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# Multidisciplinary Teams in Indian Country

Presented by:

**Bonnie Clairmont & Kelly Gaines-Stoner**

Tribal Law and Policy Institute

September 22, 2020



# Webinar Information



This webinar was produced by the National Criminal Justice Training Center of Fox Valley Technical College under cooperative agreement number 2018-VO-GX-K001 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this webinar are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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# Presenters



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Tribal Law and Policy Institute

# Our Focus: Serving Victims of Crime

A person who experiences mental, physical, financial social, emotional, or spiritual harm as the direct result of a specified crime committed on his or her person or property... The term survivor is also used to describe a direct victim who has survived a violent crime or a significant other who has survived a deceased crime victim.

- *Office of Justice Programs, Office for Victims of Crime: Achieving Excellence: Model Standards for Serving Victims and Survivors of Crime (2010).*

Note that the definition of “victim” may vary from jurisdiction to jurisdiction.



# Our Focus: Serving Victims of Crime

- This webinar will focus on child protection and multidisciplinary teams serving victims of crime.

*This webinar will not address civil child abuse or neglect or related civil issues.*





# Learning Objectives

- 1 Distinguish between Child Protection Teams (CPT) and Multidisciplinary Teams (MDT).
- 2 Identify the benefits of an MDT.
- 3 Review the elements to develop an MDT
- 4 Understand agency roles in Native Child Advocacy.
- 5 Understand the importance of confidentiality.

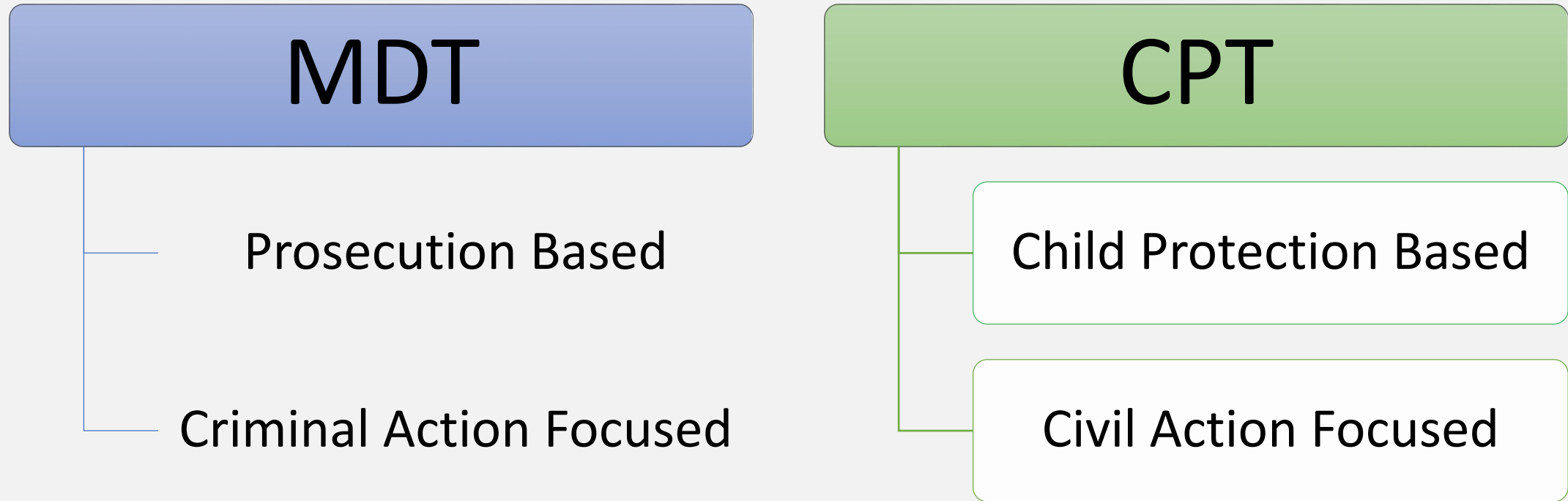
\*Note: Although some teams may perform both civil and criminal functions and CPT/MDT labels, this webinar only targets criminal functions associated with victims of crime.

**When everyone is  
focused on the child  
from the very beginning,  
healing is promoted and  
evidence is preserved.**



# MDT & CPT

Note the distinction between criminal and civil focus.



# Civil vs. Criminal

Civil lawsuits may focus on requesting the court to order a defendant to do something, to refrain from doing something or to pay damages to remedy a wrong.

The burden of proof in civil cases is usually a preponderance of the evidence (51%). A jurisdiction's civil laws will apply in these cases.

- » A child welfare agency may bring a legal action against parents in civil court requesting a court to order the parents to perform certain tasks or to refrain from certain acts. These cases are not asserting crimes.



# Civil vs. Criminal

- Criminal cases usually focus on punishment through incarceration (probation) or sanctions of some type.

The burden of proof in criminal cases is the highest in all of American jurisprudence- *beyond a reasonable doubt*. Jurisdiction's criminal laws will be applied in these cases.

- » A prosecutor might bring a criminal action against a parent for certain crimes including criminal child abuse or criminal child neglect. The prosecution would be requesting that a judge/jury find the parent guilty of the crime and sentence the guilty party according to the jurisdiction's criminal sentencing laws.



# MDT Criminal Focus: Goals May Include...

- ✓ To maximize the number of those cases reported resulting in a criminal prosecution.
- ✓ To maximize the number of criminal prosecutions that result in a guilty verdict/accountability for the offending party.



# **Benefits to Having a Multidisciplinary Team**

# Benefits of an MDT

Create a means to develop expertise in criminal child abuse and neglect cases including child sexual abuse.

Can facilitate community program and resource development to better serve child victims of crime.

Helps to train across disciplines on victim service issues.

May support non-offending parent.





# Indian Country MDTs

MDT participants need to be trained on child abuse and neglect, including child sexual abuse.

Benefits from a multi-disciplinary and multi-jurisdictional approach:

- Both Tribal and Federal prosecutors included
- Charging decisions impact sex offender registration, other legal implications
- Tribal and Federal victim advocates included to ensure resources and support for victims are maximized



# Indian Country MDTs

- Helps to prevent cases from falling through systemic cracks.
- MDTs help to coordinate investigations and charging decisions.



# Developing an MDT

- ✓ Decide if a Team is needed in your community.
- ✓ Identify purpose and role of the team.
- ✓ Identify team member composition.
- ✓ Provide on-going training for all members.
- ✓ Establish consistently scheduled meeting times.



# Developing an MDT

Team members develop

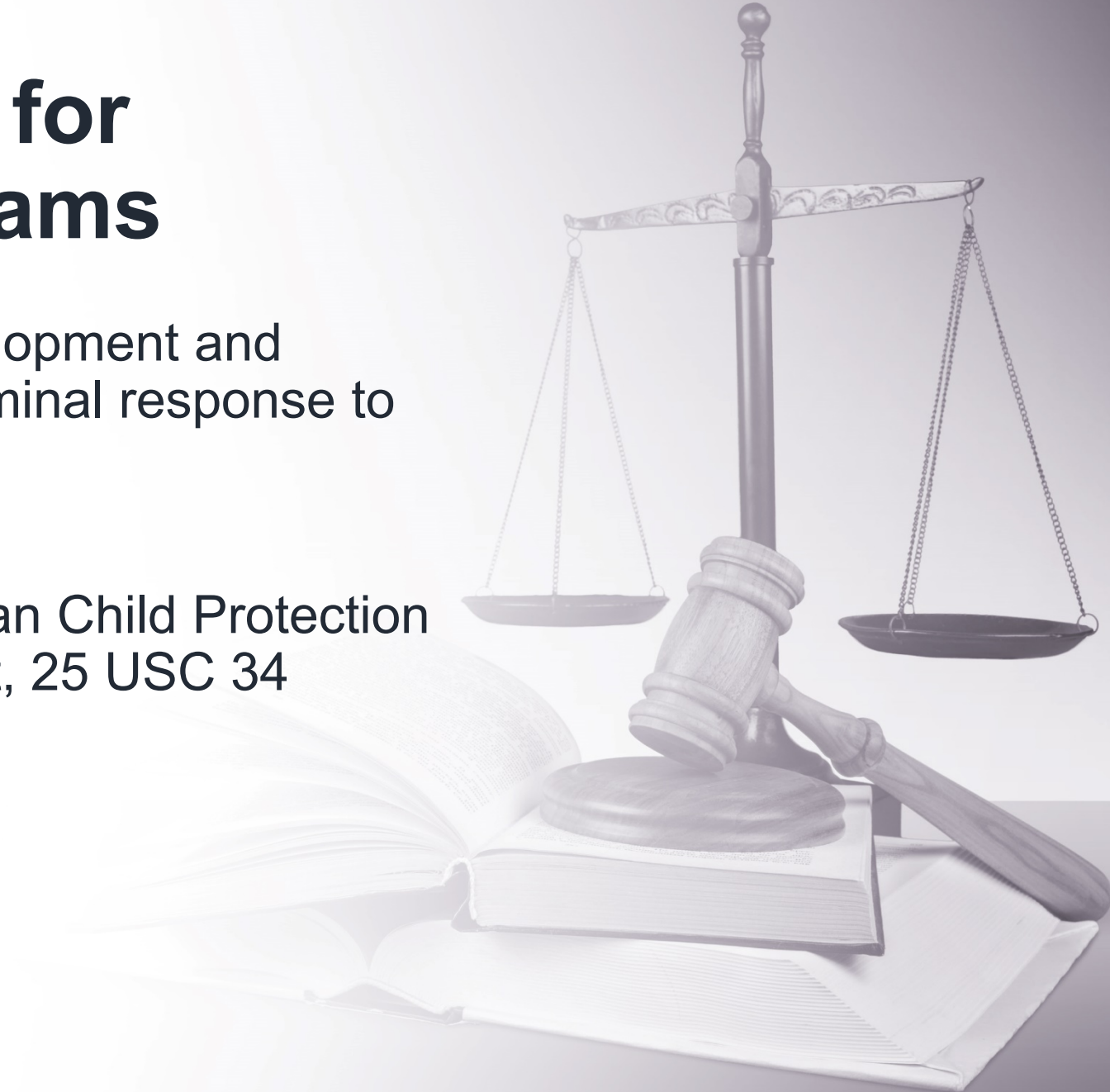
- ✓ Vision Statement
- ✓ Mission Statement
- ✓ Goals
- ✓ Objectives



# Legislative Support for Multidisciplinary Teams

Tribal Codes may support the development and implementation of MDT and the criminal response to child abuse or neglect.

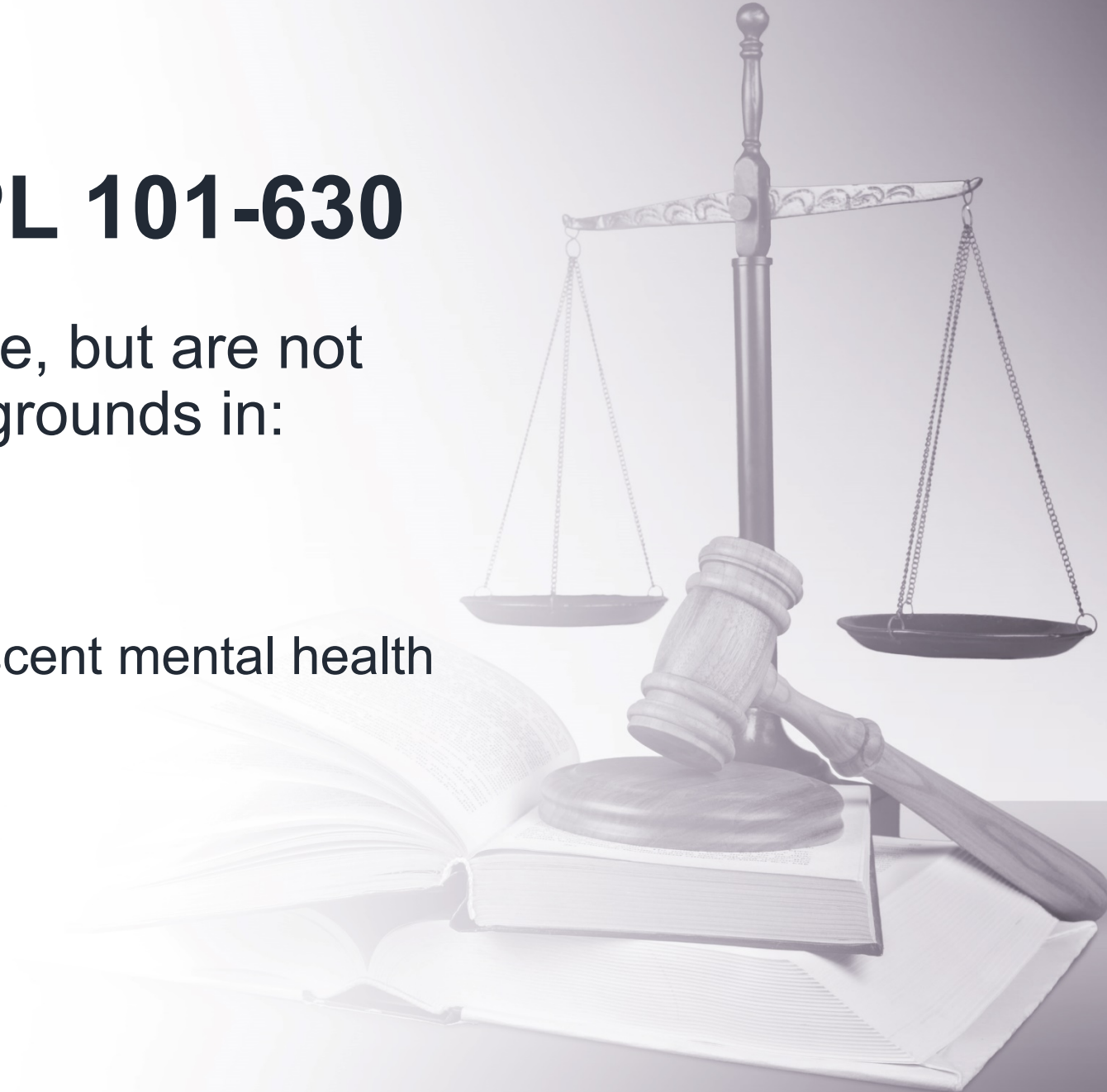
Federal Law to support MDT – Indian Child Protection and Family Violence Prevention Act, 25 USC 34 Section 3209.



# Section 3209(e) of PL 101-630

MDT's established shall include, but are not limited to personnel with backgrounds in:

- ✓ Law Enforcement
- ✓ Child protective services
- ✓ Juvenile counseling and adolescent mental health
- ✓ Domestic violence



# Establishing an MDT

There are several means to develop/establish/implement an MDT:

- 1) Establish the MDT in a *Tribal Code*
- 2) Establish the MDT via *Tribal Resolution*
- 3) Establish the MDT via inter-agency *Memorandum of Agreement (MOAs)* or *Memorandum of Understanding (MOUs)*

# Core MDT Participants

- ✓ Law Enforcement
- ✓ Child Protection, Indian Child Welfare
- ✓ Prosecution
- ✓ Medical Professionals
- ✓ Victim Advocacy/Assistance
- ✓ Juvenile Mental Health Services
- ✓ Domestic Violence Advocate
- ✓ U.S. Attorney
- ✓ Victim Witness Coordinator
- ✓ Survivor of child abuse/neglect

\*PL 101-630



# Secondary Participants

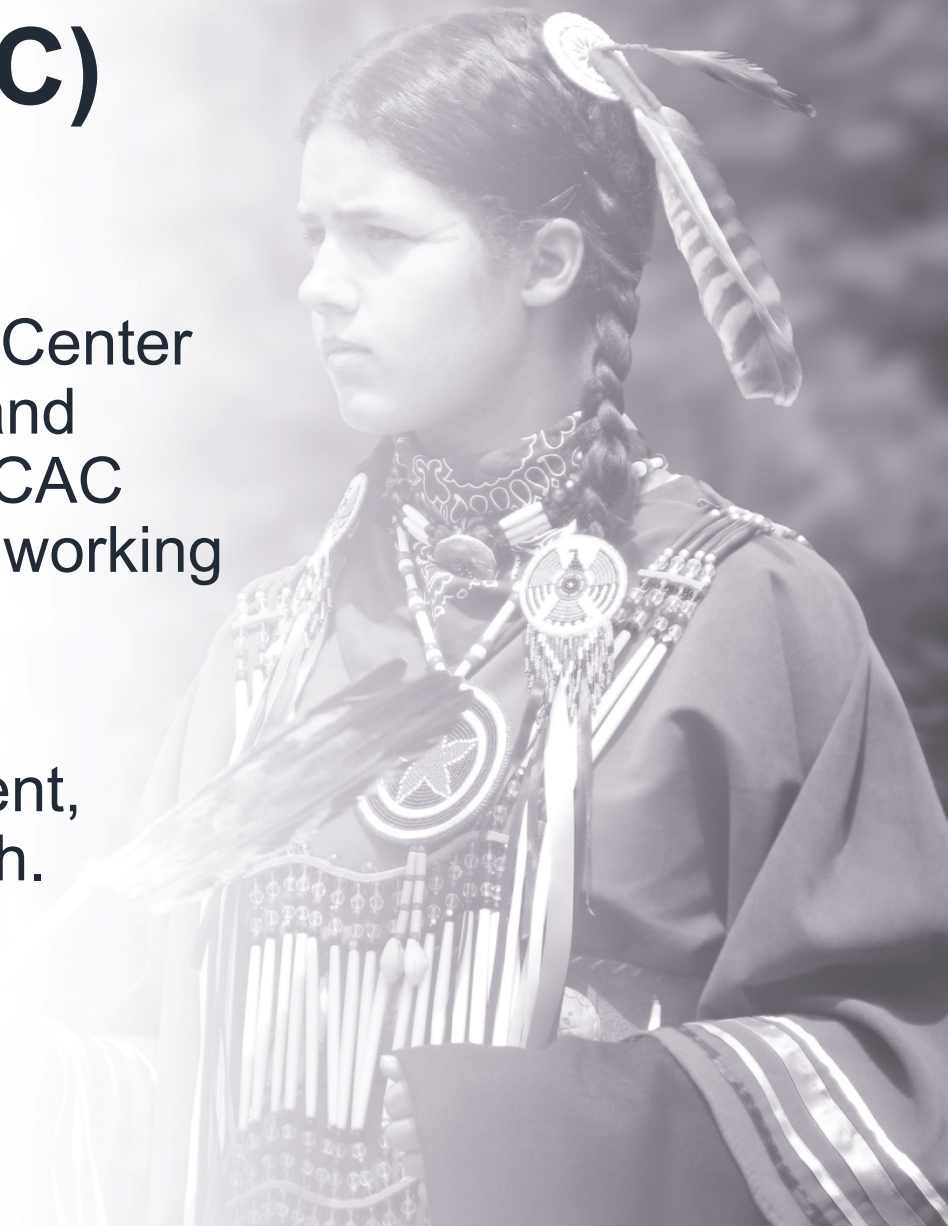
## Consider:

- ✓ Educators
- ✓ Corrections personnel
- ✓ GAL's
- ✓ Childcare agency workers
- ✓ Court appointed special advocates

# Child Advocacy Centers (CAC) in Indian Country

The outstanding characteristic of a Child Advocacy Center is the MDT approach to investigating, prosecuting and treatment in child abuse cases. At the heart of the CAC model are professionals from difference disciplines working together as a team.

The disciplines include: prosecution, law enforcement, medical, child protective services, and mental health.



# Eastern Band of Cherokee: Heart-to-Heart CAC

- The first CAC founded specifically to serve Indian Country
- Serves as the MDT meeting location
- MDT consists of:
  - Tribal and Federal law enforcement
  - Tribal Child Protective Services
  - Prosecution
  - Mental health, medical, and educational agencies

[cherokee-phhs.com/heart-to-heart/index.html](http://cherokee-phhs.com/heart-to-heart/index.html)

Eastern Band of Cherokee Indians • Public Health & Human Service




**HEART TO HEART**  
Child Advocacy Center

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**The Heart to Heart Program** is a Child Advocacy Center or CAC that assists victims of child abuse and their families throughout the child's prosecution process. We offer many services as a CAC and work with other programs such as Family Safety and the Cherokee Indian Police Department to ensure the prosecution process is as gentle as possible for the child and their family. The center provides various services specializing in child related trauma, court, school, community prevention presentations, forensic interviews, trauma therapy for child victims, and family therapy for non-offending caregivers.



Why Advocate?

"Unless someone like you cares a whole awful lot, Nothing is going to get better. It's not."  
- Dr. Seuss, The Lorax



**The CAC has a trained forensic interviewer** on staff to communicate with the child effectively. The Heart to Heart Child Advocacy Center works with a team of professionals who coordinate the investigation, prosecution, and treatment of child abuse. We assist them by being a voice for the child and ensure their case is heard and followed through. We are an advocate for the family as much as we are for the child(ren).



**There are many different types of abuse** and we offer services for all victims. Some of the most common types are as follows:

- Sexual Abuse
- Physical Abuse
- Domestic Violence Exposure
- Substance Abuse Exposure
- Emotional Abuse
- Neglect

**Client confidentiality is paramount** to fostering a safe and welcoming environment at our CAC. Sometimes children may have to tell the worst story of his or her life repeatedly to doctors, police, lawyers, therapists, investigators, judges and others. The child may not receive assistance they desperately need to heal post-investigation. Therefore, it is a goal and daily objective of Heart to Heart to offer a safe child-focused environment for the child to be able to tell their story and receive assistance. The child may be accompanied by police, a child protective service provider, caregiver or "safe" adult.



**To report a public health emergency after Tribal business hours, on weekends or holidays, call: 828-359-6180**






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[email](#)

828-359-6312 (main)  
 828-359-0281 (fax)

**Cherokee Police Dispatch**  
 828-497-4131

**Hours:**  
 Monday - Friday  
 7:45 am - 4:30 pm

**Lucky Hodges**  
 Mental Health Therapist  
 828-359-6317  
 828-736-7826  
[email](#)

**Jewel Staton**  
 Victim Services Coordinator  
 828- 359-6620  
 828-736-4763  
[email](#)

**Emilee Palmer**  
 Forensic Interviewer/  
 Case Manager  
 828- 359-6313  
 828- 736-5444  
[email](#)



NationalCAC.org



NationalChildrensAlliance.org

# Native Child Advocacy

Role of Victim Advocate

# Child Victim Advocate is the Link...

Between the child and non-offending caregiver  
and all members of the MDT.



# Child Advocate Needs to:

- Understand each discipline's role and responsibility within the MDT. Understand civil verses a criminal focus.
- Be familiar with existing victim's rights legislation:
  - Victims of Abuse Act, 18 USC §3509
  - Justice for All Act of 2004, 18 USC § 3771(a)
  - Any existing Tribal Victim's Rights Legislation

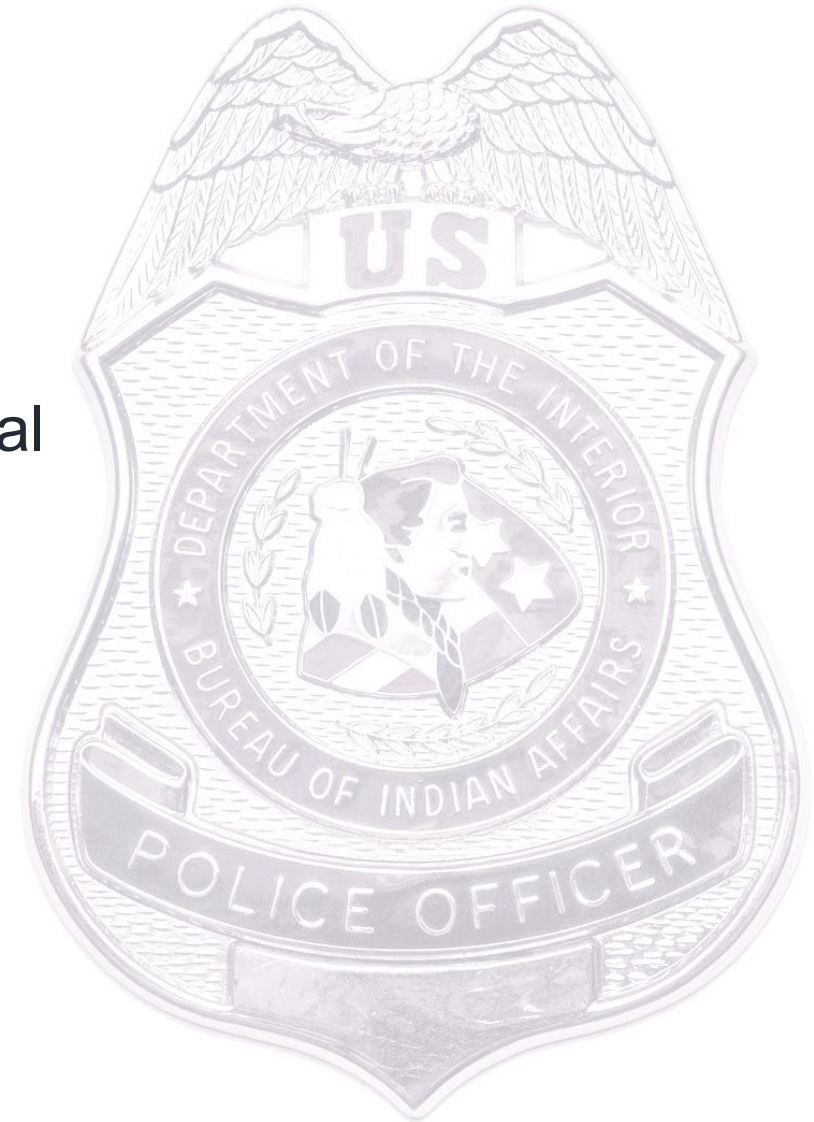


# The Role of Law Enforcement

## Initial Child-Victim Contact

“Law Enforcement’s 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.”

- A Victim-Centered Approach to Sexual Violence Against Native Women: Resource Guide for Drafting Sexual Assault Law Enforcement Protocols at 36. TLPI, July 2008.



# Prosecutor Role

If you choose to include prosecutor, they can provide several functions.

- Work with law enforcement to develop investigative protocols
- Work with CPS to develop investigate protocols
- Advising team on status of law:
  - Victim's rights
  - Criminal or civil standards and process
  - Evidentiary issues or concerns with a case
  - Legal procedures applicable to code and policy development





# MDTs & Confidentiality

# Protecting Victim Information



Privacy



Confidentiality



Privilege

# Protecting Victim Information – Privacy

## Privacy:

The expectation that when a victim shares information with another individual (the individual does not have to be a professional), the information will go no further without the victim's consent.

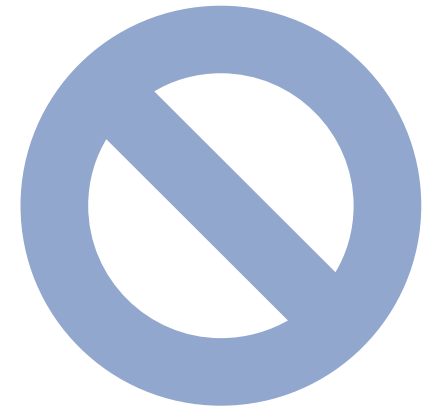


# Protecting Victim Information – Confidentiality

Protecting the confidentiality of communications is an ethical duty to keep the victim's information private.

Victim statements are meant only for the service provider and the information may only be disclosed with client consent.

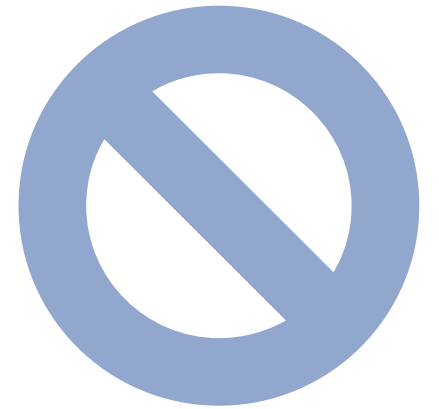
If the service provider discloses the victim's information without the victim's consent, the service provider may be liable for an ethical breach of duty and lose any of their licensure or certifications.



# Protecting Victim Information – Confidentiality

Types of information that are usually confidential include:

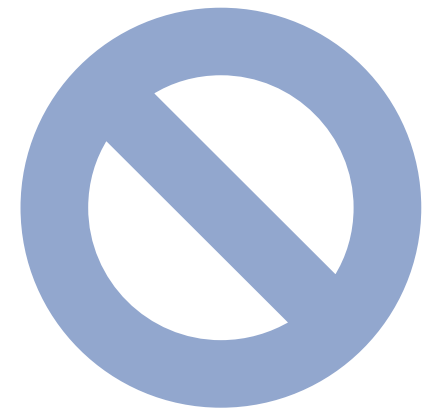
- Name/address of client requesting services
- Name/address of client receiving services
- Other private, identifying information about client (telephone number, birthdate, health issues, etc.)
- Location of victim
- Domestic violence shelter location



# Protecting Victim Information – Confidentiality

The victim's permission to disclose certain victim information should be executed in a written release of information form that:

- Lists what specific information you can disclose
- Identifies whom the information can be disclosed to
- Is signed by the client
- Includes an expiration date
- Provides notice that the client can rescind their permission at any time if they choose



# Protecting Victim Information – Privilege

## Privilege:

An evidentiary rule that prevents the disclosure of information, even if relevant, in court.

Particularly, privilege can come into play when the information was originally communicated in a professional or confidential relationship that is covered by law.



# Protecting Victim Information – Privilege

Privileges that protect victim information from disclosure are usually set out in statutes or case law in the applicable jurisdiction.

A disclosure of the privileged information may have legal and/or criminal consequences.

Note: It is a best practice to have a tribal code that directly sets forth that communications between the victim and the advocate providing services are privileged and not subject to disclosure absent court orders or statutory mandate.





# Resources

Handouts

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**Tribal Law and Policy Institute**

**www.home.tlpi.org**



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