

NCJTC- Fox Valley | Multidisciplinary Teams in Indian Country

Welcome, everyone, to the National Criminal Justice Training Center webinar, Multidisciplinary Teams in Indian Country. This webinar was developed in partnership with the Tribal Law and Policy Institute. Today's presenters are Bonnie Clairmont and Kelly Stoner from the Tribal Law and Policy Institute. My name is Kevin Brennenstuhl and I'll be moderating for you today.

Before we begin the presentation, there's a few items that I'd like to go over. This project was supported by a grant awarded by the Office for Victims of Crime, Office of Justice Programs, the US Department of Justice. The opinions, findings, conclusions, or recommendations expressed in this webinar are those of the contributors and do not necessarily reflect the views of the Department of Justice.

I'm pleased to introduce you to our two presenters today, Bonnie Clairmont and Kelly Stoner from the Tribal Law and Policy Institute. Bonnie Clairmont serves as a victim advocacy specialist for TLPI. She has worked for more than 25 years advocating for victims and survivors of sexual assault, battery, and child sexual abuse, particularly those from American Indian communities. Kelly Stoner serves as a victim advocacy legal specialist for TLPI. She has taught many law classes and worked on various projects related to DV and sexual assault cases.

Their full bios for both Bonnie and Kelly are located in the handout section of that GoToWebinar control panel. Bonnie and Kelly, thanks for joining us today. And the time is now yours.

Thank you very much, Kevin. This is Kelly Stoner. And I'll be presenting a few slides first. And then you will hear from my colleague, Bonnie Clairmont.

I want to thank everybody for being here. And this is a topic that to me is very important, as a former tribal prosecutor and someone who is very interested in child welfare issues. And I know that Bonnie comes to us today with her expertise as an advocate.

So we want to get everyone grounded on the focus of this Multidisciplinary Team, or MDT webinar today. Because some people might have heard the term Child Protection Team, some people might have heard the term Multidisciplinary Team or MDT, and the lines of those particular teams have gotten blurred, I think, throughout time. And child protection teams are really going to focus on-- they can they can focus on civil or criminal matters. And we're going to go over what that is in a few minutes. But typically they're focusing on civil matters, such as removal of children, placed in foster care, that sort of thing.

And historically, an MDT team was based on a group or multidisciplinary team of people who get together to either develop protocols, how cases are going to be handled, criminal cases, or they're prosecution-based. And they're going to deal with how criminal cases are going to be prosecuted and how they're going to be treated and what issues are going to be given priority in the prosecutor's office. And so this-- today, we're going to be really focusing on serving victims of crime.

And so I want to just go over with you the Office for Victims of Crime's definition of a victim, because we're solely today in our presentation going to be talking about crimes-- victims of crimes, not the civil issues. So they this term of crime victim might be defined in tribal law as well. But today, we're going to think of this, just for point of reference, as an OVC definition of victim of crime.

And it's a person who experiences mental, physical, financial, social, emotional, or spiritual harm-- so that's a lot of different types of injury-- as the direct result of a specified crime committed on the person or property of the person. And the definition goes on to tell us sometimes the term survivor might also be used to describe a violent crime victim. So that's what we're talking about today. We're really talking about it in the realm of a child victim of crime. But that gets us sort of all on the same page so we're not confused with different types of teams that are dealing with civil cases.

And this webinar, again, will focus on child protection and multidisciplinary teams serving victims of crime. So what I'm thinking that you should be associating with this particular focus of our webinar today are child victims of criminal child abuse and child victims of criminal child neglect, oftentimes referred to as criminal child endangerment. So that's where our focus is going to lie today, on that criminal piece.

So, according to learning objectives, we have five that are listed on your side. And, as Kelly said, one of those objectives is to distinguish between CPT and an MDT. We live in a world of acronyms. So when we talk about child protection teams that we will be referring to CPT, and then multidisciplinary teams, that's MDT.

And we will look at the benefits of an MDT. But like Kelly said, this is-- we're really heavily focused on MDTs as prosecution-based teams and how they benefit child sexual abuse, child abuse prosecution in Indian country. And we'll also reveal the elements, how to develop an MDT, and then understanding agency roles within child advocacy, native child advocacy, and also even just the role of within an MDT, understand the importance of confidentiality for MDT and how it functions.

It's really up to a team to really identify and plan what their focus is going to be on, like Kelly said.

There's often some overlap between the civil and criminal functions of a CPT and MDT functions and role. So just keep that in mind. I think it's really hard to really have it written in stone that specifically this is MDT and you don't cross over to the CPT, because the needs of children can include both areas.

So for us, for an MDT, this really is the primary focus. When everyone is focused on the child from the very beginning, healing is promoted and evidence is preserved. And that's really going to be beneficial to all the people involved in an MDT, but it also is really beneficial to the victims, to the child victims, too, and also to the community. And I'll talk more about that in the next slide.

So, for MDT, like we've been saying it, these are the-- sort of the basic differences. An MDT is much more, prosecution-based, versus a CPT is more child-protection-based. As an advocate, I sat in on CPT meetings, especially where it involved sexual abuse cases, where the welfare of a child was discussed, looking at out-of-home placement, and really protecting the rights of the non-offending parent.

So that was kind of my role there, because often, these cases came up where there was also domestic violence. So as an advocate, I was there to really advocate on behalf of the mother, which was most of the time the non-offending parent, and also to ensure that her rights are protected and that the child could remain with the-- with the mother if she is non-offending parent and so forth. So my role in the CPT was really, really focused on that. And so it's much more civil action focused within a CPT, versus an MDT is much more prosecution-based, prosecution-focused, and also looking at the criminal action that will take place with these cases.

In my years of working on these cases, not-- our prosecution rates, even though they have gotten better over the years, they're still fairly low. And there is a lot of challenges, I think, that causes that, just finding witnesses. Oftentimes, victims are maybe not willing to testify or victims may retract or really change their mind about moving forward or don't-- really don't want to cooperate because maybe they're fearful, they're afraid of the perpetrator, they're too intimidated by the process.

And also, lack of evidence, lack of physical evidence-- if there has been some time lapse, where evidence is gathered and just even just the lack of it. And also, just the prosecution and their-- maybe their discomfort with trying child abuse cases might be a factor. So these are all some of the challenges. And there are many, even just cases falling through the cracks, often because of communication and cooperation between jurisdictions.

And so when this happens, oftentimes, community members can become really disillusioned with how

cases are handled. So an MDT can help some of that. And we'll be talking about the benefits of an MDT. But, overall I wanted to mention this, just from the vantage point of an advocate working with the parent, the non-offending parent and a child victim and some of the know communities and how they react to cases that are not prosecuted and the disillusionment.

Thank you, Bonnie. And those points you made are just critical, both on the CPT side, which we are going today say is civil, and the MDT side, which is, we're going to say today, criminal-focused, with victim-- to assist victims of crime through this criminal process. And I just want to urge everyone out there listening that it might be an important distinction, what the team-- Multidisciplinary Team focus is, especially if you're being funded to assist victims of crime. That, obviously, is going to have more of the criminal focus.

So I just want everyone to be aware of why we are putting a label on each one of these and we are focusing on the criminal aspect for all those reasons Bonnie just underscored, because getting-- I can tell you as a former tribal prosecutor, getting child victims ready for a trial, that if it's going to trial, that it's going to be so traumatic. It's an extreme undertaking, especially if you have tribal prosecutors that are super busy. The office might be a little understaffed. So let's just review, again, this important distinction between civil versus criminal so that all of our listeners out there have a-- if you don't already, you will have a basic understanding of how these two concepts are different. And, of course, we're referring to legal systems here.

Civil lawsuits may focus on requesting the court to order a defendant to do something or not, to just stop doing, something possibly to even pay damages. And usually, we're going to have two individuals being the parties in a civil lawsuit. The burden of proof is extremely low in these cases. In other words, if the plaintiff or a petitioner can demonstrate with evidence 51% that a wrong has been committed and that there's been damage done, they're going to win a civil lawsuit.

And in the child welfare, an example in the child welfare world would be the type of case you see where child welfare is stepping in to remove a child and they're going in to civil court. And they're asking the judge to place the child in foster care. And the parents will get a plan that they have to complete if they want to get their children back. So just so you have a frame of reference there in the child welfare world.

So let's move to the next slide, briefly discuss criminal before we move on into a deeper dive into the MDT world. Criminal cases usually are focused on punishment, not really to put a party back in their original position. Someone has committed a crime. It's usually a governmental agency or

representative of the government will bring the action. It's seeking to get a guilty or not guilty verdict, seeking to punish or restrict that person's liberty in some way, maybe probation, maybe suspended sentence.

And the burden of proof in criminal cases is the highest in all the American jurisprudence. It's beyond a reasonable doubt. And that's because someone's safety can truly be at risk in a criminal case.

In the child welfare world, we might see a prosecutor bringing a criminal action, charging one of the parents or caregivers with a crime, such as criminal child abuse or criminal neglect. And the judge will be asking a judge-- or, excuse me, the prosecution will be requesting that a judge or jury find the parent guilty of the crime and that they would be sentenced according to the criminal laws of the jurisdiction. So hopefully that gives you just a little bit of reference with respect. And again, we're focusing only on the criminal today.

So the Multidisciplinary Team, as we're envisioning it today-- although it can have a variety of different functions, today we're focusing on that criminal function-- may include-- their goals might be to increase the number of those cases of criminal child abuse, criminal neglect reported that result in a criminal prosecution. In other words, we're getting more and more reports to law enforcement, calls to law enforcement. We get child welfare referring certain cases that fall within the elements of the crime in, let's say, tribal jurisdiction. We're getting law enforcement investigating those and turning those over to the prosecutor.

So they're more aware. The law enforcement and child welfare are more aware of the aspect of charging something out criminal. And to maximize the number of criminal prosecutions that result in a guilty verdict, which is what we would hope for if the evidence would support that. And don't forget the piece of accountability for the offending party.

So I want to talk about the benefits to having a Multidisciplinary Team. And, of course, there can be many benefits. And really, it is guided by the team itself in terms of the kind of roles they identify for themselves, the vision of the team, the parameters of the team, the resources they have, the types of members that they have on the team. So it really is up to each individual team, and then from there that benefits that then can emerge.

So the benefits of an MDT-- it creates a means to develop expertise and criminal child abuse and neglect cases, including child sexual abuse. So people come into this work with just at various skill levels, right? So this MDT may provide opportunities to expand, develop expertise in various areas based on each individual's-- their focus area for law enforcement. Perhaps they may be able to

increase their skills around evidence gathering or chain of custody, interview techniques, interviewing victims.

And I'll say later in law enforcement role, but this is so important, because this is-- whatever door this victim enters in the system, it's really important that the victim receives really good, victim-centered response. And also the parent, so that-- because the parent is really key also to a successful prosecution by providing good support. And if a parent is given good support, whether from an advocate or law enforcement at that first contact, that could make all the difference in the world.

So everyone, then, also looking at the roles, designating-- designating the roles within the MDT, I think, is also really important. So bringing in people from a variety of professions, departments, I think, is also really important. And the cross-discipline training, I can't stress the importance of that, so that everyone at the table has been trained on issues relative to post-traumatic stress, for example, and the work of other people around the table. So they all come in with a better understanding about the roles and the services that are available to victims.

And also, this team can provide really an awareness to the community that this team is working together on these cases, to be able to provide a seamless response to crime against children, child abuse, sexual abuse, and so forth, so that just the credibility of these agencies can improve overall. And a community is then going to have a little more confidence in the whole process, especially when you're looking at multiple jurisdictions, because that's often where it becomes really difficult. So again, these are just a few of the benefits. And there can be many more.

Thanks, Bonnie. So let's-- just continuing on with what Bonnie was saying, and she's already underscored this, but I'm going to say it again, because we think it's so important, that your-- whoever is a member of your MDT team, all of the members need to be trained. And the training needs to be regular and ongoing on criminal child abuse and neglect, including child sexual abuse, which is-- which is a crime in most jurisdictions anyway. So we need training to be a cornerstone of this team movement.

And some of the benefits from this MDT team that Bonnie mentioned, the multi-jurisdictional approach that sometimes has to be taken between tribes and the federal government, between tribes and state governments, if it's PL-280 tribe. So we really need to be mindful of that when we are thinking about who is going to be on the team. And we're going to get into that a little deeper in a few slides.

But just so you can kind of keep this in the back of your mind, it would be great, I think, for an

exchange of information and agree to certain criminal protocols, some investigatory protocols, some accommodations for child victims having to testify. If you would have both-- it depends. Every jurisdiction is going to-- every tribal community is different, but possibly a tribal and federal prosecutor would be on your MDT team, because this is focusing on criminal. If you're a PL-280 tribe, you may want your tribe and your state prosecutor included or a representative from the state prosecutions office.

And we also want the MDT-- since this is criminal focused, we really want these prosecutors to be thinking very broadly, not only charging, let's say, criminal child sexual abuse and prosecuting that, but also being mindful of the SORNA, the sex offender registration ramifications, if that offender is on the registration list. So we want a bigger picture here so that we're getting justice in a variety of different angles. We also want tribal and federal or tribal and state, whatever your tribal community is facing, we want those victim advocates to be on this MDT so that we get maximum support and maximum voice for victim safety, victim protection, as well as batterer accountability.

So the benefits of Indian country MDTs, I think, are just many. There are many benefits. And, like I already mentioned, being able to bring together all those involved in these cases who have a significant role from the very beginning, at that first contact, when that child makes that disclosure, all the way to the end, where decisions are made in terms of prosecution with the intention of keeping that victim safe from being revictimized, and also to keep non-offending parent involved and informed, because oftentimes, that can be really frustrating for non-offending parents or guardians.

But primarily, it helps to prevent cases from falling through the cracks, because if you have all of these individuals and agencies involved, you have that multi-agency nature of the MDT. There has to be good coordination and collaboration. And, again, as I say in other webinars that I've done on these issues of teamwork, there has to be a clear delineation of roles and how that information is going to be shared, how it's going to be communicated, how case reviews are going to be done, that updates are going to occur frequently so that everyone at the table is aware of what's going on with investigations, arrests, and informing the victim and the parent, and then also when it gets to that point, any charging decisions that are being made and how that can involve the victim as well. So these, again, are really important aspects of an MDT, I believe.

So developing an MDT-- this groundwork is really important, developing any kind of a team in a tribal community. I just can't overstate the importance of keeping community members involved and informed. You really want to get input from your community about whether they feel a team is

needed.

Doing some community focus groups are really-- in this COVID era, it's important to look at alternative ways to get community involvement just based on how the community is feeling about child sexual abuse and prosecutions. So really gathering information to decide if a team is needed and what kind of resources that are needed to have a team-- so having those discussions with potential team members, so maybe initially organizing sort of a little core group of maybe three or four people, just to outline some of the tasks of determining if a team is needed. And if so, what's needed to get a team functioning, an MDT functioning?

To identify the purpose and the role of the team-- I think that, again, it's important to look at having those discussions, but also to institutionalize some of that, so that it's clearly written within maybe MOUs or MOAs, and even going further than that to look at how this functions within tribal codes, for example, or even some kind of a tribal resolution that this team is supported. Because ultimately, there may be resources that would be needed to help this team function that at some point. So to identify team member composition, we'll talk more about possible team members. So this core group can then look at who do we want at the table? Who is involved in that initial-- the work of gathering evidence and so forth?

Provide ongoing training for all members-- again, there needs to be-- this is so critically important for MDTs, as any other team, that training is so important, that cross-discipline training. And I really encourage team members to go to trainings together once we're able to travel and actually attend trainings as groups. Perhaps that's done virtually now. I think it also sort of builds that teamwork effort.

And then also, establish consistently scheduled meeting times. One of the challenges, I think, of bringing a team together is sometimes, people say they just don't have enough time. So a team can really set their own schedules, how often they want to meet. Maybe they're only going to meet when there is an active case.

So it really depends on a lot of things-- the kind of resources that are available and so forth. But there needs to be an understanding going into this that team meetings are really essential, because you need that consistency in order to do good case reviews, for example. So making those determinations upfront is really important.

So I'm just going to continue on talking about developing an MDT. And Bonnie and I are just really giving you some basic steps for developing an MDT, some questions to ask with respect to your tribal

community and the situations that each of you face, what members might want to be-- you might want on your MDT team. And this-- actually, this step would come after you've assembled your team.

And I just want to point out-- and we're not going to go into a deep dive on this-- but I want to talk just for a second about the vision statement that this MDT needs to develop. And it's really aspirational. I'm going to tell you why this is so important here as soon as I tell you what it is.

It's really a long-term vision, an expression of hope and optimism that inspires others that might not even be achievable in our lifetimes. And this vision statement, really, it might be something like to-- the such and such tribe recognizes that children are sacred, and as such, they should be protected. And this team envisions a safe environment for children, where there is family focus and healing and batterer accountability, something similar to that. I just did that out of my memory, so that's not going to be the one you'd want to use.

But I'm just saying I find the vision statement really helpful when you're working with a team from time to time. Maybe not, but from time to time, some of your team members who are representing different agencies might have a conflict and might have difficulty expressing themselves, might be emotional. And if you have a vision statement that you all have developed together that you all agree upon, those vision statements can oftentimes serve as a neutralizing effect when members are having difficulty communicating with emotions that might run high, as you might expect in dealing with criminal child abuse, criminal sexual child abuse, and those sorts of issues.

So vision statements are only-- they're guiding. They're aspirational. And they bring us back to ground zero again, what our vision is. And our mission is telling us how we're going to accomplish our vision statement.

And I'm not going to go into a deep dive on goals and objectives. Many of you probably have written grants, so you're aware of what goals and objectives are. Objectives are steps that you're using to meet the goals that are going to help you accomplish the mission and vision statement.

And just, for those of you who have difficulty with objectives-- I know I did when I was first starting out, just kind of wrapping my mind around what they meant-- there is a mnemonic. You can do a Google on it. And it will focus in on how to draft measurable and achievable and relevant objectives.

And it's SMART, S-M-A-R-T. And if you Google SMART and objectives, you'll get a whole lot more information on that. That's all we have time for really in this short webinar today. But it's super important to have goals and objectives, especially if you're grant-funded, but important to have

otherwise as well.

Just to demonstrate to all of you listening out there that in some jurisdictions, including tribal jurisdictions, there are actual statutes on the books that support the development and implementation of an MDT team and the criminal response to child-- criminal child abuse, criminal neglect, and that includes child sexual abuse. So this isn't a new concept. And, in fact, some jurisdictions mandate that an MDT exist to better respond to crimes of criminal child abuse and criminal neglect.

And the federal law that we're going to use here today, just to give you an example, is the Indian Child Protection and Family Violence Prevention Act. If you Google it at 25 USC 34, Section 3209, the act will come up. I want to give the listeners just a taste of what Congress found. And this might be-- you might think this is a congressional vision and mission statement mixed into one.

And findings are oftentimes done in laws to identify, again, that vision and mission, but to also target issues that are happening, in this case crimes against children that are happening in a particular jurisdiction. So I probably don't have time to read all of it. But let me give you just a flavor. You can find this-- these findings if you Google that statute that I have up there on the slide.

But this is what it says-- "the Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the federal government with Indian people, finds that incidents of abuse of children on reservations are grossly unreported, that that unreporting is often a result of the lack of a mandatory federal reporting law. Multiple incidents of sexual abuse of children on reservations have been perpetrated by persons employed or funded by the federal government, that the federal government investigations of these federal employees who care for or teach Indian children are often deficient."

And so then the findings go on to talk about the two major goals of this particular federal law-- to identify the scope and incidents of abuse of children and family violence in Indian country and to reduce those incidents. So that would be their goals right there. And then the statute goes on to say how they're going to address those goals.

One of the things that's interesting as well is this particular statute refers specifically to a multidisciplinary team and the people, the agencies that must be members of the team. And I think we're going to go over that in a few slides. But, obviously, you know it's going to include in addition-- it's going to be more than these, but it's going to really focus on prosecutors and law enforcement being on this team.

Still the same statute, you'll see the public law citation up there as well. I usually always use that 18 USC information given on the previous slide. MDTs-- this is going on in the federal law-- shall include, but are not limited to law enforcement, child protective services-- that could be child welfare, that could be Indian child welfare-- juvenile counseling, adolescent mental health, and domestic violence to really bring that victim piece to the forefront.

I'm going to tell you that you also need to have-- if you do a team with these members and don't have a prosecutor on there, I don't see it having a huge effect, because prosecutors' offices set policies and priorities. And if there is a team-- and Bonnie alluded to this earlier-- if there is an MDT and these agencies are working together to target these prosecutions of these particular crimes against children, it sends a message to the community that these agencies are all on the same page, they mean business, everyone has a priority, they're following the steps, and they will be seeking justice on behalf of the victim.

When we're talking about establishing an MDT, there are several ways that a tribal community can do that. They can do, very similar to the federal statute that I pulled up there, establish the need. You would probably be very good to put some findings in there, similar to the federal law, but unique to your tribal community, the issues that the tribal community's facing, and then the steps, the way that's going to be addressed. And establishing an MDT through your tribal code-- which we're going to talk at the end about multiple agencies sharing victim information and how sensitive that can be and dangerous for the victim-- but if done correctly, can be really a powerful tool to focus on prosecuting these crimes and holding batterers accountable.

So in a tribal code would be great. You can establish an MDT through a tribal resolution, where the tribal government is ordering that an MDT be established and what the focus of the MDT is. Or you can establish an MDT through inter-agency agreements or memorandums of understanding between the agencies. Again, looking at number three, and in our minds, we're writing out there in the margin be aware of confidentiality victim information sharing between agencies. We can do it, but there are some considerations we need to be thinking about.

So core MDT participants, when we're talking about a prosecution-based MDT, definitely we need a law enforcement representative. They're responsible for investigations, particularly doing those initial interviews with the victim. So their information is really important to prosecution of the cases. And, of course, prosecutors on the MDT is really important.

And for both law enforcement and prosecution, we're talking both tribal, federal, or state

representatives. And that's really important to have those jurisdictions represented, because if we're looking at trying a case tribally first and then federally, all of these individuals need to be a part of this MDT so that case reviews can be done while everyone is at the table. And also, that information can be shared. If the feds decide not to take the case, may tribal or tribal jurisdiction may be willing or able to do so. So that kind of cooperation needs to be outlined within an MDT.

Child protection also Indian child welfare, because as this is happening, the safety of this child is really important, also the rights to the parents as far as custody and where the child is going to be while this is all happening is really important as well. Again, that may fall into a more CPT role. But, again, we said there are overlaps because ultimately, it's really the welfare and the safety of the child.

Medical professionals also may be important for an MDT, as they also have some input in the overall case findings and disposition. And absolutely, victim advocates are critically important, I believe, in an MDT, because this advocate is able to work with directly with that victim and have that kind of trust with the victim. And I'll talk more about that later.

Juvenile mental health services, if we're looking at juveniles or adolescents that have been victimized and their case being handled within this MDT for prosecution. The victimization can impact an adolescent in a number of ways. And it's important to have those folks represented at the table as well and, like I said, with advocacy is important.

The US attorney's office, I believe, is also an important member of this team. Oftentimes, an assistant US attorney is assigned to participate in a tribal MDT. And when that happens, that's really good, that they understand the importance of being represented on these tribal MDTs, because they have an important role and have a lot of good resources that a tribe can utilize, and it really is their responsibility to try these cases.

Oftentimes, I've seen where a US attorney can designate a victim witness coordinator, which is like an advocate to attend these MDT team meetings in their absence so that there's not a delay in getting information back and forth between the MDT and the US attorney's office. So again, their presence is really important. And also, it might be beneficial to have a survivor of child abuse and neglect, especially one that's gone through the system who is now an adult that may lend some of their experience and ideas on how this team can operate where cases can be tightened up and prosecuted, and also keeping in mind the needs of the victim while this is happening.

So again, it's really up to a team who's going to be represented on this team. And that can vary from one MDT to another. We're looking possibly at educators as far as secondary participants, because when disclosures are made, sometimes that's made to school personnel. They may be seeing a lot of victims of even sex trafficking, for example. So that might be an important representative to have at the table.

Corrections personnel, I believe, are also really important, because when we're looking at prosecution and treatment and ultimate corrections where the perpetrator is going, I think it's also-- that's an important role. Guardian ad Litem can also provide a lot of input as far as victims and their welfare. And then also child care agency workers who see a lot of children that may be victimized, and also how that-- how their role within these cases, I think, is also important. And also any court-appointed special advocates-- oftentimes, there comes a need for that. So creating that possibility, I think, is also important when that need arises.

So an example-- and we're going to move into an example of a Child Advocacy Center, that's the name of this particular organization in Indian country. And there was a big push several years back to fund, provide federal funding for Child Advocacy Centers. And they really are-- these centers are known for their multidisciplinary approach to investigating, prosecuting, and treating child abuse cases, including child sexual assault.

And they're really grounded in that multidisciplinary group of professionals working together as a team. And some of the disciplines you might find on a Child Advocacy Center MDT would include prosecution. Again, every tribal community is different. So if you're PL-280, your tribal prosecutor, your state prosecutor. If you're reservation-based, you might want your tribal prosecutor and a US attorney, as Bonnie just mentioned, or a representative from that office.

Law enforcement, medical, child protective services, and mental health-- and don't forget the advocate, though. We need that victim's voice there. But as you kind of look at that group of disciplines, you can sort of envision how this group of people working together to sort of get the response of a variety of different agencies all on the same page for a child victim to keep them safe, to assist them in the criminal justice process, to assist them and support them, and to hold batterers accountable-- how important that group, that teamwork is.

I wanted to give you just-- Bonnie and I wanted to give you an example of a Child Advocacy Center actually in Indian country. And I just-- I did some research on this and it came up. And it actually is the very first funded Child Advocacy Center to serve Indian country. There are many more now, though.

You can Google it and you'll get a lot of information on Child Advocacy Centers in Indian country.

But this serves to provide a multidisciplinary approach to these particular crimes against children. And their MDT consists of tribal and federal law enforcement-- that's a reservation-based tribe-- child protection, prosecution, mental health-- you can kind of see all that there. And we gave you the link.

So if you're curious, you want to say, well, how is this working? When were they funded? And don't forget that advocate piece, because a lot of times it's not listed here. And as far as I'm concerned, that is as critical as the prosecutor. If you're going to keep a child safe and support a child through this-- advocate for victims' rights for this child through this criminal justice process, you need a tribal victim advocate in the mix.

So I just have a very strong bias about this, that I just think every child that's going through this needs an advocate by their side, because that advocate can develop that relationship with that child that the child needs, someone who will just be there to listen and to help guide this child through the whole process, which can be really scary and intimidating. And a good advocate will have a good knowledge base of the legal system, has done their homework about the laws, about the victim rights and all of that. But also, that advocate has been trained as far as understanding what victims go through, what child victims encounter when they make disclosures, and really are there to see this all happening from a child's perspective, from a child's vision, from their eyes, and really can operate at that child's developmental level to help them through this process, because child victims come in all sizes, shapes, and forms and ages and backgrounds and social structures and so forth.

So a good child advocate-- I've seen them at work, I've done some of it myself-- is just amazing, amazing work that child advocates do. And that child advocate can take the time to really be there by that child's side and using a variety of tools, whether it's coloring books, whether it's just to be able to help that child express their feelings, what they're going through without really tampering with anything, without even talking about the case specifically can really just you know sort of normalize it to some extent. So that ultimately, when that child is having to speak to others or if someone's way to talk to the child about what happened, that it may be less intimidating.

So this advocate can help work with the child just around different areas of using language, vocabulary that's at the child's age development and respecting that child's space, and just the approach that child advocates utilize. Child advocates also work in concert with victim witness coordinators, for example, can accompany that child into the courtroom while it's empty just to-- so that the child can see what's happening in that courtroom. And what they see on TV is what they

think that's how it is and fully that's what's going to happen, when it may vary.

So just the more information that children can have, I think, it really creates less intimidation. Also, the child advocate can work with the non-offending caregiver, the parent. Oftentimes, the child can be just fine, can seem to be OK with what's happening.

But the parent, the non-offending parent is falling apart. And that's not good for children, right? Children need to have support of people around them, people that are going to provide a level of security and comfort and reassurance that things are going to be OK. So there is a lot of different things that I've seen that are really effective when working with kids that are going through this process.

Just continuing on what the child advocate needs to be familiar with-- more than familiar, they need to really understand and have knowledge of each discipline's role. And we're going to get in-- Bonnie's going to go over those roles just generally of prosecutor and law enforcement in just a couple of slides, and there each discipline's responsibility within the MDT. And we started off talking-- Bonnie was talking about some of the really important pieces of the MDT--- ongoing training, scheduling regular meetings to really make a difference in the community that they're serving.

And again, to understand civil versus criminal-- and it's not that-- they can be aware of the civil perspective and may even be advocating in that realm, too. Again, our focus really today is on this this criminal prosecution, investigation and prosecution of these crimes. And bear with me for just a moment, because I do want to take just a bit of a dive into some of the legislation that really affects victims in general, and particularly child victims of crime as they move through the criminal justice process. And these would be things that I would help the advocates are going to read and stay updated on, perhaps even print them off and keep them available for easy reference.

And the first one really deals at 18 USC 3509, it really deals with the rights of child victims or children who are being called into a criminal case to testify. And it provides standards for treating child victims and child witnesses. It has definitions to it about what is child abuse, physical injury for purposes of providing these rights. It talks about the makeup and the purpose of the multidisciplinary child abuse team.

It requires a speedy trial to minimize the length of time a child has to endure the stress of the criminal justice process. It authorizes-- and this is so important-- it authorizes alternatives to that child having to face off with that perpetrator or offender and provide testimony. And it also establishes that the child is competent to be a witness, that the child understands the difference between lying and

telling the truth.

And for those of you who might not be law trained, we started off with the-- in the earlier history of the United States American jurisprudence juris laws that children under the age, I think it was of seven, were incompetent. They were not allowed to provide testimony. And I'm sure you can imagine situations where that would be a great injustice to holding an offender accountable. So that's an important piece for advocates to take a look at, child advocates.

The second one really deals with the rights a person has as a crime victim, victims of federal crimes and other crimes. And if you look at 3371-- you see it there, that second bullet point-- these are the victims' rights that you're probably familiar with that you would find in the federal system-- the right to be protected, the right to notice of the hearing, the right not to be excluded from the hearing, right to restitution-- all of those particular victims rights that are super important to all victims. But these are also equally important to child victims.

So in my mind, this child advocate's thinking, like Bonnie was just saying, not only about the child's safety and the child's healing needs, but we're thinking about rights that can be asserted on behalf of the child. It doesn't necessarily need to be by a lawyer. I've seen many tribal advocates step up to the plate and remind prosecutors that the child has the right to this, this, and this.

And just a quick story-- in my earlier days, when I was working in a victim's rights capacity for a young-- oh, I'm going to say seven or eight-year-old child who had been sexually abused by a stranger. And so the prosecutor charged it out. There was investigation, a criminal investigation. The prosecutor charged it out.

And just watching a child of that age have to go through that criminal justice process is something I will never forget. And one of the things that we endured was a parent-- not parents, but family members that would pull up in front of the elementary school where this child was going to school just to watch and be visible to the child as the child exited the school grounds. There was no other reason for the family members of the perpetrators-- the perpetrator to be there.

And so we were able to assert victims rights that the child had a right to safety under the laws of that jurisdiction. And we would insist that the prosecutor make sure that happened. And they did. They did a great job of sending law enforcement out, of telling the car that it needed to move on, it was not allowed, that they would seek a protection order if they continued to appear there.

And I do remember the day of trial sitting in the jury box. It was a bench trial. The judge was going to

be the fact finder. But the little-- the child looking at me and someone said something about being afraid. And the child said no, I have my own lawyer here. There's nowhere-- I have my own lawyer here.

And I'm sure they were still traumatized. I'm sure it was still just a horrific experience. But certain little things like that can really give support and courage to a victim of crime that's having to endure the criminal justice system.

So I will tell you that some tribes, many tribes, in fact, now have enacted victims' rights statutes. And there's a great place you can visit to see. And it lists all federal, all state, and all tribes that have their laws codified and online. You will find those tribal victims' rights.

You can search by tribe. You can search by the actual victim right you're looking for. And that website is Victimlaw-- Victimlaw, one word-- .org. So if you Google that, that should come up.

So I've said before that the role of the law enforcement person, whether that be tribal or federal, is really critical, especially that initial contact. This initial contact, according to this quote, says "initial contact with victims of sexual abuse can greatly influence the entire investigation process. Therefore, contact with victims should be guided by professional, respectful, and courteous behavior at all times."

Simple things like I know you're-- this is really difficult to talk about. And I think you're being really brave to talk about this. And take your time. How can I make this easier for you?

And I want to go back to the advocate's role. Being an advocate with Native kids is a little different. And we just need to keep that in mind.

One time I asked one of the kids that I was working with, I said what can help you right now, because they looked clearly upset after an interview that they did after we left that forensic interview. And I was making suggestions to maybe go grab some ice cream or something. And I said what would be helpful right now?

And this little guy said would it be OK if we could smudge? We could smudge, so I could feel better. And I said sure. So I happened to have some in my car. So we pulled over to a little park. And that's what we did, we smudged.

So just keeping those things in mind-- you don't see that kind of a role within the role of an advocate in mainstream, perhaps. But the law enforcement role we say is critically important in terms of case

outcomes. And training, like with victim interviews, can be done, because again, like I said, their involvement at the beginning of this is really, really critical.

And their continued role from their perspective, again, is really important as far as providing updates in the criminal investigation piece, where is that case right now? What are the challenges? Is there some information that the other team members can help this law enforcement person gather?

Especially with advocates, they're working directly with the victim and the non-offending parent. Perhaps they're having a hard time contacting witnesses, for example. And this non-offending parent might know where these people are that a law enforcement person can contact, can have sort of the inside scoop about where they can find these individuals they're trying to track down.

So little information like that, I think, is really important. So communication and bringing that to the MDT can be really-- can help facilitate that case processing. So tracking cases, and just being able to, again, reinforce the role of everyone at the table, including law enforcement, with training, with information, with sharing of-- sharing of information across disciplines, again, is really important so that cases don't fall through the cracks.

Bonnie, I want to-- and I want to ask you a question. And I don't know whether you've ever seen this before or experienced this in your tenure as an advocate. But I have seen this, and I'm just curious. Have you ever seen where a multidisciplinary team, no matter what it's called-- it could be a coordinated community team or any other sort of multidisciplinary team-- have you ever seen a situation where law-- the relationship between law enforcement and the prosecutor or law enforcement with the advocate's office is less than perfect, less than even desirable? But getting them together and attending training and being a part of these teams where they're all going to agree on particular protocols, have you seen that make a difference?

Oh, absolutely, absolutely. Historically, there's been tension between those individuals, whether it's between the prosecutor's office or law enforcement. Law enforcement can feel like they did extraordinary work putting a case together for prosecution and the prosecutor's office declines from charging the case.

And that's really frustrating. It's like they're like but what are they expecting? We did everything. And we didn't leave a stone uncovered.

So that kind of back and forth, as well as historically, advocates have had their issues with law enforcement as well, or we are upset with the prosecutor's office for not charging cases that we feel

like was a prosecutable case. So a team can help really resolve some of that. And I've seen, especially when they do the team building effort, where they can attend trainings together, for example, or they can do community education awareness together, both between maybe a law enforcement person and advocate.

To talk about the MDT, to let the community know about the work that they're doing with the MDT, sometimes that can really be helpful as well. And after a while, you start to gain that trust and a better understanding about the role. We've had law enforcement and prosecutors say gosh, we didn't know you did that much as advocates. So yes, I think an MDT can address and resolve many of those issues.

I agree. I've seen that happen. So that's just such a powerful tool. The prosecutor's role, still along the lines of in the MDT-- if you choose to include a prosecutor-- and because this is a criminal focus and because we are going to need that prosecutor to step up and seek justice on behalf of this child victim, if you include a prosecutor, they can do several things-- work with law enforcement to develop investigative protocols.

I just want to say a word about some of the things Bonnie said with respect to law enforcement. Oftentimes, I'm going to say it's not unusual, to find the prosecutor's office doesn't have the greatest working relationship with law enforcement. It could be territorial. It could be a lack of being on the same page with respect to priorities.

Whatever reason, to get the prosecutor and law enforcement officer together-- again, with that victim advocate, though, the child advocate-- to work as a team, to say OK, when we have one of these cases come in, these are the things that you're going to do, law enforcement, with respect to investigative protocols. You're going to do these things. You're going to reach out to the advocate, make sure the child is safe. You're going to have this open communication.

And we're all going to do this together. When the case comes over to me, here's my protocols. I'm going to meet with the child victim. I'm going to allow support services. I'm going to know the laws that provide the child with alternatives to live testimony. Anything else my tribal law allows me to do for this child victim, I'm going to do.

And they're meeting regularly, everybody. They're meeting. They're getting educated. They're fine-tuning these protocols. So I think you can see how helpful that might be if, in fact, you're in a tribal community that's experiencing less-than-desirable prosecutions of these crimes.

Also can work with child welfare, Indian Child Welfare to work on their investigative protocols so that prosecutors know what law enforcement is doing. Law enforcement knows what an Indian Child Welfare is doing. The advocate's a piece of all of that as well, as well as perhaps mental health and so on and so forth.

A prosecutor also can advise the MDT when it's when it's appropriate and relevant, the status of the laws, the laws that are available, what the laws require the prosecutor to demonstrate beyond a reasonable doubt, any evidence issues that might allow a child victim to-- I'm thinking about hearsay-- allow those statements to come on into evidence so that the child doesn't have to keep repeating the same story every time. In cases of child sexual assault, maybe particular statutes of limitation that allow a child victim to disclose and the crime to be prosecuted long after the child reaches adulthood, those sorts of things.

Everyone's aware. Everyone's on the same page. And also, legal procedures applicable to code and policy development-- if the MDT and the prosecutors say hey, we don't even have criminal laws that address this issue or we don't have enough criminal laws to protect our children, to allow them not to have to testify in person, they can sort of spearhead that-- those code revisions or amendments that might need to take place.

And we're going to get in-- we're going to finish up our presentation here with a super important topic. And we entitled it MDTs and confidentiality. And this really-- I'm going to just give you some basic concepts here. You can mull those over in your mind. And just to be aware when you're establishing your MDTs, this is a huge concern.

So there are three concepts that I'm going to talk to you about today, just briefly. Not doing a deep dive in these, but again, just putting this on your radar that if you are thinking of forming an MDT or you already have an MDT, you're going to go back and you're going to check about whether or not the victim information is protected. These are privacy, confidentiality, and privilege. We're going to talk about privacy first.

And privacy isn't really necessarily a legal concept. It's more of a concept of a victim disclosing information to someone they feel will keep it a secret. And it doesn't have to be a professional.

You might have privacy-- privacy expectation if you're on a phone call with someone, maybe a friend and you're disclosing confidential information about a crime. And you're just thinking that this information is going to be private. If the friend breaches the privacy, there's not necessarily a remedy for that, other than a loss of friendship.

This is the concept that is the least legally enforceable, so privacy. It's important, though. And victims do have privacy. And they have privacy rights not to have their name splashed all over the newspaper and those sorts of things. And perhaps it's a victim's right. But when you're disclosing information, victim information, there's just an expectation of privacy, often no legal remedies for a violation of that.

Now we're moving to a stronger, if you will, obligation. It's the obligation of confidentiality. And I think you all have a probably a general idea of what that means. It's usually created by a relationship between the victim and a professional.

And it's an ethical duty. It's an ethical duty on the behalf of the professional to keep the victim's information private, not sharing it. And if the professional breaches that ethical duty, there can be remedies, ramifications for the professional.

They might lose their license. They might be sanctioned. They might lose their certification. And so you see this as sort of moving from privacy to confidentiality. Confidentiality is the stronger commitment of those two concepts.

Some types of information, just generally speaking, that might be held to be confidential between a victim-- and we could talk about a child victim and a professional-- the name and address. In other words, when court pleadings are filed, when the press gets a hold of-- you've seen them in the newspaper, recording what's been filed in court and what hasn't, that some of this information will be redacted. It won't be provided-- The name of the client receiving services if you're an advocate, location of the victim if you're an advocate.

So we're thinking about this kind of information. There may be some ramifications. Even if this gets out accidentally, we are under an ethical duty to keep it private.

You can, even if you're one of these professionals, disclose certain information if you have a release from the victim. Now, when we have a child victim, these releases get a little bit tricky. Obviously, it depends on the age of the victim. But typically speaking, anyone under a particular age that's considered a minor will probably have to have that non-offending parent or non-offending guardian actually be with them when they ex-- and inform them or perhaps even sign the release of information.

And this release of information will be very narrow. It will have an expiration date if it's a well-written

release of information. And it will indicate the client, even if a minor and the client's guardian or non-offending parent have been-- they've been informed of what information the minor is saying can be released and what purpose it can be released and who it can be released to, what it can be used for.

And noticing also that the victim owns the information and can rescind the permission at any time. Now, whether a non-offending parent can rescind the permission for a minor who wants the information to be shared, I would think that that's probably going to be upheld in court. So we can run into some touchy issues here. But again, the information is the victim's, and that's confidentiality.

Let's move on to the last concept of protecting victim information. And I want to just say not to forget that if the victim is in a home where there's domestic violence or is a victim of domestic violence in addition to the other crimes that have been committed against the child, oftentimes, letting information leak is directly connected to how safe that family is. So keeping that on the forefront as you're thinking about this.

So privilege is a legal concept. It is a rule of evidence, an evidentiary rule that prevents by law the disclosure of information, even if it's relevant in court, unless the judge interprets the statute to require disclosure. So the only time you are not going to have legal sanctions for violating a privilege is going to be if the court is ordering you to do so.

Or sometimes, even for confidentiality, this holds true, mandatory reporting-- there are federal law-- there is a federal law, 18 USC 1169, that says any person who knows or has reasonable suspicion that a child was abused, it's a mandatory reporting statute. It goes on to tell you who needs to report. And it covers every person. So every jurisdiction, pretty much, maybe not 100% of them, but a majority of them have mandatory reporting statutes that you would not have legal consequences if you were to report.

But other than that, privilege is the strongest legal concept protecting victim information, oftentimes found in statutes. So you would want to look to see whether the statute is protecting victim information. And this is how this all ties into MDTs. Any time you have multiple agencies sharing victim information, especially in a criminal case, there are a whole host of rules that say that information must be shared with the defense. So we need to make sure that if the MDT that you're establishing or that is established, they're either A, only designing protocols and policies that will be followed in these criminal cases, so they're not actually sharing specific victim information, or B, they are sitting down as a team and they're talking about particular cases and sharing information, but we have a tribal statute that is protecting what the MDT is sharing.

Now, even with that tribal statute, in criminal cases-- I just want to make you all aware of this-- a prosecutor has a duty to disclose exculpatory or mitigating information that comes into their possession, through an MDT or otherwise. They have a duty to share that with the defense or the defense attorney. It is a United States constitutional mandate. And for tribes, it most likely has been incorporated through the Indian Civil Rights Act, although not in the exact way the US Constitution applies. So if I'm a tribal prosecutor, I'm going to want to make sure that this information is protected and that the-- I will step out if the other disciplines are going to be discussing things that I might-- I don't feel I should be a part of.

Now, I will also tell you that-- and we don't have time to necessarily go into this-- but if, let's say, as a prosecutor, I have privilege. I don't have to disclose unless it falls within the categories I just mentioned, but I'm sharing information with someone, another agency that's on the team that doesn't have the same statutory protections or privileges that I have as a lawyer. If I share that, some jurisdictions say I have waived the privilege and I must disclose the information if requested.

So you see how technical all of these rules get. That's why it's super important designing your team and going in knowing how are we going to protect the victim information? Let's strategize. Let's do this in the best way possible, the way that protects the information to the greatest extent.

I just want to go over the resources real quickly in your handouts. You'll see a list of resources that we are providing, including a checklist to develop an MDT and the copies of the slides that we've used. There's a really good listing of resources. And one of those is a resource that helps more about MDTs and also Child Advocacy Centers. We didn't have a chance to really go into the role and the important role of Child Advocacy Centers.

So in the one handout, there's-- it's called Update. It's like a newsletter. But they discuss Child Advocacy Centers in Indian country and their role and what they do and so forth. So I really urge you to check out the resources that we've provided.

Thank you, Bonnie and Kelly. And right now, we're moving into the question and answer portion of the webinar. We do have one question for Bonnie and Kelly. How do we revitalize a MDT that's already existing? I'm assuming that's in relation to an MDT that maybe is starting to stall out.

I have a couple of suggestions. And then I'll let Bonnie follow up if I don't-- if she's thinking about things that maybe I'm not covering. I think-- and Bonnie hit this kind of early on in the webinar, about having that structure, about having those regular meetings. It's hard in COVID, because we're all doing a lot of virtual work. But attending trainings, perhaps when this passes, or even virtual trainings

together and then having a virtual meeting to discuss what you learned.

Also having protocols and policies for the MDT-- I think it's a really important function of the MDT for those agencies to sit down and do a recommitment. We talked about that vision statement and mission statement and how important they were. And not only do those really work to sort of ground us in our commitment that we all agree this is incredibly important and we will commit our time and our efforts.

I think that's super important. And I think that's a huge piece of it, along with regular meetings and doing those trainings when you can together. Bonnie, do you have something to add to that?

No, I think you've covered it. I would say something social to begin with. And I'm always in favor of having a pot of soup and some frybread or something. But starting off slow to, again, kind of get people more interested with a real specific focus and then building from there I think would be really helpful.

Great. Thank you for that. And we have one other question. How can we work with the bias who we are working with to help the child?

I think we alluded kind of to those kinds of biases earlier. And if by bias, you're saying it's agencies not wanting to work together or perhaps it's something different where they just-- one of the agencies just feel that having a criminal case with a child victim is just too time-consuming and too traumatizing and that sort of piece. And again, I just really feel that getting people together in a way that Bonnie just mentioned.

And also, can you get commitments that the vision and mission statement is what your mission is going to be, your vision is going to be as a team? And if you can't get those sorts of commitments, I think you may have to try a different way for a bit, because really, a group of people that don't-- that refuse-- it depends on the discipline-- that refuses to sit down and put child safety and healthy families first and seeing the importance of batterer accountability, if this is something that's happening in your tribal community, I just don't know. I think you're going to have to do some sort of work around it if you can't get somebody to commit that those are important pieces.

I really think all teams multidisciplinary in nature face some issues of agencies saying, well, this is the way we do it, and we can't do it that way because of our funding. But I also know that these teams find workarounds and say, well, maybe you can't share that with us, but you could share this with us. And just know that we can't share certain information with you. But we still will find a way to develop

these protocols and steps that we're going to take in these cases involving child victims.

I have one more question. Someone acknowledged that MDTs are really for that criminal piece, but they were inquiring about utilizing child welfare cases and using an MDT in those cases, specifically to address parents' deficits or needs.

Well, we talked early on. These teams were called different things at different times in our development. And they-- first, there was a big focus on the CPT teams and the civil piece that goes with that. Then came the wave of MDTs because the prosecution of these crimes and the investigations were not really taking place. Tribal communities were experiencing this and no one was really picking it up and making sure that victims were safe and that batterers were accountable.

So I just think that it depends on your funding stream. If you are funded to do criminal-- service to victims of crime, then I would say the MDT has to be separate and you're focusing on the prosecutor, the law enforcement, that criminal process and all the agencies that need to be involved in that. And I will be upfront and transparent with you all.

Some teams call themselves MDTs and have a civil focus. Some teams call themselves CPT teams and have both a civil focus and a criminal focus. But for purposes of this presentation, we focused on the civil-- I mean, the criminal component only.

This concludes the question and answer portion of the webinar. In front of you on your screen is information on how to access upcoming webinars, on-demand trainings, and resources for OVC grantees. Please watch your inbox for emails regarding registration for any additional upcoming webinars that we may have. Again, thank you to Bonnie and Kelly from the Tribal Law and Policy Institute for the excellent presentation today, and also for sharing your insight and acknowledgment with us.

If you're interested in additional training, please visit www.ncjtc.org for a listing of upcoming training opportunities. We also hope you enjoyed today's webinar. And we want to thank you and hope that everyone has a great day.