

Addressing Elder Abuse with American Indian Tribes

A National Teleconference

September 24, 1995

The National Center on Elder Abuse (NCEA) sponsored a teleconference on the subject of addressing elder abuse with American Indian tribes on September 25, 1995. Speakers were:

Barbara Kidder, Director, Oklahoma Adult Protective Services; and

Chris Horvath, South Dakota Adult Protective Services.

Representatives of six states (Arizona, California, Maine, Montana, Nebraska, and South Dakota) and the District of Columbia participated in the conference.

Sara Aravanis: Thank you very much and good afternoon everybody. This is Sara Aravanis in Washington, and with me here is Loree Cook-Daniels. We asked some people to help us with some of the issues that state programs might face as they are trying to work with Native American tribes. We have asked Barbara Kidder from Oklahoma and Chris Horvath from South Dakota to give us some perspectives right up front, and then we'll provide lots of opportunity for discussion and a question and answer period a little bit later.

First, we got into this by a call from one state's adult protective service program manager, who said she was contemplating working with a tribe on some adult protective services issues in her state. She wanted to know who she should talk to: what states should she call, what experience should she tap? We gave her a number of state people to contact, but it also kind of keyed our minds that this might be a very important issue for us to have as one of the national teleconferences, for experience exchange. So that's how we got to this spot.

We are very interested in the particular dynamics that are involved in these kinds of relationships -- what people have found that works, what doesn't work, what approaches have been useful in particular states. With that, let me address Barbara Kidder. I wonder if you could tell us a little bit about your agency, the Oklahoma Adult Protective Service programs, and your formal and informal relationships with tribes in your state.

Barbara Kidder: O.k., as long as it is understood that I am by no means an expert on tribal matters. We are kind of feeling our way here just like everybody else.

Oklahoma has 34 tribal entities headquartered here. We are a little different from some states in that we don't have large tribal reservations per se, where the members of that tribe live. We do have restricted Indian land, which is scattered about the state in

individual in-town lands or acreages, and then there are some blocks of land which are considered tribal land.

For as many years as we have had an APS program, we have operated on the assumption -- kind of an unwritten agreement -- that we can go on Indian land to do an investigation and then work with tribal entities to see that services are provided. Only in very rare instances have we ever provided involuntary services to people residing on Indian land. We have had a couple of success stories in that. I'll get to those in just a second.

We have always had an unwritten, assumed agreement that we can go on Indian land to do an investigation and then work with tribal entities to see that services are provided.

We have attempted to develop written agreements with some tribes, without success at this point. We have worked with a couple of tribes in assisting them to develop a tribal code. I think Chris will probably address that, because I suspect their codes are based on the model code that he helped develop. But we have worked with some tribes in that way: we have given some advice and technical assistance.

And then we have provided many services to Indians on tribal lands. One instance I wanted to address was one where we had an elderly woman being exploited by her son. She was originally living in a town in a house on non-Indian property. When we began our investigation, her son basically kidnapped her and took her to his home, which did happen to be on Indian land. We were able to pull together a situation where we coordinated between local law enforcement and tribal law enforcement, and we got joint orders from the tribal court and our district court to go ahead and provide involuntary services to the woman. She definitely lacked the mental capacity to make her own decisions about the situation. And the exploitation was to the extent that her life was endangered. That was one of our success stories, where we just did some informal coordination -- I guess it was pretty formal coordination -- and got all the players together. Everyone agreed that this would be the best course of action to take for the woman, and it was done.

In one case, an incapacitated woman was kidnapped by her son and taken to tribal land when APS opened an investigation on his exploitation of her. We got joint orders from the tribal court and our district court to go ahead and provide involuntary services to the woman. Everyone agreed that this would be the best course of action to take, and it was done.

We have recently had another case where a worker received a referral from an Indian health center of another exploitation and caretaker neglect case. The elderly man who was the alleged victim apparently retained his decision-making capacity, but he had several children fighting over his little bit of money. He didn't want to cause dissension within the family, so he was just letting them do as they wanted with him. The worker

attempted to work with the tribe directly and could not talk to anyone who had any authority to get things done. She was very frustrated and ended up calling the U.S.

Marshall's Office in Oklahoma City, and the Marshall's Office told her that if we were unsuccessful in making sure the tribe was going to accept responsibility and take care of the situation, they would go out with us to the man's house, which was on Indian land. We eventually did get some coordination going with the tribe, and the man finally went to live with his daughter in Texas and was taken out of the son's reach. In fact, there is now a federal warrant out for the son's arrest. I'm not sure how much we had to do with that. But that's another success story. Now both of these were not based on any formal written protocols we had for working with the tribes.

Those cases were not based on anything formal or written, or any legal precedents. We just kind of worked them out as we went, which is kind of how we have to do things, with so many tribal entities represented in Oklahoma.

We have also had some less-than-successful involvement with tribes. One of those occurred very recently where we apparently had no knowledge that the person's home was restricted Indian land, and we had gone ahead and gone in and taken temporary guardianship to alleviate a situation of an abusive caregiver. The tribal court took exception to that and basically issued an

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injunction against our worker, enjoining her from further interaction with the family. And that has opened up a whole new can of worms which I hope someone will be able to help us address. But our legal division gave the obvious answer, which is: just as our district court has no jurisdiction on Indian land, neither does the tribal court have any jurisdiction or authority over our actions. And as it turns out, the home was not actually on restricted land. The tribe was objecting just on the basis that he was a tribal citizen. So we are attempting to address that even as we speak.

I think I will leave it there and see what Chris has to say. I think he'll give us some insight on some of the things that make working with American Indians different, and maybe a little more difficult.

Sara: Hi, Chris, welcome aboard. We appreciate your doing this. I understand that you've worked on the development of a tribal code. Is that correct?

Chris Horvath: Yes. I don't know where to start -- on some general demographic back-ground, or do you want to go right into the code?

Sara: Tell us where you're from, and then go ahead with a little bit of demographics, because that helps us get a perspective on what you're working with.

Chris: I'm from Mission, South Dakota. It's on the Rosebud Reservation; Rosebud Sioux. Rosebud is in south-central South Dakota. I would estimate it's about the size of the state of New Jersey, maybe a little bit smaller. It's Lakota Sioux. There are about

12-15,000 tribal members within that county and of that, approximately 10% are over 60. All of my cases are Lakota people. I don't have any non-Indian people as clients, primarily because the area that I have is the western half of the reservation.

Before I was active in the Office of Aging, I was in Child Protective Services. As you probably all know, that has a very well-developed system of responding to child abuse, including all of the national publicity and funding that goes with that. I received a referral in 1984 about a lady who had been taken down to the hospital, apparently beaten up. She was in her 80s, an elderly, frail lady. The referral that came in was a request for homemaker services. No mention of any abuse problem at all. We went out and did our assessment for homemaker services. The lady was in her garage on crutches. She was in the shadows. I approached the woman and identified myself and told her what I was there for, and she didn't come out. She stayed in the back. I tried to convey to her that I was not a threat, and I was only there to help. After she loosened up a bit, she came out. I got quite a surprise. She had a goose egg on her left eye and several other bruises about her body.

During the interview, here comes a police officer delivering a message. He did not respond to the obvious results of an assault at all. "Here's your message; we'll see you." And they go on down the road. At that point, it became clear that there was no system at that time on the reservation to deal with elderly abuse.

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Perhaps I should preface all this by indicating that I had been living in the area on the reservation for several years before becoming involved in all of this, and knew many people on the reservation. Some of my best friends are traditional elders, people I had just gotten acquainted with, and I had known them quite well, and we were good friends. And I had the utmost respect for them. In my book, they were beautiful people. And that even made it feel worse. How was it that these people, the most valuable resource that the tribe has, can be victimized like this and there is nothing set up to deal with it?

At that time, I got together a few people: some friends I knew that worked in the tribal court, some people in the police department, some people in different health agencies. Some people from the state office in Pierre, South Dakota had sent me a copy of a proposed elderly abuse statute. I guess they had three versions, and this was the best of the three. They said, take a look at this one and see what you think. So they sent that one down, and we looked at it and made some changes to make it suitable to a Native American environment. Probably the most significant change we made was the authorization for the creation of the elderly protection team, which was comprised of various professionals from social, medical, and legal backgrounds. We wanted to make sure that at least half of the group was comprised of tribal elders. That was authorized by statute.

The rest of it was pretty standard. There are 10 sections to it. The first section is an exemption for anybody who is treating a person through spiritual means; a duly credited practitioner shall not be considered to have abused or neglected anybody.

The next section is a mandatory reporting clause. The third section is the immunity for anybody that makes a report. The following section identifies the function of the elderly protection team, and provides for a central registry. We keep records of all cases, basically. There's a section in there on confidentiality. No services will be provided to a disabled adult unless the adult gives consent. If the abused and disabled adult is incapable of giving consent due to legal disability or incompetency and the caretaker of the disabled adult refuses to provide a necessary service, then the protection team can step in and make petition to assume guardianship. We are very reluctant to do that. We don't want to wind up being guardian to all kinds of cases, so what we usually do is work with a family member or identify a responsible individual in the community who can work well with that person and serve as a guardian.

Confidential relation privilege may not be claimed in a judicial proceeding involving the abuse of a disabled adult. The final sections are the penalties for intentional and negligent abuse. That was the original code.

In one case, we took temporary guardianship of an elder to alleviate a situation of an abusive caregiver. The tribal court took exception to that and basically issued an injunction against our worker, enjoining her from further interaction with the family.... Our legal division says that just as our district court has no jurisdiction on Indian land, neither does the tribal court have any jurisdiction or authority over our actions.

I think it was probably in 1984 that an organization that we formed called Silanyu Elderly Concerns lobbied the tribal council quite extensively. Actually, I sat in council meetings for three days and nights. The third night they called us up and introduced us to the Council. Of the about 200 cases of legislation that went through those three days of meetings, this was the only one that was unanimously approved. We kind of planned it that way, because we were tying into the traditional values of respect for others. Somehow -- I hate to say it -- one of the prices we pay for Indian country modernization is assimilation. On a social level, that has had some pretty disastrous effects, because some of the natural systems that they wanted people to move away from were better than what anybody else could offer as substitutes. That's how you wind up with things like elderly abuse.

One of the differences between our area and the area that Mrs. Kidder was describing -- correct me if I'm wrong; I've never been to Oklahoma -- being a large continuous reservation, the community is very strong here. You have 21 reservation communities and everybody knows everything, like any small town. There are no secrets here. The absence or presence of cultural value systems is very obvious when you leave here and go some other place -- to an area that doesn't have this sense of community. You walk into a town, there are few, if any, non-Indian people in some of the communities. That

seems to make more of a difference to people outside of here than it does to some people here.

We made sure the elderly protection team was at least half tribal elders.

After working with that code for a while, there were some problems. From what I understand from discussing this with other people around the country, courts are not real keen on prosecuting abuse cases. Every once in a while something goes

through, but the prosecution rates are lower than what they should be. For a while we, with the elderly concerns group, tried to address that issue and found it to be an extremely time-consuming process. At that point we made a decision. We had to decide: are you going to spend 38 hours a week arguing with the court and two hours providing services? Or are you going to provide services and let someone else do the arguing? We decided to provide the services. Most of our time is spent directly out in the community resolving things one way or another.

There's a whole other side to it. A lot of it is tied into the elderly concerns organization, which makes conscientious attempts to reestablish Lakota value systems, Lakota law. It involves everything: how things are done, the way people relate to each other. Elderly abuse is a clear and flagrant violation. But I understand with the 1934 Indian Reorganization Act, tribes had to adopt legal systems -- tribal courts, judges -- which did not necessarily reflect traditional law. I know in a lot of cases they've gone other places and looked for copies of statutes and adopted those in a lot of cases. The elder abuse statute, as far as I was concerned, is probably the only one on the books that did represent a Lakota value. But that didn't necessarily result in all the systems involved in executing that law following the same values.

One of the prices we pay for Indian country modernization is assimilation. On a social level, that has had some pretty disastrous effects, because some of the natural systems that they wanted people to move away from were better than what anybody else could offer as substitutes. That's how you wind up with things like elderly abuse.

So we got together with the protection team, the elderly concerns group and several professionals and several elders, and we took a look at how the system was working -- this probably occurred two or three years later -- and drafted an amended statute. What was added to the amended statute under definitions was self-endangerment, least restrictive alternative, and interpreter. In a traditional environment, particularly with many of the elders, English is a second language. And where you have younger people working in the court and various agencies, that's not the case. Many of them don't speak Lakota at all, or the ones that do, speak it as a second language. So we felt it was necessary to mandate the court to make some arrangements for interpreters. In some cases they never did. I guess I could summarily say that justice was not served.

Another addition was on self-endangerment. I'll read it: "If any individual found upon investigation by the elderly protection team, under the section on mandatory reporting,

to have caused their own abuse or mistreatment or have endangered oneself, the court may, upon recommendation of the team, order one or a combination of the following (but not limited to) alternatives. The least restrictive alternatives are: (1) medical, psychological evaluation; (2) protective payee; (3) guardianship; (4) placement; (5) temporary guardianship. After that, it's noted a hearing is to be held in three days, but not more than five days after the emergency guardianship is issued. In those cases where conflict of interest exists between the parties and/or a third party, the BIA Superintendent shall be appointed as guardian and/or payee."

The section as to an interpreter basically requires the court to provide an interpreter if one is requested, and shall bear the cost of that. Most of our elders are on an extremely low fixed income and there is no way that they would be able to pay for such services.

The elder abuse statute is probably the only one on the books that did represent a Lakota value. But that doesn't necessarily result in all the systems involved in executing that law following the same values.

Other things that we tried to do -- let me just speak about that a little bit -- is looking at how systems work in such an environment, and looking at how elderly abuse is a cultural dysfunction. You don't find it in traditional environments.

One would naturally ask, where are these value systems naturally reinforced or extinguished, and what impact do the systems operating in those environments have? We looked around and didn't see a whole lot of any of the systems that were reinforcing any value system whatsoever, other than the majority value system, which you could probably find on 42nd Street in New York. So we sought to set up systems that would be culturally reinforcing. To that end, a section was added setting up a mechanism for an alternative hearing whereby an elderly abuse case may be referred to the protection team for alternative resolution by three elders in the protection team. In other words, you will have to face your own elders. The perpetrator will have to sit down and listen to three respected traditional elders. I don't know to what extent anybody has had contact with a traditional elder, but when they sit you down and talk to you, you know it. You cannot not know it. We wanted to make sure that mechanism was in there. The referral will be made for first-time offenders and/or less serious offenders. The referral, if made, will be made by the prosecutor, with the consent of the tribal judge, to the elderly protection team. The purpose is to allow an opportunity for alternative resolution preventing further abuse. The results of the hearing will be made in writing to the court, indicating whether the dispute was resolved or not and a recommendation. If resolution is achieved to the satisfaction of the elders and the team, the charges may be dismissed. And if no resolution is achieved, the matter will be referred back to the prosecutor, where prosecution will proceed. Alternative hearing by elders may also be requested voluntarily.

A mandatory arrest provision is added to an order for protection provision. These are all under the penalties section. Another interesting section is added to that: abuse offender assessment and treatment. The mechanism is set up for treatment of an abuse

offender, if the team deems it appropriate for that person, whereby they sit down and contact elders and other professionals in the field. There is a limit placed on the number of court-ordered substance abuse treatments that can be ordered for a perpetrator. There are people who go through treatment time and time again. We decided that it would be appropriate in these kinds of cases to put a cap on it. Mandatory sentencing for repeat offenders: the penalties remain the same, separating intentional and negligent.

That's the proposed amendments to the statute. We think it's pretty comprehensive; it plugs up a lot of loose ends that people out in the field would run into. And it enables the court to respond in an appropriate manner, in a way that would reinforce cultural values.

We want a provision for an alternate resolution by three elders in the protection team, if the tribal judge agrees. The purpose is to allow an opportunity for alternative resolution preventing further abuse. If no resolution is achieved, the matter would be referred back to the prosecutor, where the prosecution will proceed.

By the way, the statute was not passed. It was given to the judiciary committee. We did not make a conscientious effort to lobby this amendment as we did the first one, because I wanted to leave it up to them. We could do it. But this is such an encompassing code, it would mandate a lot of people to become involved. We felt that it should be left up to them: here's the statute, look it over. If you've got any questions.... We've gone down there and met with the judiciary committee. They said they liked it. They said it would work, and then they sat on it for political reasons.

Sara: Chris, thank you very much. This is very, very comprehensive, going from Barbara's relationship, which is rather informal and as-requested to something more formal but, as Chris said, trying to incorporate the traditional values and issues that are of concern in the tribal elder arena. With that, let me open the phone for questions and discussion for many of the participants on the line. All I ask is that you identify your name and the state you're from and try to direct your question or your comment or your experience to one of the speakers.

Henry Blanco (AZ): Is there a difference between restricted Indian land and reservation land in terms of tribal autonomy and other things?

Barbara: As I understand it, if it's truly restricted Indian land, it cannot be sold to a non-Indian. There basically is no difference in the degree of tribal autonomy on that or a formal reservation. Chris, is that accurate, somewhat?

Chris: Well, a reservation has been checker-boarded. We have more problems dealing with the non-Indian cases. Our environment may be the opposite of what yours is.

Yvonne Jackson (DC): Sara, this is Yvonne Jackson from the Administration on Aging. Could I address that? I'm head of AoA's Indian program. In Oklahoma, there aren't

reservations, but there is land held in trust for the Indians. That's restricted Indian land. In other states, tribes have bought additional land, land additional to the reservation. If they put that land in trust with the federal government, then that is restricted Indian land. That means no non-Indian can purchase the land. If they keep it to administer itself, then it's open land and they have to follow all the rules and regulations of land ownership. Does that answer the question?

Henry: Yes, it does.

Anita O'Riordan (AZ): I have a question for Barbara Kidder. I'd like to know: did you provide any kind of training for people in your state as far as the identification of abuse, neglect, and exploitation?

Barbara: For our APS workers?

The proposed amendments would enable the courts to respond in an appropriate matter, in a way that would reinforce cultural values.

Anita: For people who were on restricted land or tribal land. In Arizona, we provide training and assistance to some of the legal services staff and tribal police. I'm wondering if you provided that service to people other than APS in Oklahoma.

Barbara: Yes, we provide that on an as-requested basis. We've done presentations to five or six tribal entities. The community health representatives of one tribe had a day-long seminar. And with one tribe, we've met with an elder group who is wanting to put a code in place. So we have given some training as requested on identifying abuse and neglect.

Sara: Anita, did you want to say anything in particular about the success of this approach to training of law enforcement and tribal police?

Anita: Yes, I would. I, as you know, have been doing a lot of training in Arizona for quite a while. And very recently I provided training for all of the tribal police for Colorado River Indian tribes. It was very well attended. It lasted for approximately eight hours. It was a mandatory training that they attend. It was held in conjunction with the sheriffs from Bullhead City and Parker and places like that. It was extremely successful, and I've had calls from several of the people who attended, just asking questions for clarification on various cases that they were actually seeing among their own people. It was the first time that any of the tribal police had been to any kind of training about abuse, neglect or exploitation.

Going back to what Chris said, I tried very hard to make it culturally appropriate, because the kind of training that I provide for the majority population doesn't always hold true when we're talking about Native American values.

Barbara: Can I just add something here? I agree with the cultural differences between the majority culture and the American Indians. And we, too, try to point out the cultural differences in the societies. And in response to something Chris said earlier, one of the

things that the tribal elders with whom I have spoken about this, no matter what tribe, they have been very consistent in saying that without the reservations and sense of community that exists other places among tribes, they have noticed that their youth have been pretty well drawn into the larger culture and have, for the most part, lost their Indian values. And that's pretty sad, but we deal with it as best we can.

Chris: But it still doesn't justify not developing systems that reinforce the value system.

Barbara: Right. And that's what we've been working on with some of the tribes here to try to do.

Sara: Chris, it seems to me that the statute that you worked on was particularly for older people -- abuse against older persons. It didn't cover all vulnerable adults like state statutes do.

Chris: The statute defines disabled adult as anybody over 18, but I must admit that by and large the large majority, if not all, the people that we work with are elderly people. There are a few cases of disabled adults, but we're focusing primarily on elderly people. There was a prior effort where we started another organization, Silanyu Disabled, Inc., that focused primarily on non-elderly disabled adults.

Carol Lieske (NE): I'd like to ask a question to Chris: you mentioned your central registry. I'm wondering, is your central registry completely apart from a registry that might be maintained by the Department of Social Services or Human Services in your state, or is that tied together?

Chris: No, it's not separate. I have a card file here of all the cases. But then we have files on every case and every referral that we get.

Sara: Could you make that clarification again? You do keep your own kind of record? Is your record-keeping incorporated into the state reports about incidents about elder abuse?

Chris: The most detailed record is in our case records. I also keep a separate card file identifying victims.

Carol: So then when the state would provide information on numbers of reports, yours would or would not be included?

Chris: It would.

Henry: I have a question for Chris. You mention self-endangerment. Is that what other states call self-neglect?

Chris: Neglect is definitely an aspect of it. There are times when it gets a little more active than neglect. With a lot of substance abuse cases.

Henry: Are there any facilities on the reservation, and does the statute cover ombudsman activities or investigation of long term care facilities?

Chris: Not necessarily. No, there's a separate -- we also do that, but that's separate from the direct services provided out in the community by the tribal court. The nursing home is located off the reservation on private land, and we use the state ombudsman program to deal with that. Does that make any sense?

Sara: Yes, it does. Would anyone else on the line like to share their experience in this area, particularly state tribal relationships around elder abuse or adult protective services?

Don Sekora (MT): Our aging services program started a program with our seven reservations in Montana in relationship to trying to get elder abuse codes on our reservations. Right now our adult protective services policy is: we do not provide any adult protective services on the reservations unless the tribal government invites us to come on the reservation. That is occurring more and more, and probably will occur more so with the cutbacks in the funding for tribes and tribal government. One of the areas that we're investigating -- and I'd be interested in getting the name of Anita again - - is working with a program in New Mexico that trains the tribal police officer in their initial orientation, and what we would like to do is get elder abuse on the agenda of that national training center. It sounds like Anita would be a very good resource and could possibly help us in getting that into that curriculum, so that at least new tribal police officers that are trained in New Mexico would be trained on elder abuse. So that's one area I'd be very interested in obtaining a copy of the codes from Chris, because what we are trying to do with our reservations is give them samples of tribal codes, so they can enact their own.

Chris: The trick to part of that is, just how specifically do you want to identify just what constitutes probable cause?

Sara: When you say that, Chris, what are you talking about -- the connection to the law enforcement people?

Chris: Right. When an officer, or anybody involved in protective services goes out, the first thing they want to be able to do is identify: does what I see or what I hear constitute probable cause? Without that, they're not going to be able to answer it.

Sara: Yvonne Jackson, I think you could probably be very influential in helping us get this connection to the tribal police training activity in New Mexico as well, that Don Sekora from Montana was mentioning.

Yvonne: I'll be happy to work with you on that. Also, the Indian Lawyers Association out of Albuquerque, New Mexico has developed a model tribal elder abuse code that you may be interested in.

Sara: Are there any other items, Yvonne, that you think are important to share with this group who is interested in this topic?

A lot depends on whether a state is a Public Law 280 state or not, or partially 280. That will set the stage of what legal avenues you have. If you're a 280 state, then the state courts do have some jurisdiction over civil cases on the reservation. If you're not a 280 state, then the state has no rights whatsoever over civil issues on the reservation. That's taken care of by the tribal courts.

Yvonne: The legal aspects of it get really tricky. A lot depends on whether a state is a Public Law 280 state or not, or some states like California are partially 280. And that will set the stage of what legal avenues you have. If you're a 280 state, then the state courts do have some jurisdiction over civil cases on the reservation. If you're not a 280 state, then the state has no rights whatsoever over civil issues on the reservation. That's taken care of by the

tribal courts. So I think each of you in your states needs to find out if you're a total 280 state or, if you're a partial 280 state, what tribes come under that. And that's partially the case in Oklahoma. Some tribes are 280 and some aren't. And that will help to sort out who you go to for help and how you get assistance on the legal issues. That's a major point that I'd like to raise.

Sara: Yvonne, we might be following up with you to try to figure out if there might be some written materials, simple, clear, understandable written materials that we might disseminate to some of the states on this teleconference that would help bring clarity to that issue.

Yvonne: Okay, I'd be happy to work with you.

Henry: We have a unique situation here where we're working with a Navajo tribe which crosses three states. We've formed an elder rights group involving Utah, New Mexico, and Arizona and the Navajo tribe to come up with some consistency in terms of the programs in these states. It's kind of interesting. In Utah, for example, the APS workers are on the Utah side of the Navajo land. And we're looking at some kind of consistency up there in working with them on tribal codes.

Sara: How do you see that occurring? Do you see it being a difficult thing to do or is there a readiness to do that?

Henry: It's becoming difficult because of a change in leadership. This tribal code has been in the works for several years. The current leadership seems to be interested in looking at developing elder rights programs, such as APS, and with legal services information. The first thing we're doing with them is to develop some type of inventory on what services are available on the reservation provided by each state. These vary in terms of amount of involvement. New Mexico, for example, provides a lot of state money, Arizona provides very little, and Utah provides some Title II services funding.

Sara: That's certainly a good starting place to see what's going on. I'm still on the horns of this dilemma of whether tribal codes are necessary in the arena of elder abuse.

Chris: In most of the training I provide and in the classroom, well, one of the things we wanted to prevent was the continuation or the development of the feeling amongst the people that here is an outside agency or some outsider is going to come in and tell you how to live. Some people still refer to some protection agencies as baby stealers. That consciousness is still present out in the community. And we specifically wanted to set this up different, where it would avoid that. One of the best ways to do that is to accentuate the positive aspect of aging, and that is the traditional role of elder.

To that end, what we've done around it is to draft a resolution to the tribe which was also unanimously passed declaring the last Saturday in May a Tribal Elder Day. The day in which elders are honored. We have a big pow-wow and feed up here for that. It is the first pow-wow of the season. We've just finished the 11th annual one. The whole day is specifically set aside for elders. And it's just to remind the people in the community that elders are important. It's extremely shameful for anybody to be mistreating an elder. At the same time, we're indirectly working on that peer pressure, which has worked very effectively. We don't have much of the real hard core physical abuse like that first case. We continue to have exploitation and some self-endangerment cases, but the real hard core stuff -- that can almost entirely be dealt with through a prevention thing. I mean, other than actual intervention and legal responses to the case, but to prevent that from re-occurring and happening again. The consciousness has been developed in the community where it is just too shameful doing that, and anybody who got caught doing it by anybody in the community would almost be run out of town. That's been extremely effective. Senior Olympics stuff -- re-enfranchising elders in decision-making processes that occur within the environment here, getting elderly advisory boards and things like that -- that's all extremely productive territory in dealing with the issue of elder abuse and neglect.

Some people still refer to some protection agencies as baby stealers. That consciousness is still present out in the community. We specifically wanted to avoid that. One of the best ways to do that is to accentuate the positive aspect of aging, and that is the traditional role of the elder.

The consciousness has been developed in the community where it is just too shameful [to abuse elders], and anybody who got caught doing it by anybody in the community would almost be run out of town.

Sara: Well, Chris, you know, some of the tribes are starting to come to the state agency and say we need to do something about this, and it seems to me that some of the good advice you're giving them is to say, let's start with a group of tribal elders rather than to jump right in to work out a state tribal agreement right away. Is that what I hear you saying?

Chris: I did not find that particular avenue [tribal codes] to be productive. I think in the long run, they've caused more trouble than anything else. We found the most productive avenue was to start from the grassroots. From the bottom up rather than from the top down.

Sara: That's what I'm saying; that if there is starting to be a relationship between state adult protective service programs and a tribe, that the state adult protective service program might say to the tribe, let us work with a group of elders and a group of representatives from the tribe to see how our relationship should be defined.

Chris: Starting with a group of elders and a group of advocates is certainly a good place to start.

Sara: What we need to do is kind of wind this one down now, but we will try to collect from Chris the example of the tribal code he talked about. Anita, if you would, please share with us the agenda that you use for the training of tribal law enforcement people. And we will also go back to Yvonne and try to get some of the explanation of the 280 status in the states.

Henry: Somebody mentioned the Indian Law Association in Albuquerque.

Senior Olympics stuff -- re-enfranchising elders in decision-making processes that occur within the environment here, getting elderly advisory boards and things like that -- that's all extremely productive territory in dealing with the issue of elder abuse and neglect.

Sara: Yes, we'll get a copy of that, as well. What we will do then is write this up and put these appendices together and share it with people. But in closing, what I want to say that I heard a lot about is the connection to the grassroots of the tribe and Chris's whole effort to work with his elders group on Tribal Elders Day and a whole lot of other activities to not only enhance their position in the tribe, but to get them involved in this issue. I also heard a lot about training: the training of elders on recognizing and identifying abuse, training community health representatives, tribal police and court personnel. We didn't talk a lot about specific connection to community health representatives, but that category of helpers came up a lot, and I think we're missing a lot by not contacting them, as well. Any other closing comments?

Chris, I'm just curious to ask you what your prognosis is about the currently-proposed amendments to your code. What do you think will happen with them?

Chris: Hard to say. If it's pushed, it will go. I guess that we need to decide whether or not we want to push it. Every once in awhile we remind the judiciary committee, "It's still sitting on the table, guys."

Sara: I'm particularly personally intrigued with that alternative dispute resolution option in that code. I think that is really interesting.

Chris: That would be offender treatment.

Sara: It would really be interesting to see how that works.

Anita: Yes, one more question, Sara. Has anybody out there used or considered using the concept of the peacemaker court in dealing with these issues of familial abuse?

Chris: We do it informally.

Anita: I was just wondering, because years ago, I had worked with the Navajo nation developing one of the aspects of a model code, and one of the suggestions that I felt most strongly about was that they utilize that traditional method of resolving disputes. And I'm just thinking it's something we might want to take a look at.

Sara: Is there anything written on the parameters of the peacemaking court?

Anita: Sure, I have that too, Sara.

Sara: Okay. We'll be coming back to you to get some of this stuff. With that, if there are no closing comments or questions, I think I'll close out this session. I really want to thank you, Chris, and you, Barbara, for putting your experience on the line and sharing that with us. I know we all got a lot of ideas from this. Thank you for your time. With that, let me say goodbye to everybody and have a nice rest of your day.

Resources

- The American Indian Law Center's model elder abuse code is available for \$25 from:

The American Indian Law Center
P.O. Box 4456
Station A
Albuquerque, New Mexico 87196
(505) 277-5462

- Information on Public Law 280 is available from:

Yvonne Jackson
Administration on Aging
Cohen Building
330 Independence Avenue, S.W.
Washington, D.C. 20201
(202) 619-2713

- Navajo Peacemaker Court Manual (available from NASUA or CANE).

- Article "Traditional Navajo Dispute Resolution in the Navajo Peacemaker Court" by The Honorable Robert Yazzie (available from NASUA or CANE).
- Paper, "Elderly Abuse, Intervention and Prevention in a Cultural Environment, The Lakota Sioux Community, Rosebud Reservation, South Dakota," by Chris Horvath (available from NASUA or CANE).
- Model tribal elder abuse code used by Lakota Sioux, Rosebud Reservation, and suggested revision (available from NASUA or CANE).

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