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Statement by Shawn Yardley collected by Rachel George on June 27, 2014

Shawn Yardley

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General Information

Private or Public Statement? Private, Non-Anonymous

Statement Provider: Shawn Yardley

Date: June 27, 2014

Location: Bangor, ME

Previous Statement? No

Statement Gatherer: Rachel George

Support Person: None identified

Additional Individuals Present: Matt Dunlap, Commissioner, Heather Westleigh

Recording Format: Audio

Length of Recording: 1:51:17

TRANSCRIBER'S NOTE: The ambient noise of this recording is such that a choice was made to not include the narrative of every sound. Traffic is constantly ebbing and flowing, occasional voices of pedestrians and/or public workers filter in and the sensitivity of the microphone is such that it appears to record every slight knock. The Statement Provider appears to tap the table regularly for emphasis and/or enumeration. This also is not narrated in the transcription as it was often difficult to discern its actual source and was so frequent, this writer was concerned for the disruption of the impact to the narrative and content.

Recording

RG: Alright, my name is Rachel George, it is June 27, 2014. I'm here in Bangor, Maine. Do you mind stating your name?

SY: My name is Shawn Yardley.

RG: Fantastic. And the other individuals in the room?

MD: Uh, Matt Dunlap, Commissioner

HW: Heather Westleigh.

RG: Fantastic. Ah, the file # is ME 201406-00055A. Shawn, have you been informed, understood and signed the consent form?

SY: I have.

RG: Fantastic. And I have to let you know that if, at any point during this recording, ah, you indicate that there is a child or an elder in need of protection or that there is imminent risk of serious bodily harm or death to an identifiable person or group, including yourself, that that information may not be protected as confidential.

SY: I understand.

RG: Okay. Fantastic. Do you have any questions before we start?

SY: No.

RG: Okay. *(sounds of microphone adjustment and traffic)* So, we'll just jump right into it then.

SY: Okay.

RG: Ah, could you tell me about your um, employment with State Child Welfare, what positions you held, how long you were there for?

SY: Sure. Um, in 1979 I did an internship with Child Welfare uh, in the Bangor office of DHS, um, that lasted 4 months. It was, um the last semester of my senior year. And in 1980, I became a Child Protective Worker in the Bangor office, um, I did that work for about two years and became a supervisor of Child Protective in the Bangor office for seven years, I think and then became an administrator for all of uh, Penobscot, Penobscot, Piscataquis, Hancock and Washington County for a period of time and then there were some changes and I was the administrator for just the Penobscot, Piscataquis offices of DHS. I oversaw Child Protective, Foster Care, Adoption, Licensing, um, everything related to Child Welfare.

RG: Can you tell me a little bit more about your time um, working with Child Protective Services?

SY: Yeah, I was um, a caseworker in the Bangor office primarily my area was Hamden, Bangor, Brewer, umm, I was a, a regular protective worker, I did child protective investigations, um, and uh through Court, um, if necessary. Um, during that time I worked very closely with Eastern Maine Medical Center, setting up the suspected Child Abuse and Neglect Team, the Family Support Team that still exists there. Um, I was- handled a caseload of probably 30 families at a time, um, and did investigations, and um, and treatment work if it moved to treatment, but it was less than jeopardy. So.

RG: And during your times at CPS, how many cases did you work with that involved Native American children?



SY: As a protective worker, those that I knew, um, because sometimes that determination wasn't made and often wasn't made until, there was Court contemplated, probably oh, half dozen to a dozen families during that time, I would expect.

RG: Can you tell me a little bit about what the intake process was?

SY: Well intake was, if your talking about receiving the referral, um, was we, at that time, it was all regionalized. So each office had their own intake, uh, and in Bangor, um, around that time, we went from people rotating through intake to having specialized intake. And then I probably won't get it quite right, probably when I was a protective worker from '82 - '84 we rotated intake. So, we all, the 20 or so caseworkers had a day a month that they were responsible for receiving calls or walk-ins, um, with people alleging um, issues of abuse and neglect for families in our area. And then over time, we ended up specializing that, that position so somebody just did that for their full time job. Um, in addition, um, we also rotated coverage, so if there was an emergency um, on a Monday, the, the pers-, the duty worker would be responsible for responding to the emergency. They wouldn't necessarily be the caseworker that would continue to carry the case, but they'd be responsible for, for um, responding to the immediate issue. And then a determination would be made later, whether they continue to carry the case or whether it got transferred to the worker that covered that geographic area.

And in, uh, you know, in my case, anything that was in the Bangor area, if I was the duty worker, I got it. Um, but we covered Penobscot and Piscataquis County so, I might be going to Millinocket to respond to the immediate need, but I would not see the case through.

RG: Um, hm. [00:05:07.15] what was the protocol if any for identifying whether a child was Native American?

SY: There was no protocol.

RG: Okay. And um, what about when you were an administrator?

SY: When I was an administrator, um, it was, it was much different in terms of our thought process, I don't know if it was a whole lot different honestly, operationally. Um, I think I said on the phone when I talked to you previously, there was a, an attempt and I'm pretty fuzzy on it, but I remember going to the University to meet with um, Tribal Child Welfare folks and State, when I say State, Augusta-based um, DHS folks, um talking about, um, some of the issues um, that e-existed between the Maine Child Welfare system and, and complying with ICWA and working with the, the Tribal communities.

And by then, I was responsible for Piscataqu-, I mean Hancock and Washington. So in

addition to the Passamaquoddy Tri- you know, um, folks in Old Town area, I had responsibility for the two Reservations, not responsible for their for their Child Welfare, but, in engaging with them because obviously um, there was a lot of interaction and people living off the Reservation and, um, children that had parents, one being Native and one not being Native and where they lived and moving back and forth and all those kinds of things. So there was a fair amount of effort I think, trying to engage meaningfully with the Tribes when there looked like there was going to be more than just an initial assessment being done.

RG: Um, hm.

SY: Um, and I remember a couple of cases being particularly challenging, and then the whole issue of, if placement was necessary, how that process went, um, was a real challenge and, and, um, and not systematized at all, despite, everyone's efforts, it was really, um, case by case and relationship and all of those kinds of things. But not a system as far as I was concerned.

RG: [00:07:29.24] What made it challenging?

SY: Um, it, there were not consistent rules, um operational procedures, at times it seemed to depend on who the players were, both the families and the specific Tribes, and how, how um, sophisticated their Child Welfare response was. Um, at times, they would ask us to do more and then at times they would be, um, (*pause*) protective or resistant to our service or our intervention with a family. So ...

RG: Can you tell me a little bit more about what that meeting was like, that you attended?

SY: Um, (*sigh*) you know I really, it's pretty foggy for me, it was near the end of my time with DHS, um, I was a bit cynical, um, about what would come from it because it was, um, it was really driven by, by Central Office, um, who really didn't have a good appreciation of what was happening on the ground.

And I think it was really important to be done, but I think there were different agendas at the table and so, as an administrator, um, I remember thinking, once we're done the formal meeting, I'll meet with the folks umm, at the local level to work through how it will work for everybody.

Um, and I don't think it went very far. I think it was one of those things, there were a couple of meetings and then there was supposed to be some work groups and follow up and then, it may have happened but I certainly wasn't aware and it didn't happen in the timeframe that I was there. You know.

RG: Were there any outcomes from that meeting that you did witness?

SY: No.

RG: Um, when did you first learn about Maine's policies related to Indian Child Welfare?



SY: [00:09:44.17] Ohhhh, *(as a sigh, followed by a pause)* probably, um, you know, there might have been some mention in our orientation uh, you know, as a Child Protective worker I remember we had five days in Augusta, and um, and it probably wasn't five days, it was probably more like three and a half days. And, um, it seemed like everybody wanted a piece of us. Everybody wanted to make sure that, that these new green Child Welfare workers were gonna get what they, what others thought they needed. Like I, in particular, I remember the Disability Rights people, they um, got three hours of our time. And it was like, Okay, proportionally, you know, how did that happen?

There's a lot of needs and there's a lot of information, new Child Welfare workers, and um, so my recollection is, there was probably a half an hour or an hour where there was some mention of interacting with the Native community and that would have been it.

RG: Um hm.

SY: Um, and it was really more, as I began to do a lot more, um, local work, um, and particularly with the hospital and um, the legal community, um, looking at those kind of issues, um and having conversations with um, Tribal court, but not in that context because, often times, well at that time, I don't know if it's still the case, it was the local attorney that was hired as the Tribal judge.

And so I had relationships with folks that are, were much more involved in the Child Welfare system on the Island than I would have been. And, um, so I would have had informal conversations about those kinds of things. Really, in my effort to try to have it all make sense.

SY: And by '86, I was teaching at the University and we included, um, a session on Indian Child Welfare Act, um, sometimes we brought in um, folks from um, the Penobscot Child Welfare social workers, um, sometimes, you know, because of my connections we had folks that um, were working with the Micmacs and Maliseets in Northern Maine and so we would bring in guest speakers um, to discuss with the students, many of whom were interns or had aspirations of becoming caseworkers, to introduce them to Indian Child Welfare Act and what the implications were for them as practitioners.

RG: Um, hm. I can't remember if I have already asked you this and I know you talked a little bit about it, but how many cases that you've worked with in total as a, in Child Protective Services or that came in, um, that you saw as an administrator dealt with Native American children? [00:13:02.06]

SY: Again, um, more than would have been identified as that, for sure, because that wasn't a priority. Um, certainly — *(simultaneously)*

RG: Did that — (*simultaneously*)

SY: (*unintelligible*)

RG: Sorry. (*simultaneously*)

SY: Dozens, hundreds, I mean, over 17 years — Umm, yeah, I mean we've, we got a, you know, I don't know, a few thousand referrals a year, across the board and um, percentage wise, you know, there'd be certainly a proportion, just because of the way it works.

RG: Did that um, priority to identify children as Native American ever shift over the time that you were there?

SY: Only if court was being contemplated.

RG: Okay. Could you describe a situation in which you or your staff felt very positive about your work with Wabanaki children and families?

SY: (*deep breath*) You know, it's one of those things, human nature, you don't remember the ones that went well as much as you remember the ones that didn't go so well. I think the vast majority um, of my interactions um, went well. Again, it, if, if they lived within the community, we didn't have an involvement.

Umm, if they lived off Reservation but they're identified Tribal members, um, there really wasn't a lot of um, issues, um, (*bird song*) because, what I would try to do is help the family access whatever resources were available to them and if that meant that there were some resources that were available within the community, um, I would certainly encourage and facilitate. So I tried to be aware of what was available, you know, what um, opportunities their status allowed them to receive to help them improve their parenting and, and reduce whatever stressors were in their life. It was only when, it was um, (*bird song*) where a court action was being contemplated, in the vast majority of those, it was a very cordial conversation with the Tribal community to determine whether they wanted to assert jurisdiction and have the case reverted to Tribal court.

And most of those went absolutely smooth, you know, again there were a couple that didn't go that way that I have lots of memories about um, but it, for the most part, um, it worked well for me, I, I hope it worked well for the families. Um, you, you don't really know for sure about that. Uh, the interesting thing about Child Welfare is um, the thresholds are not very high in terms of uh, or they're really high in terms of what the authorities can do in, interventions with families.

Um, we, we have a society that the rules allow for a, in my opinion, a fairly low level of expectations of parenting in families.

And it has to be pretty bad before the State has a compelling interest to intervene. And so, that's the threshold that we worked with um, and so while Court action was, gets a lot of the

attention of good or bad, that's a very small piece of what Child Welfare did. So, we really tried to engage people to help them get resources to improve the quality of life for them and their children. So.

RG: What kind of resources were you helping people to access?

SY: Child care, parenting, housing assistance, um, you know, uh, one of the, I think, one of the challenges um, cause families bring their own expectations, their own preferences and so, I think for some, for some of the people that we worked with that had Tribal affiliation, um, they themselves had some conflicts about um, how much they accessed what they were entitled to, and I don't mean entitled in the sense of but were eligible to receive and some of it required them to make choices about where they lived, um, and how much they engaged their own community in their family life.

RG: Um hm.

SY: Um, and so, working through that with them to allow them to make the choices that were right for them, while at the same time, you know, you know, the whole, sort of philosophy of Child Welfare is to be child-centered, family-focused. That sounds nice and is catchy but it's really complex, because doing what's best for the child, um, is hard to do if you're not doing what's best for the family. And so, sort of sorting that out and then when you have the extended family, um, both by blood and by community, um, there's roughs. People have the right to make choices, to walk away from their family. Um, and those choices have consequences. So trying to help families do what was best for them, while keeping a child-centered (*car horn*) um, approach to it, um is, is not science.

RG: Um, hm.

SY: You know.

RG: Could you describe a situation or situations in which you or your staff felt less positive about your work?

SY: [00:19:04.08] Yeah. The one that 's most vivid in my mind and it really is, as an academic it's really, really interesting and intriguing but as a, as a professional it was really frustrating. So we had a situation um, of a family living in our jurisdiction who um, were Tribal members and, the child was, in our opinion, in jeopardy and we went to court and the court's initial finding was jeopardy. And, the, the Governor of the Tribe asserted his right to have the case transferred to Tribal jurisdiction which, absolutely the way it should be. Well the Tribal court dismissed the case. So here's the legal rub, is if they had found jeopardy or continued the case or continued oversight of the case, then they could live across the street

from here and it was their case, and their authority and their rules. But once the Tribal judge dismissed the case, they dismissed, sort of, um, oversight.

RG: Hm.

SY: And, and there's no longer a case and the family is still living across the street, it immediately reverts back to our jurisdiction because they're a Tribal member living in our community. And the same threshold existed and that's you know, the difference in the Standards of Proof, the burdens of proof between clear and convincing and preponderance. So it was back in my area of responsibility, I was responsible again, so we went back to court. Again, jeopardy under State of Maine law was met. The Tribe asserted their authority to intervene, gained intervenor status, the case was transferred back to the Tribal court and the same thing happened again. Um, I was probably a little annoying to people in that, I, you know, I said, nothing changes, once the Tribe pulls back from having authority, um, again, um, it, it, it, it was and it was a very serious case. It was a very dysfunctional family, um, you know, mental health, substance abuse, the child had behaviors and issues that made it very, very challenging and uh, as long as there was no authority being uh, asserted, um, I as the Child Welfare Administrator for this area was responsible for that child. Um, and it wasn't, I mean, it, I, it, it didn't get, it didn't get controversial, I think, it was a little irritating. It was irritating for the State of Maine's Assistant Attorney General to have me keep going back and saying, y'know, 'The law's clear,' you know? This is our responsibility. Um, so the, the pieces worked, um, but, it could have worked better. It could have worked better. I mean, and not for me, it was y'know, certainly not my place to suggest to the Tribal judge what they might do, but if they had, if they had, but it was, it's two jurisdictions with two burdens of proof that *(pause)* there's a gap! Um, and um, you know for me, those kinds of things, you know, just beg to sit down and say, 'Okay, how do we work through those so children and families don't get caught in the middle and so it doesn't become bigger that it is?' Um, I think because of my relationships and my reputation it probably didn't get to be a big deal. Everybody was slightly annoyed, frustrated, um, but I wish there would have been, it could have been used as a way to say, 'Okay, so wha-, how do we do this? How do we, how do we deal with a different burden of truth involving the same individual, depending on what court and where they live?'

RG: Um, hm.

SY: Um, and um, I don't know that it ever got resolved, I don't know if it, you know, if a case ever played out like that before, um, but you know, i-i-it was, I think it, it was, a good case study, uh, in both the systems and the relationships and how best to work through those. And, and you know, in, in my opinion, there's better place to work it out than in a, in a specific case involving a family that's already stressed and suffering and you know, and under threat, to the integrity of their family and the safety of their children. So. Um, that was one that I wish people would ha-, would have spent time working through and doing the right thing. *[00:24:27.17]* I mean, I think the other thing, you know, another situation, I don't have a specific in mind, but clearly, I, I know what's of interest to the Commission is the placement of kids. Children. And the determination that goes into that. And I just, I gotta start with saying, um, it didn't work well for any children. *(laugh)* Whether they were Native, Caucasian, whatever. Um, it, it's, to this day, it's not a good system. Um, you know, I've been talkin' to



people just recently about this, it's you know, the idea, you have a place for a resource and you have a child that has a need and then you try to match the child's need with the available resource and that can be geography as much as anything, age of the, the, the family composition of the, the, the foster home and uh, and then you add and the Native piece. Um, and, and so we were trying to do that on top of a broken system frankly. And so, we didn't do it well at all. Um, you know. And where we did it well is great. Where we had Native people that were willing to be foster parents, um. and, and again, [00:25:49.29] it's really broken for everybody. Um, after I left the Department, I became um, a foster adoptive parent. And, having raised four children, um, my house didn't meet standards even though I raised six, because my windows weren't the right size and I didn't have a railing where I needed to have a railing and what else? Couple of other things, oh, and then, I mean one of the things, we have a three-story house, they tried to insist that we put a, a uh, platform landing off a third floor bedroom window and before they would license us. And, as a parent, I said, 'That is absolutely stupid! That just invites kids to go out and play on the third floor landing.' And, um, not to mention the expense. My, my point in saying that is, we had lots of rules that impact all of us, in very, stupid ways that adding the Native complication to this was really, really daunting, I mean, extended family members, just the nature of family structures in the different communities was not well taken into consideration when, when, um, with the licensing standards. Um, classes that were required, um, you know, just weren't friendly um, to anybody. And um, but then, add the, the Native variable to it and it would be easy to be seen as totally culturally insensitive and out of touch.

RG: Hmm.

SY: And, not that this is reassuring in any way, but it was for everybody. Um, and placement decisions were made in, in, ways that weren't always very well thought out. I had, I had friends that wanted to get into foster care with the idea of maybe having a legal risked placement and being able to get a young, uh, a young child to potentially if everything worked out, to adopt. And they had an older daughter, and older she was pre-teen, early teens, and I said, 'Okay, if you're gonna do this, you gotta be able to say no.' Because they're gonna ask you to do things, to take kids that you don't want to take. And if you only want infants, you gotta say, 'Only take infants.' Hm, so, 'Yah, yah, yah.' And these were good friends. And, I kept sayin' it to 'em you know, and then, you know, I had to say. you know, but when it comes to it, I gotta step back, I can't be involved. And so one Friday afternoon, the foster care placement folks sat near me enough outside my office that I could hear what was going on and they were looking to place a sexually provocative, sexually abused 16-year-old girl who'd been suicidal. And, I hear them say, 'Oh, here's an open place,' and she knows 'em because she's a nurse at the hospital where this girl was. 'Let's see if they'll take, just for the weekend.' And I said, and I came out and I said, you know, 'They have made it very clear, this is what they want for a placement. I don't think it's a good idea.' Um, I didn't have, at that time, I didn't have the authority over that program and you know, and then there's also you know, there's just

the conflict that I know them and everything. So I stepped back. So, they took the girl over the weekend and it went well. And they took her again. And guess what they became labeled as informally? A place to take teenage acting-out females.

MD: Hm.

SY: And my friend, my guy friend in that couple was not at all equipped. I mean he wasn't sophisticated enough, he was too naive and all that. And I, I, I had to step back. Nothing bad happened, except they got incredibly frustrated and burned out and stopped bei- stopped being a foster parent. And we did that out of necessity, out of desperation, time after time after time and foster parents who had motives and I don't mean that in a bad way but were looking fo- to make a difference, to have a young child, to, you know, do all those kind of things, um, if they continued to say no they ran the risk and it was perceived but I think there was some truth to it, of being just forgotten. You know, I mean we, at the time, you know, it was like, well you have 3,000 kid in care and we have 4,000 licensed slots so we have 1,000 available slots. Um, and that's how the folks in Augusta would see it. Well, we didn't have 1,000 available slots we had 1,000 slots where people had definite ideas about what, who they could handle and what they could do. And we constantly pushed it. [00:30:54.04] And that was in, in my experience, probably one of the biggest factors in the number of investigations of foster parents, was that we- , inappropriately supporting them and worse than that, we were placing kids that you could look back and say, 'there's the home study, here's what it said, and here's what we did and they don't line up'. And so, that played out a lot in the broader system and so when it came to the very, very small subset of Native children, if they were identified as Native, trying to find appropriate resources because if we had a non-Native family that was culturally sensitive and really, you know, were a good fit, and we used them repeatedly, that in and of itself presented a perception or a threat to the Tribal community in that we weren't developing appropriate resources for Native children. And we had no capacity to do that. I mean, and I don't know how they would even today. I mean, put an ad in the paper saying 'Looking for Native families who live off reservation that are willing to do this.' I think kinship care and the movement of kinship care, and i-it had started when I was there, but it really has moved since then, I think kinship care, uh, that whole concept offered a really good opportunity to engage all communities, including the Native community in, and, and it was consistent with I, my understanding of the culture of the community of extended families caring for each other. It became more socially and legally accepted. The challenge, the challenge in the Child Welfare system in Maine and I think nationally is there was a real risk aversion, and, and, but the definition of risk was, was very one-sided. The risk was, you don't want to have a kid die, and you don't want to um, you want to stay on safe ground. And, and safe ground with a risk aversion model, wasn't safe for the child, in, in the truest sense. It was, it was compromising that um. And, and uh, you know families got split up, uh, sibling groups got split up, um, and, and sometimes with the dearth of resources the foster parents and the foster care system had more control over practice than should. And so, I can talk about that in my um, next taping.

RG: Ok. Um, uh, so there's a number of points that I want to go over with you, you've talked about some of them, so I'm not gonna bring them up again. Could you describe your experiences um, in and your challenges, challenges that you've found in notification um, to Tribal Child Welfare of children that came into DHHS?



SY: Um.

RG: Any experience or challenges?

SY: [00:34:20.26] Yeah, I mean, most of my experiences were, were, were good, I, I, I think, my perception was um, that the lack of trust in general was an incredible barrier. And that, uh, people that I had the opportunity, and, and, and the, and the frequency of contact was so low, that the, the ability to build personal individual trusting relationships were not there. When they were there, um, I think it facilitated good things happening, but, the nature of our system, the way Child Welfare was divided, there were, three-, in Bangor there were three protective units, with 3 different supervisors, um, and, you know the supervisor that covered the Old Town area, by default had the most relationship, with particularly uh, the Tribal community on Indian Island. Um, and I was in Bangor, and I supervised Bangor, and so, the relationship the, the opportunity for relationship lay more with the supervisor of the Old Town offi-, the Old Town unit of Child Protection than it did for me in Bangor, even though population-wise and probably numbers-wise I had as many families with Native, um, relationships and status living in my territory, but for lots of different reasons, the point of contact really was, was, um, Eleanor Koski was her name um, she supervised that area, Um, and so, um, I think to the extent that we did things the way we were supposed to do them, um, everything worked well. I don't think that necessarily resulted in the best outcomes for anybody, um. So there's two layers to the question. Did the relationships work and did the rules get followed and the protocols get followed, um, I think more often than not, um, but were there relationships in processes that facilitated the best outcomes for the families and the Tribal community. I don't think necessarily that was the case. I can't give you specifics, it's a feeling that I have.

Um, one of the other things that happened for me, uh, that really allowed me to get some perspective, shortly after I left the State and I-I ran a private adoption agency, I went to work in Old Town for the River Coalition and I worked with um, the folks on Indian Island on a lot of preventive kind of things and I got an opportunity to develop really deep relationships with, with folks in leadership there but in the broader community and it gave me a, a, a, after the fact perspective um, that would have been really helpful to me if I had that before I was doing my Child Welfare work. Um, and um, and so, some of what I'm saying now, despite my best efforts, is seen through that filter of having that experience um, and I learned a great deal and in that um, and learned and, it challenged some of the assumptions that I worked with when I was doing my Child Welfare work. So I'm a much better teacher now. Um, teaching Child Welfare um, having a broader context to what I do.

RG: Um, hm. Ah, who would you usually call within Tribal Child Welfare?

SY: Umm —

RG: Or who would —

SY: In Old Town it was the Director of Indian Child Welfare on the Island.

RG: Do you happen to remember the name of that individual?

SY: Ahhh. (*as sigh*) No, I really don't.

RG: That's okay.

SY: Sorry.

RG: Um, what experiences do you have in, or challenges you found in determining jurisdiction or residence of Native American children?

SY: [00:38:52.26] It got better, over time? Um, like I said at the beginning it was, I mean, identifying who were recognized Tribal members, understanding that, um, because um, it wasn't just the Maine Tribes that we were involved with. So trying to figure out what Tribe they were affiliated with and then what the, what the um, the threshold was um, in terms of, of, of heritage that allowed them to become on the census and what that meant. Um, and, and um, you know, over time, it, it got better. There was somebody in Augusta that clearly um, was the go-to, Nancy Goddard was the person, I don't know if you've heard her name —

RG: Um, hm.

SY: — but I think Nancy was the person all things Indian Child Welfare. Um, but, the person that was the point person for Child Protective, was Sandi Hodge.

RG: Um, hm.

SY: And, so that wasn't always necessarily a smooth, you know, speak with the same voice from Augusta, that made things a little bit more challenging.

RG: And how about in family team meetings?

SY: [00:40:12.01] You know, ahh, (*sigh*) I did a lot of family team meeting kind of work. It, it, it wasn't the family teams that we think of now. Um, but we did a lot of multi-disciplinary team meetings where decisions were made whether we included the family or not, depending on the dynamics of the family. Um, we actually do a whole class on that issue. Um, you know, yes, it makes sense to the extent that you can involve families, um, but what does that mean and, and, and does that lead to the best outcome, particularly if the family is, has um, different agendas, you know. Parent, grandparent, uncle, um, and so, um, we tried to do that. I can't recall any, any formal family team meetings involving Native, Native children and Native families when I was there.

RG: Um, hm. Um, and how 'bout in arranging family visitations.



SY: [00:41:12.08] Um, again in most cases, it, I mean, all, I can't think of any cases where we retained jurisdiction of a child, a Native child coming into custody, um, where, um, that was an issue any different than um, any other child. I mean, you have the issue of the foster parent's schedule, the child's schedule and accessibility, and I talked about geography. You make choices about the best placement and unfortunately or fortunately, one of the variables is, where do they live? Which is a real crappy criteria but when it comes to access and reunification and family visitation it's really important. So you know, weighing those pros and cons is not easy. Um, you know, if you got the ideal family that's 50 miles away, does the 50 miles away make them not the ideal family? And so is it more important, and I think it depended on, a-at least, sort of on a decision-making rubric, I think a lot of the decisions around that, have to do with the level of dysfunction, the anticipated length of time for reunification, the impact of the geographic challenge to reunification and permanency. Um, weighing that against maybe less ideal situations um, day to day in the foster home, given the dynamics, and the impact of that on long term, um, prognosis and, and reducing the length of time in care you know and delay in permanency. [00:43:11.08] Um, it's not easy. It's not easy stuff. And again, I think one of the challenges in what you're doing, which I think is incredibly important is, that understanding the context. I-it was less than a perfect system. Um, Child Welfare is, is in its infancy as an, as a, as a discipline. I mean it's really been since the early '70s which is you know, baby time, you know, in terms of developing a system and we were figuring out as we were going for all kids. And then you add the, the, generational uh, impact and abuse, uh, failure to respond appropriately to the Native community, you add that on top of uh, a Child Welfare system that you know, it's really doing it's best but was learning as they were going, um, didn't lend itself well to good outcomes, I don't think. Umm. And, you know, and, and I think what you're doing is incredibly important because I think the, you know, the, the field of Child Welfare is at a point now, hopefully, that they can, they're strong enough to consider these other pieces that maybe they just didn't have the luxury of trying to figure out at the time.

RG: Um hm.

SY: Uhh, [00:44:42.07] and I think, was there racism and cultural insensitivity? Uh, no doubt. Um, but I think a lot of the, the, sins of the system were, were general and not directed. Which I don't know if it's good or bad, but I, I think, to read more into it, may be unfair. I think the Child Welfare system could benefit from the same kind of thing, across the populations, not just with um, you know, I applaud, I applaud this effort, cause I think it's a first step at least for this community um, and, and, um, but it's, it's, I mean that's why I continue to teach because it's such a complex um, issue when you're talking about families and you're talking about children and you're talking about best interest, and you're talking about all of those things and even the definition of family obviously is different depending on who's home you're in. So. And, um, my little lecture for the ... (laughter)

RG: *(laughter)* Um, what experiences do you have and or challenges that you found in termination of parental rights and adoption?

SY: [00:45:54.14] Well, I think, I think one of the things that was, is really good, um, I think because termination is such a permanent, I mean it's, i-it's the biggest infringement on a person's rights short of being locked up for life. Um, and in Maine, most people don't get locked up for life, but termination of parental rights is for life. It's probably the most serious thing that we do. Um, around the most fundamental right, the right to be a parent, uh. So I think tha-, I think that has always at least in my experience, been seen in the serious light that it should be, and as a result I think, great steps are taken at that point in the process, to ensure that everything that was done right. To clean it up, if you will. Um, to make sure that there aren't any loose ends, there weren't any um, if there's anything that can be corrected will get, get corrected. I think one of the challenges, that, that, and this was not a Native case, but I think it's, it's a, it's a great example. In fact, the attorney that was involved in it has always been one of our guest speakers and he doesn't, we have a great relationship, he doesn't, he, pretty frustrated with the Child Welfare System. Um, but he continues to come and speak at our class.

We had a case, um, and I was the, Administrator, um, Regional Administrator by that time. And the, it was a 14-year-old girl and she was very, very, she had been in care for seven years, she had, had been removed under very, very abusive and neglectful circumstances with a mother that had mental illness and substance abuse and all of those things. And we failed her miserably in care, she bounced from foster home to foster home and she was all the things that she came with were exacerbated. And so we were at a judicial review and the Department was looking at ceasing reunification because the mom just wasn't getting her act together. But it was even more than that, the child now, was so challenging that a parent with all of the best resources internally and within the community woulda had a hard time. And, she was part of creating that, we were part of creating that. And, and here's how the day of testimony went: the mother was challenged, was criticized because she didn't complete, her family, her individual therapy. Which was scheduled during the day. She was faced with a choice, if she went to therapy, she couldn't keep her job, if she couldn't keep her job, if she couldn't keep her job, she couldn't sta-, keep housing, if she didn't keep housing, it was held against her cause she wasn't providing stable housing. And so it was this vicious cycle of just, I mean, I, I sat in the Courtroom um, in the back of the room, and I cried. I, I shed tears because of an, and her-, the mother's attorney, who's a good friend of mine, was absolutely just, incensed at how it was playing out. And he had every reason to be. And the judge, at the end of it said, 'You know, we could spend a lot of time talking about how we got here today. But where we are today is, we've got a very high needs child, teenager, with a low functioning mom and I agree with the defense.' An he did an eloquent job of of, laying it out. Um, and nobody won that day. And the Department didn't do a good job and the mother didn't do a good job. And, and, the system didn't work for that family. Um, and, and I think, I think that's, that's the challenge because all of those things, those circumstances could apply to any family, regardless of whether they're Native or non-Native. And then, you have a, a lack of cultural sensitivity, that, I think is not intentional. We don't know what we don't know. Um, and you know, I think, you know, the work that's been done in recent years by imbedding a Child Welfa-, a Native person in in in the in the um, DHS office is a really, really good thing. Um, we could do that in a dozen different



things whether it's domestic violence uh, or Native or, substance abuse. Um, Child Welfare Workers are generalists at best, and um, and they're, they're the ones that are having to make decisions and, and make a system work as best as it can. And um, you know, I think, I think, that, that's the foundation that we're building on which is, makes this so much more difficult. And so much more important to try to do. So.

RG: What do you consider active efforts to prevent the break-up of an American Indian family?

SY: [00:51:27.03] I think an understanding of the importance, the cultural significance the differences in cultural significance of family, extended family, uh, Elders, um, all of those pieces and how it works in our world today. Um, I, I suspect that a lot of people believe that if someone lives in a housing complex in Bangor, in the middle of a non-Native community that the value of the Native Culture isn't significant. They've left it. They're living in Bangor in Capehart. So, they're living amongst, therefore, it's not important. I think there's, I, I, I suspect that there's a, there's a, sense of that not understanding, the, the value of extended families. And I think it's, I think it's not different, than non-Native families. When I was growing up, um, my aunts and uncles lived in Canada. They lived all, anywhere from two hours to four hours away. We got together probably once a month, um, as a larger family. Um, hung out together. Um, I, I feel like I grew up with my cousins. My kids don't see their cousins hardly at all. Um, just because we live far apart, we live different lives, we do- , it, it's just not the same. We have, we've sort of good or bad, you know, stretch from that. Um, and, but I think we probably don't do enough, and I think they're doing better now, but I don't think we do enough of, sort of doing that family mapping. Say who's important in your life? Um, and, and understanding that. But the other piece that we don't, I, I think is really significantly different is, what I just said, is the family outward. Um, I, I think it's different, with the, Native community, the, the, the connection that the broader community feels to their own in a much more profoundly personal way, than than, I say we do, I mean, than the non-Native community.

RG: Um hm.

SY: There isn't that sense of connection in the other direction that I think the Native community values, honors and is trying desperately to hold on to.

RG: Um, hm.

SY: Um, and, and that really um, you know requires some pretty intense work around cultural sensitivity that, that is a real challenge. When I first started doing Child Welfare work, was when, the Vietnam war had ended seven years before and we had a number of of families that had been friends of the United States that were brought, the-their families were, that were

relocated to this area. Uh, and, I remember, you know, one particular family that lived in a very nice neighborhood in Bangor, that would have typically housed a family of five or six and, there were 20 people living there. And, and the issues that that created in that neighborhood in a very upper middle class neighborhood in Bangor and, um, the the judgments that I remember making walking into that home with the smells? Um, that were much different than anything that I was used to and a level of, of housekeeping that was different than the family I might go visit 3 doors down in that same neighborhood if I were to have had a case there. Um, and so, I remember early on, trying to get as much information I could about the Vietnamese culture so I could understand it from a cultural perspective. Is this within the norm? And then beyond that, you still have at the end of the day there's still a threshold and the literature is full of this, when, when, you know, at, at what point does the adherence to cultural practices create a negative impact on the child growing up. And so that balance is really, really tough, [00:57:00.13] but having those conversations, first at the administrative level and then down to the caseworker level was really, is really critical. And then, and again, I go back to my orientation. How much do you try to pour into someone's head, when they're starting out as a Child Protective caseworker or as a foster care worker.

Um, and the reality is the average length of stay, most people don't get trained to be proficient um, before they've already burned out and moved on. And so that was the other issues that, that is incredibly challenging. So if you have people that are around for a while, and they learn, and both experientially and, and in classroom and being able to have those kinds of discussions, to get at those things, uh, you know, you have some gems, and you hopefully can create a tipping point where you have a, an organizational culture that begins from a place of recognizing, 'We have to be careful of what we don't know.' Um, and not just act on what we do know.

RG: Hm.

SY: And that, and that's, [00:58:10.05] I, I think that's sorely lacking because you know, there were times when you know, we have rules that someone couldn't get their first case for you know, so many weeks. That they had to shadow. Um, I took my first petition three days into the job and the woman that I took the kids from was, had serious mental illness and had had four children previously removed. And she all but helped me do the paperwork cause she knew it better than I did as a brand new caseworker. Um, and um, and prayin'-, a promise would get made, 'Okay, we're gonna make sure that this doesn't happen.' And, um, or you're not gonna have a big caseload, or you're not gonna get a new referral and it was like, you know, they just kept coming. And so you, you'd do the best you could.

RG: Um, hm.

SY: But, um, undertrained, overworked and in a political system.

RG: Um, hm.

SY: That's not a formula for and culturally insensitive, if that's not a formula for problems. Um, so. Not suggesting it should make the Commission feel better, but understanding that it's



being built on a pretty stressed system. And political! 'Cause we have a new boss every four years. Oftentimes. With different priorities, different funding priorities, and uh, yup.

RG: Is the active efforts standard used in cases involving American Indian children different than the reasonable efforts standard?

SY: *(big, deep sigh)* [00:59:47.24] Yeah, I ta-talk a little bit about that um. I think so. I mean I think, trying to define that, is so subjective.

RG: Um, hm.

SY: Umm. That, um, again if you're experienced, again, you know it when you see it, I think. But for inexperienced um, i-i-it really, it really um, it's a challenge because you have, well you have eight regio-, eight districts, in Maine, and each of those districts, you know, in Bangor, and you know, you have a half dozen supervisors, um, and so, it's, there's processes but all along the way those processes involve judgments. That then get converted to some effort *(paper shuffling sounds last briefly)* at objectifying data to make consistent decisions. Um, you know you have different courts, you have different attorney-, Assistant Attorney Generals ...

RG: Sorry. *(whispered to someone other than statement provider)*

SY: All of those things impact how, how things get operationalized and play out.

RG: Um, hm.

SY: And um, you know, and uh, I mean, I, I'm hoping that you'll be talking to some Judges in this process because they, I think, they would of-, they would shed some light in the other direction of, you know, of the caseworkers that would come before them and then in the different offices. Um, and uh, you know it's not a science and, and uh, you know sometimes decisions get made on the number of the available resources, the number of vacancies, the number of foster homes. I mean, lots of things that play into, and they're not supposed to but, human nature being what it is, you, you have to consider all of those things. I mean, you know, there was a time when there was a Judge in Bangor that, I just wouldn't go before him because I knew he would make a certain ruling. And then that same judge later on, I didn't want to go before him because he would sign anything I brought. And so both of those things were bad. And, I made casework decisions based on personalities.

RG: Um, hm.

SY: And so looking at it from the outside world, you'd say, 'How come it's inconsistent?' I always said, 'I, I apply the same standards to everything I do and they're all, they all play out

differently.’ So I’m consistently inconsistent. Because the facts are different.

RG: Um, hm.

SY: And so, I apply, I try to apply the same standards, but I don’t know if everybody ya know, um, sees it that way or stuck around long enough ta be able to, you know, figure that out for themselves.

RG: Hm.

SY: [01:02:55.03] Um, and, and, um, you know I think, I think there’s efforts, to try to standardize and um, that’s good, but it will never replace judgment um, in understanding the complexities of all the things that have to be considered. I mean, I always said when we remove children we’re right, we’re right then, meet the staff, you know, the staff, the, the definition, the statutory definition of abuse. ’Cause abuse is, in the Maine Law, is a threat to a child’s health or welfare by the person responsible. So if I take your kid away because he’s in jeopardy, and I know that the foster care system being what it is and all of those things and removing him from everything he knows, I’m committing abuse. And the bes eff- you know, because I’m, there’s a threat! At least. And yet, it’s the lesser of evils.

RG: Hm.

SY: And um, it had, in trying to figure that out — *(interruption by someone)*

RG: Sorry,

SY: In trying to figure that out, um, and make the right decision is really, really tough. And I think for a long time, the Child Protective staff, were accused of and I think somewhat guilty of, sayin’, ‘The child’s in jeopardy.’ So I, I can’t be worried about what happens when the child comes into care. That’s somebody else’s responsibility. I need to have faith the system is going to do right by that child. And so my job is, in this immediate moment, I believe this child is in risk in his home, risk of serious harm, I’m gonna act. Um, and uh, and that, I don’t think, I don’t think we can afford that luxury. I think if we had to start from that place but then say, ‘Okay, now that we know that, what’s in the best interest of the child, and the family.’ And that’s a different threshold.

MD: Um.

SY: And a different decision.

MD: [01:04:51.01] Yeah, in, listening to the entire narrative, just it comes to mind, you know, given what you’re facing as a Child Welfare Worker, and what you, what you know, what you don’t know, what information you get from Augusta, what you don’t get from Augusta, going back to the, to the Wabanaki family in Capehart, um, was it, was it ever spoken, not spoken that the Tribal considerations, just really were a luxury factor that you couldn’t even afford to consider?

SY: No. No, it never, I, I think um, I, I, I, I think um, how do I say this? I think it might have, people might have wanted to say that?

MD: Yeah.

SY: But politically —

MD: They couldn't.

SY: They wouldn't. And so, but on the flip side, I don't think they, they did enough to um, to have these kind of conversations. Um, and that applied to a lot of things, it was like you don't have the luxury of philosophizing and, and, and, and uh trying to work through um, those, those issues. I mean it was, um, you know, I mean, again, being a relatively new field, and you know this having been a legislator and I, I teach this in my class. So. Maine really started in the early '70s, but it was really in the beginning of the '80s, we specialized. We had Child Protective workers, Foster Care workers, Adoption workers, because the, the rules that were promulgated both at the Federal and State level around implementing a Child Welfare system, were so overwhelming, that you had to specialize in order to stay on top of your specific piece of the rules and regulations. And, and when you specialize, you create points of contact that are artificial for the family. You know, they have a protective worker today, tomorrow it's the sub care worker and, and then it's the adoption worker. And so, we're trying to figure that all out. **[01:07:16.22]** And the only time, really any meaningful change has happened in laws were when bad things happen.

MD: Yeah.

SY: I mean, I can do a timeline of headline cases and I can do a timeline of legislative changes and funding, and they're absolutely synchronized. I mean, absolutely. You know, when **[1:07:33]** Gary Anna Quinn died in Washington County, um, then-Governor Brennan had a blue ribbon commission and he created one major law, three years later came out of that commission and it was called the Blue Ribbon Commission. It was a big deal, it traveled the State, was to allow the Department to order, um, the alleged abuser out of the home. The first time I tried to use it, then-District Court Judge, Pe-, Peggy Kravchuk who I had a good relationship with, said, 'If mom can't protect this child from this guy today, this piece of paper isn't going to do it.' And scratched out my request for the order and, it never got used. I, you know, the law has changed and it, they just didn't, they didn't play.

RG: *(whispering)* I'm going to send you out to finish, to do another statement. *(conferring with another TRC worker)*

SY: Um, and, and those are the kinds of things that happen. Um.

MD: Hm.

SY: So, I, I don't think it was intentional. I, I, I don't, uh-, I, I think they were less subtle than that.

MD: Hm.

SY: Or more subtle than that.

MD: More subtle, right.

SY: More subtle. Um, you know, and it was —

RG: Oh, yes. (*to TRC worker*)

SY: — in the whole body of work it was a very small piece. And so, there was so many other things that we were dealing with, it didn't get the attention that it, it deserved.

MD: Yeah.

SY: You know.

RG: I'll be right back.

MD: [01:09:04.00] Coming at it, you know, completely (*knock at door*) from the outside, you know, one of the things I think we're trying to really understand, is you know, after the passage of ICWA, how much emphasis was placed within the Welfare system on Native families.

SY: Right.

MD: You know, and, um, you know, what were the net effects of all that? And, you know, as, from your perspective in the field, did that ever get down to you?

SY: No. I mean, we were incident driven. So like the headline case would require attention on specific things. Um, if there was a case somewhere else in the State that, um, [*door opening*] could be a learning opportunity. Um, I mean it'll be an interesting question, I mean, you know, did it look differently for Child Welfare people in Washington County and in Penobscot County than it did in Portland? Again, I only know what I know here, I know what happened, but I wonder if it was even less in Portland because they didn't have, as a percentage of their caseload, likely the numbers that we would have here. And we probably didn't have the numbers that they would have in Eastport or, in, in Woodland between the two Reservations. So, that would be an interesting question to ask. Sitting in Bangor, no, i-i-it, didn't. Um, and, I don't, I don't recall, um, any specific trainings um-, I shouldn't say that, any sustained education efforts. You know, there might have been a, a day-long staff education training unit training that we had to go or there might have been you know, some policy memo

that came out but any sustained effort around this? No. No. Um, not at all. Um, you know, the whole issue of Kinship Care when it came out, um, ironically, the whole initiative around kinship care came out of urban areas around cocaine babies back in the '80s. If you remember, we had all those babies and so, the system couldn't deal with them, so they said, 'So what do we do?' Well, we got grandmothers and grandfathers of these —

RG: (*whispering*) Sorry. (*chair scraping floor*)

SY: — and so, it really wasn't motivated by, by um, (*car honking*) a sense of doing the right thing.

MD: Hm.

SY: It was a sense of expediency. Okay, these babies are really, really difficult. Where are we gonna find homes for them? We've got grandparents and extended family members that are willing to do it. Let's look at kinship care. [01:12:07.29] And Maine looked at kinship care at that time and ironically, it was sort of, urban mostly, African-American, um, culture that they built the kinship care around as a model and when it came to Maine, it was sort of like, 'Well, we don't have many people who look like that. And we don't have as many cocaine babies.' So, it didn't, it didn't get anywhere. Even though a number of us intuitively said, 'Yeah, this is the answer! Extended family!' But the challenge was, again, it was risk aversion, so if you got a chil- if you, gotta, i-i-if you've gotta a son or daughter that's messed up, parenting their child, then you must have done something as your, as the parent and why would we give you another-. And so it was a, it was very much a, a risk aversion kind of thing where you didn't want to be second guessed for doing that and there was far less second guessing of just stickin' a kid in a foster home.

MD: Um, hm.

SY: The system accepted that risk.

MD: Um, hm.

SY: And it was defensible. And so when people that push the, the envelope, it was not, it was, it wasn't the culture that supported that. Um, I did early work with Eastern Maine Medical Center and I was, I was, um, (*pause*) thought badly of by the Commissioner and the powers that be. 'Why would I work closely with the hospital? Child abuse is our thing and why are we sharing that with them?' And um, uh, I mean, there were memos that went out that legislators got, you know, around Eastern Maine being actively involved in trying to respond to child abuse. And um, and the Department at the time didn't want that. It was very much, 'This is our baby.' Um, which was as a, as a young professional, you know, if I, I don't want this all by

myself, if I can share it and do better by families, I'm gonna do that. And so, I think to some extent, um, i-it just made it, i-it made it easier? It was easy to do. Um, a lot of the, uh sort of, as I understand the culture of Native Community, you know, um, they're being reticent, quiet, and um, some of, some of the, the, um the ways, um, they interact, were, um, misread? 'Well, they're never on time for their appointment. They had an appointment to see their child and they showed up 15 minutes late,' kind of thing. Um, 'Oh, they must not care.'

MD: Hm.

SY: Um, and you know, the standards, uh, what's important in, in the cultural community, i-i-i-in the culture, um get misunderstood? Um, and uh, and I think it all played in-, it was a lack of understanding on top of a lot on people's plates and it wasn't given the attention that it needed to be given.

MD: [01:15:23.23] I-in terms of uh, you know, Wabanaki understanding family Child Welfare in particular, but in the broader context as a whole as well, um, and this, you know, this is, uh, just for-, for my own understanding going forward, in your experience both in Child Protective, Child Welfare, Human Services, and on the outside, at what level of administrative leadership, gave most leadership, was most effective from the Commissioner's office, Governor's office, on down? Who provided you with the best resources, as a field worker and as a supervisor?

SY: Um, it was, I think it was the opportunity to interact with peers. To understand, to, to, to not be told but to sit with —

MD: So the front lines.

SY: — my counterparts.

MD: Yah.

SY: Um, because I think, one of the things, um that I think is, is fundamental to this, is um, is a culture of, of this is going to sound harsh, and I-I don't mean it quite as harsh as it's gonna sound, but, almost lip service? It was, it was the headline of the day or it was the initiative of the day. And, and so, for frontline staff who um, who, um, live in that culture, it's like, uh, it's like, parenting a child. You say something, you say something, you say something, and if you don't follow through, then it, it doesn't ma-, well, it really wasn't important. So. Sometimes, it's like, 'Oh, they're serious about this one.' There's been a continued focus on this and, and uh, that didn't happen. I mean, I think case in point was my vagueness, and maybe it's just me in my old age but, of that meeting, on campus. Um, um, with the, and I think a precursor to this Commission was this group getting together, um, and uh, of Tribal Leaders and um, and um, and DHS folks uh, sitting down to talk. We didn't do that. Uh, you know. Uh, they might meet with somebody and then those people come meet with us, but it wasn't sitting in the same room trying to gain an understanding um and um, and not be threatened by that. And I think, that's the other th-, i-i-it's that insidious culture of, of lack of transparency and risk aversion that create, creates, not the best outcomes. Um.

MD: [01:18:27.26] The, the, between the Commissioner's office and the frontline staff, how many layers are there?

SY: Oh, God. Um, I mean when I was there, um you had Commissioner and then you had Deputy Commissioners uh, in charge of programs, I think that's the way it is now. And then you had, you had bureau directors and they had their office managers office of Child and Family Services and then you had specialists and the interesting thing in the, in the, and it, and it's still this way, is you have line authority. So caseworker, supervisor, regional administrator, and then it's he Deputy Director of Office of Child and Family Service but in that central office were the specialists. And the specialists, Child Protective specialists and Sandi Hodge, who you might have remembered, Sandi Hodge.

MD: Um hm.

SY: Uh, Freda Plumley, th-, Sandy was in Child Protective and Freda was, was um, Foster Care and Adoption. They were the content specialists, but they didn't have any line authority, but they had all kinds of informal authority. So the chain of command was a little bit fuzzy when it got to Augusta, because my boss was the director of the Office of Child and Family Services. But the power people were these program specialists. They were content experts, um, and, and they really controlled the practice and influenced how the practice was developed. And so they would have the au-, sort of, the responsibility of the policy practice, content. But the chain of command was sort of went up in the the middle of them. And so it was, it was interesting. Um, i-i-,

MD: [01:20:37.10] Thinking back on your experience, how much responsibility do you feel you had versus how much authority you had to act?

SY: Oh, that's a good question. Um, And I think, and this might be my ego a little bit, but I think, it was different for me than a lot of people. Because I took the responsibility seriously and tried to ensure I had the authority to do what I needed to do. So I, I kind of pushed the limits. I think there were a fair number of people that hid behind that they didn't have the authority.

MD: Ye-you talk about risk aversion.

SY: Yah.

MD: A lot. And that it feels to me like people were held accountable for what they did.

SY: Yah.

MD: But didn't really have the authority to make —

SY: Right.

MD: — decisions.

SY: Right. *[01:21:39.02]* And the other thing that would happen, um, and I, don't mean to do this as an indictment of the system, but there were f-, when I was there, there were five program managers and the three, the larger three regions had a program supervisor and assistant. Portland, Bangor, and um, Augusta. And so, the eight of us were the senior management team and we'd go to Augusta once a month for a two-day meeting, and we'd meet with the Bureau Director, and these program specialists. And we'd hammer out, stuff. And I would leave on a Friday afternoon heading back to Bangor, and I knew my peers were heading back to their offices and the implementation of what we had just hammered out and sometimes it would be pretty bloody and would look totally different. They would do what they wanted. Um, and, and I knew that. And it would play out - I just was talking about this, reminiscing with somebody. It would play out when they'd have State-wide trainings. And my staff would go to a State-wide training and they'd be sharing with their peers in Portland or Lewiston, the latest policy and they would say, 'Oh, we don't have to do that. What are you talkin' about?'

And my staff would come back and say, 'How come we have to do this? They don't have to do it in Portland!' I'd say, 'Well, 'cause we all agreed that this is what needed to be done,' and when we left, we all said, and I said, 'I don't have any authority over Portland, so, but here's what we agreed to do.' So there was a lot of that going on. And most of the people, when I became one of these administrators, most of them, most of my peers, started as the first administrator when Child Welfare was created at the end of the '70s, when it branched off and it was no longer part of Income Maintenance and, you know, AFDC and all that.

[01:23:31.03] So again, I, uh, I don't think it, I, I, I don't think I can emphasize enough that it is an incredibly young field! I mean one of the things that was really exciting for me as a young professional, I'd go to national trainings, and I was sitting with and hearing from the people that were writing the books, on Child Welfare. I mean the national the, the, uh you know, the people that were cutting the path. *[1:23:49]* Suzanne Sagrois, Roland Summit, um, you know, um, Giarretto. I mean, people that, sex abuse, child abuse. Henry Kempe, "The Battered Child," he coined the term. I, I sat with those people, I heard from them, I talked with them.

MD: Hm.

SY: I, I could call them and they knew who I was. It was that young a field. Which was really exciting! And scary at the same time because it was you know we were learning a lot. Um, we were learning when we did things wrong and we had ta adjust and change our practices. Um, and so all of that was happening and, you know, and no one was giving any particular thought to sub populations in our society, you know. Whether it was the Native community, um, you know, um, grandparents raising kids, uh, same sex partn-- I mean, all of those things that are happening in the broader society, you know, cocaine babies, now opiate babies, all sort of get dropped on top of, a system that really is siloed only dealing with child maltreatment. And so you get all this family stuff going on, that's impacting child maltreatment: the lack of family

supports. I mean, go back to two parent workin'-, two workin' parent families! I mean, that's probably in, a lack of adequate child care, geographic mobility, all these things all play into the symptom that we're trying to deal with and solve when it's so much bigger than that. And I, and I think those same kind of issues are multiplied with the Native community that hasn't had a voice for a long time. Um.

RG: Um, to the best of your knowledge if the Tribe decl- and my so much more *(laughter)* *(simultaneously)*

MD: I wasn't going by the scr — *(simultaneously)*

SY: *(laughter)* *(simultaneously)*

MD: — list of questions, I'm sorry. *(simultaneously)*

RG: That's okay! You as-asked some really good questions that are not on here. And so much less formal than my, 'To the best of your knowledge.' [01:26:06.00] If the Tribe declines, uh, to intervene in a child custody proceeding, what are the reasons for that decision?

SY: *(deep breath and sigh)* I don't know. I'm, I think, my opinion were, there were some, there were some occasions when the family members *(paper shuffling begins, lasts briefly)* created challenges for the Tribal Government that they just assumed not either conflicts —

RG: Um, hm.

SY: — um, past history, where they just assumed, 'Let somebody else deal with that.'

RG: Um, hm. And what about if a State declines to transfer that child custody proceeding, covered by ICWA to Tribal Court?

SY: I didn't think the State could decline. I thought, i-if I'm understanding the question, if, if the Tribe asserts jurisdiction, the State doesn't have any choice.

RG: I would assume that is true. Gail wrote that question.

SY: Yeah, I mean uh, I, I, I guess, because if there's a non-Native person living on the Reservation, we still have jurisdiction. I mean we, I mean the State still has jurisdiction, so I don't think it, I don't think we could be misunderstanding that question, but, maybe I am.

RG: Maybe there are extraordinary circumstances —

SY: I —

RG: — where it's happened?

SY: N-n-not that I'm aware of.

RG: Well, that's good to know.

SY: Yup.

RG: Um, do you have any experience, um, in working with expert witnesses for Indian Child Welfare?

SY: No.

RG: Ah, what, you've kind of answered this, but I will ask it again and you could just give me a summary, a really quick one. *(laughing)*

SY: *(Laughing)* Sorry.

RG: Ah, no that's good, yeah, I, it's really good but I don't want to have to make you repeat everything you've already said. Ah, *[01:27:57.08]* what State Child Welfare policies, practices and events influenced your work with Wabanaki children and families?

SY: Um, well tha- tha-, as I was sayin' to Matt, um, you know, I, a, a lot of the practice being an evolving field, really got informed by specific cases. Things that di-di, and so I mean not even know what prompted a new policy.

RG: Um, hm.

SY: Unless it happened in my office. Um, you know, I, I, I mean, the way I practice was, I tried to learn and, and be better from each situation so, anytime I had a Native situation, uh, I really tried to learn and understand. And, I'm still learning and understanding. Um, because you know, I'm, I'm on the inside looking in.

RG: Um, hm.

SY: And, and uh, I've had some gentle teachers and then some not so gentle teachers, and I think I've learned from both in that process.

RG: Um, hm.

SY: Um, and what I've tried to do is, to be someone that people know, I, I'm open. And that I'm okay with being told, 'Boy, you don't get it.' And, um, you know one of my favorite stories is when I was with the River Coalition, I got invited to a smudging ceremony for a new building. And I thought I had arrived. I was the only non-Native that was invited and I

thought, 'I'm in, they like me, I've been accepted.' And the next week we had a meeting of, um, the Passamaquoddies, Penobscots, Maliseets, and Micmacs about going together on a Federal grant. And the River Coalition was gonna be a part of it. And I'm sittin' there and I'm all enthusiastic as I can be and uh, and um, and I'm saying how good this will be and someone that didn't know me from my- either the Maliseets, or the Micmacs, said, 'We've heard this line, for the last 300 years, from you. And, I'm not buyin' it.' And, I thought, 'Wow, I just went from being uh, in, to being held accountable for things that have been done for 300 years.' And I realized! She was absolutely right.

RG: Um, hm.

SY: And, and it was such a powerful learning that um, it was real for her, it wasn't, you know, I mean I would never say that, that, and I would not feel that, but it was real for her, that I'm sittin' there as white man making the same promises that someone probably made to generations ago with whatever shiny trinket they were offering for something. And um, that, that was an incredibly lasting impression on me as I tried to work effectively with other people.

RG: Um, hm.

SY: Um, and, and so, I mean there's an incident that has guided my work. That one meeting. Um, and rather than say, 'jchhhhh-', you know cause I've shared that story and people say, 'Well that's a little bit much isn't it?' Um, and I didn't get that from that. And it was really an important lesson for me.

RG: Um, hm.

SY: And it was like, I called it the slap in the side of the head. It was like, 'Duh!' I just gotta little glimpse of what it means, um, just like, I can do that with someone because I've grown up in three generations of substance abuse of what it's like to be in that, that nobody else, that hasn't experienced that. So, I was able to, to, to translate that. [01:31:36.02] But one of the things that I don't think happens, is I don't think we do a good job necessarily of encouraging people to process, debrief and learn from their mistakes and successes and analyze them and be sure that they are, truly mistakes or successes. Um, and, y'know, I don't think caseworkers are hired to do that or expected to do that. Uh, or encouraged to do that. Um, and tha-, you know, that's what supervision is supposed to do and that but I, but I, I don't think it happens in the way it should. And um, and I don't think um, the Native community has done all that they could do to foster that. Um, and, you know, is it their responsibility? No. It's no more theirs than ours, but, to have those conversations and, and get at the hard stuff and talk about it. Um, and work through it. And say, you know, um, how do you help us either improve a risk aversion culture so that it serves everybody better, um, and engage with it?

RG: Um, hm.

SY: And, and, is that reasonable to expect? Should they be trying to help fix the broader community? Um, I don't know. That's a question for somebody else. But from where I sit, at least it has to be part of a discussion.

RG: Hm.

SY: And there may be good reasons they don't want to do that, but, I think it's a place to at least begin a conversation to say, 'How do we make both-, how do we make it better for everybody?' Um, um, and uh, yup. So.

RG: *[01:33:24.27]* What strengths does State Child Welfare possess in ensuring ICWA compliance?

SY: I think a, a commitment and a recognition of, of, of the obligation to do so. Um, and, and, and I think in some pockets, um, at least a basic understanding of why, why it's important.

RG: Um hm.

SY: Why it's important to do that.

RG: Um hm. What weaknesses does that State possess in ensuring ICWA compliance?

SY: *[01:33:58.09]* The reverse of what I just said. I mean, I think one of the things that also impacted me, and this is just, it's pretty superficial but when I-, and I think I told you on the phone, when I grew up in Washington County and lived in Woodland, um, typically we had, oh, 10, 15, 20 teenagers, children, from, because we, we, were the, we were the receiving High School cause Princeton didn't have a high school. I mean they, and so, I would say 90% of the Native children that came to Woodland High School, did not come for a full year. They would go to our school, they would go to Lee, they would go to Higgins Classical. And, I never knew why. I mean, some of them, it was behavior that I saw in school that I would guess, 'Okay, they were kicked out or they were asked to leave or whatever.' But I'm guessing, looking back, you know, there were family things going on. Um, and, so they, they were transient, they never, I mean I had some good relationships, particularly in sports, 'cause sometimes they would come for a particular sport and then seemed to disappear after that, that season and go to another school. Um, but I saw it from the outside looking in. I dated, my first girlfriend lived, in a little, have you, have you been down to Princeton?

MD: Um hm.

RG: So, it's c-, it's c-, I think it's called *[1:35:24]* Clooeyville.

MD: Yeah.

SY: But, but, it, it, there's a little block of land, Nasonville, in the middle of the strip coming

from Princeton, across the bridge before you turn to go to Grand Lakes Stream.

MD: Yah.

SY: And, my girlfriend's family lived in that little house and next door was the state trooper, uh, Bob Desjardin, and there were three non-Native families that lived on this little piece of land. And uh, and I never knew why, and I never asked, I never un- you know, it was like, but their apartment, and while she was there, they built the new housing across the road 'cause when I first was dating her, there was nothing there, there was woods. But the-then they build a housing development. My father owned a grocery store in Canada and in Woodland, um, growing up, I would see Native families come in and my dad had really close relationships with a couple of, of, sort of the Tribal leaders and, and so my view of that world was really skewed. And I-me- not unlike the fact that I can look back and see classmates that I knew, now know were abused.

MD: Hm.

SY: And, I, I didn't realize it then, I didn't understand it, I didn't have the awareness, but looking at their behaviors and how they interacted and how they got through school and, or didn't get through school and now are in jail or dead. And I absolutely have no doubt in my mind that they were, living in abusive situations.

RG: Um, hm.

SY: And I had no idea at the time. *[01:37:06.20]* So having that ability to look back and see things differently, um, and, and uh, you know, it was-, you know, w-w-w-w-was I prejudiced? Well, prejudiced in that I had a view of the world that didn't reflect reality that wa- it was biased. Um, but it wasn't malice. Um, but I look back and say, 'I, I didn't ask a lot of questions.' You know, and it just, it was. It just, it, it so, it was.

RG: Um, hm.

SY: And, you know, I think with what we're talkin' about here, there has to be a lot more thoughtful questions and conversations and that just, without that, people bring what they bring to the work they do. And without some intentional work being done, and not, without assumptions, and without judgment, I think is really, really important. And I think, that that's the piece that I think, is missing and can't be assumed in the Child Welfare system in Maine.

RG: Um, hm. *[01:38:11.21]* Um, the same kind of question, but, for um, Wabanaki Tribes and working with the State for ICWA compliance, strengths and weaknesses.

SY: Um, in my experience, um, there wasn't a, there wasn't a consistency. I mean there was a lot of -, ahhh, as I remember there wa-, there wasn't points of contact that I knew I could go to and get information and, and in my experience, they came with their own biases and, and um, assumptions about me, or about me representing the system.

RG: Um, hm.

SY: So i-is that, um, lack of consistency and continuity. Um, and courage and, and um commitment to do the hard work, to have the hard conversations.

RG: Hmmm. (*agreeing*)

SY: Um, I really like it when people tell me I'm wrong and here's why. Because I can learn or I can hear it and then decide whether or not I think I am or not and, and I don't think those things happen. So people act either safely, blindly, behind the authority without sort of the richness of understanding and then bringing that understanding into the work. Um, y'know, because they have to know so much. And, and, um, and you know, the stakes are high.

RG: Um, hm.

SY: These kids, immediate safety, um.

RG: [01:39:49.08] In what ways do you see Maine's Indian Child Welfare Policies and the Adoption and Safe Families Act working together? And what ways do you see the two policies not working together?

SY: Well again, I, I, I think that, um, policies are only as good as the information that went into them and the ability to, to set them up. Uh when, when I was with the State, back i-in '97 they had, the Clinton Administration did the Adoption and Safe Families Act. And the idea was to try to move people through the system. And um, were you, you were in the Legislature then, right? Were you then? No.

MD: '96 I was in.

SY: Okay. So, and so the State of Maine passed a law at the same time that said unless the State could prove that the child or somebody else would be in immediate risk of harm, we had to give the name and location of the foster placement. To the parent. So the Federal law came in around adoption and that allowed for the State to make pre-adoptive placements, legal risk placements. For babies that were born to families where previously children had been involuntarily terminated. With the thinking that it would reduce the number of placements, because you wouldn't have to place in a foster home, go through the termination, and then once the termination, then place the kid again. And so, that was the whole goal. And so by then, I was with MAPS. I was with an adoption agency, and what I was finding were these legal risk placements, the pool of available foster parents was shrunk because people didn't want open adoptions. And so by the operation of the State Law, which said I had to tell you where your kid was, then if I then went ahead and terminated your rights, I couldn't take back that you



knew where the child was. So by default it created an open adoption, which wasn't the Legislative intent. It was intended to try to make sure that we helped get kids early on, into permanent placements. And so, Buddy Murray was a State Senator then and an adoptive parent, and my neighbor. So I went to him and sat down and I explained all these and he said, 'You're right.' And so we proposed a law and all I will say is one of the more al - uh, I shouldn't say that. Um, um,

MD: *(laughing)*

SY: Um, the Department had strange bedfellows in opposing that law. All I wanted in the law was to give the court more discretion around forcing the Department to give the name of the foster home. And uh, it didn't pass. So in essence what it did was, it created, um, for those high-risk families that were threats —

RG: Um, hm.

SY: Um, it meant the child went through more placements. Um, or it meant, that adoptive families had to accept and embrace, their child, biological parent knowing —

RG: Um, hm.

SY: — forever. And whatever risk that, that posed. And so, I think sometimes, um, unintended consequences are not well vetted and thought through. And you can't do that if you don't have the people that have the knowledge, if you don't have the Native community at the table engaged in those conversations, there's no way to develop good policies and laws —

RG: Um, hm.

SY: — without having all the stake holders at the table.

RG: Um, hm. If you could change anything or make anything happen at the Tribal, State or Federal level to improve the lives of children touched by ICWA, what would you do?

SY: You're doing it.

RG: All right. Ahh —

MD: I have one last question, too.

RG: Sure.

MD: [01:44:09.08] Knowing what you know, put yourself back, 1978, '79, and you're at a betting table and now you've been asked to assess the odds of the success of ICWA in this context, scale of 1 to 10 what odds would you give it?

SY: (pause) Wuh-, so knowing what I know now?

MD: Hm.

SY: Um. (long pause) I, I, I'm not trying to be evasive. I think, ICWA is a step in a process.

MD: Hmmm.

SY: It's not the answer? So, the- I give it great succ-, I give it great chance of success of continuing a, a conversation and a process leading to something that's better than what we had then and what we have now. It is not, the solution because it was built in reaction to, and response to, which I think is a necessary (*paper shuffling sounds, last briefly*) step but it's a, but it really needs to, go beyond that now. I still, I think tha- I mean, and I've been in it, for my, my professional career in different ways, um, I, I, I still think we've got major work to do to reframe how we look at Child Welfare in this country. Um, I, I had the opportunity to go to Russia and do some training on a couple of occasions. And again, walking into a, a dropping into a whole different culture, um, it allowed me a great opportunity to ask questions and to be asked questions. Um, and some of the similarities and differences and implications around Child Welfare systems related to housing! Um, is just incredible! Um, and, and really just had me lay awake night thinkin' about this. I had the same feeling about, um, not to go off topic, but, um, accountable care organizations and hospitals. Housing, is gonna be a bigger impact than, rate of infections. Um for outcomes and so, all of a sudden, medical systems are gonna have to- the social determinants of health are gonna play into it. In, in Russia, uh, well, in this country, our foster care system was built on farms, labor needs and empty rooms in big houses. Y'know. Um.

MD: Russia's much more institutionalized.

SY: Russia didn't have that! People lived in whatever they needed for housing. And so, they don't have excess capacity so wasn't like they had room and you have to be much more deliberate in getting care.

MD: Um, hm.

SY: I, mean, you know, I didn't do it for this reason, but we had empty beds in our house. It made it easier for us to adopt three girls.

MD: Hm.

SY: Um, that's a terrible way to have a syst-, I mean, so, so, the ICWA system is a step on, along a very —

MD: [01:47:42.27] I mean, and you're not being evasive —

SY: Yup.

MD: — in your answer at all. I mean, I'm thinking as a former policy maker, you pass a piece of legislation, you think, 'There, we're done.'

SY: Right. Right.

MD: And your experience in the field, suggests somewhat, somewhat —

SY: Right.

MD: — somewhat different.

SY: Right. But it keeps the conversation going.

MD: Yeah.

SY: Um, the challenge is, and you know this as a policy maker, it's the lesser of evils, given available funding, da, da, da, da, da. There's all these caveats that make what you do maybe the best way you can do with what you've got right now, but I don't, but I think the important thing is never to lose sight of what you think it should be.

MD: Hm.

SY: And, to be very, very, um, transparent that this is the best that we can do right now, but we can't lose sight of what we know is th-, better. And I think that's the piece that we always but politically it gets translated into, 'There, we've solved it.' Um, I mean, [01:48:42.12] I fought really, really hard back when I was there because we had all these unseen cases.

MD: Hm.

SY: And the Department and the system to put pressure on to say, 'Don't call them 'unseen cases,' call 'em 'inappropriate' and then in that way, we've got a lid on it.' I said, 'No, I can't do that.' I wouldn't do it. I got a lot of pressure from the Feds and from Augusta. I said, 'No.' I said, you know, 'You can't tell me that when a pa-, when a father punches a mother, in the face, just because he didn't hit his kid, that it doesn't meet the definition of a threat to a child's health or welfare. Or if a mother's actively substance abusing, even if you can't prove that anything is happening to the child, the very presence of that meets the definition.' Doesn-, we don't have to do anything necessarily, but we need to call it what it is. They refus-, they, they

wouldn't. I mean, we had one we-, and again in this, this group of, of managers, a case where a man, a criminal, lifetime criminal, dropped his four-year-old son through the transom in a business so his son could unlock the door so they could burgle the place. And they said, 'That's not a child abuse case. That was a criminal justice case.' And I said, 'Well, yeah, it's criminal justice, but using a child, to commit a crime, is child abuse.' And, um, they said, 'Yeah but, the father's gonna be adjudicated.' I said, 'Yeah, that's fine, but for the purposes of accuracy.' Those were the kinds of things,

MD: Um, hm.

SY: Um, I refused to back down and the legislature gave us 40 new caseworkers in the first year of the King administration.

MD: I remember the —

SY: When —

MD: — the discussion of the 3,000 cases, uh —

SY: — when, when there was no money.

MD: Yah. Yah.

SY: And I'm really proud of that. It was me and Tom Wolverton from Washington County.

MD: I remember that.

SY: We just refused to, and I was a pain in the ass to people. I just refused. I sa-, and I was teaching then and I said, 'This is just, look at the definition.' And you know, I think it takes that kind of courage and stubbornness to continue not to lose sight of, I, I had no problem with not seeing the cases. I had a problem with re-writing reality —

MD: Hmm.

SY: — to make reality fit the available resources. And that, that was just poor governance and wouldn't play.

RG: Um hm.

SY: Um, so that's, I mean I think, you know, I think that's part of the conversation is, being honest.

RG: Hmm.

SY: And, and, transparent.

RG: Um, hm.

SY: And uh, all the way around.

RG: Absolutely.

SY: And I think great can come from that.

RG: Absolutely.

SY: So.

RG: Is there anything else you want — ?

SY: No, I think I've said more than enough. (*laughing*)

RG: Do you have any last questions, Matt?

MD: No, I don't think so.

RG: Okay. Thank you so much.

SY: You're welcome.

RG: So I'm gonna stop this.

SY: Yup.

END OF RECORDING