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Statement by Penthea Burns collected by Rachel George on November 18, 2014

Penthea Burns

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General Information

Private or Public Statement? - Private

Statement Provider: Penthea Burns

Date: November 18, 2014

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Previous Statement? No

Statement Gatherer: Rachel George

Support Person: N/A

Additional Individuals Present: N/A

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Length of Recording: 1:29:22

Recording

RG: Okay. It is November 18, 2014. We're here in Portland Maine. My name is Rachel George and I'm here today with—

PB: Penthea Burns.

RG: Fantastic. And the file number is ME 201411-00137. Penthea, have you been informed, understood, and signed the consent form?

PB: Yes.

RG: Great. And I have to let you know that if at any point during this recording you indicate that there is a child or elder currently 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. Does that make sense?

PB: It does make sense.

RG: Okay. You can start off wherever you feel the most comfortable.

PB: Okay. I think I'll start, although I don't know how much I have to say, except that I think that probably everyone has said that. I worked for the Department of Health and Human Services. I've worked in child welfare since I graduated from undergraduate school in 1981. I had a Bachelor's degree in social welfare and later went back and got a graduate degree in 1994 from the University of Maine—I have a Masters degree in social work. So when I got out of undergraduate school in 1981, I worked for a private child welfare agency at an emergency shelter and emergency foster care network, then called Little Brothers, later called Youth Alternatives, now the agency is called Opportunity Alliance. I worked there for five years. I worked very often with folks from the Department of Health and Human Services. And, in relation to Indian Child Welfare, I think I have vague recollections of a couple of brothers who were at the shelter at one time who self-identified a bit more overtly that they were Native American. I couldn't tell you what tribe.

I don't think that we—I don't recall having any discussion of any kind of substance about that. In their case planning, I don't recall there being anything in their case planning or anything in our agency's understanding of things that **[00:02:29.21]** either the Department or we should be doing in relation to that. I worked there for five years, again worked really closely as a residential staff at first and then was the case manager there and I can say that in that five years, I don't think I did anything of substance in relation to Indian Child Welfare. From 1981 to 1986. Um so that's a whole lot of nothing. And then in 1986, I went to go work for the Department of Health and Human Services in Portland and went in as a foster care caseworker. They called them substitute care workers at the time. Which I did that for a couple of years and then did some emergency, like responding to emergencies, I don't even know how long I did that. And then I worked for older youth who were preparing to transition to young adulthood. So this was from 1986 to 1995, I was there.

I, here's what I remember—I don't remember if I ever asked a young person if they had Native American ancestry. I don't remember attending a training that instructed anything about the Indian Child Welfare act. I do recall someone noted at some point that there is something you are supposed to do, and that was it, I don't even remember if that was a supervisor. Um—there was a colleague of mine when I was in the Portland office who was a caseworker for a young man. I'm not sure if I'm supposed to give his name so I'm not going to do that. He was a teenager. I think he was a Penobscot young man but I'm not 100% sure of that, had grown up in this geographic area and he was dying of cancer, maybe leukemia. And the tribe was fighting to get him to come home and the department fought vigorously to keep him in this area where he grew up, and I just remember my colleague periodically talking about it and when it hit the peak of that—I think it was battled in court and I think the department prevailed in that so I don't think he returned to the tribe. And I don't particularly trust my memory on that but I do remember how passionate **[00:05:45.15]** the worker was about his rights to be where he wanted to be. And not any agreement that showed understanding about the tribe's perspective. Um and maybe even some cynical belief about the tribe financially benefiting if he were to go back or something. I don't know. That's the most vivid memory I have about an Indian Child Welfare matter when I worked at the department. Now, granted it was in southern Maine where at least the consciousness was less visible and perhaps the frequency of Native youth was less but it was just off the radar for me and I don't know if I would be representative of the other people there or not. I've been trying to remember that co-worker's name and haven't been able to and I can picture her clear as day but I can't remember her name.



Uh, I think that when I worked—I worked at two private child welfare agencies. One when I first got out of school as I indicated, and then another, after I finished graduate school. It was later: 1997 to 1999, I worked for Casey Family Services here in Portland, and one of the forms—I was meeting with a young person to bring him into the program and there were sort of intake forms to fill out and there was a question on there about Native American ancestry. First time I had encountered that on a document. So I asked this young man and he indicated that he thought he was and he thought it was Cherokee, or I don't know. It was not a Maine tribe, anyway, but it was one of the national tribes other places in the country. It was a bigger one. And I didn't know what to do with it once I found that out, I didn't know what to do with it. So this entire career that I had—when I went to the Muskie school and was asked to staff the ICWA work group, I clearly had no expertise in that area (*laughing*) like, clearly. And um, and so, and luckily that's not what was needed for that particular work group. I'm a better facilitator I guess than my knowledge about Indian Child welfare, but I—on more than one occasion in the process of doing this work, realized like how many times I failed to ask a question or I didn't do anything to even know if a child that I was working with was Native or not. And that's—anyway, that's ironic being in this role and having more of an advocacy position and not being an example of good practice, so (*sighs*).

RG: Can you tell me about when you came on to facilitate the ICWA work group?

PB: I sure can. So I was offered this job at the Muskie school and half of my job—three quarters of my job were on other projects but a quarter of my time was dedicated to, at that time was a one year project to bring the tribal child welfare programs and the state together to create a training that would be provided to all DHHS caseworkers about the requirements of the Indian Child Welfare Act.

RG: Why did that group come into being?

PB: Yep, I knew at the time that their, the feds had told the Department—I mean I think I knew it in a more conversational kind of way, I didn't know the formal part of it but the feds had told the Department, “You guys are not doing what you need to be doing in relation to ICWA, and so you need to train your staff and so that they understand ICWA and that they comply better with that.” Um, I understand now that what had happened—the Child and Family Services review is a federal review of a state or uh, a state, territory, or tribal child welfare program if they are receiving a certain kind of funds. And so they review everything the state—passing or failing grades on a number of different areas. Every single state that has had a Child and Family Services review fails some of the measures. Some states fail more than they pass and very few states pass more than they fail. It's a tough review. So in, I think it was 1998, and from talking with Margaret Semple who was the Director of the Bureau of Child and Family Services when I started, the state had just gone through the first trial of the Child and Family Services review. They were testing out this review process. And so in going through

this test of the process—that one of the findings was that the state was not doing the things that they needed to do in relation to the Indian Child Welfare Act, and so it was on the basis of that review—is what I learned from this conversation with Margaret—that’s why this training was asked to be started.

I'm going to make just another footnote right now. Nancy Goddard—the ICWA liaison at the time when I took this position was a woman named Sandi Hodge who I know has provided a statement, the ICWA liaison prior to Sandi was a woman named Nancy Goddard. And from talking with Nancy recently to invite her to participate in this process, she filled in some blanks that made sense to me. She was the first ICWA liaison but in 19—I think in 1980 or 81 is when she actively began doing the work. ICWA passed in 1978 as you know, but because there was the Lands Claim Settlement Act happening here, or that was in flux, that they were instructed **[00:13:37.08]** from the Attorney General's office to not do anything to implement ICWA until after the Claims Settlement Act was passed and I believe that the Claims Settlement Act was part of what gave federal recognition to some of the tribes here in Maine and then the Penobscot and Passamaquoddy and then the Micmac and Maliseet were federally recognized afterwards. So they were not allowed to even recognize that the Passamaquoddy and Penobscot existed prior to the Claims Settlement Act. So ICWA started in 1978 and just went nowhere in Maine until after the Claims Settlement Act. So that was—I didn't know that before.

Nancy will probably fill all of this in. But she was the ICWA liaison from that time, I think 81 until, I think 97 or 98 when she retired. But in 1986, she became the person responsible for the implementation of the independent living programming—another federal initiative that was supposed to help older youth transitioning from foster care and what she said on the phone with me was: I really, she had vivid memories of ICWA issues from 1981 to 1986. The detail that she remembers when you interview her will be remarkable but she said, “I don't remember anything after 1986.” That just like chilled me that—that the structural problem there, that whatever they did from '81 to '86, that this vacuum began happening. And I don't lay it at her feet because I don't think that is fair, it's definitely a system issue. But that, I thought that just really struck me. These things that were never really visible to me. Hearing her say that really, that was disturbing, I guess. So anyway that was a big footnote that I wanted to be sure to say. So when I started, Sandi was the ICWA liaison and can we shut the recorder off for a second?

PB: Thanks for that break. **[00:16:21.13]** So, where were we, so Sandi Hodge was the ICWA liaison and my role was to do like all the logistics. To get people together, to facilitate the meetings so that the state and the tribe could just be participants in this meeting and specifically to design a training. Sandi opened the doors in the department for making sure that information got out to caseworkers, but like the logistics and creating documents and you know, writing the communications, that was my role. So we started with—I started with sending a letter to each of the tribal chiefs—and Sandi I think was the one that informed me that we really should probably go through the chiefs. I think that was from her. So I sent a letter to each of the tribal chiefs explaining what our intention was in setting up this training and asking for them to forward this information to who in their tribe was appropriate to participate in coming to a meeting and we targeted a date for that. I think it was in November 1999. I started in August, and when the first meeting came, Sandi was on medical leave. I think she had had surgery, broken her leg or something, I can't remember but another—Paul



Martin—was another person from central office who attended the very first meeting and maybe more than one, maybe like the first two or three meetings. I don't recall this but Esther Attean reminded me that there were foster parents attended that first meeting. And I think they were white foster parents who had cared for some Native kids, maybe had adopted them. But they had participated for a while. They didn't stay involved over the long run. I only vaguely remember them.

I'll look and find any of the documentation that I have. Some of this I have electronically and we'll pull together whatever seems relevant and I can pass on to you minutes. And any information about the trainings, training evaluation, stuff like that, so I'll compile that, get that together for you. At the first meeting, there were representatives from the Micmac tribe, the Maliseet, the Passamaquoddy tribe in Sipayik, and the Penobscot Nation. The Passamaquoddy at Indian Township rarely attended any of the meetings. For—over these fifteen years since that time, I think—I might be able to count on one hand how many meetings someone came from—maybe two hands—but very infrequently. And that was always more challenging to get them engaged. I tried, Molly Newell from Sipayik invested a fair amount of energy connecting with them and engaging them, or trying to engage them, going to the chief, going to the staff, it was interesting, we didn't really make any progress and it wasn't just one director, there was a number of different directors over there at the time. A few different directors, I guess I would say.

RG: Was there any discussion in the group about why that might have been? Why they weren't attending?

PB Lots of it.

RG: Obviously it's speculation, but what were some of the thoughts? *[00:20:26.05]*

PB: One, there was some question about whether or not they had had some more difficult experiences and were—that the trust issue might be harder. Another, that perhaps they were more of an insular community and didn't wish to engage in that kind of way. Towards the end, I think people were feeling a little more cynical and frustrated by their lack of participation. And um, so I think it might have been less generous thoughts. But it was really puzzling. They would have really good discussions about being engaged and then just not be there when the time came. You know, so it's a two plus hour drive as you know and the programs are staffed by two or three people. That said, people drove down from Presque Isle, people drove down from Houlton. Sometimes separately, sometimes they carpooled. A one person staff came, two people staff came, and that people came—that first meeting, we knew it was going to be—that it was going to be important to try and establish some trust and commitment in the process and in planning the meeting, concluded that it would be really good to identify and just get out there—what are all of the problems that were happening. And I'll try and find if those notes we

still have in existence so what happens when things are going wrong? What does that look like for kids? What would it look like if those problems were solved?

RG: Can you tell me some of those things that came up?

PB: You're so optimistic (*laughing*). Fifteen years ago. The problems that came up were things like not providing notice to the tribe, like at all, or someone being identified at the time of adoption that there was Native ancestry, after adoption that there was Native ancestry. Case workers—I mean no notice of court hearings or last minute notice of court hearings. Not involving the tribe in case planning. Children being placed in non-Native families, being placed a distance away from the tribe. Even kin, or kin as defined by the tribe, not being considered, or being turned down as placement. But somewhere around that same time, I don't know if it was the same year that we started was the, and I think Nancy Goddard mentioned that Diana Scully did some work on placement preferences and was really trying to push some changes in licensing requirements for placements for tribal children. And I don't think they got too too far with changing the licensing requirements. From Nancy's take on that—I think she was up there from '97 to '98—but I think right after that, there was a law that passed. I think it might be Public Law 1999 that allows the tribes to license—have their own licensing process for foster homes even when kids in the state care, that they can do that licensing process.

And I think the change before that that Nancy referred to was changing the definition of kin, extended kin, so that if [00:25:14.01] it fit a tribal context a little bit better. So that aunties that weren't blood relatives could be considered a family placement for a Native child, differently than for a non-Native child. And at that time, a child could be placed with kin without having to go through licensing. I think it just changed some of the reimbursement rates from the feds but I think that's slightly different now. But that was one of the pieces of progress and this Public Law, I believe it was 1999. So I don't know if that means it passed in 1999, it's almost—that doesn't really make sense to me and what I know about how the laws are numbered and stuff. I lost my train of thought. So those were some of things that came up and that even when kids are placed in a non-Native placement, really how—what are the things that a non-Native foster home can and can't do to really help them get connected with who they are, where they're from, their whole sense of identity. You can't—there's not just this little checklist. And so some of that stuff came up about how do you get them connected to the community. Um, and I think there were also a lot of issues identified about disrespect of—what was perceived as disrespect to the ICWA staff from the tribes, the tribal welfare staff and the tribes in the early days. Some of this was the first meeting but in the early days. The whole notion that they were professionals, that they were educated, that there was not recognition—or assumptions maybe that they weren't. And even maybe, even at one of the ICWA summits that we had which was probably two thousand and—golly, when were those? I'm not even going to say. 2001, 2003 maybe, after doing the work for a little bit. That someone who again is a long-time champion of this work was surprised that some of the child tribal welfare people had advanced degrees. And that the next piece of the punch line was—'cause none of us did. None of us at central office at DHS had masters degrees. So to see that and the tribes...that anyway that was just interesting to hear that the other day.



But involving them in case planning and treating them as if they were an agency, rather than another pure government. I'm not sure if caseworkers would treat another caseworker, from like the state of New Hampshire or Massachusetts in the same way that they were perceiving the role of the tribal programs. And them not having a voice, and things that were happening—being notified when a child was moved or decisions about things being changed. Because if you think about it, all decision points of a case plan, all of that stuff made it up on the posters. Nothing was happening with any kind of sense of collaboration or partnership, or—and many times consciousness, if you think about my own experience as a caseworker. **[00:29:25.19]** Who knows what I failed to do? I don't even know. So um, and the—what those things would look like if they were solved, revolved a lot around identity, connection to community, connection to culture. Um, yeah. The communities thriving—but those are probably not the exact words but it was those kinds of things. I'm curious if they even said things about like improved relationships between the states and the tribes. It's interesting when we talk about it—the outcomes for the tribes, the sense of healing, that's what gets people's first attention. Reconciliation (*laughing*), that's later. That's later. It took me awhile to feel okay about that, you know, like maybe wanting people to be happy, I don't know but it makes sense to me now.

RG: Absolutely. So you've gotten through these first early meetings...

PB: Yep. And everybody committed. So we, pretty early in it, decided that the training needed to focus on the technicalities of the law but more than that, people had to understand why. Why ICWA was important, and to instill some sorts of value about complying with ICWA, instead of having people just mechanically do it, they wanted people to know why they were doing it and to want to do it, to create some understanding. And so we talked about having a panel of people who had been—Native people who had been in the custody of state as kids but thought that was too much to ask of people and that folks would be too vulnerable. And so we worked to create a video that we ended up calling "Belonging," and we interviewed, oh gosh, I think ten people who had been—Wabanaki people who had been in foster care when they were kids from all the tribes that were participating in the ICWA work groups. I don't think we had anyone from Motahkomikuk but all of the other tribes had participants. And so we created that video and then prepared to do the training. I think we talked the other day when we were doing a focus group as the REACH group. Correct me if I'm wrong. We've talked about this so many times, I'm now doubting whether we said that. But people who participated in the video, we didn't really do any follow up supports with them. So a number of them like destabilized too much. One person who had been sober for years and years, started drinking again. Another woman ended up being institutionalized in a psychiatric facility—I think a suicide attempt or depression. And that—had a series of that, **[00:33:28.26]** and that those kinds of hospitalizations, after telling her story. More than one of them said they had never told their story before. And some of them—I did all the interviews myself for the documentary. Some of them sort of laid their hearts open and were really raw in telling their stories and some—some had this more superficial I guess—that's probably a judgment—but a little more surfacey kind

of way of talking about it. Generally more positive, and that's fine, but um, the ones who were more raw, talked more about identity and belonging and their inner turmoil and feeling like they ever belonged somewhere and their lives had evolved in such a way that that showed up in their lives, whether it was substance abuse or having some difficulty, whether their kids were not—they had difficulty caring for their kids, showing love to their kids.

There was one person who, their child ended up being in foster care. Another one ended up not growing up with that person, too. So a lot of things played out in their lives that were exceedingly painful and disruptive of a—of family life. Um, people's reactions to the video were really interesting—that on—in every training that we did, there were at least one or two people if not more who would always say the same thing: "It's not my fault what happened before. I don't know why we're looking at history. I didn't do that. It's not my fault." So it's interesting, I mean here we are now, intentionally going back and trying to understand as much detail and as much nuance about what people were doing and thinking and what those experiences were like for the child welfare professionals and for the Wabanaki people.

I don't know if we ever made sense to them about why we went back to understand what happened. Mostly, I would say the trainings were well received. The first one was in the hardest part of the state, where some of the most challenging problems were occurring, in Aroostook county. Not because Aroostook county is bad but the two tribes that are up there, all of their cases are heard in the state district court. They don't have their own jurisdiction and so it sets up a bigger problem. And it was the first place that we did the training, so the structural strengths and weaknesses of the training (*laughing*), we found out—"Oh, lets fix these things." So there are things we could fix in the training and maybe it was a good place to do it, you know, to have all the problems be sort of visible. But that part of the state—there was a lot of hard work done in that part of the state for many years. Um, I wish people like Pam Glidden would talk with the commission. Her name came up a lot with **[00:38:06.18]** people being unhappy with decisions that she made. I don't know if she was involved in the situation with the Maliseets—that was more—that was quite a visible conflict. But I don't think—I know we've tried to reach out to her and I don't think she has responded yet and it was—Betsy Tannian at some point became the Director of the Maliseet, the Houlton Band of Maliseet. She is a Penobscot woman and was involved with the ICWA work group from the beginning. First as a graduate student and later as a consultant to the Maliseets and then as their director. And I think she now is an expert witness. I hope she's provided a statement. She worked so hard up in that county and never backed down from making people have to pay attention to what to do on ICWA cases and she probably—I mean, she probably had a lot of headaches but she was a great advocate. And I think any of the progress in Aroostook county, a fair bit of it is to her credit. And there was a caseworker up there, oh boy, I'm not going to remember her name. Hopefully Barbara is connected with her—who she and Betsy figured out how to work really successfully together. And really, to me that was really the beginning of some turn around happening in that county. I would guess that was probably 2005, 2006. I bet somewhere in there when there were some greater problems (*sighs*). So we did the training in Presque Isle, I think we went down to Machias from there.

I don't remember any of the other trainings being as noteworthy or challenging as the one in Presque Isle. And the attendance was good. I think by-and-large, people appreciated it. And that more than one time, I heard particularly veteran caseworkers that I had known from when I



worked for the Department—um, hearing people say, “I never knew this existed, I never heard of the Indian Child Welfare Act before,” and how could I be surprised? Because I would have been one of those workers had I not changed my jobs, right? So at the end of the—I think we did our last training in Augusta—at the end of that year as we were wrapping up the tribal folks said, “We can't stop, like this work really needs to continue.” And Sandi Hodge to her credit made sure that it got included in the ongoing contracts for this work and then just became a staple part of the work. I think the next three years after that, it wasn't a state-wide mandatory training but it was offered as part of the training offerings that caseworkers can take in the beginning and in the first probably two or three years, we expanded the amount of time that ICWA was included in the pre-service training for caseworkers and that that was delivered by a Wabanaki person. Betsy did it for many years. Betsy and Esther worked on it together for many years. Molly did later and I think Esther is doing it now so it went from probably being, you know, 20, 30 minutes of reviewing some of the law—I think it's three or four hours now as part of that pre-service training.

I don't know how much of that sticks with people still but um, that was an improvement. Somewhere in there, probably 2009 or 2010, the ICWA workgroup created an online training program for ICWA. [00:43:31.05] And before it was launched—it was 2010 because then the new administration came in, new child welfare leadership, and in 2011, the child welfare training institute contract was ended. And that was a massive organization, it was part of the Muskie school that did all of the pre-service training for caseworkers, for adoptive and foster parents, some other parts of the training and ICWA workgroup was part of that contract. So nobody knows where that online training is. So that is probably as much our failure as anything (*sighs*). I think of all the achievements of the ICWA work group. The training was good, getting a policy, Indian Child Welfare policy that was written with the tribe and the state together with it being ICWA as a foundation but sort of raising some standards to be higher than that, that that was good. Um, having a case review process that reviews every single case. That the case review tool designed in collaboration with the tribes, that that was good. Um, and yet I think what we did was we created stronger systems at the administration level. And there have certainly been some practice improvements but there's—one of the things that came out as a recommendations in one of the ICWA summits and never really got off the ground—we talked about it again as we were starting work on this process is—how could each office have a person who is like their expert, knowing who the tribal child welfare staff are, knowing what the law is, that they're networked together. They understand what the resources are. Someone has an ICWA case in that office, there's someone that they go to and can really help them, step by step, know what to do, preferably a supervisor because when people become supervisors they tend to stay longer. Caseworker turnover is far too high.

RG: Can you tell me about the policy that you guys developed? Where is it higher than the law?

PB: Well the whole concept of co-case management, I think it is, I think articulated a bit more clearly. I think in another place, it is saying that if a child is a Native child, whether they are from a federally recognized tribe or not or whether they are on the census of the tribe, that you should follow these policies. So that it is really striving for people to attend to that sense of belonging and connection to their community. Those are the two areas that jump out to me.

RG: Is it your understanding that the state is following that policy as opposed to the basic ICWA, like what's written in the law, as opposed to the policy that was developed?

PB: That's a great question. That's my understanding—my understanding is that it's the expectation of the state that they are following that. Whether practice is living up to that, I think—the case reviews that they did and they are overdue to do one again. There is nothing that compels them to do then and so that would be another thing that I think would be really helpful. They did one in 2009, one in 2011. The idea was to do them every two years and it's been three years already. And really it's most meaningful if they're like, tracking that. So note to the commissioners: it could be something really that could structurally set up to do every two years. What the case reviews showed is that notice to the tribe was better, that people were getting the concept of co-case management, and that things like inviting tribes to the family team meeting was going better, engaging the tribe and planning the family team meeting, identifying when it was going to occur—there were signs of progress but not really to that full standard of co-case management, so it is...go ahead.

RG: Case reviews.

PB: Yeah, so I lost my train of thought but—so definite practice improvements yet clear areas of where they needed to improve. It's really funny now that we're talking about it and this is ridiculous to say: when they get these case reviews done, then what do they do to go back? I assume that one of the things they do is to go over those and they supervisor meetings every month and meetings with program administrators every month and so when they are doing case reviews, I assume they go over that with supervisors so they think about areas of practice that they have to improve. But again if they had *[00:50:11.18]* ICWA expert resource person in each office then they could think of things that they could do—whether it is a training on the concept of co-case management. I don't know. It's really, it's always fighting against the small number of cases and this huge conceptual shift that workers have to make around some particular parts of it. The fact that the department made a conceptual shift in regards to how it viewed family, period, probably was a big part of some of the practice improvements that happened when Jim Boower was head of the agency. He brought in a demand as the director that children are better off with family and went from, and these are not going to be accurate numbers but probably 9% of kids being placed in kinship care to in some areas of the state over 20% of them being placed in kinship care in a fairly short amount of time. He demanded that that happen. He was—people were not particularly fond of him, particularly at the beginning but he did some good things.

RG: Was there an agreement from DHHS for the state to follow the policy that you developed?



PB: Yeah, it's their policy. It was adopted, it went through their policy-making process. Martha Proulx as the ICWA liaison was responsible for drafting it. It took forever to get it done, and sometimes it was just because of the policy process and sometimes it was because it sat on a desk. But it is official. You can, if you go online and I don't know if you even know how to find the OCF policy manual online, there's a link for it. But it is there included along with all of the other polices. And it's really, I think it's pretty good. I'm trying to remember—I haven't looked at it in a bit but I'm trying to remember what it does in terms of like, permanency and termination of parental rights, the kinds of things it lays out. But those would be good things to look at. Because there's such a big divide when it comes to that. I'd be curious with the next child and family services review, if they look differently at permanency planning as it relates to Native kids around termination of parental rights. Each time they do CFSR, there's something that they learn from the process about how the evaluation tool, about—there's some mismatch about the way practice really needs to be and termination of parental rights as it relates to tribal kids is one of those areas that—how do you still move to permanency for kids? And not do that.

RG: Can you tell me about how the work group became the convening group?

PB: Yep. My boss, a guy named Marty Zangie—he and Dan Dusbar were attending a Jim Casey Youth Opportunity Convening somewhere in this country. And typically at those convening, different states talk about unique initiatives that they're working on. And somewhere in there, one of them talked about some reconciliation work that was happening between a state and a tribe and Dan who was then the child welfare director turned to Marty and said, "We need to do that in our state." And so Marty came back and we were having this conversation about it. And at the time we had been working with a foundation called the Andrus Family Fund that did a lot of work with older youth in foster care around transitional issues but they also had a community reconciliation program area and had worked—the program officer there had been the Executive of the truth and reconciliation commission that had happened in Greensboro, North Carolina, the first commission that had occurred in the U.S. And so he said, you know, "Call her and just talk with her about what is happening here and what that would take," and so we had a conversation and she came to Maine and facilitated a discussion between what was then the ICWA work group—Martha was there as the state liaison [00:55:28.26] I think Theresa Dube came as the CFSR coordinator and QI person as well, another one of the people there was Francis Sweeny who also—he and Martha together supervised all the district program administrators. Janice Stoover was there from the Attorney General's office. That might be it. So we talked about, Jill talked about what a truth commission is and other kinds of reconciliation, or community reconciliation kinds of initiatives—what they could be. I don't remember what the other ones were now, to be frank.

And um, there was some clear thought—like the tribal folk before these meetings would say like, look at all these great things we've done, like the policy. People felt good about these

things that we had worked on together. People felt good about working together, from that first meeting when people didn't even want to be in the room together. People started really caring about each other. And so there was this nice sentiment about the work but there was still this wall that we were running into. And so how much was, you know, we hadn't done enough and how much of it—we began to think about how do we talk about racism and how do we talk about what happened in history. Because that stuff, like whenever that stuff got touched on, it was like a hot button. So we knew there was some energy there. So in the end, everybody in the room agreed it would be good for us to do some kind of reconciliation something or other. And that maybe it made sense for the tribe since it was so—it was like their everything, their lives, maybe it made sense for the tribes to talk together a bit about what they were hoping would happen and then to invite the state back in when there was some greater clarity about what they might want.

So it took—so at that point, we would have ICWA work group meetings and we would spend time talking about this and this discussion really dominated more than some of the tasks that we had worked on in the ICWA work group. It became really consuming to try and understand what—(*talk about thermostat, laughter*) So uh, I think it took us 18 months to really grapple with what would it be. And we had a couple of retreats. We had someone from the International Center for Transitional Justice, Lisa Margurel, marvelous, who helped us think about what would it be that would need to be investigated. And Jill also assisted us with that. And ultimately got this sense of all the things that had happened that really needed to be uncovered. In some ways, it was almost like a mini commission. There was a sort of unearthing all of these things that had happened or at least what people knew of. People told these stories about the Maliseets being made to go live on the dump and stuff that. And in some ways, that's exactly what it was, there was this airing out between us, talking about things that we had never talked about before. And maybe it was getting a little bit beyond politeness, you know, working on these structural things, that's funny thinking about it. But the state was ultimately invited back to the table. I think it was in 2009. And this declaration, this draft declaration that the tribes had created. It was the tribal people and me—they asked me to stay and facilitate. So, and I'm not a tribal member. So we had this five page declaration that not only was declaring what needed to be investigated but also inferred a lot of things of what you would find out if you do this investigation (*laughing*). And **[01:00:52.15]** the state came in and said you know, “We can't sign this,” And at the time we were thinking it would be a truth commission between tribal child welfare programs and the state child welfare programs. We weren't thinking that government's above those. And so they—the group as a whole, tribal and state agreed to chuck that, set that aside and to write a declaration together, which they did. And the Maine Indian tribal state commission, John Dieffenbacher-Krall became involved and he was a great asset. In a couple of ways—one, in helping us to think about this at a higher governmental level and knowing strategically how to engage people and also to keep us moving so that we didn't—it was really easy to get bogged down in all the ways that you can talk about this. We could have spun our wheels and John pushed us on at times when we needed to be pushed on and that was really helpful.

So when the declaration was more complete, it then went from tribe to tribe through the tribal councils. Esther and then the particular people from each of the tribal communities would present it at the tribal council, ask for them to create a resolution supporting the declaration and those were secured from all of the tribes. And that was really authorizing their chief to sign on



to the declaration. And then Jon helped us to do the same with the governor's office. First with Governor Baldacci's office. Governor Baldacci being a Democrat, we thought we would have more success getting it through with a Democrat than whatever might happen after the election. It never moved out of Governor Baldacci's office. His, one of his staff was very helpful, he came to a couple meetings, he was great and I'm not sure what kept it from moving and so when Governor LePage was elected and we knew that he was coming in, we thought, "Oh this will never move," and he signed it immediately. *[01:03:26.00]* It worked—John and Esther did a little bit of work with his staff person but the governor signed it immediately. Uh, I saw him at a—I'm of a different political party than the current governor but I saw him at an event shortly after he signed the declaration and I went up to him and thanked him for signing the declaration and I thought that was a great act of leadership and he said, "Oh, I'm all about exposing the abuses of prior administrations." (*Laughing*) So, okay. But he signed it and his comments at the declaration signing were very good and his comments at the mandate signing later were the most on-point and showed great understanding at what this was about so I admire him for that, which is good. If we had all of these things to write over again, we'd probably do a better job having learned all that we've learned since then but...

RG: For example?

PB: I think with the mandate in particular, there's things that we would do to anticipate, like what happens if a commissioner had to step down, you know, how would you replace a commissioner? There's just details like that that we never thought of—and um. And then, I think the other part is the role of the signatories—for instance, having their endorsement of this process I think was fantastic, having their agreement to certain, to do certain things to support the process fantastic. The idea of—if the commission wanted to request an extension, I think I'd just want to think more about—would it be those governments that would have to be the ones to authorize it. And what kind of—so anyway, there's things like that that have arisen in the process of—that, you know, we just didn't anticipate in the same kind of way. So those kinds of examples. So I don't know—probably that extension has the most practical application but. And there's not been a reason for a commissioner to step down but at the very beginning when there was some—when the governor was unhappy with one of the commissioners who was appointed, we were quietly saying, "What do we do?" I mean, even if this person had to step down, we don't even know what we we'd have to do to replace that person. The whole, the provision of the commission selection process—so there's things like that that I would, if I had to instruct someone else about doing it again, about what to do.

What to do, for instance, out of this particular commission, what to do if one of the commissioners had to step down, how to have an alternate available or something like that. What to do if one of the two Native commissioners step down. Right? What if your alternate is a non-Native person. So even things like that, I mean we've just been fortunate with, one that particular conflict, one that had some health issues arise but has been able to persevere, that has

not disrupted the commission. But when those things rear their heads, it's like, "Oh, we didn't think about that." So it's that kind of stuff. I don't think it has been anything that has impacted the way the commission has done its work. I think the things we went through that—I mean, we had our painful growth experiences together about the inter-relationship and the distinctions between what was the convening group and then later REACH and the commission, how do we relate to each other, how do we work together, how are we inter-dependent and where are we autonomous and what does autonomy mean? All those discussions were so good but they were painful. I mean they were, you know. They were painful.

But I think in some ways, I mean, don't you kind of wonder if some of that—I feel like some of what we have gone through and have had to figure out internally mimics what's happening between the state and the tribes—that whole issue of autonomy and interdependence. And what happens when white privilege arises? You think you're doing a good job and all of a sudden—but for me, my privilege—I feel lucky when I see it. And much like when I was a caseworker, I think about how many times I missed it when I've been acting out of my privilege but that's what—if we can work on that stuff and not pretend like we're doing this work to fix other people—then that's a little bit more honest (*laughing*). [01:09:42.08]

RG: So thinking back to when the declaration was signed and then the mandate, what did you envision for this process? How did you want to see the process unfold and what did you, then, at that point, want to come out of it?

PB: You know, it's funny. I think I imagined, I don't know. I think I probably imagined South Africa and I probably imagined that people would like come to some little hearing and tell their story and you know. We watched the film about Greensboro and really what we needed was a film about what happened behind the scenes of Greensboro, even more, right? Like all the work that is happening here. So there's some—some of my early imaginings were not realistic because they were based on superficial understanding about a truth and reconciliation process. And luckily, Esther and then later, Heather both went to that thing in Barcelona that gave a little bit more nuts and bolts help—that would be another thing I would do—get someone to Barcelona before we start writing the declaration. But what did we know? Um, so I think I had imagined people who had been in foster care, people who—Wabanaki people who had been in foster care or Wabanaki people whose children had been in foster care, maybe who had been touched by boarding schools—would come forward and tell their stories. And I don't think I really thought about the mechanics—all the stuff you've had to work out about recording and transcription.

RG: That's why they brought me on.

PB: That was good thinking...and then the same thing, that state child welfare people—and that it would be a bit more contained in child welfare both in what was uncovered and what the findings would point towards. I have to say now, I have some really different thoughts about it, about how—and I don't know if that answers your question enough—that's why I hesitated for a second about what I anticipated would happen.

RG: And my next question is how has that changed over time?



PB: I guess the other thing I would say is that I feel naive about it now, knowing how this work unfolded in the beginning in '99. That I think I anticipated a little bit more that people would come forward and that the statement gathering would be just a little bit more cut and dry, you know? But it has to be a process, like why the hell would people want to trust this right away, and need to check it out so I appreciate that more now. And in some ways, thinking that this would be sort of smoother and simpler at the beginning feels very naïve. So what I think about now is—I think I was really thinking about—I'll say this other thing about what I thought about: I think it was going to be—I don't think I fully understood the healing components. I think I did in a theoretical kind of way, but I think I feel more grounded about that. And totally, ally work was not on my radar at all, like building allies in the community. I think I was expecting more that we would get outcomes about how to improve state child welfare and maybe extrapolate from that the way that the state and tribes could improve other areas of tribal-state relations. So that it was really in some ways sort of government to government focused.

And that really feels smaller to me. And that's not to say that that is what the commission is going to do because I think the commission will sort through whatever it gets and finds and makes its recommendations. But the work itself I think from the perspective of REACH, or what I see—the work to—the reclaiming the traditions and healing work and reclaiming community sovereignty in a way that is even different from the governmental sovereignty. This sort of—being able to be the people they were meant to be. I don't think that I would even be able to like, get that before. That seems so much more profound. *[01:15:13.16]* When Esther first started talking about birth and death rituals, I didn't get it. But it makes so much more sense. What assimilation has done, what can be undone about that? Like perhaps, I understand decolonization than I did before. Again, I roughly got the concept but in terms of almost being embodied with that, that piece of work feels so alive. And I think only possible because this truth commission process happened and the work of the commission and the work surrounding the commission is like opening up so many possibilities. The other thing I think the ally-building work, in some ways, we were sort of talking about it but we were more talking about educating people. And that's again, that's too much like an intellectual thing.

An important part of it, people need to hear information but people need to figure out how to be engaged first with themselves. Susan Howe and I had this fascinating discussion yesterday about like what's the intergenerational trauma for white people, and what of that goes back to what happened in Europe and the stuff that first separated Europeans from who they were meant to be. The imposition of some religious institutions, not religions, not spirituality, but religious institutions or other institutions that were trying to accomplish things. Not—I hope this doesn't sound like, “Oh the same thing happened to us,” that's not what I'm saying but that I think, what in the hell happened to white people that they could come here and do what they did to the people who are living here? *[01:17:41.16]* In such really horrifying kinds of ways. How do you get so separated from your humanity that you can scalp a child? What in the

world, I mean like what in the world—like the Doctrine of Discovery—that totally creates a rationale. But still, what happens to people that you can do that to a child? There's something...

And so—not that the ally-building work is going to unpack that but we have to figure out something about the people who came across this land, what happened to them and what we benefit from so that we can connect in a different way. Now there's a slice of that, there are people running to that and wanting to embrace that but there's going to be—there will be the people on the other side of that that are going to have a harder time hearing that. I haven't reconciled in myself how many generations we're talking about having to do this work. I haven't figured that out. Not that it's to figure out but I think about that. 'Cause when you think about sustaining work—well I don't think we can think that far ahead but how do we think about building the work now so that it creates a strong enough foundation so that whoever ten years from now is sitting where I'm sitting knows how to build the next ten years, and the same within the Wabanaki communities as well.

RG: Thinking about the TRC's work from the point when the commission was seated to the present, what are frustrations that have come up for you?

PB: About the commission's work?

RG: Or in general. Pretending you're not talking to someone who works for the commission.

PB: Um, I guess there is one thing that I would say is that some of the things that used to be frustrations about the commission's work, there are some of those that I understand now that were my anxieties about things getting done. So that's what I was sorting out in my head a little bit. I'm acting like an introvert which is not true (*laughing*). Um, so for instance, one of the things that was a frustration, and maybe still I have some angst about, is the closing out of statement gathering. I'm just nervous about that. I guess that's the more accurate way of saying that. Like it took a while for us to get people moving into the process and I would—like say us—and um, I think it took us a while to figure out how we were going to do this together.

So I'm still nervous about that—particularly with the correctional stuff and the system that moves at the pace that they move at and things needing to happen so that they aren't destabilizing prisoners and setting them up for having conflicts in prisons which they will pay a bigger price for. And that's not and like—all of what's happening makes sense to me. And it also makes sense that we figure out what is the process where people can tell their story and have that captured—different than—and the archiving piece will just become a conundrum of that. For instance, whatever gets chosen as the archiving facility, I worry about the archiving decision like what place is going to have what is needed and is it-- are the people going to be okay with what happens. So, I love the conversation with Kevin Gover. I personally would like to see stuff go there.

Um, I would wish that Matt had never publicly said that reparations are not on the table and I don't mean that I think you should—the commission should recommend reparations—but I think the commission should have every option available to them. And I would—I guess I think I would even ask the commission if they haven't already, really deeply understand what



reparations could look like. And not the writing of a check to an individual being the only way that could look. [01:23:53.07] Um, so I do think—I don't know if there's anything else that we could have done to give the commission a higher level of authority. 'Cause they will make recommendations, they don't have any sort of authority. Is that a good thing? Maybe it's a very good thing. But I think about that sometimes, you know, that they don't have the force of law behind them. I don't know if that is good or bad but...

RG: Is there anything that you wish could have been different, aside from that reparation piece and not knowing whether giving the commission more legal authority would have been helpful? Anything else throughout the process that you wish had been different? Either through the TRC or in the work surrounding the TRC?

PB: I'm not sure if I do. I think with the commission selection process, I think it was a really good design. I wish that we had been more explicit that if you are appointed by X body, that your job is to go back and report to them and to come back representing them. 'Cause I think—I'm not certain that was clear to everybody so that would be one thing. And I might be wrong in my wondering about that but I... I can't think of anything right now that I wish would be different. All of those things, even all of those things being said, Matt having said that about reparations—at the swearing in he's asked that, what does he know? Like there's not been any talking points prepared, it's his very first day after being sworn in. Um, nothing is a barrier to outcomes. I don't feel afraid of any of that.

RG: And what do you hope to see come out of this process?

PB: I do hope that there's some good structural recommendations to child welfare. Specifically that the case reviews, the district resource people more regularly happening. I'm curious about what could come out of this that could strengthen child tribal welfare and only anecdotally hear a lot of discussion about that needing to occur. Um, I hope it creates some curiosity and visibility in the state about who are the tribes and what's going on and maybe a bit of more people having more sensitivity of like, "We did some things wrong as a people," so maybe being more open to exploring that further or other things that come down the road. Um, I don't know. It's funny, I don't know in other areas of tribal-state relations what kinds of things that might come out of this, but that if there's some concrete ideas that could help with that given some of the conflicts that have arisen around the fishing issues and the rivers and stuff. I'm not sure how what we get from this can apply over to there. Not necessarily recommendation but just as a model. And I hope it gives us some momentum to launch into that next phase of work and feel really excited about the vision within the Wabanaki communities and the interest among people in the white communities that want to come forward and do some more stuff so those, I guess those are the things. Yeah.

RG: Is there anything else that you would like to add today? You can always add later.

PB: No. I don't think so. You've done a hell of a good job. You guys have done a hell of a good job.

RG: Thank you so much for your time.

[END OF RECORDING]