



Alyce Spotted Bear and Walter Soboleff Commission on Native Children

Southwest/Western Regional Hearing

February 25, 2022

Panel 3 – Child Welfare, Juvenile Justice, and Violence Transcript

Recording:

<https://commissiononnativechildren.org/media/video/panel-3-child-welfare-juvenile-justice-and-violence/>

Commissioners Present In-person:

Gloria O’Neill (Chair), Dr. Tami DeCoteau (Vice-Chair), Jesse Delmar, and Donald Gray.

Commissioners Present Virtually:

Dr. Dolores (Dee) Subia BigFoot, Anita Fineday, Elizabeth Morris, Dr. Leander R. McDonald, and Melody Staebner.

Commissioners Absent:

Carlyle Begay and Stephanie Bryan.

Detailees, Staff, and Contractors (virtually or in-person):

Ronald Lessard, Department of Education
Eileen Garry, Department of Justice
Regina Gilbert, Department of the Interior
Annette Romero, Department of the Interior
Lisa Rieger, Cook Inlet Tribal Council
Joshua Franks, Cook Inlet Tribal Council
Ann Caindec, Cook Inlet Tribal Council
Miriam Jorgensen, Native Nations Institute, University of Arizona
Kyra James, Native Nations Institute, University of Arizona
Stacy Leeds, Leeds Consulting
Briana Moseley, Kearns & West
Collin Buchanan, Kearns & West
Chelsea Cullen, Kearns & West
Caisey Hoffman, Kearns & West

Agenda: 2:15 PM – 3:45 PM MST – Panel 3 Child Welfare, Juvenile Justice, and Violence

Panelists:

- **Mikah Carlos**, Youth Representative, Salt River Pima-Maricopa Indian Community, National Indian Child Welfare Association Board
 - **Kami Hart**, Chief Judge, Gila River Indian Community Children’s Court
 - **Timothy Sandefur**, Vice President for Litigation, Goldwater Institute
 - **Alfred Urbina**, Attorney General, Office of the Attorney General, Pascua/Yaqui Tribe
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Start of Transcript

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0:01

Chair O’Neill: I’m going to go ahead and call this afternoon’s panels to order. And we did more of a formal introduction this morning of the commissioners. But what I would like to do is we head into the afternoon and we have several new guests in the room, because I just like to ask the commissioners to provide a very brief introduction please of yourself. And let’s start with those who are online. Commissioner fine day.

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0:31

Commissioner Fineday: Thank you. Good afternoon, everyone. My name is Anita find de. I am a member of the wider band of Ojibwe in Northwest Minnesota. And I work for PC family programs with the Indian Child Welfare team. Thank you and welcome.

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Chair O’Neill: Thank you, Commissioner Dr. McDonald. Okay, Commissioner Morris.

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Commissioner Morris: My name is Elizabeth Morris, and I’m the chairwoman of Christian alliance for Indian Child Welfare, as well as the author of dying in Indian country.

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Chair O’Neill: Thank you, Commissioner BigFoot or Commissioner McDonald. All right, well, we’ll introduce them as they come online. Commissioner gray.

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1:48

Commissioner Gray: Good afternoon. Thank you for hosting us down here and having us thank you for traveling here. My name is a kuksa kayas Donald Gray. I'm originally from the African Corporation, Barrow, Alaska. I like to tell people that if the world was flat, that's where you would fall off. So for this most northern point north america so thank you for having us and thank you for being here today.

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2:11

Vice-Chair DeCoteau: Good afternoon. My name is Dr. Tammy tokoto. I am a licensed clinical psychologist where I practice in the area of trauma informed care in the state of North Dakota and I'm an enrolled member at four MHA nation in North Dakota and also a descendant of the tournament and Chippewa people. I serve as the vice chair on the Commission. Thank you for being here today.

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Commissioner Delmar: Good afternoon, Jesse Del Mar. I'm the Division Director for the Navajo division public safety. I am a commissioner too, as well. In welcome. Thank you.

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Chair O'Neill: And again, my name is Gloria O'Neal and have the privilege to serve as the chair of the commission. And also, I serve as president and CEO of Cook Inlet Tribal Council and I've spent my career serving our community. In addition to that, first and foremost, I'm a mother, very proud mother. And that's another reason why this work is so very important to me. And I am of Yupik and salami descent Mr. Stegner.

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Commissioner Staebner: Buzu, my name is Melody Stagner. I live in North North Dakota, Fargo, North Dakota, and I'm enrolled in the Turtle Mountain reservation. And I coordinate the Indian education for Fargo and West Fargo public schools. Nice to have you here today. Thank you.

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3:47

Chair O'Neill: Thank you. Okay, and I just like to acknowledge all of the other incredible help who are supporting the work of the Commission. And as I said, we literally had to extend this work because of the pandemic. It took an act of Congress to give us another year and a half or two years. We were here two years ago, March of 19. It was our first official regional hearing, it took us two years just to get the commission funded. And by law, we couldn't start our work until we got the commission funded. So then we are so excited because we actually pre funded a little bit of the work and setting up the structures ourselves. We start the work. And then a pandemic is called like literally the week that we're here and as tribal communities made the appropriate choice of, you know, no travel and we just wanted to be very respectful and safe.

And so we were able to have a partial meeting. And we said once this pandemic, I can't say it's over. But once we continue to start moving forward Not sure what the right language is to us here, we are going to come back to Arizona. And so it's nice to be back here two years later to finish the regional meeting that we started. And we are going to head to Navajo Nation in late April. So we'll be back. But we'll be a little further north and really excited about that we've learned a lot over the last day and a half, had some incredible panels this morning, really focusing on early childhood, and education and looking at systems through the lens of leadership as well. And as we move into today, we are excited to talk about Indian Child Welfare and some of the child welfare, welfare issues impacting our communities. This has been a topic that's near and dear to the commissioner's heart. We are all committed to bring voice to this issue. And also as we start to listen to the various stakeholders in the community is how do we best put forward a recommendation that supports our children, and also supports our communities as we move forward. So I'm really excited to hear from you today. And the panel and I think it's going to really create some good conversation. What we have slated is 10 minutes each, and then we'll probably take like five minutes to answer questions right after your presentation. And then what I'd like to do is we get through the presentations, if we have additional time, then we could take an extra 10 or 15 minutes because you know, your your as we move through the panel, I'm sure that it will spark additional questions that we may want to go back to a previous speaker to, to answer. So I want to speak to what this stated goal is of this session. And it's to explore two issues first to increase the Commission's understanding of issues around child welfare and native communities in the region, including addressing jurisdictional issues related to the implementation of the Indian Child Welfare Act, by improving state local tribal collaboration and building tribal capacity to prevent and respond to child abuse and neglect and related issues. Second, to discuss the efficacy of the juvenile justice system for Native children, youth and communities and the disproportionate rates of arrest, detention and incarceration among Native youth compared to non Hispanic whites research is generally generally agreed that a more behavioral health approach to juvenile delinquency is better for youth, especially in light of increasing mental health challenges, greater suicide grows challenges across education and the feelings of isel oh excuse especially in light of increasing mental health challenges, greater suicide risk challenges across education, and feelings of isolation and disconnection from culture and community. So again, I asked you to keep to your 10 minutes, and then we may go back and ask for additional, you know, clarification or additional have additional questions. So what I might do if I feel like one of you, is long, please I mean, no disrespect, because I know you're, you're all experts in your own right. So what I might do is this, you know, put my finger up to say one minute, how does that sound? Like good. All right. Thank you. So, I'd like to start off with our youth leader at the table. And I want to introduce you miss Carlos. And would you introduce yourself and your year? Your roles, a very impressive bio.

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9:12

Mikah Carlos: Sure. Thank you, Scott. Josh on enough trig mica, Carlos, chin and Akima I'm good. So good everybody. My name is Micah Carlos. I come from the Salt River Pima Maricopa Indian community. I'm also here as representative for the National Indian Child Welfare

Association. So I get to speak a little bit about my roles with both Nicola and as well as working in my community with you then their welfare Okay, continue. Yes. Okay. So yes, I work for the National Indian Child Welfare Association as well as for my community, serving as you services assistant director. So I get to work with child welfare and specifically native Child Welfare on a daily basis. There's so little bit about my testimony for today. So going over the historical context and past government responses to child maltreatment in tribal communities, current research and data available on the risk factors for and rates of American Indian Alaskan Native child maltreatment, and current challenges and tribal program funding and data collection related to American Indian Alaskan Native child maltreatment, as well as examining child tribal state relationships and their impact on efforts to address child maltreatment and examples of successful tribal state collaborations and solutions that are working in tribal and urban American Indian Alaska Native communities. So, I know as you have all heard today, there's a lot of different challenges that our tribal communities are facing. You know, we've talked about poverty, we've talked about the different barriers and systemic challenges that are in place. And so for those different education and everything else is the same for child welfare. When we start looking at the different barriers that are in place, we have to look back at tribal communities, and specifically when we talk about welfare, examining how our historic systems have worked, you know, we look back and we see that our family structures have always been nuclear, we've always relied on historical, extended family networks. And it's always worked for us for 1000s of years, to protect children and support families. And we saw that with colonization came efforts by the US government, its allies to assimilate and disrupt tribal culture, take away resources and disrupt tribal governance and extinguish tribal religions. So we've seen that the policies and practices of colonization disrupted these natural helping systems that have always been in places that have protected children from maltreatment. And so by forcibly removing native people from their lands, and placing them in military style boarding schools, relocation of family to urban areas, and mass removal of native children from their families and communities to primarily non native families and institutions. It's has forced assimilation of native children into a culture that is not their own. And what that has resulted in is widespread intergenerational and historic trauma and resulted in Native people being isolated from the people that are best suited to teach them how to exist in a family structure. And so when we look at that, we also have to examine those risk factors. And so risk factors for child maltreatment and among Native children and we start looking at the welfare system. We've seen that child maltreatment, and the risk factors in native communities are not well understood by a non native system, we've seen that it's problematic. And when we look at effective solutions for Native children and families, we see that the mainstream data sources also do not provide understanding for culturally specific risk factors. And they don't inform effective solutions. We see that federal data collection on Child Welfare Services involving native children and families has significant gaps with federal data systems. And they don't typically identify native children, parents or caregivers. And when we, when that happens, we start losing out on data specifically, that tells us what gives us an idea of the bigger picture. And when we lose that we start losing funding as well. And so when we don't have the data to support the funding, and also there's various restraints on federal funding for tribal welfare systems, you know, if they're not eligible for Social Services block grants, we're not able to create a system that actually allows tribal welfare systems to implement culturally based

systems that will protect their children, and also to create change so that when they're creating a better environment for the children, we're also reducing those those problems that we see that aren't specifically related to maltreatment, but also affect poverty, housing and other things that do play a part in what would make it a decision, what would allow somebody to have a decision to possibly remove a child or place a child into a welfare system. And so that's part of the solution, part of looking at, you know, how do we actually create those solutions? And I know, I've said we've talked a lot about the problems, but a lot of the solution is looking at the culture. You know, how does the child welfare system implement the culture and for a lot of it, there is no culture that has been implemented. Specifically in like, we look at the state systems, they don't incorporate. That's the culture that the child is coming from, which would be hard. Here in the state of Arizona. We have 22 federally recognized tribes, and if we're asking the state to take something The core value of these cultures and incorporate it into their welfare system, it'd be very hard to do for 22 tribes individually. And so we know that for each tribe themselves, they know their culture, they know what's needed to protect the child. And they've been practicing for time immemorial, these systems that have protected children, and it wasn't until colonization came in and change those pathways, did we start to see the rise of maltreatment and abuse for children? And so for a lot of a, you know, in the work that I do is also how do we bring back those cultural competencies? And how do we, we put culture into a system where we can actually start to collect data. Previously, we know culture has just been a way of life, it's our hanbok. It's what we do. And we've never been able to place, we never really emphasize putting data collection or any kind of competences and plays, because it's just been the way that things have been done. And so now we have to, you know, when we're applying for grants and everything, we have to have evidence based programs. But with nobody's ever done the research or even collected data to understand what is happening in those tribal communities, or they've never given the tools to those tribal communities to collect that information. You can't expect them to have an evidence based program in place because we can collect evidence if no one's been taught how to do that. So that's part of the problem, as well as that we have to examine how do we help tribes create these programs that are culturally appropriate, and give them the funding and give them the tools to create these programs so that we can reduce the trauma that is happening to children when they are placed into welfare systems, you know, we see that for a child to be removed from their family and even removed from extended family, it's a very traumatic experience. And we're removing them from their families, they're not seeing that role model of this is who it means to be a person in our culture. This is who it means to be an existing member of our community. And so for a lot of kids, and for myself, even growing up, not specifically within not in my community, there's a sense of loss, there's a there's a loss of identity, and you feel that. And for a child, you know, it's very hard to identify what that feeling is, you just know, something's not right, something's missing. And so they can lead to a lot of problematic behaviors, because you're looking for something to fill that. And so when we look at that, we always want to make sure that we're doing everything in our power to make sure that the child remains in their communities, with their extended family with somebody who understands what it means to be indigenous or native. So we can remove that feeling of loss, we can reduce those traumatic experiences, we can hopefully put a stop in the there's intergenerational trauma that our youth are experiencing. And so there's a lot of different factors that play into a part of it. But it always

comes back to that culture. How do we support tribes in creating culturally based welfare systems, and some of them have some of them are very successful in implementing this. But again, it's always we run into the problems of lack of funding, lack of federal funding, and then lack of understanding of your program doesn't meet our guidelines, because those guidelines are are formed in colonized mindsets or colonized ways, which has we've know doesn't fit the way that our governments and our traditionally our people have always functioned. So thank you.

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Chair O'Neill: Wow, I could see why Nicola brought you on board. I was just I meant to direct message, David, because he said hello. And I was just saying how amazing you are, but I sent the message to everybody else not. So I just said. It's really impressive. Thank you for your testimony. Mica and I'm wondering at this point time, do we have any questions or comments from commissioners? Commissioners online. Commissioner Del Mar.

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19:20

Commissioner Delmar: Good afternoon. Thank you for that presentation. Um, I used to work over the hill, Fort McDowell. I was the chief of police there for quite some time. And I remember that we used to look at your Boys and Girls Club, and how, how sex successful it was. This morning, we talked about the orientation of culture. And then we talked about language to in in, in adding those to what you're doing with the Boys and Girls Club. But you just talked about you know, this is another issue that we talked about was self identity. A lot of kids really don't know, their history as natives and seem to be lost is one issue that we're we're pretty much talking about. We heard from Hilo river this morning on what they're doing with their, how they're very innovative and very creative in in adding those two components with the local programs for youth. What are you doing at Salt River in implementing and being an innovative, I guess, in including culture and language?

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Mikah Carlos: Yes. So I'm in Salt River. I'm, as an assistant director for youth services. I've had the privilege to work on a program called native spirit and actually offered her been his daughter helped us create this program, Amanda Hunter. And so this program is focused on how do we make culturally inclusive afterschool programming the norm. And so it's a it was a pilot project. And we've started, we've done a couple of sessions since then. But the important part is that the community has a say in what they feel is important for you to know, kind of a it's usually a 13 week session of different topics that have been identified as importance for the community and for us, in creating this curriculum. For myself, my it was important to me that the first lesson be language, and for that, you know, we, we can't teach all of the language in one session. But for us, it was very important that we teach them how to do introductions in not only ot them but also P Bosch. Because Salt River has two tribes within their within our community, the autumn and the posh. And so we focus with the youth for about a two hour

session on specifically, how do they introduce themselves? How do they say my name is Ariana gig, or mica Carlos look like this. My name is Mike in posh. And so for us, it's important that they have that ground base of moving forward because all of the lessons are facilitated by members of the community. And so we want them to be able to go to members of the community and say, This is who I am. This is where I'm from. And we know it's, it's a start, because for a lot of kids, if they're not going to the schools within Salt River, they're going to a public school, Mesa Public Schools, they're not having that direct language exposure. And so we know we're starting kind of from scratch for a lot of a lot of our teenagers. This is a program geared towards our teens. And so moving forward, once they have the introduction down, we move forward. And it's a series of 13 sessions. And depending on what season we're in, because we have to be culturally respectful, there's some things that don't place take place in certain seasons. But they start to learn about what does it mean to be a member of the community? What does it mean to be a leader? What does it mean to give service to your community, and so different very, each, like I said, each lesson is facilitated by somebody from the community. And so it was always our intention and our goal that having those facilitators would allow them to make an introduction. For some of them, we one of our traditional games is played. And for some of them, they've always heard of it, but they've never known where to go or who to talk to. And so by having that facilitator come in from the community, that connection has been made. And now we're allowing them to continue continue it on if there's interest, and we support them full heartedly, if they say they want to play our traditional games, we will gladly take them there and teach them how to harvest those sagas, which is our steaks. And so that's one of the programs that we're doing. And culture is always a component of our after school programs, and in our elementary school as well. And sometimes it's as simple as labeling our streets in our traditional languages. And we've seen that in Salt River, that there's been a push to label the streets within the community, and our traditional names, and then teaching the people who use those who come into the community. You know, it's no longer star. Yeah, it's no longer star road. It's who asked who a road. So bringing insiders in and not translating it for them, and just having them have to learn. You know, we're having a meeting today in Silverlake, and they're like, Okay, well, what is civil like it's whirlwind. So, the encouraging people to understand the language that way, so that it's just a couple of things that we've started again, there's a lot but specifically in our new services department, the NATO Spirit Program is probably our biggest and proudest program right now.

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Chair O'Neill: Thank you, and we may come back around to you with further questions. Next, I would like to introduce to you miss CAMI Hart. Miss Hart serves as the chief judge of the Gila River Indian Community Children's Court, and Miss Hart.

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24:57

Kami Hart: quixotic on Yep, trigger Kimmy Hart, I am first just want to welcome you to the ancestral lands of the Ogma them and move them. Like Micah. I'm also where our tribe is also have Pima America but also in, in our tribe, we have multiple people we in for clarification

before we start, I'm actually no longer I was the acting chief judge, and I'm just another Children's Court Judge again. So we do have as you as you heard Governor Lewis earlier, we have 24,000 enrolled community members, I do live and work on my reservation. We do have in our court specifically, we handle every case that comes through, we have nine judges, including the chief judge, Children's Court judges, associate judges to lower VAWA judge, we handle about 3000 cases that are filed per year. And all of those courts, including our civil court, are divorces or custody. So we're a pretty large court and we handle a high volume of cases. And I'm saying that because we're also in a different situation. We are right next to Phoenix. So we are an urban slash world tribe in a lot of ways. But we do have a high volume of cases. We, the Children's Court specifically handles our dependency cases, our juvenile justice cases, our guardian ships, name changes, anything that has to do with children. With the exception of divorces and custody, that's handled in our civil court. We do have a per capita, so we do handle per capita garnishments for juvenile offenders, guardianship matters, and we do order child support. The Children's code is there is a extensive children's code, it does give us jurisdiction over all of our children who are enrolled, enrolled within the tribe, but also that are domiciled for dependency matters. So we have children who are enrolled in Salt River, but they live in Hilo River, and that is a dependency case, I still have jurisdiction over those children. We also our code is really guided by the customs, customs and traditions of our tribe. So it tells us to follow if it's silent anywhere else, we follow the customs and traditions of our tribe. Our code also tells us that first and foremost, the best interest of a child is always going to be the first thing that we will always look at, and it will trump every other rights that anyone else has, is our best interests of our children. We do look also to rehabilitate rehabilitate both the juvenile offenders and rehabilitate our parents and our families that are coming before us. Our first goal is always going to be work towards how can we get those children whether they're arrested in custody, or whether they are in out of home care? How do we get them back home? And what are we doing to provide services that brought that cause whatever the issue was, that brought them into care. That's just how our code is written. So I just wanted to kind of explain that too. We do handle equal transfers, obviously, equal itself is not something that the court handles, that's a state function. But we do handle a lot of equal transfer. So our code does say that if a our community is requesting the case be transferred, the court will automatically transfer that case that we don't really have discretion to deny the case, it automatically gets transferred from state court if it's granted. So we do handle all of those, as everyone knows, it has been touted over and over as a gold standard of child welfare. The main reason is we want all children to have the ability to live at home, live first and foremost, to live with their parents. If that's not possible, all children, regardless of whether they're native or non native should have the right to live with a relative. They should that should always be what people are working towards no matter where, whether they're native or non native. Which is why I think if we're looking at not going with equal or not following a COA, then the reason should be because everyone is treated the same because all children across the board are given the same all parents, parents are not healthy when children are removed if they were healthy, they wouldn't be removed. So giving someone a piece of paper and saying go do these services go to substance abuse, but I'll be honest, I took in my niece and I had no idea where our behavior health was I had never gone so how do we expect unhealthy adults to know where services are possibly at when all they like workers doing is handing them a piece of paper and saying go get

services Good luck patting them on the back and saying go so I feel like there should be a little bit more help and more active efforts across the board for all children. And that's happening including in our cases and he'll River and the cases in state and anywhere else that they happen. Any other drives. Um, one thing is just for the purposes of This commission is it's really important for one of the recommendations to really be support the tribes when it comes to supporting the tribes in terms of having guardian ad litem supporting the tribes when it comes to legal services, because a lot of tribes don't have the funding to pay for an equal attorney, or don't have the funding to pay specifically for an equal caseworker or social worker that can work. Because our tribes are very even though he rivers a larger land based tribe, not as big as Navajo, or to but we're a larger land base, we still are pretty a small community, everyone knows everybody, everybody knows the families. And it was social workers are the ones that will be able to get in contact with a family where state workers may not be able to. So I would, my suggestion when it comes to that is possibly funding that would allow tribes to be more involved in equal cases from the onset of the case. So if they're looking for relative placement placement, that worker can go out right away and say, Hey, we have this child who is your niece nephew, that maybe they can be considered placement. So you'll remember also does one thing that's been happening recently, and as a newer thing is customary adoptions? What we've always done customer adoptions, but customer adoptions and state dependency cases, there's been at least three I think, actually now it's been about four cases, where it's been an open dependency case, the case plan has been sevens and adoption, then the tribes came in and said, we want to do customer adoption. Instead, the state court has agreed to that they've sent it to the tribe, we've done a customer adoption, granted the customer adoption, then the state will take our order for the customer adoption, and then they will close the dependency case. This helps because we don't have the tribe does not have an ability to do gardening or adoption subsidies. So that's something also to consider is whether or not tribes should have funding for adoption subsidies, because adoption subsidy long term, if you're adopting a two year old, you're now going to have adoption subsidy for 16 years. And we don't have adoption subsidies in the tribe. Another thing is that we have also because of those cases that have come through, we've had to involve our southern it's our call for rivers in Hilo River, the southern Legal Aid, Southern Legal Aid of Arizona, they've come in and said as guardian ad litem for the children. In those cases, we have a defense services office that will represent the parents in those cases, because it is coming from state, there's a lot of things that the tribe may not necessarily always do that we had to do, because that's what the state required. And so we've a lot we've done it, because they say this is what we want. We want you to have a guardian litem. So as to okay, we'll find a guardian litem. We don't always have a guardian litem. In all of our cases, when it's necessary. We can appoint at any point, anytime during the case, and we will, and we have, but not all of our cases are so contentious a lot of times our workers and our parents are getting along because everyone's working for the same goal. We do have a defense services office that represents all parents, in our cases, all of our parents are represented. And that's an option for whether their native non native parents, everyone in our child welfare cases get representation as well as our juvenile justice cases. So I also understand from Hilo river standpoint, we're also very lucky because we have the resources to provide that for people. Some of the tribes don't have the funding, they don't have the income that can support those types of services that really necessary in order for parents to get their voices heard. So so

far, I mean, we've had no issue with the customer adoption. It's been it's I think it's all been Maricopa County, but they've all been recognized. So I would just my recommendation with regarding that is just giving, there's just needs to be more funding with regard to representation for those who take over. The other thing that's happening specifically with Gila River, I don't know if it's happening with other tribes, is if a child comes into state custody, the parents live in Phoenix, the there's an incident that happens in Phoenix, they find out the child is enrolled Hilo River, maybe they have a history. On day one, CPS from the state will call he'll reverse CPS and we will immediately take jurisdiction of that case. There has been one time only that the state has had to come in and testify and they have a testified in the adjudication trial for that most of our cases, 99.9% of our cases are not going to trial and dependency cases. So every other time it's just been played out. But that is something that's working out and we're getting involved and we're able to find placement right away with relatives because we know the families most of the time, and that seems to be working out really well. There I believe the tribe is working with the state on creating are updated and MOU with regard to that and other other issues or matters with the state. But that is something that happens pretty regularly. I want to make sure I have time because the biggest thing I wanted to talk about one minute, we, we have a huge diversion program. And just because we were talking about culture, the Hilo river does have a juvenile drug court, a family healing to wellness court and a teen court. And so we do do a lot of diversion and programs regarding that. Our team, our drug court, our teen court, and our juvenile, our family, only one score all have a cultural component added into it. The two drug courts that have Staffy, which is the juvenile drug court and family healing, wellness also have a cultural liaison involved. Our parents and our juveniles are meeting with our cultural liaison, once a week, they we do family circles to involve the family, the beginning of the case to say, hey, we know that you've been burned by this family of a lot of history of substance abuse. But we want you to be involved because we want you to know what your family members going to. And it helps heal them. It helps heal the hurt that was caused by this family member for years and years and years. And then when the case is getting close to reunification, we involve them again to say, how are you going to support this family member as they get their kids back? And to help them? If they feel like using? How are you going to keep the kids safe? How are you going to try to stop them from using? So that's one of the better best things that we do is we have a lot of prevention for our teen court for them not coming back and a lot of resources. So remember, but that's it.

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36:21

Chair O'Neill: Thank you. I, I take a question at this point. Knowing that, you know, hopefully we'll have more time at the end of the session to ask questions, questions or comments from commissioners. Oh, I see Commissioner fine day.

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36:39

Commissioner Fineday: Thank you. Thank you, Judge Hart. Two questions. Am I remembering this correctly? At one point you were a model court working with the National Council of Juvenile and Family Court judges? Is that right? Are you still doing that?

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Kami Hart: Yes, we still are a model court with the ncj FCJ. Correct.

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37:02

Commissioner Fineday: And then on the on the juvenile justice issue, just wondering what you would consider like the most successful program that you have for his diversion program, or is it and and then there's a family healing to almost court. Any any data that shows that one is more successful than the other?

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37:33

Kami Hart: Well, there are two separate programs. One is specifically for dependency cases, and one is for our juvenile offender cases. So our juvenile drug court is specifically for juveniles. And that's been in place since like, I believe, 1999. I do not have data, but they do have data because it's usually been grant funded. So there is data. I just don't have it with me today. But it's been that they those ones are actually pre adjudication pre petition, they can be referred and not no charges ever brought brought against them if they're successful, or they could be on probation, and then also be referred to the juvenile drug court program.

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Chair O'Neill: Thank you. Great, thank you. Okay, we're going to move to our third panelist and we have with us today Mr. Timothy standard, her vice president for litigation, Goldwater Institute. Mr. Standefer.

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Timothy Sandefur: Thank you very much. And I appreciate the invitation to speak to you today about the harms that the Indian Child Welfare Act inflicts on children of Native American descent. It stands today as one of the greatest obstacles to justice and security for Native American children. And it does so for several reasons, some of which are very complicated. So I have submitted written testimony that gets into some of those details. Here, I will only address three problems. The first is it was restrictions on the termination of parental rights. The second is it was active efforts requirements. And the third is it was race based rules for foster care and adoption. I'll discuss also the false claim that ICWA is the gold standard of child welfare. It was passed with good intentions to end the abusive process of practices that you've just heard about and Nobody disputes that these practices resulted in great harms. The problem is that Iqua actually worsens the treatment of Native adults and children. One preliminary note ICWA applies to what it calls Indian children. This is not the same thing as tribal membership and that difference is important. tribal membership or citizenship is a function of tribal law, and every tribe is free to set its criteria how it chooses. But Indian child status under ICWA is a function of

federal and state law, which means that it has to comply with constitutional rules. It would define Indian children as either children who are current tribal members or children who are eligible for membership and have a biological parent who is a tribal member. What this means is that a child is deemed Indian under ICWA. Even if that child has no cultural, social or political connection to a tribe, has never visited tribal lands has no idea that she or he has Native Heritage. On the other hand, a child who is fully acculturated to a tribe speaks tribal language practices a native religion etc, may not qualify if that child lacks the biological criteria for membership or lacks a biological parent who is a member. Now, how does equal harm Indian children and their parents? Consider first the termination of parental rights. While it's always a tragedy when a parent's rights must be terminated? The fact is that it is sometimes necessary if a child is going to be rescued from abusive or neglectful parents, and under the law of every state and under federal law for children of other ethnicities. parental rights may be terminated when there is clear and convincing evidence that the child is at serious risk. That clear and convincing standard requires more proof than the preponderance of the evidence standard that applies in ordinary civil lawsuits, but less than the beyond a reasonable doubt standard that's used in criminal law. The Supreme Court in fact has ruled that the clear and convincing standard is required for termination of parental rights because the preponderance standard would make it too easy to take kids away from their parents. And the reasonable doubt standard would make it too hard. The court said quote, the reasonable doubt standard would erect an unreasonable barrier to state efforts to free permanently neglected children for adoption and quote, but ICWA imposes that Reasonable Doubt standard, in fact, it goes even further and requires beyond a reasonable doubt and also expert witness testimony. What that means is that it is literally easier to put a criminal on death row than it is to terminate the parental rights of an abused Indian child. Now, it should be obvious that making it harder to rescue children from abusive homes does not serve their best interests. And because state courts also force parents themselves to satisfy these evidentiary requirements. The result is, is often to block native parents from protecting their own kids. For example, consider the case of *in re ta W*. That involved a Shoalwater Bay mother who wanted to terminate the rights of her abusive ex husband, who was non native and who was a repeat criminal offender. She wanted to terminate her right his rights so that her new husband, who was a tribal member could adopt her son legally. But the Washington Supreme Court ruled that she still had to follow that Reasonable Doubt and expert testimony standard. And because these are so extremely burdensome and expensive, she could not terminate the rights of her non native X. That outcome does nothing to preserve Native families. On the contrary, it prevented a native mother from forming a new legally recognized native family. In cases like that equal bars native parents from protecting their own kids, which violates the Constitution since the Supreme Court has said the parents have a fundamental constitutional right to direct their children's upbringing. The only parents who are deprived of that right by federal law, our Native American parents. Another way that equal harms Indian children is through the active efforts requirement. State and federal law require that if a child welfare officer takes a child away from an abusive family, the state has to take what are called reasonable efforts to return the child of the family provide them a social services, for example, so they can get back on their feet. But this is not required in cases of aggravated circumstances such as sexual molestation. And that makes sense because it would be very bad to require children, child welfare officers to send

children back to homes that they know are abusive, where they'll just be harmed again, but it does require that instead of reasonable efforts, it requires active efforts and courts have said that this is not excused by aggravated circumstances. As a result, Indian children must be returned time and again to families that states know are mistreating them. And the horror stories such as Declan Stewart, Anthony Renova, or Josiah GeSHI are direct consequences of the fact that state child welfare officers cannot take steps to protect these children steps that they could have taken if the children were white, black, Asian or Hispanic. A third way it will harm Indian children is with the race based placement preferences. It will require an Indian child to be placed in foster or adoptive care with Indian adults regardless of tribe. That means that a Navajo child must be placed with a Cherokee or a Penobscot or Seminole family, instead of with white, black or Asian or Hispanic families. Even though these tribes have completely different histories and cultures. Simply put ICWA treats Indians as a fungible single group, instead of respecting the differences between tribes. But the idea of the generic Indian is a racist concept that was imposed on Native Americans by settlers and equal operates on precisely that basis. This has real consequences because there is a drastic shortage of Native American foster and adoptive homes. So few in fact, that Indian children must typically typically be placed with non native families, which is called non compliant placement. And that means The children can be removed from those foster families at practically any time and frequently, our native children are frequently shuttled between foster homes, which deprives them of the ability of the stability that is so crucial to their upbringing. What's more, if a native child needs a permanent adoptive home he or she can be and frequently is denied that home, because the adults who want to protect that child are white, black, Asian or Hispanic. That is true even if the native parents themselves want their children to be adopted by adults of another race. For example, in the big case that's now pending in front of the US Supreme Court, both native parents agreed to the adoption of their child by the white family, but ICWA allowed tribal governments to veto that decision and send the child to live with strangers in another state. Instead, you'll often hear people say that is the gold standard of child welfare. This is false and misleading. That phrase originated in a brief filed in the 2013 case of adoptive couples versus baby girl. When you read the brief, what it actually said is that the gold standard of child welfare is for a child to stay with fit birth parents. Well, of course, Nobody disputes that obviously children should stay with their fit birth parents. The problem arises when parents are not fit but are abusive or unable to take care of the children. In those cases, the state has a duty to step in. And Iqta stands as a major obstacle to that the actual gold standard is the best interest of the child standard. It says that the child's individual specific needs and interests take priority over other considerations. The best interest test is individualized. It's a case by case assessment that evaluates everything from the child's physical health to the child's cultural needs. But ICWA overrides that test and prioritizes other considerations, especially the wishes of tribal governments, over the welfare of the child, and that is literally separate but equal or actually separate and substandard. Texas and California courts, in fact, have said outright that there are two separate tests the white best interests rule and the Indian best interests rule. Under the white best interests rule, a child's welfare is the supreme consideration. But for Indian children, they have said that doesn't matter as much. Some say equates just imposes a federal presumption that an Indian child's best interest has to be placed with the Indian community. But the Supreme Court has also said that it's unconstitutional to use presumptions in child

welfare law, because children are entitled to have their unique circumstances count that is the most important consideration to impose a one size fits all standard on native children to declare what's in their best interests, regardless of their circumstances, echoes the worst elements of the federal government's treatment of Native Americans and perpetuates injustice, is that reached back centuries? Let me end by being very frank with you. Equity is an emotionally fraught issue. Tribal government officials often say it's crucial for protecting tribal communities, and dismiss the harms that I've mentioned as mere anecdotes. And I know that hearing someone who looks like me talk about this issue is very uncomfortable for some people. But refusing to listen to the facts and law does not help native children. I beg you not to do that. Iqua is drastically in need of fixing if we are to protect the next generation of Indian children, and the adults who love them from needless suffering. Thank you for inviting me.

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Chair O'Neill: Yes. Okay. With that, I'm going to ask if commissioners have any questions or comments. Yes, Commissioner Gray.

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Commissioner Gray: of how you just looked at me, and you knew that I would have some questions and comments. Thank you for your testimony. I greatly appreciate it. And I apologize, I've not had an opportunity to read what you have submitted. Do you have specific recommendations within your submittal as to what you you feel would would help fix or strengthen that? The the idea behind it?

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Timothy Sandefur: The the two things that I would say our most crucial is first to state that the best interest of the child standard is the is the appropriate standard in all cases, regardless of the child's biological background. Now, the best interest standard, of course, includes evaluation of cultural needs. And if a if a state court system is operating and applying the best interest standard in a racially biased way that's already unconstitutional and illegal. And there are of course horror stories that one can point to even today. There's a case I think, ongoing in South Dakota, for instance, the ACLU is litigating where there are plainly abuses in this in the state court system that are taken care of by the existing civil rights laws. So what's most important is the best interest of the child standards should be applied to all children. And that would include an evaluation of cultural needs. And the second rule would be to apply and this gets a little technical to apply the personal jurisdiction rules of the 14th amendment to all courts, including tribal courts, in theory, that's already the law. personal jurisdiction under the 14th Amendment requires that a trial court regardless of what kind to record it is state, federal, tribal, whatever, has to have personal jurisdiction over the individuals. That means there must be what they call substantial contact, meaningful contacts between that individual and have to have visited the state for that. This is why Maine courts can't decide a case involving a car accident in California, for example. But if you're front, if you if you're in Maine, and you have a

car accident there, then the courts can decide that because there's a contact between the person and the place, that rule should be applied across the board in all equal cases. And unfortunately, until just a few years ago, no state or federal court had ever addressed that issue, which is really remarkable. So that would be my second suggestion.

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Chair O'Neill: Thank you. I'm going to allow for one more question before we move on. And that's because Commissioner Morris has not had a chance to ask a question to a during the hearing, and I didn't see that she had her hand up. So Commissioner Morris.

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Commissioner Morris: I just really wanted to thank you, Mr. Santa for for for coming today. I really deeply appreciate it. And I deeply appreciate your testimony. Thank you.

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Timothy Sandefur: Thank you very much.

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Chair O'Neill: Thank you. All right. So now we're moving on to. I've heard a lot about you. I think you're a superstar in your own right. Mr. Rubina, who serves as the Attorney General Office of the Attorney General of Pasco, y'all, yaki tribe. Hopefully I said that appropriately and correctly. It's close enough. Yes, close enough. Thank you for being here. Mr. Robina.

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Alfred Urbina: Thank you. I have a short presentation. My name is Fred Urbina. Loosen chin yovel kitchen Malaya. Welcome to Arizona Indian Country. title of my presentation is child welfare juvenile justice and violence panel. It worked the gold standard golden nuggets of evidence from Arizona Indian Country. Tim and I did not plan that. Next slide. Our first contact with colonizers What 1533 For our tribe. Next slide. I'll go through this is just our tribe where we're located. I'm a member of the possible yaki tribe. We're from the great state of Arizona or pre Arizona, before it was called Arizona. And we're located southwest of Tucson Arizona, small tribe about 22,000 members 5000 of our tribal members live on reservation. Next slide please. Like I mentioned, we have a small reservation south of Tucson, the majority of our population live off reservation. We're very young tribe. We're small but strong. Next slide please. A little bit of history about us we were recognized by the federal government in 1978. Coincidentally, equalise past the same year, we started operating our echo program in 1981. We've been doing so for the past 40 years, handling many cases across the country but also in Pima County primarily. And also Maricopa County. Next slide please. Once again, just just a little bit about our our laws gives us the ability to service our off reservation communities. That's an important

distinction for us because we're able to deliver housing programs as well as deliver services off reservation within Pima County in Maricopa County primarily. Next slide, please. The call the the panel was a little bit about the collaboration of the state in the tribe in the federal government to come up with solutions to some of the issues with juvenile justice and issue with with UCLA. Our program has been developed, in part with federal funding but also tribal funding. We have a program called to wahi it means a family in Lakota. It started out from the BIA. It's based on a Maori program out of New Zealand. That helps us develop capacity to deliver services both in Pima County Maricopa County. We also received title for funding to the tribe directly. We get assistance from Casey Family Program. And we work directly with the Pima County. They've developed an equal court with partners at the National Council of Juvenile family court judges. We do foster care recruitment in both counties here in Arizona and as well as in other places across the country and The Tribal Council has developed a series of laws based on our reservation but that are applicable off reservation that helps us implement and run our Aqua program. We have an attendance achievement program that's tied in directly to the Tucson unified school district. That That refers students into our tribal court, as opposed to the Pima County Juvenile Detention record center for things like attended achievement and also wraparound services. We do some collaboration with BIA, we we produce some books, some culturally based books that we give to our children in care. This goes out to all children in care and foster homes. It also goes out to caseworkers, investigators, we do multiple trainings for state court workers on our tribe, on our cultures and our values. We do have, of course, a staff of equal attorneys, many of them are here with us now. We have about 10 staff members who work on our echo cases both in Pima and Maricopa County. These are state licensed attorneys along with echo caseworkers and UCLA support staff off you obviously practicing the gold standard within state court. We this program is an evidence based program. It's been evaluated. We've done a lot of data collection and analysis on our program. And I'll get to those slides that talk a little bit about our recent outcomes. You can't see this, but it's in your packet. It's it's been submitted. This is basically how the system is set up how the system works within Pima and Maricopa County along with our collaborative partners, both our state partners, our federal partners at the BIA Casey Family Programs and DCS here in Arizona. This program, obviously, in not only starting in 1981, when we had contracted case attorneys handling these matters, but also now where we have in house counsel operating these cases, it's produced outcomes that are that are favorable to the tribe outcomes that we want to see reunification with our tribal families both on reservation and off reservation. In fact, we we rarely transfer cases to the tribe, in part because of geographical issues. But in part because we were already involved in the case at the investigative stage, and placement stage. So this, this helps us our Enrollment Department helps us analyze the folks that are involved in the case, we put out a family tree that helps us with placement, sometimes before the cases even fired up in the state. So we're able to place or even avoid a case opening when they're investigating in the state. So this helps us place. The majority of our cases have placements with tribal members at the outset. So we rarely have the issue with adopted issues where tribal members are going into adopted non Indian homes. We've already addressed our placement preferences at the outset because of our enrollment process. Next slide please. This is just a little bit of information about the stakeholders. How our case runs through the process here in the state of Arizona, I'm sorry, next slide. And it just kind of details in and outlines how our case works

through the system, the kind of outcomes that that we see. Both measuring it from an outcomes based perspective in terms of reunification, guardianship, adoptions, but also our cultural values are also considered to whether there's an increase in child happiness, improve parenting skills, increased hope, the child and family relationship. These are all things that we're measuring that we're that we want to make sure that we're addressing during the course of the case, on not just the actual legal outcomes that happen within the state court system. Next slide, please. This is our team in Pima County. This is part of our team Maricopa County. Some of the folks are here today. They are practicing in state court on a daily basis. Right now it's via zoom but hopefully pretty soon it'll be in person. They help our families on a daily basis both with training expectation with services. Most of the the things that are happening as part of a COA were directly doing along with our state court partners, the caseworkers. It's a collaborative relationship where the tribe is spending probably close to a million dollars both in Pima County and Maricopa County, in terms of staff salaries, programmatic costs and also materials in support of our families in the state court system. Next slide, please. This is the way our our system is set up within our department, the Department of Office of the Attorney General at the possible yaki tribe. And essentially it's breaking, it's broken out into Maricopa County. Pima County, we have contract attorneys that work out of out of our office are managed out of our office, but they were California cases and other states as well. Next slide. This is some of the developments developments that have occurred since we started programming with bi Twonky funding that it's given us added capacity. Our cases have been I would call them phenomenal, I would say that they're evidence of the gold standard of ICWA being applied with the proper capacity and resources 43 out of our recent 54 close cases were with reinscribe with parents. Some of those 15 of those cases were guardianship or adoption, mostly with tribal families, or equal compliant placements. There has been an increase in at least 13% and equip compliant placements at the outset. This was already pretty high for us. And then also a decrease decrease response time from our Enrollment Department and verification of that tribal number. Let's skip to the next slide. And this is I think, 2006 to 2015. We're going to skip this and go on to the next slide. This is 2021. Like I mentioned, most of our outcomes are reunification and guardianship with tribal members. Next slide, please. This is the Aqua court in practice. As you can see, by the slide most recently, our placement at closure has risen dramatically. It's probably a lot higher than that at this point. This is preliminary numbers. Next slide please. The days to closure are even better than non Indian cases in the Pima County ECWA court. Once again, these are preliminary numbers but they're probably they're probably the same or even better today. Next slide please. Our dependencies the placement and closure has dramatically increased where that is with 64 64% are with parents. A large the second largest percentage of placements are or placement at closure are in guardianship. So we're doing pretty good in the Pima County equal court. Next slide please. Just a little bit about delinquency. I know I'm out of time. But we do have some crossover youth we do see some delinquencies that happened. However, Pima County recently did a look at disparities in the juvenile court. based on their analysis of disparities in juvenile court. They literally closed down the Pima County Detention Center for juveniles. And we started operating our attendance Achievement Program, which refers yaki children back into our system. And so although we do see some, there are some gaps in terms of arrests that happened with yaki juveniles in that work, those cases or those calls aren't made

back to the tribe to to give us notice. We were actually addressing those cases in tribal court, and we're able to deliver wraparound services for children who may be involved in delinquency in a delinquency matter. Next slide, please. And these are just some of the things that we're seeing within our cases based on our collaboration with the state with the Bureau of Indian Affairs, even with DCS and the state court system. We're seeing phenomenal results across the board. It what is working for us. It is the gold standard. And I think we've proven it we've we've offered evidence that's been evaluated independently by a independent evaluator to show that it actually works. So and I can share that information with Mr. Sandefur.

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Chair O'Neill: Thank you, Mr. Medina. I really appreciate the data and the the presentation that you shared with the group and I assume that you've submitted this. So it's all in our, it's all in our packet. As you know, I wish we had a much longer time because I know that we could. We could spend hours talking about this and really understanding it. So I want to thank you for all of your work on behalf of Indian children and your community. It's pretty impressive. So we do have time I want to open it up for questions or comments, in particular to Mr. Bina. And then after that, I'd like to use the remainder of the 20 minutes to open it up for our panel for their questions for our panel. Question questions or comments? Yes, Dr. Dakota.

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1:06:00

Vice-Chair DeCoteau: I just want to thank you, Mr. Urbino, for your presentation and for the data. As a psychologist, I interface with Child Protective Services all the time, and certainly the foster care system nationally could use a lot of improvements. But it's really nice to see when equity is applied to when adhered to how well it works for Indian children. And perhaps one of the recommendations that the Commission needs to make moving forward is more oversight and training for individuals who are applying the Equus standards in the child welfare system. And also for that comprehensive developmental background. That Mr. Sandefur, you know, referred to that, you know, when there is an especially complex Child Welfare placement decision, that that tribes and counties and states have the ability to secure expert consultation, to help with those decisions. So thank you all for your presentation. Say I appreciate it. Thank you.

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Chair O'Neill: Would you like to respond?

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Alfred Urbina: No, I just want to say thank you. We do, we do plan. And I think we're in the process of doing a larger evaluation of the program. So we'll have additional data, or we'll start to break out our case data. It will be an independent evaluation that we'll be submitting. It's already been approved. So it will have a little bit, we'll get into the weeds. We'll have some

more information actually going through our process. But it will be a three 360 degree evaluation of our program.

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Vice-Chair DeCoteau: I look forward to seeing that. Thank you.

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Chair O'Neill: All right. Now let's open it up for further conversation. Oh, okay. Commissioner, find a

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Commissioner Fineday: thank you. I'm just wanted to thank Mr. Urbina for his presentation and for the really impressive work that has taken place Pascall yaki and Pascall yaki is just really so impressive. And such a model for Indian country. I did want to ask Mr. Urbina, that the numbers are so impressive. And the number of days the cases are open and come down. Just all of the data points are impressive. And I'm just wondering if you have a thought about why I know it's a variety of things. But is it the early intervention by the tribe? Do you think that we like em, which is based upon the relationship with the state court judges? Is that kind of a key factor that allows the case to get off going in the right direction? Or is it something else?

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Alfred Urbina: Yet, Commissioner find it I believe that's key. Especially our enrollment or our additional enrollment specialist added to the program was was important. And it's gotten to a point where we're receiving calls before investigations from state court workers, investigators, caseworkers for our help. This is pre placement This is before because of the relationship and the collapse. separation that happens already, then if there has to be placement, and there is a removal, that process is sometimes done before there's even anything filed in the court system itself. Once that happens, we're filing a notice to intervene. Right after the court, the case is filed. And so we're in there, we're not, we're not dealing with placement issues, we're able to start addressing the needs of the family right off the bat, because they're placed with a relative, it's, it's then possible for us to start closing that case faster, because the parents are more likely to respond better. And then the child is in a, in a better place from a trauma point of view. Because they're with a known relative. They're eating the same food, they're going into the same school, perhaps, perhaps they're there. They're there with grandma there. They've been there before. And so it's really important for the kids right at the outset that that trauma is reduced because of the placement with family.

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Chair O'Neill: Thank you. Mr. Delmar.

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Commissioner Delmar: Well, thank you, Fred, thank you for your presentation. I was just thinking about this, that you practice in Pima County and also America, Copa County, too, as well, as the Chief Judge mentioned just a while ago that all the tribes they have their own laws, and they differ too, as well. Like, the chief judge said that their laws, culture and language has more orientation, cultural practices, has more orientation into their laws. And then just thinking that you deal with two county courts currently right now, from their side from the county side. Are they able to work with other tribes as as as how you from PASCO yaki work with them? Or did what's your experience in that, from their side, to other tribes?

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Alfred Urbina: Thank you, Commissioner Damar. i There is a difference between a Pima County Maricopa County, Maricopa County is larger. Of course, the Pima County Juvenile division is smaller. And it's much more intimate there's there's those relationships go back years. It's it's a little more difficult than Maricopa County. However, we're working with the Juvenile Court Judges there's there's a plan to, I believe start an echo court in Maricopa County to address these issues. But we're able to see some of the same results because of our intervention in Maricopa County. The same things that we're seeing in Pima County, we're seeing in Maricopa County, but it's going to take us a little bit more time, probably a little bit more resources. And then the establishment of that miracle county equal court to really start to see things move here in Phoenix. The other thing is that in in Pima County, they I think they as part of the equal court they have 49 Different tribes represented in those cases. Because all of those cases are handled by the same judge. When that happens in Phoenix, we'll probably see the same thing. numerous different tribes represented within that equal court as established American County. So we'll start working on that, along with Casey Family Programs and our other partners to start to work on this. Certainly, we can also start to work with other tribes to help share our resources share the information that we've developed as interventions but also simply sharing information about a process that might be helpful to a tribe in Maricopa County or in Coconino County. Certainly things we can do.

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Chair O'Neill: A question that I'm going to hand it over to you and ask the question first, is that okay, okay. So a question to the panel. I know in my work in Alaska, one of the the issues that we read up against and I heard I think it was Mr. Stanner. For who spoke of this is the lack of foster homes, in our communities and you know, coupled with really little support and resources for equal cases in court and and then, you know, trying to recruit foster families and helping foster families get up to a certain Standard in some cases, I've heard time and time again that, you know, some homes are not deemed appropriate because just for, for the very reason that they're they they feel like they're not clean enough, you know, or subsistence. People don't have certain heating in Alaska. And so you keep your meat on your floor where it's cool in the wintertime. They're just some real cultural differences. And sometimes that doesn't

translate with state standards. And so my, my question is one about foster homes. What do you think the barrier around? You know, recruiting foster homes and supporting foster homes might be in our communities? And then secondly, how what what are some of those solutions that we should really think about, and that we can articulate in this report moving forward? Who wants to start on the foster homes? I think that's sometimes when I asked that question, even if it takes time it people pause.

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Alfred Urbina: I think we've developed a program we have foster care recruitment. We also have foster care, training. And we have, obviously Foster Care Licensing as part of our program that also is funded by tau ahi. We've also incorporated a, it's a big hit program that's tied to Artois, EU funding. And that helps us actually do home repairs. So we've repaired about 30 homes as we recruited foster families, so that the homes are, are safe. And we're addressing issues for home inspections. But we're also helping with licensing and training of those foster families, getting them licensed so that they can have the funds to care for additional children. So we've got a full fledged foster care recruitment program tied to a program that helps address the issues that they might have, in terms of safe home or training for raising children. And the licensing aspect as well. And we can share that information also.

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Kami Hart: I would just add, and I'm on the court side. So I don't see a lot of the recruitment. But I've done recruitment before my own came to the bench. We do also have a licensing worker, someone who recruits in licenses in Halo River as well, I would say are one of the biggest things is probably education for the tribal members, and even Native Americans as a whole as to what their actual role would be, and how they can help on a temporary basis to get the to help the families, what how they actually are helping the community or how they're helping the children. Because I think there's just a fear that if the government's coming in, they don't want any part of it. So I think it's just really the education piece.

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Alfred Urbina: The other thing is enrollment. So we tied in our program with our Enrollment Department. And so we're able to develop these family trees. But if you if you look at your enrollment rolls and your year, you can start to actually map you can create areas of prevention, but also areas where you know, you need foster homes. And so using your enrollment database, you can actually focus on families and then approach them as part of that so and then you could just tie that to your your historical cases. And you already know where you might need intervention and prevention services, but also the quote the corresponding foster homes. So this this is things that tribe could do with data they already have.

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Chair O'Neill: and conversations with the states so they understand cultural differences doesn't necessarily mean that they're bad homes. Yes, Commissioner Gray.

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Commissioner Gray: Thank you, Madam Chair, actually, really, truly appreciate that comment. Um, is there Fred, you're obviously a proponent of ICWA. Is there in your herd? Timothy's testimony there, is there an argument against tweaking ekwa to to using the clearing convincing standard, and to making it very clear that, you know, overall, it should be in the best interest of the child versus just a factor or component of the overall decision, would there be an argument against tweaking it to such a degree?

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Alfred Urbina: I mean, if you're talking legally, and you know, if that's if that's what your your goal is, if your if your goal is, you know, tweaking the legal standard, so that we can have a, you know, something we can litigate? I don't, I don't, I don't think I'm not a proponent of modifying legal language for the sake of modifying legal language. I'm concerned with the reunification of families, the safety of children. And I know we have to litigate these things, because that's what we do. In courts. That's how we get paid. But ultimately, you know, we're putting our families back together. This, this book is called Finding home. I, I don't need to sit to, for me to explain that to a child or to a judge. I don't need to be like, well, that's the preponderance or this is the this standard created by a Western court to tell us when our families belong together.

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Commissioner Gray: So how do we how do we prevent the abuses on the other? The other side, though, like what's, what's the middle ground there?

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Alfred Urbina: The legal abuses?

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Commissioner Gray: Yeah.

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Alfred Urbina: I mean, I think I think if you're operating in a you're using a gold standard, and you're working collaboratively, to to take children and put them back home, I think these questions become less, less onerous. They're not things that we had to ponder at night or draft up 100 Page motions on, I think it really is pretty clear. For us, it's clear for judges, I've been a judge on these cases before. You know, I don't a legal argument about the basis for what you

do, or what you don't do. is interesting to me, and I can, I can listen to someone argue, a point or a counterpoint. But in reality, I'm interested in what we can do for these families. If we're going to litigate at the end, you know, hey, this this kid should be there. There wasn't notice, I think, I think it's, it's what we do in these cases, certainly. But I think it's, it's gotten away for why we're there important first place.

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Chair O'Neill: So, yes.

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Timothy Sandefur: you had an interesting kind of twist on this. So we did I litigated a case a while back in Tucson, where it was another one of these situations where a tribal family a tribal mother wanted to terminate the parental rights of her ex spouse. She was a member of the to tribe but didn't live on reservation she lived off reservation. So if if the child had not had been non Indian, Arizona State law would have applied in a clear and convincing standard of client and to law is the same it uses the clear and convincing standard. So if she had lived, lived on reservation the to rule clear agreements and would also have apply, but because she lived off reservation, and the child was subject to ICWA, reasonable doubt instead applied, which meant she was unable to terminate parental rights. And equal was not intended to apply to inter family disputes at all. It was intended to prevent state and federal officials, people coming in and taking kids away from families. But what we're seeing is it's used in cases where one spouse is suing another and actually equal does not apply to divorce cases. It specifically says it doesn't apply to divorce cases. So if a couple gets divorced, if it doesn't apply, but if they get divorced, and they have a settlement about child custody, and then years down the line, they want to change the settlement. Now, it's not a divorce case. Now, it does apply. So a simple rule it says it doesn't apply in inter family disputes. That alone would save a number, a tremendous number of headaches, and that wasn't what it was meant for any. Thank you.

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Chair O'Neill: Thank you. So I have Mr. Dr. McDonald in the queue, along with Commissioner Morris, Dr. McDonald.

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Commissioner McDonald: Thank you, Madam Chair. And also thank you to all the presenters for sharing what's happening in your communities. I appreciate the information I used especially like the Mr. Urbina, Urbina data driven models that were shared, you know, that also, from what's being shared in a discussion piece that is able to work is a model of where jurisdictions will work together to the benefit of the child. There's the family tree piece that, you know, help support the, what's happening in regard to ICWA. I'm also heard shared that the that the model can be duplicated or has been duplicated now. And I think that's really important. But what I

also heard is that you have a number of resources within your systems, almost almost all you that shared that, as some of the poorer tribes don't have. And so, so the model might be able to be duplicated. But we need resources for the tribes in the form of training in order before to positions in order to sustain that good work and really allow for the protection of children within poor more rural, isolated communities. So I just wanted to share that piece in regard to my thoughts. And it wasn't really a question, but I think, but I think those resources are necessary within our court systems, and especially when we're working in cross jurisdictional between with our colonies in our tribal systems. Thank you.

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Chair O'Neill: Ms. Morris.

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Commissioner Morris: Thank you. Mr. Sandiford has already answered the question in his in his statement just prior to this, and I really appreciate it again. Thank you.

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Chair O'Neill: We have other commissioners, Commissioner Stagner. As well, Commissioner Del Mar.

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Commissioner Delmar: Thank you. Thanks again. Both of you are all you. Mr. Urbina? As a result of your work, was there some case law established for maybe other tribes to follow? case law that was established in the state of Arizona as a result?

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Alfred Urbina: I would say no, because of our system. We don't find ourselves litigating issues, because of the way the system is set up. And so we're prepared for litigation, we're prepared with with data with information about our cases and families and community to to defend a case in court, for sure. We've had we have attorneys who are working every day on these issues. But we're not, we're not haggling over issues that will create case law. We're, we're in court. Our outcomes are what they are mostly reunification at this point, with guardianships, the outcomes because we're actively intervening in every single matter. 99.9% of the time, we're going to agree with the outcome in state court, because we're part of that process from the beginning to the end. So we're collaborating with each of the attorneys that are represented in the case and with the judge. So nine times out of 10, we're agreeing and we're, we're supportive of the outcome. And we're seeing the outcomes that are beneficial to the tribe.

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Chair O'Neill: So the last question goes to Commissioner finding.

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Commissioner Fineday: Karen. I wanted to ask Mr. Urbina, you've talked about resources a couple of times, and you pass by yaki is one of the few tribes in the country that does receive direct for a funding. And we've started having our meetings talking about what our report is going to say and recommendations that we're going to make to Congress. And I just wondered about the impact of having direct 48 You're trying to have that been significant. Is that do you depend on those resources for making all of this work?

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Alfred Urbina: Yes, thank you, Commissioner find a it has been helpful for the tribe to The title for a tribe and received direct funding and reimbursements for our programming. We certainly have not maximized that resource just yet. We still need some additional training our program needs to be to completely maximize that program, we could probably see between 300,000 and half a million dollars in reimbursements to our system, if we are using it both on the reservation but also in equal matters. And so we'll be working as part of an agreement we have with the technical assistance provider Casey Family Programs to maximize our title for you system in program.

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Chair O'Neill: Thank you. Well, again, I want to thank our panelists, you know, these, these issues are very complex. And I think it's really important for the commissioners to bring diverse perspectives so that we really understand the issues from a systems perspective, and also, as Mr. Urbina said, you know, from the perspective of the child and the family. So it's, I think it's just really important that we all can come together and have these conversations is going to make for a much better report at the end of the day. So thank you all for coming. Thank you for sharing your perspective. And we will now take a 15 minute break

End of Transcript
