

Meeting Minutes – Task Force on the Intersection of Tribal and State Forensic Behavioral Health

Date: September 4, 2026

Time: 9:00 a.m. – 12:00 p.m.

Location: Webex Webinar

Members in Attendance: Chair Judge Naomi Stacy, Vice Chair Judge Denise Keppinger, Lisa Nichols, Leslie Wu, Kimberly Lindsay, Judge Melissa Cribbins, Judge Ronald Yockim, Cindy Cecil, Sharon Stanphill, First Lady Aimee Kotek Wilson, Adrea Korthase. Judge Karen Cotsello

Members Not in Attendance: Judge Gayleen Adams, Judge Patrick Melendy

Quorum: Yes (10)

Welcome and Roll Call

- Chair Judge Stacy welcomed everyone to the meeting and did a roll call of task force members
- Chair Judge Stacy provided a brief overview of the agenda

Presentation on Recognition of Tribal Court Orders in Washington State

- Heather Erb, Lead Policy Advisor, American Indian Health Commission (AIHC), and Kathryn Akeah, Tribal Health Consultant, American Indian Health Commission presented on the Washington state tribal behavioral health model
 - Provided an overview of what Indian Health Care Providers (IHCPs) do and the importance of their role in tribal behavioral health
 - IHCPs provide services for things such as outpatient mental health, outpatient substance use disorder, inpatient behavioral health programs, and behavioral health crisis response
 - AIHC worked to educate Washington legislators about the importance of IHCPs
 - Discussed the importance of tribal courts in American Indian/Alaskan Native (AI/AN) behavioral health crisis response
 - Cultural sensitivity and connection to the community
 - Ability to connect individuals to tribal wrap-around services
 - Tribal members experiencing a behavioral health crisis in the state system often fall through the cracks
 - Legislation Reform
 - There is a suicide and opioid crisis among AIs/ANs
 - While opioid crisis numbers are starting to decrease for the overall population, that is not true for the AI/AN population
 - Washington passed HB 6259 (2020) and HB 1877 (2024) to :

- Recognize and include tribal courts, tribal law enforcement agencies, and Indian behavioral health systems
- Increase access to culturally appropriate behavioral health care
- Remove jurisdictional barriers to ensure tribes can fully participate in the crisis process and increase access to care that meets the unique needs of AI/AN
- 6 Key Reforms
 - Recognition of the Indian Behavioral Health System
 - In some areas, it was just a matter of writing “and tribal courts” or “and tribal law enforcement” into existing statutes
 - Incorporated the federal definition of IHCP into state law so all behavioral health providers that tribes interact with can recognize it and the tribe’s authority
 - Included tribes in the definition of “behavioral health service provider”
 - Notification Requirements to Tribes and IHCPs
 - Came from hearing frustrations from tribes that they couldn’t get access to information when their community members were in the state system
 - Requires tribes and IHCPs be notified if tribal members are in the state system
 - Notified and copied on all inpatient treatment and assisted outpatient petitions/orders
 - Notice of facility discharge
 - Notice for Less Restrictive Alternatives or Conditional Release revocations
 - Recognition of Tribal Right to Conduct Crisis Response
 - It has been an ongoing battle to educate those in the state system that IHCPs aren’t just providers, they are public authorities, which gives them an extra legal status
 - Tribal nations have the ability to commit their citizens or those on tribal lands who are experiencing a behavioral health crisis
 - Explained the definition and role of designated crisis responders (DCRs)
 - Most involuntary petitions are filed by a DCR
 - Tribes and their behavioral health programs can employ or contract with a state-certified tribal DCR to respond to tribal community members experiencing a

behavioral health crisis and conduct an involuntary commitment process in both state and tribal court

- Exist between full state and full tribal control
- Can be chosen by the tribe and appointed by the healthcare authority and petitions in either state or tribal court
- In some tribes it could be someone on staff and this is their primary role, and in other instances they may be someone who does work across multiple tribes
 - Healthcare Authority (HCA) notifies Superior Courts of tribal DCRs, and state DCR agencies provide tribal DCRs with training, shadowing, and tips on court petitions
 - Tribal DCRs can use state court behavioral health proceedings forms
- Tribal Right to Intervene in State Court
 - Modeled after the Indian Child Welfare Act (ICWA)
 - Goal is to ensure tribes are aware of what's happening to their tribal community members
 - Tribes can attend state court proceedings, speak in court, request copies of orders issued, submit information to the court, and petition for involuntary commitment (Joel's law)
- Acceptance of Tribal Court Orders by Facilities
 - In Washington, they have full faith and credit of tribal court orders, but they've heard from tribal judges that they never really used it and if they did it slowed down the process
 - They wanted the facilities to recognize the tribal court orders
 - Washington put it into law that behavioral health service providers shall accept tribal court orders from tribes located within the state on the same basis as state court orders
- Increased Sharing of Behavioral Health Information
 - IHCPs were frustrated that hospitals and other facilities weren't sharing information with them and not understanding the HIPPA exceptions for tribes/IHCPs
 - Updated Washington's privacy laws to include tribal courts, tribal law enforcement, IHCPs, tribal prosecuting attorneys, and tribal public health authorities in who information can be shared with

- Continues to be a big challenge, even with the passed legislation
- Reviewed the ways tribal behavioral health reform has been done in Washington broken down by type
 - Legislative:
 - Updates to tribal and state laws
 - Supporting tribes in updating their behavioral health codes
 - Updating mobile crisis team codes
 - Administrative
 - Administrative code updates and working with agencies on implementation
 - Updating tribal code language so it matches with the intentions for updating it
 - Judicial
 - Public Rule 82.5 and continued support and understanding of that rule
 - Getting tribal warrants recognized through legislation
 - Updating court forms
 - Funding
 - Set asides for tribal crisis behavioral health monies
 - Native and Strong Lifeline
 - Reimbursements for tribal courts that want to do involuntary treatment
 - Looking at whether to do an AI/AN statewide behavioral health administrative service system that would look at all those cases
- Outcomes and Adjustments
 - Sometimes the legal changes get over-interpreted and lead to unintended consequences
 - More work is still needed, such as dual certification of DCRs and connecting new crisis system resources with tribal systems

Discussion and Q&A on Presentation

- Chair Judge Stacy asked if DCRs already had a corresponding tribal-focused person with the state authority that understood the complexities of what they're working with? Or did that relationship develop as the work was being done?
 - Akeah replied that at the beginning of their work the unit that looked into crisis response and the plans with the tribes moved from the Department of Social Health Services to HCA

- The tribes already had a good relationship with HCA, so when that unit moved the relationship was mostly already there to start formally working on the Washington tribal behavioral health model
- Newell asked if there was a fiscal impact with the most recent legislation passed?
 - Erb could not remember, but said they tried to not have a fiscal impact, and, if there was a budget, it was very minimal
- Newell asked if Washington was able to find extra time for notifications in the commitment process, or if that's something the courts would tack on time for? Would the courts need to create new programs to handle sending/receiving notices?
 - Akeah responded that since the only cost was reimbursing tribal courts, and that money would have been used in state courts anyways, it didn't affect court costs from the state's perspective
- Newell asked if the discussed models directly impact the competency to proceed process in Washington (e.g., if a person is receiving restoration services on a criminal case in the community or at a secure hospital facility)?
 - Akeah noted that they have tried to draw a line between the state court system and the tribal resources that are available
 - Getting them to try to recognize that the best care for the person may be an IHCP, that the best housing may be at a tribe, etc.
 - They're trying to get forensic navigators and the people working with the competency cases to actively seek out all the tribal resources they can in a given area
 - How does Washington make sure the tribal courts are involved when there's someone with both criminal charges and competency issues?
 - Akeah explained that it isn't specific to the competency side, there's a significant amount of overlap; however, the right of the tribe to intervene in a hearing is exclusive to civil commitment and not aid and assist
 - However, they are making an effort to make sure forensic investigators understand the services that are available through the tribes for a tribal person
 - Erb noted that HB 6259 and HB 1877 didn't touch on the criminal competency side
- Judge Costello asked if Erb and Akeah had any advice for the task force or the tribes on how to strengthen that underlying coalition that Washington has created to make the changes in their laws possible?
 - Erb noted that they learned a lot over the ten years it took them
 - It was very helpful to have a weekly workgroup where groups such as tribal law enforcement, tribal psychologists/behavioral health

- staff, HCA, and state behavioral health providers/judges could bring stories of what was happening so the group could examine the current law and identify gaps
- Akeah added that several things worked together that were helpful:
 - An analysis of the state's mental health system from 2013 pinpointing gaps
 - A concerted effort by commission delegates and state staff which turned into that 2019-2020 legislation
 - Monthly workgroup meetings to pull tribes together to see if they wanted to do have some sort of consortium for an evaluation/treatment center
 - The work corresponding with the state having the desire and funding to make a more robust crisis response system
 - Nichols asked, regarding treatment facilities honoring tribal court orders, if that also includes Washington's state hospitals?
 - Akeah noted that currently hospitals are still a problem, especially when there's an emergency department that may be outsourced with decisions being handed off to a hospital social worker (if there is one)
 - AIHC has tried meeting with the Washington Hospital Association to work on the lingering issues
 - Behavioral health hospitals, psych wards in community hospitals, and behavioral health facilities are all supposed to be sharing information with tribes
 - The best work around AIHC has found so far (only implemented in a few tribes currently) is to have the tribe have their own tribal DCR so a person can be sent to the hospital already on a hold
 - The second best workaround is when someone with the tribe is working one-on-one with the county DCR and they're going to the hospital with that hold on
 - There are problems where law enforcement takes a person to the hospital and then the hospital lets them go
 - One tribe has been working with facilities to do direct admit to bypass the hospital system altogether and do medical clearance at their tribe
 - First Lady Koteek Wilson asked how the hospital system was brought into the discussion and how they worked as a coalition partner?
 - Erb noted it was less coalition with the hospitals and more getting stories and feedback about the challenges with the hospitals
 - More work with the hospitals is needed

- AIHC is starting to write their own documents and legal guidance about how hospitals can share information with an IHCP
 - If a hospital asks the Washington State Hospital Association if they can share the information, they will be told they can but that they don't have to
 - The Association is risk averse, focused on their financials, and has an operating style/model that doesn't meet the needs of others involved in the process
 - There needs to be more training with the hospitals on these laws
- First Lady Kotek Wilson asked if the task force could see the language on the direct admit?
 - Akeah noted that the person who worked on that is currently out on maternity leave, so they may need to wait until she is back to get that
- Judge Yockim asked, in regard to sharing tribal court orders with the behavioral health provider, if he puts an order out, how does it get directly to the behavioral health provider?
 - He noted that in Oregon there's full faith and credit, but with what Washington has done it seems like it's interjecting a lot of extra steps, which doesn't work in emergent and time sensitive cases
 - Erb clarified that Washington didn't have that language acknowledging tribal court orders until 2024
 - The change was to clarify what was already in statute
- Chair Judge Stacy asked if Washington would have had to do a lot of adding "and tribes" throughout statutes if at some point there was full faith and credit recognition of tribal court orders?
 - Erb noted that FFC in Washington is for a state court judge to recognize a tribal court order, but the problem was with the private facilities that take the orders recognizing tribal court orders
 - There was no legal reason they shouldn't have recognized them
 - The changes were necessary in Washington's case because IHCPs were being met with resistance to being treated as any other type of behavioral health provider, law enforcement officer, prosecuting attorney, etc.
- First Lady Kotek Wilson asked if civil commitment assessments occur in a health care facility? And, if they do, can the tribe attend?
 - Erb responded that, in Washington, the assessment can happen in the community; it doesn't have to happen in the facility for the initial evaluation
 - Some facilities are set up for initial proceedings, but they're not hospitals, they're secure facilities and are holding the proceedings within the non-hospital facility

- Akeah noted that it does happen and it's mostly just about figuring out the logistics of how it happens
- Butler asked if, with the exception of the Lummi Nation, presenting a tribal court order with a DCR is where Washington has seen the best results in getting people into treatment facilities?
 - Akeah replied that's the most direct route with the least number of steps the person has to take
- Nichols asked if AIHC supports hospitals if they are having challenges with the tribal courts saying the hospital's not recognizing their orders? Is AIHC an intermediary, or do the courts navigate that themselves?
 - Akeah noted that there's not an official process for that
 - In an informal capacity, AIHC has sometimes brought the needed parties to meetings/calls
- Julie Johnson, Director of the OHA's Office of Tribal Affairs, asked if AIHC can share their process for how they receive and send tribal data information?
 - Akeah replied that they can get that sent
 - They have tribal services profiles (directory of different programs at each tribe with some notes on who they see and who's eligible)
 - The aim is to update those annually
 - It changes a bit here and there as they continue to have conversations about best practices
 - Erb noted that they tried to track the ICWA model's "reason to know" phrasing
- First Lady Koteek Wilson asked, around data sovereignty and people's ability to consent when they're unwell, how someone's tribal status is shared when someone comes in already in a crisis?
 - Akeah replied that in the crisis coordination protocols they divided the response the tribes are looking for into voluntary (with the consent of the person, you're talking with them, etc.) and involuntary (this will be shared with your tribe)
 - There are some areas where it's hard to draw the line between voluntary and involuntary (e.g., Native and Strong Lifeline)
 - For notification requirements in state courts, Erb noted that AIHC had conversations about HIPPA and the sharing of that data and the exceptions for when you can share information, such as when someone is in crisis

Discussion on Indian Law Section – Full Faith and Credit (FFC) Proposal

- Chair Judge Stacy reviewed the chart from the meeting materials showing states that have full faith and credit recognition of tribal court orders in forensic behavioral health (civil commitment/aid and assist)
 - Oregon already has FFC for most tribal court orders, except civil commitment and aid and assist
 - Some providers are uncomfortable about what to do with tribal court orders
 - There are 15 states in addition to the 8 in the chart that recognize tribal court orders for civil commitment or aid and assist based on comity
 - Even with FFC, recognition is still dependent on good relationships between tribes/states and with hospitals/providers
 - North Carolina has a statute
 - Chair Judge Stacy spoke with Judge Parker, Eastern Band of Cherokee Indians, on the issue of getting information to all the different partners who receive tribal court orders
 - They made a concerted effort to reach out to their sheriffs and hospitals and to work on the aftercare/discharge process for improvements
 - Colorado has a new statutory enactment that recognizes both arrest warrants and tribal court orders
 - New Mexico has a robust tribal/state consortium
 - State statute for the recognition of commitment of children
 - Supreme court order
 - Court form approved by the state board that's a recognition of involuntary commitment of adults
 - State sends copies of the orders, or of guardianships also, for continued treatment when the person has been subject to previous tribal court orders, and they send a copy to that tribal court
 - Oklahoma has a state statute which says tribes can have authority but delegates how that's done to their supreme court
 - Court rule directs that there will be recognition of those tribal court orders
 - Nebraska has a statute that acknowledges that there will be full faith and recognition of tribal court orders
 - They did a lot of work with their state consortium
 - Maine has a specific statute for each of their main tribes
- Newell offered to look into the statutes in the chart to compare and contrast them with Oregon's statute and follow-up with anything else Chair Judge Stacy and the task force need in that area

- Members may use the task force email to let Newell know what else they would like to know that would be helpful in coming up with recommendations for the final report
- Chair Judge Stacy asked the members if the task force wanted to include a recommendation for FFC for tribal court orders in civil commitment and aid and assist in the final report
 - Wu asked for more time to think about the information presented in today's meeting before voting
 - Judge Cribbins felt like the FFC barrier should be removed
- Chair Judge Stacy opened a work session on the FFC recommendation question and incorporated the preceding comments into the work session
 - Vice Chair Judge Keppinger moved that the recommendation be incorporated into the final report
 - Judge Cribbins seconded the motion
 - Judge Costello noted that she supports the motion and there's no reason why all tribal court orders shouldn't be afforded FFC
 - Judge Yockim thought it was an anomaly in statute to have one exception where FFC doesn't apply and is in favor of having that barrier removed
 - Johnson, while not a member, noted that FFC greatly impacts tribal programs, especially with Oregon State Hospital and that if there was FFC for all tribal court orders, they would need to figure out a lot of pieces to make it work
 - Nichols agreed that OHA is supportive of the intent of the legislative concept but recognizes that it's complex in both policy and practice for OHA
 - Nichols suggested it may be helpful for the task force to walk through a civil commitment case to see where things may currently work and where changes may be needed so the group can see what is essential beyond the legislative proposal and how it affects all the different partners, operations, and policies
 - Angie Butler, Tribal Behavioral Health Continuum of Care Advisor, OHA, agreed with supporting the intent of the legislative proposal but also noted that the Washington process still seemed difficult and like there were still gaps, even with the legislation in place
 - She wanted to highlight that it will take more discussions, statute changes, and working with partners to build a robust system

- Judge Costello stated that, in her experience, removing a foundational barrier tends to allow the facilitative work to begin and can act as a directive for that work to be done, even if it takes time
- Wu felt that after hearing more about the motion and the clarification that removing the barrier is just a first step (i.e., it's about voting on a broad value statement about extending FFC, rather than on a specific legislative concept) made her feel able to vote on the recommendation
 - Chair Judge Stacy clarified that, if there is feedback on how the legislative proposal should look, there's still time to suggest adjustments
- Chair Judge Stacy asked about calling for a vote on the FFC recommendation
 - Newell noted that one voting member had to step out of the meeting and the two Oregon Judicial Department members will not be voting
 - Nichols noted that OHA would be abstaining from voting
 - Chair Judge Stacy paused the vote for now to see if any voting members would be able to re-join the meeting

Homework

- Ideas for final report
 - Chair Judge Stacy noted that the task force can include in its report some of the high-level work the task force wants to do, and can refine it as we move forward
 - Ability to have some form of notification when there's a tribal member in the state system for civil commitment
 - Pathways using models based on ICWA
 - Prior work from the Commitment to Change (CTC) Workgroup has some information on this (report is linked on the task force's website and Newell will email the report to members)
 - Newell asked members to review recommendations #40 and #41 in the CTC Workgroup recommendations and think about what they need to know to make an informed decision on those
 - Chair Judge Stacy wants more information on how much statutory change those recommendations require and to know if it's more of a practice issue
 - She wants confirmation that the state does believe that tribes are local mental health authorities, which puts them over the designation of what the community mental health providers (CMHPs) are
 - MOUs and court rules, and how they work together

- This could include how courts do the processing of tribal court orders as they move through the system
 - It could be good to have clarifications on how those systems are working together so there's communication as things move forward and more orders are coming into the system
- Newell will email members with a survey for scheduling the next meeting
- Chair Judge Stacy asked if anyone had suggested changes regarding training and outreach?
 - Importance of information/outreach for hospital partners
 - Judge Cribbins agreed that sounded like a good idea to have
 - Chair Judge Stacy suggested the idea of recommending a work group for this
- Chair Judge Stacy asked members to start thinking about recommendations to put into the final report
 - The report is due December 15, 2026

Public Comment

- Chair Judge Stacy asked if there was any public comment
 - None was heard
- Chair Judge Stacy reviewed the public comment received on August 19, 2026 (see meeting materials)
 - The task force agreed to not go in the direction proposed by the public comment
 - Chair Judge Stacy noted that if anyone wants to follow-up with the comment's submitter to let her know so the contact information can be provided

Return to Voting on FFC Recommendation

- As Task Force members were unable to return to the meeting, Chair Judge Stacy withdrew the motion and the call for a vote and reset the work session for the next meeting
- Chair Judge Stacy asked if there were any concerns with removing the FFC exception or the tribal court orders being recognized?
 - Nichols noted that OHA needs more time to evaluate the proposal's language and work with the Department of Justice and other partners before providing feedback
 - Judge Costello clarified that the task force's recommendation to remove the barrier does not remove it, it's just a recommendation until the legislature enacts it

- Butler asked if the intent is to follow the same civil commitment rules that Oregon has?
 - Chair Judge Stacy, speaking only for Umatilla, is not ready to create a full system they haven't been able to exercise, so they are likely to follow most of the state's processes
 - As they're able to develop effective pathways and resources, it's possible tribes may try to do things differently than the state
- Butler asked if it would just be civil commitment cases or all cases?
 - Chair Judge Stacy noted that there's only an FFC exception for civil commitment, it doesn't specifically mention aid and assist, but it still results in the same outcome
- Chair Judge Stacy noted the issue isn't about changing the behavioral health laws, but rather, it's about if the order is an effective order
- Coline Benson, Oregon State Bar, wanted to flag the timeline for getting the legislative proposal language approved by the Board of Governors and how it relates to the legislative concept filing deadline
- Judge Costello asked if there were any concrete things she, or others, could do prior to the next meeting to help move things forward?
 - Chair Judge Stacy asked how many of the tribes already have an existing CMHP agreement or if there is awareness of how each tribe has designated that type of function? And whether they have a great relationship with their CMHP or not, etc.
 - If we remove the statutory barrier for recognizing tribal court orders is there already enough room in those agreements to continue facilitating that function and recognizing that that tribal CMHP is a CMHP?
 - Johnson replied that CMHPs in Oregon are primarily the counties, the Confederated Tribes of Warm Springs is the only tribal CMHP
 - Tribes being a local mental health authority is different than being a CMHP

Adjourn