

Hello my name is Anita Fineday, I am a licensed attorney by trade. I served as the Chief Judge for my tribe for 14 years and as the Managing Attorney for the Native American program in national child welfare foundation for 11 years. I currently serve as the Managing Attorney for the law department for a tribe in Minnesota.

I had the honor of serving on the Alyce Spotted Baer and Walter Soboleff Commission on Native Children as one of eleven Commissioners. The Commission began its work in October 2019 After the funding measure was passed by Congress. The Commission held ten regional hearings throughout the United States in order to hear directly from Indian tribes and tribal communities; conducted 25 virtual hearings on specific topics to gain targeted information in areas of particular interest, 26 site visits to urban, rural, and reservation-based programs serving Native children and youth to learn from their efforts. We heard from 298 witnesses overall.

The Commission a wide variety of recommendations on topics including juvenile justice, maternal child health, child welfare, federal funding streams, tribal courts, community based prevention family dependency treatment courts, increasing tribal set asides, creating and expanding mechanisms to integrate and coordinate programs and funding across agencies and departments and expanding the workforce working for tribes and ion Indian Country.

Appreciate President's Budget proposal with:

- Budget increases for mandatory IVB, Tiwahe, BIA child welfare and BIA social services
- Program increases: tribal setaside for CAPTA, new comprehensive Tribal child welfare funding grant, consolidated grant under Chafee/education and training vouchers, and tribal ability to submit prevention proposals under IVB

ACF accomplished with new rules:

- Blanket waiver for FFSPA and other IVE programs so they don't need to be on the list if going through state program and allow for more culturally appropriate services in MIECHV and Tribal Home Visiting (July 30, 2024)
- Ability to use IVE reimbursements for legal representation of Tribes in state ICWA cases (May 10, 2024)
- Kinship defined more broadly for foster care and use new regs that allow for greater flexibility
 - liberal use of waivers
 - apply Fostering Connections Act and new Rule (Sept 2023) to allow non-safety waivers in kinship care
 - apply these rules to all Native homes, not just western-defined kin
- Head Start culture and language implementation/use of Indigenous knowledge for better foundations in Native communities (September 17, 2024)
- HHS collect data on ICWA—AFCARS (glad to see it moving back to 2016 measures), CFSR, IV-B plans, Annual Progress and Service Reviews, and make improvements real.

State IV-B plans have specific requirement for consultation with Tribes and presentation of plan to comply with ICWA. Court Improvement Project funds similarly require meaningful consultation

- HHS assess programs and make achieving benchmarks condition of IV-E or incentive for increased IV-E—measurement without enforcement is status quo (note GAO report from 2005 stating the same) ACF rule allowing for use of IVE funds to subaward to tribes for tribal legal representation in state court ICWA cases

Opportunities that remain to be done:

- Create multi-disciplinary teams that include Tribal Advisory Committee members
- Broader implementation of paraprofessional support and training for ICWA, behavioral health aides etc.
- Recommendations that align with TAC suggestions (check with David)
- Implement HHS provision to transfer funds to DOI for child welfare 25 USC 1933(a) and support more cross -department work
- Tribes be allowed to bill for maintenance, services and admin when a case transfers to tribal court from state court so tribes don't need to refuse jurisdiction for lack of special services (e.g. foster, kinship, guardianship and adoption assistance, special ed and extended foster care)
- Combine IV-E and IV-B into 477 and self-governance as important components of family stability
- TTA to state courts, social workers, GALS on ICWA requirements, given by Native professionals (consider ICWA specialist certifications, maybe feed into ICWA courts)—in the bill, but opportunities for more effective TTA currently offered

legislative advances:

- Much of the Tribal Family Fairness Act
- More tribal setasides (CAPTA and court improvement)—HB 9076 passed out of House and Senate committees
- Increased funding for tribal courts, including PL280 states

Rec One:

- Focus on IV-E as a much needed expanded resource already in place that can transform tribal social services—streamline without state admin burden, allow for partial IV-E and waive anything beyond federal requirements even if in state plan (e.g. EBP list for FFPSA)—only 14 of 574 tribes operate direct IV-E and six others decided not to do it, though they were approved
- Implement HHS provision to transfer funds to DOI for child welfare 25 USC 1933(a) and support more cross -department work

- Tribes be allowed to bill for maintenance, services and admin when a case transfers to tribal court from state court so tribes don't need to refuse jurisdiction for lack of special services (e.g. foster, kinship, guardianship and adoption assistance, special ed and extended foster care)
- NEXT SLIDE
 - Combine IV-E and IV-B into 477 and self-governance as important components of family stability
 - More funding for Tribal setaside, as formula, non-competitive and especially increase SSBG and CAPTA so that more resources are available to states and tribes
 - Fully fund tribal courts, including in 280 states
 - Create and fund appeals process for tribal courts
 - Pass Tribal Family Fairness Act

USE PORT GAMBLE CASE STUDY (600 TO 60)/EXAMPLE OF RED LAKE NATION USING TIWAHE TO TRANSFORM CHILD WELFARE TO CULTURALLY GROUNDED PROGRAMMING. ALSO SAN DIEGO TRIBES UTILIZING SAN DIEGO COUNTRY FUNDS TO SUPPLEMENT (400 TO 4).

Rec Two: Meet the promise of ICWA - Ensure spirit and letter of ICWA

- Remove barriers to transfer
- TTA to state courts, social workers, GALs on ICWA requirements, given by Native professionals (consider ICWA specialist certifications, maybe feed into ICWA courts)
- HHS collect data on ICWA—AFCARS (glad to see it moving back to 2016 measures), CFSR, IV-B plans, Annual Progress and Service Reviews, and make improvements real. State IV-B plans have specific requirement for consultation with Tribes and presentation of plan to comply with ICWA. Court Improvement Project funds similarly require meaningful consultation
- HHS assess programs and make achieving benchmarks condition of IV-E or incentive for increased IV-E—measurement without enforcement is status quo (note GAO report from 2005 stating the same)
- Enforceable Post Adoption Contact and Culture Agreement when non-Native adoption occurs
- Diligent and documented inquiry before fining not Native
- ACF Manual Q 31 re funding attorneys for tribes and children—rule in motion now. Thank you!
- Joint jurisdiction wellness courts for Tribes and states/counties to work together on Native family cases, connecting them to tribal social services, and expanded use of ICWA courts
- Support for Tribal foster home recruitment

Rec Three: Strengthen advocacy for children and youth

- State court cases: appoint attorney to represent child/youth's wishes and GAL to represent best interests of child

- make condition of IV-E or incentive for increased IV-E
 - Remove attorney requirement for GAL for IV-E reimbursement
- Tribal court cases: appoint attorney to represent child/youth's wishes and GAL to represent best interests of child
 - provide additional funding for this purpose (including IV-E funding to pass to tribe to pay for attorney for child)
 - Remove attorney requirement for GAL for IV-E reimbursement
- Ensure that in both courts, attorneys and GALs are well-informed about:
 - ICWA requirements
 - importance of culture and tribal connection for specific children
 - tribes' political status and children's membership/citizenship
 - effective state/tribal relationship
 - opportunities for advocates who are tribal members and fit neither attorney nor GAL

Rec 4: Follow local community standards for foster placements

- include local standards in licensing rules and regulations
 - include tribes/tribal organizations in setting standards (e.g. Port Gamble getting Washington to include tribe in definition of "Family")
- Employ liberal use of waivers
 - apply Fostering Connections Act and new Rule (Sept 2023) to allow non-safety waivers in kinship care
 - apply these rules to all Native homes, not just kin

Rec 5: Expand family dependency treatment court

- Research demonstrates that therapeutic model such as, healing to wellness, family drug courts, etc. offer better results, especially in cases involving substance abuse
 - more judge involvement
 - better access to treatment
 - more intensive court supervision and cooperation among providers, including tribal and state providers
 - incentive-based encouragement
- Funding needs to be more, formula, larger tribal setaside, and allowing for tribal options such as circle peacemaking
 - not competitive grants and sufficient for meaningful programming
 - ongoing and sustained funding rather than 2, 3 or 5 year grants
 - proven model needs to no longer be pilot project

Rec 6: Redesign federal funding to focus on community-based prevention, not detention for juvenile delinquency

- Revise everything that requires secure detention

- alternate use of detention for treatment and positive prevention
- more funding for out patient, community-based, trauma-informed and culturally relevant approaches that research has proven succeed and are more effective in children and youth
 - treatment and rehab facilities
 - safe homes, shelters, day and evening reporting/drop in centers for non-violent and truant and missing/runaways
 - cultural facilities, sports centers, etc.
- when in federal, state or local custody, coordinate with tribes and tribal organizations to find least restrictive, community-based option—should never put youth in secure detention because there is nowhere else to go
- no status offenses in delinquency court—interrupt the status offense to delinquency corridor
- ensure comprehensive training for all law enforcement and courts, attorneys, probation, etc. to understand research basis for community-based treatment

USE HAWAII AND YUROK CASE STUDIES

Rec 7: In fed, state and local courts, keep track of Native youth and report back to Tribes/tribal organizations

- Identify who is Native and notify appropriate entity (including Native Hawaiian, Alaska Native and American Indian)
- Report back Native communities and guardians at least annually
- Notice in all other cases with opportunity to intervene and provide services
- Utilize model of 18 USC 5032 for tribal children and create comparable model for state court
- This requires coordination among various jurisdictions having responsibility for Native children and youth in delinquency matters

Rec 8: Expand MIEHVE—important to BCES and to address higher rates of teen pregnancy, maternal morbidity and provide better supports to new parents who have experienced multi-generational family disruption from boarding schools, child welfare and juvenile justice removal from home and community

- Add Hawaiian eligibility
- Add funding so that distribution is formula, not competitive and sufficient for meaningful program delivery for all MIECHVE programs—increased setaside to 6% is welcome improvement but not enough—still depends on grant writing skill, and less than 1% of Native children received evidence-based home visiting.
- Expand models to include more Native programs and expand EBP to include program-based evidence—only one Native model approved (and that doesn't mean it would work for all Native communities)

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HUMMINGBIRD CASE STUDY—great model but not MIECHV

Rec 17: Maternal health and nutrition (MIECHV results also mentioned here)

Using culturally tailored approaches to provide:

Healthy messaging

Preconception counseling and diabetes risk prevention

Pre and post partum counseling

Screen for obesity, diabetes and toxins

Provide dietary info, including breast-feeding and family nutrition (breast-feeding in particular as a protective factor has been demonstrated to provide significant long term health benefits)

Screen for alcohol and drug use

Ed on alcohol's effect on fetal development

Rec 18: Multi-generational nutrition, especially to address diabetes

- Address over-consumption of poor quality foods and food insecurity, distance from markets etc.
 - SNAP, school nutrition and other supplemental programs have higher obesity rates
- Return to traditional food (like taro)
- Target healthful eating early in childhood -- Special Diabetes Program for Indians is essential: EAGLE BOOKS CASE STUDY
- Need for better and more data collection on dietary behavior and education/screening for obesity, diabetes and other health condition

Rec 25: Create and expand mechanisms to integrate and consolidate programs and funding across agencies and departments

- Increase total funding to create and maintain more holistic and interdisciplinary braided funding and programmatic streams
- Expand 477 and 638 compacting and self-governance—though increased to 12 from four departments implementation is challenging due to narrow interpretations of Congressional intent
- Create multi-disciplinary teams that include Tribal Advisory Committee members

Rec 26: Create more Tribal setasides to be distributed as formula, not competitive grants

- Commensurate with need

- non-competitive
- even where formula, no burdensome administrative grant requirements

Rec 27: Expand and Strengthen workforce serving Native children and youth: 1) overall quantity; 2) overall quality; 3) increase AIANNH providers in Native communities = cultivate and retain talent

- Increase salaries, benefits and work conditions so that the Native -serving workforce has parity with non-Native and with local salaries and benefits (e.g. IHS versus DOD or VA). Housing is also an issue. Expand applicability of loan forgiveness Rec 15 and 16)
- Expand workforce development programs to increase quantity and quality of Native and non-Native workforce serving Native children and youth across all domains (teachers, health, child welfare, justice)-more and more robust training and fellowships, continuing ed and professional development, connected to a career ladder
 - In particular for health care, expand internships, training programs, stipends, etc. to increase quantity and quality – ANTHC CASE STUDY? Seeing yourself in teachers, health providers, social workers etc. is beneficial to Native children and youth
 - More access and equity for loan repayment for non-Native grads serving Native communities

Rec 29: Create an Office of AIANNH Data, Evaluation and Research for centralized collection and dissemination of information based on data sovereignty and Native community needs and desires

- Ensure that Native communities have increased capacity so they can collect their own data and evaluation info
- Work across departments to gather, consolidate and curate data
 - Often repeat same info to various agencies
 - Requires standardized definitions and metrics and platforms to build data sets
 - Metrics more in line with Native ways of knowing versus GPRA
- Standardize data collection and dissemination so that it is accessible and useful to Native communities and limits duplicative reporting requirements
- Respect Native data sovereignty principles
 - Not subject or object of research
 - CARE principles:
 - Collective benefit—Native people benefit too
 - Authority—right to determine how represented and identified
 - Responsibility—used to support Native goals
 - Ethics—Native rights and wellbeing is paramount
- Expand “evidence-based practice” to include practice based evidence more aligned with Native community needs and experience and other more culturally appropriate research tools and mechanisms—e.g. TANF comments from Carol
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- Support opportunities to link Native data with national data and to ensure that Native children and youth are not asterisks because of low numbers (over sample)
 - Also greater inclusion in longitudinal studies
 - Leverage community engagements