Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission
Mandate
Signed 6/29/2012

The Convening Group to establish the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission is comprised of individuals with a connection to Tribal child welfare and social services from each of the five Wabanaki communities (Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, Penobscot Indian Nation), as well as staff from the Muskie School of Public Service, Wabanaki Mental Health Associates and American Friends Service Committee (AFSC), and the State of Maine Department of Health and Human Services Office of Child and Family Services (including the Child Welfare Director, Director of Policy and Practice, District Operations Managers and the Manager of Program and Quality Improvement).

Preamble

The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (TRC) is formed to uncover and acknowledge the truth, create opportunities to heal and learn from that truth, and collaborate to operate the best child welfare system possible for Wabanaki children, a goal shared by all the signatories to the Declaration of Intent. The Commission's investigation shall focus on the period from passage of the 1978 Indian Child Welfare Act (ICWA) to the authorization of the Mandate. This investigation will also include information that contributed to the passage of the ICWA in order to put understanding of the truth in a proper context.

Truth and reconciliation is an ongoing process with commitment from Wabanaki people and their respective governments, state government and the Maine Indian Tribal-State Commission. This TRC will learn and benefit from the participation of those affected including the Wabanaki people who were formerly clients of Maine child welfare, their families, communities, religious entities, former state and tribal child welfare employees, and the people of Maine. Reconciliation may occur within or between any of the above groups and includes relational, systemic and cultural change. The Convening Group will continue to support the Commission by promoting the TRC in each community, creating community and individual supports for those who will participate in or be touched by the Commission's work, acting in an advisory capacity to the Commission as they engage each community, and assuring that the intention of the TRC Mandate is being addressed and honored. However, the governmental signatories affirm the independence of the TRC to make such findings and recommendations as they deem appropriate given the testimony and information that comes before them.

The Wabanaki Tribes and the State of Maine cannot change the events that occurred and their impact on individuals, families, and communities. However, genuine healing can begin with an honest recognition of events that have occurred. By honestly examining the truth and recognizing what has been done, the State of Maine, in collaboration with the Tribes, can implement changes in child welfare practice to prevent recurrence and identify how truth and reconciliation may benefit other areas of Maine tribal-state relations. Through this, forgiveness and reconciliation may be achieved.

Establishing the Commission

The Convening Group that worked with the Wabanaki and Maine governments drafting the Declaration of Intent and this Mandate will ensure the selection of suitable commissioners and organizing the orientation process for the Commission members. The Declaration of Intent was

signed on May 24, 2011 by the Governor of Maine, Chiefs and representatives of the five Wabanaki communities, and Maine Indian Tribal-State Commission (MITSC) committing the signatories to undertake a truth and reconciliation process.

This document creates the Truth and Reconciliation process between the State of Maine and the Wabanaki Tribes. The Mandate for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission was written by the Convening Group, supported by the Maine Indian Tribal-State Commission and endorsed by the Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, Penobscot Indian Nation, and the State of Maine. The parties to this Truth and Reconciliation Commission process and mandate will work in good faith with the Commission in accordance with the expressed commitments made in this document. This will include cooperation in providing public information and confidential information when a legal release of information has been executed to help the Commission fulfill its mandate, as well as reviewing and considering the Commission's findings and recommendations. The Commission may request the production of documents in the possession of governmental and private interests in addition to testimony from individuals the Commission believes possess information important to fulfilling its work.

The Mandate sets forth the general parameters that will shape the Truth and Reconciliation Commission's (TRC) work.

The Commission shall be an autonomous body comprised of five Commissioners that are trusted by both tribal and state governments and their respective citizens. The criteria for Commissioners shall be persons of recognized integrity, stature, empathy and respect with a demonstrated commitment to the values of truth, reconciliation, equity and justice.

At least 4 of the commissioners will be current residents of the State of Maine. All will be selected in accordance with "The Selection Process for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission" document, which is attached. The Commission will designate the Commission chair(s) from within its own membership.

Objectives

Through the Declaration of Intent, the Wabanaki Tribes and State of Maine have agreed that a historic Truth and Reconciliation Commission will be established to contribute to truth, healing and reconciliation.

Built upon the Declaration of Intent, the objectives for this Truth and Reconciliation Commission are to:

1. Give voice to Wabanaki people who have had experiences with Maine state child welfare;
2. Give voice to state and tribal child welfare staff, care providers and legal community in regard to their work with Wabanaki families;
3. Create and establish a more complete account of the history of the Wabanaki people in the state child welfare system;
4. Work in collaboration with the TRC Community Groups and Convening Group to provide opportunities for healing and deeper understanding for Wabanaki people and state child welfare staff;

5. Improve child welfare practices and create sustainable change in child welfare that strives for the best possible system;
6. Formulate recommendations to state and tribal governments and other entities to ensure that the lessons of the truth are not forgotten and to further the objectives of the Commission; and
7. Promote individual, relational, systemic and cultural reconciliation.

Commission's Activities

The Truth and Reconciliation Commission will clarify the experiences of Wabanaki people with the Maine child welfare system during the time period from 1978 to the date of this Mandate with historical references as appropriate. It will seek to understand why these experiences occurred and determine any causes that yet need remedying. The Commission will seek to recognize the impact of these experiences on individuals, families, communities, cultures and state child welfare services.

The Commission will carry out its work over a three-year period, allowing initial time for securing funding and staff, developing an operational plan and beginning its activities. The Commission will convene a first meeting, as determined by the Commissioners, within 30 days of being sworn in. Within 90 days of that first meeting the Commission will undertake orientation with the Convening Group to the background, purpose and direction of the TRC, initial planning and set-up, the determination of its internal procedures and selection and appointment of its key staff. From its first meeting, the Commission will have a period of 27 months to fulfill the terms of its mandate. The Commission may call upon outside resources for administrative support during its initial planning and set-up phase. If necessary, the period of the Commission's mandate may be extended for up to 6 more months, with the permission of the signatories.

To achieve the objectives set out by this mandate and to fulfill the Declaration of Intent, the Commission and its staff shall conduct such research and receive statements and documents from Tribal people formerly in state custody, their families, community members, current and former child welfare professionals, and all other interested participants, make use of all documents and materials produced by the parties for the purpose of articulating an accurate and comprehensive understanding of the experiences of Wabanaki people in state child welfare, and analyze and discuss the information and statements it has gathered to create a common understanding, promote healing, and to make recommendations. The Commission will have no authority to either pursue criminal or civil claims or to grant immunity from such claims. The objectives of the Commission are to create a common understanding, promote healing, and make recommendations for child welfare systems reform through seeking, learning and reporting the truth, which will be accomplished by activities that include, but are not limited to:

1. Utilizing the Convening Group's support and guidance regarding TRC activities and engagement of the communities, including participating in up to 6 statewide events that may be hosted by each community.
2. Engaging communities in identifying individuals to be interviewed and to provide information to be reviewed by the Commission.
3. Seeking any information that would be relevant to creating common understanding, promoting healing, and making recommendations towards child welfare systems change.
4. Coordinating truth seeking activities with Wabanaki communities and the State of Maine.

5. Planning and implementing public outreach and media activities to fulfill the purpose of the Commission.
6. Within the parameters of state and tribal law, ensuring that ownership of information produced through the proceedings respects requests for confidentiality and assures privacy to protect individuals from experiencing further harm.
7. Summarize truth seeking activities (e.g., statement taking, hearings, examination of archives, etc.) with each community in a format that is preferred by each community (e.g., circles, forums, written draft findings and/or celebration, etc.).
8. Publish an overall report at the conclusion of its investigation. The report shall document an accurate accounting of the experiences of Wabanaki people with Maine state child welfare from 1978 to the signing of this Mandate with historical references as appropriate. The report shall include any recommendations to effect individual, family, community and cultural healing as well as changes to child welfare practice that can assure that detrimental experiences will not be repeated.
9. Providing the Commission's report to the public and specifically to the Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, Penobscot Indian Nation, the State of Maine, Maine Indian Tribal-State Commission and the Convening Group for review and consideration of the Commission's findings. Additional individuals and organizations which are recognized as parties to the TRC will be provided with the final report as well.
10. Holding a closing ceremony that includes the presentation of its report and recognizing the findings and recommendations that have been determined.
11. Archiving all such documents, materials, and transcripts or recordings of statements received, in a manner that will ensure their preservation and accessibility to the public and in accordance with agreements with individuals, between the Maine State and Wabanaki governments and any other applicable legislation.

We believe that these goals and activities will promote healing for Wabanaki people and communities which have been impacted by generations of trauma and will result in recommendations towards child welfare systems improvement.

By signing this mandate, the governments of the State of Maine, Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, and Penobscot Indian Nation are expressing their support for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission's exploration of what has happened, what is happening and what needs to happen in relation to state child welfare practices with Wabanaki children and families. Our commitment is to uncover the truth, embrace its lessons and collaboratively focus our efforts on activities that will help us learn from the past so that we might move forward as equal partners invested in promoting best child welfare practice for the Wabanaki people of Maine.

To support the purpose of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, the governments of the State of Maine, Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Motahkmikuk, Passamaquoddy Tribe at Sipayik, and Penobscot Indian Nation agree to:

- ❒ Publicize and encourage participation in the Commission events and hearings.

- ❒ Educate and inform state agency staff about the Commission's purpose, proceedings and implications for their role.
- ❒ Provide state agency staff release time and ensure that they are not penalized if they talk with or present to the Commission.
- ❒ Produce documents requested by the Commission in a manner consistent with applicable laws, in a timely manner, and at no cost to the Commission. This may necessitate advance investigatory work to identify the storage locations of historical documents and records.
- ❒ Provide meeting space for the Commission's events, meetings and hearings in spaces suitable to provide access for these activities.
- ❒ Encourage and make available government representatives to attend Commission events, meetings, ceremonies and hearings.
- ❒ Encourage state agency participation on sub-committees and workgroups that support the work of the Commission.
- ❒ Make space available for visible display of information and exhibits about the Commission and its work.
- ❒ Read and take into consideration the report and recommendations of the Commission. This includes participating in presentations of and discussion forums about the Commission's report.

We welcome the Commission to our communities, facilities and agencies as it carries out its activities as spelled out in the Commission mandate. We commit ourselves to carry out this process with integrity; promoting truth, understanding and genuine reconciliation.

Chief Richard Catchell — 6/29/12

Aroostook Band of Micmacs — Date

Chief Brenda Commander — 6/29/12

Houlton Band of Maliseet Indians — Date

[signature] — 6/29/12

Passamaquoddy Tribe at Motahkmikuk — Date

[signature] — 6-29-12

Passamaquoddy Tribe at Sipayik — Date

[signature] — 6-29-12

Penobscot Indian Nation — Date

Paul R. LePage — 6-29-12

State of Maine — Date

The Selection Process for the

Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission

Selection Panel

The TRC Convening Group will issue invitations to Tribal and State governments as well as select organizations asking them to identify and appoint a representative to serve on the Commission Selection Panel. The invitation will identify the role panel members will play and the commitment they must make to the selection process. The Selection Panel will be comprised of representatives identified in the following process:

- Maine government will appoint five representatives with the suggestion that they are drawn from:
  - Maine Executive Branch – the Governor's Office and/or an appropriate Executive Branch State Agency.
  - Maine Legislative Branch - Maine Legislature, Health and Human Services and Judiciary Committee Chairs requesting that they each identify a representative from the respective committees.
  - Maine Judicial Branch - Maine District Court Family Division (Maine Guardian Ad Litem and Maine Court Appointed Special Advocates) requesting that they identify a GAL or CASA.
  - Maine Office of the Attorney General.
- Each Tribal government will appoint one representative.
- The TRC Convening Group will identify and appoint one Tribal and one State representative from the Convening Group.
- The MITSC will appoint one representative from within MITSC.

Staff from the TRC Convening Group and MITSC will provide support which includes gathering names of representatives, co-convening and co-facilitating the meetings of the Selection Panel, and scheduling an orientation between the Convening Group and the Selection Panel. The Interim Director will have the principal responsibility for staffing the Selection Panel. The Selection Panel may identify its organizational structure, which could include appointing a Chair, Co-Chairs or other type of leadership from within the Panel. The Selection Panel may adopt procedures that will guide its process.

Nomination and Selection Process for Commissioners

Individual members of the Selection Panel will be empowered to submit nominations of individuals to serve as Commissioners for the entire panel to consider. In addition, any resident of Maine will be free to nominate any person she or he desires to serve as a Commissioner through a public nomination process, subject to the following criteria set forth in the Mandate: *persons of recognized integrity, empathy, stature and respect with a demonstrated commitment to the values of truth, reconciliation, equity and justice.* Public nominations should be accompanied by a nomination form which includes contact information and a brief statement articulating who the nominee is and why he or she is being nominated.

The Selection Panel will then ensure that every nominee completes a full application form of the Panel's design to guide its deliberations.

The Selection Panel will agree upon operating procedures for the processing and screening of nominations, and commit itself to appoint those nominees who, in its judgment, and subject to the criteria spelled out in the Mandate, will best serve the truth and reconciliation process.

The Panel will attempt to decide at all times by consensus, and failing that, by majority vote. The Panel will produce a short list of potential commissioners who will be interviewed by representatives of the Panel before a final decision is made.

A quorum for the Selection Panel will consist of two-thirds of the Panel membership. However, the final decision appointing the Commissioners will be taken by the full panel, to the degree possible.

The Selection Panel will coordinate with the TRC Convening Group and MITSC on the timing of the public nominations, the selection of Commissioners and the seating of the Commissioners.

Timeframe for Selection Panel Member Commitment

- July 2012 Selection Panel members will be identified
- First meeting of Selection Panel members will happen within 30 days of identifying members
- The Selection Panel will complete its work within 90 days of their first meeting