



STATE OF WASHINGTON

Governor's Indian Health Advisory Council

August 17, 2023

9:00 AM – 12:00 PM

Sue Crystal Conference Room,

Washington State Health Care Authority

Join Meeting Virtually: <https://us02web.zoom.us/j/83741092085>

Agenda

**Times are approximate*

9:00 AM Opening Prayer and Welcome

JanMarie Ward, friend and colleague of Sue Crystal, will share some brief comments on the impacts of Sue Crystal's work in state and tribal relations.

9:10 AM Call to Order and Roll Call

Summer Hammons, *Vice-Chair, American Indian Health Commission (AIHC)*
Vicki Lowe, *Executive Director, American Indian Health Commission (AIHC)*

9:20 AM Administrative Business

Vicki Lowe, *Executive Director, American Indian Health Commission (AIHC)*

- 1) Approve minutes from October 24, 2022
- 2) Approve agenda

9:30 AM Tribal Opioid/Fentanyl Response Taskforce

An update on the Washington State Tribal Opioid/Fentanyl Summit and plans to develop Washington State Taskforce
Amber Leaders, Office of Governor;
Aren Sparck, Administrator Office of Tribal Affairs, HCA

10:00 AM Uniform Consultation Policy

Review of Consultation Policy checklist, gather input from Tribal and State Leaders in preparation for drafting template.
Vicki Lowe, Executive Director, AIHC;
Heather Erb, Legal and Policy Consultant AIHC

10:30 AM Tribal Reinvestment Account Update

Vicki Lowe, AIHC
Status of Care Coordination Agreements and Reinvestments
2023-25 Biennial Indian Health Improvement Draft Plan

10:55 AM Legislative Updates

Tribal Behavioral Health Legislation for 2024 State Legislative Session
Sharing draft legislation to address gaps in crisis response impacting access to care for American Indians and Alaska Native and systemic issues keeping Tribes and Indian Health Care Providers from helping their own Tribal member in times of crisis.
Vicki Lowe, Kathryn Akeah, AIHC

11:20 AM Exchanging Data with Tribal Jurisdictions –

High level overview of Tribal Data Sovereignty, Tribal data collected by the State, how it is protected and how Tribes can access their own data within State systems.

Vicki Lowe, AIHC; Christine Winn, HCA; Candice Wilson, DOH

NOON- Adjourn- *Summer Hammons, Vice-Chair AIHC*



STATE OF WASHINGTON

Governor's Indian Health Advisory Council

October 24, 2022

8:00 PM – 10:00 PM

Hosted at Tulalip Tribes Resort, Orca Ballroom

Notes:

Opening Prayer and Song – Tulalip Tribes by Oceana Alday, Tulalip Tribal member

Call to Order and Roll Call

Steve Kutz, Chair, American Indian Health Commission for Washington State (AIHC)

**It was difficult to keep track of attendees, people were coming and going. When roll call was done, there were attendees from:*

Confederate Tribes of Colville	Nooksack Tribe	Governor's Office
Cowlitz Tribe	Quileute Tribes	DOC
Hoh Tribe	Snoqualmie Tribe	DOH
Jamestown S'Klallam Tribe	Squaxin Island Tribe	DSHS
Lummi Nation	Swinomish Tribe	HCA
Makah Tribe	AIHC	
Muckleshoot	NPAIHB	
Nisqually Tribe		

Administrative Business

Vicki Lowe, Executive Director, American Indian Health Commission (AIHC)

- 1) Approval of the minutes from September 15, 2022: Lummi moved/Squaxin Island seconded, motion carried.
- 2) Approve of the agenda - Jamestown moved/Snoqualmie seconded, motion carried.

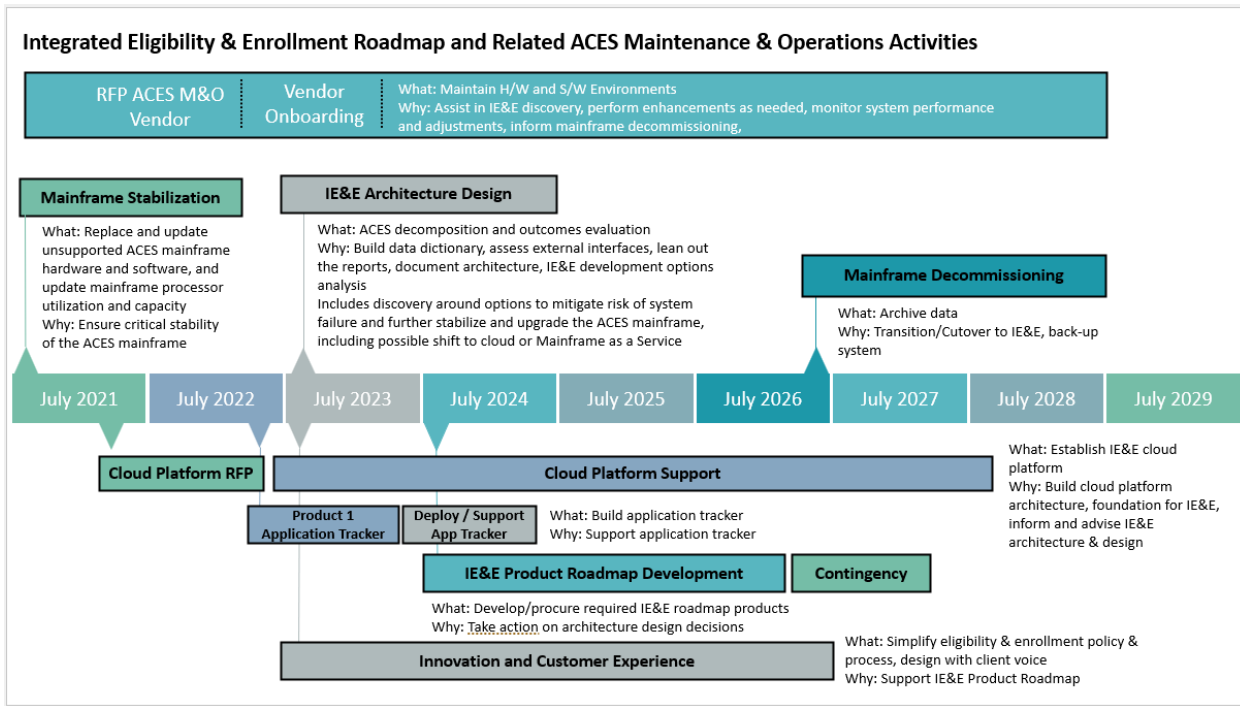
Biennial Indian Health Improvement Advisory Plan

Vicki Lowe, Executive Director, AIHC

- 1) Update and discussion on the Biennial Indian Health Improvement Advisory Plan current draft of plan was shared. HCA just replaced the Administrator of Office of Tribal Affairs. There are currently no funds in the reinvestment account. Focus for the next year will be on finalizing Tribal Federally Qualified Health Clinic and Care Coordination Agreement templates and testing the process to bill and track claims.
- 2) Review of asks from Tribes to state agencies- For ask for the agencies is to work on institutional barriers that make it difficult for Tribes, Urban Indian Health Organizations, Indian Health Care Providers, American Indians and Alaska Natives to work with and receive programs and services.

Health and Human Services Coalition Update *Sue Birch, HCA*

Overview of Projects - timeline for "Integrated Eligibility & Enrollment Roadmap and Related ACES Maintenance and Operations Activities" was shared:



Legislative Updates

2023 State Agency Legislative Priorities from State Agencies

HCA- Moving forward with Health Care Authority (HCA)/AIHC joint legislation- Improving coordination with the Indian behavioral health system. See presentation. This will include Tribal law enforcement, courts and correction facilities in the state crisis response system. There is a designated crisis responder (DCR) implementation check list and HCA is building a case rate for Tribal DCR services.

The Legislatures need to increase Medicaid payments for Fee-for-Services program to have parity with Managed Care Program.

Ensure funding of the Blake Bill includes allocations to Indian Health Care Providers.

Funding for Electronic Health Records (EHR) as a service, bringing EPIC to Indian Health Care Providers.

Native and Strong Lifeline option for 988 will launch on November 10th.

Adjournment

WA State Tribal Opioid/Fentanyl Task Force

Amber Leaders – Office of the Governor Senior Policy Director, BHI
Aren Sparck – HCA Office of Tribal Affairs Administrator

GIHAC 08.15.23

How We Got Here

- ▶ Centennial Accord Tribal Feedback
- ▶ Governor's Support
- ▶ HCA Response
- ▶ State and Tribal planning partnership

WA State Tribal Opioid/Fentanyl Summit

- ▶ Two day Summit
 - ▶ Day 1 Break Outs
 - ▶ TRP, Housing and Homelessness, Justice, and Community & Family
 - ▶ Day 2 Work Sessions with Governor
 - ▶ 27 Tribes represented, 9 Cabinet Members, AG, State Legislators and Governor
- ▶ Summary Report
 - ▶ Hosted on HCA website
 - ▶ Foundational elements for sustainable state and tribal partnership
 - ▶ Resource support
 - ▶ HCA contract w/ EY

WA State Tribal Opioid/Fentanyl Task Force

- ▶ Desire to resource the work
 - ▶ Work with Office of Governor, Legislature, state and tribal sprint team
- ▶ Modeled after the MMIWP Task Force
- ▶ Tribal meeting Tour
 - ▶ GIHAC
 - ▶ AIHC
 - ▶ GTLSSC
 - ▶ ATNI
 - ▶ Centennial Accord

Next Steps

- ▶ Get feedback and support during tribal meetings
- ▶ Work with Office of Governor, Legislature, and Tribes to develop path forward
- ▶ Hope to have clarity in October



Amber Leaders

Office of the Governor Senior Policy Director, BHI
Amber.leaders@gov.wa.gov

Aren Sparck

Chevak Native Village Qissunamiut Tribal Member
HCA Office of Tribal Affairs Administrator
Aren.sparck@hca.wa.gov



DRAFT TRIBAL CONSULTATION POLICY CHECKLIST

Purpose: This document provides recommended items for Washington State agencies to include in their Tribal consultation policies and procedures. These recommendation items are based on the following sources of information:

- Feedback and input from Tribal representatives and urban Indian health organizations
- AIHC Tribal and Health Leaders’ Summit, September 2022
- [Washington Centennial Accord](#)
- [RCW 43.376](#)
- [Executive Order 13175](#)
- [Uniform Standards for Tribal Consultation, 87 Fed. Reg. 232, 74479 \(Dec. 5, 2022\)](#)
- [NCAI Resolution #MOH-17-001](#)

GENERAL REQUIREMENTS

<input type="checkbox"/>	1. Is the consultation policy well-organized, concise, and easy to read, or does it include repetitive, unenforceable, and superfluous language? <i>From AIHC Tribal and Health Leaders’ Summit, September 2022</i>
<input type="checkbox"/>	2. Is the policy uniform/consistent with other policies?
<input type="checkbox"/>	3. Is the consultation document a policy or a procedure? It should be a policy. <i>From AIHC Tribal and Health Leaders’ Summit, September 2022</i>

PURPOSE AND APPLICABLE LAW

<input type="checkbox"/>	1. Clear Purpose and Goals. <i>From AIHC Tribal and Health Leaders’ Summit, September 2022</i>
<input type="checkbox"/>	2. Legal References <ul style="list-style-type: none"> a. <input type="checkbox"/> Centennial Accord b. <input type="checkbox"/> RCW 43.376 (with quotes) c. <input type="checkbox"/> Executive Order #13175

	d. <input type="checkbox"/> Uniform Standards for Tribal Consultation
<input type="checkbox"/>	3. Sovereignty and Self-Governance. Statement that state agency recognizes the right of Tribes to self-govern and supports Tribal sovereignty and self-determination. See Uniform Standards for Tribal Consultation .
<input type="checkbox"/>	4. Trust Responsibility. Statement that state agency recognizes the Tribes’ unique relationship with the United States and the responsibility to strengthen the government-to-government relationship. See Uniform Standards for Tribal Consultation
<input type="checkbox"/>	5. Regular, Meaningful, and Robust Consultation. Statement that state agency is required to engage in “regular, meaningful, and robust consultation” with Tribes in the development of state policies that have Tribal implications. See Uniform Standards for Tribal Consultation
<input type="checkbox"/>	6. Two-Way Consultation. Statement that “Tribal consultation is a two-way, Nation-to-Nation exchange of information and dialogue between official representatives” of the State and of Tribal Nations regarding State policies that have Tribal implications. “Consultation requires that information obtained from Tribes be given meaningful consideration.” See Uniform Standards for Tribal Consultation
<input type="checkbox"/>	7. Consensus. Statement that “agencies should strive for consensus with Tribes or a mutually desired outcome.” See Uniform Standards for Tribal Consultation
<input type="checkbox"/>	8. Governments vs. Stakeholders. Statement of Tribes as governments and not stakeholders

REQUIRED PARTIES

<input type="checkbox"/>	1. Decision Making-Authority. Decision-making authority language such as “Each party shall be represented by individuals with decision-making authority.”
<input type="checkbox"/>	2. Highest Level of Agency Representation. Agency representation at the highest level
<input type="checkbox"/>	3. Federally-Recognized Tribes
<input type="checkbox"/>	4. Urban Indian Health Organizations <ul style="list-style-type: none"> a. <input type="checkbox"/> Include note that UIHOs do not represent Tribes nor are a substitution for Tribal government-to-government consultation
<input type="checkbox"/>	5. Tribal Organizations <ul style="list-style-type: none"> a. <input type="checkbox"/> Notice Only/Not a Party; OR b. <input type="checkbox"/> Consultation Party;
<input type="checkbox"/>	6. Urban Indian Health Programs <ul style="list-style-type: none"> a. <input type="checkbox"/> Notice Only/Separate Confer Policy; OR b. <input type="checkbox"/> Consultation Party
<input type="checkbox"/>	7. Consultation Party List Appendix

DETERMINATION PROCESS - WHEN CONSULTATION MUST OCCUR

<input type="checkbox"/>	1. Consultation Must Occur Prior to Agency Action. Statement that consultation must occur “prior to the development of policies, agreements, and program implementation that directly affect Indian Tribes.” See Washington State Department of Health Consultation and Collaboration Procedure.
<input type="checkbox"/>	2. Definition of Tribal Implications. “Policies and actions that directly affect Indian Tribes” language and supporting explanation and/or examples.
<input type="checkbox"/>	3. How Tribal implications are identified. Who determines what has Tribal implications (i.e., directly affects Indian Tribes)? Tribal implications can be identified by a Tribe, a state agency, or a Tribal advisory workgroup.

PRE-CONSULTATION REQUIREMENTS

<input type="checkbox"/>	1. Notification Requirements <ul style="list-style-type: none"> a. <input type="checkbox"/> provide a full explanation and identification of the issue, “in an accessible language and format, and context for the consultation topic, to facilitate meaningful consultation.” See Uniform Standards for Tribal Consultation b. <input type="checkbox"/> provide “appropriate, available information on the subject of consultation including, where consistent with applicable law, a proposed agenda, framing paper, and other relevant documents to assist in the consultation process.” Uniform Standards for Tribal Consultation c. <input type="checkbox"/> provide at least notice of 30 days to the for the Tribe to review the proposed agency action, with specific exceptions. See Uniform Standards for Tribal Consultation d. <input type="checkbox"/> include the date, time, and location of the consultation e. <input type="checkbox"/> deadlines for any written comments on the topic f. <input type="checkbox"/> names and contact information for agency staff who can provide more information g. <input type="checkbox"/> request for Tribal input
<input type="checkbox"/>	2. Procedures for Tribes to Initiate Consultation
<input type="checkbox"/>	3. Appendix with Template Agency Request for Consultation. The request should include a briefing of the consultation issue and proposed agency action with relevant citations to state and federal statute and/or regulations.
<input type="checkbox"/>	4. Appendix with Template Tribal Request for Consultation

CONSULTATION MEETING REQUIREMENTS

<input type="checkbox"/>	1. Consultation Venue/Forum
<input type="checkbox"/>	2. Presence of required agency leadership at the highest level
<input type="checkbox"/>	3. Requirement that leadership is prepared and knowledgeable about Tribal implications/input
<input type="checkbox"/>	4. Full explanation and identification of the issues
<input type="checkbox"/>	5. Opportunity for all parties to ask questions, provide feedback, offer criticisms, etc.
<input type="checkbox"/>	6. Record taking/minutes
<input type="checkbox"/>	7. Post-meeting follow-up <ul style="list-style-type: none">a. <input type="checkbox"/> letter/communication to consultation parties with meeting attendees; meeting outcomes; and agency actionb. <input type="checkbox"/> Timeline requirements to send letter/communication

COLLABORATION PROCESS

<input type="checkbox"/>	1. Collaboration vs. Consultation. Separate and distinct process from consultation
<input type="checkbox"/>	2. Roundtables. When roundtables are required or recommended to be used
<input type="checkbox"/>	3. Tribal Advisory Workgroups. Identification of Tribal-specific forums and/or Tribal advisory workgroups and their functions (e.g. assist with identifying issues that have Tribal implications)

INTRA-AGENCY COORDINATION

<input type="checkbox"/>	1. Requirements for Agency to consolidate consultation topics and/or coordinate with other agencies for joint consultations. <i>From AIHC Tribal and Health Leaders' Summit, September 2022</i>
<input type="checkbox"/>	2. Requirement to forward consultation notice and information to Governor's Office of Indian Affairs (GOIA).

MISCELLANEOUS

<input type="checkbox"/>	1. Appendix - Consultation Requirements Specific to Tribe. <i>From AIHC Tribal and Health Leaders' Summit, September 2022</i>
<input type="checkbox"/>	2. Tribal Liaison <ul style="list-style-type: none">a. <input type="checkbox"/> Role and Function

	<ul style="list-style-type: none"> b. <input type="checkbox"/> Requirement to be located at highest level of organizational structure c. <input type="checkbox"/> Interview panel requirements
<input type="checkbox"/>	<p>3. Training Requirements</p> <ul style="list-style-type: none"> a. <input type="checkbox"/> Frequency. b. <input type="checkbox"/> Content. Training of staff and executive leadership on how to recognize Tribal implications, RCW 43.376, and the Uniform Standards for Tribal Consultation. c. <input type="checkbox"/> Who conducts. d. <input type="checkbox"/> Who attends. Leadership and Staff.
<input type="checkbox"/>	<p>4. Requirement for Tribal Assessment (e.g. Tribal survey) of Agency’s compliance with their consultation policy and RCW 43.376.</p>
<input type="checkbox"/>	<p>5. Appendix of “Tribal Consultation Best Practices” such as how an agency formally opens up the consultation meeting. <i>From AIHC Tribal and Health Leaders’ Summit, September 2022</i></p>
<input type="checkbox"/>	<p>6. Sovereignty and Disclaimer</p>
<input type="checkbox"/>	<p>7. Review, Approval, and Effective Date</p>



AIHC Legislation

Updating Involuntary Commitment Laws to Include Tribal courts, law enforcement, Tribal providers and facilities

Updating Involuntary Commitment Laws to Include Tribal Governments

Intent:

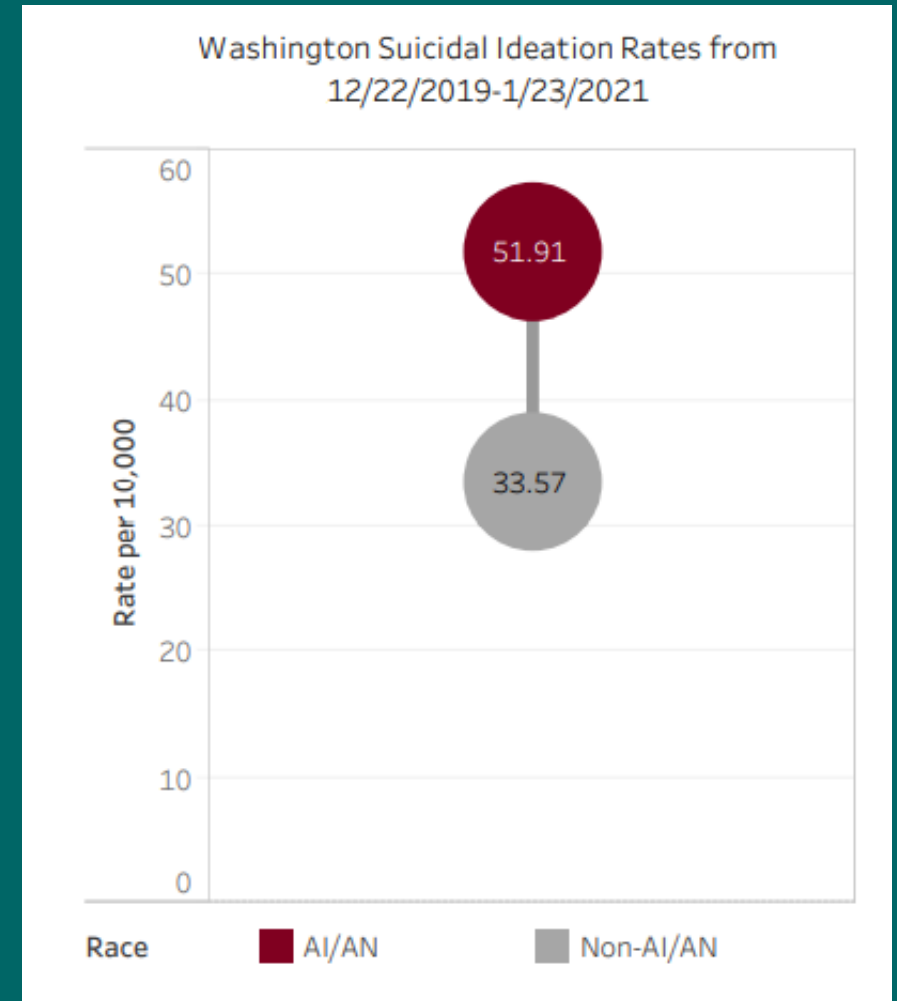
Address barriers in involuntary treatment laws for Tribal governments to help Tribal citizens/members experiencing behavioral health crisis.

- Language to include tribal law enforcement and tribal courts.
- This language in no way diminishes the States responsibility to provide crisis services to Tribal Members/Citizens. This offers an opportunity for Tribes to participate if they so chose.
- Tribal Behavioral Health Crisis Protocols will outline who is responsible.
- Adds access to traditional cultural healers where there is access to religious advisor or treatment under a less restrictive alternative.
- A budget neutral bill.

Why is this so Important?

Washington State Statistics

- Between 2001 and 2016, the rate of suicide mortality for AI/AN in Washington State increased by 58%.
- Recent data on emergency room visits for AI/AN with Suicide Attempt in Washington report 400 suicide attempts between 12/22/2019-1/23/2021.*
- During the COVID-19 pandemic, AI/AN suicide related emergency department visits increased by 23%.*



Data from the Northwest Tribal Epidemiology Center



Exchanging Data With Tribal Jurisdiction

Governor's Indian Health Advisory
Council

August 17, 2023





Understanding Tribal Data Sovereignty

Tribal Data Sovereignty

1. Tribal data sovereignty is a legal principle that means “Tribal Nations have the authority to administer the collection, ownership, and application of their own data, which is known as indigenous data sovereignty.”
2. “With regard to the principle of community engagement and participation, when a jurisdiction reports on or about American Indian or Alaska native peoples, it should meaningfully partner and consult with Tribal leaders on the analysis and interpretation of the data.”

See Network for Public Health Law, <https://www.networkforphl.org/resources/data-governance-strategies-for-states-and-tribal-nations/?msclkid=d41c5fbda92d11ecb58179dd429446a4>

See Network for Public Health Law, <https://www.networkforphl.org/resources/data-governance-strategies-for-states-and-tribal-nations/?msclkid=d41c5fbda92d11ecb58179dd429446a4>

“Tribes having direct access to their own data is critical for tribal governments to make decisions for the protection of our citizens within our jurisdictions.

-Marilyn Scott, Chairwoman Upper Skagit Tribe



Tribal Nations' Sovereign Authority to Use and Protect Their Data*

- **Tribal nations possess the inherent power to exercise their public health authority within their jurisdictions.** This governmental authority includes, but is not limited to, the power to conduct isolation and quarantine, perform case and contact investigations, dispense and distribute vaccines, close off reservation borders to protect Tribal citizens, **conduct data surveillance, and protect the use of their nation's public health data by outside entities.**
- No state government nor other party may divest a Tribe of their authority to conduct such activities.
- No federal law has divested Tribes of this authority.
- The federal government and the State of Washington have recognized the sovereign authority of Tribes to act as public health authorities under 45 CFR § 164.501 and RCW 43.70.512(1).

*For an overview of Tribal public health authority, see Aila Hoss, *Toward Tribal Health Sovereignty*, 419 U. Wis. L. Rev. 2022 (2022). You can find this article in [Wisconsin Law Review Symposium, *The Restatement of the Law of American Indians*](#).



Data Sovereignty

“Indigenous data sovereignty is the right of a nation to govern the collection, ownership, and application of its own data”

U.S. Indigenous Data Sovereignty Network,
<http://usindigenousdata.arizona.edu/about-us-0>





“Keeping track of data locally at the tribal level is a foundational part of public health.”

-Steve Kutz, Chair of American Indian Health Commission for Washington State

Tribal Data Governance

Only a Tribe has the sovereign authority to determine how their data may or may not be used.

Tribal data means:

- (1) data or information that is specific to an individual Tribe; or
- (2) data or information that is specific to more than one Tribe but does not identify individual Tribe(s).



Charting A Course for Equity Centered Data System*

Interviewees named Tribal data sovereignty as a core data equity issue. Specific barriers to Tribal ownership of data were identified as:

- small sample size being cited as reasons for AI/AN population data not being provided and reported,
- AI/AN people often being racially misclassified, often as white,
- Insufficient or non-existent data sharing agreement policies and practices that allow for Tribes and TECs to access their data in a routine and timely manner, and
- Tribal affiliation often not being collected, making it difficult to identify which data are specific to Tribes; further complicating the issue, some Tribes do not want Tribal affiliation data to be collected while others do.



In addition to Tribal affiliation, there are several related demographic concepts that require consultation with Tribes to determine which data points are appropriate to collect, track, and/or report.

These demographic concepts include:

- Tribally enrolled (enrollment differs from affiliation in that it confers membership),
- Tribal descendant, but not enrolled,
- Self-identified AI/AN, and
- Member of a state recognized tribe, etc

Gaps Identified during the Pandemic

- Access to the Washington State information systems that include data relevant to the health of AI/ANs and tribal communities
- Mechanisms for Tribes and Indian Health Care providers to direct the access, use, sharing and publishing of data regarding Tribes and AI/AN in other entities' databases
- Health data technology systems and infrastructure (hardware, software, workforce) for Tribes and Indian Health Care Providers to adequately manage their own public health data

Tribal Data Sovereignty Priority Areas

- Assure Tribes and UIHOs have a voice in how data regarding Tribes and AI/AN is accessed, used, shared or published
- Support Tribes and UIHOs in developing legal mechanisms and administrative policies and procedures to assure protection of Tribes' and AI/AN data in tribal information systems and non-tribal information systems
- Assure Tribes, UIHOs, and Tribal Epicenters have appropriate access to public health information
- Identify resources for Tribal and UIHO information systems technology, infrastructure and workforce development to strengthen tribal public health data management capabilities

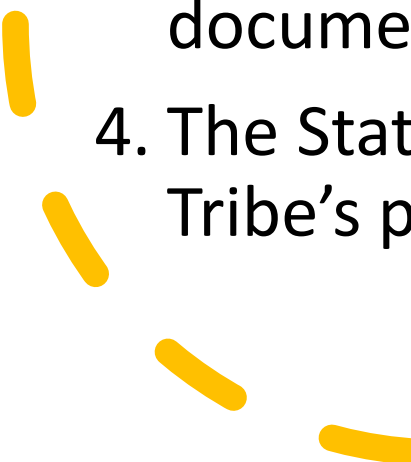


**Two Major Barriers
to Tribal Data
Sovereignty and
Tribal Jurisdiction**

1. Federal and state governments have failed to provide Tribal nations equitable access to AI/AN data to perform their governmental duties.
2. Federal and state governments have not entered into data sharing agreements that protect Tribal and AI/AN data and recognize Tribal ownership in data about their Tribe and their people.



Examples of Barriers to Tribal Data Sovereignty and Tribal Jurisdiction

1. The State blocking sovereign tribal nations' access to public health data essential to exercising jurisdictional public health authority
 2. The State responding to national media requests that include tribal data without tribal input
 3. The State using of non-official data about Tribes in official public documents without tribe's permission
 4. The State sharing individual Tribes' vaccine allocations without Tribe's permission
- 

Questions for State Agencies



To Consider:

Where is Tribal Data collected in State Health Agencies systems?

What upcoming project could include gather/analyzing/publishing Tribal Data within State systems?

Do Tribes have access to their own data in State systems?

How is the State using Tribal Data?

How could Tribes be using their data stored in State Systems?

How is the state protecting Tribal Data?

How is Tribal Affiliation gathered and reported?

What is the state's practice on reporting on people with more than one race/ethnicity?

What else should be considered?



Next Steps?