

# Working Across Jurisdictional Boundaries to Protect Our Native Youth and Children: Addressing the Intersection of Child Welfare and Commercial Sexual Exploitation of Children (CSEC)



Presented by:

Bonnie Clairmont, Victim Advocacy Specialist

Suzanne Garcia, Tribal Legal and Child Welfare Specialist

# Learning Objectives

- ▶ The history and role of the child welfare system & impact of separation on Native children/families
- ▶ Tribal, federal, and state laws addressing Commercial Sexual Exploitation of Children (CSEC) and the protection of children involved in child welfare system
- ▶ Examples of team development and collaboration when addressing CSEC
- ▶ The importance of understanding differences between CSEC identifiers, screening and intake tools
- ▶ Type of training needed by child welfare workers and tribal representatives
- ▶ Identifying solutions to protect Native children and youth



# History of the Child Welfare System and its Impact on Native Children and Families

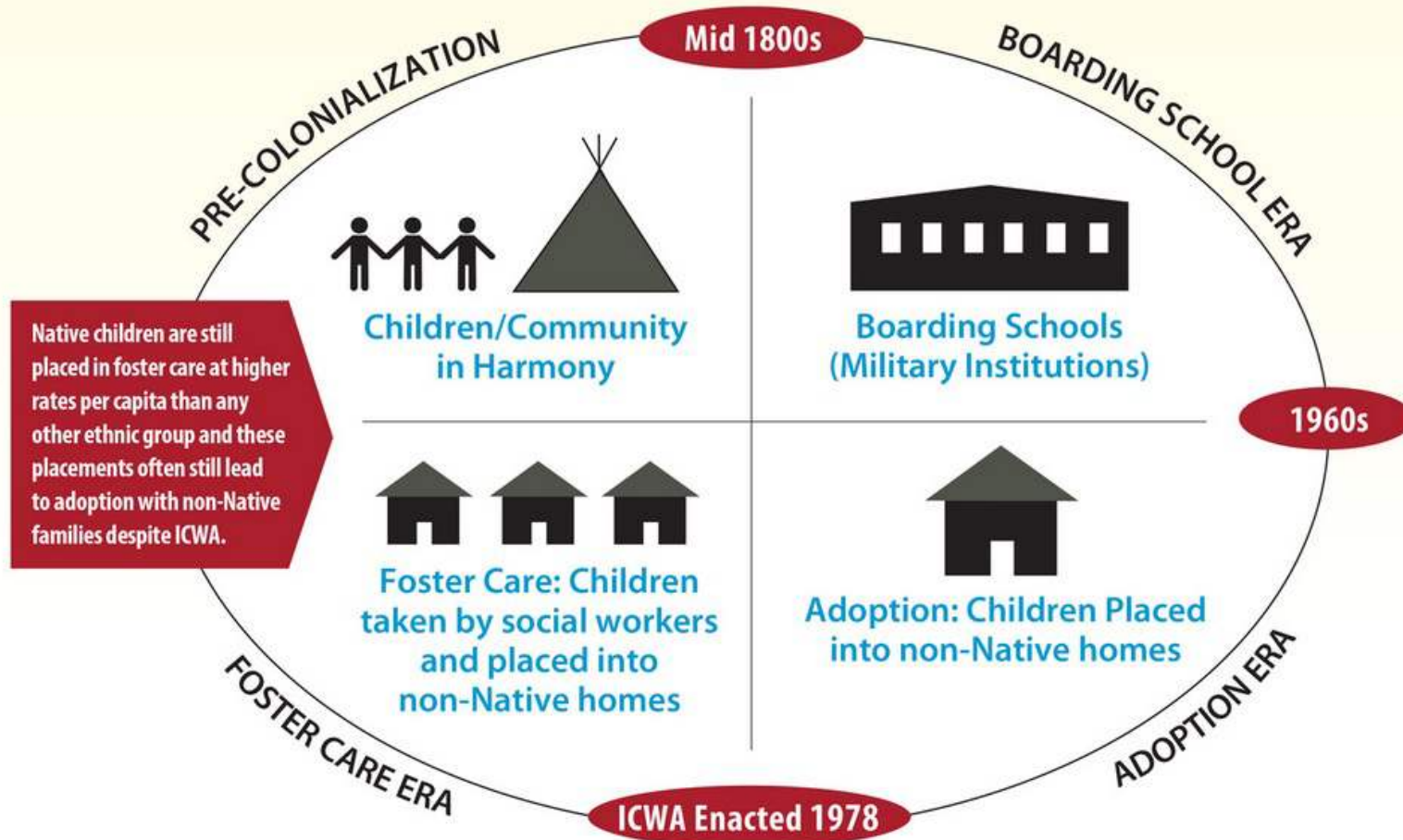
# Pre-Contact History

- ▶ Tribal values held women and children as sacred
- ▶ Women and children were not viewed as property
- ▶ Strong kinship system
- ▶ Values of sharing, taking care of widowed and single parent households during food gatherings or hunts
- ▶ Tribal Sovereignty - Tribes had own criminal justice system to address crimes of violence when they did occur
- ▶ Individual Sovereignty - personal autonomy where women controlled their bodies

# Colonization and Historic Trauma

- ▶ Forced acculturation, gender role changes, traditional values viewed as primitive, usurped
- ▶ Tribes removed from homelands, relocation policies laid the foundation
- ▶ Resources exploited and stripped/land raped
- ▶ Introduction of alcohol and drugs
- ▶ Removal of children - foster care/adoption

## Evolution of Race-Based Child Removal in the United States



# History of Child Welfare System

- ▶ Mid-century decades of removing Native children
- ▶ In 1958 the Child Welfare League of America and BIA launched a campaign to promote the adoption of American Indian children into middle class white homes.
  - ▶ It was seen as saving them to remove them from their "impoverished" families, adopt them out, and assimilate them.
- ▶ Morphing of the boarding school's policies
- ▶ In 1970s it was found that 25-30% of all Indian children were taken, placed in foster homes and adopted, mostly to white families
- ▶ 1978 ICWA
- ▶ [History of Child Welfare System](#)
- ▶ [Native children still involved in the foster care system at disproportionately high rates even with ICWA](#)
- ▶ [Children in foster care system at higher risk of being trafficked](#)

# Federal, State, and Tribal Laws

The background features a complex geometric design. On the right side, there is a solid dark blue vertical band. To its left, several overlapping, semi-transparent shapes in various shades of blue (from light to medium) and white create a layered, abstract effect. These shapes are primarily triangular and quadrilateral, extending from the top and bottom edges towards the center. The overall composition is clean and modern.



# Federal Criminal and Victim Services Laws

## ▶ Department of Justice

- ▶ 18 U.S.C § 1591- Sex trafficking of children or by force, fraud, or coercion
- ▶ 18 U.S.C. § 2422- Coercion and enticement
- ▶ 18 U.S.C. § 2423- Transportation of minors
- ▶ [Citizen's Guide to U.S. Federal Law on Child Sex Trafficking](#)

# Federal - Sex Offender Registries

- ▶ Section 2250 of Title 18, United States Code, makes it a federal offense for sex offenders required to register pursuant to the Sex Offender Registration and Notification Act (SORNA), to knowingly fail to register or update a registration as required. State convicted sex offenders may also be prosecuted under this statute if the sex offender knowingly fails to register or update a registration as required, and engages in interstate travel, foreign travel, or enters, leaves, or resides on an Indian reservation.
- ▶ List of crimes against children that require registration by federal law
  - ▶ Solicitation to engage in sexual conduct
  - ▶ Use in a sexual performance
  - ▶ Solicitation to practice prostitution
  - ▶ Video voyeurism
  - ▶ Possession, production, or distribution of child pornography
  - ▶ Criminal sexual conduct involving a minor
  - ▶ Use of the internet to facilitate criminal sexual conduct involving a minor
  - ▶ Any conduct that by its nature is a sex offense against a minor

# Federal Child Welfare Laws

- ▶ Preventing Sex Trafficking and Strengthening Families Act (2014)
  - ▶ Title I: Changed requirements for how federally funded child welfare programs reacted to children missing from care and those at risk of being trafficked

# Child Welfare Agencies That Receive IV-E Funding (Tribal and State) Must:

- ▶ Include definitions of child sex trafficking in their plans;
- ▶ Consult with others that have experience with at-risk youth;
- ▶ Train their workers;
- ▶ Detect when children are at risk or have been exploited/made victims;
  - ▶ especially if they are foster care youth that have run from care
- ▶ Find foster care youth who have run from care;
- ▶ Determine appropriate services for those children;
- ▶ Cross-report when children run from care:
  - ▶ to law enforcement for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI) and
  - ▶ to the National Center for Missing and Exploited Children and
- ▶ Collect data on the issue (regular reports supposed to go to Congress)



# State Law Examples

# Minnesota's Response

- ▶ [Family First Preservation Services Act](#) - 2021 Summary
- ▶ [Safe Harbor](#) - ensures young people who are sexually exploited are treated as victims and survivors, not criminals.
  - ▶ Through the [No Wrong Door model](#), these youth can receive trauma-informed support rather than being treated as juvenile delinquents.
- ▶ [MMIW Task Force](#)

# California's Response

- ▶ Many [laws](#) were enacted prior to federal child welfare laws, so they had to adjust
- ▶ All counties must have a minimal response that meets the federal requirements
  - ▶ SB 855: Victims of Child Abuse/Neglect - when parents failed or were unable to protect, including children who trade sex for survival, may be served through the child welfare system as victims of child abuse and neglect.
  - ▶ SB 794 has requirements that match the federal requirements and makes probation responsible for having protocols as well.
- ▶ Counties may also [opt-in](#) to receive additional funding to develop a more robust response that is [county-directed](#)
- ▶ SB 855 also created the state-funded Commercial Sexual Exploitation of Children(CSEC) Program and set requirements for the opt-in program.
  - ▶ The two major CSEC Program requirements include:
    - ▶ Interagency protocol developed by Child Welfare (lead agency), Probation, Mental Health, Public Health, Education, and Juvenile Courts; and
    - ▶ Use of a multidisciplinary team (MDT) approach to case planning with participation from certain team members
      - ▶ Child Welfare, Probation, Mental Health, Public Health, and Substance Abuse.

\*Note that Tribes are not included in these requirements

# California's Response (cont'd)

- ▶ Policies and procedures apply to children receiving “child welfare services”
- ▶ Child Welfare services include:
  - ▶ emergency response services
  - ▶ family preservation services
  - ▶ family maintenance services
  - ▶ family reunification services
  - ▶ permanent placement services, including supportive transition services.
- ▶ For probation purposes, “child welfare services” includes services for candidates of foster care. It also includes foster care placements by probation.



# California's Response (cont'd)

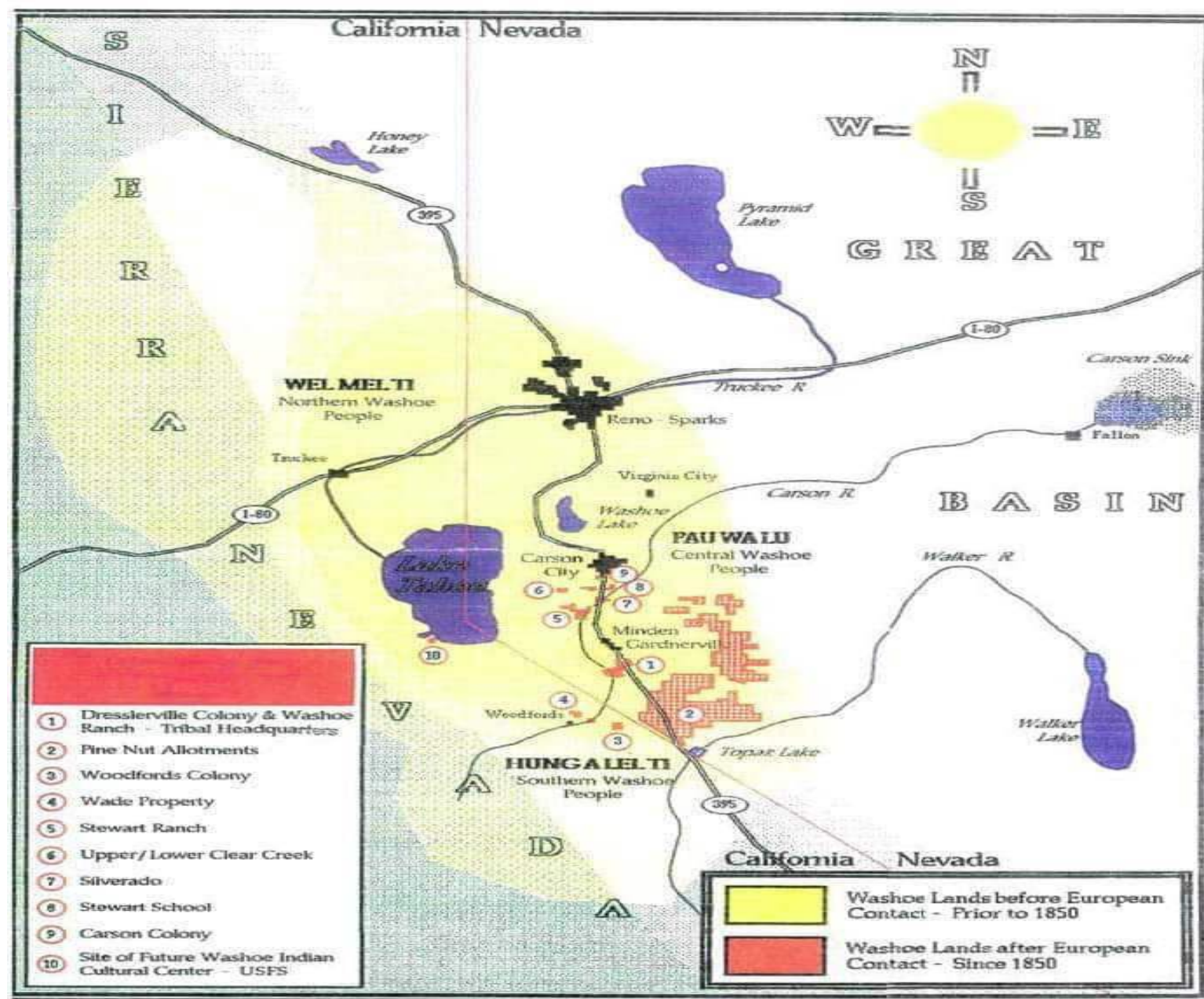
- ▶ To support the counties' work, California Department of Social Services has created:
  - ▶ [Child Trafficking Response Unit \(CTRU\)](#)
    - ▶ Administers the opt in program - reviews their protocols and agreements to ensure they meet requirements
    - ▶ Meets with counties quarterly, to support them and ensure continued compliance
    - ▶ Supports the [PACT](#) - Preventing and Addressing Child Trafficking
  - ▶ The Child Welfare Council's Commercially Sexually Exploited Children (CSEC) Action Team
    - ▶ An expert multidisciplinary body dedicated to researching and identifying promising prevention and intervention practices; collaborating with survivors; providing guidance to county agencies and community partners; and conducting evaluation to ensure policies improve outcomes for children.
    - ▶ The Action Team hosts quarterly meetings for individuals and agencies across the state to participate in learning opportunities and networking across CA.
    - ▶ *No link currently, as they are redoing their website*



## Washoe Tribe and Alpine County: An Example of Cross-Jurisdictional Collaboration

## Timeline of Washoe Tribe of Nevada and California & Alpine County Relationship

- Since time immemorial - lived in the Sierra, from Honey Lake to Mono Lake
- 1844 - John Fremont and Kit Carson come through region
- 1848 - California Gold rush
- 1860 - Comstock Lode found in Virginia City
- 1908 - Nearby Douglas County Nevada enacts a law declaring all Native people in town limits after sundown to be a public nuisance, unless they are working. Law stayed on the books until 1974.
- 1917 - First "colonies" in Nevada established
- 1936 - Indian Reorganization Act - Washoe Tribe recognized
- 1970 - Hung a lel ti established in California
- 1996 - Tribe resumes exclusive jurisdiction over child custody proceedings under ICWA - memo drafted
- 2007 - Negotiations on collaboration begin - "memo" holding things up
- 2012 - Change in County leadership
- 2014 - MOU signed



**WASHOE LANDS**  
 Present And Pre-European Contact Lands Of The Washoe Indian Tribe Of Nevada And California

# 2014 MOU - The 'Wherefores'

- ▶ Recognized:
  - ▶ The Tribe's jurisdiction over child dependency cases that arise in Washoe Indian Country
  - ▶ That Alpine County Health & Human Services (HHS) has obligation to provide public health and human services
  - ▶ That Alpine County must investigate and respond to all allegations of child abuse and neglect
  - ▶ That community members in Alpine County are citizens of not just the tribe but also the County, State, and United States
- ▶ Affirmed the Tribe and HHS's commitment to a mutually supportive working relationship to provide supportive services

# 2014 MOU - The Purpose

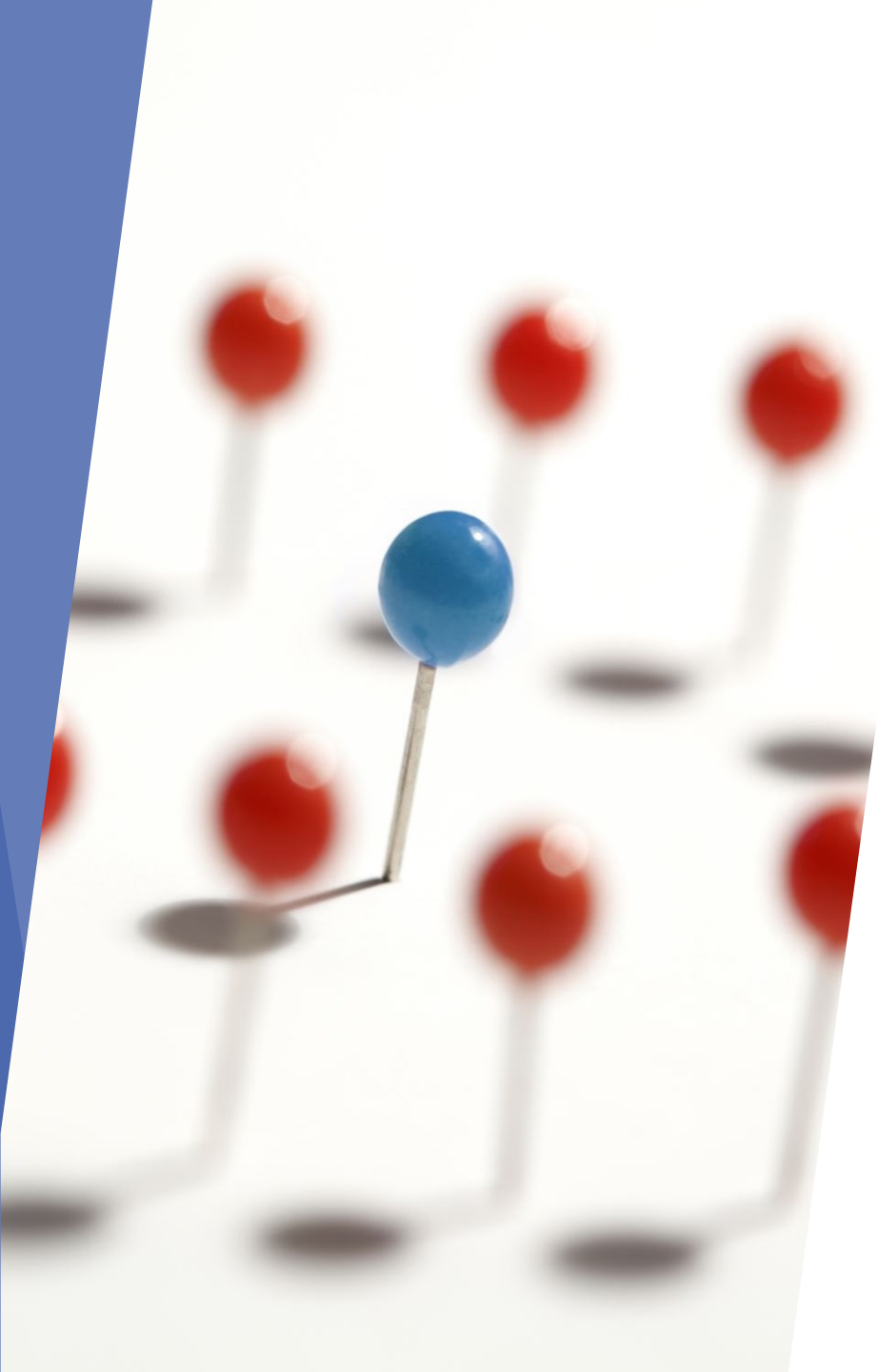
- ▶ Share resources and expertise, thereby increasing the provision of comprehensive child welfare services within the parties' service area
- ▶ To protect the health and safety of children
- ▶ To provide an array of services
- ▶ To promote cooperation and collaboration among all service providers
- ▶ To prevent the inappropriate cultural separation of children from their families
- ▶ To preserve the unique values and culture of the Tribe

# 2014 MOU

- ▶ Agree to:
  - ▶ Work closely together
  - ▶ Ensure compliance with the Indian Child Welfare Act (ICWA), federal and state versions
    - ▶ The County acknowledged the Tribe's sovereignty and explicitly stated that it respected the Tribe's laws
    - ▶ The County supported the Tribe's exclusive jurisdiction over Washoe children in the service area
  - ▶ Open communication and information sharing, with regard to accessing and making services available
  - ▶ Obtain ROI's so information could be shared
  - ▶ Maintain confidentiality
- ▶ Tribe agreed to grant County access to Washoe Indian Country to provide those services
- ▶ County agreed to:
  - ▶ Accept referrals from the Tribe
  - ▶ Make foster care resources available
  - ▶ Authorize payments for children when eligible
- ▶ Structure case plans to make effective use of limited resource

# Washoe and Alpine CSEC Response

- ▶ Alpine County Child Welfare - lead agency from the County (state law requirement)
  - ▶ Convenes steering committee and MDT meetings
  - ▶ Obligated to investigate all allegations of child sex trafficking
    - ▶ 2-hour response, if safety and placement at issue
    - ▶ 23-hour response, if placement at issue
    - ▶ 7 Day response, if neither at issue
- ▶ Alpine County Sheriff responds to allegations of child abuse/neglect because they have removal authority at the County (part of response team)
- ▶ Victim Advocate
- ▶ Live Violence Free
  - ▶ Provides domestic violence/sexual Assault (DV/SA) services in Alpine County
  - ▶ Part of 2-hour response team
- ▶ Washoe Social Services, Law Enforcement, Domestic Violence, Healing Center
  - ▶ Attend meetings
  - ▶ Work collaboratively with Alpine County Child Welfare System
  - ▶ Loops in other tribal agencies as needed



## Knowing the Difference Between CSEC Identifiers/Indicators, Screening, and Intake Practice



# Importance of Understanding Differences between CSEC Identifiers/Indicators, Screening, and Intake Practices

## ▶ Identifiers/Indicators

- ▶ Community, service providers, and responders all trained to recognize possible CSEC

## ▶ Screening

- ▶ Have a designated number of risk indicators been identified, has child disclosed trafficking/exploitation and can be screened in or out
  - ▶ Minnesota Youth Human Trafficking and Exploitation Identification (MYTEI) Training and Toolkit

## ▶ Intake

- ▶ Safety focused and strength-based intake practice
- ▶ When reports are made of possible child abuse, upon intake, inquire about possible tribal lineage

# Suggested Training Topics



# Child Welfare Workers can

- ▶ Work to understand a long history of historical trauma
- ▶ Have a willingness to spend significant time on building trust and rapport
- ▶ Listen to youth, conduct strength-based interviews while gathering information and drafting case plans
- ▶ Strengthen understanding and relationships with the American Indian community
- ▶ Consult and collaborate closely with child's tribe
  - ▶ Seek input and participation from tribe as early as possible
- ▶ Assist trafficked youth who exit the life to rebuild their sense of belonging, their identity, and their role in the community
- ▶ Identify healing resources, assist youth to access these resources

# Needs of Victims of Commercial Sexual Exploitation of Children (CSEC)

- ▶ Victim-centered, trauma informed, culturally and age-appropriate responses
- ▶ To not be criminalized but treated as victims
- ▶ Safety and protection
- ▶ Basic needs met
  - ▶ Shelter, housing, food, clothing, transportation, love (sense of belonging, return to family, acceptance without shame)
- ▶ Economic resources - jobs, education opportunities, mentors
- ▶ Empowered, be given a voice and to be listened to

# Identifying Solutions to Protect Native Children and Youth

- ▶ Early identification
- ▶ Raise community wide awareness of the problem
- ▶ Involve tribal leaders and seek their support
- ▶ Tribes to exercise sovereignty and hold offenders accountable
- ▶ Create a safety net for kids everywhere
- ▶ Develop and implement culturally appropriate response protocols
- ▶ Establish resources and devote tribal revenue to development of needed resources



Questions?  
Comments?  
Ideas?



**Thank You!**



Bonnie Clairmont, Victim Advocacy Specialist

▶ [Bonnie@TLPI.org](mailto:Bonnie@TLPI.org)



Suzanne Garcia, Tribal Legal and Child Welfare Specialist

▶ [Suzanne@TLPI.org](mailto:Suzanne@TLPI.org)



# Resources

- ▶ National Center for Missing & Exploited Children
  - ▶ Cyber Tipline: 800-THE-LOST
  - ▶ <https://www.missingkids.org/home>
- ▶ Internet Crimes Against Children's Task Force
  - ▶ <https://ojjdp.ojp.gov/programs/internet-crimes-against-children-task-force-program>
- ▶ Tribal Trafficking
  - ▶ [www.tribaltrafficking.org](http://www.tribaltrafficking.org)
- ▶ Tribal Information Exchange
  - ▶ <https://tribalinformationexchange.org/index.php/sex-trafficking-prevention/>
- ▶ National Native American Boarding School Healing Coalition
  - ▶ [Indian Boarding Schools - The First Indian Child Welfare Policy in the U.S.](#)