

**JUVENILE JUSTICE IN INDIAN COUNTRY:
CHALLENGES AND PROMISING STRATEGIES**

HEARING

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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JULY 15, 2015
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JUVENILE JUSTICE IN INDIAN COUNTRY: CHALLENGES AND PROMISING STRATEGIES

WEDNESDAY, JULY 15, 2015

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:15 p.m. in room 628, Dirksen Senate Office Building, Hon. John Barrasso, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

The CHAIRMAN. Good afternoon. I call this hearing to order.

Today the Committee will examine juvenile justice in Indian Country: the challenges and promising strategies.

Indian communities are strong and thriving, but face many challenges and issues. I have heard from many tribal leaders and parents from these communities. None of the issues are more important to them than those affecting their children.

One area that has not received enough attention from Congress relates to the Native youth in the justice system. Congress passed the Tribal Law and Order Act of 2010, in part to improve juvenile justice for Indian communities. The Act also established the Indian Law and Order Commission to examine juvenile justice as part of its comprehensive study of law enforcement and criminal justice in Indian Country.

The Commission's final report was issued on November 12, 2013. Among the more troubling findings of that report are those related to juvenile justice. The Commission found that Native American youth are overrepresented in both Federal and State juvenile justice systems and receive harsher sentences than other juveniles.

This finding dovetails with those of the Attorney General's Advisory Committee on American Indian-Alaska Native Children Exposed to Violence Task Force. The Advisory Committee Report, issued in November, 2014, called into question the effectiveness of the juvenile justice systems in which these children may be involved. Both reports indicated that, while in the system, these young people were not receiving the services needed to rehabilitate them or to prevent recidivism. It is incumbent upon both the Administration and Congress to examine the challenges facing these young people.

As Chairman, I made juvenile justice one of my key priorities. I intend to work closely with the Administration and our members

to find the best strategies and solutions to help these young people turn their lives around. Today is a good start.

I welcome the witnesses.

We are apparently going to have seven roll call votes, beginning at 3 o'clock. I hope to get through the entire hearing so everyone has a chance to be heard and members have a chance to ask their questions. That is why I wanted to start before some of the other members have gotten here. When the Vice Chairman arrives, we will hear from him with an opening statement.

I want to thank you all for being here today. I want to remind the witnesses your full testimony will be made a part of the official hearing record. Please keep your statements to five minutes so we may have time for questions. I look forward to hearing your testimony today.

Senator Crapo, I appreciate your giving up your time so that we can hear from our witnesses.

First, we will hear from the Honorable Robert Listenbee, Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Thank you for joining us.

**STATEMENT OF HON. ROBERT L. LISTENBEE,
ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND
DELINQUENCY PREVENTION, U.S. DEPARTMENT OF JUSTICE**

Mr. LISTENBEE. Thank you, Chairman Barrasso and distinguished members of the Committee.

I am grateful for this opportunity to discuss with you the challenges surrounding juvenile justice in Indian Country and the steps that we, at the Department of Justice, are taking to improve our responses to tribal youth.

As Administrator of the Office of Juvenile Justice and Delinquency Prevention within the Department's Office of Justice Programs, I have the privilege of overseeing a host of programs designed to support tribes as they serve their youngest members. I believe, and I know that each of you also believe, tribal youth represent the link between a proud heritage and a promising future for all our Indian Nations.

My office is working diligently to support Native youth, many of whom have faced terrible hardships in their young lives. The work we are doing on their behalf fits squarely within the priorities I have set for my office, making our Nation's juvenile justice system more evidence-based and developmentally-informed, improving compliance with the core requirements of our statutory mission, and reducing out-of-home placement.

Operating in accordance with these goals, I believe we can narrow the front door to the juvenile justice systems and at the same time make our juvenile justice agencies more responsive to the unique needs of our young people.

In my view, juvenile justice reform is an urgent matter. Nowhere is the issue more pressing than in Indian Country. Cases involving Native youth are complicated by a host of challenges, including a bewildering jurisdictional patchwork and absence of tribal juvenile codes to guide justice professionals and a failure of State and Federal systems to account for the cultural needs of youth.

High rates of trauma in Indian Country make matters even worse. The Attorney General's Advisory Committee on American Indian-Alaska Native Children Exposed to Violence found that among Native children who enter juvenile justice systems, the prevalence of trauma symptoms due to violence exposure is estimated at 73 percent to 95 percent.

The needs are great and I am proud that my office and my partners throughout the Office of Justice Programs and the Department of Justice are stepping up to try to meet these challenges. I describe these issues more fully in my written testimony and will now briefly note them.

First, in an effort to mitigate the impact of violence in youth, we are funding demonstration programs at the Rosebud Sioux Tribe in South Dakota and the Chippewa Cree Tribe in Montana that use traditional practices to enhance resilience in children exposed to violence.

Second, we are working to prevent tribal youth from entering the juvenile justice system. Our goal of Mentoring Opportunities for Youth Initiative is to connect substantially more Native youth to positive adult influences. Our Tribal Youth Program supports skill development, education and traditional methods by talking circles to help at-risk youth.

Third, we are providing greater access to culturally-based diversion alternatives. The five tribal healing to wellness courts we fund are using drug court principles to complement traditional approaches to counter underage drinking. Through a public-private partnership with the Annie E. Casey Foundation, we have launched a tribal pilot site as part of the Juvenile Detention Alternatives Initiative.

Fourth, we are collaborating with the Bureau of Indian Affairs to update the Model Indian Juvenile Code. The Code specifically addresses issues affecting Native youth arrested for alcohol and drug-related offenses and reflects Federal legislative updates and the latest developments in the field of juvenile justice.

Finally, we are widening tribal access to our resources. The Department of Justice's Coordinated Tribal Assistance Solicitation, which includes the Tribal Youth Program, offers tribes a more streamlined approach to applying for grants. Over the last five years, the Department has awarded more than 1,100 grants totaling almost \$530 million under this program. The President's budget request for fiscal year 2016 includes a seven percent set-aside from Office of Justice Programs discretionary funds for tribal justice assistance grants.

The set-aside will provide a flexible source of tribally-specific funding that could be used to identify and address the most important criminal and juvenile justice priorities.

Mr. Chairman, I have met many young people in my travels in Indian Country. On July 9, I met even more when, along with Senator Heitkamp and Mr. Cruzan, I had the privilege of participating in the White House's inaugural Tribal Youth Gathering.

These young people have amazed and truly inspired me by their courage and their faith in the future. Many have traveled a hard road and sometimes that road has led to trouble, but I believe, with few exceptions, that they have much to offer to their families, to

their communities and to this Nation. I am committed to doing my part to help them realize their promise.

I appreciate the opportunity to appear before you today. I am prepared to answer any questions you have.

[The prepared statement of Mr. Listenbee follows:]

PREPARED STATEMENT OF HON. ROBERT L. LISTENBEE, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPARTMENT OF JUSTICE

Chairman Barrasso, Vice Chairman Tester and other distinguished members of the committee, thank you for this opportunity to discuss juvenile justice in Indian Country. As Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) at the Department of Justice's Office of Justice Programs (OJP), I oversee programs that provide direct assistance and services to American Indian and Alaska Native tribes. We work closely with tribal elders, tribal leaders and youth, and tribal organizations to develop programs that are grounded in Native culture and practice.

Introduction

As you are aware, this past year OJJDP celebrated the 40th anniversary of the legislation that established our Office—the Juvenile Justice and Delinquency Prevention Act (JJDP). Our mission is to provide national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization. Our goal is that if youth do come into contact with the juvenile justice system, that contact should be rare, fair, and beneficial to them.

Together, OJJDP and its federal, state, local and tribal partners have made significant progress in these areas during the last 40 years. For instance, the U.S. violent crime arrest rate for youth is at the lowest point since at least the 1980s, and we have seen a marked nationwide decline in the population of youth in residential placement overall, including the number of youth in residential placement for committing status offenses, like violating curfew and truancy violations. But we all know there is still much work to be done, particularly within tribes.

One of my priorities as OJJDP Administrator has been reforming juvenile justice to make it smarter—more intuitive, more responsive, and more evidence-based. In 2013, at the direction of OJJDP, the National Academy of Sciences released a groundbreaking report on advances in neuroscience research as they relate to juvenile justice reform. Our agency is already using this information to lead reform efforts.

Another priority, and a goal that I believe we all share, is reducing out-of-home placement. Quite simply, the best way to prevent kids from going deep into the system is to keep them out of the system in the first place. Research shows—and we've seen firsthand—that troubled youth often have better outcomes when they receive targeted, appropriate, community-based treatment and services. This is especially true for tribal youth.¹ We know that tribal culture and tribal family connections play an essential role in working successfully with tribal youth in the juvenile justice system. Narrowing the “front door” to the juvenile justice system is one of the most important ways we can continue to improve outcomes for all youth. We need to provide the right services to the right kids at the right time to keep them out of the juvenile justice system. There is no such thing as a one-size-fits-all solution. This also means that we need to take a closer look at how young people and their families are treated no matter how they come into contact with our system.

Challenges

We need juvenile justice reform throughout the nation, including in cases involving tribal youth. As the Committee is aware, tribal communities face unique challenges and pressures.

The first challenge is the dangerously high exposure to violence and the ensuing trauma for tribal youth. Violence, including assaults, homicide, and suicide, accounts for 75 percent of deaths of tribal youth ages 12 to 20.² These serious adversi-

¹ Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence. (November 2014): *Ending Violence So Children Can Thrive*. http://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2015/03/23/ending_violence_so_children_can_thrive.pdf

² Dolores Subia BigFoot et al., “Cultural Issues in Historical Trauma and Implications for Youth at Risk,” National Child Traumatic Stress Network and Indian Country Child Trauma

ties often lead to chronic and severe trauma. Tribal youth are two and a half times more likely to experience trauma from exposure to violence than their non-tribal peers. A recent report noted that tribal children and youth experience posttraumatic stress disorder (PTSD) at a rate of 22 percent, the same rate as veterans returning from Iraq and Afghanistan, and triple the rate of the general population.³

Compounding these high rates of violence in tribal communities is historical trauma, which is a cumulative emotional and psychological wounding over the life span and across generations. The Attorney General's National Task Force on Children Exposed to Violence found that the degree of violence in tribal communities is related to historical trauma and the impact of policies and practices that have proved devastating to tribal communities.

The Task Force found that children who are traumatized by exposure to violence are at greater risk for substance abuse, school failure and involvement in the juvenile and criminal justice systems. Of tribal children who enter the juvenile justice system, the prevalence of trauma symptoms due to violence exposure is estimated at 73 to 95 percent.⁴

When tribal youth do enter the juvenile justice system, they are often exposed to a host of other problems. Depending upon where a delinquent act takes place, the race of the victim,⁵ the seriousness of the act, and whether PL-280 or a similar-styled law applies, one or more of three systems—tribal, state or federal—could have jurisdiction.

Many tribal communities have no juvenile code, and too many tribes have copied their codes from nontribal entities which do not reflect their own tribal values and beliefs. Some tribes show an over-reliance on detention, even for status offenders—including children held for truancy or curfew violations.

Even states with significant populations of tribal children and youth sometimes fail to communicate with the tribes. Neither states nor the federal government are required to notify the tribe or involve the tribe in juvenile justice proceedings involving one of their children.

Tribal youth prosecuted in the federal system may spend more time in secure confinement than tribal youth prosecuted in the state systems—sometimes by several years.⁶ Federal sentences are usually longer than state sentences for identical crimes.⁷ Furthermore, tribal youth prosecuted in the federal system (despite being a relatively small number of the total number prosecuted federally) are placed where there is bed space contracted by the Bureau of Prisons, which may mean that they are not close to their families and loved ones.

A related challenge is that tribal youth in juvenile delinquency systems are at times not exposed to programming or education that take into account tribal culture or familial bonds. Juvenile justice systems may use practices, such as those that do not take into account historical trauma that may have worked for non-tribal youth but do not necessarily apply for tribal youth. There is always a need for tribal-based, culturally specific alternatives to detention for tribal children.

Another challenge is related to available resources. Over time, the OJP appropriation for dedicated Tribal Justice Assistance dropped from \$75 million in FY 2010 to \$35 million in FY 2015 and the funding for tribal juvenile justice declined from \$25 million in FY 2010 to \$5 million in FY 2015. There is a critical need for resources, including: increased health services, behavioral health services, substance abuse treatment, indigent defense, and an array of diversion services to keep tribal youth in their communities as opposed to being placed out of home. In addition, the availability of other supportive and preventive services, including tribal specific mentoring programs, are important to address at-risk and high-risk youth but these are also lacking.

Responding to the Challenges

As I emphasized in my November 2014 testimony before this Committee, the Department of Justice, OJP and OJJDP are all fully committed to partnering with

Center: 19 (2007), available at: <http://www.isu.edu/irh/projects/ysp/downloads/CulturalIssuesinHistoricalTrauma.pdf>

³Deters, P. B., Novins, D. K., Fickenscher, A., & Beals, J. (2006). Trauma and posttraumatic stress disorder symptomatology: Patterns among American Indian and Alaska Native adolescents in substance abuse treatment. *American Journal of Orthopsychiatry*, 76(3), 335–345.

⁴Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence. (November 2014): *Ending Violence So Children Can Thrive*.http://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2015/03/23/ending_violence_so_children_can_thrive.pdf

⁵Id.

⁶Id.

⁷Id.

tribal governments to build a better future for all young people and to improve public safety in tribal communities. A key part of this effort was the creation of the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence.⁸ The Task Force consisted of two components:

- An Advisory Committee, composed of non-federal subject matter experts, that: (1) gathered information from public hearings, written testimony, site visits, listening sessions, and current research; and (2) used this information to draft a report to the Attorney General that included recommendations to effectively address children's exposure to violence in Indian Country.⁹
- A Federal Working Group, composed of federal officials from key agencies including the Departments of Justice and Interior and Health and Human Services who had experience with issues affecting tribal communities. This working group was positioned to take immediate steps to implement policy and programmatic changes for the benefit of tribal children exposed to violence.

The Advisory Committee, Co-Chaired by Senator Byron L. Dorgan and Ms. Joanne Shenandoah, held hearings in four locations (Bismarck, ND; Phoenix, AZ; Fort Lauderdale, FL; and Anchorage, AK) and six listening sessions nationwide which brought together national, regional, and local experts, solicited personal testimony, and provided a forum for discussion on the effects of exposure to violence and promising prevention and intervention strategies and programs.¹⁰

The Task Force is just one example of our efforts to address the trauma and victimization of tribal youth, which has a strong correlation to these youth entering the juvenile justice system. As a part of the Attorney General's Defending Childhood Initiative, OJJDP funded two sites that are tribally-directed and sensitive to tribal traditions and culture. The Rosebud Sioux Tribe in South Dakota delivers trauma-informed services, rooted in Lakota values that address educational, justice system, and health-care needs. The Chippewa Cree Tribe at the Rocky Boy reservation in Montana is involving elders and youth from throughout the community in the design of prevention and treatment programs that rely on traditional health and healing methods. These are promising approaches derived from tribal customs that are aimed at enhancing resilience in affected children, and they represent some of the exciting work already being done to support tribal children. Last year leaders from both tribes participated in a three-day training on indigenous treatment for trauma offered by the National Native Child Trauma Center.

We also work closely with OJP's Office for Victims of Crime (OVC) which supports a number of programs serving tribal youth. Each year OVC provides \$3 million to the Children's Justice Act (CJA) Partnerships for Indian Communities Grant Program. The funding supports the development and implementation of comprehensive programs for abused children, and procedures to address child abuse cases in tribal courts and child protection service systems. OVC is also working with the Flandreau Indian School, a Bureau of Indian Education boarding school in South Dakota, to provide specialized mental health services to students identified as victims. To date, OVC has provided over \$1 million to support this 5-year demonstration project to establish a culturally appropriate, trauma-informed system of care for students who come to school with histories of long-term exposure to violence, trauma, and victimization.

And most recently, OVC began providing funding to the Montana Board of Crime Control to implement the Vision 21: Linking Systems of Care for Children and Youth Program. This 6-year program will enable Montana to conduct tribal and non-tribal community listening sessions and then bring together all of the systems that serve youth—from health to education to juvenile justice—to establish a streamlined approach to identify young victims and connect them to the services and resources they need to heal and thrive.

OJP's National Institute of Justice (NIJ), in partnership with OJJDP and OVC, is funding a 30-month study intended to improve the health and well-being of tribal youth who may have been exposed to violence and victimization. The study will de-

⁸Task Force on American Indian and Alaska Native Children Exposed to Violence website: <http://www.justice.gov/defendingchildhood/task-force-american-indian-and-alaska-native-children-exposed-violence>

⁹It is noteworthy that while given their charge by the Attorney General, the Advisory Committee felt strongly that the problems facing American Indian and Alaska Native children are so significant that only concerted action by the Executive branch agencies and Congress would begin to address them. Accordingly, they chose to address their recommendations to entities beyond the Department of Justice.

¹⁰American Indian and Alaska Native Children Exposed to Violence Hearing Testimony: <http://www.justice.gov/defendingchildhood/task-force-hearings>

velop and test a survey instrument and different administration modes that can effectively assess exposure to violence and victimization and determine the feasibility of using these procedures in tribal communities and settings.

As I noted at the beginning, we must work to prevent youth from entering the juvenile justice system in the first place. One way to do this is through enhancing mentoring programs. Our FY 2015 Mentoring Opportunities for Youth Initiative requires National mentoring program applicants to target mentoring services and programs to tribal youth both on and off reservations. We are giving priority consideration to Multi-State program applicants—especially those that work with tribes—that do the same. Our goal is to substantially increase the number of tribal youth that receive mentoring services from OJJDP funds over the next 18 months. We will also expand the services provided by the OJJDP National Mentoring Resource Center for tribal mentoring programs.

Through our Tribal Youth Program (TYP), we support initiatives targeting at-risk youth in a way that is directed to their specific needs. For example, the Cherokee Nation is using our funds for an in-home intervention program targeting tribal youth ages 5–17 who reside in Adair County, OK and their families. Youth are identified by the school through their low or declining school attendance. The program then provides intensive, individualized, in-home skill building and educational services to these youth and families. Through this effort the tribe keeps the youth in their home community as productive, contributing citizens.

The Lac Courte Oreilles Band of Lake Superior Chippewa (LCO) uses TYP funds for its Comprehensive Truancy Prevention Project. The research based, integrated curriculum targets character development and essential skills development for youth and parents or parenting figures. These systematic, step-by-step curricula alter how students think, improve their decisionmaking, and promote actions and behaviors focused on changing negative relationships.

TYP is also one of our efforts to help tribes improve their juvenile justice systems. For example, the Kenaitze Indian Tribe uses indigenous principles and culturally relevant practices to help tribal youth in the Central Kenai Peninsula. The project's coordinators conduct intake interviews and risk assessments for youth involved in the juvenile justice system, and also educate youth and adults on the principles and practices of the traditional Talking Circle approach to addressing difficulties and discussing important matters. The program diverts youth who might otherwise end up in district court.

Another example of our work on juvenile justice reform is our support of Tribal Healing to Wellness Courts, which respond to alcohol-related issues of tribal youth who are younger than 21. A Tribal Healing to Wellness Court is not simply a tribal criminal or family court that orders individuals to treatment. Rather, it is an innovative and collaborative legal process that adapts the drug court concept and its key components to meet the need of referred youth in a manner that respects and includes tribal traditions. Under this initiative, participating courts are developing or enhancing policy, procedure, assessment tools, or service models that address underage drinking. A second component of the initiative will deliver training and technical assistance to the participating tribal courts. All programming is based on the 10 Key Components of an effective Tribal Healing to Wellness Courts, modeled after policies developed by the National Association of Drug Court Professionals. Current funding supports five tribes—Yurok Tribe (CA), Lac Du Flambeau Tribe of Lake Superior Chippewa Indians (WI), Southern Ute Indian Tribe (CO), White Earth Nation (MN), Winnebago Tribe of Nebraska (NE)—and a training and technical assistance provider. We will expand the program in Fiscal Year 2015 to support additional tribes.

In addition, OJJDP initiated a public-private partnership with the Annie E. Casey Foundation to expand the Juvenile Detention Alternatives Initiative (JDAI) to additional sites throughout Indian Country, including a pilot tribal site. The Department began work with the Mississippi Band of Choctaw Indians to juvenile justice system reform work in 2013. Since this time, Tribal elders and council members have participated in targeted training, and the availability of technical assistance is supporting the development of a local collaborative to lead their work in enhancing data collection, program development and court improvements.

Through our Tribal Youth Program Training and Technical Assistance Center, teams of specialists are available across Indian Country to support interventions for court-involved youth, improvements to the juvenile justice system. The Center also conducts strategic planning meetings; a National Conference; site visits; peer-learning; teleconferences; webinars; and e-mail consultations. Recently the Center developed a Community of Practice to assist tribes that are developing or revising their juvenile codes and is hosting a webinar series on cultural adaptations to evidence-based programs.

OJJDP is working with the Bureau of Indian Affairs to update the Model Indian Juvenile Code, which assists federally recognized tribes in creating individual codes focused on juvenile matters. The Code specifically addresses issues affecting tribal youth arrested for alcohol and/or drug-related offenses in Indian Country. The updated Code will reflect key changes in the field of juvenile justice, including the enactment of the Tribal Law and Order Act and the Patient Protection and Affordable Care Act.

CTAS and the 7 Percent Set-Aside

Starting in Fiscal Year 2010, TYP became part of the Department's Coordinated Tribal Assistance Solicitation (CTAS) which offers tribes a more streamlined, comprehensive grant process. CTAS gives tribes the flexibility needed to better address their criminal justice, juvenile justice and public safety needs. Since Fiscal Year 2010, the Department awarded over 1,100 CTAS grants totaling almost \$530 million to American Indian tribes, Alaska Native villages, tribal consortia and tribal designees. The grants address nine purpose areas including public safety; community policing; justice systems planning; alcohol abuse; substance abuse; corrections and correctional alternatives; violence against women; juvenile justice; and crime victims' programs.

Our commitment to improving juvenile justice in Indian Country and tribal public safety and criminal justice is clear in the FY 2016 President's Budget for the Department of Justice. The budget includes a 7 percent set-aside from OJP's discretionary funds for grant or reimbursement programs for flexible tribal justice assistance grants. The set-aside, estimated at \$114.4 million, will provide a consistent source of significant, tribal-specific grant funding that can be distributed through a flexible tribal assistance grants model based on the lessons learned from CTAS. It will also allow OJP increased flexibility in awarding funds and streamlining reporting requirements. The funding provided by the set-aside will enable the tribes to focus on identifying their most important criminal and juvenile justice priorities and developing innovative, evidence-based responses to address these priorities.

Closing Statement

On July 9, I had the privilege of participating in the White House's inaugural Tribal Youth Gathering, which was convened in collaboration with the United National Indian Tribal Youth (UNITY) and the Departments of Justice and Health and Human Services. The Youth Gathering brought together over 850 tribal youth for a day-long convening to discuss issues that directly impact them, including cultural protection and revitalization, education, behavioral health and wellness, climate change and natural resources, tribal justice, and economic opportunity. Many of these youth have faced terrible hardships in their childhood, and their communities have suffered through the conditions we are discussing today. Despite these challenges, these young people have become leaders and are working to create a brighter future not only for tribal youth, but for youth across the entire nation. Meeting these young people inspired me, as I am sure it did all of the adults at the Gathering. They show that working together, the problems we are discussing are not insurmountable.

Mr. Chairman, we must match the dedication our tribal young people have demonstrated. We are committed to working with tribes, Members of Congress, and our partner agencies within the Department of Justice and throughout federal and state governments, to strengthen the juvenile justice system's efforts to protect public safety, hold young offenders appropriately accountable and provide services that address the needs of youth and their families. I appreciate the opportunity to appear before you today, and I am prepared to respond to any questions you may have.

The CHAIRMAN. Thank you, Mr. Listenbee. We appreciate your comments.

Next, we have Mr. Darren Cruzan, Director, Office of Justice Services, Bureau of Indian Affairs, U.S. Department of Interior. Thank you for being with us today.

STATEMENT OF DARREN CRUZAN, DIRECTOR, OFFICE OF JUSTICE SERVICES, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. CRUZAN. Senator, thank you.

I think there has been a great deal of research and studies done citing that simply incarcerating juveniles is not helpful. In fact, I think there are a lot of studies that point to the fact that it is more harmful than helpful.

Tribes have been telling us this for a long time. Fortunately, the Federal Government is beginning to listen and to partner with local programs to help the tribes address these issues. They have talked about it for a long time and it is very encouraging to have our Federal partners as part of the solution with our tribal partners.

No one disputes the fact that Indian Country has a higher drug and alcohol abuse problem. The youth are seeing violence way more frequently than off the reservation. I think as critical as it is for us to be having this conversation about juvenile justice, I think equal focus should be given to healthy communities, healthy families and healthy communities to support these kids.

I know we are short on time. I know my testimony will be entered in the record, so I will stop right there.

[The prepared statement of Mr. Cruzan follows:]

PREPARED STATEMENT OF DARREN CRUZAN, DIRECTOR, OFFICE OF JUSTICE SERVICES, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon, Chairman Barrasso, Vice Chairman Tester, and members of the Committee. Thank you for the opportunity to provide a statement on behalf of the Department of the Interior (Department), Bureau of Indian Affairs (BIA). The BIA recognizes the tremendous challenge for juveniles in Indian Country and agrees with the Indian Law and Order Commission report, *A Roadmap for Making Native America Safer* ("Report") which finds that Native children are among the most vulnerable groups of children in the United States, with more than a quarter of these children living in poverty compared to 13 percent of the general population.

Native children are exposed to violence at extremely high levels, and are at a greater risk of experiencing trauma compared to their non-Native peers. According to the U.S. Department of Justice's (DOJ) Defending Childhood Initiative, exposure to violence causes major disruptions of basic cognitive, emotional and brain functioning that are essential for optimal development and thus if exposure to violence goes untreated, these children are at a significantly greater risk than their peers for aggressive, disruptive behaviors; school failure; and alcohol and drug abuse.

In light of these significant challenges facing our Native youth, the BIA has recognized that the conventional juvenile justice approach of simply incarcerating juveniles is not effective and may, in fact, increase delinquency rates. The BIA has incorporated the research found in the report by the U.S. National Library of Medicine-Adolescent Brain Development and Drugs which finds that adolescent brains develop later in life than previously thought, further emphasizing that the effectiveness of incarceration has limited success. Thus, BIA urges policy makers to transition toward less punitive models of juvenile justice. The BIA also encourages juvenile systems to offer solution-focused alternatives to incarceration and more restorative approaches and early intervention options for juveniles within Indian Country.

Taking the view that incarceration does more harm than good, the BIA has begun a staged approach to address youth alcohol, drug abuse and safety by focusing on alternatives to incarceration for the juvenile population, such as: providing funding and training that is focused on the implementation of innovative service models that include traditional healing options. Such options include talking circles for truant juveniles; recovery resource and wellness centers to address alcohol and substance abuse challenges, and systematic, comprehensive assessments of need, risk and responsibility specific to each individual juvenile involved in the system. These efforts will be combined with emphasizing the importance of utilizing automated case management systems to track progress and allow for more effective communication be-

tween service disciplines in the community that all move toward creating a first-ever juvenile justice common data platform.

The BIA also conducts Tribal Court Assessments which have been modified to evaluate the challenges and successes of juvenile justice systems in Indian Country. For example, Juvenile Wellness Courts include options for effective drug and alcohol treatment programs as well as bringing in traditional practices, such as “traditional talking circles” which have been effective in combating truancy in some tribal courts. In one instance, a “traditional talking circle” program was created specifically for juveniles who were adjudicated truant by the tribal court. Within a year, the “traditional talking circle” program addressed traumatic issues facing those juveniles and graduated five (5) young Native women from high school, who otherwise would not have completed their high school education.

In one particular boarding school, a promising Juvenile Justice System practice will be implemented by the BIA in 2016, in conjunction with school leadership. This new process is based on the concept of Partnership for Alternative Student Success (PASS). The partnership includes the juvenile’s traditional customs applied by the Governor of the child’s Pueblo, combined with the specialized services provided by the boarding school. The focus is to create a juvenile justice system which incorporates diversion or alternatives to incarceration that include traditional practices. Based on the 2014 school year, the school indicates that the recidivism rate has been reduced by 50 percent as a result of this early intervention approach, otherwise known as PASS program. The BIA expects to fully implement this new justice system in 2016.

The BIA agrees with colleagues at the Department of Justice that juvenile incarceration should be rare, fair and beneficial. In certain rare circumstances, incarceration is appropriate. The 2009 Recovery Act Correction Facilities on Tribal Lands Program provided a means to support the cultural traditions of rehabilitation of the incarcerated juvenile. One such juvenile rehabilitative center, is a 36-bed Youth Wellness and Renewal and Juvenile Detention Center (Center) which offers structured care for tribal youth law violators and their families with special emphasis on the youth. This facility provides adjudicated youth contemporary schooling and services as well as tribal disciplinary practices addressing all aspects of the Lakota culture to restore cultural, societal, kinship values and healthy families. This facility provides a sweat lodge and garden area. This Center is funded by the Bureau of Indian Affairs and was awarded a four-year OJJDP Tribal Juvenile Detention and Re-Entry Green Demonstration Grant, which has been successful. The grant provided valuable aspects of the juvenile wellness court such as an on-sight clinical psychologist and a highly effective educational program in which the Center and the local Community College developed and implemented environmentally green technologies that provided education and training opportunities for juveniles to create organic gardens, bee keeping, biodiesel fuels and renewable energy in solar and wind energy. Of the two tribal courts that were a part of the OJJDP Green Demonstration Grant, both provided alternative means for juveniles to become a part of the community and both were very effective. Unfortunately, both grants have expired and the courts do not presently have a funding option.

Finally, the BIA in conjunction with OJJDP, has begun to create a comprehensive Model Juvenile Code designed to incorporate assessments which identify needs and provide services and solutions to address those needs by working with HHS and incorporating all types of services available. The hope is to create options for tribes to incorporate much needed services including specialized traditional remedies which address issues affecting Native youth juveniles in crisis. In 2015, the BIA will present a discussion Juvenile Model Code Draft aimed at creating options for a successful juvenile justice system and formal consultation with tribes is scheduled for 2016.

Again, thank you for the opportunity to provide a statement. I am happy to answer any questions the Committee may have.

The CHAIRMAN. Thank you so much for your participation. We look forward to the questioning.

Our next witness is Ms. Addie C. Rolnick, Associate Professor, William S. Boyd School of Law, University of Nevada, Las Vegas, Nevada. Thank you so much for joining us. We look forward to your testimony.

**STATEMENT OF ADDIE C. ROLNICK, ASSOCIATE PROFESSOR,
WILLIAM S. BOYD SCHOOL OF LAW, UNIVERSITY OF NEVADA**

Ms. ROLNICK. Thank you, Mr. Chairman, Senator Tester and Senator Crapo. Thank you for inviting me here to address the Committee about this issue which, as you said, is really important but does not get nearly enough attention.

I have pretty long remarks in the record, so I will try to limit it to a general overview here.

It is clear that the current system is failing Native youth. There is widespread agreement about that and in particular, about three key ideas.

The first is that Native youth are especially vulnerable. On almost every measure of the risk factors for delinquency, Native youth score very highly. They are disproportionately affected by poverty, poor educational outcomes, poor health outcomes and perhaps most worrisome, exposure to violence and trauma whether it is in the form of domestic violence, physical abuse or sexual abuse. They outscore all other youth almost in every factor. They are particularly vulnerable.

The second idea is that incarceration does more harm than good. This is true across the board but particularly true for Native youth who are especially vulnerable and have experienced trauma. Incarcerating young people is expensive. It is not especially effective and can actually cause harm. This means that incarceration should be the last possible option, not a central feature in a well functioning juvenile justice system.

Unfortunately, under the current arrangement, as we have heard, Native youth face some of the harshest sanctions for their risk behavior, even though they come into contact with the system for low level offenses and alcohol and substance abuse-related offenses more often than violent offenses. They end up with the harshest sanctions, are more likely to get incarcerated, more likely to be charged as adults and more likely to be removed from the home. Again, it is good that there is a consensus that this needs to change as well.

The third idea is that the sort of tangled web of jurisdiction in which Federal, State and tribal courts all might have power over any particular case is something that is undermining tribal efforts to reform their systems. It is making it worse for the kids in them.

There are three types of action that need to happen. First, take more kids out of Federal and State authority and put them under tribal authority. Second, increase the accountability of Federal and State juvenile systems and juvenile justice officials towards tribal communities and Native youth. Third, support tribes by providing stable, flexible and reliable financial resources, particularly resources that focus away from incarceration to alternatives and treatment.

I have a whole range of recommendations in the written testimony but I want to focus on three here that would actually require congressional action.

First is an amendment to the Federal Juvenile Delinquency Act. Right now, youth cannot be charged as juvenile delinquents under Federal law unless the Federal prosecutor goes to the State govern-

ment first and gets a waiver of jurisdiction. Only then do they go to Federal court.

This does not apply to tribes in the same way. Federal prosecutors can prosecute kids whether or not a tribe has prosecuted them and whether the tribe wants them to. This could be amended to require a deference to tribal jurisdiction so that the tribe would be able to waive jurisdiction if they want a kid prosecuted in Federal court but if they do not, then they would be able to prosecute them tribally.

Second would be amendment to the Juvenile Justice and Delinquency Prevention Act, the main authorizing statute for funding of State delinquency programs. It is also the place where Federal policy is passed on to the States. Tribes do not really appear in that. It could be amended to add tribes to authorize funding to tribal governments and to encourage States to be more responsive to tribes in setting their funding needs and their policies.

Third is to consider legislation that requires States, where Native children are under State jurisdiction, to defer to tribal jurisdiction. Where a case arises in Indian Country, the same thing could happen at the State level. State prosecutors could have to give tribal prosecutors the option before they proceed against the kids in State court. It could also be something that happens for youth under State jurisdiction outside of Indian Country. This is parallel to the Indian Child Welfare Act basically allowing for notice and intervention rights and possibly transfer rights for all Native you affiliate with a tribe that come into the State justice system.

Those are just sort of the three key ideas. The sort of overall point is more tribal control, less incarceration, more healing and empowering tribes to do that.

Thank you again for inviting me. I am happy to answer any questions about any specifics.

[The prepared statement of Ms. Rolnick follows:]

PREPARED STATEMENT OF ADDIE C. ROLNICK, ASSOCIATE PROFESSOR, WILLIAM S. BOYD SCHOOL OF LAW, UNIVERSITY OF NEVADA

Good afternoon, Chairman Barrasso, Vice Chairman Tester, and Members of the Committee. Thank you for providing me the opportunity to testify today about the challenges to improving juvenile justice in Indian country and promising strategies for doing so. My name is Addie Rolnick. I am a law professor at the University of Nevada, Las Vegas. I have been engaged in research, advocacy, and institution building to improve juvenile justice in Indian country, and for Native youth elsewhere, for over a decade.

My testimony today is based primarily on a 2008 policy paper that I co-authored with Neelum Arya of the Campaign for Youth Justice, *A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Juvenile Justice Systems*, and a forthcoming article I have written which will be published in the N.Y.U. Journal of Legislation and Public Policy in 2016, *Untangling the Web: Juvenile Justice in Indian Country*. I also draw on the findings and recommendations outlined in two recent special reports: the Indian Law and Order Commission's 2013 report, *A Roadmap for Making Native America Safer*, and the 2014 report of the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, *Ending Violence so Children Can Thrive*.

Today I would like to share with you my perspectives on ways to improve juvenile justice in Indian country. From my research, I believe there is broad agreement on three over-arching themes, and I will address each one. First, American Indian and Alaska Native youth are vulnerable and overpunished under the current system. Second, juvenile justice policy experts largely agree that incarceration should be the intervention of last resort. Third, the overlapping authority of tribal, federal, and state governments makes it difficult to establish a consistent approach, which tends

to undermine the authority of tribal governments and does not serve youth. I would like to spend my time describing each of these themes in more detail and providing specific recommendations for how Congress can act to improve juvenile justice in Indian country.

I. Native Youth Are Vulnerable and Over-Punished

Compared to other groups and compared to the general youth population, American Indian and Alaska Native youth¹ are at great risk in almost every area identified as a risk factor for involvement in the juvenile justice system. They are poorer.² Many live in communities with few social safety net services.³ They are likely to face physical⁴ and mental⁵ health problems. They are more likely to drop out of school⁶ and less likely to attain higher education.⁷ They are likely to struggle with drug and alcohol use.⁸ They are likely to contemplate and commit suicide.⁹ They are likely to be abused¹⁰ or to be victims of violent crime.¹¹

Both the Commission report and the Attorney General's Advisory Committee Report emphasize the alarming rates at which Native youth are exposed to violence (including being victims of abuse, witnessing domestic violence, and being exposed to violence in their communities), placing them at a greater risk of involvement in the juvenile justice system.¹² The reports link the present trauma with the impact

¹The data sources relied upon in this testimony may vary in who is included in the population of Native youth. Where census data is used, some counts include only people who identify as American Indian or Alaska Native only, while others also include those who identify as American Indian or Alaska Native in combination with another race. Statistics on Native people as a racial group (including most that compare Native outcomes with those of other groups) include people who live on and off reservations. This population is much larger than the Indian country population; according to the 2010 census, only about one third of American Indian and Alaska Native people on reservations. Nationwide data may also obscure important differences between youth from different tribes, reservations, and states, and youth under the jurisdiction of tribal, federal, and state governments. As described in my testimony, further research on specific sub-populations is an important piece of improvement efforts.

²In 2007–2011, the AIAN-only poverty rate was 27 percent, compared to 14.3 percent of the total population and 11.6 percent of whites. Suzanne Macartney, Alemayehu Bishaw, and Kayla Fontenot, *Poverty Rates for Selected Detailed Race and Hispanic Groups by State and Place: 2007–2011* (February 2013): ACSBR/11–17.

³Neelum Arya & Addie C. Rolnick, *A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems* (Campaign for Youth Justice 2008), 14.

⁴*A Tangled Web*, 4.

⁵*A Tangled Web*, 5; Indian Law and Order Commission, *A Roadmap for Making Native American Safer: Report to the President & Congress of the United States* (2013), 151.

⁶In the 2011–12 school year, 68 percent of AIAN students graduated, compared to 81 percent of the total population. U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), *NCES Common Core of Data State Dropout and Graduation Rate Data File, School Year 2011–12, Preliminary Version 1a*: <http://nces.ed.gov/ipeds/data/ipedsedr/tables/AFGR0812.asp>. In 2012, 21.2 percent of AIAN-only people over the age of 25 lacked a high school diploma/GED, compared with 13.6 percent of the total over-25 population. U.S. Census Bureau, *2012 American Community Survey*: http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12_1YR/S0201/popgroup006.

⁷In 2012, 13.5 percent of AIAN-only people over the age of 25 had a bachelor's degree, compared to 29.1 percent of the general population. U.S. Census Bureau, *2012 American Community Survey*: http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12_1YR/S0201/popgroup006.

⁸In 2012, AIAN-only people over the age of 12 experienced the highest rate of substance abuse, at 21.8 percent. SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2012. Table 5.5B.

⁹Compared to the general population, those served by the Indian Health Service are 60 percent more likely to die of suicide. <http://www.ihs.gov/newsroom/factsheets/disparities/>. Using 2011 statistics for people younger than 25 years, the AIAN suicide rate was 13.06/100k, which was more than double the white rate (6.11/100k), almost quadruple the black rate (3.31/100k), and more than quadruple the Asian rate (2.85/100k). Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, WISQARS dataset.

¹⁰In 2012, the rate of child abuse among AIAN-only victims was 12.4/k, compared to 8.0/k for white victims. This document is based on reports from state child protective services, and does not include child abuse cases handled exclusively by tribal child protective services, so it is understated. United States Children's Bureau, *Child Maltreatment 2012* (2013), available at <http://www.acf.hhs.gov/programs/cb/resource/child-maltreatment-2012>.

¹¹In 2012, the violent victimization rate for American Indians and Alaska Natives was 46.9/k. This was 1.37 times the black rate (34.2/k), 1.86 times the white rate (25.2/k), and 2.86 times the API rate (16.4/k). Criminal Victimization, 2012, by Jennifer Truman, Ph.D., Lynn Langton, Ph.D., and Michael Planty, Ph.D., Bureau of Justice Statistics. October 2013, NCJ 243389. Table 7 (excluding those who identify as mixed race).

¹²Roadmap, 151–153; Attorney General's Advisory Committee on American Indian/Alaska Native Youth Exposed to Violence, *Ending Violence So Children Can Thrive* (2014), 37–39.

of historical traumas experienced by Native communities, which included forced removal from homelands, targeted killing, wars, disease outbreaks, brutal boarding schools designed to forcibly disconnect Native children from their cultures, and family ties broken or damaged through adoption and relocation.¹³ While more research is clearly needed on Native youth, especially research that identifies differences in sub-populations, the picture based on the available data is clear: Native youth are extremely vulnerable.

The flip side of their high risk factors is that Native youth disproportionately experience the harshest sanctions for their misbehavior. They are over-represented in foster care,¹⁴ in arrests for alcohol and drug offenses,¹⁵ in out of home delinquency placements,¹⁶ in secure detention,¹⁷ and among youth prosecuted in the adult criminal system.¹⁸ Both reports highlight this contrast between the incredible vulnerability of Native youth and the overly harsh sanctions they are subjected to once they enter the legal system.¹⁹ As the Advisory Committee found, the widespread use of incarceration for children with such high rates of trauma is “another of infliction of violence on these children.”²⁰

II. Incarceration Should Be a Last Resort

The Law and Order Commission and the Attorney General’s Advisory Committee each recommended that incarceration should be used only as a last resort.²¹ These recommendations reflect the widespread recognition among juvenile justice policymakers that “a growing body of research demonstrates that the current system of intensive oversight and placement of youth in large prison-like facilities has, at best, only a modest positive effect on recidivism, and can actually have negative effects, while therapeutic programs focused on youth development have very positive effects, even for youth who commit serious offenses.”²² Juvenile justice policymakers have presented the State of Missouri, which replaced all of its training schools and large incarceration facilities with smaller, regional therapeutic facilities, as a model for improving juvenile justice.²³ Other states have reduced their populations of incarcerated youth by diverting non-dangerous offenders out of the system entirely.²⁴ Of the ten guiding principles identified by the Youth Transition Funders Group, six refer directly to the idea that youth should be diverted out of the legal system where possible and, for those in the system, smaller, community-based rehabilitation and treatment programs are preferable to massive, faraway institutions.²⁵ A 2011 report by the Annie E. Casey Foundation presents a compelling case that incarceration is a bad policy for juvenile offenders because it is ineffective, unnecessary, and dangerous. According to the report, incarceration has little or no public safety benefit, wastes money, harms youth, and does not reduce recidivism.²⁶

While incarceration should be a last resort for all youth, it is an especially bad fit for Native youth. Incarceration should not be used as a remedy for delinquency caused by trauma. The Commission Report describes the current incarceration-based juvenile justice system in Indian country as “compromis[ing] traumatized, vulnerable young lives, ruptur[ing] Native families, and weaken[ing] Tribal communities.”²⁷ Instead of a focus on incarceration, the juvenile justice system in Indian country should focus on meeting the needs of offenders with trauma, mental health, and substance abuse issues. It should incorporate trauma and mental health screening and services, as well as alcohol and drug treatment services. Acknowledging historical trauma and its impact on family and child well being, it should strive to keep youth connected to their families and communities wherever possible, rather than sending youth to faraway states or non-Native systems. It should avoid the military-style discipline that was a hallmark of assimilative boarding schools and is espe-

¹³ *Roadmap*, 149; *Ending Violence*, 39–40, 111.

¹⁴ National Indian Child Welfare Association and The Pew Charitable Trusts, *Time for Reform: A Matter of Justice for American Indian and Alaskan Native Children* (2007), 5.

¹⁵ *A Tangled Web*, 8.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Roadmap*, 166; *Ending Violence*, 110–113.

²⁰ *Ending Violence*, 112.

²¹ *Roadmap*, 149.

²² MacArthur Foundation, *Models for Change. Because Kids Are Different: Five Opportunities for Reforming the Juvenile Justice System* (2014).

²³ Richard A. Mendel, *The Missouri Model* (Annie E. Casey Foundation 2010)

²⁴ *Id.* at 5.

²⁵ Youth Transition Funders Group, *Juvenile Justice Reform: A Blueprint* (2012), at 15.

²⁶ Annie E. Casey Foundation, *No Place for Kids: The Case for Reducing Juvenile Incarceration* (2011).

²⁷ *Roadmap*, 159.

cially damaging to youth who have experienced abuse and trauma. It should employ incarceration as the last possible option and only when it is required for public safety. Given the infrequent occurrence of serious violent crimes among Native youth, some tribal communities may not need to use it at all.

III. The Tangled Web of Jurisdiction Hurts Native Youth

Many Native youth who commit offenses within Indian country are prosecuted by outside governments, without regard to the preferences of the tribal government. As the Law and Order Commission found, “[d]ata show that Federal and State juvenile justice systems take Indian children, who are the least well, and make them the most incarcerated. When they do incarcerate them, it is often far from their homes, diminishing prospects for positive contacts with their communities. Furthermore, conditions of detention often contribute to the very trauma that American Indian and Alaska Native children experience.”²⁸

Youth prosecuted federally encounter a system that was not designed for Native people or for juveniles. The Federal Government exercises jurisdiction under the Federal Juvenile Delinquency Act.²⁹ This jurisdiction extends to juveniles whose acts would have been covered by either the Major Crimes Act³⁰ or the Indian Country Crimes Act³¹ if they were adults. Tribes have concurrent jurisdiction over the same juveniles, but federal law does not require prosecutors to defer to tribes. Non-Native youth are rarely prosecuted in the federal system because federal juvenile jurisdiction is an option of last resort for when juveniles who violate federal laws cannot be turned over to state juvenile justice systems. Indian country juveniles, on the other hand, are prosecuted federally for offenses that would be handled by state juvenile courts if they occurred elsewhere.

The federal system, however, does not have separate juvenile court as states and tribes do.³² When young offenders face federal prosecution, they are pulled into a criminal justice system that is staffed by personnel who do not specialize in juvenile justice and processed under laws written with adult criminals in mind. Youth in the federal system are prosecuted by U.S. Attorneys and placed in the custody of the Bureau of Prisons. Because most of the offenders handled by these two agencies are adults, the agency-level policy is focused primarily on adult offenders, and the officials are more likely to have expertise in adult crime and adult detention. The Office of the U.S. Attorney does not have a juvenile division; juvenile prosecutions are supervised by the Organized Crime and Gang Section of the Criminal Division.³³ The Bureau of Prisons does not have a juvenile division, nor does it have any designated juvenile facilities; juveniles are instead housed in rented beds in state, local, and private facilities through corrections contracts.³⁴ Youth prosecuted in the federal system spend more time locked up because federal sentences are longer and the federal system does not include diversion, parole, and other services.³⁵

Native youth come under state jurisdiction for two reasons. First, some state governments have jurisdiction over Indian country under Public Law 280 and similar laws.³⁶ These states are not required to consult with tribal governments on any matter related to Indian country law enforcement, even though the tribes generally have concurrent jurisdiction over juvenile offenders. Although some states voluntarily communicate with tribes today, they have historically chosen not to do so. Tribes in these states are not usually invited to the table when the states make

²⁸ *Roadmap*, 166–167.

²⁹ 18 U.S.C. §§ 5031–5042.

³⁰ 18 U.S.C. § 1152.

³¹ 18 U.S.C. § 1153.

³² See, e.g., William Adams and Julie Samuels, *Tribal Youth in the Federal Justice System* (Urban Institute: Justice Policy Center, 2011), vi (“There is no federal juvenile justice system, and juveniles account for a very small proportion of all federal prosecutions handled by U.S. Attorneys across the country.”); U.S. Dep’t of Justice, Bureau of Justice Statistics, *Juvenile Delinquents in the Federal Criminal Justice System* (1997) (“Unlike State-level criminal justice systems, the Federal system does not have a separate juvenile justice component.”).

³³ U.S. Attorney’s Manual, Title 9, Section 8.001.

³⁴ *Tribal Youth in the Federal System*, 8–9; see http://www.bop.gov/business/ccc_contracting.jsp. Although the Bureau of Prisons website contemplates contracts with tribal facilities as well, no tribal facilities are listed in the agency’s list of contract facilities. Contract facilities are often far from a young person’s home community. See *Roadmap*, 155, 160; *Ending Violence*, 120.

³⁵ *A Tangled Web*, 24–26; *Roadmap*, 155, 160; *Ending Violence*, 120.

³⁶ Act of Aug. 15, 1963, 67 Stat. 588, codified as amended at 18 U.S.C. § 1162, 25 U.S.C. §§ 1321–1326. Although Public Law 280 is the major statute granting states juvenile delinquency jurisdiction over Indian country, some tribes are subject to state jurisdiction as a result of specific legislation, such as the laws implementing land claims settlements for many tribes in New England.

large-scale juvenile justice policy decisions or determine how the state's financial resources will be allocated. Moreover, tribal officials who wish to be involved in particular cases may not be permitted to intervene.

Second, Native youth who commit offenses outside Indian country are prosecuted in state court. While this hearing is concerning with juvenile justice in Indian country, it is important to note that more than half of all American Indian and Alaska Native youth live outside Indian country and are subject to state jurisdiction for offenses committed there. Unlike in the child welfare context, where states are required to involve tribes when a tribal child comes into state court, no federal law requires states to consult with tribes at all in delinquency cases involving Native youth.³⁷ With very few exceptions, state laws do not include special procedures or interventions for American Indian and Alaska Native youth. This means that tribes have little control over or input into what happens to Native youth under state jurisdiction.

Where Native youth are subject to state jurisdiction, they are at least part of a system designed specifically for juveniles, as all states administer a separate juvenile system. However, the experiences of Native youth are determined by state policy, which is not usually formulated with Native youth in mind. This approach has not led to positive outcomes for Native youth. In many states, including Alaska, Minnesota, Montana, Oklahoma, North Dakota, South Dakota, Washington, and Wisconsin, there is evidence that American Indian and Alaska Native youth are less likely than other youth to be diverted out of the system, more likely to be incarcerated, and more likely to be transferred to adult court.³⁸

For these reasons, the Indian Law and Order Commission recommended removing Native children from federal and state jurisdiction whenever possible with the goal of "releasing Tribes from dysfunctional Federal and State controls and empowering them to provide locally accountable, culturally informed self-government."³⁹

IV. Recommendations

There are many factors that influence a government's choices about how to address juvenile delinquency in a community. Juvenile justice systems serve the twin needs of community protection/accountability and treatment/rehabilitation of youth. The first factor to consider, then, is what kinds of offenses the youth in that community are committing, and what experiences contribute to their delinquency. While this answer will vary among communities, available data suggests that most Native youth come into contact with the system after committing non-violent offenses and drug- and alcohol-related offenses.⁴⁰ Likewise, the pervasive influence of personal and historical trauma in the lives of Native youth highlights the importance of a system built around trauma-informed care.

Another important factor is the traditional beliefs of that community regarding justice and childrearing. Tribal justice systems that incorporate tribal culture and tradition tend to be more focused on restorative justice, community well being and treatment and healing, and less focused on adversarial process and individualized punishment.⁴¹ In addition to culturally specific beliefs about justice, a tribal system might also be guided by culturally specific beliefs about youth. For many tribes, these include beliefs about the importance of respect and guidance for youth who have gotten into trouble.⁴² All of these factors suggest that, given the freedom to design a juvenile justice system appropriate for their community, many tribal governments would choose one that emphasized treatment, traditional approaches, and community-based intervention over incarceration and punishment.

A third factor that may influence community choices is the resources that are already available and the existence of other policy priorities. Tribal communities will differ widely in this regard, but many rural reservations lack access to the kind of

³⁷The Indian Child Welfare Act does not apply to delinquency proceedings, but it does apply to juveniles charged with status offenses in state courts who are facing placement outside the home. This requirement, however, is under-enforced. See Coalition for Juvenile Justice & Tribal Law and Policy Institute, *American Indian/Alaska Native Youth & Status Offense Disparities: A Call for Tribal Initiatives, Coordination & Federal Funding* (2015), 5.

³⁸See *A Tangled Web*, 21–24.

³⁹*Roadmap*, 159.

⁴⁰In 2013, only about a quarter of the youth held in tribal or BIA facilities were being held for violent offenses. U.S. Dep't of Justice, Bureau of Justice Statistics, *Jails in Indian Country*, 2013. From 2000–2006 the top five offenses for which Native youth were arrested nationally were larceny, liquor law violations, disorderly conduct, running away, and drug abuse violation. *A Tangled Web*, 8–9.

⁴¹Ada Pecos Melton, *Indigenous Justice Systems and Tribal Society* (American Indian Development Associates YEAR): http://www.aidainc.net/Publications/ij_systems.htm

⁴²Addie C. Rolnick, *Developing a Juvenile Justice System in the Native Village of Barrow, Alaska* (unpublished M.A. thesis, 2007).

extensive community-based services that non-tribal jurisdictions may rely on for early intervention and diversion programming, such as Boys and Girls Clubs, scouting organizations, and church groups. Similarly, many tribal communities are underserved by mental health professionals, so they may not have counselors, psychologists, psychiatrists, outpatient treatment programs, or hospitals equipped to serve young people. Because these ancillary services may not exist in tribal communities, it is especially important for tribes to be able to invest in youth development, mental health, and treatment programs as part of their effort to create a responsive juvenile justice system. Similarly, tribal governments with a wide range of financial needs may wish to avoid overly expensive measures for addressing delinquency, such as building secure detention facilities. For tribes, jurisdictional realities present an additional complication. Whether a tribe's efforts to address delinquency are respected by federal and/or state authorities and whether the tribe believes those authorities are providing effective services will likely influence how the tribe chooses to invest its resources.

While the outcome of this calculus will be different for each tribal community, a tribally driven process is important. A tribe should be able to assess the needs of its youth, the risk to community members, available resources, and areas of need, and design a system to meet those needs. A system designed with Native youth in mind and reflective of tribal traditions would likely focus less on expensive incarceration facilities and more on early intervention, treatment and care than the current system does. However, tribal control is important regardless of whether the tribe's policy choices reflect the current trend away from incarceration and toward treatment: policy choices that come from inside are more easily changed than policy choices imposed from outside, and the tribal government is accountable to the community (including the youth), who can help ensure than an ineffective system will be changed.

Once the tribal government has set the direction for its system, it should be able to partner with other governments to supplement these efforts. Most Native youth should be prosecuted in tribal systems, with federal and state jurisdiction supplementing, rather than supplanting, tribal authority. Grant and formula funding should be plentiful and flexible enough to assist tribes in building a system that meets community needs.

The current system works very differently. Federal and state authority may take primacy over tribal authority. Many youth end up under federal or state jurisdiction even though they would be better served by remaining in the tribal system. Tribes' decisions about what how to address juvenile delinquency are cabined by limited funding and overly restrictive rules on how that money can be used, rules that often reflect non-Native policy choices. As a result, the juvenile justice system in Indian country is heavily skewed toward incarceration. There are more than 30 tribal or BIA juvenile facilities, but there were less than 200 young people incarcerated in those facilities in 2013; that is one facility for every seven youth.⁴³ By contrast, tribes struggle to find funding to create and sustain early intervention programs and detention alternatives. Some of the young people locked in these facilities probably do not need to be there, but they are incarcerated because of a lack of alternatives and the pressure to fill the facilities once they are opened.

Congress can help repair this broken system by (1) increasing tribal authority over American Indian and Alaska Native youth who commit delinquent offenses and (2) supporting tribes' efforts to build systems that reflect community needs, paying special attention to the need to invest in treatment and alternatives to incarceration. The following are specific recommendations for how to do this.

A. *Reserve Federal Prosecution for Exceptional Circumstances by Amending the Federal Juvenile Delinquency Act to Treat Tribes Like States*

Amending federal law to recalibrate the balance of power between tribes and outside authorities is an important part of any reform effort. While it may be impracticable to remove federal and state jurisdiction from the equation entirely, federal law should include a legal requirement of deference to tribal jurisdiction, giving each tribe maximum freedom to design and control a juvenile justice system that meets the needs of its youth.

For tribes subject to federal jurisdiction, the solution is remarkably simple: the Federal Juvenile Delinquency Act (FJDA) should be amended to require federal prosecutors to obtain a waiver of tribal jurisdiction before prosecuting a juvenile for

⁴³It is difficult to obtain an exact count for the number of facilities or the number of youth incarcerated in them. This estimate is based on the Department of Justice's *Jails in Indian Country* data with additional information obtained from the Association on American Indian Affairs.

an Indian country offense. Under the procedure set forth under current law, a juvenile may not be proceeded against in federal court until the Attorney General certifies that the state lacks or is unwilling to take jurisdiction over the case, the state does not have adequate programs or services for the juvenile in question, the juvenile has committed a serious violent offense or a drug offense, or there is a substantial federal interest involved.⁴⁴ Despite the strong preference for state jurisdiction, the law does not require the Attorney General to defer to tribal jurisdiction.⁴⁵ Instead, the certification requirement is met in Indian country cases by a certification that the state lacks jurisdiction over the offender because the offenses occurred in Indian country.

Amending the FJDA to require a waiver of tribal jurisdiction is the simplest way to ensure that Native youth are prosecuted in federal court only when the tribe consents. The Law and Order Commission report recommended more far-reaching changes, such as allowing tribes to opt out of federal jurisdiction entirely.⁴⁶ Amending the FJDA would accomplish the same result, but it would preserve federal jurisdiction in cases where a tribe wished to waive its jurisdiction in favor of federal prosecution. It would also bring the FJDA in line with many other legal regimes in which tribes are treated the same as states.

B. Require States with Jurisdiction Over Indian Country to Defer to Tribal Prosecution

For tribes subject to state jurisdiction, a clean legislative solution is harder to identify. Tribes in Public Law 280 states are now able request that the federal government reassume jurisdiction.⁴⁷ However, many tribes remain under state jurisdiction pursuant to Public Law 280 and pursuant to other laws. In order to ensure state/tribal cooperation in those areas where state/tribal concurrent jurisdiction continues, state governments with jurisdiction over Indian country should be required to defer to tribal prosecution unless the tribe waives jurisdiction and asks the state to proceed. Congress should consider amending Public Law 280 and/or passing independent legislation to require deference to tribal juvenile jurisdiction for all cases arising in Indian country (further discussed in Recommendation D).

C. Improve the Treatment of Native Youth in the Federal System

For those youth who do remain in the custody of the Bureau of Prisons, policy changes should be made to encourage transparency and to better meet the unique needs of Native youth. The Bureau should be required to consult with Tribes to formulate policies specific to Native youth, to adhere to those policies, and to make information on offenses, outcomes, and policies available to the public. For example, the Bureau might consider contracting with tribal or BIA-run juvenile facilities to house Native youth whenever possible. Existing policies that require youth to be housed as close as possible to their home communities could be more strongly enforced, and additional changes may be considered to support continued contact between the young person and his or her tribal community. Improving community-based options and alternatives to incarceration for all juveniles in the federal system would also benefit Native youth.

One important aspect of this improvement includes review of how Native juveniles are affected by the Federal Sentencing Guidelines. In general, juvenile sentences differ from adult sentences because the decision to incarcerate may be based on a need for rehabilitation or treatment, as opposed to a term-of-years punishment. Juvenile jurisdiction typically ends at age 18 or age 21, so young offenders cannot necessarily be sentenced to long terms of incarceration. Confidentiality rules may also affect how prior juvenile adjudications are counted in terms of criminal history. Careful attention should be paid to how the Federal Sentencing Guidelines are applied to Native juveniles and whether their application leads to negative outcomes (for example, longer incarceration terms). The U.S. Sentencing Commission's Tribal Issues Advisory Group has appointed a subcommittee to study juvenile issues. The recommendations of this subcommittee should inform potential changes to federal law and policy.

⁴⁴ 18 U.S.C. § 5032. There is an exception for offenses that carry a maximum term of six months or less when committed with the special maritime or territorial jurisdiction of the United States.

⁴⁵ *A Tangled Web*, 27.

⁴⁶ *Roadmap*, 159–161, 170–171.

⁴⁷ 18 U.S.C. § 1162(d).

D. Require States to Consult with Tribes Regarding Funding Priorities and Specific Cases Involving Tribal Youth

For Native youth who remain under state jurisdiction, including tribes who remain subject to jurisdictional laws like Public Law 280 and all youth who reside or commit offenses off-reservation, it is critical to ensure that states consider tribes and Native youth at the level of both policy and individual cases. States with jurisdiction over Indian country should be required to create a formal avenue for tribal input and consultation on funding and policy decisions affecting Native youth. This could be accomplished through amendments to the Juvenile Justice and Delinquency Prevention Act (JJJPA). The JJJPA authorizes federal funding for state juvenile justice systems. Through the Act, Congress has long required states to adhere to certain requirements in order to receive funding. Congress could add a requirement that states with Indian country jurisdiction consult with affected tribes.

State juvenile justice officials should also be required to notify, consult with, and defer to tribal officials in individual cases involving youth from that tribe. At minimum, this should apply to cases arising in Indian country. Congress should consider, however, extending the notification requirement to all tribal youth whether or not the cases arise in Indian country. I support the recommendation of the Law and Order Commission and the Attorney General's Advisory Committee that Congress extend the Indian Child Welfare Act to require notification and transfer of juvenile delinquency cases to the child's tribe.⁴⁸ I am aware of only one state, New Mexico, with a state law requiring tribal notification in delinquency proceedings. The National Indian Child Welfare Association and the Association on American Indian Affairs are currently studying the implementation of that law, and their finding should inform any federal notification law.⁴⁹

E. Amend the Juvenile Justice and Delinquency Prevention Act to Permanently Authorize Tribal Juvenile Justice Funding

As the role of tribal juvenile justice systems is strengthened, the resources that now follow Native youth into federal and state systems must be redirected to tribal governments. The JJJPA authorizes federal funding for state juvenile justice systems, including the Juvenile Accountability Block Grant. Current law does not authorize direct funding to tribes. As described earlier, it also does not require states to consult with tribes in determining how to allocate state funding. The JJJPA should be amended to authorize a tribal set-aside, allowing tribes to receive direct block grant funding under the law. While it is unlikely that a tribal set-aside at current funding levels would increase funding to tribes over what is now provided through the Tribal Youth Program, amending the JJJPA would permanently authorize this funding. Like the amendment to the FJDA outlined earlier, adding tribes to the JJJPA would bring this legislation in line with other laws and ensure that tribes are treated as sovereigns.

F. Appoint an Advisory Committee Composed of Individuals with Expertise in Juvenile Justice to Provide Input into BIA, DOJ, and IHS Funding and Policy Guidance

Building effective juvenile justice systems requires resources and expertise in law enforcement, education, rehabilitation, detention, and mental health treatment. Under the current system, funding designated for each of these areas comes from a different federal agency. Within each agency, funding is further divided into accounts to fund different activities. For example, courts and detention are funded through separate accounts within the Bureau of Indian Affairs budget. Funding is not easily reprogrammed between accounts. Moreover, some activities receive recurring funding, but funding for other activities is available only through competitive grants that must be renewed periodically. As a result, a tribe seeking to improve its juvenile justice system must navigate multiple accounts, several federal agencies, and targeted grant opportunities that may change according to shifting agency policy.

This funding structure is a primary reason why incarceration is such a key feature in tribal juvenile justice systems; detention facility funding has been prioritized over funding for alternatives, and it is difficult to reprogram unused detention funding to a non-detention activity. This funding structure must be refashioned so that

⁴⁸ *Roadmap*, 173 (recommending tribal notice, intervention, and transfer rights for cases arising in Indian country and tribal notice and intervention rights for cases arising elsewhere); *Ending Violence*, 122–124 (same).

⁴⁹ See National Indian Child Welfare Association, *Tribal Notification Research Findings Shared with NM Partners and Constituents* (Spring 2015), available at: <http://www.nicwa.org/newsletter/Tribal-Notification-Research-Findings-Sharedwith-NM-Partners.asp>.

tribes receive as much funding as possible in the form of flexible block grants.⁵⁰ The Long Term Plan to Build and Enhance Tribal Justice Systems issued in 2011 by the Department of the Interior and the Department of Justice was an important step in the direction of inter-agency collaboration, but more drastic reform is needed. In addition, any plan that does not also incorporate health, mental health and education services will be of limited help in improving tribal juvenile justice systems. Accomplishing the necessary flexibility across agencies will likely be difficult, and an advisory committee with knowledge of juvenile justice issues could assist in reforming the structure. The advisory committee could also make recommendations regarding technical assistance providers who might be able to better support tribes in their efforts to reduce incarceration.

G. Fund Research to Collect Data on Native Youth in Tribal, Federal, and State Systems

The recommendations here reflect a review of available data on Native youth under tribal, federal, and state jurisdiction, but much remains unknown. There are at least three primary areas of inquiry that require further study.

Facilities and Services. There are approximately 30 juvenile facilities run by tribes or the BIA, but a comprehensive assessment of these facilities, including how they are funded, who is housed in them, and how the facility is run, is lacking. Because little is known about tribal and BIA facilities, it is impossible to test the assumption that Native youth fare better in tribal systems, or to recommend improvements to those systems. Delinquent youth with substance abuse or mental health issues may also be referred to health facilities, and little information is available regarding the kinds of services offered and how effective they are. With regard to youth in federal and state facilities, research is needed to determine where tribal youth are housed and what services they receive.

Youth and offenses characteristics. Building on the research that has been done regarding risk factors and trauma, more research is needed to examine the experiences and backgrounds of Native youth who enter the juvenile justice system, to track the offenses they are charged with and to examine the characteristics of the offenses. Such research could help answer questions about the role of mental health and substance abuse in Native juvenile delinquency, gender differences in offense patterns, and whether Native youth are charged with more severe offenses for behavior that could have been charged less severely. Research that focuses on specific sub-populations, such as Indian country youth or youth charged in the federal system, is especially important.

Best Practices for Native Youth. A primary goal of this hearing is to uncover “promising approaches” for addressing juvenile delinquency among Native youth. Unfortunately, it is nearly impossible to give an evidence-based recommendation about whether any particular program works well for Native youth because these programs have been largely unstudied. Some programs seem promising, such as the Annie E. Casey Foundation’s pilot Tribal Juvenile Detention Alternatives project with the Mississippi Band of Choctaw, the SouthEast Alaska Regional Health Corporation’s Raven’s Way drug and alcohol treatment program, and New Mexico’s tribal notification law. These and other promising programs should be studied to see whether and how they work for Native youth and in Native communities.

V. Conclusion

I thank you again for the opportunity to provide testimony on this important matter. Much remains to be done, but most stakeholders agree on the core ideas: Native youth who become involved in the juvenile justice system are vulnerable. Any system that encounters them should assume they have experienced trauma and strive to give them the protection and treatment they deserve. Tribal governments are trying to create humane and effective juvenile justice systems in which their children will be treated better than they have been at the hands of federal and state governments. Congress should do everything in its power to help tribes do this.

The attachment—policy brief “A tangled Web of Justice” has been retained in the Committee files and can be found at: http://www.campaignforyouthjustice.org/documents/CFYJPB_TangledJustice.pdf.

The CHAIRMAN. Thank you very much, Professor Rolnick. We appreciate your comments.

⁵⁰The Commission and Advisory Committee reports each recommend similar changes to the funding structure for juvenile justice. *Roadmap*, 165; *Ending Violence*, 114–117.

Next, we will hear from Ms. Carla Knapp, National Director of Native Services, Boys and Girls Clubs of America from Ft. Myers, Florida. Thank you for being here today.

**STATEMENT OF CARLA KNAPP, NATIONAL DIRECTOR OF
NATIVE SERVICES, BOYS AND GIRLS CLUB OF AMERICA**

Ms. KNAPP. Good afternoon. Kwey, hello.

As you said, my name is Carla Knapp, the National Director of Native Services for Boys and Girls Club of America.

I am also a tribal member of the Penobscot Indian Nation and the proud mother of two Native children, a 25 year old son in the U.S. Air Force and a five year old daughter. I am extremely honored to be here today, to serve in this role and represent Native youth across the Nation.

In recognition of the extraordinary and unique challenges facing our Native youth and our Native communities, including the enormous barriers that stand in the way of success for Native youth, Boys and Girls Clubs of America chartered its first Club in 1992.

Today, 23 years later, Boys and Girls Clubs in Indian Country is a true success story. We are the Nation's largest Native youth-serving agency, with 179 Native clubs serving some 82,000 youth in 24 States, representing some 90 different American Indian and Alaska Native communities. With much evidence existing pertaining to the impact of Boys and Girls Club experiences, we strive to consistently measure, evaluate and improve the experiences and outcomes achieved by Club members.

Boys and Girls Club of America has established the National Youth Outcome Initiative. This collects comprehensive data on the experiences and outcomes of Boys and Girls Club members in a consistent manner using a common set of research informed indicators and measures.

Following are a few examples I have found related to the impact of the Club experience for Native youth. You will also find more in the written testimony.

In regard to reducing juvenile delinquency, research over time clearly indicates that youth who become involved with delinquency and illegal activities have a high rate of dropping out of high school and concurrently diminishing their future prospects in terms of not continuing their education, achieving a promising career or earning a decent living.

Our findings among teenage Native Club members who participated in Boys and Girls Club national outcome surveys in the spring of 2015 was 91 percent reported never being arrested in the past year.

Other proven result evaluations have shown that public housing communities where Boys and Girls Clubs implement Boys and Girls Clubs of America's Smart Moves Program, there are 13 percent fewer juvenile crimes, 22 percent less drug activity and a 25 percent less crack cocaine presence than similar sites without Boys and Girls Clubs.

As mentioned earlier, Boys and Girls Clubs grew from one solitary Native club in 1992 to 179 clubs serving 82,000 youth today. How can we replicate this success and reach many more youth in need in the immediate years ahead?

Boys and Girls Clubs of America stands ready to partner with those from all sectors who share our passion for making a difference and who wish to join us in harnessing the power and potential of our Native youth for the betterment of our great Nation.

In closing, today in Indian Country, we desperately need additional and dedicated funding to support our Native youth. Today, I have provided testimony that what we do today in our Boys and Girls Clubs works. We need to expand this approach to reach thousands of more children who need us across this great country. I am asking that the Committee be supportive of reinstating the Tribal Youth Program of the OJJDP to its prior funding levels of \$25 million and direct OJP to competitively award those funds to national organizations so that we can reach thousands of children and positively affect our generations ahead.

[The prepared statement of Ms. Knapp follows:]

PREPARED STATEMENT OF CARLA KNAPP, NATIONAL DIRECTOR OF NATIVE SERVICES,
BOYS AND GIRLS CLUBS OF AMERICA

Good Afternoon, Kwey (hello). My name is Carla Knapp and I am a tribal member of the Penobscot Indian Nation, and the proud mother of two beautiful children—a 25-year-old son who is currently serving in the U.S. Air Force, and a 5-year-old daughter.

I have 15 years of experience working with tribal youth through the Boys & Girls Clubs of America. I began my career by establishing a Boys & Girls Club to serve my home tribe, eventually becoming the Chief Professional Officer. Over time I worked to expand Club services to a wider area, partnering with five federally-recognized tribes to reach many more Native youth in need.

In June of 2013 I joined the national staff of Boys & Girls Clubs of America, becoming a Director of Organizational Development for Native Clubs. Last year I became the National Director of Native Services, overseeing our entire network of Clubs serving youth in Indian Country.

I am extremely honored and humbled to serve in this role, and to be here today on behalf of Native youth across the nation.

In recognition of the extraordinary and unique challenges facing Native communities, including the enormous barriers that stand in the way of success for Native youth, Boys & Girls Clubs of America chartered its first Club in Indian Country in 1992.

Today, 23 years later, Boys & Girls Clubs in Indian Country is a true success story—we are the nation's largest Native youth-serving agency, with 179 Native Clubs serving some 82,000 youth in 24 states, representing some 90 different American Indian, Alaska Native and Hawaiian communities.

The Boys & Girls Club legacy in America goes back 155 years, and has always been driven by several fundamental principles. We believe every child in America deserves:

- A safe place to go after school
- A place that is available when they need it the most
- A place that is fun
- A place that is clean and well-maintained, and gives them a sense of belonging and pride
- A place that is affordable regardless of their financial circumstances
- A place where their friends are, and where they can make new friends
- A place with trained, professional staff
- A place that offers life-changing programs
- A place that provides hope and opportunity.

And because we strive to offer these amenities at every Club, we also believe:

- Every child deserves a Boys & Girls Club.

Over the past 23 years, the Boys & Girls Clubs in Indian Country have proven to be a game-changer for Native youth, by helping them overcome the many societal issues and personal obstacles they face in their communities and home environments.

Many national studies have consistently shown that Native Americans suffer disproportionately, compared with other groups in the United States, from diseases and death connected to alcoholism, drugs and substance abuse.

Furthermore, the persistent issues of unemployment, poverty, physical and sexual abuse and a host of other risk factors existing in Indian Country, have created a climate where suicide, alcoholism and drug abuse amongst tribal youth is continually perpetuated.

There are many statistics that paint a grim and alarming portrait of the well-being of Native youth in America today. Because time is limited, I will offer just two:

1. In 2012, 36 percent of American Indian/Alaska Native children lived in poverty, compared with 13 percent of white children and 22 percent of all children. In the same year, 64 percent of Native children lived in low-income families, compared with 32 percent of white children and 45 percent of all children.¹
2. Among Native youth ages 15 to 24, suicide is the second leading cause of death. Native teens experience the highest rates of suicide of any population in the country.²

These two facts alone provide a sober assessment of the circumstances that face our Native young people growing up in America today. In our written testimony, which all of you have received, we include many more statistics, all of which speak dramatically to the need for more resources and commitment to addressing the needs of Native youth in America.

Our Clubs offer an antidote to these challenges, by attracting and guiding young people with core programs in five areas:

- **Education and Career Development**, which teaches basic educational disciplines and technology, and supplements the role of the school;
- **Character and Leadership Development**, which emphasizes interpersonal relationship-building, self-image and contribution to the community;
- **Health and Life Skills**, which encourages goal-setting and self-sufficiency;
- **The Arts**, which nurture creativity, cultural awareness and appreciation for the arts in all forms; and
- **Sports and Recreation**, which develop physical and social skills, enhance stress management and appreciation for the environment.

These programs are available to youth in grades K through and 12 and are administered by caring adults who greet the children with smiles and encouragement every day.

While much empirical and anecdotal evidence exists pertaining to the impact of the Boys & Girls Club experience, we strive to constantly measure, evaluate and improve the experiences and outcomes achieved by Club members.

One of the key indicators we have used over time has been a series of surveys, originated by well-known researchers **Lou Harris & Associates**, gauging the ultimate impact of the Club experience. In the last survey, implemented in 2007, **57 percent of former members said the Club “saved my life.”** Upon further probing, many said they meant this literally.

So we know from this testimony, and from many objective studies conducted over the last decade, that how kids spend their out-of-school time exerts a huge influence on staying in school, avoiding encounters with the law, and going on to successful futures as contributing citizens and leaders. We believe, given the circumstances in which they live, that this truth applies even more tenderly to young people on Indian Lands.

During the past five years, in our efforts to increase accountability and pursue continuous improvement, Boys & Girls Clubs of America has made a major commitment to the measurement and evaluation of program effectiveness and impact. BGCA established the **National Youth Outcomes Initiative**, which collects comprehensive data on the experiences and outcomes of Boys & Girls Club members in a consistent manner, using a common set of research-informed indicators and measures.

¹ Institute of Education Sciences, http://nces.ed.gov/programs/coe/indicator_cce.asp and National Center for Children in Poverty, <http://www.nccp.org/publications/images/0-18-2014fig6.png>

² U.S. Department of Health and Human Services, Office of Minority Health, <http://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlID=39>

Following are a few examples of what we have found related to the impact of the Club experience on Native youth.

1. Reducing Youth Delinquency

Research over time clearly indicates that youth who become involved with delinquency and illegal activities have a high rate of dropping out of high school, and concurrently, diminish their future prospects, in terms of not continuing their education, achieving a promising career path, or earning a decent living.

Our findings: Among teen-aged Native Club members who participated in BGCA's National Outcomes Survey in spring 2015, **91 percent reported never being arrested** in the past year.

Another Proven Results:

Evaluations have shown that public housing communities with Boys & Girls Clubs that implemented SMART Moves experienced 13 percent fewer juvenile crimes, 22 percent less drug activity, and 25 percent less crack cocaine presence than similar sites without Boys & Girls Clubs.³ Another study of parent involvement in SMART Moves found that regular parent involvement in SMART Moves activities increased youths' ability to refuse alcohol and marijuana beyond that of programs without a parental component.

2. Societal Costs Associated with Negative Youth Outcomes

- In the U.S., state correctional facilities spend an average of \$408 per day—and an average of \$149,000 per year—to incarcerate one juvenile.⁴

—Every 10 youth Boys & Girls Clubs divert from incarceration, could save as much as **\$1.5 Million**.

- Over a lifetime, the medical costs associated with childhood obesity total about \$19,000 more per child than those for a child of normal weight.⁵

—Every 100 youth Boys & Girls Clubs help develop habits that enable them to maintain a healthy weight, could save as much as \$1.9 million in lifetime medical costs.

—According to the Centers for Disease Control and Prevention, 31 percent of Native Youth are obese, a rate 177 percent higher than that of the general population. Whereas only 30 percent of all U.S. youth get physical exercise every day, Boys & Girls Clubs' outcome data reports **60 percent** of Native Club youth exercise 5 or more days per week.

Another Proven Result:

Over the past 10 years, T.R.A.I.L., a diabetes prevention program has been implemented in Boys & Girls Clubs in Indian Country to provide youth with the skills necessary to lead healthy lives while also sharing knowledge with their surrounding community. The impact of the T.R.A.I.L. program in Indian Country is astounding: In total, T.R.A.I.L. participants have logged 4.2 million physical activity minutes from 2003–2014. T.R.A.I.L. participants' daily physical activity level increased by nearly 87 percent in a 28 week period in the 2013–2014 program year.

3. Economic Impact Estimates Associated with Positive Youth Outcomes

- The average lifetime economic benefit to our nation for every young person who graduates from high school is \$209,100.⁶

—For every 100 struggling students Boys & Girls Clubs help to graduate, our economy benefits by **\$21 million** in lifetime gains in productivity.

—Approximately 41 percent percent of incarcerated individuals lack a high school education,⁷ and the high school graduation rate for Native American/Alaskan Native youth overall is 70%.⁸ In contrast, 95 percent of Native Boys

³Pope, C.E. et al (1995). Evaluation of Boys and Girls Clubs in Public Housing. U.S Department of Justice. National Institute of Justice. Washington D.C.

⁴Petteruti, A., Schindler, M. and Ziedenberg, J. (2014). Calculating the Full Price Tag for Youth Incarceration (Washington, D.C." Justice Policy Institute), <http://www.justicepolicy.org/research/8477>.

⁵Finkelstein, E.A., Graham, W.C.K. and Molhotra, R. (2014). "Lifetime Direct Medical Costs of Childhood Obesity," *Pediatrics*, Vol. 133, No. 5, 854–862, <http://pediatrics.aapublications.org/content/133/5/854.short>.

⁶Levin, H.M. et al. (2007). *The Costs and Benefits of an Excellent Education for All of America's Children* (New York: Center for Benefit-Cost Studies of Education, Teacher's College, Columbia University).

⁷U.S. Department of Justice (2003). Bureau of Justice Statistic Report.

⁸National Center for Educational Statistics (2015), https://nces.ed.gov/ced/tables/ACGR_2010-11_to_2012-13.asp.

& Girls Club teens expect to graduate from high school, according to BGCA outcome data.

4. Economic Impact Estimates Associated with Out-of-School-Time Programs

- It costs Boys & Girls Clubs as little as \$15 per day—or \$790 per year—to produce a positive impact on a child.⁹

Taking these and many other impact indicators into account, we believe that Boys & Girls Clubs in Indian Country is one of the best bargains in America.

In most tribal communities, Native children and youth comprise the largest proportion of the population, yet some 40 percent of students in Bureau of Indian Education schools on tribal lands fail graduate on time.¹⁰ Boys & Girls Clubs will continue to play a critical role in breaking a perpetual cycle of extreme poverty, low academic performance, and significant health problems. We envision Native youth on their path to great futures—succeeding in school, becoming community leaders, assuming roles as contributing members of the workforce, and engaging in regular physical activity and good nutrition.

Boys & Girls Clubs in Indian Country have an unprecedented opportunity to help more Native youth to lead sustainable change, while embracing their culture and traditions. We believe generations of children to come will benefit from investments in programs and services, such as Boys & Girls Clubs, that help them grow into responsible adults—and that America stands to gain from the increased productivity and contributions of these future citizens and leaders.

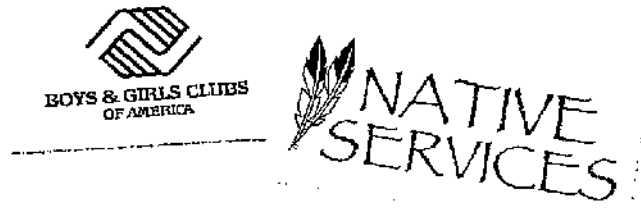
As mentioned earlier, Boys & Girls Clubs grew from one solitary Native Club in 1992, to 179 Clubs serving some 82,000 Native youth today. How can we replicate this success, and reach many more youth in need, in the immediate years ahead? Boys & Girls Clubs of America stands ready to partner with those, from all sectors, who share our passion for making a difference, and who wish to join us in harnessing the power and potential of our Native youth, for the betterment of our great nation.

Thank you, Mr. Chairman (Sen. John Barrasso), and members of the Committee. That concludes my testimony.

Attachments

⁹Boys & Girls Clubs of America cost-per-child estimate based on annual report data submitted by Club organizations on average daily attendance and Club operating expenses.

¹⁰Bureau of Indian Education (2013), <http://www.bie.edu/cs/groups/xbie/documents/text/idc1-09021962.pdf>.



Boys & Girls Clubs in Indian Country

In recognition of the extraordinary and unique challenges facing Native communities, including the enormous barriers that stand in the way of success for Native youth, Boys & Girls Clubs of America opened its first Club in Indian Country in 1992. Since then, BGCA has served as a catalyst to bring together communities and tribal governments, the federal government, and corporate and nonprofit organizations. Today, 179 Native Clubs serve approximately 82,000 youth in 24 states, representing some 90 different American Indian, Alaska Native and Hawaiian communities.

Clubs Help Native Youth Achieve Academic Success

American Indians and Alaska Natives attain the lowest level of education of any racial or ethnic group in the United States. While the overall graduation rate stands at 81%, only 66% of American Indians graduate from high school on time.¹ A variety of Club programs support young people's academic success, including Power Hour, which provides homework help and tutoring, and Summer Brain Gain, which helps prevent the summer learning loss that contributes to the alarming achievement gap between low- and high-income youth.

Clubs Help Native Youth Lead Healthy Lifestyles

A 2009 CDC report found that 31.2% of American Indian/Alaska Native 4-year-olds are obese. Rates of diabetes in the AI/AN population are 177%, with American Indians and Alaska Natives having the highest rate of type 2 diabetes in the United States.² Our "On the T.R.A.I.L. (Together Raising Awareness for Indian Life) to Diabetes Prevention" program promotes awareness of type 2 diabetes and healthy lifestyles among Native youth. Native Clubs also utilize our health and wellness program, Triple Play: A Game Plan for the Mind, Body and Soul, a holistic approach to educating youth about nutrition, fitness and forming healthy relationships.

Clubs Help Native Youth Avoid Risky Behaviors

Alcoholism mortality rates are 51.4% higher among American Indian/Alaskan Native populations than in the general population. 22.9% of AI/AN youth age 12 and older report alcohol use, 18.4% report binge drinking and 16% report substance dependence/abuse. In the same group, 35.8% report tobacco use and 12.5% report illicit drug use.³ The most utilized BGCA resource in this area is SMART (Skills Mastery and Resistance Training) Moves, our nationally acclaimed prevention program. BGCA recently revised the SMART Moves curriculum specifically for use in Indian Country. In addition, the National Native American Mentoring program provides youth in need with a positive role model to foster strong relationships and build character.

Clubs Help Members Achieve Positive Outcomes

Members who attend the Club two or more times a week skip fewer days of school, feel more connected to school and have greater post-secondary aspirations. High school-age Club members report higher levels of abstinence from high-risk behaviors, such as smoking, drinking alcohol and marijuana use, than do their non-Club counterparts. In a Harris Interactive survey, 57% of Boys & Girls Club alumni said the Club "saved my life."

¹ "Diplomas Count 2014," Education Week, Vol. 33, Issue 34 (June 5, 2014)

² CDC's Pediatric Nutrition Surveillance System "Morbidity and Mortality Weekly Report (July 25, 2009)

³ Center for Native American Youth at the "Aspen Institute" Fast Facts: Native American Youth and Indian Country (April 2014)

GREAT FUTURES START HERE.



2014 SNAPSHOT

80,000 YOUTH SERVED

- 48% registered members
- 52% youth served through community outreach

MEMBER DEMOGRAPHICS

Gender:

- 51% male
- 49% female

Ages:

- 3% 5 and under
- 47% 6-10
- 19% 11-12
- 19% 13-15
- 12% 16 and up

Ethnicity:

- 60% American Indian or Alaska Native
- 3% Native Hawaiian or Pacific Islander
- 14% White
- 2% Black or African-American
- 3% Hispanic or Latino
- 3% Two or more races
- .4% Asian Islander
- 1% Some other race
- .3% Unknown
- 14% Unreported by organizations

Socio-Economic Status:

In 2010, the poverty rate among American Indian/Alaska Native populations was 28% (OMH), and 32.4% of the population under 18 lives in poverty (NCAI Policy Research Center).⁴

2,934 ADULT STAFF AND VOLUNTEERS

- 850 adult professional staff
- 1,203 program volunteers
- 341 board members

179 CHARTERED NATIVE CLUBS

- 133 sites are Tribally owned Clubs and Independent 501(c)(3) organizations on and off reservations
- 46 sites are Native Clubs operated by traditional Boys & Girls Club organizations

BOYS & GIRLS CLUBS OF AMERICA IS HIGHLY RESPECTED

In its 2013 Philanthropy 400 report, The Chronicle of Philanthropy ranked BGCA 19th among all nonprofit organizations and #1 among youth organizations for the 21st consecutive year.



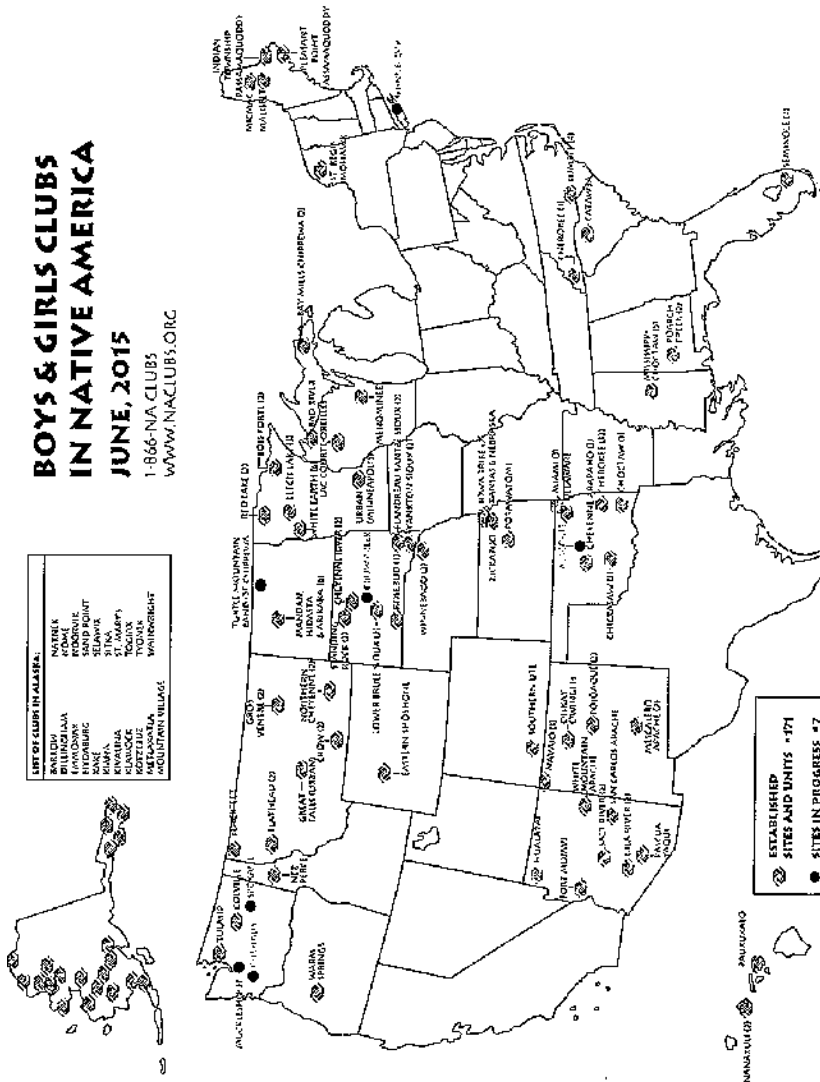
⁴Center for Native American Youth at the "Aspen Institute" Fast Facts: Native American Youth and Indian Country (April 2014)

BOYS & GIRLS CLUBS IN NATIVE AMERICA

JUNE, 2015

1-866-NA CLUBS

WWW.NACLUBS.ORG



LIST OF CLUBS IN ALASKA:

BAREIDY	NATREX
BAYVIEW	KODIAK
EDWARDS	KODIAK
HYDABURG	SAND POINT
SIKOTIA	SIKOTIA
KALINA	ST. MARYS
KIVALLUA	VALDEZ
KOYUK	YUKON
KOYUK	YUKON
MEGALASHA	YUKON
AGIUTAN VILLAG	YUKON

- ESTABLISHED SITES AND UNITS - 171
- SITES IN PROGRESS - 7



May 2015

On the T.R.A.I.L. to Diabetes Prevention

A National Diabetes Prevention Program for Native Youth

In 2009, the Indian Health Service (IHS), the National Congress of American Indians (NCAI), Boys & Girls Clubs of America (BGCA), FirstPic, Inc., and Nike, Inc. formed a unique partnership to create a program aimed at reducing the onset of type 2 diabetes among Native American youth. The program directly addresses Native youth's disproportionate rates of obesity and improves their overall wellness. As a result, *On the T.R.A.I.L. (Together Raising Awareness for Indian Life) to Diabetes Prevention* is an innovative combination of physical, educational, and nutritional activities that promote healthy lifestyles.

Health Statistics

According to Let's Move! (www.letsmove.gov), a comprehensive initiative launched by the First Lady in partnership with the U.S. Departments of Health and Human Services, Agriculture, and Education, the obesity rate among Native American youth is approaching 50%. Additionally, research proves that obesity is a major risk factor for developing type 2 diabetes, and more than 75% of the young people that have type 2 diabetes are obese. As the number of Native American youth facing obesity grows, so does the number of youth suffering from type 2 diabetes, resulting in an increased need for expensive health care.

- The obesity rate for Native American youth is approaching 50%.
- Obesity rates among American Indian/Alaska Native children are twice as high as their white counterparts.
- 20% of Native Americans ages 15 years or older had pre-diabetes in 2001–2004.

As the President's Childhood Obesity Task Force has noted, American Indian/Alaska Native children are particularly susceptible to childhood obesity and related diseases such as type 2 diabetes. A study of 4 year-olds found that obesity is two times more common among American Indian/Alaska Native children (31%) than among white (15%) or Asian (13%) children. Additionally, this rate is higher than any other racial or ethnic group studied.

According to the National Diabetes Information Clearinghouse (NDIC), Native American children and adolescents are more frequently diagnosed with type 2 diabetes than their peers. More importantly, the Diabetes Prevention Program (DPP), a large prevention study of people at high risk for diabetes, showed that lifestyle intervention to lose weight and increased physical activity reduced the development of type 2 diabetes in all ethnic groups by 58% during a 3 year period.



Health came first for the culture health coordinator.

"The program has generated awareness throughout the entire Boys & Girls Club. The children and staff here at the Club have shown a change in the way activities and healthy choices can be made with simple changes to everyday life. The snack times have become more health conscious, and Club activities have put an emphasis on getting all of the children involved and moving."

- Jared Eagle, T.R.A.I.L. Program Coordinator for the Boys & Girls Clubs of the Three Affiliated Tribes in North Dakota

By the Numbers

The following information demonstrates how the *T.R.A.I.L.* program makes a significant, tangible, and positive impact on youth living in Indian Country. But our work is far from finished. Since 2003, *T.R.A.I.L.* has been implemented at 96 of the Boys & Girls Clubs in Indian Country, but nearly 100 communities remain unserved.

The T.R.A.I.L. Program

T.R.A.I.L. is a three month (12 lesson) program that provides youth with a comprehensive understanding of healthy lifestyles in order to prevent diabetes. Woven throughout the program are self-esteem and prevention activities. Participants draw from tribal traditions and history to learn about nutrition, healthy food choices, media influences, and the impact of diabetes. Clubs also implement the *Nike Let Me Play* and *SPARK* physical activity programs to foster Club-wide participation in fun activities and games for 60 minutes every day.

T.R.A.I.L. emphasizes the importance of teamwork and community service. Members engage in service projects to improve healthy lifestyles in their communities, including starting community gardens to connect youth to their food source and organizing community-wide physical fitness events. *T.R.A.I.L.* is currently funded at 50 Native American Boys & Girls Club sites located in 17 states.

The Impact

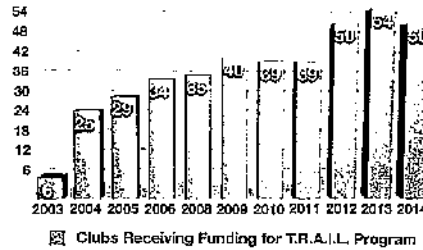
Over the past 10 years, *T.R.A.I.L.* has been implemented in Boys & Girls Clubs in Indian Country to provide youth with the skills necessary to lead healthy lives while also sharing knowledge with their surrounding community. The impact of the *T.R.A.I.L.* program in Indian Country is astounding:

In total, *T.R.A.I.L.* participants have logged 4.2 million physical activity minutes from 2003-2014.

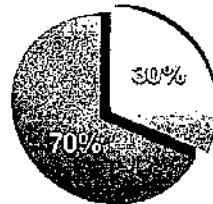
T.R.A.I.L. participants' daily physical activity level increased by nearly 67% in a 28 week period in the 2013-2014 program year.

The program has been implemented at local Boys & Girls Clubs in 96 Native American communities, and served more than 14,000 youth since its inception in 2003.

Number of Native American Clubs Funded by Year

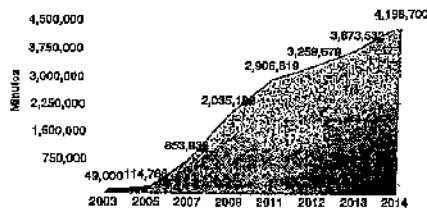


Native American Boys & Girls Clubs Currently Served Through the T.R.A.I.L. Program



Legend:
 [Pie Chart Segment] Clubs Served through the T.R.A.I.L. Program
 [Pie Chart Segment] Total Clubs

Physical Activity Minutes Performed as a result of T.R.A.I.L.



Legend: [Area Chart] Total Cumulative Number of Physical Activity Minutes Logged by Youth

Program test scores indicate: (a) increased knowledge about diabetes, (b) increased physical activity, and (c) increased ability to identify healthier food options.

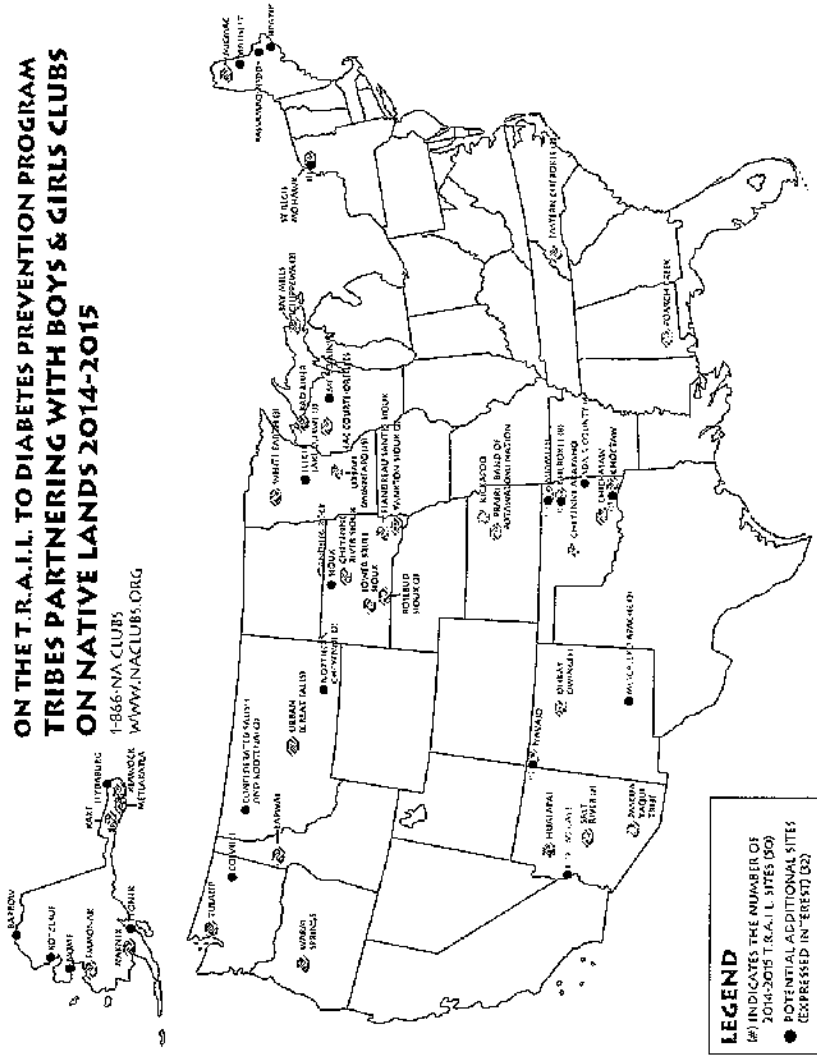
Nearly \$8 million of the award funding has been passed through directly to the 95 Native American communities implementing the *T.R.A.I.L.* program from 2003-2014. Since the inception of the program, nearly 800 jobs have been created in Indian Country.

Read more about the *T.R.A.I.L.* program and Club site successes on www.NAClubs.org.



Native American Tribes with Boys & Girls Clubs Currently Implementing the *T.R.A.I.L.* Program

Native Village of Kake, AK	Eastern Band of Cherokee Indians, NC (2)
Native Village of Klawock, AK	Navajo Nation, NM
Metlakatla Indian Community, AK	Ohkay Owingeh Pueblo, NM
Native Village of Naknek, AK	St. Regis Mohawk Tribe, NY
Emmonak City, AK	Cheyenne and Arapaho Tribes, OK
Poarch Band of Creek Indians, AL	Cherokee Nation, OK (6)
Hualapai Tribe, AZ	Choctaw Nation of Oklahoma, OK
Salt River Pima-Maricopa Indian Community, AZ (2)	Chickasaw Nation, OK
Pasco Yaqui Tribe, AZ	Miami Tribe of Oklahoma, OK
Nez Perce Tribe, ID	Warm Springs, OR
Kickapoo Tribe in Kansas, KS	Flandreau Santee Sioux Tribe, SD
Prairie Band Potawatomi Nation, KS	Lower Brule Sioux Tribe, SD
Arcostook Band of Micmac Indians, ME	Yankton Sioux Tribe, SD (2)
Bay Mills Indian Community, MI (2)	Rosebud Sioux Tribe, SD (2)
Little Earth, MN (Urban)	Cheyenne River Sioux Tribe, SD
White Earth Nation, MN (3)	Tulalip Tribes, WA
Blackfeet Nation, MT	Bad River Band of the Lake Superior Tribe of Chippewa Indians, WI
Chippewa Cree Tribe, MT	Lac Courte Oreilles Band of Lake Superior Chippewa Indians, WI



The CHAIRMAN. Thank you very much for your testimony, Ms. Knapp. Thank you for the wonderful job you do as well as the Boys and Girls Clubs of America."

Ms. KNAPP. Thank you.
 The CHAIRMAN. Senator Daines.

**STATEMENT OF HON. STEVE DAINES,
 U.S. SENATOR FROM MONTANA**

Senator DAINES. Thank you, Mr. Chairman.
 I want to thank the Chairman and Ranking Member for holding this hearing today. I notice we have Wyoming outnumbered two to

one here with Senator Tester and myself, but I am glad to have the West here.

The CHAIRMAN. This meeting is adjourned.

[Laughter.]

Senator DAINES. Mr. Listenbee, you mentioned in your testimony the importance of family connections in successfully working with young Native Americans and the juvenile justice system.

In fact, just yesterday, I met with Judges Leroy and Sheila Notafraid, a husband and wife who are both judges in the Crow tribal courts. In fact, Sheila worked for four years in juvenile justice. She said a large number of the children that came before the court were being raised by grandparents or other relatives instead of the parents and that often these relatives do not have the resources needed to raise these kids. In fact, I asked her, how do you keep the emotional stability to keep hearing these heartbreaking cases oftentimes in the juvenile system?

I also appreciate the mention you made of the Chippewa Cree Tribe of Montana and how they are using some traditional methods to engage youth in the juvenile justice system.

My question is, what is the importance of having strong parental support in keeping these kids out of the juvenile justice system and making sure they contribute to the community and their people?

Mr. LISTENBEE. We certainly recognize the critical importance of family engagement in the lives of our children in Indian Country. At this point in time, we have not developed any specific programs around family engagement.

We do recognize that for all of our grant programs, we have to have cultural sensitivity in developing those programs, in whatever programs we develop and we have to have tribal engagement to focus on the kinds of issues that each tribe holds as its priority in this area.

In addition, as we have gone forward, we ask consistently for involvement of the tribes in helping set up these kinds of programs. We have the Coordinated Tribal Assistance Solicitation Process in the Department of Justice, Office of Justice Programs. Through that program, all of our grants for tribes are awarded.

We found that we have a flexible approach to providing those grants. Through that process, the tribes are permitted to establish their specific priorities for their tribal areas. We follow through on those priorities for the tribal areas.

Senator DAINES. Can you think of a couple of examples where you see tribes leading in that area, where they are seeing the best results?

Mr. LISTENBEE. We certainly recognize in the defending childhood areas I mentioned, the two sites, we have had more opportunities to work with families in those areas. We recognize that children exposed to violence have significant experiences with trauma.

We have learned that we must focus on and basically screen practically every child who comes in contact with a public health service to determine whether or not they have been exposed to violence and then provide trauma-informed care to ensure we can address whatever trauma children have experienced. Trauma derails the normal developmental processes of children. We know if we

give the appropriate treatment, we can get them back on the right track.

Senator DAINES. Thank you, Mr. Listenbee.

Mr. Cruzan, it is good to see you again today. We have discussed law and order issues in Indian Country before. I am glad you are here before the Committee again.

In your testimony, you mentioned the Indian Law and Order Commission report entitled, A Road Map for Making Native America Safer. In that report, they talk about the lack of cooperation between Federal, State and tribal governments in the juvenile justice system when it comes to Native youth.

Is this a problem you have seen? When a young Native American gets caught up in the Federal system, is there a lack of communication with the tribal government?

Mr. CRUZAN. As I mentioned, that is one of the things the tribes have said over and over. As a matter of fact, I was the Chief of Police at Crow and I can tell you without any question most of these youth are being raised or a good number of them, I should say, are being raised by their grandparents.

The tribes, for a long time, have been telling us that we need to do something other than incarceration. I am happy to say that the Federal Government is working together. Our DOJ partners, SAMHSA and IHS are all working together to develop local solutions that involve the tribe. To say that we have worked real well together in the past would not be completely accurate but I would tell you there is a strong effort.

Senator DAINES. Thank you for that. It seems that the tribal authorities may know the particular young person, their background, their family situation because they are members of the same community and might provide a support system that is not going to exist if they get lost in the Federal system. We will see the same cycle repeat over and over again.

Mr. CRUZAN. I absolutely think people closest to those issues, the tribal leadership, have the solution, absolutely.

Senator DAINES. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Daines.

Senator Heitkamp?

**STATEMENT OF HON. HEIDI HEITKAMP,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Thank you so much, Mr. Chairman and Mr. Vice Chairman. This continues our discussion about what is happening and what we can do to improve conditions for Native American youth, an issue everyone on this Committee, I know, is extraordinarily passionate about.

I was recently at the Mandan, Hidatsa and Arikara Nation RCRA Center and spent some time visiting people who work in human trafficking and people who work with victims. A young officer told me how she knew a couple of kids who would get in trouble just so they would have the stability of being incarcerated for a weekend, where they knew someone would actually listen to them, someone would actually feed them and make sure they were taken care of.

That is a story that should break anyone's heart. I know as we look at kind of improving conditions or improving the situation for incarceration, we know this is a much bigger problem. We cannot keep band-aiding, isolating and siloing each one of these problems. We have to look at it systemically.

Professor, you obviously know Congress is working very hard toward some kind of justice reforms. We hope juvenile justice reform will be a part of that, whether it is drug courts, early interdiction or diversion programs that give kids a chance to still participate in society because once they are marked, that is true in felony communities also, then that sets the course for the future.

I know you made a lot of suggestions in your testimony but if you wanted to give advice to four Senators on what you would love to see in those reform packages, what three things would you recommend?

Ms. ROLNICK. There is obviously a lot that needs to be done and it is difficult to pick a few. Some of the reforms can be done at the agency level, some can be done at the tribal level and some require congressional intervention. That is why I think it is important to highlight it here.

One is to get Native youth out of the Federal system whenever possible. I think the easiest way to do that is an amendment to the Federal Juvenile Delinquency Act to require deference to tribal prosecutions before children are prosecuted in Federal court.

The second is to get them out of State systems whenever possible. It is pretty clear that State and Federal systems are not serving the youth well. That is a little trickier in terms of how to do that. It could be done through something like the Indian Child Welfare Act and extend it to cover delinquency. It could be done through an amendment to Public Law 280 to require deference to tribal jurisdiction.

In all these cases, the tribes have concurrent jurisdiction but that jurisdiction has no requirement that the other governments respect that jurisdiction or even ask the tribe what to do with an individual case. Sometimes it happens because individual prosecutors are trying to cooperate, but sometimes it does not.

The third piece is what is going on in the tribal system. Incarceration, as you mentioned, the problem of relying on incarceration, is not a problem unique to Indian Country. It is a sickness that we have in the country a whole and it is not going to be easy to move away from that.

Tribes are actually better positioned than other governments. Even in this testimony, we heard that tribes have been saying for a long time, we do not want to lock up our kids, we would like to do something else. Funding, agency level and congressional policy are needed that supports tribes in their efforts to do that. You are more likely to see, for example, someone who is in charge of a tribal juvenile system also related to the kids and knows something about what to do with them in the community. Support their efforts to come up with creative solutions to do that instead of building jails.

Senator HEITKAMP. One of the things I will tell you I think we fail in is we fail to screen kids very well who go into the system, whether it is fetal alcohol effects, trauma-induced behavior, non-

consequential thinking, just a fundamental disparity. What would you recommend we screen for in kids so we have a better idea of who is entering the system and how we can better divert or interdict earlier?

Ms. ROLNICK. I know there are tools being developed, for example, to screen kids coming into contact with the juvenile system for experience with trauma. I think you are absolutely right that screening is important both when they come into the system and earlier. The earlier we can identify things like mental health or substance abuse issues, those kids can be reached before they get into the system.

The other piece of that is you can do all the screening in the world and do it well. But if you have nothing to do with those kids after you screen them, you could find out that all of the kids or 90 percent of the kids were suffering from mental health issues. If there was nowhere to put them, it would not matter that you screened them well. That is an important piece of it as well.

Senator HEITKAMP. Professor, that is one of the reasons why I have a little concern about your first two suggestions. I think the tribes are strapped for resources. I think they are having a hard time meeting current demand.

To say now you are going to take on this additional responsibility to the extent kids are going to fall through the cracks, we need to be very, very cautious that along with that recommendation comes resources or programming that actually makes a difference.

If I may be indulged a little bit, one of the things I am hearing frequently is that once kids are incarcerated in the Federal system, they are not given educational opportunities. I would like someone on the panel to address that concern because these are kids who have an opportunity during that period to actually progress and learn. If they are simply warehoused, that is unconstitutional and it is inappropriate.

Mr. CRUZAN. Senator Heitkamp, I can answer that question. When we talk about Federal facilities, I think we are also talking about federally-funded tribal and BIA facilities. I have a list of the 23 and it explains what level of education they get in there.

Certainly the BIA facilities have education in there. I would say there may be an instance, I would have to look and be very clear to give you a 100 percent accurate answer, but I can tell you all of the Federal BIA facilities have education in them.

This is no excuse. I am not saying that it is any less important, but a good number of the kids we get coming through our facility are there for three or four days, and it is very difficult to develop an individualized education plan for them.

We do have a contract in place funded by BIA OJS and monitored by the Bureau of Indian Education. We did not feel we necessarily had the expertise to ensure those things were being done properly and we knew there was a responsibility to have it. We wanted people who knew education to be overseeing that for us.

The CHAIRMAN. Thank you very much. Senator Lankford?

**STATEMENT OF HON. JAMES LANKFORD,
U.S. SENATOR FROM OKLAHOMA**

Senator LANKFORD. Thank you, Mr. Chairman. Thank you all for being here as well.

To follow up on your statement, Mr. Cruzan, the challenge here is the Department of Interior is managing both juvenile justice and criminal justice in Indian Country, educational issues, health care issues, mineral rights issues, and water issues.

There are many things in which other agencies have expertise, but BIA has to do a bit of everything for Indian Country. We end up with a lot of people being swamped and overrun in trying to develop this. That is a larger issue with which we have to deal in the days ahead.

We are asking all these different agencies to be specialists, except for BIA which we ask to be a generalist and know something about everything. There will always be challenges with staff and more finances running from the designed model around that.

The family side of this is the other part I want to follow up on. Ms. Knapp, I want to talk with you about the Boys and Girls Clubs of America and what is happening in those communities. The core foundation of this is very often a family issue where we are dealing with juveniles. What are the most effective things, not incarceration, but trying to help protect those kids before they ever get to that point? What are we seeing is most effective on the family side of things?

Ms. KNAPP. We all know that parental involvement is extremely important and we recognize there sometimes seems to be a lack of parental involvement across Indian Country.

Speaking on behalf of Boys and Girls Clubs in Indian Country, we can say we are there every day, four hours after school, year round. We are a consistent place with positive role models. I know we do not replace the parent but we provide those opportunities for youth and we do become a big family. That is what Indian Country really is about.

I believe all of our clubs embrace family involvement. We have many programs that include the family component. There is a component in our Smart Moves Program. Actually, a study was done on that. The study found regular parental involvement in Smart Moves reduced juvenile delinquency and alcohol and marijuana use. We do believe in and support parental involvement through our Boys and Girls Clubs programs.

Senator LANKFORD. Can we discuss successful area for juveniles? You discussed local tribes and not Federal or State facilities. In my State of Oklahoma, the Sac and Fox Nation runs a juvenile program. Other tribes also use that and have had a positive response. How many other tribes have a facility where there is juvenile justice at the facility?

Ms. ROLNICK. You are talking about detention facilities?

Senator LANKFORD. Yes.

Ms. ROLNICK. I count somewhere around 30 although I know Mr. Cruzan counts about 23. There is a lot of information that we still do not have about this like how many facilities are there, how are they run. Some are run, for example, by tribes without help from the BIA, so they are not on the BIA list.

Are there facilities that house just juveniles or some that house a combination of juveniles and adults and then what kinds of programs are used? There is a real need for more attention to that and more research.

I am aware of no research that actually involves what is going on in tribal justice systems. I think there is a good reason to think they work better, that the local programs are more responsive, for example, but there is also reason to think a jail is a jail or if it is a jail with a lot of traditional elements and decorations, it might not be that different than a jail outside Indian Country.

I think there is a big black hole of information about which of those programs are working well. I always hesitate to name specific programs unless research has been done on them and they have been tagged evidence-based programs. There really are not very many or any of those that have been researched for Native youth in Indian communities.

I will say though I worked with some youth in Alaska. The Southeast Alaska Regional Health Corporation runs a substance abuse treatment program called Raven's Way. It is not a locked facility; it is a substance abuse program funded by medical money, not justice money. The kids told me, I do not know anymore about it than what they told me, but when I interviewed them, they said this is the place that sometimes we are sent when we get in trouble and it really works. To the extent that I can say there is a program that is out there, that one seems to be working and it is not even a detention facility.

Senator LANKFORD. Mr. Cruzan, do you know of a facility, location or tribal entity that you would represent as a good example, saying this is a turnaround facility and they are having success?

Mr. CRUZAN. Yes, I have a couple that come to mind. One is out East and one is in the middle of the Country. Basically, the tribe has said, we are going to bring our Federal partners to our facility, sit with them around the table, tell you what the problem is and then, Federal partners, you are going to point to which of these issues you can address.

They are fairly recent things developing right now. I am happy to discuss that more with you later. We are seeing success there. The success is getting the Federal partners to the table and the tribe identifying specific issues and what they want addressed which at both has been youth.

Senator LANKFORD. Thank you for that. That is what I always try to bring up. There are 566 tribes nationwide, and there are some success stories and some places to be able to replicate these things. When we talk about some of the problems, I always want to make sure we reaffirm the solutions are out there as well.

Thank you. I yield back.

The CHAIRMAN. Thank you very much, Senator Lankford. Senator Udall?

**STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Chairman Barrasso.

I want to go back to the tail end of his question. If there are things that are working, what is it? Is it the cultural side? Mr.

Cruzan, and others may want to weigh in on this. Is it because the particular tribe has adopted things within the tribe, so when they learn someone is in the system, they can deal with it? What couple of things would you put your fingers on that really make a difference?

Mr. CRUZAN. I think that is an excellent question.

I will tell you having worked with numerous tribes over the last five years on a number of different pilot issues, some have been tremendously successful and some have not. I think the common denominator every time it has been successful is when tribal leadership leads, takes the point on it and says here is our issue, here is how we want to fix it, what can you do, Federal partners, to help us?

Oftentimes, it is the tribes that have the capacity within sometimes to finance some of those issues through different ventures. We are also working with a couple of tribes right now who do not necessarily have that capacity that are also showing demonstrated success.

I think without question there is a funding aspect that comes with it. But if I were to say the most important thing, I would say tribal leadership taking the lead. They are already taking ownership for problems. I am saying taking the lead, saying this is what we are going to do and we are going to walk through this together.

Senator UDALL. Do any of the other panelists have a comment on that?

Mr. LISTENBEE. If I may, we have a tribal youth program funded by Congress going back to 2010. The tribal youth program empowers young people to pursue the development of leadership and leadership skills.

We found the metrics we have used to measure it indicate there are low levels of offending, low levels of recidivism, improved school performance and also there is reduced alcohol and substance abuse for those engaged in tribal leadership.

This past weekend, there were 1,800 tribal youth here in Washington, D.C. They are part of the Youth Gathering the White House sponsored last week.

I met with several young people and one of the things that truly inspired me about them was that many of them came to Washington paying their own way. They have been part of a broader movement for a long period of time. They have been leading these youth organizations regionally and in their tribal areas for quite a while and are gaining the kind of self confidence and exposure that is going to allow them to be successful in life. I think it is important to recognize that.

One other thing I would indicate is last year we also began sponsoring Tribal Healing and Wellness courts for young folks who have substance abuse issues and alcohol specifically. We do not have the data on that yet, but we are looking forward to seeing how the combination of traditional drug courts with tribal healing and wellness components is going to actually affect young people.

Senator UDALL. Thank you. Ms. Rolnick?

Ms. ROLNICK. I wanted to just add when we usually think of the justice system, we think of the flagship detention facilities and the

courts. There is a lot more to it and I think it is really important to remember the other parts of it.

For significant mental health treatment or incarceration, it is hard to tell which of those programs work. I think the ones that work do incorporate tradition but maybe not only traditional approaches. There is probably a lot more that needs to go into those.

I think where you see the incorporation of tribal traditions flowering more is at the early intervention stages. A lot of tribes run what we do not usually think of as delinquency programs or leadership programs.

Santa Clara Pueblo has a running club for kids. It is not part of their detention system or part of their juvenile system, but running is traditional to people who are runners. They are incorporating something that is traditional. It is just an activity at this point, not officially part of their juvenile system.

Those programs that incorporate what is already going on in the community and historically what the kids and the people in that community have done actually are already successful. Kids end up going to them. They are the ones who go to Washington and become leaders before they get into the system. That is the part I think we need to think of in terms of funding as part of juvenile justice, not something that is outside of it.

Senator UDALL. I have been running with the Santa Clara Pueblo kids and that keeps them out of trouble.

Thank you very much. I appreciate the panel.

The CHAIRMAN. Thank you, Senator Udall. Senator Murkowski?

**STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman.

Thank you to the panel. I am sorry that I was not able to hear your testimony. I was able to look at what you have submitted.

Mr. Listenbee, I wanted to ask you a couple of years ago at the Alaska Federation of Natives Convention, there was a very powerful presentation given by a group of Native children, 4-H'ers out of the community of Tanana, an Athabaskan village in the interior. These kids, probably from the ages of 7 to 15 or 16, I would say, stood up in front of a crowd of about 3,000 to 4,000 people and basically said, grownups, we have had enough. We are tired of alcohol abuse in our community, we are tired of the drugs, we are tired of the violence, and we are tired of this chaos. We are tired that you all are no longer good role models for us in our village. We want to make the change. We want to be that agent of change.

You feel pretty humbled, I tell you, when you have a group of kids standing up in front of thousands of adults and basically saying, shape up. You have not shaped up, so we are going to take charge. It was a pretty powerful moment for everyone in that room in Fairbanks.

I came back and wrote a letter to Attorney General Holder and asked that he come in and talk with me about how the Department of Justice could support communities that have reached this point where they say, we have had enough, we want to do something.

I want to talk about whether or not it was targeted assistance that needed to be applied. You have the Consolidated Tribal Assist-

ance solicitation but needless to say, the Attorney General and I had a quick, stand up conversation. He appeared interested in it.

The letter we got back from the Office of Legislative Affairs was pretty non-responsive and I will tell you about it.

Today, I want to ask you how we can get to a better understanding in terms of what is available. Your testimony talks about these various competitive grant programs and the 7 percent set-aside which is competitive but that is more stovepiped, not the kind of holistic, broader approach that can really help set the communities straight.

The Consolidated Tribal Grant Solicitation has been criticized because effectively what you are doing is pitting communities that have problems against each other. I have a problem over here in this community; I have a problem over here. They both need to be solved but you are pitting one against the other. The losers in that competition have to fend for themselves.

My question is whether, within the Department of Justice construct, you have anything to offer these small Native communities which want to make immediate changes? They have the motivation and some leadership to make this happen but we have not been able to find anything that can really help assist them? Do you have anything to offer this afternoon?

Mr. LISTENBEE. Senator, first of all, we heard from the Advisory Committee on American Indian and Alaska Native Children Exposed to Violence those very same concerns about Alaska. We also heard and I read articles about what those youth said to the leadership there. It was heard all over the Country.

Senator MURKOWSKI. It was very powerful.

Mr. LISTENBEE. It really was. I just want to say that we have tried not to stovepipe funding for tribal youth just into CTAS. We make a point in all of our solicitations referencing American Indian and Alaska Native Advisory Committee reports for people to try to find responses to them.

I would specifically reference one regarding mentoring. You mentioned 4-H. We have asked all of our national mentoring organizations, organizations that have mentoring in more than 45 States. They are required to advise us how they are going to provide funding for American Indian and Alaska Native children. That is part of the solicitation process itself. That is not directly in CTAS but just outside of it with the substantial funding we get for tribal youth.

Also, in Alaska, we have the Rural Community Action Program, RurAL CAP. When I was up there for the hearings with the American Indian and Alaska Native Advisory Committee, I met with the leadership of that organization. I am convinced, Senator, they are very passionate, well informed, understand tribal youth, understand kids who run away, kids who are being trafficked and are doing a good job trying to address those concerns.

I am open for further discussions with your staff, between your staff and staff at the Department of Justice, to try and find other solutions. I might add I also had an opportunity to live in the State of Alaska for 16 months and to work on the North Slope, so I have some understanding of the challenges of distance, weather, the high cost of transportation and other challenges for children in

your State. We are willing to consider further conversations on this issue.

Senator MURKOWSKI. I would welcome that. We should follow through with this because, as you know, it is not always an issue just of money and the available resources.

I think about some of the efforts we put in place some years ago with Boys and Girls Clubs to establish Boys and Girls Clubs around the rural areas and some of the more isolated communities. It was a fabulous effort that gave hope and a purpose to so many of these kids. Then Boys and Girls Clubs funding is cut back and all these programs were pulled. Those kids felt abandoned again.

Making sure we have not only an opportunity to compete fairly for these programs and these opportunities but that there is a level of sustainability is something I would like to explore further. I would welcome that conversation with you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murkowski. Senator Tester?

**STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA**

Senator TESTER. Thank you, Mr. Chairman.

Thank you for your statement, Senator Murkowski. I think predictability in funding is really critically important in a lot of these programs. I do not know if there is a lot of predictability out there.

I want to thank you, Mr. Chairman, for holding this hearing. I think it is very, very important to have a sustained focus on issues impacting Native youth. You have done that as Chairman of this Committee. I appreciate that.

As we dig in on this topic, I do want to remind the members of this Committee that when we talk about juvenile justice, we are talking about kids, we are talking about children and more often than not, if we are talking about children, we have talked about a failure in the system on this Committee. We really need to provide these children with a high quality, culturally-responsible education that will keep them in school and give them options. We need to make sure they have safe, reliable housing so they have a place to go after school and feel safe and protected.

We need to make sure they have adequate health care so they are developing healthy and appropriate minds and bodies from the beginning. Simply put, if we do not do that, we have failed these children in so many, many ways. It is imperative that we do not continue to fail them as they enter the juvenile justice system. I am dismayed at the staggering statistics that describe the state of affairs for Native youth involved in the criminal justice system in this country. Not only are Native children facing poverty, exposure to violence and many other risk factors at home, when they go to school, a place that ought to be safe, they face a multitude of additional risk factors, including more severe and punitive punishment by school officials.

A recent study in my home State of Montana revealed that our Native youth are suspended and expelled at disproportional rates and children who are suspended or expelled from school are 26 percent more likely to be involved in the legal system. Somewhere this

system of juvenile justice is broken and it is especially broken for Native children.

I am encouraged the BIA and the DOJ have started to view juvenile justice from the lens of prevention and diversion. I agree that incarceration should be the last resort when dealing with our Native youth. This is an important shift in reframing this issue because it places the emphasis on how we can heal our kids rather than how we are going to punish them.

One of our witnesses on this panel today, Mr. Listenbee, made an important observation in the Indian Law and Order Commission Report to Congress where he said, too often children exposed to violence are labeled as bad or delinquent or simply troublemakers. We ask these children, what is wrong with you? Instead, a more accurate question is what happened to you? I think this question is exactly the right question and should be at the heart of the work we are doing here as we look to address Native youth in our juvenile system.

So many risk factors leave Native youth vulnerable. It is crucial that we examine policies and programs that contribute to helping the resiliency within tribal communities and helping to keep our kids engaged in healthy activities so there is less idle time to spend on dangerous activities.

That is why I recently introduced my after-school bill which creates a grant program for eligible tribal entities to establish or maintain extracurricular activities for Native youth. I hope to work with the folks on this panel to move these bills forward to support healthy alternatives to keeping kids out of jail.

I also visited with Leroy Not Afraid yesterday, a judge from the Crow Indian Reservation. He talked about a kid who was supposed to be sentenced today, as a matter of fact, not a kid but a young man now, 18 years of age, who first got in trouble when he was 5 years old and continued to get in trouble. Now he is an adult and obviously was going to be sent to prison. I am sure that is what happened today.

As he told the story, you could not help but think, as I have told you the same story, what went wrong? A five year old kid that gets in trouble in the system and continues to get in trouble for the next 13 years and nobody says, whoa. I do not know how many time this happens but I think it happens far too much because I can tell you that one in five males in prison, one in ten are Native American and by the way, it is about 6 percent of the total population, 20 percent are Native American, and fully a third of the females in prison are Native American.

The question, for anyone who wants to answer it, is what do we really need to be doing here? We can sit here and talk about this. We can talk about the effectiveness of afterschool programs, and it is very effective and there are great programs, but what do we need to be doing?

What should this group of folks up here, the great Senators on the Indian Affairs Committee, be focused on to keep chronic offenders that start at the age of five and end up in adult prison at 18? Mr. Cruzan, you have your eyes focused on me. I will ask you first.

Mr. CRUZAN. I would agree with you 100 percent. I had that in my mind. I was not sure if it would be appropriate for me to say

but I would agree that if we are talking about incarcerated juveniles or rehabilitating juveniles, we have failed them.

Senator TESTER. Good.

Mr. CRUZAN. I am a parent and a Federal law enforcement officer. Neither one of those individuals thinks it is necessarily only the government's responsibility to raise my kids. I think healthy families are a huge part of this.

No question the kids we are talking about have seen alcohol and drug abuse and violence way more than they should have. Of course they are going to be struggling with some of these issues. Of course we need to be working and thinking about how we help them.

Equally important, I think, is keeping more kids from coming down that conveyor to the criminal justice system. The Tiwahe Initiative is something we are working on right now. Tiwahe in Lakota is family. It is a pilot program where we are working with an Alaska corporation and a few other tribes to say, the government is not going to fix this for you but we are absolutely partners in this with you. We have to focus on the family as well as the juveniles.

I think the juveniles in the system are a symptom, not necessarily the root of the problem. I think that is something that happens because we are not doing very well in the rest of the environment, in my opinion.

Senator TESTER. Mr. Listenbee?

Mr. LISTENBEE. I agree with Mr. Cruzan. I worked on reforming the juvenile justice system in Philadelphia before coming to the national level. We had to narrow the front door through diversion programs, through drug core programs, through delinquency-dependency crossover programs so children who were dependent were sent back to the dependent system. We had to work on, with graduated response courts, so the kids who went through the juvenile justice system and who had technical violations of probation were given second chances. We had to do a lot of things.

I do not think there is any one magic bullet. I think it will take a variety of different approaches. I start where Senator Heitkamp started in her comments to tribal youth at the gathering last week. We must understand that trauma is an important ingredient. But we have to go back upstream and see if we can stop the trauma from happening as early as possible. When we do encounter it, we need trauma-informed care.

Senator TESTER. I appreciate your comments.

I would just say I, for one, and I know others as well, am going to continue to try to fight for adequate funding for a lot of these underfunded programs. I could not agree with you more that we are not going to solve the problems even if we throw far more money than they need. It is going to take a joint effort of folks on the ground working with us. If you can help us do this, and we need to help ourselves do this, by the way, then I think we can get to a point where the juveniles are the most important resource in this world and are treated better than we have been treating them.

Thank you all for your testimony.

The CHAIRMAN. Thank you, Senator Tester.

Mr. Cruzan, I would like to follow up a bit on what Senator Tester began with, because your written testimony also highlighted several initiatives focused on alternatives to incarceration for juveniles based on the view that incarceration does, many times, more harm than good. The initiatives included systematic, comprehensive assessments of the need, the risk, response specific to each juvenile in the system, so individually focused.

You talked about healthy families and the Tiwahe Initiative. Can you elaborate on any other ideas or how those assessments are conducted in terms of what you are trying to do with the individualization and how to address it?

Mr. CRUZAN. Absolutely. I think it is a little cliché but they are the best I have here. We found working with our tribal partners that one size does not fit all, certainly with the individual offender who shows up in the system.

We are working as part of this pilot effort on an assessment tool that will better help courts when offenders do come into the system to point them towards the services they need. It may be anger management, suicide ideations, drug or alcohol treatment they need as opposed to just sending them to a treatment facility. We are trying to be smarter about services we provide.

The CHAIRMAN. Mr. Listenbee, Professor Rolnick stated in her written testimony that Native youth often fall under State jurisdiction and further notes that the tribes are not included in some of the large scale juvenile justice policy decisions which affect tribal youth.

Mr. Listenbee, your written testimony talks about the Department of Justice working on an initiative to bring together all the systems serving youth to access services and resources. How can the department incentivize States to work with the tribes to address the challenges the juvenile justice system is facing?

Mr. LISTENBEE. Senator, the coordination between tribes and States is critical if we are going to be successful in bringing about change. We are attempting to find ways to encourage the States to be willing to work cooperatively and more cooperatively with the tribes than they have in the past. There are a variety of available techniques still in their infancy in development, including MOUs and other kinds of tools. We are looking to do that.

One of the things most striking to us is formula grant funds have been reduced dramatically in the last several years. We provide grants to States and in order for States to use some of those funds to assist tribes, we would really benefit from the restoration of some of those funds to be able to follow through on that.

One other thing I would say is that we talk about assessments and assessments are critical. But assessments without a direct match to services for the specific needs of children will not solve the problem. That is both with tribes and off reservation as well. Keep in mind that 60 percent of our tribal youth are not on reservations. We are looking to figure out how to provide services to them in the places where we find them.

The CHAIRMAN. Following up what Mr. Cruzan said, one size does not fit all. What we do look for, as Senator Lankford made clear, ways that work and want to replicate things that work. As you are working with States, if you find an incentive situation that

works well, anything we can do to help that get implemented in other places would be helpful.

Mr. LISTENBEE. We certainly are willing to cooperate with that, Senator.

The CHAIRMAN. Thank you.

Professor Rolnick, the Indian Law and Order Commission and the Attorney General's Advisory Committee both suggest focusing on prevention and intervention strategies for juvenile justice. According to the Bureau of Prisons, Federal juvenile offenders that have committed violent offenses do not respond well sometimes to community preventive efforts or intervention strategies. If the preventive and intervention methods do not deter violent offenses, what other strategies do you think we should be following?

Ms. ROLNICK. I guess I question a little bit the suggestion that in general, juvenile offenders do not respond well to community interventions. It requires the community intervention to be a good one. Not all kids are going to respond to all programs. There are going to be different needs.

There are a lot of levels of gradations of intervention. There is getting kids in pre-school, getting kids before they come into the system, there are diversion programs, and probationary type programs. There is any number of types of levels of severity of alcohol and drug type treatment. There is group counseling, inpatient treatment and a whole range of largely unexplored chances to do non-detention type interventions.

The idea that there are kids who just do not respond to anything early and we need to lock them up, I guess I have serious questions about that. In general, this is not limited just to the tribal context. Mostly the agreement among juvenile justice experts now is that incarceration is something that you should use for kids who pose a public safety threat, violent offenders or people who are going to escape. That is a pretty limited class of youth. I think there is a forest of programs. There are also a lot of jurisdictions who are exploring things like non-locked residential facilities or in-home monitoring that are versions of something more serious but do not require locked detention.

The CHAIRMAN. Thank you.

Ms. Knapp, I am so impressed with the work you are doing. Mr. Listenbee stated in his written testimony that troubled youth often have better outcomes when they receive community-based services. Professor Rolnick stated in her written testimony that many rural areas lack access to these community-based services, like the Boys and Girls Clubs, for intervention and diversion. There are some Boys and Girls Clubs operating in rural areas. They have been a huge success in Wyoming. They are a positive place for kids and do a wonderful job. We do have a Boys and Girls Club operating on the Eastern Shoshone Tribe in my home State.

Can you discuss how the Boys and Girls Clubs have been able to improve access to the club's services in rural areas and on Indian reservations?

Ms. KNAPP. Absolutely. I am really pleased to say that Boys and Girls Clubs of America has truly embraced Boys and Girls Clubs in Indian Country. They have gone a step beyond and I am so pleased that they even developed a Native Service Team where

every Boys and Girls Club in Indian Country receives a Director of Organizational Development that provides services to those communities and how we reach out to them. They are actually assigned a dedicated staff person who is Native and goes right into their Boys and Girls Club and provides culturally-relevant programming and services.

In addition, we created geographical training that we bring to them that makes them culturally-relevant to their needs. Being a Native person, we know we have many similarities and there are just as many differences.

We provide opportunities to our five core program areas where they can embed their own cultural and traditions into the program. Boys and Girls Clubs of America recognizes that need and is beginning to change a lot of our programs to meet the needs of our Native youth.

The CHAIRMAN. Can you talk about some of the factors overall that contribute to the Boys and Girls Clubs success?

Ms. KNAPP. There are so many. First, I would go back to when you talked about diversion and prevention.

Every ten youth Boys and Girls Clubs diverts from incarceration can save \$1.5 million. We know they spend an average of \$408 per day to incarcerate a child. Boys and Girls Clubs in Indian Country has the unprecedented opportunity to impact Native youth through our programming.

The CHAIRMAN. Senator Hoeven.

**STATEMENT OF HON. JOHN HOEVEN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HOEVEN. Thank you, Mr. Chairman.

I would like to thank all the witnesses for coming today.

Mr. Listenbee, you listed several programs aimed to keep young people from entering the juvenile justice system in the first place. In your opinion, which of the programs you mentioned has been the most successful in deterring juvenile crime and why?

Mr. LISTENBEE. Our experience is that there are a wide range of prevention programs. From our experience, it really depends upon the priorities of the tribe we are working with and what they see as the best way of addressing their criminal justice, juvenile justice and safety priorities.

Clearly, from past experiences, we encourage mentoring programs in general. This year, in our solicitation for our mentoring programs, we have made it a requirement that all national mentoring programs who submit an application for funding must provide, with clarity, an indication of how they are going to work in Indian Country to provide mentoring for American Indian and Alaska Native youth.

In addition, we have recommended our Tribal Youth Program. Our Tribal Youth Program has a variety of different components, including meetings and summits, leadership programs, training and providing some skill development. They were recently here in Washington, D.C. where there was a Tribal Youth Program sponsored by the White House.

We recommend all three as ways of addressing issues, along with tribal healing and wellness courts which address some of the substance abuse issues tribal youth are encountering.

Senator HOEVEN. The challenge is making sure there is collaboration between tribal, local and Federal government officials. How can the DOJ do a better job of facilitating that cooperation with tribal, local and Federal agencies?

Mr. LISTENBEE. Senator, we are working closely with the Bureau of Indian Affairs. Mr. Cruzan and I are working on the model Juvenile Indian Tribal Codes. We have worked to find a code that can be used by all tribes and look at it from a continuing point of view and pull out those things directly relevant to the particular tribe.

We are also working together in a variety of other ways.

Senator HOEVEN. Mr. Cruzan, your testimony noted several programs that take an alternative to incarceration. Of the programs you mentioned that take this different approach, which do you think are the most successful?

Mr. CRUZAN. I think the ones led by the tribes themselves. I feel this comes together at a very good point at courts but I do not necessarily think traditional courts always work the best. I like the approach being taken by one of our partners in the East where they have juvenile courts.

When juveniles offend that are not drug or violent offenses, they bring in juveniles to help adjudicate and talk through how that will work and accountability to their peers.

To me, it is anything alternative to incarceration with a real emphasis on diversion out of a typical courtroom setting.

Senator HOEVEN. Were you going to say drug court?

Mr. CRUZAN. I did say drug court I think.

Senator HOEVEN. I agree. I think that has been tremendously successful.

Ms. Knapp, what is most helpful to Boys and Girls Clubs in terms of helping with Native services and so forth? What would help you do more?

Ms. KNAPP. To find partners who share the same passion and help us to expand our footprint in Indian Country.

Senator HOEVEN. When you say partners, do you mean other nonprofits?

Ms. KNAPP. It could be Federal partners, corporations, working with tribal leaders who would like a Boys and Girls Club. I feel for success in growing our footprint, it would be very important to have partnerships and buy-ins with the tribe to open a Boys and Girls Club on their land.

Senator HOEVEN. Who are some of your partners now?

Ms. KNAPP. Our Federal partners are OJP, Indian Health Services and we have several corporations onboard as well.

Senator HOEVEN. Ms. Rolnick, the same question I asked starting with Mr. Listenbee, what do you think is the single most effective thing that can be done?

Ms. ROLNICK. I hope you forgive a little bit of redirection. There are a range of early intervention programs that I think do work well, different types of substance abuse treatment and different types of early intervention. They are different in different communities. None of that is going to work if the Federal and State gov-

ernments do not get out of the way a little bit and let tribes carry out those programs.

To give you an example of what I mean, there was a young girl who got in trouble. It was a car accident that came from either drug or alcohol use, under the influence driving, and I think someone may have been killed in the accident. The primary issue was substance abuse.

The tribal court charged her and decided to put her in a treatment program. Then the Federal prosecutors charged her as well and decided to send her to Federal prison. You cannot do both. The Federal priority undermined what the tribe was trying to do in terms of its non-detention alternative.

If that kind of thing keeps happening, that is a direct continuation of what we basically learned the hard way is the wrong thing to do with Native youth. You cannot take them out of communities in the name of saving them. That is sort of the hard lesson that was learned and that the Indian Child Welfare Act was passed to counteract.

We cannot keep doing that with Native youth. Healing youth means healing communities and it means letting those communities figure out, with resources from other governments but not directed by other governments, what it is that works best for their kids.

Senator HOEVEN. Thank you to all of you again. I appreciate you being here.

The CHAIRMAN. There are no further questions. Members will have time to submit written questions. The hearing record will remain open for two weeks.

The Committee has much to consider following today's hearing. I look forward to much more work on this important issue.

I want to thank each of the witnesses for being here, for your time and testimony.

The hearing is adjourned.

[Whereupon, at 3:31 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF THOMAS M. SUSMAN, DIRECTOR, GOVERNMENTAL AFFAIRS
OFFICE

Dear Chairman Barrasso and Vice Chairman Tester:

I write to present the views of the American Bar Association with regard to the state of juvenile justice in Indian country. I request that this letter be included in the record of your July 15 oversight hearing, “Juvenile Justice in Indian Country: Challenges and Promising Strategies.”

Within an ever-changing legal, economic, and cultural landscape, the challenges facing American Indian and Alaska Native youth are numerous and complex. The Indian Law and Order Commission (ILOC), an independent national advisory commission created by the Tribal Law and Order Act in 2010, has undertaken a comprehensive examination of this issue and presented findings and recommendations in Chapter Six of its November 2013 Report to the President and Congress, *A Roadmap for Making Native America Safer*.

After extensive review of the Commission’s work, the ABA endorsed the Report’s recommendations and is committed to advancing their implementation. The blackletter recommendations contained in Chapter Six (“Juvenile Justice: Failing the Next Generation”) are attached to this letter; the entire report is available at: <http://www.aisc.ucla.edu/iloc/report>.

The Commission’s 12 recommendations regarding juvenile justice are grounded in findings that Native youth are among the most vulnerable group of children in the United States as a result of centuries of harmful public policies that continue to inflict intergenerational trauma on children in Indian country. Upon entering the juvenile justice system, tribal youth are further endangered by being thrust into an exceedingly complicated web of jurisdictional rules and sentencing limitations that subject them to complex and inadequate federal and state juvenile justice systems. While the ABA supports all 12 recommendations, we believe it is of utmost importance that tribes are empowered with meaningful decisionmaking authority about their own juvenile justice systems and that greater emphasis is placed on providing alternatives to incarceration and culturally appropriate intervention and support. With this focus in mind, we would like to highlight several of the Commission’s recommendations.

Recommendations Concerning Jurisdiction

Native youth are disproportionately incarcerated in the federal system where they do not receive age-appropriate educational instruction or assistance because the federal system does not have a juvenile division and is not equipped to provide these services. The Commission recommends that Congress strengthen tribal jurisdiction over Indian children by empowering tribes to opt out of federal and state juvenile jurisdiction entirely, except for federal laws of general application. The Commission’s recommendation would cut through the current jurisdictional maze and enable youth to receive meaningful and appropriate intervention.

If tribes choose not to opt out entirely, Congress should provide tribes with the right to consent to any U.S. Attorney’s decision before federal criminal charges against any juvenile can be filed. The Commission explained that requiring tribal consent would help ensure that community standards are applied and tribal sentencing options carefully considered before any federal prosecution could proceed.

Recommendations Related to Strengthening Tribal Justice for Native Youth

The Commission found that juvenile cases are inconsistently referred to the federal or county system in P.L. 83–280 states, not because tribes lack sufficient sentencing authority, but because tribes frequently lack the resources to address the youths’ need for treatment. The Commission recommends reallocating federal and state resources to tribes that assume exclusive jurisdiction over juvenile justice. To do this effectively, a single agency within the U.S. Department of Justice should be

designated to distribute block funding to tribes rather than funding being disbursed through unpredictable and burdensome grant programs. Furthermore, funds should be provided at a level of parity with non-Indian systems. Because Native youth will continue to be incarcerated in both federal and state systems as well, federal and state juvenile justice systems should maintain proper records of their entry into the system and adopt a consistent data collection system that includes information about tribal membership. Finally, a single federal agency should be created to coordinate data collection, examine specific needs, and make recommendations for Native youth.

Recommendations Concerning Detention and Alternatives

Native youth who enter the federal or state justice system often are incarcerated far from their homes and communities and detained in facilities with no youth educational programs or opportunities. The Commission recommends that federal, state and tribal justice systems seek to provide alternatives to incarceration and that all youths should be provided trauma-informed screening and care, preferably in a community-based setting.

Similarly, violent Native juveniles should be provided treatment and detention facilities within a reasonable distance from the juvenile's home. The ABA emphasizes the importance of providing alternatives to incarceration and early and appropriate screening and treatment.

Recommendations Concerning Intergovernmental Cooperation

The Commission recommends amending the Federal Delinquency Act, which currently fosters federal consultation and coordination with states and U.S. territories, to include tribes and to extend their authority to allow or prevent transfer of a juvenile for prosecution as an adult regardless of the child's age or offense. The Commission also recommends improving cooperative measures between tribes and local governments by amending the Indian Child Welfare Act to provide that when a state court initiates delinquency proceedings involving an Indian child, all of its notice, intervention, and transfer provisions will apply.

The recommendations of the ILOC Report regarding juvenile justice in Indian country seek to replace outdated and top-down bureaucracies with locally based approaches that will enable tribal governments to provide justice in their own communities and more effectively address the disproportionate amount of violence occurring in Indian country today. These approaches align with long-standing ABA policies supporting criminal justice system improvements and tribal self-determination.

We urge the Committee to endorse these recommendations and make their enactment a priority this Congress. We stand ready to assist you however we can.

Thank you for your consideration of the ABA's views.

Attachment: Chapter 6 Recommendations

A ROADMAP FOR MAKING NATIVE AMERICA SAFER—CHAPTER 6—JUVENILE JUSTICE:
FAILING THE NEXT GENERATION

Recommendations

6.1 Congress should empower Tribes to opt out of Federal Indian country juvenile jurisdiction entirely and/or congressionally authorized State juvenile jurisdiction, except for Federal laws of general application.

6.2 Congress should provide Tribes with the right to consent to any U.S. Attorney's decision before Federal criminal charges against any juvenile can be filed.

6.3 Because resources should follow jurisdiction, and the rationale for Tribal control is especially compelling with respect to Tribal youth, resources currently absorbed by the Federal and State systems should flow to Tribes willing to assume exclusive jurisdiction over juvenile justice.

6.4 Because Tribal youth have often been victimized themselves, and investments in community-oriented policing, prevention, and treatment produce savings in costs of detention and reduced juvenile and adult criminal behavior, Federal resources for Tribal juvenile justice should be reorganized in the same way this Commission has recommended for the adult criminal justice system. That is, they should be consolidated in a single Federal agency within the U.S. Department of Justice, allocated to Tribes in block funding rather than in unpredictable and burdensome grant programs, and provided at a level of parity with non-Indian systems. Tribes should be able to redirect funds currently devoted to detaining juveniles to more demonstrably beneficial programs, such as trauma-informed treatment and greater coordination between Tribal child welfare and juvenile justice agencies.

6.5 Because Tribal communities deserve to know where their children are and what is happening to them in State and Federal justice systems, and because it is

impossible to hold justice systems accountable without data, both Federal and State juvenile justice systems must be required to maintain proper records of Tribal youth whose actions within Indian country brought them in to contact with those systems. All system records at every stage of proceedings in State and Federal systems should include a consistently designated field indicating Tribal membership and location of the underlying conduct within Indian country and should allow for tracking of individual children. If State and Federal systems are uncertain whether a juvenile arrested in Indian country is in fact a Tribal member, they should be required to make inquiries, just as they are for dependency cases covered by the Indian Child Welfare Act.

6.6 Because American Indian/Alaska Native children have an exceptional degree of unmet need and the Federal government has a unique responsibility to these children, a single Federal agency should be created to coordinate the data collection, examine the specific needs, and make recommendations for American Indian/Alaska Native youth. This should be the same agency within the U.S. Department of Justice referenced in Recommendation 6.4. A very similar recommendation can be found in the 2013 Final Report of the Attorney General's National Task Force on Children Exposed to Violence.

6.7 Whether they are in Federal, State, or Tribal juvenile justice systems, children brought before juvenile authorities for behavior that took place in Tribal communities should be provided with trauma-informed screening and care, which may entail close collaboration among juvenile justice agencies, Tribal child welfare and behavioral health agencies. A legal preference should be established in State and Federal juvenile justice systems for community-based treatment of Indian country juveniles rather than detention in distant locations, beginning with the youth's first encounters with juvenile justice. Tribes should be able to redirect Federal funding for construction and operation of juvenile detention facilities to the types of assessment, treatment, and other services that attend to juvenile justice.

6.8 Where violent juveniles require treatment in some form of secure detention, whether it be through BOP-contracted State facilities, State facilities in P.L. 83-280 or similar jurisdiction, or BIA facilities, that treatment should be provided within a reasonable distance from the juvenile's home and informed by the latest and best trauma research as applied to Indian country.

6.9 The Federal Delinquency Act, 18 U.S.C. § 5032, which currently fosters Federal consultation and coordination only with States and U.S. territories, should be amended to add "or tribe" after the word "state" in subsections (1) and (2).

6.10 The Federal Delinquency Act, 18 U.S.C. § 5032, should be amended so that the Tribal election to allow or disallow transfer of juveniles for prosecution as adults applies to all juveniles subject to discretionary transfer, regardless of age or offense.

6.11 Federal courts hearing Indian country juvenile matters should be statutorily directed to establish pretrial diversion programs for such cases that allow sentencing in Tribal courts.

6.12 The Indian Child Welfare Act should be amended to provide that when a State court initiates any delinquency proceeding involving an Indian child for acts that took place on the reservation, all of the notice, intervention, and transfer provisions of ICWA will apply. For all other Indian children involved in State delinquency proceedings, ICWA should be amended to require notice to the Tribe and a right to intervene.

PREPARED STATEMENT OF THE NATIONAL INDIAN EDUCATION ASSOCIATION

Introduction

Chairman Barrasso, Vice Chairman Tester, thank you for this opportunity to submit written testimony on behalf of the National Indian Education Association (NIEA) regarding the hearing that the Committee held on juvenile justice in Indian Country. Education funding is critical to the rehabilitation of Native children in the 24 BIA-funded juvenile detention centers and to reducing recidivism. Without access to educational resources, already disadvantaged Native children are sitting in detention centers losing ground. NIEA requests the Committee's support for the restoration of funding for juvenile detention education in Indian country.

The State of Emergency in Native Education

As Secretary of Education Arne Duncan recently acknowledged, “Native youth are in a state of crisis,” and the “lack of opportunity is simply unacceptable.”¹ For instance, Native students are not experiencing the improvement in graduation rates that is applauded in the rest of the country. Native graduation rates overall are the lowest of any racial/ethnic demographic group at around 67 percent. Bureau of Indian Education (“BIE”) graduation rates are even worse, often hovering around 50 percent. Native students also continue to lag behind their peers on other important educational indicators, such as reading and math.² This overall state of emergency in Native education is particularly acute for Native youth who are detained or incarcerated at BIA-funded juvenile detention centers. Without access to educational resources, these children fall even further behind their peers.

The Trust Responsibility for Native Education

Established through treaties, federal law, and U.S. Supreme Court decisions, the federal government’s trust responsibility to tribes includes the obligation to provide educational access to all American Indian and Alaska Native students. This obligation is a shared responsibility between the Administration and Congress with regard to federally recognized Indian tribes. Despite the pressing need for funding parity and equal access, historical funding trends illustrate that the federal government has been abandoning its trust responsibility by decreasing federal funds to Native-serving programs by over half in the last 30 years. Funds for juvenile detention education have been one of the many casualties of this trend. Native students have been wholly abandoned in BIA-funded juvenile detention centers without adequate access to educational services.

Restoring Education Funding in BIA-funded Detention Centers

Prior to 2012, approximately \$620,000 was provided in the Interior budget for education services at BIA-funded juvenile detention facilities. Although this was a relatively small amount of money given the need for educational programs in the 24 BIA-funded juvenile detention facilities, these funds provided critical educational services. Since 2012, however, this account has not been funded. In some facilities, this has meant that detained and incarcerated children lack all access to educational services. Classrooms literally sit empty because there is no funding for educational programs.³ Detained and incarcerated children languish in these facilities as they fall further and further behind their peers, placing them at an even greater disadvantage than other Native children when they return to school.

Meanwhile, we know that one of the best methods to rehabilitate individuals is through education. Education builds self-esteem for these struggling youth, provides something productive for them to focus their energies on while they are detained or incarcerated, and reduces recidivism. Tribes have, therefore, repeatedly requested the restoration of funding for juvenile detention education. The House Interior Appropriations Report recently responded to these requests by providing that its budget recommendation “includes \$1,000,000 to restore juvenile detention education program grants.” H. Rep. 114–170, p. 38. NIEA requests that the Senate Committee on Indian Affairs support the fulfillment of this recommendation and the restoration of juvenile detention education programs in Indian Country.

Conclusion

The current state of Native education demonstrates the failure to fulfill the United States’ trust responsibility to Native youth. Nowhere is this reality more stark than for the children detained or incarcerated in BIA-funded juvenile detention centers without adequate access to educational resources. We request the Committee’s support for the restoration of juvenile detention education funding for Indian country, which is critical to the support and rehabilitation of some of this country’s most vulnerable children.

¹ Emma Brown, “Obama Budget Includes \$1 billion for Native American Education,” Washington Post (Jan. 30, 2015).

² See the National Indian Education Study, <http://nces.ed.gov/nationsreportcard/nies/>.

³ See Sari Horwitz, *From Broken Homes to A Broken System*, THE WASHINGTON POST (Nov. 28, 2014), available at <http://www.washingtonpost.com/sf/national/2014/11/28/from-broken-homes-to-a-broken-system/>.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AL FRANKEN TO
DARREN CRUZAN

Improving services is critical to addressing the needs of Indian youth in the juvenile justice system. But the need for assistance continues after a young person is released from the system.

1) What follow-up services are currently available for Tribal Youth leaving the juvenile justice system?

Response: The primary behavioral health services available in most AI/AN communities for youth once they exit the juvenile justice system are provided by either the Indian Health Service, Tribal, or Urban Indian health programs. Also, we understand that our partners at the Department of Justice (DOJ) also provide a number of services related to tribal youth in the juvenile justice system. The DOJ Office of Justice Programs (OJP) provides reentry services for juveniles who return to tribal communities.

For example, from FY 2009-2014, OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) funded the Tribal Green Reentry Initiative, which provided demonstration grants to incorporate green technologies and environmentally sustainable activities in programs designed to help detained and reentering tribal youth successfully reintegrate into their communities and to prevent future juvenile justice system involvement among at-risk youth. DOJ released an independent evaluation of this initiative in December 2014, with many valuable lessons for future reentry programming.

In addition, there are other, non-federal resources that focus on cultural identity, family and community engagement and cultural support for youth. Some tribes are fortunate to have OJJDP support Boys and Girls Clubs in the community, which provide an excellent resource for after-school and weekend pro-social activities and support. The Department has a fruitful partnership with Boys and Girls Clubs in Indian country. Youth may also seek out school sports, but they run on a seasonal basis and are time-limited. Some tribes have established Culture Clubs that are run by community volunteers who work with youth in the areas of traditional dance and drum groups. Religious groups also may sponsor youth activities on groups and serve as a support resource.

Despite all of these options, however, resources remain scarce in Indian communities in many cases.

2) How is the Bureau of Indian Affairs helping tribes provide resources for these youth?

Response: The BIA/Office of Justice Services has begun, in the past year, to work with several tribes in the area of strategic planning to prepare for and create improved continuum of care options for youth. The impasse that tribes often encounter is a lack of planning and collaboration to secure funding resources that support youth leadership, youth engagement, youth trauma reduction and youth safe haven options.

The approach that we (BIA-OJS) are taking in working with tribes is to first assist them with identifying their overall continuum of need in their community, which includes youth and families, and then set a strategy for what the continuum of care needs to be to meet the need. This helps the tribe to identify current strengths and resources that they previously may have overlooked or had not known of due to lack of local communication and/or collaboration. Once the strategic plan is in place we can then begin looking for federal funding resources that will best match the need and assist the tribe with making the necessary contacts within these agencies on an individual basis or via federal resource roundtable meetings. These efforts assist the tribes in being able to illustrate in detail what their needs are and the progress that they have made to date that positions the tribe for deciding to apply for funding.