

# **Holistic and Upstream—Opportunities and Challenges for Tribes Using Legal and Policy Tools to Support Health Across Indigenous Communities**

Carolyn (Carly) Camplain, J.D.

Julie Ralston Aoki, J.D.

Nikole Nelson, J.D.

Although the presentations may seem very different, while listening to our presentations, please think about how they are connected. Please discuss this in the chat through the Zoom application.



# Health Care in Tribal Jails

## Legal Implications and Solutions

Carolyn Camplain, JD  
Northern Arizona University  
Center of Health Equity Research  
[NAU.edu/cher](http://NAU.edu/cher)

2021

**PUBLIC HEALTH LAW  
CONFERENCE**

Building and Supporting  
Healthy Communities for All

Sep. 21-23, 2021  
[PHLC2021.org](http://PHLC2021.org)  
#PHLC2021

# ACKNOWLEDGEMENT

3

- Arizona Tribal Correctional Health Care Coalition
- Kim Russel and Ricky Camplain
- Lynette Bonar – CEO of Tuba City Regional Health Care Corp.

2021

**PUBLIC HEALTH LAW  
CONFERENCE**

Building and Supporting  
Healthy Communities for All

Sep. 21-23, 2021  
[PHLC2021.org](https://PHLC2021.org)  
#PHLC2021



# BACKGROUND



## Tribal Jails

Correctional facilities run by either the BIA or Tribes on Tribal lands for individuals subject to Tribal jurisdiction

84 facilities with 9,640 admissions



## Tribal Law and Order Act

Incarcerate individuals up to 9 years



## Tribal Justice Systems Infrastructure Program

Attempt to update facilities



# CHALLENGES AND ISSUES

5

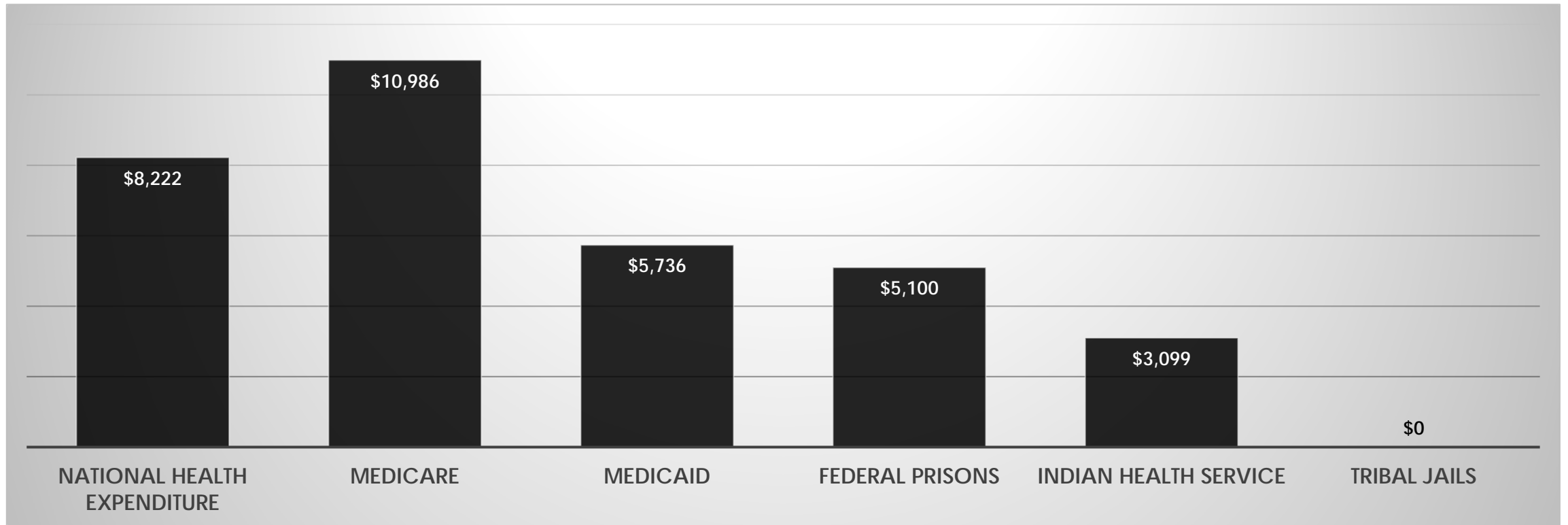


# FEDERAL HEALTHCARE SPENDING

6



Spending Per Person Per Year






# POTENTIAL SOLUTIONS

7



**Background and Data**

Carolyn Camplain, JD  
Ricky Camplain, PhD



## HEALTH CARE IN TRIBAL JAILS

### Tribal Jails Overview

- Tribal jails are correctional facilities run by the Bureau of Indian Affairs (BIA) on Tribal lands for the incarceration of offenders subject to Tribal jurisdiction.
- Crimes committed on Tribal lands are often subject to concurrent jurisdictions among multiple criminal justice agencies depending on the victim, the seriousness of, and who committed the crime.
- In 2010, the Tribal Law and Order Act gave tribal courts new felony sentencing authority which allows Tribal jails to house individuals under their jurisdiction for up to 9 years. This increased the average daily number of individuals incarcerated in Tribal jails significantly.
- Although not all Tribes have correctional facilities and some facilities have been permanently closed, the number of Tribal Jail Facilities in the United States have increased over time to 80 with a total of 9,640 admissions in 2016.

### Health Care in Tribal Jails

- Unlike Federal, State, or County/Local correctional facilities, health care is not available in Tribal jails.
- Currently, Indian Health Services nor the BIA have line items for correctional health care.
- Medicaid benefits are suspended or terminated at incarceration.
- Tribes are depleting their BIA and IHS funding providing health care and transportation for individuals incarcerated in Tribal jails.
- IHS nor Tribal health care providers receive payment for outpatient services provided to individuals incarcerated in Tribal jails.

### The Annual Survey of Jails in Indian Country

- The Bureau of Justice Statistics (BJS) has conducted the Annual Survey of Jails in Indian Country since 1998 in correctional facilities operated by tribal authorities or the Bureau of Indian Affairs on inmate counts, movements, facility operations, and staff. In 1998, 2004, 2007, and 2011, they also collected information on facility programs and service information.

Please do not redistribute or use information without permission from authors.

Data

Federal Grants and Other Funds

Line items in IHS or BIA – add funding, not just amend

National Congress of American Indians and Tribal Resolution

Medicaid Waivers

Build on Current Successes

Native American Correctional Health Care - this is a basic human right of justice and humanity. The families and communities of our incarcerated sons and daughters, brothers, and sisters need help.

Contact Information:

[Carolyn.Camplain@nau.edu](mailto:Carolyn.Camplain@nau.edu)

Center for Health Equity Research

<https://nau.edu/cher/>



# Gifts Across Generations— First Food Laws and Policies in the Great Lakes Area

2021 Public Health Law  
Conference

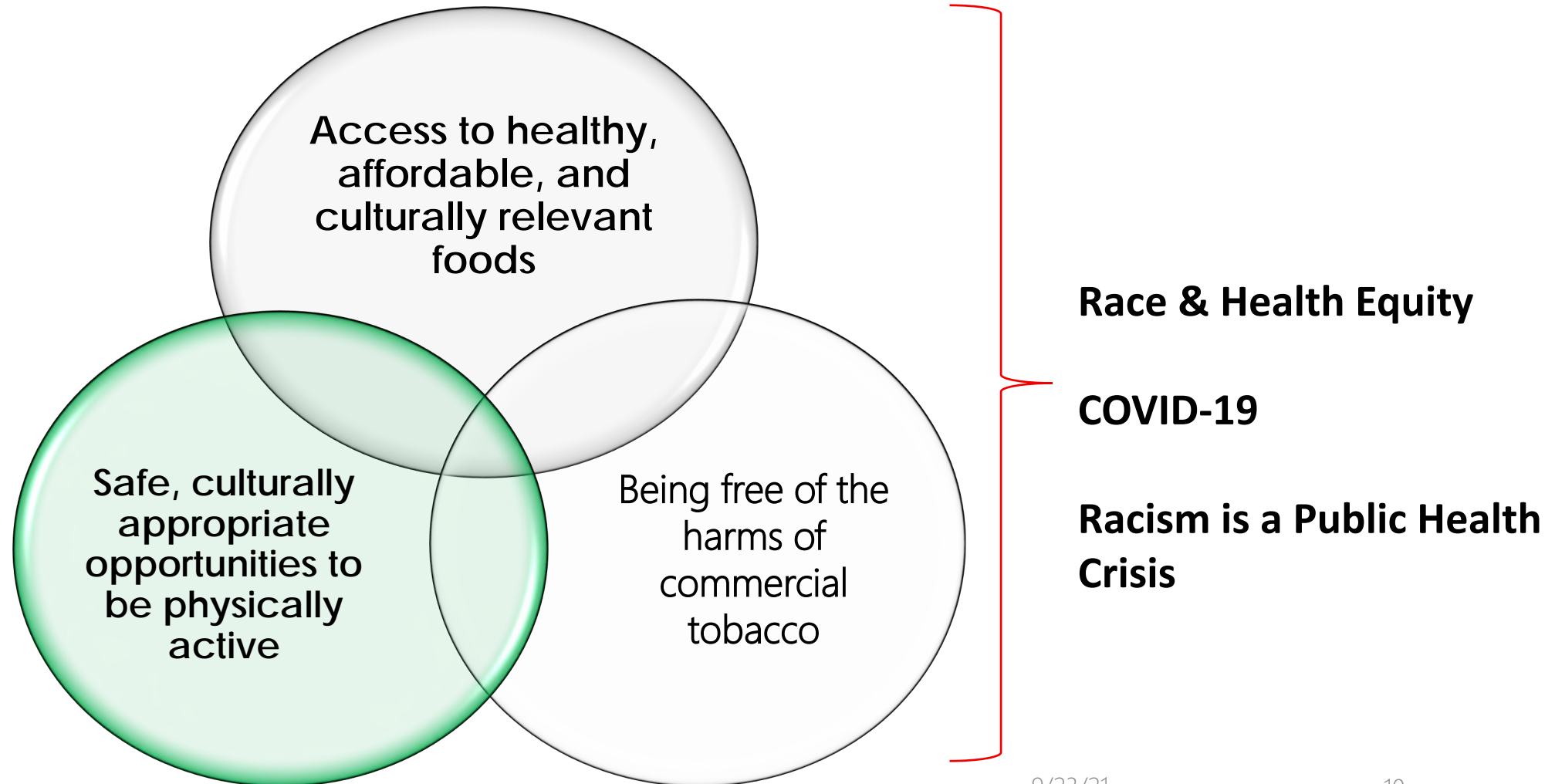
Sept. 23, 2021



**PUBLIC HEALTH  
LAW CENTER**  
at Mitchell Hamline School of Law



# The Public Health Law Center



# LEGAL TECHNICAL ASSISTANCE

- ✓ Legal Research
- ✓ Policy Development, Implementation, Defense
- ✓ Publications
- ✓ Trainings
- ✗ Direct Representation
- ✗ Lobby





based on work for First Nations Health Authority at Gathering Wisdom VI

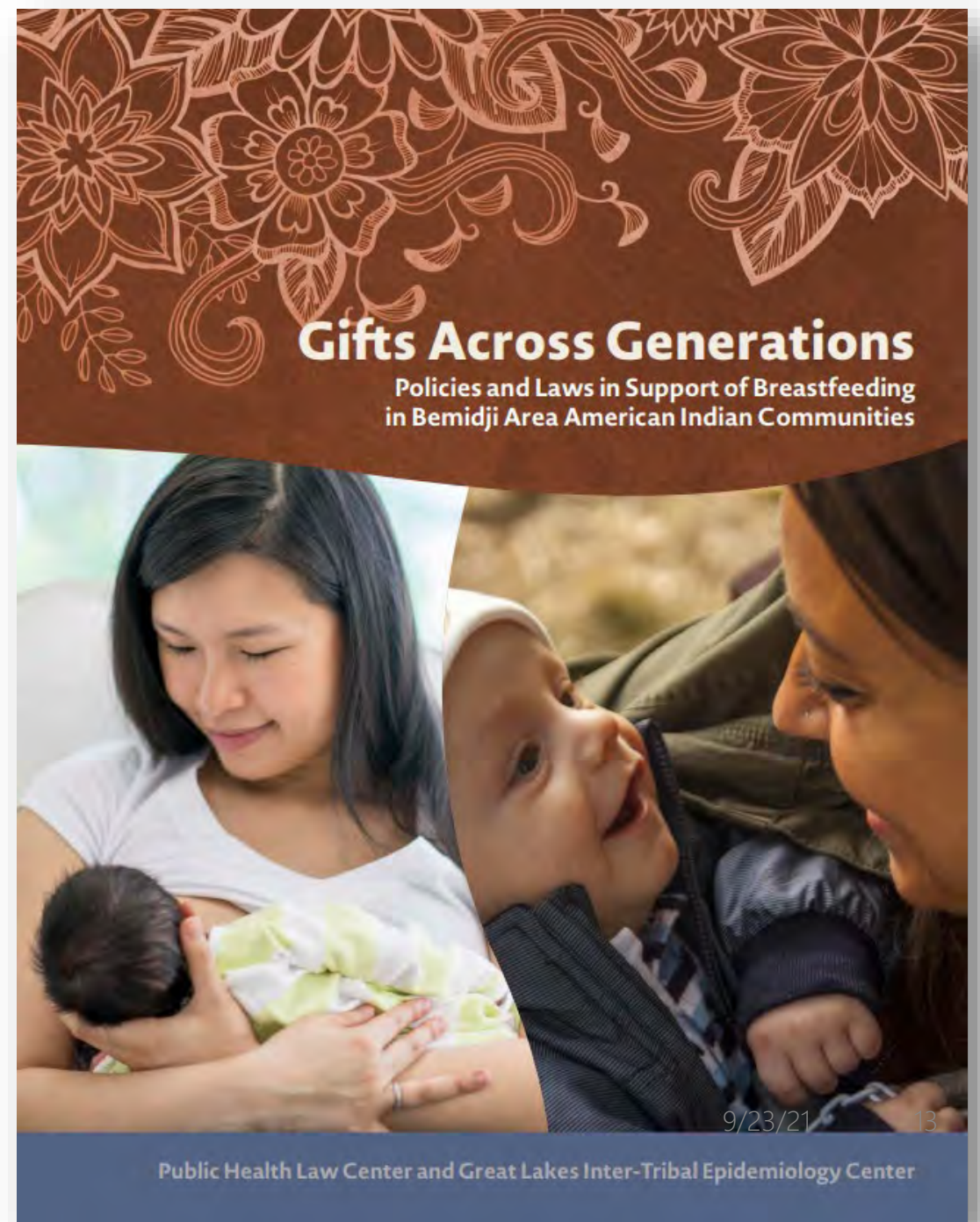
Drawing  
change

Image credit: Sam Bradd <https://drawingchange.com/gathering-wisdom-visuals-for-a-healthy-future/>



# The Plan

- Why first food policies matter
- Context for Tribal first food policies
- First Food Policy and Legal Scan (PALS) project



# With gratitude, chi-miigwech and pidamaya

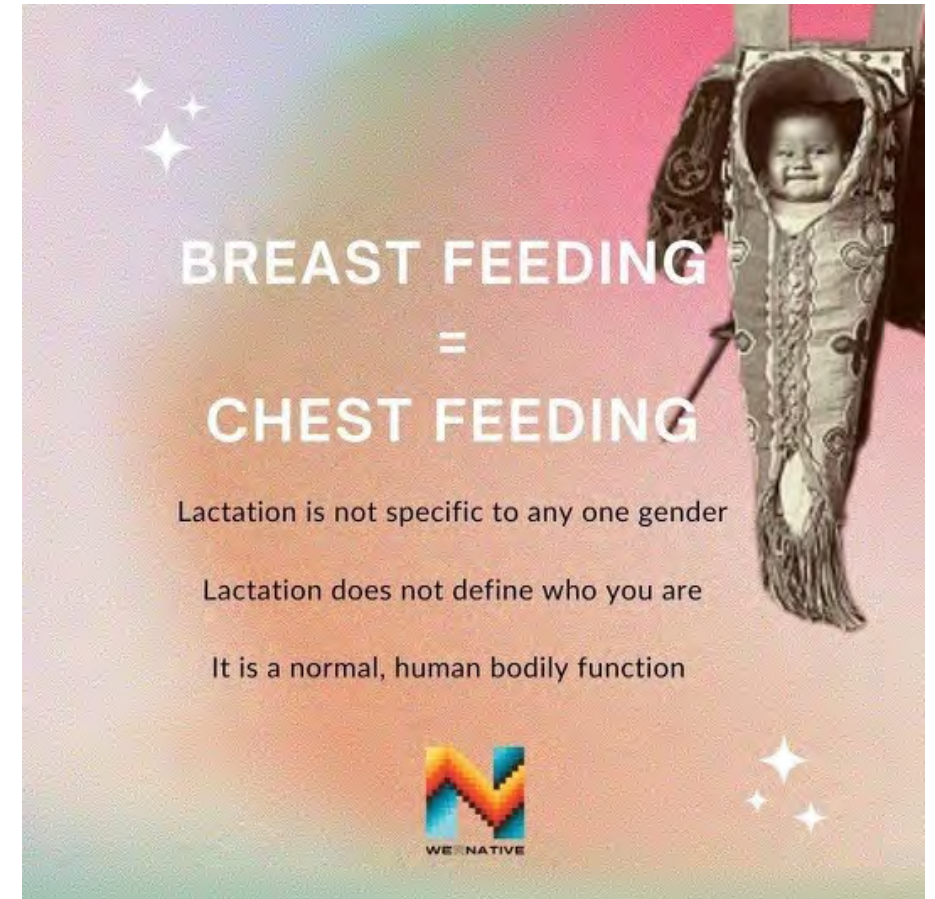
Great Lakes Inter-Tribal Epidemiology Center and the Great Lakes Inter-Tribal Council

- Native Breastfeeding Coalition of Wisconsin
- Minnesota Indigenous Breastfeeding Coalition
- Inter-Tribal Council of Michigan, Inc.
- People: Rae O'Leary (Missouri Breaks), Melanie Plucinski, Jackie Dionne (MDH American Indian Health Coordinator), Takayla Lightfield, Natalie Nicholson, Cheri Nemec, Meghan Porter, Benjamin Yawakie, Safia Abdinur, Stephanie Lackey, Christen Turning Heart, and the many people in the Tribes and urban American Indian health centers in the Great Lakes Area who shared policies and time with PHLC for this project.

ありがとうございます

# A word about words

- First food
- Breastfeeding/chestfeeding
  - human milk
- Indigenous
  - Imperfect term
  - Regional/specific terms are better when possible



# CONTEXT

- Breastfeeding recommendations (AAP)
  - Exclusive for 6 months
  - Continued with appropriate food for 12+ months
- WHO: 2 years or more





# THE IMPORTANCE OF FIRST FOOD POLICIES

## HEALTH BENEFITS



Photo credit: Christen Turning Heart

- For babies
  - immune support
  - reduced SIDS rates
  - reduce risk of chronic disease and more
- For parents
  - maternal health
  - Reduced risk of postpartum depression
  - Lower rate of diabetes, cancer, more

# THE IMPORTANCE OF BREASTFEEDING POLICIES BENEFITS TO EMPLOYERS



- Better recruitment and retention of people of childbearing age
- Breastfeeding/chestfeeding people who are supported at work...
  - are more productive
  - have fewer distractions
  - less absenteeism
  - have more loyalty to the employer
  - have improved job satisfaction

- Nationally: Indigenous rate is second lowest (African American is lower)
- Colonialism
- Generational trauma
- Hypersexualization of Indigenous women
- Disruption of families and traditional life ways

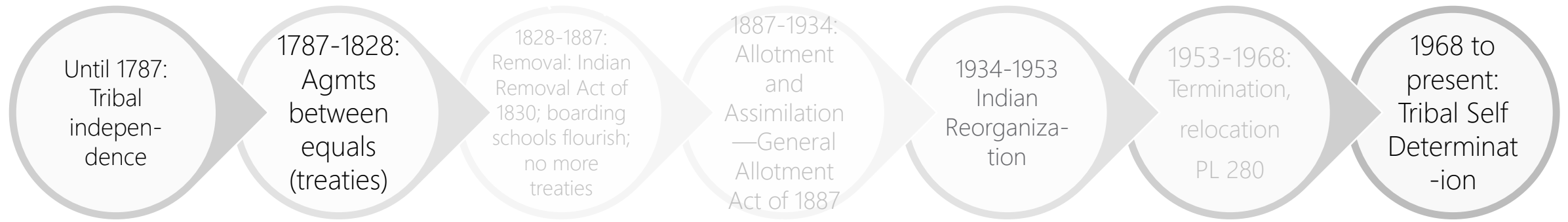


a complex and collective  
trauma experienced over time  
and across generations by a  
group of people who share an  
identity, affiliation, or  
circumstance



# Partial Timeline of Historical Trauma and Policy

Trail of Tears (1838-39)    US-Dakota Conflict of 1862



Marshall Trilogy (1823-1832)

1924—American Indians get the right to vote, but not in AZ (1948) or NM (1962)

Oliphant (1978) and Montana (1981) cases  
McGirt (2020)?



# Not “historical” . . .

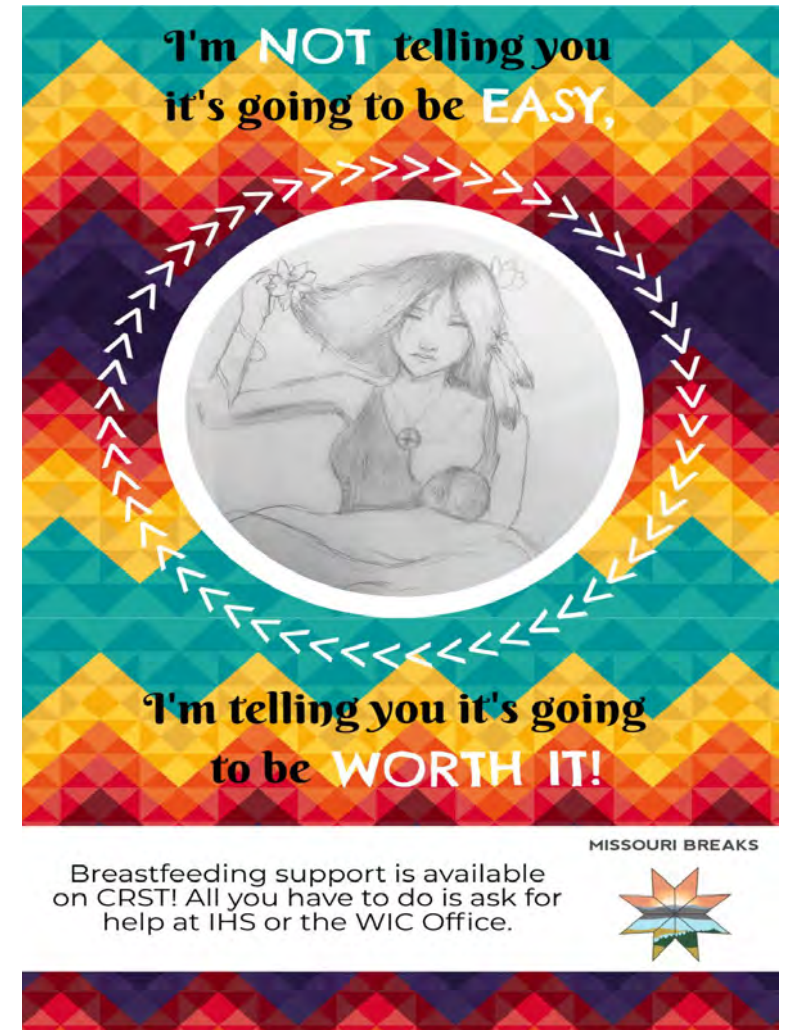
- Indian Health Services under the Dept. of War until 1955
- Missing and Murdered Indigenous Women
- Sterilization of Indigenous women
- Indigenous children being “adopted out” (until ICWA 1978)
  - BUT, e.g., MN had the highest rates of Indigenous children being placed in foster homes (2018)
- Disrupted food ways
  - Displacement, removal, climate change
  - Commodities (formula, powdered milk, etc.)



Rosalie Fish, Cowlitz Tribe<sup>23</sup>

# Tribal sovereignty

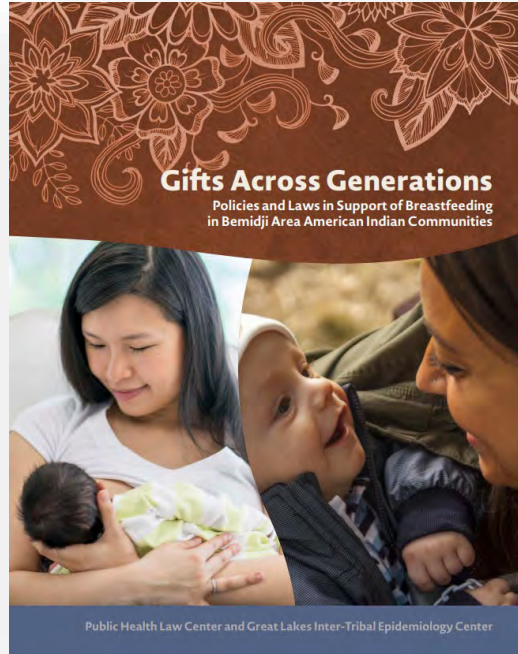
- American Indian Tribes have the inherent right of self-government. From the earliest years of the U.S., Tribes have been recognized as “distinct, independent, political communities” by reason of their original sovereignty.



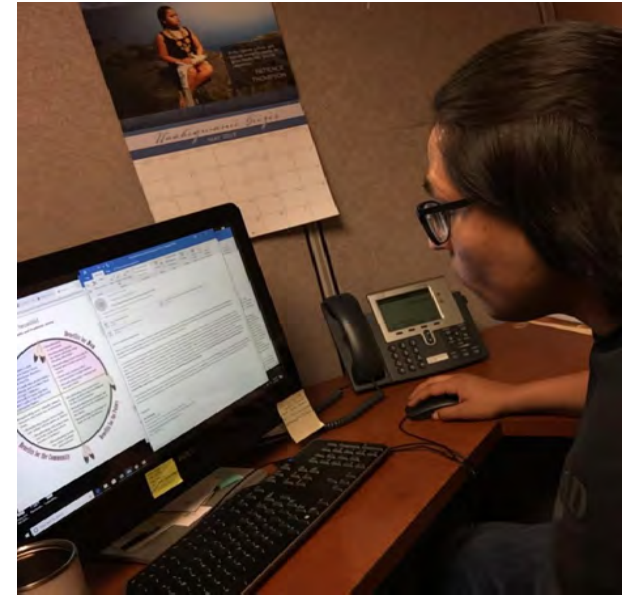


## Great Lakes Area

- 34 Federally-recognized Tribes
- 4 American Indian urban health centers



# First Food Policy and Legal Scan (PALS) Project Methodology





# First Food Policy and Legal Scan (PALS) Project

## Methodology

### Settings



Tribal government/code



Health agencies/ community health centers



Gaming facilities



Early care and education (child care/ Early Head Start)



BIE schools



Tribal colleges and universities

# First Food Policy and Legal Scan (PALS) Project

## Methodology

### Policy coding

#### Policy Focus

- Milk expression
- Babies on-site
- Both
- Right to breastfeed
- Other/unclear

### Other Policy Features

- Purpose/intent language
- Type of space/facilities
- Break time guidelines (paid? frequency?)
- Baby age limits
- Implementation standards
- Enforcement
- Anti-discrimination language
- Support services
- Evaluation
- References to culture/language
- And more (16 in all)

# Tribal Responses– 61 policies shared

Location	Setting	Policy Type		
		Informal	Formal	Totals
<b>Michigan</b>	Health	1	4	5
	Gaming	2	1	3
	Education	0	2	2
	Child care/ECE	1	2	3
	Code/ government	0	3	3
	<b>Subtotals</b>	<b>4</b>	<b>12</b>	<b>16</b>
<b>Minnesota</b>	Health	1	4	5
	Gaming	8	0	8
	Education	2	1	3
	Child care/ECE	1	3	4
	Code/ government	1	0	1
	<b>Subtotals</b>	<b>13</b>	<b>8</b>	<b>21</b>
<b>Wisconsin</b>	Health	2	4	6
	Gaming	5	0	5
	Education	1	0	1
	Child care/ ECE	2	1	3
	Code/government	2	7	9
	<b>Subtotals</b>	<b>12</b>	<b>12</b>	<b>24</b>



Photo credit: Menominee Tribal Clinic





Photo credit: Rae O'Leary

**Table 2: Foci and Key Provisions from Policies within Bemidji Area Tribal Settings (Categorized by State), Urban American Indian/Alaska Native (AI/AN) Health Centers, and the Inter-Tribal Council of Michigan (ITCM)**

	Michigan	Minnesota	Wisconsin	ITCM and urban AI/AN health centers	Total
Policies received	16	21	24	5	66
Formal policies	12	8	12	4	36
Informal policies	4	13	12	1	30
<b>Policy focus</b>					
Baby-on-site (BOS)	0	0	1	1	2
Milk expression (ME)	2	10	11	2	25
Both BOS and ME	8	9	4	2	23
Breast milk use	1	3	0	0	4
Right to breastfeed	1	0	3	0	4
Other	4	1	5	0	10
<b>Selected policy components</b>					
Culture-related provisions	3	0	5	0	8
Paid breaks	1	2	1	1	5
Anti-discrimination language	4	2	6	0	12
Baby age limits over 12 months	3	1	1	0	5
Evaluation	0	1	1	0	2

# Themes

- Tribal health departments/health centers are key partners
  - Promulgate policy for all employees
  - Provide lactation space for all (clinic, community events)
  - Support other agencies and organizations in developing lactation spaces, offer supportive services
- “Above and beyond” policies—baby on-site, no age limits, paid breaks
- Opportunity for more integration of culture/language
- Read more: <https://www.publichealthlawcenter.org/topics/healthy-eating/breastfeeding>



Photo credit: Wisconsin Native Breastfeeding Coalition

# NEXT UP: FIRST FOOD IS MEDICINE POLICY TOOLKIT

- Why is first food policy important?
- Community engagement is the foundation
- Types of policies
- Implementation - putting policy change into action
- Equitable enforcement considerations
- Measuring progress
- Stories of policy change



# Resources and Closing

- [First Food Policy and Law Scan: How Tribes in the Bemidji Area are Applying Policy and Systems Approaches to Support Breastfeeding \(Preventing Chron. Disease, 2021\)](#)
- [Breastfeeding and Expressing Human Milk at Work Webinar, May 5th](#)
- [Mother's Milk is Medicine infographic](#)
- [Great Plain Tribal Chairmen's Health Board breastfeeding po](#)
- [Example Tribal breastfeeding policy](#)
- [Breastfeeding RED Talk Video](#)
- [Drafting Effective Tribal Public Health Laws and Policies](#)





# CONTACT US

- ☎ 651.290.7506
- ✉ [publichealthlawcenter@mitchellhamline.edu](mailto:publichealthlawcenter@mitchellhamline.edu)
- 🌐 [www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)
- 🐦 [@phealthlawctr](https://twitter.com/phealthlawctr)
- 📘 [facebook.com/publichealthlawcenter](https://facebook.com/publichealthlawcenter)



**Julie Ralston Aoki, J.D.**  
Director of Healthy Eating and  
Active Living Programs  
[Julie.RalstonAoki@mitchellhamline.edu](mailto:Julie.RalstonAoki@mitchellhamline.edu)

# Partnering for Native Health

---

Nikole Nelson

---









# Relative Size of Alaska to the Contiguous U.S.

























## Communities

Many communities are not connected to each other by roads, and are accessible only by airplane, boat or snowmachine.









Alaska communities that had no local law enforcement in 2019.

Every woman you've met today has been raped. All of us. I know they won't believe that in the lower 48, and the State will deny it, but it's true. We all know each other and we live here. We know what's happened. Please tell Congress and President Obama before it's too late.

*Tribal citizen (name withheld)*

*Statement provided during an Indian Law and Order Commission site visit to Galena, AK  
October 18, 2012*

# LAWLESS

## SEXUAL VIOLENCE IN ALASKA

A PROJECT BY  
ADN  PROPUBLICA



**Dozens of convicted criminals have been hired as cops in rural Alaska. Sometimes, they're the only applicants.**

In one village, every cop has been convicted of domestic violence within the past decade, including the chief. Only one has received formal law enforcement training of any kind.



**Why remote Alaska communities that need cops aren't getting them**

A tiny Alaska village got a police officer. He's never had to make an arrest. Meanwhile, larger communities with more crime have often been left behind as the state's two-tiered policing crisis gets worse.



**She leapt from a van on the Kenai Peninsula to escape her rapist. Then she waited 18 years for an arrest.**

Anna Sattler's rape kit sat untested for almost 20 years as Alaska's backlog got worse. Now, an ex-Iditarod musher faces charges, and she's speaking publicly about the attack for the first time.

**Direct Benefits  
Across Alaska**

**12 Offices**

**177 Communities**

**3,356 Cases**

**7,225 Alaskans Impacted**



**OUR SERVICES:**

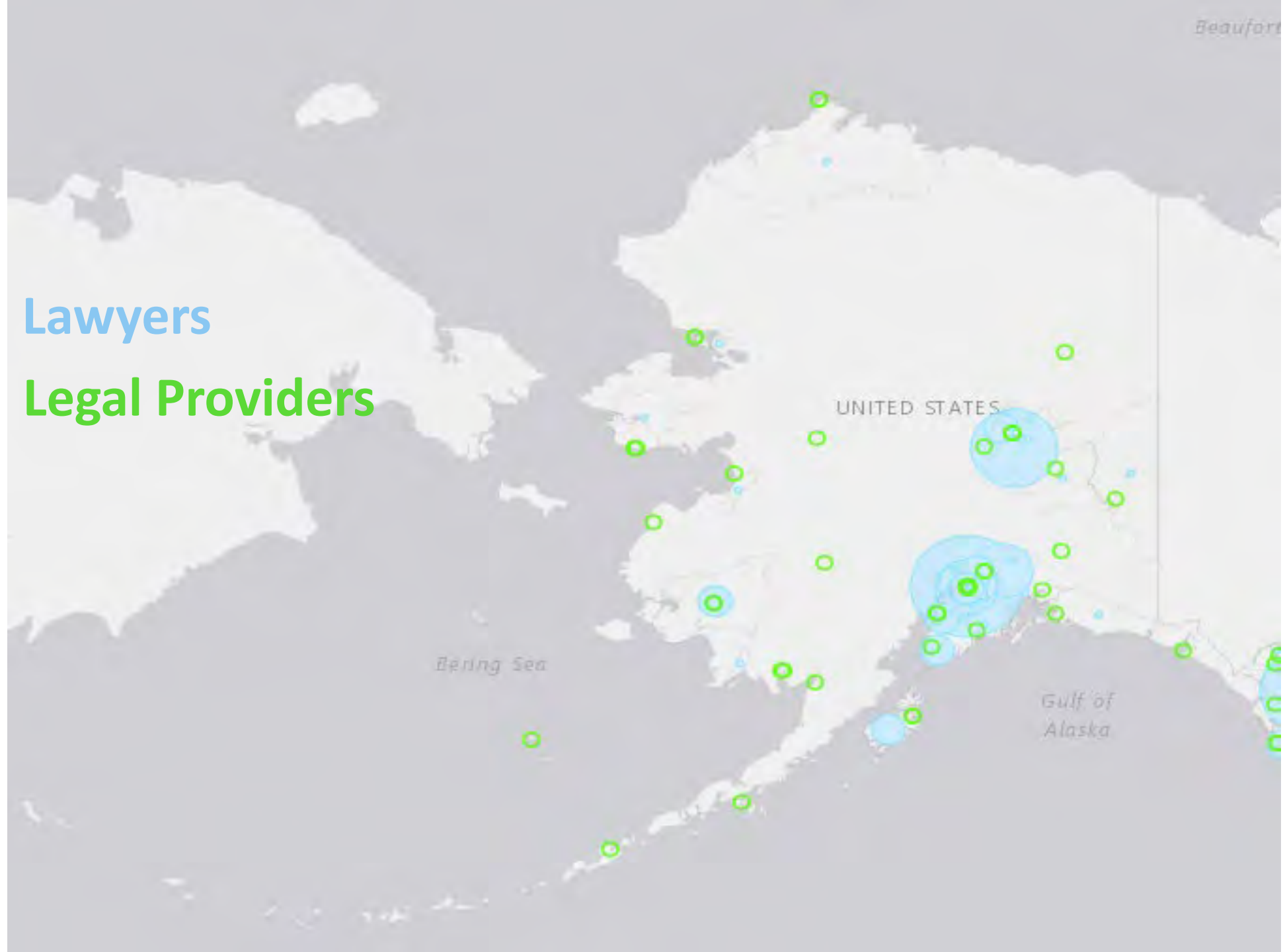
- Advice and Counseling
- Court Representation
- Community Legal Clinics
- Advocacy
- Client Self-Help
- Pro Bono Program





Lawyers

Legal Providers

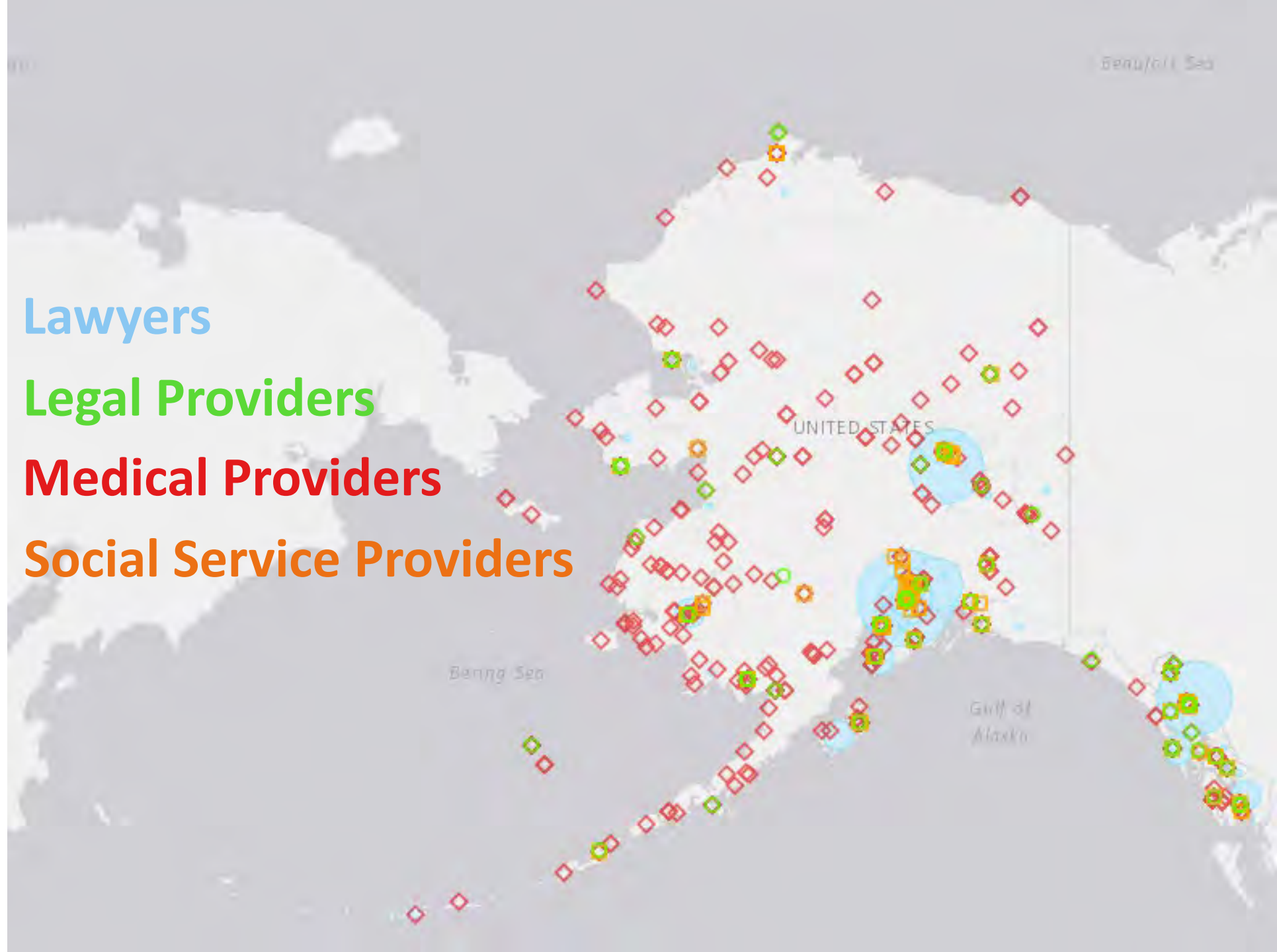


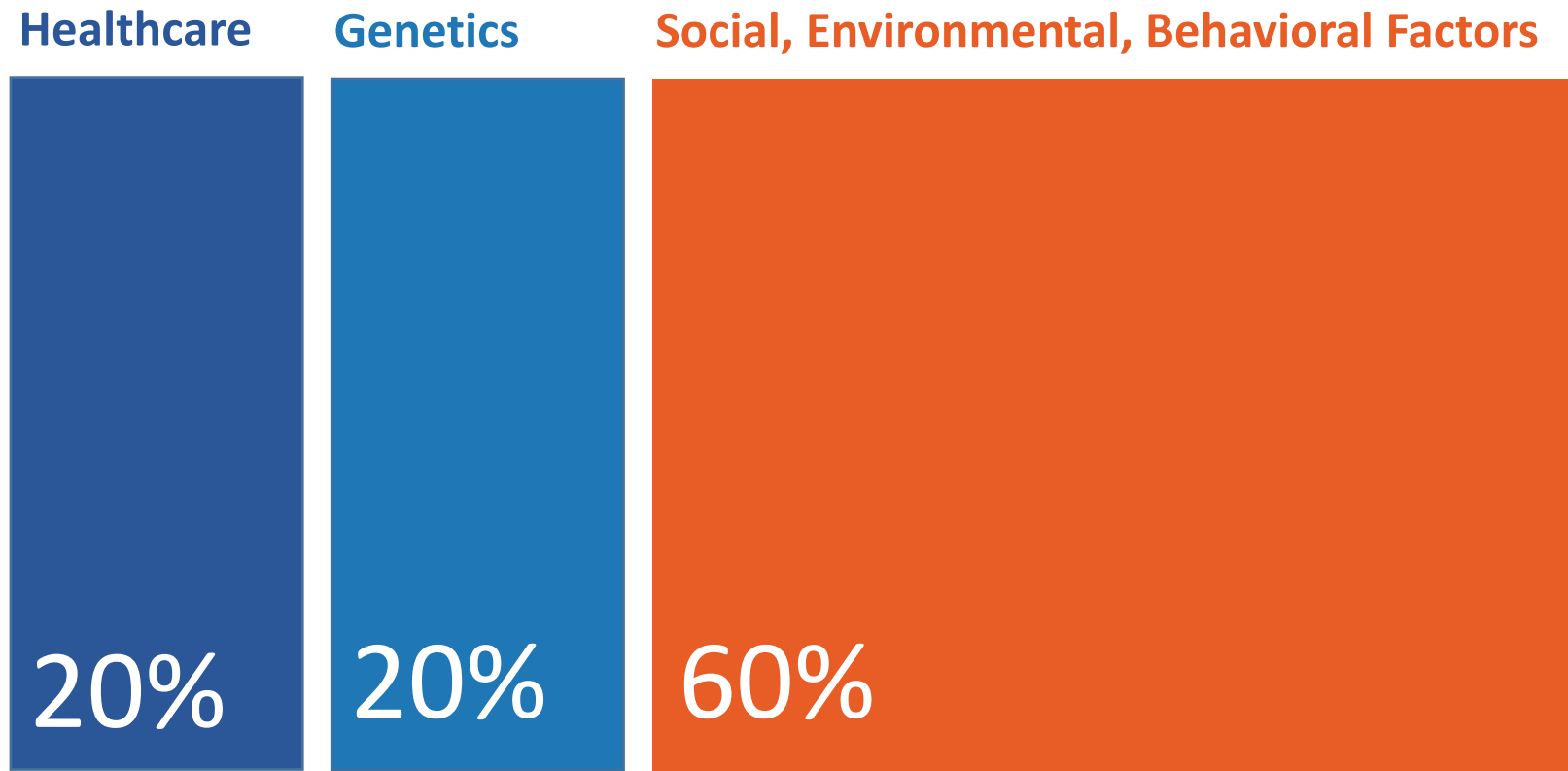
Lawyers

Legal Providers

Medical Providers

Social Service Providers





Source: Centers for Disease Control and Prevention, *Social Determinants of Health*; Tarlov, A.R., Public Policy Frameworks for Improving Population Health. Annals of the New York Academy of Sciences, 1999. 896 (SOCIOECONOMIC STATUS AND HEALTH IN INDUSTRIAL NATIONS: SOCIAL, PSYCHOLOGICAL, AND BIOLOGICAL PATHWAYS): p. 281-293.



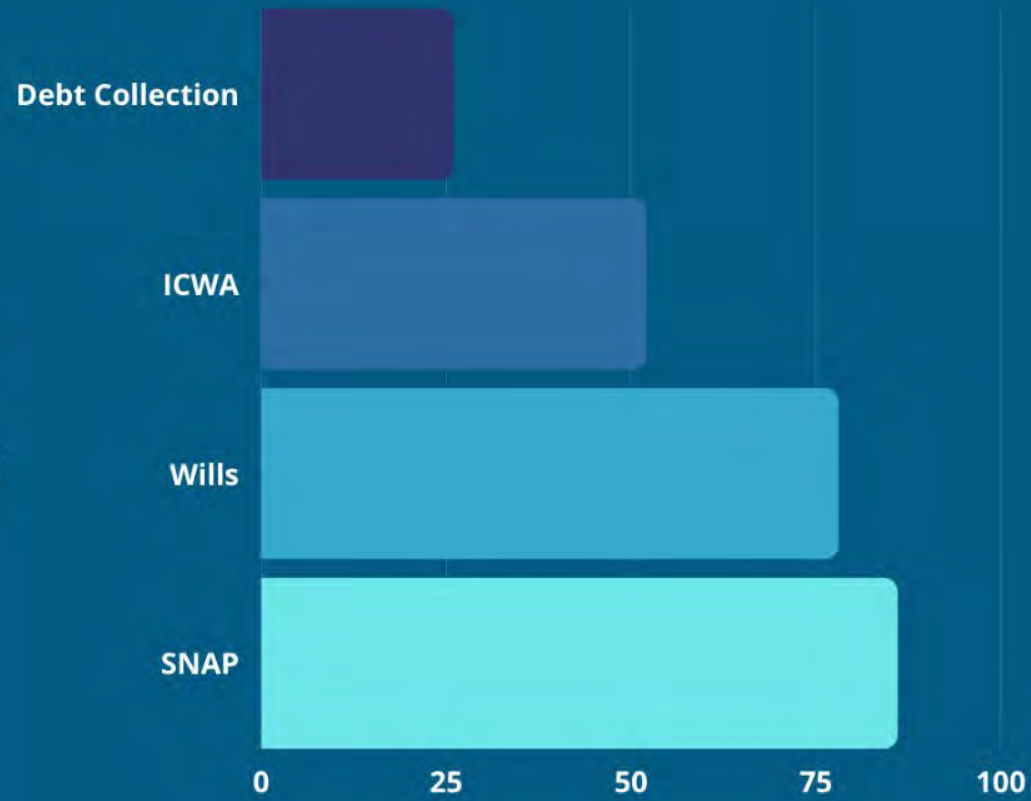




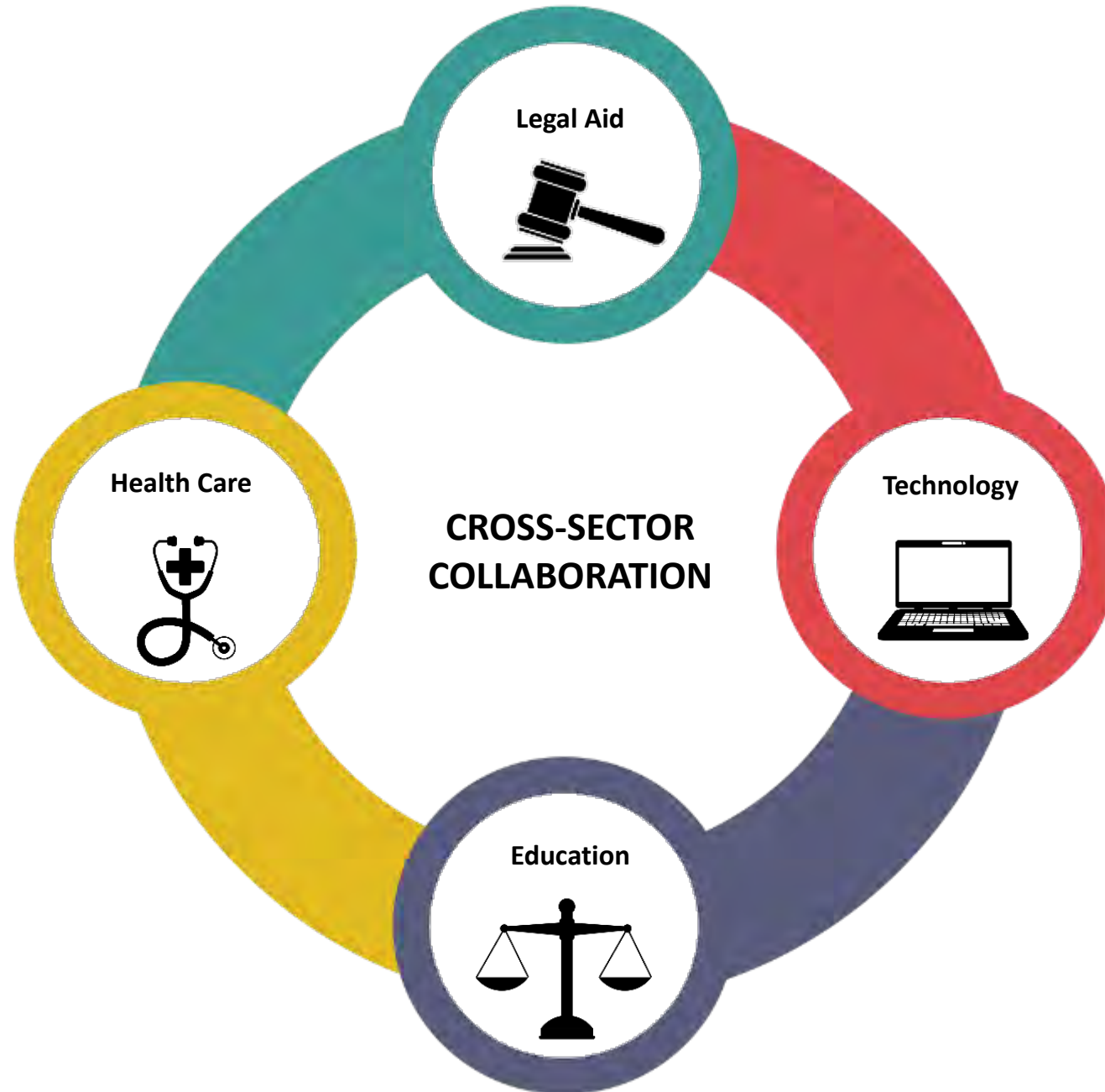


# Pro Bono Training Academy

Total: 242  
enrollments









# Thank you

Carolyn (Carly) Camplain, J.D.  
Research Coordinator, Sr.  
Center for Health Equity Research  
Student, PhD in Interdisciplinary  
Health – Health Equity  
[carolyn.camplain@nau.edu](mailto:carolyn.camplain@nau.edu)  
(928) 523-3060  
<https://nau.edu/cher/>

Julie Ralston Aoki  
Director of Healthy Eating & Active  
Living Programs  
Public Health Law Center  
[Julie.ralstonaoki@mitchellhamline.edu](mailto:Julie.ralstonaoki@mitchellhamline.edu)  
[PublicHealthLawCenter.org](http://PublicHealthLawCenter.org)

Nikole Nelson  
Executive Director,  
Alaska Legal Services Corp.  
[nnelson@alasc-law.org](mailto:nnelson@alasc-law.org)  
[alasc-law.org/medical-legal-  
partnership/](http://alasc-law.org/medical-legal-partnership/)

Please remember to fill out the conference survey location in the  
description of this session