

Background

- Established in 2013 upon the recommendation of the AG's National Task Force on Children Exposed to Violence
- Tasked with making high-level policy recommendations on ways to address issues around AI/AN children exposed to violence
- Four public hearings and multiple listening sessions, with over 120 witnesses

Recommendation 4.1

- Congress should authorize additional and adequate funding for tribal juvenile justice programs, a grossly underfunded area, in the form of block grants and self-governance compacts that would support the restructuring and maintenance of tribal juvenile justice systems.
 - No Congressional action
 - Little increased agency prioritization if any

Recommendation 4.1.A

- Delinquency Prevention (OJJDP) funding making clear that the tribal set-aside is the minimum tribal funding and not in any way a cap on tribal funding. President Obama's annual budget request to Congress has included a 7 percent tribal set-aside for the last few years. This is a very positive step and Congress should authorize this request immediately. However, the tribal set-aside should be increased to 10 percent in subsequent appropriations bills. Until Congress acts, the Department of Justice should establish this minimum 10 percent tribal set-aside administratively.
 - No Congressional or agency action

Recommendation 4.1.B

- Federal funding for state juvenile justice programs should require that states engage in and support meaningful and consensual consultation with tribes on the design, content, and operation of juvenile justice programs to ensure that programming is imbued with cultural integrity to meet the needs of tribal youth.
 - No Congressional action
 - Some state improvement in this area, i.e. Alaska implementation of diversions of AN children from state to tribal court.

Recommendation 4.1.C

- Congress should direct the Department of Justice (DOJ) and the Department of the Interior (DOI) to determine which agency should provide funding for both the construction and operation of jails and juvenile detention facilities in AI/AN communities, require consultation with tribes concerning the selection process, ensure the trust responsibilities for these facilities and services are assured, and appropriate the necessary funds.
 - No Congressional or agency action

Recommendation 4.2

- Federal, state, and private funding and technical assistance should be provided to tribes to develop or revise trauma informed, culturally specific tribal codes to improve tribal juvenile justice systems.
- The BIA commissioned a revised edition of the Model Indian Juvenile Code
 - Mandated by Congress
 - Revised Code added representation of juveniles in delinquency, truancy and At-Risk Youth proceedings
 - Added diversion opportunity at each decision point
 - Limits use of detention and provides other protections (i.e. interrogation)
 - Incorporates case management models for services

Recommendation 4.3

- Federal, tribal, and state justice systems should provide publicly funded legal representation to AI/AN children in the juvenile justice systems to protect their rights and minimize the harm that the juvenile justice system may cause them. The use of technology such as videoconferencing could make such representation available even in remote areas.
 - No Congressional action
 - Federal resources extremely limited for public defense for juveniles but significant increases in tribal funding of juvenile defenders

Recommendation 4.4

- Federal, tribal, and state justice systems should only use detention of AI/AN youth when the youth is a danger to themselves or the community. It should be close to the child's community and provide trauma-informed, culturally appropriate, and individually tailored services, including reentry services. Alternatives to detention such as "safe houses" should be significantly developed in AI/AN urban and rural communities.
 - No Congressional action
 - No specific agency action

Recommendation 4.5

- Federal, tribal, and state justice systems and service providers should make culturally appropriate trauma-informed screening, assessment, and care the standard in juvenile justice systems. Indian Health Service (IHS) and tribal and urban Indian behavioral health service providers must receive periodic training in culturally adapted trauma-informed interventions and cultural competency to provide appropriate services to AI/AN children and their families.
 - No Congressional action
 - More agency focus on trauma informed practices in existing funding structures
 - Tribes and research institutions have focused more on trauma informed practices and interventions

Recommendation 4.6

- Congress should amend the Indian Child Welfare Act (ICWA) 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. As a first step, the Department of Justice (DOJ) should establish a demonstration pilot project that would provide funding for three states to provide ICWA-type notification to tribes within their state whenever the state court initiates a delinquency proceeding against a child from that tribe which includes a plan to evaluate the results with an eye toward scaling it up for all AI/AN communities.
 - No Congressional or agency action
 - *Brackeen* Constitutional challenge to ICWA before the U.S. Supreme Court now

Recommendation 4.7

- Congress should amend the Federal Education Rights and Privacy Act (FERPA) to allow tribes to access their members' school attendance, performance, and disciplinary records.
- “...an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in section 5304 of title 25), who has the right to access a student’s case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student’s education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student’s education records.” 20 U.S.C. 1232g(b)(1)(L)

Thank You!