in local public schools, the county court joined with the Yurok Tribal Court to establish alternative responses to truancy. A Joint Powers Agreement between the two courts articulates information flow and cooperation guidelines to achieve the best outcomes for Tribal youth.

The creation of opportunities for increased collaboration across Native and non-Native systems utilizing notice and reporting mechanisms also will improve outcomes for Native juveniles at risk of incarceration or institutionalization by state courts. Recommendation 6 focuses on substituting diversion and community-based responses for detention-based solutions to juvenile delinquency both on and off Tribal land, an approach that supports the imperative for notice and intervention. Tribes, Tribal organizations, and Native Hawaiian entities need to know when their youth are detained by Federal, state, or local juvenile justice systems in order to intervene and offer culturally appropriate community-based care and rehabilitation options.⁸ The intent of this recommendation is to require states and localities to inform

Tribes, Tribal organizations, and Native entities about the juvenile justice interactions they have with Native community members, thus mimicking their responsibilities under ICWA. Developing processes for notice will be a key component of implementing this recommendation.

Of note, 18 U.S.C. §5032, the process that governs when a U.S. Attorney seeks Federal jurisdiction over a juvenile offender from a state or local jurisdiction, is instructive. The Commission recommends that Federal courts use the same process when U.S. Attorneys seek Federal jurisdiction over juvenile offenders from Tribal jurisdictions—and that state courts develop processes for notifying Tribes that are similar.⁹ This model can be applied easily in Federal court; in state courts, the model would substitute “State Attorney General or County District Attorney” for U.S. Attorney. Rules and processes of this sort allow Native communities to track their youth, assist with placement and programs, and offer opportunities to create better results for Native justice system-involved youth.

Notes

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- 3 | L. Wong, (2021, October 8), *The U.S. criminal justice system disproportionately hurts Native people: the data, visualized*, Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2021/10/08/indigenouspeoplesday/>. Note that in Hawai'i, Native Hawaiians also are overrepresented in the juvenile justice system, but the state has made significant progress in decreasing the number that are incarcerated—in part because the because key players in the Native Hawaiian community know who and where the juvenile offenders are, proving the value in the Commission's recommendation; A. Le Jeune, (2023, January 19), *How Hawai'i is ending youth incarceration after more than a century of colonization*, *Nonprofit Quarterly*, <https://nonprofitquarterly.org/how-hawai%CA%BBi-is-ending-youth-incarceration-after-more-than-a-century-of-colonization/>.
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Recommendation 8: Expand access to the Maternal, Infant, and Early Childhood Home Visiting Program

With the aims of decreasing infant mortality and of improving health and child welfare outcomes for American Indian, Alaska Native, and Native Hawaiian mothers and children, Congress and the Department of Health and Human Services shall expand access to the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program. To do so:

- Congress shall amend the Native Hawaiian Health Care Improvement Act or enact new legislation authorizing the Department of Health and Human Services to expand the Tribal MIECHV program eligibility to include Native Hawaiians.
- The Department of Health and Human Services shall end competitive grantmaking for Tribal and Native-entity MIECHV and develop formulas for the distribution of Tribal and Native-entity MIECHV Program Development and Implementation funds and for Tribal and Native-entity MIECHV Program Implementation and Expansion funds that are inclusive of Native Hawaiian entities and provide for minimum allocations so that smaller programs are not disadvantaged; distributions above the minimum shall be based on the total funding authorized by Congress and the total number of Tribal and Native applicants.
- Congress shall expand overall funding for Tribal and Native-entity MIECHV, to appropriately support Native Hawaiian-entity MIECHV and to accommodate the redesign of Tribal and Native-entity MIECHV as a formula funded, noncompetitive program with sufficient funds for meaningful program delivery.

Analysis

The Federal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) program supports visits from a nurse, social worker, or other early childhood professional to expectant families and families with young children. Created through the Affordable Care Act in 2010, the program builds on evidence that early childhood experiences influence whether a person has a promising start in life¹ and that home visits in the first years of life can improve outcomes for children.² Where implemented, MIECHV has become a vital resource for families in Tribal communities.³ Yet many Tribes face

significant barriers to program participation, and Native Hawaiian entities lack access to set-aside funding. The three-prong solution identified by the Commission is for Congress 1) to substantially increase the total appropriation for MIECHV so that all Tribes, Tribal organizations, and Native Hawaiian entities that choose to participate are able to do so; 2) to expand eligibility for MIECHV to include Native Hawaiian entities; 3) to authorize the provision of MIECHV funding via formula rather than competitive grants.

Over the course of the last two centuries, U.S. Federal and state policies have imperiled Native families. Forced removal from homelands dispersed families; forced attendance at boarding schools separated children from parents and kin; relocation incentives exacerbated family diaspora; and “child protection” surveillance broke up families through foster care and adoption arrangements. In this setting, parents lost opportunities to parent, and children lost opportunities to be parented. For many Native families, opportunities to regain, relearn, and practice these critical skills are sorely needed.

The need for improved support for young AIANNH Native children and their parents/caregivers is heightened further by socioeconomic disproportionalities, including lower educational attainment, higher unemployment, and higher poverty rates in the Native population than in the U.S. population overall.⁴ There are higher rates of adolescent childbearing among AIANNH girls, a higher percentage use illegal substances during pregnancy as compared to other youthful mothers, and many drop out of school.⁵ Many AIANNH teen mothers lack the parenting knowledge necessary to create safe and healthy homes for their children, in part because they are still in need of parenting themselves. As a result of this complex of risk factors, AIAN children begin to fall behind in tests for specific cognitive skills, listening comprehension, matching, and counting as early as age two.⁶ These data point to a need for improved support and care for the youngest Native children, and improved support and care for their first teachers—their parents.

Home visiting can provide resources and support to Native mothers, children, and their families, thereby mitigating risks borne of intergenerational trauma, socioeconomic disparities, and limited parenting knowledge—and thus give very young Native children a more promising start in life. Through Tribal MIECHV, a nurse, a social worker, or an early childhood educator meets regularly with each participating

family to discuss nutrition, injury prevention, early language development, and positive parenting. Home visitors help parents/caregivers set goals, pursue further education, gain employment, and find childcare options. Significantly, they also assist parents and children in preparing for school success through program-specific school readiness activities. While communities can choose among various models based on their particular needs, each approved MIECHV program fosters child success, beginning as early as the prenatal period.⁷ Tribal grantees have the option to use either a non-Indigenous evidence-based model in their MIECHV program or the single approved Indigenous model, Family Spirit.⁸

MIECHV has demonstrated success in the Tribal context. Evidence-based programs, such as Family Spirit, have been proven effective in improving parenting and infant outcomes for AIAN families.⁹ By implementing culturally sensitive practices, home visiting programs also promote and strengthen American Indian, Alaska Native, and Native Hawaiian traditions, values, and holistic healing practices.¹⁰ A 2015 report to Congress showed that among the Tribal MIECHV programs:¹¹

- 85% reduced child injuries, child abuse, neglect, or maltreatment and emergency department visits
- 77% experienced decreased crime or domestic violence
- 77% indicated increased family economic self-sufficiency
- 69% reported improved child school readiness and achievement
- 62% improved maternal and newborn health outcomes

Other results included:

- Greater parenting knowledge and healthier parent-child relationships
- Increased child screening rates in key developmental domains (communication, cognitive, physical health, positive approaches to learning and social and emotional wellbeing)
- Increased family referrals when needed for domestic violence
- Improvements in family economic self-sufficiency (health insurance, household income and employment or education of adults)
- Fewer externalizing behaviors (behaviors that harm others) among mothers and children

The Federal MIECHV program is administered by the Health Resources and Services Administration (HRSA) in collaboration with the Administration for Children and Families, two agencies in the Department of Health and Human Services. Congress originally authorized a 3% set-aside within the Federal MIECHV program for eligible Indian Tribes, Tribal consortia, Tribal organizations, and urban Indian organizations; it increased this set-aside to 6% in fiscal year 2023, resulting in a total Tribal MIECHV budget of \$24.5 million.¹² Awards are competitive and structured as five-year cooperative agreements, requiring significant data and reporting for accountability and impact assessment purposes. Including the new grants made in fiscal year 2023, HRSA reported in September 2023 that its then-current roster included 41 grants serving 68 Tribal and 17 urban Native communities.¹³

These numbers are a glass half full and a glass half empty. The positive takeaways are that funding is increasing, numerous Tribes have participated (individually or through consortia), and urban Indian organization awardees have been funded at levels comparable to many Tribal entities. Further, the budget set-aside means that Indian Tribes, consortia of Tribes, Tribal organizations, and urban Indian organizations have access to a stable—and now larger—allocation of MIECHV funds.

But significant challenges remain. A large number of Tribes and urban Indian organizations have not yet been able to participate, which results in very low participation by Native children themselves. Estimates suggest that less than one percent of eligible American Indian and Alaska Native children (3,000 out of 438,800) received “evidence-based home visits” in 2021.¹⁴ This low participation rate arises from a variety of factors, including Native communities’ preference for Indigenous-knowledge based (rather than approved evidence-based) programs, difficulties applying for competitive grants, lack of capacity (at the Federal and Tribal levels), burdensome application and reporting requirements, and limited resources. Several of these issues merit additional discussion.

First, while there are many evidence-based practices on the Federal government’s list of approved models, Family Spirit is the only one designed specifically for Native communities that also meets the evidence-based standard—which in turn makes implementers eligible for MIECHV financial preference and full funding.¹⁵ Despite their understood value to practitioners in Native communities, other Indigenous knowledge-based programs have not qualified in sufficient numbers for MIECHV home visiting funding.¹⁶ This bias unfairly limits Native solutions in program practice, policy, rules, regulations, and statutes, and points to the need for new thinking to qualify

practice-based evidence approaches for various Federal funding opportunities that currently require evidence-based practices. (For Tribal MIECHV, this would require a change to the authorizing language; also see Recommendation 29.) Nevertheless, programs like the Family Spirit model or other approved models used within AIAN communities could be implemented more extensively (also see Recommendation 17).

Second, Tribal entities' participation in MIECHV requires additional resources. At present, even with the increase in the set-aside percentage for Tribal MIECHV, there is not enough money to support the level of participation that could really move the needle for the Native population as a whole. MIECHV's budget should be sufficient to support any Tribe, Tribal organization, or urban Indian organization as defined in the Indian Health Care Improvement Act to operate a Federally funded home visiting program. Further, budget authority should be sufficient to support the participation of Native Hawaiian entities in Tribal MIECHV. As documented at the Commission's Hawai'i regional hearing (and in the research cited within this analysis), Native Hawaiians have similar needs to the American Indian and Alaska Native population. Nonetheless, they must apply through the national program—or rely on the state of Hawai'i to provide pass-through funding—to access the benefits of the Federal MIECHV program.

The Commission further recommends that funding occur via formula, an option already available for states and territories.¹⁷ Formula funding distributes Federal appropriations based on specific criteria; in the case of Tribal MIECHV, these could be population and need. Formula funding has numerous advantages (also see Recommendation 26). It treats Tribes in a similar fashion to states and territories, creating parity and honoring sovereignty. It requires fewer resources on a per grant basis for Native entities and for HRSA, thus allowing programs to focus on service delivery and HRSA on program expansion. Most important, amending legislation will increase Tribal MIECHV participation rates and home visits.

Despite its proven benefits, including increased early childhood screening for cognition and communication and documented success in improving school readiness, too few Native families have the opportunity to experience the positive effects of MIECHV. By recommending its expansion, the Commission looks to a future in which high-quality community-based home visiting programs support Native parents in creating stable, healthy, and education-rich homes for their children, starting at birth.

Notes

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Recommendation 9: Support Native culture and language learners in early childhood programs and K-12 schools

Congress and the Department of Education, Bureau of Indian Education, Administration for Children and Families, and other Federal departments and agencies that fund and support the education of American Indian, Alaska Native, and Native Hawaiian students shall make every effort to provide, maintain, and sustain American Indian, Alaska Native, and Native Hawaiian culture and language learning (and especially language immersion) in early childhood education programs and in K-12 schools. To do so:

- Congress and relevant executive branch agencies shall provide funding and programmatic support to Tribal and public schools for:
 - » Culture- and community-specific curricula that teach local Indigenous languages and embrace community-specific ways of knowing and doing
 - » Language- and community-specific teacher recruitment strategies, including appropriate remuneration and flexible certification, that consider the different stages of Native language revitalization
 - » Outdoor, field, and place-based education attuned to seasonal life and to familial cultural practices and knowledges
 - » Native culture- and language-appropriate placement-related assessments, particularly in the transition from Native community-centered preschool programs to mainstream kindergartens, so that receiving schools are able to recognize and use cultural strengths as a component of readiness assessment and of placement decisions
- Congress and relevant executive branch agencies shall provide funding and technical assistance for Tribes, Tribal organizations, and Native Hawaiian entities to build or improve Tribal/Native schools, assist them in taking over management of Federal and public schools, and/or start their own schools.
- Where state standards require graduates from publicly funded secondary schools to meet an art, history, or language requirement, state boards of education shall ensure that Native classes or requisites, designed in conjunction with local Tribes and Native communities, are available to students in publicly funded schools that
 - serve an appropriate number of Native students (where “an appropriate number” is defined in the same manner as in the Title VI Indian Education Formula Grant program, with the caveat that a school is obligated to provide classes even if it does not receive such Title VI monies), and that these classes are eligible to satisfy graduation requirements.
- Tribal Colleges and Universities (TCUs) and Native American-Serving Nontribal Institutions (NASNTI) shall offer teacher training and training in curriculum development as well as other programming appropriate for supporting this recommendation.

Analysis

Tribal schools are now increasingly common—in many forms. The Bureau of Indian Education (BIE) funds 183 elementary and secondary schools and residential facilities. Of these, only 55 are BIE-operated while 128 are Tribally controlled. In the state and local public school sector, Tribes and Tribal organizations are utilizing charter schools as an option for Tribal control over education. The increased use of charter schools is a result of advantageous changes in state law and in a new specific Federal funding priority for charter schools that target Native students.¹

In both Federally funded and state-funded school systems, then, Tribes and Tribal organizations are embracing Educational Sovereignty.² For example, in *Yazzie/Martinez v. State of New Mexico*, the state courts ruled that New Mexico had violated Native students’ constitutional right to a sufficient and equitable education. The ruling resulted in a major settlement and new commitments from the state to be better partners with Tribes on behalf of Native children. In New Mexico, this marks a new era in which Tribes will be able to build out schools in ways that make sense to them and will better serve their children and youth (see the Jemez case study).

Ultimately, addressing students’ needs requires two paths: 1) more and better Tribal schools that strengthen student achievement and Tribal identity; and 2) state/local public schools (whether traditional neighborhood schools, charter, or magnet schools) that are better prepared to embrace Native students, their different learning styles, and their different curricular needs. The significant disconnect

between Native ways of knowing and public—and even Tribal—school curricula may be a contributing factor to lower academic achievement, higher dropout rates, and diminished cultural self-esteem among Native students.³ As a means of improving Native students' academic success and their social and emotional wellbeing, this recommendation supports both increased Native language immersion programs from early childhood through higher education in *Tribally* controlled early childhood programs and K-12 schools, and increased incorporation of Native language and culture into *public* K-12 curricula.

The first path, for more and better Tribally managed schools, requires both authority and resources. Maintaining and supporting students' culture and language may be more attainable with Tribally controlled schools funded by the Bureau of Indian Education, schools subject to the Department of Education's STEP program with Tribal Education Departments, and public and charter schools located on reservations than it is in urban public schools. The former allows for the development of cultural knowledge and language curriculum by community leaders with close connections to the schools. Therefore, the recommendation urges Tribes and Tribal organizations to take control of their schools where feasible, including converting or building new schools as needed.

The second path, for more Native content to be available to Native students in public schools, reflects the Commission's intent for Native students who are already engaged in their cultures and learning their languages, or who wish to be, to be supported regardless of their school choice. In other words, this recommendation is directed at *all* schools where Native students learn. Unlike Recommendation 10, where the target audience for "Indian Education for All" is all students in public schools, the target audience for Native-content programming in public schools is Native students themselves (though non-Native students also would be welcome). While these efforts will require funding, they are essential to fulfilling the Federal trust responsibility in Tribal, Federal, and state schools and to creating success for Native students.

Certainly, many Native communities and some states already are involved in this work to varying extents; this recommendation seeks to augment and amplify such efforts. Implementation requires several key components:

- Indigenous curricula appropriate for the region
- Teacher recruitment strategies that can flexibly include Native language speakers, culture bearers, and elders who may not have state teaching certifications

- Experiential and place-based pedagogy
- Culturally appropriate placement assessments (i.e., that acknowledge Native language and cultural perspectives) for Native language speakers transitioning to mainstream schools
- Building and/or improving Native schools and encouraging increased Tribal control of public schools serving Native children
- Allowing Native arts, sports, and language courses to fulfill high school graduation requirements

A long history underlies this recommendation to transform education for Native children. In spite of the United States government's historical efforts to destroy Native American language and culture, Native nations have continued to dedicate time and resources to maintaining their languages and cultures in their children's education.⁴ For almost 100 years, policymakers have recognized the importance of preserving language and culture; as early as the 1928 Meriam Report, even non-Native experts highly recommended the inclusion of culture and language into Native children's education as a strategy for increasing academic achievement.⁵ Extensive research finds that academic engagement in Native languages increases academic achievement overall, and similarly, that loss of language contributes to the historical trauma that often undermines achievement.⁶ Reflecting this research, both Federal legislation and policy support more robust Native language immersion and dissemination nationally. Although the value of Native language and culture in Native student education has been recognized in legislative actions and Executive Orders since 1972, the reality has fallen short.

In the K-12 years, both immersive language and pedagogy that includes Native ways of knowing are important components to improving educational outcomes for Native children and youth. Developing Indigenous curriculum that reflects ways of knowing requires collaboration between the community's Indigenous leaders, researchers, and teachers to produce meaningful, impactful curriculum for Native students.⁷ Testimony before the Commission pointed to the positive impact of outdoor, place-based education, which increases student engagement with rigorous learning objectives.⁸ Furthermore, these strategies contribute to student wellbeing, academic achievement, and better graduation rates.

The Commission prioritized culture-bearers and elders as providers of Native language instruction. Because Native languages vary in usage and revitalization, culture bearers/ language teachers may not have or be eligible to attain state teaching certifications. In addition, the Commission stressed the value of the presence of elders in the classroom in contributing to both language and culture transmission. Therefore, liberal use of waivers is needed until all Native languages have reached the master's level so that Native language instruction can occur from early childhood language nests through twelfth grade.

Native children's assessments for readiness to transition to an English-language based school must consider each student's cultural and language norms and experience. Assessing students in the language in which they were taught, whether it be English and/or an Indigenous language, increases the cultural validity of test results for Native students.⁹ Therefore, when children transition from early childhood language immersion programs to public kindergartens that do not offer immersion, assessment must occur in the Native language to appropriately place them. Proper placement also requires support for early childhood immersion programs, (such as Head Start language nests), to work with receiving kindergarten schools so that: 1) they are able to recognize how to better assess incoming Native students to prevent incorrect placement levels based on a lack of awareness of cultural norms; 2) they are able to ensure that cultural strengths are utilized to indicate readiness for kindergarten; and 3) receiving kindergarten schools acknowledge those cultural strengths as part of their transition process. Similarly, later testing procedures need to ensure that older Native language speakers are appropriately assessed in Native language so that schools do not make mistakes with important placement decisions.¹⁰

The recommendation also addresses the Commission's concern that Native sports, arts, and language are marginalized, even where made available, and cannot be used to fulfill high school graduation requirements in those areas. The recommendation rectifies this gap by requiring that these classes be offered and, when offered, counted toward graduation. Thus, language and other cultural coursework will build on the core social studies courses that are supported by Recommendation 10; this recommendation will ensure that students can use these courses for high school completion as they would baseball, drawing, or French classes.

Tribal Colleges and Universities (TCUs) as well as the Native American-Serving Non-Tribal Institutions (NASNTIs), are

logical resources and sources of expertise for Native language, history, and arts curriculum development and for teacher training and can be key partners for Native communities and states. Building strong partnerships to develop language program and teacher education with TCUs, NASNTIs, and the local Native community will ensure fidelity and accuracy to local language and culture. An instructive statewide process can be found in the *New Mexico Report on Indian Education in New Mexico 2025* (2010). Other models include the Hawaiian language immersion schools, which have a long history of successfully integrating pedagogy and language in kindergarten through eighth grade.¹¹ Hawai'i's first immersion programs began in 1987 in two elementary schools; today, K-12 Native Hawaiian language is available to all students in Hawai'i. And many TCUs and NASNTIs offer degrees or certificates in Native language or history, such as Cankdeska Cikana Community College, Queen's University at Kingston, Western Carolina, University of Eau-Claire, University of Minnesota, Turtle Mountain Community College, Oglala Lakota College, University of Hawai'i at Hilo, and many more.

As a whole, this recommendation will support Native student achievement while increasing fluency in Native languages and decreasing the precipitous loss of Native language that occurs with each elder's passing. Hawai'i's experience has proved that language immersion from early childhood nests through university can restore and revitalize Native language and restore Native Hawaiian love of learning.¹² As Secretary Haaland said at the signing of the MOU in support of the Multi-Agency Initiative to Preserve and Protect Native Language,

The cornerstone of any culture or community is its language. Languages are where oral histories are passed down, knowledge is shared, and bonds are formed. As part of our commitment to strengthening and supporting Indigenous communities, the Interior Department is resolute in its efforts to ensuring Native languages are preserved and protected.

Notes

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Recommendation 10: Expand primary and secondary education to include Native Peoples' histories and cultures

The Federal, state, and Tribal governments shall leverage all opportunities available to assure that elementary and secondary schools within their jurisdictions acknowledge the United States' Indigenous people and incorporate lessons on place-based history and culture written by relevant Native communities into school curricula and programming; no schools that receive public (Federal and state) funds are exempt from this recommendation, regardless of the percentage of enrolled Native students. Therefore, Congress shall provide funding for the following:

- Curriculum and planning staff at state and local levels to consult and collaborate with the Native communities whose geography they share to develop educational approaches that recognize the history and ongoing presence of Native Peoples in the United States.
- Native communities to develop self-determined content, standards, and metrics that hold schools (and themselves) accountable for implementing this recommendation.
- Tribal Colleges and Universities (TCUs) and Native American-Serving Nontribal Institutions (NASNTI) to offer teacher training and training in curriculum development as well as other programming appropriate for supporting this recommendation.
- State and Federal licensing agencies for primary and secondary school teachers to require current and future educators to demonstrate knowledge of the Native Peoples located in the geographies they serve through proof of completion of a course—designed or approved by relevant Native communities—that addresses American Indian, Native Hawaiian, and Alaska Native topics including but not limited to local Native Peoples' histories, state and Federal relations, and Native culture, values, and traditional knowledge, utilizing curricula that either are designed by relevant Native communities or have the express approval of those communities.

Analysis

Where Recommendation 9 addresses the need to support Native language and culture learners in Tribal and public schools, this recommendation addresses the curricula that are available to *all* students in public schools. Teaching Indigenous history, culture, and language strengthens Native children and youth's resilience through positive reinforcement of their identities and sense of belonging, which ultimately supports school attendance, grade completion, and closure of the achievement gap. For non-Native students, education about Indigenous contributions to civics, math, science, and the arts not only expands learning but also promotes social and emotional development and cross-cultural understanding.

For all students, understanding U.S. history requires a fundamental knowledge of Native cultures and experience—and the National Museum of the American Indian has developed general curricula to assist in achieving this goal. Its Native Knowledge 360^o (NK360^o) provides educators and students with new perspectives on Native America. Building on the National Council for the Social Studies' ten themes² for social studies programs, NK360^o outlines ten "essential understandings"³ covering topic areas such as history, geography, civics, economics, science, engineering, and other subject areas. NK360^o's educational materials, virtual student programs, and teacher training utilize Native narratives to supply more comprehensive information about the United States' past and to support a different approach to teaching about Native America. "NK360^o challenges common assumptions about Native peoples and offers a view that includes not only the past but also the vibrancy of Native peoples and cultures today."⁴

Some states have provided state-specific curricula to supplement the general curricular foundation offered by NK360^o. For example, Hawai'i requires a course entitled "Ancient Hawaiian Civilization" in fourth grade, "Hawaiian Monarchy" in 7th grade, and "Modern Hawaiian History" in ninth and eleventh grade. Additional elective courses in Hawaiian language and culture are offered at the secondary school level. Most such geography-specific educational programs have been developed—as they should be—in coordination with local Native communities to ensure that they reflect Native values.

To date, more than a dozen states have recognized the need for adding Native American history and culture into their social studies curricula, either in their constitutions (Hawai'i and Montana), in state legislation (Arizona, California, Connecticut, Maine, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming) or state school board regulation (Hawai'i and Michigan).⁵

It is easy, however, for implementation to fall behind constitutional, statutory, and regulatory action. For example, although Montana recognized “the distinct and unique cultural heritage of the American Indians” when it ratified its current state constitution in 1972—and committed state educational goals to the “preservation of their cultural integrity” (Article X §1(2))⁶—weak policy implementation precluded teacher training and curriculum development. Next, Montana passed House Bill 528, “Indian Education for All Act” (IEFA) in 1999, to acknowledge the previous failure to implement Article X §1(2) and to require that all students, both Native and non-Native, have an understanding of the history, culture, and contemporary contributions of Montana’s Indian people.⁷ Finally, after a lawsuit in 2004, the state dedicated funding to the effort, and Montana school districts soon received the necessary support to create curricula, assemble classroom materials, deliver professional development, connect K-12 schools with Tribal educators, and fund IEFA implementation grants.⁸

While experts believe the \$10 million allocated for the entire statewide implementation is inadequate, Montana’s Office of Public Instruction reports positive outcomes for Montana’s Native students, who feel more heard and represented within their schools.⁹ Importantly, Montana’s IEFA benefits all students and educators. To mitigate the lack of knowledge of non-Indigenous educators, the State of Montana’s education department created a group of representatives to define the Essential Understandings Regarding Montana Indians.¹⁰ Educators gain cultural intelligence while fostering classrooms where all students thrive.¹¹ Students, both Indigenous and non-Indigenous, learn about their state’s history while also gaining information about Indigenous Peoples’ history, present circumstances, and perspectives.¹²

Other states also have taken steps to hasten the implementation of Native history and culture in public school curricula. Oregon provides funding for the Federally recognized Tribes within the state to produce individual place-based curricula,¹³ which the state Department of Education then disseminates through its website for implementation in all school districts.¹⁴ In Washington, the state Office of

Superintendent of Public Instruction (OSPI) worked with Tribes to create the “Since Time Immemorial” curriculum, which is free of charge but mandatory for use by schools.¹⁵ OSPI’s materials are location-specific, grade-level relevant, and allow for various intensities of use (i.e., a short versus a longer unit). Most recently, the state and Tribes are working to adapt teacher certification standards to include competency in the Since Time Immemorial curriculum,¹⁶ which is filtering into the training that prospective teachers in the state receive.¹⁷ Despite barriers (including funding and some districts’ need for reminders about the curriculum mandate), Washington public schools see progress.¹⁸

These cases demonstrate significant progress in adding relevant Indigenous history and culture curricula to public school programs, but much remains to be done—which underscores that states vary in their financial and systemic commitments to making Indian Education for All a reality and points to the necessity of greater Federal commitment and support. Much more also needs to be done in *other* states. *The Commission’s recommendation is for all public schools, in all states, to teach about Indigenous history and culture.* This will require all Federal, state, and Tribal governments to collaborate to incorporate lessons on place-based history and culture written by relevant Native communities into school curricula and programming. State and local school systems will need to update curricula and invest in program development and teacher training. Tribes will need to develop their capacities to engage with nontribal school systems and assist in standard setting and accountability. TCUs and NASNTIs will need to develop curricula appropriate for undergraduate, graduate, and professional development programming, especially if they are to support teachers not only at Tribally controlled schools but also at public and other mainstream schools. Schools and school districts that already have adopted “Indian education for all” can provide guidance and lessons learned to others.

State legislation requiring the incorporation of Native culture and history into public education, combined with Federal, state, and Tribal action on education policy, funding, curriculum development, and teacher training, is beneficial to both Native and non-Native children and youth alike: it creates educational environments in which cross-cultural exchange and understanding can occur, expanding all students’ knowledge and perspectives regarding Native heritage, the history of the United States, and contemporary Native people. Increasing Federal funding to support these efforts and requiring such curricula as a condition of receiving Federal education funding helps assure this outcome.

Notes

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Recommendation 11: Ensure Native students' access to educational services through appropriate enumeration of Native children and youth

Congress shall amend the Indian Education Formula Grants to Local Educational Agencies (LEAs) program, as authorized under Title VI, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA) and reauthorized under the Every Student Succeeds Act of 2015 (ESSA), to require school districts and states to count Native children and youth in the most expansive way possible. In the executive branch, the Office of Management and Budget shall revise its guidance to the Department of Education and any other executive branch department or agency that provides educational services to Native children and youth on how to count American Indians, Alaska Natives, and Native Hawaiians to include multiracial individuals.

Analysis

Part of a long history of discounting Native heritage, the current method by which the Department of Education (ED) counts Native students for purposes of the special programs to which they are entitled has resulted in serious undercounts, often by 50% or more. Title VI formula grants to Local Education Agencies from the Department of Education, which are the primary means by which schools address the unique needs of Native students, depend on accurate enumeration of the Native students in each school. The National Advisory Council on Indian Education reports that accurate enumeration of American Indian/Alaska Native students remains an issue that must be remedied.¹ While ED's collection of race and ethnicity allows individuals to reflect the diversity of their ancestry, its reporting and tabulation does not because it treats ethnicity and race as mutually exclusive categories and aggregates individuals selecting more than a single identity category as either Hispanic or "two or more races."²

In part, this policy is the result of a 1997 Office of Management and Budget (OMB) instruction to Federal agencies to count as AIAN only those who indicate AIAN alone, but not in combination or with Hispanic/Latino identification. Instead, any individual who identifies as multiracial is counted in a separate "multiracial" category. Similarly, any individual who identifies as "Hispanic or Latino" is removed from their self-identified racial category and counted in the "Hispanic or Latino" ethnic group.

Because American Indians and Alaska Natives identify as multiracial more than any other group,³ this "data convenience" for OMB has an out-sized effect on their population numbers when the rule is applied. Once ED implemented OMB's policy in 2010, the number of Native students immediately decreased in local school districts—in some cases by 50% or more.⁴ Thus, the way that American Indians and Alaska Natives are counted and aggregated hides the true number of self-identifying Native American students, affecting funding streams and the availability of culturally appropriate services to AIAN students⁵.

For example, the Minnesota Department of Education recently identified this issue and enacted new guidelines for counting Native students: the change codifies that the more accurate state count of American Indian students must be used to formulate American Indian Education Aid.⁶ For Minnesota, the difference is a count of 28,373 AIAN students versus 15,551 under the Federal guidelines. Other school districts noticed similar discrepancies when comparing AIAN students alone or in combination (or with Hispanic/Latino). In Oregon, of 61,000 AIAN students, only 8,000 counted under the Federal definition, while 41,000 were counted as Hispanic/Latino and 11,000 as multiracial.⁷ This constitutes yet another effective erasure of Native students and contributes to the fiction of the vanishing Indian.

As a result, Title VI Indian Education programs often serve many more students than the "count;" even worse, as reported in *Education Week* on September 5, 2023, many schools fail to make sufficient efforts to count their students at all, which artificially limits Title VI funding streams that would address the particular needs of AIAN students. Though not the focus of this recommendation, underlying this discussion are the various ways in which Native people identify—heritage, descentance, Tribal membership, etc., and the sovereign rights of Tribes to define their own members—all of which have an impact on the student count.⁸ However, the emphasis here is on the importance of counting *all* Native students, whether alone or in combination, at least as a first step in ensuring appropriate funding and programming in the public schools that serve over 90% of Native students nationally.⁹

There is a critical need for accurate counts of Native students, not only because it dramatically affects funding allocations and program delivery, but because it is necessary to collect

reliable data on program effectiveness, challenges, and successes.¹⁰ Accurate enumeration of Native students ensures respectful attention to the presence of Native students in K-12 schools, appropriate funding levels, and ability to provide needed services.

Notes

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Recommendation 12: Ensure state government accountability for funding for Native students

Congress shall require every state that receives Federal funding for American Indian, Alaska, Native, and Native Hawaiian students in primary and secondary education systems through any title of the Elementary and Secondary Education Act, as amended, or the Johnson O'Malley Act to ensure that Federal educational funds received pursuant to these Acts and intended to support Native students are spent on American Indian, Alaska Native, and Native Hawaiian students.

Analysis

This recommendation is an essential follow-up to the Committee's previous one, *Ensure Native children's access to educational services through appropriate enumeration*. States must be accountable for distributing Title VI and Impact Aid funds appropriately for the benefit of Native students. The Department of Education (ED) does not require coordinated reporting regarding the use of Title VI funds or have an enforcement mechanism to ensure that schools use the resources for AIAN students. ED should therefore implement fiscal accountability regulations to ensure accurate distribution of Title VI and Impact Aid funds to schools while confirming that schools properly focus that funding on their Native students. The JOM program operates by contract with the Bureau of Indian Affairs, with Tribes, Tribal organizations, and school districts, and by virtue of those contracts is able to account for the use of the funds.¹

Title VI funds are used at the discretion of a grantee on the advice of a Parent Committee. A 2019 Report commissioned by ED on Title VI indicated that the majority of school districts use the funding for improving academic achievement, strengthening knowledge of cultural identity, and increasing attendance.² Other uses include increasing graduation, dropout prevention, school readiness, and parental involvement, among others. Impact Aid funds are provided to schools on a Native student per capita basis where there is no taxpayer base because of military bases or American Indian reservations and are meant to fill the property tax gap those schools suffer.

Several Federal, state, and local programs also share the goal of improving academic outcomes for disadvantaged students, including Title I, Homeless Children and Youth, Migrant Education, and Individuals with Disabilities Education

Act (IDEA). While these programs often serve many of the same students, Title VI grants are required by law to be *supplemental* to those programs and focused on Native students; thus, grantees must coordinate with other Federal programs at the same school so that funds from those other programs are not supplanted by Title VI funds for AIAN students. This is a real issue: the 2019 Report on Title VI revealed that 89% of grantees coordinated their Title VI-funded services with at least one other program. Sixty-seven percent coordinated with Title I, Part A programs; 45% coordinated with Johnson-O'Malley programs; 43% coordinated with Education for Homeless Children and Youth programs; 35% coordinated with local social service programs; and 34% with Impact Aid.³

As noted above, Title VI, Impact Aid, and JOM funding are meant to supplement other funding available to Native students through programs such as Title I, Migrant Education, and IDEA. Yet school districts must not dilute Native student services, and Native students must have access to the other funds for which they are also eligible. Without a formal reporting requirement and mechanism, ED cannot ensure fiscal accountability. In fact, the *Yazzie/Martinez v. State of New Mexico* court decision included a finding that the state failed to appropriately utilize Impact Aid funds for Native students.⁴ Congressional intent, as expressed in the Every Student Succeeds Act (ESSA), and its subsequent appropriations under that authorizing legislation are for Title VI and Impact Aid funds to be used for Native student supplemental education services. Based on the New Mexico decision, the potential for redirection of funds is more than a speculation; all states must be held accountable for the use of Impact Aid and Title VI funds to support Native students by reporting financial expenditures to the Federal government.

In short, three major sources of supplemental Federal funding for Native students, Title VI, Impact Aid, and Johnson O'Malley provide much needed support for Native students in state and local school districts. The Department of Education must implement reporting and enforcement mechanisms to ensure that the funds are in fact used for Native students and remain distinct from other programs not specifically dedicated to Native students. In addition, funds must be used in alignment with the Commission's other recommendations that place-based, experiential, and culturally grounded programs result in the best outcomes for Native students. (Also see Recommendation 9.)

Notes

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Recommendation 13: Strengthen school, family, and community partnerships

Tribal, state, and Federal education agencies shall collaborate to identify, disseminate, and fund community-school partnership models that can be implemented in Tribal, public, and charter school settings, engage multiple levels of community and school leadership, and employ a continual process of review, assessment, and recalibration by school leadership to promote Native student academic success and graduation. Efforts shall be particularly focused on school completion strategies, dropout prevention, and closing the achievement gap through the scaling of demonstrated models of success within and outside Native communities.

Analysis

Because more than 90% of American Indian, Alaska Native, and Native Hawaiian students are educated in nontribal public schools,¹ Native student success programming must extend beyond educational environments controlled by Tribes, Tribal organizations, and Native Hawaiian entities. School-community partnerships are a key target for such planning. Research long has shown a connection between family involvement in schools and student success,² and community-school partnerships are a natural extension of this idea, with engagement developing outward from the school or district to families and then to community partners, strategically enlarging the team working toward students' academic and vocational goals.³ In the context of supporting American Indian, Alaska Native, and Native Hawaiian students, Tribes, Tribal organizations, Native Hawaiian entities, and urban Indian organizations are crucial partners in these community and school collaborations.

For all children—and along the entire continuum from early childhood education, through grade school, until graduation from high school—academic success depends on more than what happens within the walls of the school, a reality that necessitates more wide-ranging approaches to student achievement. A robust support system within schools (including teachers, counselors, and other personnel) and beyond schools (including social services agencies, workforce development partners, churches, service organizations) can provide students—and their families—with diverse support and help mitigate the risks that lead to truancy, poor achievement, and dropping out. Evidence suggests that

successful “inside-outside” strategies work best when they engage school leadership—from teachers to administrators to school boards—engage parents and family, and foster real connections between students and the broader community.⁴ For Native students, this holistic approach also involves leveraging the cultural wealth of their communities, as connections to culture can motivate students to stay in school and guide them on vocational or college pathways.⁵

“Inside” schools, student success efforts involve layers of leadership (teachers, principals, superintendents, and school boards) utilizing multiple strategies to incentivize school attendance and grade-level progress. These may involve ongoing monitoring to ensure grade-level achievement, regular evaluations for at-risk students, and the use of online certified learning platforms such as Grade Results for enrichment activities, remediation, and credit recovery. Some schools have implemented restorative justice practices to address concerns and complement their dropout prevention efforts, an approach with demonstrated positive impacts on discipline, behavior, and relationships.⁶

“Outside” of schools, cultivated community partnerships synergistically enhance and amplify school-based supports for student success. Here, a multipronged prevention strategy may include internships, apprenticeships, job placements, service work—or any other activity available through the community partnerships that provides practical relevance for academic programs. For Native students, culturally appropriate versions of these activities—visiting elders, engaging in resource management, learning language, and so on—may have even more traction. Such initiatives not only foster students' interest in high school completion and pursuing higher education but also assist them in maintaining healthy relationships, developing strong work habits, and building self-esteem.

By linking the “inside” to the “outside,” schools and communities create comprehensive and capable models in support of school success. The Commission was inspired by two school-and community partnerships and partnership opportunities it learned about through its hearings and other research.

Communities in Schools (CIS) is an evidence-based model of school and community partnerships that connects students

to caring adults and needed services. CIS tailors its work to individual schools, identifying needs, available resources, and gaps in service and designs a service plan for the whole school (“integrated student supports”). It also provides more intensive support to at-risk students, assisting students to achieve consistent attendance, learning readiness, and ultimately graduation success. To date, CIS has served more than 1.8 million students who not only have received needed resources but also have made progress or met their goals in academics, behavior, and attendance.⁷ In addition to Title VI funds for Native students, CIS recommends that schools leverage Title I, II, and IV of ESSA to fund integrated student support models, wraparound services, and social-emotional programming; to prepare, train, and recruit high-quality teachers, principals, or other school leaders; and to develop other programs that support students and provide opportunities for academic enrichment.

In some areas near Tribal communities, school districts have been collaborating with Tribal Education Departments (TEDs). TEDs are primarily funded by Tribes with limited Federal funds and utilize cooperative agreements to foster relationships between Tribes and state school systems.⁸ TEDs’ partnerships with Local Education Agencies (LEAs) have yielded positive outcomes for students, including improved academic achievement and graduation rates, as well as reduced truancy and dropout rates.⁹ Moreover, these partnerships have enabled Tribes to develop curriculum to support teachers in understanding and embracing students’ cultural backgrounds. In some cases, TEDs also provided language revitalization curricula to the LEAs. (See Recommendations 9 and 10). The value of Tribes, Tribal organizations and Native Hawaiian entities as trusted community intermediaries cannot be overstated in contributing to Native student success.

By combining these approaches, the outlined initiatives in the recommendation not only support individual Native student success but also create stronger connections among students, schools, and their communities.

Notes

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Recommendation 14: Expand afterschool programming for Native children and youth

In consultation with Tribes and Tribal organizations, Congress shall fund and relevant executive branch agencies shall enhance Native children’s overall learning readiness by expanding, developing, and promoting robust afterschool programs for Native youth. Such programs must be culturally based and trauma-informed, partner with parents/caregivers, and as needed, provide referrals to trauma-informed behavioral health providers; where appropriate, local capacity also shall be expanded through community partnerships.

Analysis

Afterschool Alliance, which conducts the United States’ most comprehensive survey on afterschool program demand and supply, reports that in 2020, only 14% of Native children participated in an afterschool program, less than their peers in other communities.¹ Among surveyed Native families, 69% prioritized afterschool programs that shared their family’s values, yet 41% said their child’s program did not include cultural programming. The data also show significant unmet demand. Parents and caregivers reported that 45% of Native children who did not participate in formal afterschool programming would have enrolled if programs were available, and that in addition to access, convenience and cost were enrollment barriers. Unmet demand also aligns with the feedback that Native students and their families highly value afterschool programs for the tutoring, physical activity, STEM experiences, life skills lessons, and peer engagement that they offer.

Research suggests that greater participation in afterschool programming could make a significant difference in Native students’ lives. Quality afterschool programs—those that include structured and supervised components—positively affect students’ academic, social, and behavioral outcomes.² Participation improves school grades, performance on achievement tests and standardized math tests, and self-reported work habits.³ Equally important, afterschool programs reduce problem behaviors (such as aggression, conduct problems, and drug use), increase positive social behaviors (such as cooperation and leadership), and improve young people’s feelings of self-confidence and self-esteem.⁴ Evidence also points to the specific success of afterschool programs for American Indian, Alaska Native, and Native Hawaiian students. Two well-evaluated Native-focused

programs, Native SPIRIT and American Youth Enrichment, show improved conduct, work habits, self-esteem, and health among their elementary and middle school Indigenous youth participants.⁵

American Indian, Alaska Native, and Native Hawaiian children and youth can gain still other benefits from Native-focused and Native-content afterschool programs: participation can strengthen cultural identity and community wellbeing. Native sports and arts activities contribute to holistic learning and reinforce positive Native identity formation. Opportunities to engage in traditional food gathering and ceremony with elders reinforce community ties and the intergenerational transfer of Indigenous knowledge.⁶ Culturally informed and trauma-informed programming provides opportunities to address mental health issues as they arise. In other words, a Native focus and Native content can address the specific and differential needs of Native children and youth, thereby building their resilience and promoting whole community wellbeing.

Afterschool programs are also natural community hubs, providing nutritious meals, mentoring, and health and wellness check-ups, including referrals to behavioral health as needed.⁷ In addition, afterschool programs can bring the community together through parent participation in events, and they can support working parents by providing safe, supervised care for children and youth during the workday.

While afterschool programs often take place at schools, there can be value in locating them elsewhere—in community centers or in facilities operated by trusted community intermediaries, for example, provided that transportation hurdles are addressed, such as offering a school-to-site shuttle (also see Recommendation 13). A closer physical location to Native lands or Tribal facilities can increase interaction with key community members (elders, younger children, social services staff, needed volunteers, among others) and leverage scarce resources. For example, AmeriCorps volunteers can supplement staffing in afterschool programs; sports leagues can subsidize athletic teams with uniforms and volunteer coaches; Tribal workforce development staff can provide life skills preparation; culture bearers can share traditional activities such as weaving, drumming, dancing, beading, tracking, and resource management; early childhood language classes can be co-taught to include older children; and so on. Students in

afterschool programs also can learn by doing—and locations might be chosen to maximize opportunities for students to participate in internships, mentoring arrangements, and in independent activities such as STEM labs.

In sum, there are many benefits to quality afterschool programs—programs that, as described above, include structured extra-curricular activities, tutoring, and community connections—and Native children and youth need many more opportunities to participate in them. As the Commission’s recommendation stresses, additional Federal funding is necessary to support this expansion and to stimulate partnerships among public, private, philanthropic, and non-profit entities for the creation and promotion of afterschool programs. Such partnerships have the added advantages of reducing the cost to the Federal government and of linking education, engagement, and economic opportunities for Native students—a combination that can scaffold their future success.

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Recommendation 15: Expand opportunities in higher education for Native students

Congress, the Department of Education, and state governments shall increase American Indian, Alaska Native, and Native Hawaiian students' access to higher education (where "higher education" is understood to include a recognized postsecondary credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or Federal government, or an associate or baccalaureate degree) through increased funding and by creating and modifying relevant programs and regulations. In particular, Congress, the Department of Education, and state governments shall ensure that:

- Native students who are admitted to qualifying programs receive tuition, room, and board at no cost for a student's first degree, license, or certificate/certification
- The Pell Grant Program and other forms of Federal financial aid are modified to include assistance to Native students pursuing technical education or other short-term training or certificate programs (see H.R. 6585, *The Bipartisan Workforce Pell Act*, introduced December 5, 2023)
- Accredited institutions develop Native American student support services that help students maintain satisfactory academic progress (for example, staying on track to graduate within 150% of their program length) and mitigate their risks of dropping out prior to graduation/completion

Analysis

Calling upon the Federal government to uphold the spirit and intent of the Federal trust responsibility, the Commission recommends that Native students who are admitted to qualifying higher education programs receive tuition, room, and board at no cost for a student's first degree, license, or certificate/certification (using the definition of higher education from the Workforce Investment and Opportunity Act of 2014).

This recommendation addresses the Commission's concern that Native American students have long been underrepresented in postsecondary education and training. American Indian and Alaska Native students combined constitute less than one percent of college students in

the United States.¹ Studies indicate that Native American (American Indian, Alaska Native, and Native Hawaiian) students and Black students have the lowest levels of college attainment among all Americans, with approximately one in four earning a college degree at the associate's level or higher.²

Affordability is one of the barriers encountered by Native students pursuing higher education. Sixty-four percent of college-enrolled American Indian and Alaska Native students received Federal financial aid in academic year 2017-2018³—a figure that does not reflect the full population in need, as many students do not enroll because they perceive higher education to be unaffordable. Total tuition and non-tuition expenses at four-year postsecondary institutions average of \$36,000/year, and financial aid typically supports only a portion of that amount.⁴ In both Indigenous ethnic groups tracked by the U.S. Census ("American Indian or Alaska Native" and "Native Hawaiian or Pacific Islander"), 78% of students have unmet financial need, which is the second highest compared to other races.⁵ On average, there is a nearly \$5,500 gap between one year of college expenses and the amount an AIANNH student can afford to pay through grants and family resources, a gap that, as noted, reduces the likelihood of AIANNH students enrolling or succeeding in higher education.⁶

Fifty-three percent of Native Americans received a Pell Grant in academic year 2017-2018, compared to 44% of all students.⁷ Yet as useful as Pell Grants are to Native students, they also are inadequate. Grants are not large enough to cover student need, and research supports the expansion of Pell Grant amounts to accommodate low-income students by doubling the amount awarded.⁸

Another insufficiency is that too few postsecondary programs are Pell Grant-eligible, including many short-term technical licensing and certificate programs. Current Pell Grant requirements support non-college-credit career and technical education (CTE) only if it involves a minimum of 600 clock hours over a 15-week period. Nonetheless, the returns on high-quality short-term credentialing programs suggest they are worthy of greater Federal support: they cost students less than two- to four-year degrees while setting graduates on career paths that can generate wages or salaries equal to or greater than those earned by baccalaureate degree recipients.⁹ In 2017, Congress introduced but failed to pass

the Jumpstart Our Businesses by Supporting Students (JOBS) Act that would lower this requirement to 150 hours over an eight-week period.¹⁰ Similar bills were introduced under the same name in 2021, 2022, and 2023 but have failed to pass thus far.¹¹

Beyond the Pell Grant program, the Federal government supports CTE in other ways, including through Department of Education programs such as the Native American Career and Technical Education Program (NACTEP), which offers Native young adults the opportunity to pursue technical training with some additional support for living expenses. However, NACTEP is designed as a competitive grant program for Tribes, Tribal organizations, Alaska Native entities, and eligible Bureau of Indian Affairs institutions, which design opportunities for students in turn. These considerations limit both the number of students who are eligible and the number of students that the grants can support.

For a Native student's first degree, license, or certificate/certification, the Commission's recommendation works to overcome these challenges by mandating full support for tuition and fees. Some progress toward this goal already has been made. In approximately half of all U.S. states, eligible students are able to attend community colleges tuition-free.¹² (These free tuition programs are sometimes referred to as "Promise" programs.) A smaller number of states offer members of Federally recognized Tribes free tuition at state colleges and universities—examples that provide models for implementing this recommendation.¹³

Because free tuition for Native students is a recent trend, comprehensive data on key measures such as retention and graduation rates are not yet available. However, colleges and universities have seen an increase in enrollment rates for minority students when free tuition is available.¹⁴ Native Hawaiians' experience over the last 30 years is also informative. At the University of Hawai'i at Mānoa, for example, tuition waivers for Native Hawaiian students have been a cornerstone of efforts to recruit, retain, and support students since at least 1993.¹⁵ Enrollment of Native Hawaiian students has risen steadily over time, and graduation rates of Native Hawaiian students have soared: the four-year graduation rate for first year students attempting their first degree rose from 10.3% in 2010 to 32.3% in 2018.¹⁶

As promising as these programs are for citizens of Federally recognized Tribes, they do not adequately address the needs of citizens of state-recognized or non-Federally recognized Tribes, nor do they serve Native students who are not Tribal citizens. Testimony before the Commission at the Pacific

Region hearing described the University of California system's UC Native American Opportunity Plan (UCNAOP), in which tuition and student fees are fully covered for California students who are also enrolled in Federally recognized American Indian and Alaska Native Tribes. But witnesses also described how the exclusion of non-Federally recognized Tribes and non-Tribal members from the UCNAOP is one of many circumstances that causes this population to feel invisible and erased.¹⁷ To address the issue, the UCNAOP should be available to support young urban Indians who may not be members of Federally recognized Tribes but deserve the opportunity to have access to quality education to address systemic issues facing their communities. As was indicated in testimony, these urban and unaffiliated youth are in their situation because of previous termination and relocation policies of the Federal government designed to undermine Tribal connections; disallowing participation in programs designed to redress and address academic achievement further compounds the historical trauma of these prior efforts.¹⁸

Commissioners also heard ample evidence that once Native students are admitted to institutions of higher education, academic and personal success remain challenging for many. A number of steps are needed to effectively address retention issues. Student services to support continuing academic progress should include place-based and culturally grounded strategies for closing learning gaps, progress monitoring, dropout prevention programming, and regular post-intervention assessments of at-risk students to ensure effectiveness. Success in these efforts may depend on program collaborations among multiple partners across student and academic affairs units.¹⁹

Tribal Colleges and Universities (TCUs) and Native American-Serving Nontribal Institutions (NASNTIs) both have experience in student retention and are important resources on how to build effective retention programs in higher education, but both need strengthening.

TCUs fill a major gap in the higher educational system, serving Tribal communities with accessible, local programs. Among their contributions, they play a vital role in maintaining and preserving irreplaceable Native languages and cultural traditions; in offering students a familiar and accessible entry point to higher education; in promoting excellence in Native American education throughout students' careers; in providing strong technical and trade school opportunities, job training, and other career-building programs; and in supporting Tribal economic development efforts by building

and strengthening a skilled Native American workforce. They often are the only postsecondary institutions within some of the most economically disadvantaged and rural areas in the country. As a result, TCUs provide crucial employment and training opportunities and related services in Native communities. They also have extensive experience in addressing retention issues facing Native students. Investments in TCUs have multiple potential payoffs with respect to the overarching goals of this recommendation.

NASNTIs are higher education institutions with an enrollment of not less than 10% Native American undergraduates. To best serve Native students, Congress should increase funding for NASNTI Title III, Parts A and F. Grants under this title assist in planning, developing, undertaking, and carrying out activities to improve and expand NASNTIs' capacities to serve Native American students through facilities improvements, curriculum development, and educational materials.

Finally, the Commission observed that some critics may feel that the recommendation, while justified via treaty and trust responsibilities, is too challenging an ask for Congress and the executive branch. Here, the John H. Chafee Foster Care Program for Successful Transition to Adulthood is instructive. Established by Congress in 1999 to succeed a similar program established in 1985 and amended in 2002 to include the Chafee Education and Training voucher program, the Chafee program provides funds to states to assist young people exiting foster care with educational assistance, career exploration, mentoring, and housing support (including housing at an institution of higher education). States submit plans to the Federal government that describe how they would operate the program, and funds are allocated based on a state's relative share of children in foster care. Typically, eligible students submit applications to the state agency or organizational designee that manages the Chafee program, providing proof of acceptance at an accredited college, university, vocational school, or certified training program; a copy of their Free Application for Federal Student Aid (FAFSA) or documentation from their chosen school detailing all other financial aid awarded; and, if already enrolled, proof of adequate academic progress. Current Chafee grants can be layered on top of other forms of financial aid, including state free tuition programs, Pell Grants, Federal work-study wages, and CTE tuition awards. Students may receive funding for up to five years through annual applications. The Commission proposes something similar for all Native students.²⁰

By defraying the costs of first degrees, licenses, and certificates/certifications, this recommendation starts Native students more solidly on the path toward thriving in adulthood. After a student's first degree, license, or certificate/certification, other mechanisms can assist Native students to obtain further credentials, including the loan forgiveness described in Recommendation 16.

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Recommendation 16: Expand loan forgiveness for Native students

The Federal government shall forgive the Federal student loans of any American Indian, Alaska Native, and Native Hawaiian graduate who works for five consecutive years in any sector of public service or for any Native entity or entities; the Commission defines a “Native entity” as any organization owned or controlled by a Tribe or Tribal organization as defined in 25 U.S.C. §5304(e); any Native-serving entity receiving funds through programs of the Departments of the Interior, Health and Human Services, Justice, or Education; or any Federal or state government agency that serves Native communities.

Analysis

Federal loans are a key instrument for improving access to higher education, but at the same time, loans can create enormous burdens for graduates as they embark on new careers. The National Center for Education Statistics reports that among students with Federal student loans who completed bachelor’s degrees in the 2015-2016 academic year, American Indians and Alaska Natives graduated with an average debt burden of \$33,700; four years later, they had paid, on average, only 13% of the total borrowed. Among Native Hawaiians and Other Pacific Islanders, parallel figures were \$42,200 and 18%.¹ Federal loan forgiveness for American Indian, Alaska Native, and Native Hawaiian graduates who use their educations to serve their Native communities or the general public would provide meaningful relief from these burdens. Expanding loan forgiveness also honors Federal trust responsibility for education.

Although other loan forgiveness or repayment programs exist—including the Public Service Loan Forgiveness (PSLF), National Health Service Corps Loan Repayment Program, Teacher Loan Forgiveness, and the Attorney Student Loan Repayment Program—borrower eligibility criteria are narrow and approval rates are often low. For example, any loan received under the William D. Ford Federal Direct Loan Program² qualifies for PSLF, but only 3.3% of PSLF applications had been approved since the program’s inception.³

On the one hand, this figure reflects the program’s youth: more loans are expected to meet program criteria in just a few years.⁴ On the other hand, it reflects eligibility problems: a common reason for denial is that the applicant works for an ineligible employer.⁵ PSLF-approved employers are limited to

those in the public service sector, which includes any Federal, state, local, or Tribal government employer; nonprofit entities with 501(c)(3) status; and some nonprofit entities without 501(c)(3) status but that primarily are involved in the provision of qualifying public services.⁶ Eligible employers do not include private sector entities. Thus, a borrower is ineligible for PSLF even if employed by a for-profit company that serves the same purpose as a government or nonprofit entity—a description that includes a number of Tribal businesses, Native entities, and service-provision companies that contract with Federal and state agencies.

This recommendation expands forgiveness opportunities for AIANNHs who hold or acquire Federal student loan debt by increasing the universe of eligible employers. In addition to public sector employers as defined in the PSLF program, the Commission directs the Federal government to include all Native entities as eligible employers for purposes of AIANNH Federal student loan forgiveness. The Commission defines a “Native entity” as any organization owned or controlled by a Tribe or Tribal organization as defined in 25 U.S.C. §5304(e); any Native-serving entity receiving funds through programs of the Departments of the Interior, Health and Human Services, Justice, or Education; or any Federal or state government agency that serves Native communities. The Commission additionally noted that expanding the pool of eligible employers automatically strengthens the benefit of portability (the opportunity to change employers and advance careers while continuing to accrue credit toward loan forgiveness⁷).

This recommendation has multiple benefits. It supports Native youth in pursuing higher education, finding meaningful employment after graduation, developing as capable professionals, and advancing their careers. It supports Tribal sovereignty by acknowledging the many ways Native communities organize their governing systems, economies, and service provision. It offers a means by which Native communities can encourage well-educated community members to return home.⁸ It increases the pool of AIANNH applicants to open positions in Native-serving entities. And, it eliminates the inequities in loan forgiveness programs that have disadvantaged Native providers and Native-serving entities.⁹

Other Commission recommendations address the need to remove financial obstacles to Native student postsecondary attainment (Recommendation 15) and to increase the number

of qualified professionals working in Native youth-serving occupations (Recommendation 27). This recommendation builds on Recommendation 15 and complements Recommendation 27 by incentivizing continued education: after a first degree, license, or certificate/certification, if a Native student seeks to pursue a further degree or qualification, debt relief would be more readily available. In combination, Recommendations 15, 16, and 27 encourage Native students to pursue careers that improve outcomes for their Peoples, grow the number and quality of professionals serving Native communities, and increase effective service provision to Native children and youth both in and outside of Native communities.

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- 8 | The Indian Health Services (IHS) Loan Repayment program (LRP), which supports health professionals who serve in Indigenous communities, offers some evidence of this benefit. The program forgives loan debt to medical doctors, nurses, and health aides and has been successful in retaining talented individuals to serve in designated Health Professional Shortage Areas. Significantly, 81% of IHS LRP participants—Native and non-Native—stay in their initially assigned communities at least one year after the period of obligation ends, and 50% remain four years later. Anecdotal evidence suggests that many sign up for the LRP because of the financial incentive but stay because they become immersed in culture and community. See S. Negrusa, P. Hogan, L. Watkins, & M. Zhou, (2017), *Indian Health Service programs—A retention analysis, final report*, Lewin Group, Inc., <https://aspe.hhs.gov/sites/default/files/private/pdf/258846/IndianHealthServiceProgramsARetentionAnalysis.pdf>.

Recommendation 17: Provide comprehensive prenatal health education and related services to Native mothers and families

The Departments of Health and Human Services, Interior, and Education shall implement multiple strategies to provide comprehensive maternal health education for American Indian, Alaska Native, and Native Hawaiian mothers and families. To implement the recommendation, these executive branch agencies shall:

- Widely disseminate, resource, and implement culturally tailored positive pregnancy messages, including how healthy maternal behaviors support healthy births and healthy babies
- Widely disseminate, resource, and implement culturally tailored preconception counseling and diabetes risk reduction programs
- Provide counseling services pre- and post-conception and provide additional support and services for postpartum mothers
- Beginning early in their pregnancies, screen American Indian, Alaska Native, and Native Hawaiian women for pregestational or gestational diabetes, obesity, excessive weight gain, multiple pregnancies, prior fetal macrosomia, family history of fetal macrosomia, and possible exposures to environmental toxins
- Provide intensive dietary instruction and home glucose monitoring to high-risk pregnant American Indian, Alaska Native, and Native Hawaiian women
- Screen for and identify American Indian, Alaska Native, and Native Hawaiian women early in pregnancy who are at risk of using alcohol and other addictive substances during pregnancy, and provide resources and support for those mothers, and families
- Provide education on alcohol and substance abuse and its effects on fetal development
- Provide family nutrition courses and education on food and its effects on fetal and child development, including encouraging breastfeeding

Analysis

What happens to the fetus in utero has consequences for life outside the womb. For many Indigenous women, existing health disparities play a large role in fetal health during pregnancy and in the wellbeing of infants in the early life stages following birth.¹ These health disparities also explain, at least in part, American Indian, Alaska Native, and Native Hawaiian women's disproportionately poor maternal health outcomes.²

For example:

- AIAN women are 2.3 times more likely than women in the U.S. population at large to die from pregnancy-related causes³
- AIANNH suffer gestational diabetes at rates at least 1.4 times the national average⁴
- AIANNH women experience rates of teen pregnancy that are at least double the rate for White teens, and in some recent years have experienced the highest rates of all racial and ethnic groups⁵

Data analyses also reveal significant disparities in postpartum hemorrhage, anesthesia complications, and maternal deaths attributable to homicide and suicide among AIAN women.⁶ The final item draws attention to the linkages between maternal health and intimate partner violence (IPV), for which Indigenous women are at heightened risk: over 50% of AIAN women experience IPV,⁷ and Native Hawaiian women are 2.5 times more likely to suffer IPV before and during pregnancy than White women.⁸ IPV rates also increased the most in the AIAN and NH populations as compared to other populations after the declaration of the COVID-19 pandemic, which puts pregnant Indigenous women at even greater risk.⁹

Taken together, these data reinforce the urgency of comprehensive maternal health education and related services tailored to American Indian, Alaska Native, and Native Hawaiian women's cultural contexts. Given the higher rates of teen pregnancy, diabetes, and substance abuse in these populations, a concerted focus on prevention education and screening are essential to mitigate pregnancy and early childhood development risk factors.

Central to addressing these disparities are the various maternal health education strategies contained in the recommendation, including disseminating culturally tailored pregnancy messages, providing counseling services, implementing diabetes risk reduction programs, providing dietary instruction that includes breastfeeding and family nutrition courses, ensuring resources for home visiting programs and for safety help, and providing education about the risks associated with substance use during pregnancy. All of these are protective factors in the health of an infant and the family unit. For implementation success, all require cooperative efforts between the Departments of Education, Health and Human Services, and the Interior.

In addition to these preventive education and screening measures, two interventions with clear success in improving outcomes for Native women and children deserve mention. First, breastfeeding is an important contributor to maternal and infant health. Prominent health organizations, including the American Academy of Pediatrics, the World Health Organization, and the United Nations Children’s Fund, recognize the benefits of breastfeeding.¹⁰ These benefits suggest that small investments in breastfeeding promotion may yield large public health returns. However, breastfeeding rates for AIANNH women remain lower than for non-Hispanic White women.¹¹ Programs such as Hummingbird Indigenous Family Services in Seattle build on this foundation, adding culture and economic supports to breastfeeding to reinforce healthy parenting.¹²

Second, home visits by a nurse, a social worker, or an early childhood educator, beginning in the prenatal period and continuing into the first years of a child’s life, can improve outcomes for both mothers and children.¹³ (Also see Recommendation 8.) One Indigenous example is the Family Spirit Program, developed in 1995 by the Johns Hopkins Center for Indigenous Health in partnership with Indigenous communities.¹⁴ This culturally tailored maternal health intervention program provides crucial home visiting support for women and families during pregnancy and early childhood. Its programming addresses specific family circumstances and emerging needs, aligning with the comprehensive approach advocated in this recommendation. Evaluation demonstrates that the Family Spirit model reduces maternal risks, increases effective parenting, and improves child development outcomes. A broader assessment of 13 Tribal home visiting programs in the Administration for Children and Family’s first cohort of Maternal, Infant, and Early Childhood Home Visiting (MIECHV) program grantees

showed that, among other positive results, for mothers, children, and families:¹⁵

- 62% improved maternal and newborn health outcomes
- 77% experienced decreased crime or domestic violence
- 85% reduced child injuries, child abuse, neglect, or maltreatment and emergency department visits

AIANNH women need access to comprehensive maternal health education that is culturally relevant and community supported, ensuring that pregnancies are healthier and that Native children receive the best possible start in life. The strategies recommended here have been shown to be protective factors in the health of the mother, the infant, and the family unit and deserve to be funded, scaled, and implemented widely across Native communities. The Commission also notes that the project of enhancing Native maternal health education is an effort in which interdepartmental cooperation (supported in Recommendation 25), will produce outsized returns.

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Recommendation 18: Develop multigenerational nutrition programs for Native children, youth, and families

The Departments of Agriculture, Education, Health and Human Services, and Interior, and all their relevant divisions and agencies (including the Indian Health Service, Centers for Disease Control, Bureau of Indian Affairs, and Bureau of Indian Education) shall create and enhance initiatives that provide immersive multigenerational nutrition and health programs for American Indians, Alaska Natives, and Native Hawaiians. Such initiatives will:

- Intervene at multiple levels of the food system to create, support, and encourage multigenerational activities that build upon cultural and spiritual values and traditions consistent with the key elements of a healthy lifestyle such as good nutrition, physical exercise, and social connection; this involves:
 - » investing in Indigenous food sovereignty initiatives that restore traditional foods and foodways
 - » increasing access to Indigenous foods and other healthy foods in school-based lunch programs
 - » limiting easy access to low quality, ultra-processed foods
 - » planning, supporting, and sustaining a continuum of nutrition programs for Native children that seamlessly allows for participation across the developmental lifespan
- Screen Native children for and address their risks of obesity, diabetes, and other conditions related to the social determinants of health in educational, health care, justice, and social service settings
- Support programs and services in Native schools, community centers, and juvenile detention centers that:
 - » provide education to Native youth about healthy eating habits, preparing affordable meals for families, preventing or living with diabetes, incorporating Indigenous foods into family diets, and using Indigenous medicinal herbs
 - » increase access to local produce and culturally relevant Indigenous foods and medicinal herbs
- Enhance and improve data collection, access, analysis, and reporting regarding dietary behavior and health-related factors for Native children and youth, and improve the utility of these data, by:
 - » Allocating funding for comprehensive analyses, summary reports, and wide dissemination of findings about dietary behavior and related factors among American Indian, Alaska Native, and Native Hawaiian children and youth derived from the Centers for Disease Control’s Youth Risk Behaviors survey
 - » Facilitating easier access to and conducting analyses of the Indian Health Service’s National Data Warehouse, focusing specifically on information pertaining to the risk, onset, duration, severity, and comorbidities associated with obesity, diabetes, and other chronic illness among American Indian and Alaska Native children
 - » Requiring health service providers serving Native communities to provide a dietary health assessment upon request of a patient and institute personalized plans that take account of these data and analyses and implement strategies to address them

Analysis

Native Americans experience extreme health disparities, with pervasive but preventable diet-related health consequences, such as obesity, diabetes, and hypertension, that harm the long-term wellbeing of Native children and youth.¹ Two factors contribute to these health disparities: 1) compared to the general population, Native American children face distinct challenges accessing food, with only 25.6% residing within one mile of a supermarket on reservations, as opposed to 58.8% of the U.S. population;² and 2) income disparities compound this, as nearly half of Tribal area residents have incomes at or below 200% of the Federal poverty level.³

Food insecurity refers to the limited or uncertain availability of healthy food, typically as a result of supply constraints and/or high costs. Low-income communities generally face greater food insecurity than higher-income communities and consequently often face severely restricted food choices.⁴ Food insecurity is strongly correlated to malnutrition, obesity, and type 2 diabetes, all of which disproportionately affect many AIANNH communities, complicating efforts to address these and related health problems.⁵

Food insecurity also has multigenerational impacts, as the mother’s nutrition affects the child’s in-utero health and development (see Recommendation 17).⁶ For example, a child

born with macrosomia due to their mother's health or food choices is more likely to be overweight or obese during their childhood and adulthood and to have metabolic syndrome or diabetes mellitus (DM) later in life.⁷ If that same child has children in turn, the result can be similar impacts on yet another generation. Providing nutritional and cultural food options for the entire community is thus a critical form of preventive health care, especially during pregnancy and early childhood.

Existing programs, such as the Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), and other food-related programs, are unable to provide stable, affordable, nutritious food to many Native people, and in fact have been associated with higher rates of obesity.⁸ Furthermore, thanks to land appropriation, the damming of rivers, and other historical factors affecting their communities, many Native Americans have lost connection to traditional foods and food sources that sustained them before contact with Europeans. Some also face loss of food sources because of environmental impacts, from toxic waste to climate change (see Recommendation 23).

Because of all these contributing factors, addressing food insecurity in Native American communities requires a multifaceted approach. THRIVE Assessment, a community-based research initiative, identified the critical factors contributing to food insecurity as racial injustice and physical and financial barriers.⁹ The project implemented policy interventions, including an integrated community-supported agriculture and commodity food program, Electronic Benefits Transfer at local farmers' markets, and reallocation of grocery store shelf space for healthy foods. These community specific solutions demonstrated positive outcomes and provide one potential model for other communities to implement their own cultural and community-informed food initiatives.¹⁰ Several principles emerge from the research:

Multigenerational activities at multiple food system levels are most effective if they build on cultural and spiritual values and traditions that support nutrition, physical exercise, and social connection.¹¹ These involve investing resources in Indigenous food sovereignty initiatives that bring back traditional foods, such as the efforts the Commission saw in Hawai'i with taro and other local food sources.¹²

In addition, Federal SNAP and school nutrition programs need to increase access to healthy food, reduce exposure to sodium and fat, and limit easy access to ultra-processed foods.¹³ Across the lifecourse, from breastfeeding to snacks in early

childcare/Head Start programs to school-based breakfast and lunch programs, lessons in healthy food choices and ability to make those healthy choices will change health outcomes for Native children.

The Special Diabetes Program for Indians (SDPI) at the IHS is also essential to these efforts; certain programs, such as the Eagle Books have demonstrated success in children and families making healthier food and activity choices (see case study).¹⁴

Furthermore, as part of regular health check-ups, either at medical clinics or school nurses' offices, in social workers' offices or juvenile detention centers (wherever Native children are receiving health care), the Commission recommends screening for and education about the risks of obesity, diabetes, and other health conditions for all youth. Preventive screening and education are valuable strategies to intervene and improve outcomes for young people and their families.¹⁵ Similar to Recommendation 23, health providers should be required to provide a dietary health assessment upon the patient's request and implement individualized plans to address any risks that surface. Funding and other resources must support these education and screening efforts to inform Native children and youth about healthy eating habits, Indigenous foods, and diabetes prevention; other resources, as described above, need to be available to increase access to local produce and culturally relevant Indigenous foods and medicinal herbs.

The Commission was also interested in contributing to the body of knowledge with regard to Native children and youth nutrition. While enhancing resources for education, prevention, and access to healthy and cultural food is crucial to preventing obesity, diabetes, and other health conditions, additional resources dedicated to accurate and comprehensive data and analysis about dietary behavior and related health factors will significantly and positively affect policy and implementation. Key objectives along these lines should include effective and frequent use of the CDC Youth Risk Behaviors Survey and easier access to the Indian Health Service's National Data Warehouse focusing on obesity and diabetes. Again, the SDPI could be a key player in this initiative.¹⁶ Paying greater and more direct attention to preventive care and health education will achieve additional long-term health gains for AIANNH children and youth.

In sum, improving nutrition, especially in schools and early childhood, can significantly impact Native children's development and wellbeing. A combination of culturally

sensitive interventions, policy changes, and a commitment to addressing the underlying causes of food insecurity in AIANNH communities can produce community-wide benefits, increase health, and reduce long term health care costs. The Commission recommends not only action but further research to inform these efforts.

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Recommendation 19: Expand health-related services where Native children and youth are present

Congress shall fund and the relevant Federal departments shall ensure increased access to mental and physical health care when and where Native children and youth are present so that they are able to obtain services in the easiest and most comfortable settings.

- The Departments of Health and Human Services, Interior, and Education shall work together with Tribes and Native organizations to provide more and more accessible mental health, behavioral health, and suicide prevention services for all American Indian, Alaska Native, and Native Hawaiian youth, including LGBTQ+ and 2-Spirit youth, through:
 - » the deployment of behavioral health services providers at schools, in community centers, and at organizational hubs
 - » expanded support of Indian Health Service, Tribal, urban Indian health clinics, and other relevant agencies
 - » various other community- and provider-specific efforts, ranging from accessible transportation to clear confidentiality policies, necessary to reduce barriers and deliver care
- The Departments of Health and Human Services, Interior, and Education shall work to enhance the availability of basic physical health services for American Indian, Alaska Native, and Native Hawaiian youth at schools, in community centers, and at organizational hubs by providing Native youth with, at a minimum:
 - » dental, vision, and hearing exams and resultant health status information
 - » basic follow up services and equipment (for example, a pair of glasses and/or hearing aids)

Analysis

Improving access to services for mental, behavioral, and physical health needs of Native children and youth is a key component in improving outcomes for Native young people. The Commission heard evidence that making these resources available to children and youth where they already are, such as in schools, community centers, and other social service programs offers a promising solution to the documented lack

of access to health services on reservations, in rural areas, and in urban settings. The recommendation therefore offers a two-part solution, one for mental and behavioral health and the other for physical health services, both recommending on-site services to reduce barriers and increase access.

Mental and behavioral health:

Even before the COVID-19 pandemic, mental health outcomes for American Indian, Alaska Native, and Native Hawaiian children and youth were among the worst of all ethnic groups; the pandemic both exacerbated mental and behavioral health outcomes and exposed previous inequities for Native children and youth.¹ Post-pandemic access to quality mental health services is an even more pressing concern for Native youth, with distinct issues for LGBTQ+ and 2-Spirit individuals.² Native youth experience depression, suicidality, and other associated mental and behavioral health issues at higher rates than other ethnicities.³ Native youth also face many challenges in seeking mental and behavioral health services; in small communities, issues of confidentiality and stigma coupled with fear or embarrassment often inhibit easy access even where services are available. And currently gaps exist in service provision, accessibility, and privacy, creating the need for a holistic approach to close gaps and ensure every Native youth receives timely support.⁴

To comprehensively tackle these issues, mental and behavioral health interventions must be trauma-informed and culturally informed. Both the historical, intergenerational, and personal trauma Native youth experience and the resilience they find in culture and identity provide a framework for effective services,⁵ including robust prevention and supportive and rehabilitative interventions. For a community-based example, recent research with Ninilchik Traditional Council explains the importance of subsistence (the cultural practice of hunting, fishing, and gathering food, which is also connected to the spiritual world and a sense of wellbeing) as a protective factor against suicide: active engagement in subsistence promotes the intergenerational transfer of knowledge, cultural continuity, and a stronger sense of cultural identity and self-worth for Native youth.⁶ Existing community programs and traditional activities must be supported, fully funded, and made accessible on reservations, in rural areas, and in urban settings.

In addition to community options, schools play a vital role in prevention and intervention services; access to mental and behavioral health is better achieved when health care providers have established themselves at schools and community centers, meeting Native youth where they are.⁷ For example, school-based and community-designed programs such as the American Indian Life Skills Stress-Coping Model have significantly improved mental health outcomes and reduced suicidal behavior for Native youth.⁸

IHS-funded behavioral health services (both Tribally managed and federally managed) could be uniquely positioned to address the therapeutic needs of children and youth, working with schools, Tribes, and Tribal organizations to ensure that services offered are best suited to their communities' unique social, cultural, and historical circumstances. Two examples illustrate ways to increase accessibility:

- The Menominee School/Clinic partnership substantially increased behavioral health visits as a result of a partnership between the Menominee Indian School District (a public school) and the Menominee Indian Tribe's health services division to implement a school-based clinic. As an added benefit, addressing mental and behavioral health more effectively through the school-based clinic improved student academic outcomes, which further demonstrates how a holistic approach produces better results.
- The IHS Telebehavioral Center for Excellence Indian Children's Program, focused on Autism Spectrum Disorder, Fetal Alcohol Spectrum Disorder, and other Neurodevelopmental disorders, can serve as a model for expanding access to telebehavioral health services and addressing geographic and transportation barriers to care.⁹ The flexibility of location for telehealth services supports the Commission's direction that these services be provided where children and youth already are—in schools, community centers, or even in their own homes. In addition, telehealth, proven effective during the Covid pandemic, is also a valuable solution for examination and treatment of physical health issues.

Physical health:

The recommendation considers similar accessibility essential for the physical health challenges Native American children face such as diabetes, accident-related injury, poor eyesight, compromised dental health, and infection-related hearing loss, the last of which is particularly prevalent among Alaska

Native and American Indian children.¹⁰ Because of their high rates of diabetes (the highest of any ethnicity), American Indians, Alaska Natives, and Native Hawaiians also are at significant risk for diabetic eye disease, such as diabetic retinopathy. And, in many Indigenous communities, dental disease can be found in 90% of young children, a significantly higher rate than in non-Indigenous communities. Considering the unique physical health care needs of Native children, it is imperative to prioritize preventive measures and early interventions and to address these disparities by bringing health services closer to Native children and youth.

The Commission noted three examples of on-site practice that reflects these priorities:

- Although Alaska Native children have long been affected disproportionately by infection-related childhood hearing loss, disease incidence has reduced in the last decade.¹¹ In part, this may be because telehealth has become an effective tool to address ear infections and the consequent loss of hearing; community health aides are able to work remotely with doctors in central hubs; and doctors are able to see more patients because travel is not an added burden.¹² In addition to addressing ear care, the recommendation calls for supplying remedial hearing aids, as needed, and in accessible locations such as schools and local clinics.
- Accessibility is also easiest at schools and local clinics, which are the best place to identify vision issues and dental concerns; this recommendation includes the distribution of eyeglasses and dental care (fillings and braces). The Hawai'i hearing identified dental care as a primary concern regarding the health of Native Hawaiian children and youth, as Native Hawaiian children have the highest rates of tooth decay of any ethnicity in the U.S.¹³
- Head Start's decades of experience with well-child, hearing, vision, and dental checkups have demonstrated better outcomes for young children. Some Head Start and Early Head Start programs also embed mental health supports into their parent and child programming.¹⁴

School-based health centers increasingly emerge as a valuable option to provide these services.¹⁵ For the most comprehensive results, successful school-based centers are embedded in Kindergarten through 12th-grade settings and offer primary health care, mental health care, social services,

dentistry, and health education.¹⁶ They provide a promising model, as they have been established successfully in schools serving low-income youth and populations that also experience disparities in health care access and outcomes.¹⁷ (Also see the Menominee case study). Centralized health for children and youth also aligns with the reality of smaller Native communities, where services are more effectively consolidated in one place. In addition, school-based health centers improve access to health care for children in rural areas, because they reduce travel required for regular health appointments, make services more accessible, and ensure immediate response to health care concerns; therefore, they are well-suited to serve geographically hard-to-reach AIAN populations.

Addressing these complex challenges will require collaboration across the Departments of the Interior, Health and Human Services, and Education to identify all available resources and to ensure minimal barriers and 100% eligibility so that Native communities can create flexible solutions and every Native child and youth can receive the care they need. Inserting services into schools, community centers, and other social service or justice provider locations will maximize outreach and ease of access and ultimately improve the health outcomes for Native children and youth.

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Recommendation 20: Improve Native student access to education and services that address the linkages among trauma exposure, suicide, and substance misuse

The Departments of Education, Health and Human Services, and the Interior shall provide funding to public and Bureau of Indian Education (BIE) schools and to youth community centers to ensure that Native youth have access onsite to education about the relationship between trauma exposure and substance misuse, to family counseling services, and to treatment. The services to which students are referred shall:

- Provide help without penalties
- Be culturally relevant
- Address the issues of suicide and availability of illicit drugs in Tribal communities
- Support suicide awareness training and provide resources to combat accidental deaths and suicidal ideation
- Provide trauma-informed safety measures and long-term follow-up for youth and their families

Analysis

The clear connections among adverse childhood experiences (ACEs), increased risk of substance use/abuse, and increased risk of suicidality pose significant challenges to the behavioral and mental health of Native children and youth.¹ The prevalence of historical, intergenerational, and personal trauma exposure within the population leads to high ACEs scores.² The availability of illicit drugs in Tribal communities contributes to youth using or abusing, often beginning at young ages, and exacerbates the nexus of risks.³ Layered onto these risk factors are the social disorganization, identity disruption, and other consequences of colonization that have affected the circumstances in which Native children and youth live.⁴ The situation creates a mandate to respond via schools and youth community centers to substance abuse, mental health impairment, and suicide risks that Native youth face and to intervene immediately with education, counseling, and treatment.⁵ The Commission noted, however, that community prevention, health care services, and mental health services often are siloed from one another, limiting access to community-oriented prevention, family counseling services, and treatment, both on reservations and in urban settings.

Native suicide rates, especially among young people, remain disproportionately high, with rates in 2015 being 3.5 times

higher than those among racial/ethnic groups with the lowest rates⁶—though rates vary greatly temporally, geographically, and across subpopulations. For example:

- Across Alaska alone, Native youth suicide rates range from 17 per 100,000 to 72 per 100,000.⁷
- The COVID-19 pandemic led to increased feelings of loss, grief, hopelessness, and anxiety among Native youth and exacerbated suicidality risk.⁸
- LGBTQ+ and 2-Spirit Native youth are at even greater risk than Native youth generally, due in part to the more profound victimization, discrimination, housing instability, and food insecurity challenges that they face.⁹

Recognizing that this mix of factors can be lethal, the Commission's proposal has two primary elements, education and services. Education about the links between historical trauma, substance abuse, and suicide place Native youths' individual experiences in the broader context of their cultural and life experience. Those Indigenous experiences encompass both protective and risk factors, including the cumulative effects of colonization and social marginalization.¹⁰ Historical trauma, racial/ethnic discrimination, and cultural losses are significant determinants of health in Indigenous communities; these factors contribute to health inequities that drive health disparities.¹¹ At the same time, culture and community offer significant protective factors and points of resilience and strength.¹² Therefore, the education recommended here, which links trauma and substance use/abuse with suicidality, requires appropriate attention to identifying and utilizing culture as a strength for addressing the (discriminatory) macrolevel systems in which Native children and youth often live and for positive identity formation (including for LGBTQ+ and 2-Spirit Native youth, who can benefit from understanding the important precolonial roles of 2-Spirit people).¹³

Secondly, substance use services for Native youth generally have been focused on prevention and education rather than treatment. However, given the known early substance use among Native youth, treatment is also imperative. In addition to education, the recommendation seeks to ensure that services to which youth are referred maintain the appropriate parameters to achieve the best outcomes. Trauma-informed safety measures and long-term follow-up for youth and

their families must address the lasting impact of historical, intergenerational, and personal trauma and substance use on individuals and communities.¹⁴ This recommendation recognizes the importance of providing help to Native youth without imposing penalties, because punitive measures can discourage approaches for help and hinder progress.¹⁵ Including family in the process allows for multigenerational, culturally relevant, positive identity building to be the focus for healing and creating resilience for youth.¹⁶ The recommendation also emphasizes the urgency of tailored interventions for AIANNH LGBTQ+ and 2-Spirit youth, LGBTQ+-affirming and 2-Spirit-affirming programs, culturally relevant services, and family support, which can significantly reduce suicide risk for these children and youth.¹⁷

To strengthen the core recommendation for education and services, the Commission also supported three underlying strategies that recognize particular challenges:

- *Responding to the link between “street drugs” and youth suicide.* The constant presence of one or more dangerous and illicit substances within Native communities poses additional risks to individuals prone to suicidal ideation. In the present context, the Commission heard about the risks of fentanyl as a drug of choice that is affecting many Native communities across the U.S. and that the resources provided should include treatment options such as Narcan to address overdoses. However, the Commission also emphasized the need for flexibility to keep pace with the changing profile of street drugs that threaten Native youth.
- *Funding to public and Bureau of Indian Education (BIE) schools, as well as youth community centers.* Co-location facilitates access and bridges existing gaps in the provision of trauma-related education, counseling, and treatment based on the principles described above. This part of the recommendation underscores the importance of logistics and access/funding, reinforcing that services should reach youth where they are (see Recommendation 19), and leveraging partnerships with other service providers.
- *Creating or identifying a more appropriate screening tool.* While various trauma-screening tools exist in a multitude of Federal agencies, the Commission heard calls for creation/identification of a single trauma-screening tool, developed by Native scholars and tailored for Native children and youth, that could be

used consistently across all relevant programs funded by the Departments of Education, Health and Human Services, Interior, and Justice. Research trauma centers dedicated to Indigenous children and youth are key partners in the development, refinement, deployment, and validation of comprehensive screening tools that can be used across education, social services, justice systems and other intersections with Native children and youth. These should be coordinated with the Federal agencies that are currently utilizing and/or recommending such tools (for example, existing Indian Health Service Trauma-informed Care practices already in place¹⁸). Consistent use of one trauma-screening tool, as well as expanding use of the more recent and highly predictive benevolent childhood experiences (BCES) assessment¹⁹ will allow for cross-fertilization from one service to another and more effective data for research, analysis, and future program development.

In sum, trauma—and the suicide and substance abuse that result from it—is one of the most challenging issues facing Native children and youth. The Commission’s recommendation calls for comprehensive and widely available education and mental/behavioral treatment services that address the links among trauma, substance abuse, and suicide; are placed in cultural context; and are provided in easily accessible locations. This education and treatment must be fully funded, incorporate Native values, and utilize community and academic trauma research centers dedicated to Native children and youth.

Notes

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Recommendation 21: Establish and enhance disability services for Native children and youth and reduce barriers to access

Congress shall fund, and the Departments of Health and Human Services and the Interior shall enhance and create, across all the bureaus and agencies that serve American Indian, Alaska Native, and Native Hawaiian children, programming to address the disability-related needs of Native children and youth. Such programming shall address all types of disabilities defined by the Centers for Disease Control and Americans with Disabilities Act that impair, limit, and/or restrict a person's daily life.

Analysis

Disabilities, as defined by Centers for Disease Control and the Americans with Disability Act, encompass a wide range of impairments, limitations, and restrictions; they include problems with seeing, hearing, thinking, walking, and other difficulties that significantly impact daily life. Disabilities may be present from birth, develop over time, occur unexpectedly, and persist over a short or longer timespan.

Disabilities are prevalent in the Native population—there are high rates of hearing and vision impairment, intellectual and developmental disabilities, and chronic health conditions.¹ While a recent report from the U.S. Census Bureau indicates that disability rates among U.S. children have risen overall since the 1990s,² the rate for American Indian and Alaska Native children and youth in 2019 (the focus year for the report) was 5.9%, the highest among all racial and ethnic groups surveyed.³

Disabilities also appear to be more concentrated in certain subsets of the American Indian, Alaska Native, and Native Hawaiian population. For example, Bureau of Indian Education schools have identified 15% of their students as having disabilities.⁴ Census data also show a correlation between disability and low income in the all-ages NHOPI population resident in Hawai'i in 2019: 60% of NHOPI with disabilities were below the working poor threshold, a much higher rate than in the state's other racial/ethnic groups.⁵ While these data include NHOPI adults with disabilities, they signal the intersection of low-income and Native Hawaiian children and youth with disabilities as an area of concern.

Many disabilities arise without cause or explanation, but the high rates of disability among Native children are related

in part, at least, to the many disability risk factors to which Native children and youth are exposed. Safety concerns in Native communities and resultant high injury rates may be tied to disability incidence.⁶ Some disability issues in Native communities may be linked to land sovereignty and the physical and psychological harms wrought by ecological damage from mining, deforestation, monoculture, and Superfund sites. Other health challenges, such as inadequate prenatal care, higher rates of premature birth, and food insecurity, also are likely to contribute to higher rates of disability among Native American children. And, greater incidence of chronic disease coupled with higher levels of functional difficulties indicate greater disease burden, which may require special medical attention.⁷

Disparities in health, education, and employment often follow on from disability. Regarding education, the GAO reported that BIE schools often do not provide students with disabilities the full amount of special education services time that their individualized education programs (IEPs) require.⁸ The lack of sufficient disability services in education and appropriate attention to IEPs was a major concern for the Commission, as it not only occurs in BIE schools but also in public schools, which serve more than 90% of Native children and youth.⁹ Data from the U.S. Department of Education Office of Special Education Programs indicates that in school year 2018-2019, 1.35% of public school-aged children with disabilities in the United States were AIAN—a rate similar to the AIAN percentage in schools overall, yet these students were more likely to be identified with a specific learning disability.¹⁰ In the same school year, AIAN children with disabilities were more likely to drop out than other students with disabilities.¹¹ Over time, these issues may be connected: if a Native younger student with a learning disability is not provided with needed support, learning outcomes suffer, school becomes a burden, and dropping out becomes an attractive option.

In addition to increased funding for existing programs designed to address disabilities among American Indian, Alaska Native, and Native Hawaiian children and youth, the Commission views the following as essential:

Investments in physical and technological infrastructure.

Public hearings and research both identified inadequacies in physical and technological infrastructure as complicating services to AIANNH children and youth with disabilities. These include, for example, buildings that lack access for the physically disabled, a lack of customized vehicles for transporting disabled students to schools, and computer facilities that can support alternative education and telehealth delivery for the disabled, especially in rural areas where physical distance complicates education and service delivery.¹²

Expanded support services for families of disabled children and youth. Families of disabled children and youth often face difficult challenges in managing child and youth care. This is especially the case if children and youth live in single-parent, single-earner households, a common situation in AIANNH families in both rural and urban areas. Family support services, in particular those that build on the protective factors that extended family, community, and Tribal relationships provide, can make a substantial difference in school attendance and performance and in the nature of home life.¹³

This recommendation acknowledges the pressing need to ensure that AIANNH families and their children have access to disability services essential for their wellbeing and participation in society. This can be achieved by addressing gaps in disability services and access in health services, education, and employment and by increasing support in all of these areas as Native youth age and move towards young adulthood.¹⁴ The Commission bases its recommendation on the understanding that, in addition to fulfilling the Federal trust responsibility, improved access to the disability services they require will foster inclusivity, break down systemic inequalities, and allow Native children and youth to lead fuller and more independent lives.

Notes

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Recommendation 22: Fund Native sexual health organizations and sexual health programs

Any Federal department or agency (including but not limited to those within the Departments of Health and Human Services, Education, and the Interior) with funding streams that support health education for Native youth shall ensure that such funding is available to Native sexual health networks, organizations, and programs whose educational services include:

- **Culturally relevant lessons for all Native youth that address healthy relationship habits (including topics of consent, harassment, the cycle of violence, and protective factors), teach how to prevent pregnancy and sexually transmitted infections (STIs), and help build resilience to trauma**
- **Culturally relevant resources that offer information to Native youth about how they can reach out for help and where they can receive STI tests, pregnancy tests, birth control, and condoms**

Analysis

A cohesive, comprehensive, inclusive Native sexual health education program that respects the cultural diversity and various gender identities of Native youth is both prevention and intervention for Native youth and their communities. Ensuring that programs address healthy relationships, consent, methods for preventing pregnancy and sexually transmitted infections (STIs), and how to access relevant resources also aligns with best practices for promoting effective sexual health education.¹

Positive and culturally relevant sexual health programs are particularly important to support Native children and youth, given the disproportionate sexual victimization of Indigenous women, which is at least twice as high as that of non-Indigenous women.² Rates of STI also are disproportionately high: in 2019 (prior to the COVID-19 pandemic), Native Americans (American Indians and Alaska Natives as a group and Native Hawaiians and Other Pacific Islanders as a group) had the second-highest rates of gonorrhea and chlamydia in the United States as compared to other racial and ethnic groups, with American Indian and Alaska Native women testing higher for both than men.³

These population-level statistics carry over into the Native youth population: compared to other racial and ethnic

groups, American Indian, Alaska Native, and Native Hawaiian youth experience high rates of teen pregnancy,⁴ high rates of sexual violence,⁵ and a disproportionate incidence of STIs (American Indian youth have the highest rates of gonorrhea and chlamydia of any group aged 13-24⁶).

Wide-ranging, effective, trauma-informed, and culturally aligned sexual health education and information resources can mitigate these outcomes, and several curricula, programs, and networks developed for Native children and youth have demonstrated success. Implementation of the recommendation requires scaling and sustainably funding these proven practices (and others like them). Among these are:

- *Project Red Talon (PRT)*: PRT works to prevent and expand opportunities for treatment of STIs, HIV and Hepatitis C in the Pacific Northwest with its target population of Native youth.⁷ Media and technology strategies were developed in conjunction with youth and communities using Community Based Participatory Research to identify the best methods of delivery. One PRT prevention and treatment program, Native VOICES, is the only CDC-approved HIV and STI prevention program geared toward Native youth aged 15-24.⁸
- *I Want the Kit (IWTK)*: IWTK offers free home testing for STIs, including HIV, with education about follow up and treatment. Although Native youth experience impediments to access both in terms of adequate testing opportunities and because of concerns about confidentiality, newer approaches such as promoting self-help through self-testing kits offer promising results, especially in small and remote or rural communities.⁹
- *Talking is Power*: Talking is Power utilizes texting between parents and children as a means to facilitate better parent-child communication about sexual health, pregnancy, STIs, and consent.¹⁰ Studies have consistently shown that open discussions and communication about sexual health education within families, coupled with discussions about cultural values and a strong Native American identity, can lead to less risky sexual behaviors.¹¹
- *Respecting the Circle of Life*: While education and information are the first step, access to resources such

as STI and pregnancy tests and birth control is also necessary to mitigate the reality of higher rates of teen pregnancy and STIs in the Native youth population described above. Respecting the Circle of Life has demonstrated that Native youth engaged in a basketball camp that simultaneously provided a robust curriculum on pregnancy and STIs had significant impact on self-help and self-protective sexual behavior including increased contraception/condom usage.¹²

- *Healthy Native Youth (HNY)*: A toolkit and network, rather than a program per se, HNY makes a range of existing, culturally competent, proven curricula (including several on this list) available to Tribal health providers and advocates.¹³ These include nine curricula on sexual health, four on suicide prevention, and two regarding healthy coping skills developed in partnership with organizations such as the North Portland Area Indian Health Board and the Indian Health Service.¹⁴ Because community adaptation and implementation of these curricula and programs can be slowed by a lack of resources, the sensitivity of the topic, community (un)readiness, staff turnover, and remoteness, HNY also has established the Healthy Native Youth Community of Practice, which responds to these implementation challenges by providing tools to assist Native communities in choosing and adapting curricula to meet their unique needs in implementing sexual health education.¹⁵

While there is still far to go, this list demonstrates that there are effective models which can serve as a base for increasing Native youths' access to education about healthy sexual relationships and to information about access to birth control and STI treatment. These and similar sexual health programs, organizations, and networks deserve to be scaled and funded more comprehensively and more sustainably so that they can continue to deliver sexual health education for Native youth that is inclusive, accessible, impactful, and more consistently available. This recommendation underscores the Federal government's trust responsibility to address health disparities and responds to what Native youth expressed at Commission hearings: the long-term benefits of and need for promoting culturally sensitive and comprehensive sexual health education for Native youth.

Notes

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Recommendation 23: Require environmental impact health assessments to reduce risks to Native children and youth

The Department of Health and Human Services, Department of the Interior, and Environmental Protection Agency shall ensure that locations in Native communities frequented by children and youth are screened, assessed, monitored, and evaluated for risk of exposure to environmental toxins and that such information is shared with relevant health providers. Health providers serving Native communities shall provide an environmental impact health assessment upon request of the patient or parent, with follow-up to determine:

- The type of environmental exposure (lead, mercury, chemical spill, etc.)
- Health impact to the child
- Strategies to mitigate health impact
- A developmental plan following a life course model that maps out the trajectory for the healthiest lifestyle for that child (at the time of assessment)

Analysis

In spite of—and because of—the close relationships between Indigenous people and their lands, the research record is replete with cases of contamination exposure in Native communities and subsequent adverse health effects on individuals, their families, and their nations.¹

A history of expropriation and distinctive land ownership patterns mean that many Native communities are located near current or legacy mines, fracking, and other pollutive extractive activity.² More permissive or less tightly enforced law on and near Native lands increases water pollution through spills and (il)legal dumping.³ And yet many Native American people, including children and youth, depend on their land and waters for food security and ceremony, which brings them into contact with environmental hazards, poisoned soil, contaminated water, and toxins in the air.⁴ Especially when combined with already existing health disparities, these exposures can result in damaging and serious deleterious health effects.⁵

For example, Native Americans have an increased likelihood of developing kidney disease, hypertension, and other chronic diseases because of exposure to hazardous environments, including living near abandoned mines.⁶ Other studies demonstrate that proximity to lead has negative impacts

on behavior and learning, although it can be mitigated if identified early and addressed.⁷ Similarly, some Pueblo communities are concerned about the potential of birth defects connected to radiation exposure, and the high rates of miscarriage and reproductive organ cancers among some Great Plains Tribes may be linked to contamination from uranium mines.⁸ High cancer rates in certain Alaska Native communities result from their proximity to former military sites and the polychlorinated biphenyls (PCBs) from long-haul shipping that can build up in the Arctic waters—and that now are found at high levels in the marine mammals that are major traditional food sources for the communities.⁹

In order to ensure that Native children are on the best life trajectory, early detection and intervention are key to mitigating the impact that toxic environments have on their health. This recommendation reflects the Federal government's responsibility to protect the health of vulnerable populations, to address health disparities in general, and to address health risks to Native children and youth in particular. A bold innovation in this recommendation is the requirement for the Federal government to engage in proactive hazard identification. In other words, rather than wait for cancer, lead poisoning, renal failure, or other preventable illnesses to occur, the Commission recommends that the responsible Federal agencies (whether Environmental Protection, Department of Defense, Superfund, or other) determine where Native children and youth live, play, and go to school and investigate those areas for toxins. Community knowledge and partnership will be an asset to these investigations.

As a corollary to examining the environment, the recommendation also directs that regular screening for toxins be part of the annual wellness check for children and youth. Internationally, the World Health Organization provides a framework for concrete actions that countries can take to ensure better health outcomes for children through environmental health identification and mitigation methods that could be applied in Native communities.¹⁰ Further insights can be gleaned from the approaches that the Centers for Disease Control, Environmental Protection Agency, other Tribes and Native communities, and state public health agencies take to identifying risk factors that may be relevant for Native communities. For example, New York State has implemented the following universal screening requirements for health care providers related to

lead poisoning prevention, recognizing that it is a systemic health risk in New York's population:¹¹

- Obtain a blood lead test for all children at age 1 and again at age 2.
- Assess all children ages 6 months to 6 years for risk of lead exposure. This needs to be done at least annually as part of routine care. They may also get a blood lead test on all children found to be at risk.
- If a child has an elevated lead level, the health care provider must make certain the child has appropriate follow-up testing and medical management. Providers must also provide guidance on lead poisoning prevention and risk reduction.
- Provide anticipatory lead exposure prevention guidance to all parents of children under six years old, as part of routine care.

In contrast, the IHS has chosen to follow the CDC and the American Academy of Pediatrics direction to implement a targeted screening of high-risk children, rather than a universal screening of all children, unless there is a known lead risk.¹² The irony of this position is that universal screening will reveal a lead risk even if it is not "known." The Commission recommendation would point to reversing this policy.

Implementing systematic screening and assessment will identify and mitigate environmental risks, thus safeguarding the health of children and youth in Native communities and preventing unnecessary illnesses and health consequences. Additionally, requiring health service providers to offer environmental impact health assessments empowers individuals to take control of their health and wellbeing, provides positive solutions, ensures agency accountability, and affirms children's rights to a clean, healthy environment.¹³ Given the known heightened environmental risks in Native communities, the Indian Health Service, Bureau of Indian Affairs, Environmental Protection Agency, and the Department of the Interior must implement the recommendation as part of the Federal government's trust responsibility to Native health imperatives and as a matter of environmental justice.

Notes

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Recommendation 24: Fund short-term investments to support Native entities' capacities to bill for health care services

The Department of Health and Human Services shall support a five-year program to facilitate Tribes' exit from Indian Health Service (IHS) direct service, and as a key part of that program, increasing use of third-party billing (i.e., the ability to bill Medicaid, Medicare, and private insurers) in Native communities where the entities providing services to American Indian, Alaska Native, and Native Hawaiian community members currently do not have the capacity to support robust third-party billing. In particular, IHS shall provide any Native community that produces a business plan for greater self-sufficiency in health care funding with capacity grants to support the transition from IHS direct service to P.L. 93-638 contracts or compacts; the installation of technologies (hardware and software) for robust third-party billing; the development of policies, procedures, and training necessary to make third-party billing a success; assessment of the potential of Tribal insurance to improve community and individual financial and health care outcomes; and other capacity development activities.

Analysis

American Indian and Alaska Native Tribes and Tribal organizations

An essential component of the trust responsibility, health care is a critical service in all Tribal communities, and yet Federal funding for the Indian Health Service (IHS) is far from adequate to meet the health care needs of most American Indian and Alaska Native people. In fact, Congress makes appropriations for IHS service provision at levels far beneath the demonstrated need. A report by the Biden administration found that the 2022 IHS budget, which totaled nearly \$7 billion, provided only 48.6% of required funding.¹ A report from the Tribal Budget Formulation Workgroup, which represents all Tribes and Tribal organizations, estimated that IHS would need \$48 billion in fiscal year 2022 to provide adequate health services and address health disparities in Tribal communities.² In other words, according to these reports, Federal funding provided to Tribes and Tribal organizations via the Indian Health Service is at best only one-half and at worst only one-seventh of the needed amount.

One way Tribes and Tribal organizations have combatted the issue of underfunding has been to increase local control over health care by contracting or compacting IHS programs and

services under provisions of the Indian Self-Determination and Educational Assistance Act (Public Law 93-638 as amended). Research shows that as the degree of Tribal control increases, Tribes gain more discretion over the use of Federal funds; have incentives to find creative ways to finance programs, services, and projects; and often improve efficiency.³ An important element in the success of Tribally controlled health care is heightened attention to the business aspects of health care management. "When we were under the IHS model, we weren't looking at it that way," notes one interviewee cited by Carroll, Cornell, and Jorgensen, but "when we started self-managing, we started looking at it as a business model."⁴ As witnesses at the Commission's hearings in Alaska and North Dakota noted, however, the point of a business-like focus in health care is not to make money; it is to increase effectiveness by paying careful attention to financial processes and thereby increase resources for top-quality care.

The portion of the IHS budget administered directly by Tribes and Tribal organizations through P.L. 93-638 contracts and compacts has grown over time. In 2023, more than 60% of IHS funding was administered directly by Tribes and Tribal organizations. These self-managing entities design and manage delivery of individual and community health services through 22 hospitals, 330 health centers, 559 ambulatory clinics, 76 health stations, 146 Alaska village clinics, and 7 school health centers across Indian Country.⁵ While the trend is in the right direction, the data nonetheless emphasize that 40% of IHS funding (and related programs and services) continues to be administered by the Federal government and that in those places where direct service is still the norm, Tribes and Tribal organizations are unable to realize the programmatic, financial, and other benefits of increased sovereignty over health care.

Like other health entities in the United States, IHS-funded health care providers can bill a patient's care-related costs to other payers, such as private insurance, Medicare, Medicaid, the Children's Health Insurance Program (CHIP), and the Department of Veterans Affairs. Both IHS direct service and Tribally managed health entities augment their budgets with reimbursements collected from these third parties—and they rely on this money to provide and improve their services. The value of these reimbursements is not trivial. The Government Accountability Office reports that the IHS netted \$1.26 billion in fiscal year 2021 from Medicare, Medicaid, and private

insurers.⁶ The National Tribal Budget Formulation Workgroup reports that “for some Tribal health programs, 3rd party reimbursement can equal as much as 50-60% of all health funding.”⁷

Nonetheless, third-party billing has been more beneficial to Native communities with Tribally managed health care than to those with IHS direct service. The first reason is statutory: the Indian Health Care Improvement Act requires IHS direct service entities to place Medicare and Medicaid reimbursements into a restricted special fund. In contrast, the Tribally managed health care programs do not need to sequester reimbursements in a special fund and instead may apply the revenues to whatever purposes are most needed within a Native community’s health care and community wellness missions. These monies can be invested in hospital construction, clinic expansion, wellness centers, expanded pharmacy programs, new behavioral health services, traditional medicine, and so on.⁸

The second reason third-party billing has not been as beneficial to IHS direct service health care facilities is that it takes place much less than it could.⁹ Reasons why these health care facilities are less active in third-party billing include technology needs, lack of staff training, and bureaucratic complexity.¹⁰ Again in contrast, Tribally managed health care facilities have strong incentives to collect all the revenue that is due to them—not only is it one of the key reasons to shift to Tribal management in the first place, but Tribes themselves bear the responsibility if financial shortages occur. This same motivation can result in the leadership of Tribally managed health programs thinking innovatively about third-party reimbursements to create new services their communities need.

To summarize, there are both financial gaps and health care services gaps that could be filled through the expansion of Tribally managed health care. To address them, the Commission encourages all Tribes and Native entities to move toward greater self-determination over health care and greater use of third-party billing. Further, the Commission recommends a structured, five-year program that provides resources to Tribes and Tribal organizations that receive direct services from the IHS to build the capacity needed to make the transition. These Tribes and Tribal organizations will need to develop oversight and management structures, contracts, and relevant policies and procedures; install technologies; and train health care providers and other staff in third-party billing processes, among other tasks.

This approach satisfies the goal of empowering Native communities with the tools, resources, and knowledge needed for self-determination and control over their health care services, successful third-party billing, and improved health care funding outcomes. The Commission notes, however, that while it intends the recommendation to move more Tribes and Tribal organizations toward contracting, compacting, and effective and efficient third-party reimbursement programs, such movement does not release the U.S. Federal government from its trust responsibility to appropriately fund health care in Native communities. Local control and billing efficiency support health care improvements, but improvements are best built within an adequately funded health sector.

Native Hawaiian health care entities

The Native Hawaiian Healthcare Improvement Act (NHHIA) of 1988, 42 U.S.C. §122, created a separate health care system for Native Hawaiians that is administered by the Health Services and Resources Administration (HRSA). The Native Hawaiian health care entities that are part of this system offer a range of services (from primary care to mental health counseling to fitness programs), integrate traditional Hawaiian practices into the services, and serve as a bridge to Western medicine. Congress funds this system with an annual appropriation, which is the system’s primary source of funding, although the individual health care centers also receive grants from other sources and collect third-party reimbursements.¹¹

A key take-away from the Commission’s Hawai’i regional hearing was that additional funding is needed for Native Hawaiian health care. In response, the Commission proposes that opportunities similar to those it recommends for Tribes and Tribal organizations—that is, support in moving toward greater self-determination over health care—be provided to Native Hawaiian health care entities funded under NHHIA.

Testimony given at the Hawai’i regional hearing and subsequent research identified three other remedies that—should Congress act on them—would increase the resources available for the work in which NHHIA-funded health care entities already are engaged:

- Increase the annual appropriation under the NHHIA to provide a stronger base for health and welfare activities and to adjust for increases in the costs of care

- Create equity in Medicaid and Medicare reimbursements such that facilities under the NHHIA will be reimbursed at the same rates as Federally Qualified Health Centers
- Make permanent the temporary 100% Federal match that was authorized under the American Rescue Plan Act for all entities funded under the NHHIA

The Commission commends these suggestions to Congress as complementary ideas for increasing equity, fulfilling the special responsibilities and legal obligations the United States has to the Indigenous people of Hawai'i, and improving health outcomes for Native Hawaiians.

Notes

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- 5 | R. Tso, (2023, May 10), *Indian Health Service testimony* [Testimony], Hearing on A Review of the President's Fiscal Year 2024 Request for Indian Country before the U.S. Senate Committee on Appropriations Subcommittee on Interior, Environment, and Related Agencies, 118th Cong., <https://www.appropriations.senate.gov/download/230510-tso-testimony>.
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- 7 | Tribal Budget Formulation Workgroup, (2020).
- 8 | These rules are enshrined in 25 U.S.C. §1641(c) and (d); also see E. J. Heisler, (2014), *Indian health care: Impact of the Affordable Care Act (ACA)*, Congressional Research Service, <https://crsreports.congress.gov/product/pdf/R/R41152>.
- 9 | Government Accountability Office, (2022, March).
- 10 | Indian Health Service, (2022), *Fiscal year 2023: Justification of estimates for appropriations committees*, U.S. Department of Health and Humans Services, https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY2023BudgetJustificaton.pdf.
- 11 | Government Accountability Office, (2023, October), *Native Hawaiian Health Care Systems Program: Services, funding, and oversight* (GAO-24-106407), <https://www.gao.gov/assets/d24106407.pdf>.



Recommendation 25: Create and expand mechanisms that allow Native entities to integrate and/or consolidate funding streams to support more multidisciplinary programs for Native children and youth

Congress and executive branch agencies responsible for addressing the needs of Native children and youth shall develop a strategy that a) supports the creation of locally driven, cross-systems, integrated responses to the needs of Native children and youth, and b) funds such approaches with flexible, noncompetitive, and sustained funding streams that are directly accessible by Native communities. The strategy shall allow the creation of programs that are Native-community driven; engage local stakeholders and rightsholders; allow integration of local Native communities' unique cultures and healing traditions; serve both Native children and their families; and comprehensively address prevention, intervention, and treatment needs. Further, to support this strategy:

- Congress shall increase the total funding dedicated to creating, assessing, and bringing to scale and maintaining former and new solution- and prevention-focused pilot, demonstration, and permanent projects, including projects that create opportunities for Tribes and local entities to consolidate all funding streams dedicated to children and youth (for example, child welfare/IV-E, truancy, public health, child wellbeing, early childhood, Head Start, education, and juvenile justice funding) and thereby create new and innovative community-specific approaches to family and community wellbeing regardless of the source of Federal funding.
- Congress and all executive branch departments and agencies shall expand P.L. 102-477 and P.L. 93-638 contracting and compacting to include all programs that serve Native children and youth and eliminate barriers to combining funds across agencies and Federal departments to better support holistic approaches to Native child and youth wellbeing through consolidated funding, braided services, and maximum flexibility.
- All executive branch agencies shall mandate the creation of multidisciplinary, interagency, cross-departmental, and cross-agency teams to address issues such as (but not limited to) child welfare, mental and behavioral health, cultural awareness, and traditional medicine to facilitate greater consolidated funding, braided services, and maximum flexibility, and these teams shall include representatives of Tribal Advisory Committees.

Analysis

The siloed nature of Federal funding is a significant impediment to the development of high quality and effective programs capable of improving outcomes for Native children and youth. At the community level, services are best delivered in holistic and comprehensive ways that take into consideration the whole child or youth and their family.¹ Part of what makes this best is that it is more culturally resonant. Native communities are not all the same; individual communities need to be able to arrive at solutions that work well for them. As numerous witnesses before the Commission said in one way or another, “the greatest success for Native communities is when they design and deliver their programs themselves.”

De-siloing and community adaptation are easier where Federal rules support integration and cross-program collaboration. P.L. 102-477 Plans, Self-Determination contracts, and Self-Governance compacts under the Indian Self-Determination and Educational Assistance Act (P.L. 93-638, as amended) are three methods that allow Tribes and Tribal organizations greater flexibility. P.L. 477 allows a Tribe or Tribal organization to combine certain Federal funding streams made available for employment, training, and related services programs into one holistic employment and training P.L. 477 Plan that is designed and carried out by the Tribe. The plan supports a consolidated strategy, budget, and report. Tribes and Tribal organizations using P.L. 477 have successfully eliminated silos to maximize their Federal funds, realize greater programmatic self-determination, and drive client success.²

Similarly, Self-Governance compacting allows Tribes and Tribal organizations to reallocate scarce funds to meet the most crucial needs of their people.³ Effective use of P.L. 93-638 Self-Determination contracting can generate similar results.⁴ In fact, these arrangements align with a large body of research pointing to greater Tribal economic, social, environmental success and greater community wellbeing when Native nations are put in the decisionmaking and financial “driver’s seat.”⁵

Four changes will support such impacts. First, Native programs are funded at fractions of their demonstrated

need; addressing this inequity must be part of any plan to improve the wellbeing of Native children and youth. Across-the-board increases to meet actual need must be implemented. Streamlined grant processes and noncompetitive, stable formula funding also are foundational to this purpose.

Second, and equally imperative, is the ability of Native communities to consolidate and braid funding to best address local needs and respond to the intersections among education, health, child welfare, and justice systems. Native children, youth, and families, after all, do not live or operate in one silo or another; they live in them all. The Commission noted that Native communities could thus “think outside the box” to coordinate needed infrastructure with programs. For example, while the Bureau of Indian Affairs distributes some funding for roads to Native communities, the bulk of Federal infrastructure dollars are under the jurisdiction of the Department of Transportation. The ability to combine Department of Transportation funding with education program and infrastructure dollars would allow Native communities to address transportation issues that inhibit school attendance in remote areas, including Alaska Native villages and rural areas of the lower 48 states.

Third, proven successful models such as P.L. 102-477, Self-Governance compacts, and P.L. 93-638 Self-Determination contracts must be expanded to include all relevant sources of funding that can improve outcomes for Native children and youth, thus allowing Tribes and Tribal organizations to consolidate funds across programs and agencies—ideally through one plan, one budget, and one report. This will facilitate the creation of innovative, community-specific approaches regardless of funding source. The approach has a two-fold advantage: 1) it supports cross-training of staff, enables more efficient delivery of services, and eliminates duplication; and 2) it streamlines administration, making greater resources available for service delivery. P.L. 102-477 has been expanded to include 12 Federal departments, but there has been resistance across the Federal government to working through this highly successful administrative tool; for example, child welfare funding via Social Security Act Title IV-B and IV-E directly relates to the goals of P.L. 477 but IV-B has only recently been approved for inclusion in P.L. 477 plans. Similarly, Tribes and Tribal organizations have been attempting to include new programs in their Self-Governance compacts, but to no avail. HHS has previously issued an opinion that legislative change is required for new programs

to be added. The Commission strongly recommends that barriers to these long-term and successful consolidation mechanisms be removed, whether via regulation or legislation.

Finally, in order to create a more receptive environment for cross-systems fertilization and maximization, the Commission recommends the creation of interdepartmental, interdisciplinary teams to address issues before the Commission such as child welfare, mental and behavioral health, trauma and resilience, education, and traditional medicine with a similar goal: support consolidated funding, braided services, and maximum flexibility. Some Federal departments and agencies have implemented Tribal Advisory Committees at the agency/operating unit or even departmental level to advise the Federal government on issues related to Tribes and Tribal organizations. The proposed interagency teams must include representatives of these Advisory Committees in order to ensure a Tribal voice in solutions as they are developed. A key component of implementation would then be to ensure that the agencies involved respond to those suggestions, incorporate them into action, or explain why they have not done so.⁶

Notes

- 1 | L. Akers, J. Tippins, S. Hauan, & M. Lynch-Smith, (2023), *Advancing primary prevention in human services: Convening findings*, Department of Health and Human Services Assistant Secretary for Planning and Evaluation, <https://aspe.hhs.gov/sites/default/files/documents/8228e700f6e369df9382ac8e0d3976c1/primary-prevention-convening-brief.pdf>; Building Changes, (2012), *Silos to systems: Solutions for vulnerable families summary report*, <https://www.csh.org/wp-content/uploads/2012/02/Silos-to-Systems-Summary-Report.pdf>.
- 2 | M. Zientek, (2014, April 2), *Statement of Margaret Zientek, Co-Chair P.L. 102-477 Tribal Workgroup* [Written Testimony], Hearing before the U.S. Senate Committee on Indian Affairs, 113th Cong., <https://www.tribalseg.org/wp-content/uploads/2015/04/L7-477-Program-Jan-2015-Final.pdf>; M. Zientek, (2019, November 6), *Testimony of Margaret Zientek* [Written Testimony], Hearing on Examining the 477 Program: Reducing Red Tape While Promoting Employment and Training Opportunities in Indian Country, U.S. Senate Committee on Indian Affairs, 116th Cong., https://www.indian.senate.gov/wp-content/uploads/CPN-MZientek-Written%20Testimony%20SCIA%2011.6.19_0.pdf.
- 3 | L. Roberts, (2012, September 20), *Prepared statement of Lawrence Roberts, Deputy Assistant Secretary, Indian Affairs, U.S. Department of the Interior* [Written Testimony], Hearing on Advancing the Federal-Tribal Relationships through Self-Governance and Self-Determination before the U.S. Senate Committee on Indian Affairs, 112th Cong., <https://www.indian.senate.gov/wp-content/uploads/upload/files/CHRG-112shrg78812.pdf>.
- 4 | M. J. Murray, (2021), *Indian Self-Determination and Education Assistance Act (ISDEAA) and the Bureau of Indian Affairs*, Congressional Research Service, <https://crsreports.congress.gov/product/pdf/IF/IF11877/2>.

- 5 | S. Cornell & J. P. Kalt, (2007), Two approaches to the development of Native nations: One works, the other doesn't, in M. Jorgensen (ed.), *Rebuilding Native nations: Strategies for governance and development* (pp. 3-33), University of Arizona, <https://nni.arizona.edu/publications/two-approaches-economic-development-american-indian-reservations-one-works-other-doesnt>; S. Cornell & J. P. Kalt, (2010), *American Indian self-determination: The political economy of a policy that works* [Working paper], Harvard Kennedy School, https://dash.harvard.edu/bitstream/handle/1/4553307/RWP10-043_Cornell_Kalt.pdf; M. Dixon, B. L. Shelton, Y. Roubideaux, D. Mather, & C. M. Smith, (1998), *Tribal perspectives on Indian self-determination and self-governance in health care management*, National Indian Health Board, <https://digitalrepository.unm.edu/nhd/117/>; M. Haider & M. P. Teodoro, (2020), Environmental federalism in Indian Country: Sovereignty, primacy, and environmental protection, *Policy Studies Journal*, 49(3), 887-908, <https://doi.org/10.1111/psj.12395>; J. P. Kalt, (2022, December 15), *American Indian self-governance: The only policy that has ever worked* [Testimony], Virtual Hearing on the Cross-Cutting Role of the Federal Government, Alyce Spotted Bear and Walter Soboleff Commission on Native Children; J. P. Kalt, A. Besaw Medford, & J. B. Taylor, (2022), *Economic and social impacts of restrictions on the applicability of Federal Indian policies to the Wabanaki nations in Maine* [Policy report], Harvard Project on Indigenous Governance and Development, <https://bit.ly/3usOGkQ>; M. B. Krepps & R. E. Caves, (1994), Bureaucrats and Indians: Principal-agent relations and efficient management of Tribal forest resources, *Journal of Economic Behavior and Organization*, 24(2), 133-151, [https://doi.org/10.1016/0167-2681\(94\)90022-1](https://doi.org/10.1016/0167-2681(94)90022-1).
- 6 | This recommendation reflects similar goals to the direction expressed recently in Executive Order 14112 of December 6, 2023, Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination. Relevant sections of EO 14112 include provisions that direct the Federal departments to ensure maximum flexibility to address the specific needs of Native communities, to coordinate Federal policy reforms that would promote accessible, equitable and flexible administration of funding, to remedy of chronic shortfalls in funding, to reduce administrative burdens, and to promote Tribal and Tribal organization managements and control of programs and funding; see Executive Office of the President, (2023), Reforming Federal funding and support for Tribal nations to better embrace our trust responsibilities and promote the next era of Tribal Self-determination, *Federal Register*, 88, 86021-86025, <https://www.federalregister.gov/documents/2023/12/11/2023-27318/reforming-federal-funding-and-support-for-tribal-nations-to-better-embrace-our-trust>.



Recommendation 26: Create more Tribal set-asides, to be distributed as noncompetitive formula funds

Wherever states and localities receive Federal formula funding for a social service, juvenile justice, education or health program, or any other program that could serve Native children and youth, and Tribes and Tribal organizations do not, Congress shall create a Tribal set-aside that is commensurate with need, and the set-aside percentage shall be established as a floor not a ceiling. Congress also shall ensure that urban Indian organizations and Native Hawaiian organizations also have access to set-aside formula funds for Native people.

Analysis

Budget set-asides make a specific amount or percentage of a funding stream available for an identified purpose; a Tribal set-aside reserves a specific amount or percentage of a given budget for Tribes and Tribal Organizations. Formula grants are noncompetitive funding opportunities, where funds are distributed according to predetermined formulas and eligibility requirements rather than through competitive grant applications.

This recommendation calls on the Federal government to streamline funding sources that serve Native children and youth, thereby making more money available to Native communities to address child welfare, juvenile justice, children’s health, education, and other issues. In particular, the recommendation calls for Congress and executive branch agencies to address four systemic elements that lead to underfunding: 1) the lack of set-aside funds for Tribes and Tribal organizations; 2) the lack of “large enough” set-asides for parity in services between Native and non-Native populations; 3) the lack of formulas even when funding is set-aside; and 4) the need to distribute formula funding without a burdensome grant process, especially a competitive grant process. The aim of the recommendation is for Tribes and Tribal organizations to be treated in the same manner as state and local governments, which already have the benefit of annual funds, provided on a formula basis, to support children- and youth-focused prevention, intervention, and response activities.

In recent years, the number of set-asides created by Congress for Tribes and Tribal organizations has grown, but significant gaps remain. For example, the bipartisan Infrastructure Investment and Jobs Act of 2021 (P.L. 117-58), contained

nine Tribal set-asides—and more than 150 other programs for which Tribes and Tribal organizations were eligible that did not contain set-asides. Similarly, in the Department of Education, a small portion of Title VI monies are set-aside for Tribes and Tribal organizations, but few if any other Department of Education programs include set-asides, in spite of their demonstrated ability to improve academic outcomes for Native students.¹

Even where there are Tribal set-asides, they often are insufficiently funded to address Native communities’ levels of need. Tribal opportunities available through the Child Abuse Prevention and Treatment Act (CAPTA) and the Social Security Block Grant (SSBG) are relevant examples (see Recommendations 1 and 3). In both cases, appropriated funds are so minimal that even with a Tribal set-aside, only small competitive grants are available to Tribes and Tribal organizations. Combined with a heavy reporting burden, the costs of these opportunities to Tribes often outweigh their benefits. Similarly, while Congress created a Tribal Maternal, Infant, and Early Childhood Visiting (MIECHV) program and recently increased the portion of MIECHV funds allocated to the Tribal set-aside, the total value of the funding program remains insufficient to provide a meaningful formula-based distribution to all interested Tribes and Tribal organizations (see Recommendation 8). Like CAPTA and SSBG, it also distributes funds via a competitive grant program, further diminishing its value to Tribes and Tribal organizations.

Even where adequately funded set-asides are available, many Federal programs do not operate using formulas and instead provide support to Tribes only through unpredictable, burdensome, generally competitive grant programs. For example, Tribes have identified the competitive grant system used by DOJ to distribute funding for the non-incarceration aspects of Tribal justice systems, such as Tribal courts and community supervision, as problematic. Year in and year out, Tribes must compete against each other to obtain this funding. Not only does this mean that Tribes cannot count on funding continuing beyond the current grant period, so that successful programs often disappear at the end of a grant cycle, but it widens inequities: “Tribes that have the financial and human resources to employ experienced grant writers end up receiving funding, while the under-resourced Tribes may be left without.”²

Some Department of Justice programs *do* utilize formulas and also meet the standard of parity—that is, funds are provided at a level commensurate with need, as they typically are for state and local governments. The Tribal Victim Services Set-Aside, managed by the Office for Victims of Crime (OVC), provides an example. Congress annually authorizes set-aside funds from the Crime Victims Fund for a Tribal Victim Services Set-Aside (TVSSA) program, which provides support to Tribal communities to enhance services for victims of crime, consistent with the requirements of the Victims of Crime Act. OVC’s TVSSA formula grant program supports American Indian and Alaska Native communities for their work with survivors (victims) of crime. In describing these funding levels, Associate Attorney General Vanita Gupta stated, “American Indian and Alaska Native crime victims deserve the same access to services and the same level of support available to survivors in other communities.”³

However, DOJ distributes OVC’s TVSSA funds through a grantmaking process, which includes approval of a proposal, budget, and sometimes personnel. The impact of this is threefold: first, the application and approval process often lasts 6-12 months, thus delaying the implementation of services. Second, grant managers can request changes and impose external judgments about what is needed in a given Native community, thus defeating the purpose of formula funds. Third, DOJ has been unable to distribute all of the Tribal set-aside available. In part because of the extra requirements that grant managers impose, projects are determined to be unqualified and unfundable, leaving Native communities unable to benefit from the whole of the TVSSA.

The Child Care Development Fund (CCDF) provides an instructive contrast. Even when significant additional funds were available during the pandemic, HHS was able to distribute funds quickly and efficiently because it did not require an application and approval process. And earlier, when the reauthorization passed in 2014, the Tribal set-aside language changed from “not more than 2%” to “not less than 2%.” Because the proportion of Native children eligible for CCDF monies is larger than the proportion of eligible non-Native children, this language has resulted in the Tribal set-aside increasing year by year, commensurate with need, and with quick and effective distribution via formula. Establishing a legislative floor rather than a ceiling has created the opportunity to respond in real time to real need.

Current variations in the methods of distributing Federal funding do not support the best outcomes for Native children and youth. This recommendation seeks to remedy

that, by ensuring that an appropriate amount of funding is provided, in logistically simple ways, so that Tribes and Tribal organizations can implement programs quickly and responsively and better serve their children and youth. The combination of program set-asides, sized in parity with population needs, and distributed by formula is the Commission’s preferred approach. It should be scaled and utilized in all programs that benefit Native children and youth.⁴

Notes

- 1| B. M. J. Brayboy & M. J. Maaka, (2015), K-12 achievement for Indigenous students, *Journal of American Indian Education*, 54(1), 63-98, <https://doi.org/10.1353/jaie.2015.a835527>; T. L. McCarty, (2018), So that any child may succeed: Indigenous pathways toward justice and the promise of Brown (12th annual Brown lecture in education research), *Educational Researcher*, 47(5), 271–283, <https://doi.org/10.3102/0013189X18768549>; K. Shendo, (2022, February 25), *Redefining education* [Testimony], Panel on Education and Early Childhood Development, Southwest/Western Regional Hearing, Alyce Spotted Bear and Walter Soboleff Commission on Native Children.
- 2| National Congress of American Indians, (2020), *Public safety and justice: Fiscal year 2020 Indian Country budget request*, National Congress of American Indians, https://archive.ncai.org/Justice_Issues.pdf.
- 3| Office of Public Affairs, (2021, November 15), *Press Release: Justice Department awards nearly \$104 million to help crime victims in Indian Country*, U.S. Department of Justice, <https://www.justice.gov/opa/pr/justice-department-awards-nearly-104-million-help-crime-victims-indian-country>.
- 4| This recommendation also aligns with Section 5(a)(2) of Executive Order 14112 of December 6, 2023, Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination, which explicitly calls for the Federal departments to, “identify funding programs that may allow for Tribal set-asides or other similar resource or benefits prioritization measures and, where appropriate, establish Tribal set-asides or prioritization measures that meet the needs of Tribal Nations;” see Executive Office of the President, (2023), Reforming Federal funding and support for Tribal nations to better embrace our trust responsibilities and promote the next era of Tribal self-determination, *Federal Register*, 88, 86021-86025, <https://www.federalregister.gov/documents/2023/12/11/2023-27318/reforming-federal-funding-and-support-for-tribal-nations-to-better-embrace-our-trust>.

Recommendation 27: Create incentives to expand and strengthen the workforce serving Native children and youth

Across all domains that have an impact on Native children and youth, including child welfare, juvenile justice, early childhood through higher education, and physical, mental, and behavioral health, Congress shall appropriate funds to increase the quantity and quality of professionals who serve Native children and youth, and the executive branch shall create and implement workforce development programs to fulfill this recommendation, coordinating as needed across departments and agencies.

- Congress shall fund all Federal agencies and programs intended to serve Native children and youth, whether through direct service, contracts, or grants, at a level necessary for offering wages, salaries, and benefits that attract and retain an appropriately sized, high-quality workforce.
- Congress shall fund and Federal agencies, working in collaboration with Tribes, Tribal organizations, and Native Hawaiian entities, shall create, strengthen, and expand workforce development initiatives, programs, pipelines, and partnerships intended to attract, train, and retain qualified professionals in these fields of service in Native communities. With regard to the health care workforce serving Native communities in particular:
 - » The Indian Health Service, Health Resources and Services Administration, and other Federal agencies with a mandate to improve health care staffing in Native communities and for Native organizations shall identify current and past programs that successfully assisted Tribes and Native organizations to partner with Tribal colleges and universities, nontribal colleges and universities, state government bodies, and others to create training pathways (rotations, internships, postdoc programs, professional development, immersion programs and incentive programs, etc.) and to place health care professionals in Native communities.
 - » The Department of Health and Human Services shall improve access to and equity for loan repayment programs for all health care providers serving Native nations, communities, and organizations by identifying the hurdles that limit participation by Tribal health departments, Tribal programs, and Native organizations in loan forgiveness programs

and by designing specific approaches to overcome those hurdles so that all health care providers serving Native communities are eligible for Federal loan forgiveness at the same or greater levels as others, such as Veterans Administration, Public Health Service, Department of Defense, etc.

Analysis

Whether in education, health care, social services, or juvenile justice, there is a dearth of qualified professionals to provide needed services to Native children and youth on reservations, in rural communities, and in urban settings. Therefore, a fundamental cross-cutting recommendation concerns workforce development issues in all these professional fields. The need is threefold: 1) to increase the overall quantity of providers; 2) to increase the overall quality of providers; and 3) to increase the number of American Indian, Alaska Native, and Native Hawaiian (AIANNH) providers in Native communities.

With regard to the first issue, increasing the overall quantity of qualified providers, equity in salaries and benefits can make a difference. In too many cases, salaries and benefits do not meet local standards, nor do they match rates for similarly situated providers in other Federal agencies, thus limiting applications and contributing to high turnover. In the health context, for example, Indian Health Service (IHS) provider salaries and benefits are not commensurate with other Federally funded health programs, including those at the Veterans Administration and Department of Defense,¹ making IHS facilities hard-pressed to find and retain health providers. While lack of parity is particularly obvious in the public health sector, where salary and leave benefits are easily compared across various agencies, similar inequities also occur in social services, justice, and education.

Although free or subsidized housing may not be a typical benefit for workers in the health care, education, social services, and justice sectors,² in the context of rural and reservation-based communities, it is a key benefit for Congress and the executive branch to consider when funding and implementing this recommendation. A nexus of factors—ranging from the trust status of Indian land to the predominance of low-income-only options to the high

costs of construction—has severely limited the availability of housing in many Native communities. Limited purchase and resale opportunities also curtail employees' options to build equity through homeownership. As a result, employers and employees alike have identified the quantity, quality, and affordability of housing as barriers: housing insufficiencies prevent Native nations from filling extant funded fulltime employment positions and from increasing staffing beyond currently funded levels.³

In addition to increasing salaries and benefits, the Commission notes that the free tuition and loan forgiveness programs described in Recommendations 15 and 16 also would incentivize qualified AIANNH providers to serve in Native communities. Likewise, expanded use of loan forgiveness could increase the quantity of providers of all backgrounds in careers and professions serving Native children. This is the point of the Commission's focus on expanded loan forgiveness for all health care providers serving Native nations, communities, and organizations, as testimony suggested that the need for an expanded workforce in this area of service was especially acute. Moreover, research suggests that the Commission's recommended approach works: improved access to service-based loan repayment programs leads more physicians to work in understaffed practice areas and underserved communities.⁴

The second issue, increasing the overall quality of providers, requires new investments in workforce development. More, and more robust, training and fellowship programs, continuing education, and professional development are needed to augment skills and attract high-quality candidates to Native youth-serving careers. The Commission recommends that a range of workforce development programs be identified (or created) and replicated (or adapted) across the social services, justice, early childhood development, education, and physical, mental, and behavioral health care domains. Wherever possible, these training programs should be connected in order to further career ladder development within each domain.

Again, the Commission paid particular attention to the need for workforce development in health care. Numerous models are available, some focused on Native providers, others focused on all providers. Critical components include scholarships, stipends for living expenses, tutoring, mentoring, internships and externships, and service commitments in lieu of loan repayment. The Commission's concern is that, while individually successful, these efforts as a whole have lacked concentrated attention, sustained

funding, and coordinated activity, and that without a more concerted and systematic focus on workforce development for health care professionals serving Native communities, the longstanding difficulty of identifying and recruiting needed health care staff will persist.

Clearly, the issues of quantity and quality are linked. In the Native health care sector, for example, a 2020 U.S. Government Accountability Office (GAO) report found that the quality of care at IHS direct services facilities has come into serious question; allegations of sexual abuse were particularly concerning.⁵ While harmful and disturbing, and suggestive of an unacceptable institutional culture, the documented issues should not be narrowly conceived. Instead, they reflect the more general problem that there are not enough highly qualified staff funded at equitable levels to other Federal health providers to meet the needs and obligations of the IHS, giving rise to a situation characterized by minimal supervision, high turnover, and increased risk of a wide variety of harms to patients, staff, and other community members.⁶

When these two components—cultivating and retaining talent in Native children- and youth-serving health, education, social services, and justice programs through better salaries and benefits and through workforce development—are focused on AIANNH students and professionals, they increase the number of AIANNH providers, which is the third aspect of the threefold workforce development need. One promising strategy is for Tribal colleges and universities (TCUs), Native American-serving nontribal institutions (NASNTIs), and state colleges and universities to partner with Tribal employers for apprenticeship, internship, and job placements.⁷ To illustrate, the University of Oregon has partnered with the state's federally recognized Tribes to form the Sapsik'wafá teacher education program. Addressing the dire need for more Native educators in Native communities, program participants commit to service payback by teaching for two years in schools with high Native student populations. Since 2002, more than 100 alumni from nearly 50 Tribes have taught in Native communities after graduating.⁸

Research also shows that children and youth who see themselves in their teachers, care providers, and other community workers will benefit academically and emotionally, develop higher aspirations, and may eventually add to the supply of such providers themselves.⁹ In short, ensuring that education, social services, health care, and justice agencies are sufficiently staffed with high quality Native and non-Native professionals and paraprofessionals will improve outcomes for Native children and youth and for their communities.

Notes

- 1 | E. Katz, (2021, June 30), *Indian Health Service seeks to reverse longstanding shortfalls with staffing surge*, Government Executive, <https://www.govexec.com/workforce/2021/06/ihs-seeks-reverse-longstanding-shortfalls-staffing-surge/182688/>.
- 2 | This may be changing. In the education sector, free housing for teachers is a growing trend. See, for example, A. Brone, (2023, November 1), *New Haven educators receive move-in ready, rent-free housing in Connecticut*, Connecticut Public Radio, <https://www.ctpublic.org/news/2023-11-01/new-haven-educators-receive-move-in-ready-rent-free-housing>; and M. Will, (2023, November 22), *More districts are building housing for teachers—Here’s what we know*, EducationWeek, <https://www.edweek.org/leadership/more-districts-are-building-housing-for-teachers-heres-what-to-know/2023/11>.
- 3 | For example: 1) In a survey conducted by the National Indian Impacted Schools Association, only 40% of reporting school districts had teacher housing, and of those, more than 70% rated the housing as “poor” or “fair” (as opposed to “good” or “excellent”; National Indian Impacted Schools Association, (2018), *Condition of school facilities in Indian Country: The need for a Federal investment*, <https://niisa.org/wp-content/uploads/2018/11/LINK-Condition-of-School-facilities-in-Indian-Country-Final-Report.pdf>. 2) In a 2019 report submitted to the U.S. Senate Appropriations Committee, Subcommittee on Interior, Environment, and Related Agencies, the American Association of Medical Colleges quotes the then-President of the Navajo Nation, who opined: “In healthcare facilities across Navajo, we have a 30% vacancy rate for professional staff, including medical doctors, nurses, and technicians. The No. 1 reason is that we don’t have this type of building [housing for health care staff] on the Nation. We need more of these”; J. Sherman, (2019, May 22), *AI/AN health partners*, American Association of Medical Colleges, <https://www.aamc.org/media/13876/download?attachment>. 3) The writer of a letter to the editor of *Education Week* notes: “School districts serving students who reside on Indian Trust and Treaty and Alaska Native Claims Settlement Act lands are often remote. Teachers in these districts are frequently unable to build or own a residence on site because of restrictions for nontribal members. They must either live in district-provided housing or commute long distances in all kinds of weather. This has a direct impact on staff recruitment and retention, with many educators leaving these districts for better working conditions.”; L. Writer, (2024, January 30), *Teacher housing is a critical need in Native communities* [Letter to the editor], EducationWeek, <https://www.edweek.org/leadership/opinion-teacher-housing-is-a-critical-need-in-native-communities/2024/01>.
- 4 | C. S. Davis, P. Meyers, A. W. Bazemore, & L. E. Peterson, (2023), Impact of service-based student loan repayment program on the primary care workforce, *Annals of Family Medicine*, 21(4), 327-331, <https://doi.org/10.1370/afm.3002>.
- 5 | U.S. Government Accountability Office, (2020, December), *Indian Health Service: Actions needed to improve oversight of provider misconduct and substandard performance* (GAO-21-97), <https://www.gao.gov/assets/gao-21-97.pdf>.
- 6 | K. Degenfelder & J. Broman, (2023, July 27), *Legislative hearing on a discussion draft of H.R. _ (Rep. Johnson of SD), “Restoring Accountability in the Indian Health Service Act of 2023”* [Memo to House Committee on Natural Resources Republican Members], https://naturalresources.house.gov/uploadedfiles/hearing_memo_-_sub_on_ii_a_leg_hrg_on_ihs_discussion_draft_07.27.23.pdf.
- 7 | See, for example, C. Crazy Bull, C. Lindquist, R. Burns, L. Vermillion, & L. McDonald, (2020), Tribal colleges and universities: Building nations, revitalizing identity, *Change: The Magazine of Higher Learning*, 52(1), 23-29, <https://doi.org/10.1080/00091383.2020.1693819>.
- 8 | University of Oregon College of Education, (n.d.), *Sapsik’wata teacher education program*, <https://education.uoregon.edu/sapsikwala>.
- 9 | For example, A. J. Egalite & B. Kisida, (2018), The effects of teacher match on students’ academic perceptions and attitudes, *Educational Evaluation and Policy Analysis*, 40(1), 59-81, <https://doi.org/10.3102/0162373717714056>.



Recommendation 28: Incentivize positive progress against indicators of social distress in Native communities

Federal grant and/or funding programs shall be designed to incentivize positive progress and prevention, so that Tribes and other Native communities making gains against recidivism in juvenile justice or disproportionality in child welfare, or against other indicators of social distress such as anti-suicide initiatives are not penalized with less frequent grant awards and/or reduced funding due to the very success those funds are designed to achieve.

Analysis

Federal agencies often require justifications in grant applications based on deficit or need. Such criteria are justified as they promote an allocation of funds to the settings where need is the greatest. Nonetheless, they ignore the fact that if a program is successful in addressing a critical need, it can no longer meet the criteria for a funding award. The problem is made even worse if funding is allocated on a competitive basis where the incentives can produce a “race to the bottom” as programs compete to show the greatest deficit or need. This penalizes effective programs, setting up a cycle of success and failure that is bad for on-the-ground service providers, their clients, and the public purse.

The implicit (and sometimes explicit) assumption with these funding structures appears to be that a successful program can gain support from non-Federal sources or can otherwise generate revenues for program maintenance.¹ Yet Tribal governments, Tribal organizations, and Native community entities do not have the same opportunities as states and municipalities to raise general revenues to finance the public sector; this is especially true with regard to taxation.² Neither can they rely, as do many non-Indigenous nonprofit social services entities, on community giving programs or other kinds of philanthropic support; nor are all programs in a position to operate as a nonprofit business that is able to sell or seek reimbursement for services. In short, there often is no alternative source of support for an effective Native program when a Federal funding stream expires or program success makes it ineligible for continued funding.

On the other hand, incentivizing positive progress—or adding a strengths-based approach to program funding—has demonstrated benefits. For example, studies of aid programs in the developing world show that performance incentives

can accelerate improvements in health.³ Such findings suggest that while Federal funding should respond to the acute needs of Native children and communities, funding requirements should be flexible enough to respond to and support success in addressing seemingly intractable issues.

The U.S. Department of Education’s Alaska Native Education Program (ANEP) offers an example of this deficit-led approach to grantee support. Funding guidance for this program provides the following parameters (bolding added):

In determining the need for the proposed project, the Secretary considers the extent to which **specific gaps or weaknesses** in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the **nature and magnitude of those gaps or weaknesses**.⁴

ANEP’s program goals include closing the achievement gap and dropout prevention, culture and language curriculum development, early childhood development and comprehensive family services, parent engagement activities, research and data, supplemental education activities, and other specific efforts to improve academic outcomes for Alaska Native students. However, as is evident from the above language, only if there are gaps or weaknesses will a program designed to address any of these issues succeed in the competition. This means that if a previously funded grantee from the same source has succeeded in improving graduation rates, increasing kindergarten readiness, or making progress on any number of other metrics, it will not be funded to continue the very activities that have produced success, endangering its accomplishment. Only by showing deficits (“specific gaps or weaknesses”) will the Department fund an applicant.

Another version of this issue occurs when agencies sponsor pilot programs but do not plan for sustainability funding. If a pilot program shows efficacy, there are no follow-on operational funds to keep grantees’ work going. The HHS program “Fathers’ Journey,” which created cohorts of fathers (and then parents, including mothers) whose children were engaged in the child welfare system, is one example of this

problem. Fathers' Journey resulted in increased father-child contact and improved behavioral interactions—but was discontinued for lack of funds. A second example is the Health Professions Opportunity Grant Program, which provided tuition and stipends to low-income students pursuing high-demand health care training; the program also provided for career ladders from certified nurse assistant through to registered nurse. Although reauthorizing legislation was filed in subsequent years, the authorization for this highly successful program lapsed, and it has not since been funded.

The recommendation addresses the inherent irony of Federal grant processes that ultimately penalize the success they intended to inspire. While Federal funding should respond to the acute needs of Native children and Native communities, and public funding should not be repetitively allocated to initiatives that do not work, protocols and budgets should be flexible enough to respond to and incentivize success. This recommendation argues for across-the-board attention to funding language, for changes to be made to application requirements that focus only on deficits, and implicitly, for more consideration of the community harms that can be wrought by the repeated cessation of programs that work. In the Tribal context, Federal grantmaking agencies need to bear in mind Tribal governments' legally limited public finance capacities and need to fund Tribal projects accordingly.⁵

Notes

- 1 | See, for example, J. A. Roth & J. F. Ryan, (2000), *The COPS Program after 4 years—National evaluation* [Research in brief], U.S. Department of Justice National Institute of Justice, <https://www.ojp.gov/pdffiles1/nij/183644.pdf>: “Normally, grantees were required to match the grants with at least 25% of program costs, to submit acceptable strategies for implementing community policing in their jurisdictions, and to retain the COPS-funded officer positions *using local funds* after the 3-year grants expired” (p. 1), italics added.
- 2 | K. S. Croman & J. B. Taylor, (2016), *Why beggar thy Indian neighbor?: The case for Tribal primacy in taxation in Indian Country* (JOPNA 2016-01), Harvard Project on American Indian Economic Development & The Native Nations Institute, <https://nnigovernance.arizona.edu/why-beggar-thy-indian-neighbor-case-tribal-primacy-taxation-indian-country>; M. Gregg, (2021), *Separate but unequal: How Tribes, unlike states, face major hurdles to access the most basic public finance tools*, Brookings Institution, <https://www.brookings.edu/articles/separate-but-unequal-how-tribes-unlike-states-face-major-hurdles-to-access-the-most-basic-public-finance-tools/>; M. Srikrishnan, S. S. Duty, & J. Estus, (2022), *Tribes need tax revenue: States keep taking it*, The Center for Public Integrity, <https://publicintegrity.org/podcasts/integrity-out-loud/tribes-need-tax-revenue-states-keep-taking-it/>.
- 3 | Abdul Latif Jameel Poverty Action Lab, (2020, February), *J-PAL evidence to policy case study: Incentivized community grants for aid effectiveness*, <https://www.povertyactionlab.org/case-study/incentivized-community-grants-aid-effectiveness>.
- 4 | U.S. Department of Education Office of Elementary and Secondary Education, (2023), Applications for new awards; Alaska Native Education program, *Federal Register*, 88, 78341-78346, <https://www.federalregister.gov/documents/2023/11/15/2023-25125/applications-for-new-awards-alaska-native-education-program>.
- 5 | The Commission notes that this recommendation falls within the spirit of Executive Order 14112 of December 6, 2023, Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination, which directs Federal agencies to “increase the accessibility, equity, flexibility, and utility of Federal funding and support programs for Tribal Nations;” see Executive Office of the President, (2023), Reforming Federal funding and support for Tribal nations to better embrace our trust responsibilities and promote the next era of Tribal self-determination, *Federal Register*, 88, 86021-86025, <https://www.federalregister.gov/documents/2023/12/11/2023-27318/reforming-federal-funding-and-support-for-tribal-nations-to-better-embrace-our-trust>.

Recommendation 29: Create a Federal Office of American Indian, Alaska Native, and Native Hawaiian Data, Evaluation, and Research

Congress shall create an Office of American Indian, Alaska Native, and Native Hawaiian Data, Evaluation, and Research (Office) that shall be the information hub for all data collected and research funded by the U.S. government that is relevant to American Indian, Alaska Native, and Native Hawaiian people and communities and provide funding appropriate to this mission. Within the framework of Indigenous data sovereignty, and with regard to any data collected from Tribes and Tribal organizations or on Native people by the Federal government (and any other outside stakeholders collaborating on Federally funded projects), the Office will:

- Work across executive branch agencies to build Tribal research and evaluation capacity, especially through training and technical assistance (TTA) funding decisions, to help ensure that Native community members are able to collect their own data on early childhood development, education, health, justice, food, poverty, family economic health, physical infrastructure, and other relevant community concerns
- Ensure that numeric and anecdotal data collected by the Federal government are appropriately recorded, compiled, made available to, and owned by relevant Native communities, Tribes, and Tribal organizations
- Promote the collection and measurement of data that are useful to Tribes, Tribal organizations, and Native Hawaiians
- Create standard definitions and compatible systems platforms to allow for greater linkage of datasets across Federal agencies
- Support opportunities to link national data that address early childhood development, education, health, justice, food, poverty/economic health, physical infrastructure, and other concerns that affect Native communities
- Assess the appropriateness of existing data categories for comparative purposes
- Promote the inclusion of Native children and youth, families, and adults in longitudinal studies
- Report regularly on the quality of data and measures used by Federal, state, and Tribal programs, such as noting sample sizes and frequency of sampling, and provide advice about how to improve data quality
- Expand the definition of “evidence-based practice” to include practice-based evidence that acknowledges culturally based and community-based solutions
- Ensure that assessments and evaluations of programs that primarily serve Native clients incorporate Indigenous perspectives and Indigenous methodologies
- Provide information about evaluation and assessment methods that have proven useful in measuring outcomes in Native communities
- Disseminate evaluation and assessment results concerning programs and policies that have proven useful for strengthening Native communities, with the intent of identifying “what works” to funding agencies
- Fund analyses, generate summary reports, and disseminate findings on key topics that affect the wellbeing of American Indian, Alaska Native and Native Hawaiian (AIANNH) children and youth, including diabetes and other health risk factors, juvenile justice issues, child protection, behavioral health strategies, etc.
- Work to ensure that the efforts of the Office apply not only to future data collection but to data that already has been collected by agencies and departments of the U.S. government.

Analysis

Much data gathering, evaluation, and research about American Indians, Alaska Natives, and Native Hawaiians takes place across the Federal government infrastructure. Some of this information is collected specifically for and about Tribes and Native peoples; other data are collected as part of general population research and evaluation efforts. Additional information is gathered by Tribes or Tribal organizations themselves and reported to Federal agencies.

Native communities and scholars have voiced a number of concerns regarding these data collection, evaluation, and research efforts:¹

- Data are collected but not shared back to Indigenous communities
- Data are collected but not reported because of statistical concerns about sample size

- Data efforts do not reflect Native communities' own data needs or preferences about what should be collected
- Data efforts do not reflect Native communities' preferences regarding methods used to collect and analyze information
- Data collected by one agency or organization are not linked to information collected by others, limiting their usefulness to both Tribal and Federal policymakers.

This recommendation establishes a centralized Office of American Indian, Alaska Native, and Native Hawaiian Data, Evaluation, and Research to address these concerns. The primary role of the Office will be to coordinate data, evaluation, and research efforts and share relevant information with Federal, state, and Tribal governments, Tribal organizations, and other Native entities. It also will be responsible for overseeing the incorporation of corrective actions across the Federal data collection, evaluation, and research infrastructure to support right relations with Native people; these actions include acknowledging Indigenous data sovereignty, increasing Indigenous data gathering and analysis capacities, ensuring appropriate methods of research in Native communities, and addressing sample-size issues. More detail on these needs and responses is provided below.

Coordinating data efforts and sharing results

Although it is ideal for Tribes to collect their own data, it is still more common for various Federal agencies to collect information about Native people. Given this, there is a need for a means of consolidating data across agencies and departments to improve data accuracy, better inform both Tribal and Federal decisionmaking, and more appropriately distribute Federal funding. Consolidation also would reduce unnecessary duplication. Tribes and Tribal organizations submit huge amounts of administrative data to the Federal government for the various programs that they implement, often repeating the same information to multiple departments, agencies, or operating units. Not only would consolidation save Tribes and Tribal organizations time, energy, and scarce human resources, but it is likely to facilitate better coordination among Federal agencies, increasing program impacts. In adherence with the data sovereignty components of this recommendation, coordination also would improve and uphold processes for returning data and information from sponsored research, contracted evaluations, Federal data collection efforts,

longitudinal studies, etc., to the communities to whom they belong.

Consolidation would necessitate some standardization of definitions and metrics and standardization of platforms so as to link administrative data sets. (Even within the same Federal department, such as HHS or DOJ, data are not always aligned or linked when substantively connected.) It also would require assessment of the appropriateness of current data categories. For example, metrics more in line with Native ways of knowing (tied to the water, land, animals, etc.) or health indicators that reflect spiritual as well as physical factors and reflect Native community values might be implemented instead of the Government Performance and Results Act data. The payoffs to Tribes, Tribal organizations, and the Federal government are likely substantial.²

The Office also would be responsible for sharing information, results, and findings from data collection, data analysis, and research efforts that involve Native communities. For example, the Office would be responsible for consistently providing information to Tribes, Tribal organizations, other Native entities, and Federal agencies about findings from evaluations and assessments of policies and programs that strengthen outcomes for Native people, Native communities, and Native organizations. It would curate Federally funded analyses, research, and reports on key topics that affect Native constituencies. And, it would apprise Native communities and researchers of upcoming data collection, evaluation, and research efforts. The Office could also serve as an accountability mechanism for follow-up to the Commission's report.

Acknowledging Indigenous data sovereignty

Indigenous data sovereignty is the right of Indigenous peoples to govern—to the greatest extent possible—the collection, ownership, and application of data about Indigenous communities, peoples, lands, and resources.³ Tribes, Tribal organizations, and Native communities across the United States have long lacked substantive control over the collection, analysis, and use of data that directly affects their lives. Indigenous data sovereignty reverses the long-established pattern. Instead of serving primarily as subjects or objects of research, Indigenous peoples become agents of their own study and ensure that data collection and research incorporate Indigenous goals or needs, perspectives, and methods. Indigenous data sovereignty also requires that numeric and qualitative data about Native communities be made available for those communities' ownership.

Integral to Indigenous data sovereignty are the “CARE” principles for Indigenous data governance. These focus attention on Collective benefit (data ecosystems should allow Indigenous Peoples to derive benefits from the data), Authority (Indigenous Peoples have a right to determine how they are represented and identified within data), Responsibility (Indigenous data should be used to support Indigenous goals), and Ethics (the primary concern in data use should be Indigenous Peoples’ rights and wellbeing).⁴

Increasing Indigenous data capacity

To become a reality, Indigenous data sovereignty must be accompanied by Indigenous data capacity, which in turn will require greater investment by the Federal government at the community level so that Native communities are able to collect their own data on early childhood development, education, health, justice, food, poverty, family economic health, physical infrastructure, and other relevant community concerns. This will have the added benefit of increasing the quality, quantity, and validity of the information gathered.

The U.S. Census Bureau has long pursued a version of this strategy for the Decennial Census: it trains trusted community intermediaries to collect door-to-door census data. An even more fulsome Federal commitment to capacity building in Native communities—one that ramped up Native communities’ capacities not only to collect data but also to determine data elements, design questions, develop sampling methods, and direct outreach—would create capacity that enables Tribes and Tribal organizations to lead research and data collection processes. These kinds of capacity investments could build on the fact that researchers in Indigenous communities have developed scalable and comprehensive protocols for ensuring Tribal support for research and data collection.⁵

Enhanced Tribal data capacities also increase Tribes’ and Tribal organizations’ ability to make informed and effective policy decisions and support their own goals. For example, the Ysleta del Sur Pueblo and Cheyenne River Sioux Tribe used their own survey methods to collect community socioeconomic data for funding applications. The result was more accurate data and increased funding opportunities.⁶

Ensuring appropriate methods of research

Commission hearings and discussion emphasized the importance of incorporating Indigenous knowledges and practices into research and data methodologies, a conclusion

supported by scholarly research.⁷ Such incorporation can improve the accuracy of both data and analysis in scientific studies, evaluations, and assessments and enhance their utility to Tribes and Tribal organizations. Methods developed in and for non-Indigenous contexts often are used in Indigenous communities without sufficient attention to contextual or cultural differences, discouraging participation and candor, misdirecting the focus of the investigation, or in other ways risking unreliable conclusions, especially in pursuit of model fidelity or evidence-based practice.⁸

Along similar lines, witness testimony before the Commission reiterated the long-standing call (by AIAN social and natural scientists, Tribal leaders, and managers of social services programs in Native communities, among others) for Federal funding agencies to replace their sole focus on evidence-based practices with consideration of practice-based evidence. Efforts to introduce practices based on evidence from non-Indigenous communities into Indigenous communities often ignores local traditional knowledges and experiences. By contrast, introducing approaches borne of practice-based evidence can ground prevention, intervention, and care in community-based values, needs, and lifeways while also supporting desired outcomes—and thus should be considered as valid as evidence-based practice and equally eligible for Federal funding when such standards are required.

The Family First Prevention and Services Act (FFPSA) offers an example of the problems that persist in the absence of a broader commitment to practice-based evidence. FFPSA implementation regulation features a list of practices, which it ranks (in declining order) as “well-supported,” “supported,” “promising,” and “not supported” based on its criteria. Only one Native-specific practice is identified as a “promising practice,” which makes it eligible for reimbursement under Social Security Act Title IV-E; five other Native practices are listed as “not supported” and are therefore ineligible for Federal funding, despite evidence that, in Native communities at least, these practices are effective.⁹ While Congress and HHS have responded to the apparent bias in this list by allowing “direct IV-E” Tribes to use alternative approaches in their FFPSA-supported work, Tribes and Tribal organizations have argued that the regulations remain too restrictive and that HHS should act to support wider use of practice-based evidence in FFPSA implementation.¹⁰

Nonetheless, any response to the call for increased use of practice-based evidence that relies on such an incremental approach misses a more fundamental point. AIANNH

communities' underlying concern with evidence-based practice is epistemological: the concept emerges from an understanding of the world that is completely at odds with how many Indigenous people know it. As Professor Joseph Gone elaborates:

The contrast of evidence-based practice and the Lakota *heyoka* tradition hinges on the fact that ESTs [empirically supported treatments] are designed to express nomothetic knowledge—i.e., forms of understanding that are general across cases and applicable to individuals only in probabilistic terms—while Lakota ritual healing practices convey idiographic knowledge—i.e., forms of understanding that are distinctive to a given case and applicable only to a unique individual-in support of patient benefit. Thus, an EST such as Cognitive-Behavioral Treatment might be recommended for any patient who meets the diagnostic criteria for Major Depressive Disorder, whereas a prescription to catch, address, and release a fish might never have been (and may well never be again) recommended to any other patient besides the young man whose psychologist consulted Joseph Eagle Elk on his behalf. With specific regard to this Lakota doctoring case, then, the question arises: Could there even be an evidence-based form of this traditional Lakota healing practice?¹¹

To move toward practice-based evidence isn't to "accommodate" a different set of "promising but not yet empirically validated ideas." It is to conduct research in a completely different way—still empirically, but embedded in relationships and place, not abstracted from them.

Addressing issues of sample size

An additional concern lies in how Native people are counted, and how they are discounted. When the sample size is too small, AIAN becomes an asterisk,¹² and Native Hawaiians sometimes are combined with Other Pacific Islanders and/or Asians even though they differ in culture, language, political status, and relationship to the Hawaiian Islands.¹³ In either case, important disaggregated information becomes unavailable, and American Indian, Alaska Native, and Native Hawaiian populations are effectively erased. Greater attention to the inclusion of these populations in longitudinal studies also is needed; the data can provide important opportunities for understanding transformative community change. Adequate representation can be addressed with community engagement and through techniques such as oversampling,

but many researchers may not know why or how to make these efforts.

Overall, the dismissal of American Indian, Alaska Native, and Native Hawaiian data (and of individual Tribes' information) as too limited to list or study results in a situation where there is far too little information available that accurately describes the populations. Such information is critical not only to implementation of the Commission's report but to increasing the health and wellbeing of Native communities more generally.

The centralized Office, outlined above, dedicated to data, evaluation, and research issues involving American Indian, Alaska Native, and Native Hawaiian populations, is intended by the Commission to provide the necessary coordination to address these various considerations for improving the Federal government's data infrastructure to respect and benefit Indigenous people.

Notes

- 1 | J. D. Lopez, (2020), Indigenous data collection: Addressing limitations in Native American samples, *Journal of College Student Development*, 61(6), 750-764, <https://doi.org/10.1353/csd.2020.0073>; K. L. Rhodes, A. Echo-Hawk, J. P. Lewis, V. L. Cresci, D. E. Satter, & D. A. Dillard, (2023), Centering data sovereignty, Tribal values, and practices for equity in American Indian and Alaska Native public health systems, *Public Health Reports*, epub ahead of print, <https://doi.org/10.1177/00333549231199477>.
- 2 | K. L. Rhodes et al., (2023).
- 3 | S. C. Rainie, T. Kukutai, M. Walter, O. L. Figueroa-Rodríguez, J. Walker, & P. Axelsson, (2019), Indigenous data sovereignty, in T. Davies, S. B. Walker, M. Rubinstein, & F. Perini (eds.), *The state of open data: Histories and horizons*, African Minds & the International Development Research Centre, www.stateofopendata.od4d.net.
- 4 | S. R. Carroll, I. Garba, O. L. Figueroa-Rodríguez, J. Holbrook, R. Lovett, S. Materechera, M. Parsons, K. Raseroka, D. Rodriguez-Lonebear, R. Rowe, R. Sara, J. D. Walker, J. Anderson, & M. Hudson, (2020), The CARE principles for Indigenous data governance, *Data Science Journal*, 19(1), Article 43, <https://doi.org/10.5334/dsj-2020-043>.
- 5 | C. Pearson, (2023, January 13), *Research ethics training for health in Indigenous communities* [Testimony] Virtual Hearing on Research and Data Collection, Alyce Spotted Bear and Walter Soboleff Commission on Native Children; I. Garba, R. Sterling, R. Plevel, W. Carson, F. M. Cordova-Marks, J. Cummins, C. Curley, D. David-Chavez, A. Fernandez, D. Hiraldo, V. Hiratsuka, M. Hudson, M. B. Jäger, L. Jennings, A. Martinez, J. Yracheta, N. A. Garrison, & S. R. Carroll, (2023), *Indigenous Peoples and research: Self-determination in research governance*, *Frontiers in Research Methods and Analytics*, 8, Article 1272318, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10685893/>.
- 6 | S. C. Rainie, J. L. Schultz, E. Briggs, P. Riggs, & N. L. Palmanteer-Holder, (2017), Data as a strategic resource: Self-determination, governance, and the data challenge for Indigenous nations in the United States, *International Indigenous Policy Journal*, 8(2), Article 1, <https://doi.org/10.18584/iipj.2017.8.2.1>.
- 7 | J. D. Lopez, (2020), Indigenous data collection: Addressing limitations in Native American samples, *Journal of College Student Development*, 61(6), 750-764, <https://doi.org/10.1353/csd.2020.0073>.

- 8 | In general, see L. T. Smith, (2021), *Decolonizing methodologies: Research and Indigenous Peoples* (3rd edition), Bloomsbury. For more specific applied discussions see, for example: K. L. Braun, C. V. Browne, L. S. Ka'opua, B. J. Kim, & N. Mokuau, (2014), Research on Indigenous elders: From positivistic to decolonizing methodologies, *The Gerontologist*, 54(1), 117-126, <https://doi.org/10.1093/geront/gnt067>; and, J. Luke, E. Verbunt, A. Zhang, M. Bamblett, G. Johnson, C. Salamone, D. Thomas, S. Eades, L. Gubhaju, M. Kelaher, & A. Jones, (2022), Questioning the ethics of evidence-based practice for Indigenous health and social settings in Australia, *BMJ Global Health*, 7(6), Article e009167, <https://doi.org/10.1136/bmjgh-2022-009167>.
- 9 | Practice-based evidence also ensures greater Native community ownership, which is another factor in program success; see D. B. Kenyon, T. R. McMahon, A. Simonson, C. Green-Maximo, A. Schwab, M. Huff, & R. E. Sieving, (2019), My journey: Development and practice-based evidence of a culturally attuned teen pregnancy prevention for Native youth, *International Journal of Environmental Research and Public Health*, 16(3), Article 470, <https://doi.org/10.3390/ijerph16030470>.
- 10 | Administration for Children and Families, (2022), Annual Tribal consultation session report 2021, U.S. Department of Health and Human Services, https://www.acf.hhs.gov/sites/default/files/documents/ana/2021%20ACF%20Annual%20Tribal%20Consultation%20Report%20Final_0.pdf. FFPSA specifically exempted Tribes and Tribal organizations from the Evidence-Based Practice requirement for prevention reimbursement, but only when Tribes are direct IV-E. While ACF issued a memo allowing for some adaptations in Native communities that work through State IV-E reimbursement programs, these have not resulted in significant flexibility as to the evidence-based practice requirement, which is the Tribes' concern at the consultation documented here. One narrow solution would be for ACF to issue an automatic waiver when Tribes and Tribal organizations under IV-E agreements with the states seek to offer culturally appropriate prevention services that are not on the Evidence-Based Practice List. Such a waiver reflects the intent of the legislation and allows Tribes and Tribal organizations to implement prevention activities that will be meaningful to their communities.
- 11 | J. P. Gone, (2016), Alternative knowledges and the future of community psychology: Provocations from an American Indian healing tradition, *Journal of Community Psychology*, 58(3/4), 319, <https://doi.org/10.1002/ajcp.12046>.
- 12 | S. Dewees & B. Marks, (2017), *Twice invisible: Understanding rural Native America*, First Nations Development Institute, [https://www.usetinc.org/wp-content/uploads/bvenuti/WWS/2017/May 2017/May 8/Twice Invisible - Research Note.pdf](https://www.usetinc.org/wp-content/uploads/bvenuti/WWS/2017/May%202017/May%202017/May%202017/Twice%20Invisible%20-%20Research%20Note.pdf).
- 13 | R. Delafield, L. Watkins-Victorino, J. J. Quint, S. M. Freitas, M. Kamaka, C. Hostetter, C. E. Matagi, T. Ku, & J. K. Kaholokula, (2023), No kākou, na kākou—For us, by us: Native Hawaiians and Pacific Islanders informing race data collection standards for Hawai'i, *Hawai'i Journal of Health and Social Welfare*, 82(10 Suppl 1), 73-76, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10612412/>.

