



*Exploring Tribal Public Health Infrastructure and Capacity
Webinar Series*

Tribal Public Health Authority and Governance, and Exercising Sovereignty

Nina Martin

Public Health Program Manager

National Indian Health Board

February 9, 2022

National Indian Health Board

Mission Statement:

Established by the Tribes to advocate as the united voice of federally recognized American Indian and Alaska Native Tribes, NIHB seeks to reinforce Tribal sovereignty, strengthen Tribal health systems, secure resources, and build capacity to achieve the highest level of health and well-being for our People.



Meet the PHICCS team!



Moones Akbaran
Program Coordinator



Tyler Dougherty
Director



Jessica Dean
Program Coordinator



Karrie Joseph
Deputy Director



Nina Martin
Program Manager

AAAA
CENTER FOR AMERICAN
INDIAN HEALTH

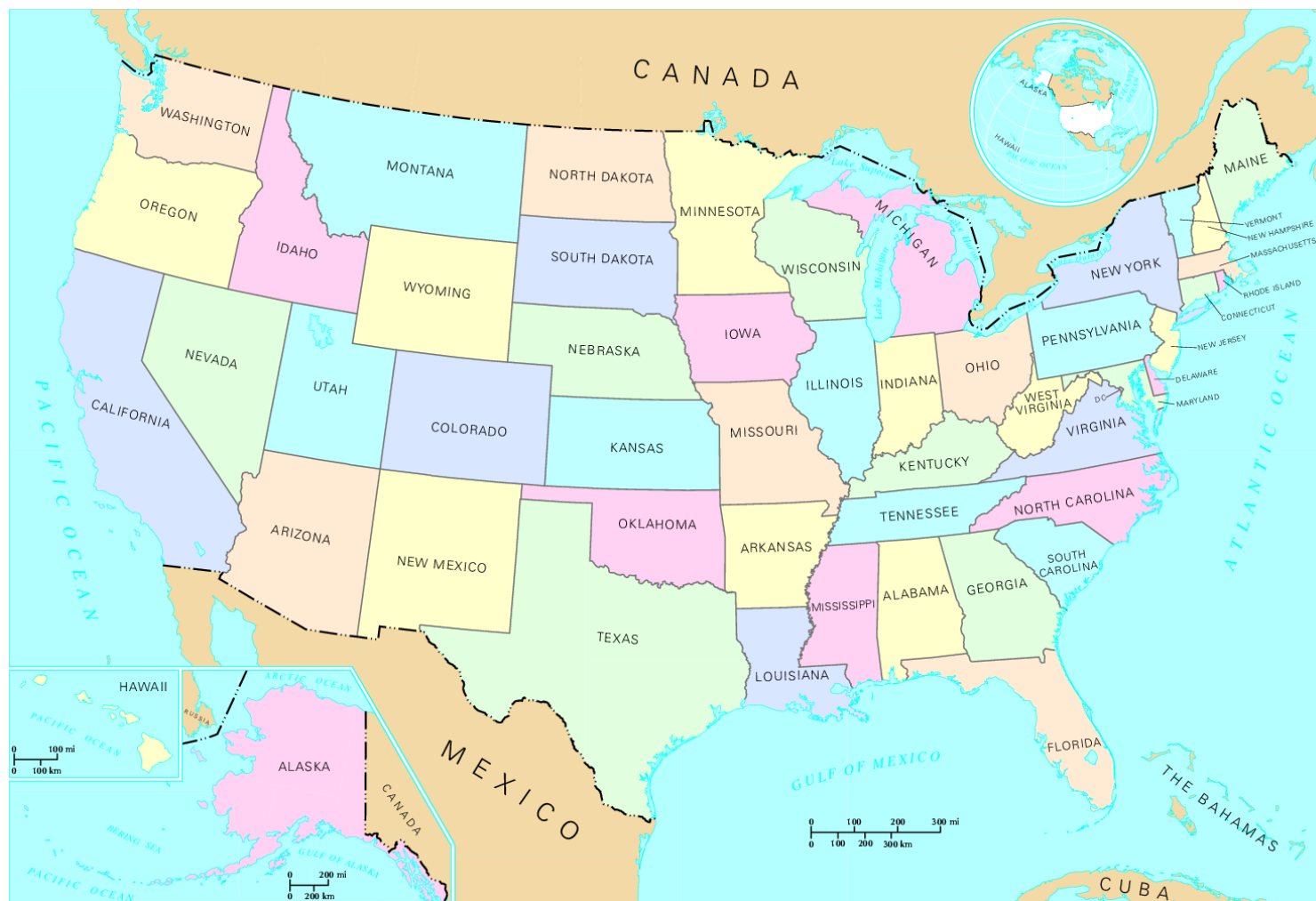
JOHNS HOPKINS
BLOOMBERG SCHOOL
of PUBLIC HEALTH

**Johns Hopkins Center for
American Indian Health**
Survey Design Consultant

National Indian
Health Board



Where are you joining from?





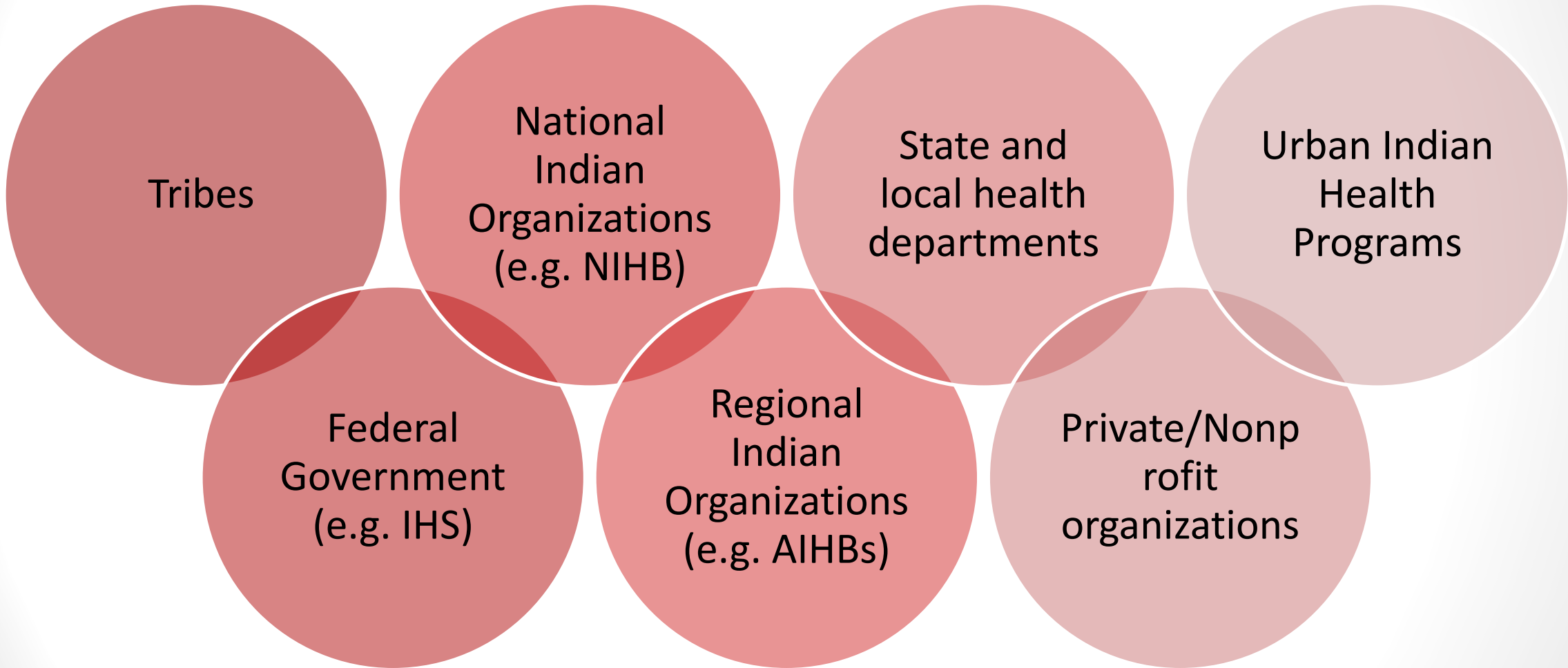
TRIBAL PUBLIC HEALTH AUTHORITY AND GOVERNANCE

Tribal Public Health

- Tribes have an inherent right to promote and protect the health and welfare of their citizens, using the methods most relevant for their communities.
- Public health systems that are managed by Tribes for Tribes
- Highly varied across Tribes/organizations
- “Community health”



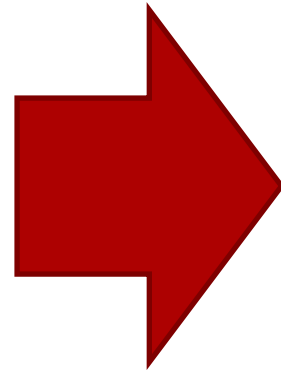
Players in Tribal Public Health



Community Infrastructure vs. Public Health Infrastructure

Community Infrastructure

- the basic physical and organizational structures and facilities needed for the operation of a society or enterprise. (for a society to function)
- Examples of modern infrastructure: transportation systems, communication networks, sewage, water, and power systems.



Public health infrastructure

- the basic physical and organizational structures and facilities needed for the operation of a public health system (for creating conditions in which people can be healthy)
- Examples: workforce, authority, communication networks, partnerships



What is a Public Health Authority?

CDC Definition: A public health authority is broadly defined as including agencies or authorities of the United States, states, territories, political subdivisions of states or territories, **American Indian tribes**, or an individual or entity acting under a grant of authority from such agencies and responsible for public health matters under an official mandate. Public health authorities include:

- Federal public health agencies (e.g., CDC, IHS, HRSA, etc.)
- **Tribal health agencies**
- State public health agencies
- Local public health agencies

The screenshot shows the CDC website page for 'HIPAA Privacy Rule and Public Health'. The page header includes the CDC logo and navigation links: 'About CDC', 'Announcements', 'Funding', 'Publications', and 'Contact Us'. The main title is 'HIPAA Privacy Rule and Public Health' with a subtitle 'Guidance from CDC and the U.S. Department of Health and Human Services'. Below the title, it says 'MMWR, Volume 52, Early Release'. A sidebar on the left contains a table of contents with links to 'Contents', 'Summary', 'Introduction', 'Overview of the Privacy Rule', 'The Privacy Rule and Public Health', 'The Privacy Rule and Public Health Research', 'The Privacy Rule and Other Laws', 'Online Resources', 'Acknowledgments', 'References', 'Appendix A', and 'Appendix B'. The main content area has a sub-heading 'The Privacy Rule and Public Health' and a paragraph of text explaining the rule's purpose and impact.

What is a Public Health Authority – Continued

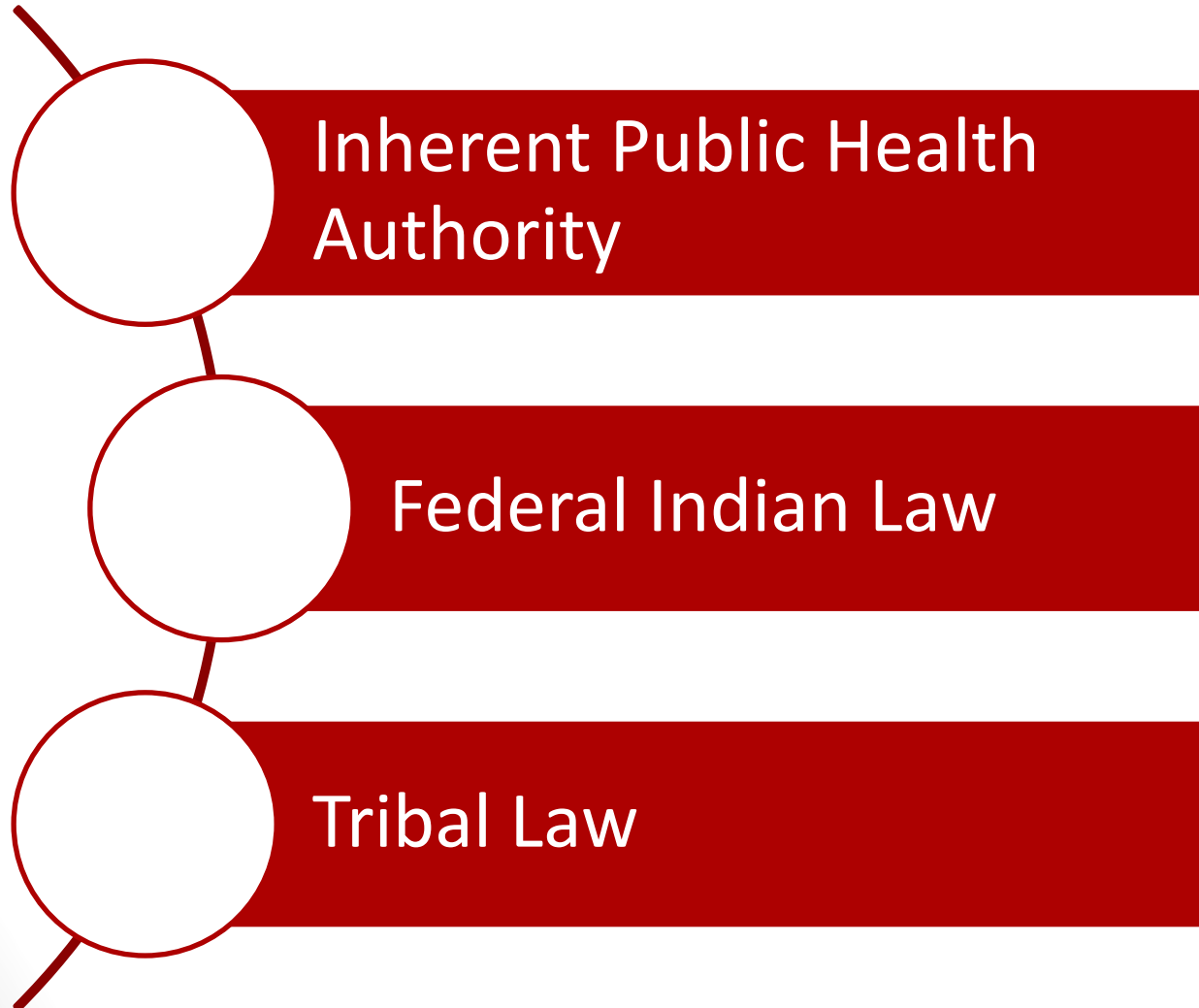
- As sovereign governments, Tribal Nations are inherent public health authorities
 - Under Section 214 of the Indian Health Care Improvement Act, Tribal Epidemiology Centers (TECs) gained designation as public health authorities.
- Tribal Nations and TECs have the authority to access personal health information (PHI) for public health purposes





LEGAL BASIS FOR TRIBAL PUBLIC HEALTH AND HEALTH SYSTEMS

Tribal Public Health Law



Tribal Nations' Inherent Public Health Authority

- Protecting the public's health, safety, and welfare is among the core powers and duties of sovereign governments, including Tribes.
- **No law, federal or Tribal, is needed to grant Tribes the authority to engage in public health activities.**



Federal Indian Law

FEDERAL INDIAN LAW

- The body of law that defines the rights, relationships, and responsibilities between Tribes, states, and the federal government.

TRIBAL SOVEREIGNTY

- Tribe's "right ... to make their own laws and be ruled by them." It is a "plenary and exclusive power over their members and their territory" and includes governmental power to tax and regulate, among other authorities.

U.S.
Constitution

Treaties

Supreme Court
Decisions

Federal
Legislation &
Regulations

Presidential
Executive
Orders



Principals of Federal Indian Law

Federal Plenary Power

- Congress maintains authority to legislate on all matters concerning Tribes and Indians.

Tribes & States

- State laws cannot infringe on Tribal sovereignty

Federal Trust Responsibility

- The federal government has a duty to provide health services to the Tribes.
- The provision of services such as health care was included in **treaties** that Tribes signed with the United States in exchange for giving up their lands.



“[I]t is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians --[] to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy[.]” – 25 U.S.C 1602



Statutes & Regulations

Snyder Act (1921)

- Authorized Tribal-specific health care funding

Transfer Act (1954)

- The Indian health program became a responsibility of the Public Health Service
- Recognized Tribal Sovereignty

Indian Self-Determination and Education Assistance Act (1975)

- Basis for authorizing Tribes to assume the management of BIA and IHS programs through Title V Compact and Title I Contract
- Over half of IHS's budget is controlled by Tribes under this Act



Indian Health Care Improvement Act (1976)

Permanently reauthorized in the Affordable Care Act (2012)

- Strengthened the position and regulatory structure of the Indian health system
 - Established Urban Indian Health Programs
 - Permitted reimbursement of IHS/Tribal facilities by Medicare & Medicaid

1992 Amendments to IHCA

- Authorized the **establishment of Tribal epidemiology centers (TECs)** to serve Tribes across each Indian Health Service region throughout the United States



Tribal Law & Public Health

- As sovereign nations, Tribes have the authority to maintain governing structures and develop a legal system reflective of each Tribe's unique history, culture, and customs
- Tribal law can be used as a tool to protect this authority from infringement, particularly from state and local governments



Summary

- Tribes are inherent public health authorities as sovereign nations
- The United States has a responsibility to provide health care to Tribes
- **Compacting and contracting** (via PL 638) enable Tribes to control health care
- Tribal law can be used as a tool to **exercise** Tribal public health authority and **protect** this authority from infringement





PHICCS: INFORMATION FOR TRIBAL PUBLIC HEALTH

What is “PHICCS”

- **Public Health in Indian Country Capacity Scan**
- Periodic scan to assess Tribal public health infrastructure and capacity needs and priorities
- Informed by Tribes
- National scope

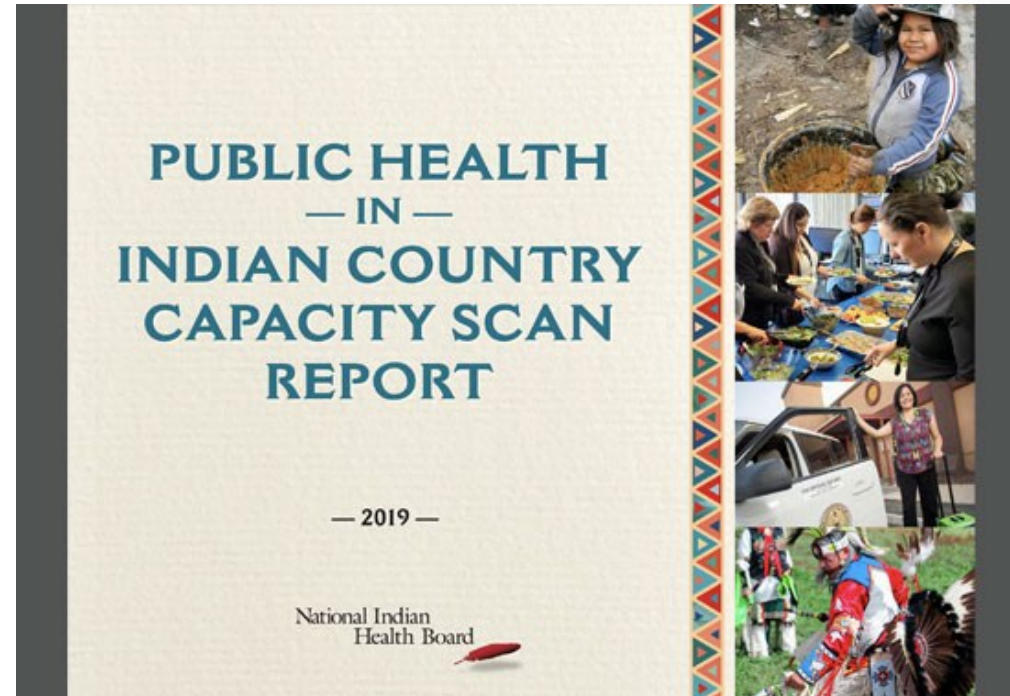


PHICCS I Respondents

- 134 respondents
- All 12 IHS service Areas represented
- Compared to IHS's lists of direct service and self-governance Tribes:
 - 52% are self-governance compacting
 - 48% are self-determination contracting
- 90% respondents are federally-recognized Tribes
 - 9% represent Tribal Health consortia

Public Health in Indian Country Capacity Scan (PHICCS) Report

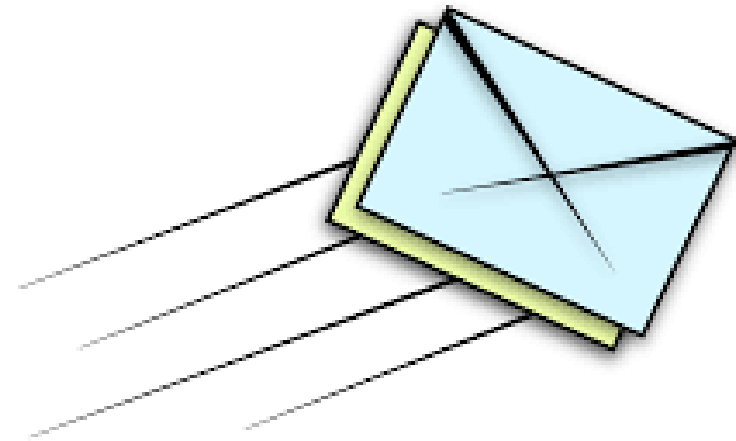
- Culminating in 2019 PHICCS Final Report
 - Support and guide essential public health work in Indian Country
 - Strengthen efforts to educate Legislators, federal agencies, private foundations, and policy makers on needs for building the capacity of Tribal public health



Funded by Centers for Disease Control and Prevention (CDC)
(CDC OT18-1802, #NU38OT000302)

Tribes Own their Data!

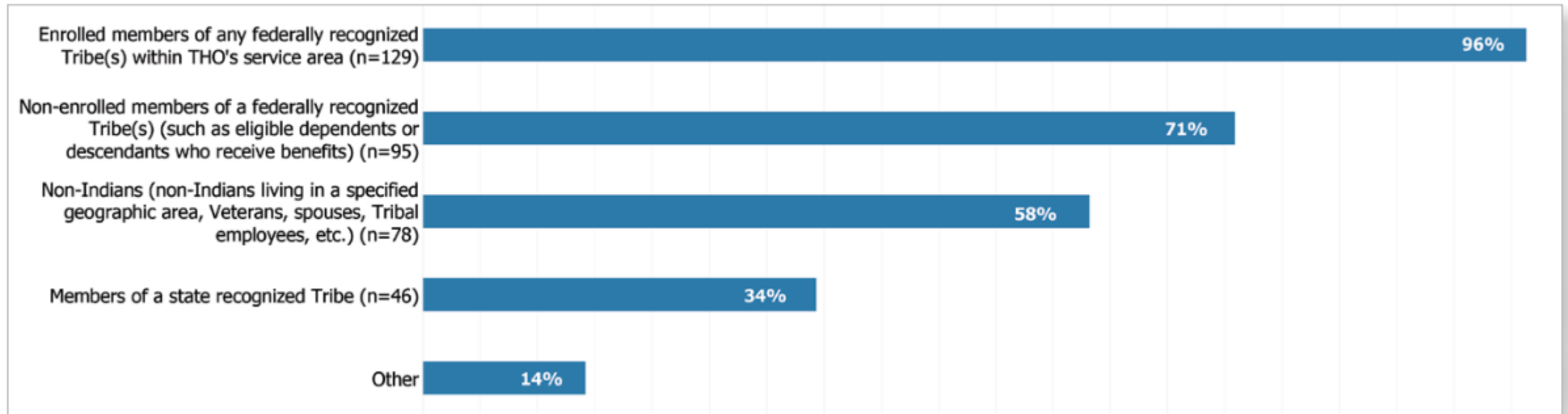
- NIHB wants to return your individual data
 - By request from the authorized official
 - Returned via encrypted email
- To request your own data, contact:
Nina Martin
nmartin@nihb.org
202-548-7299



PHICCS I: THO 101

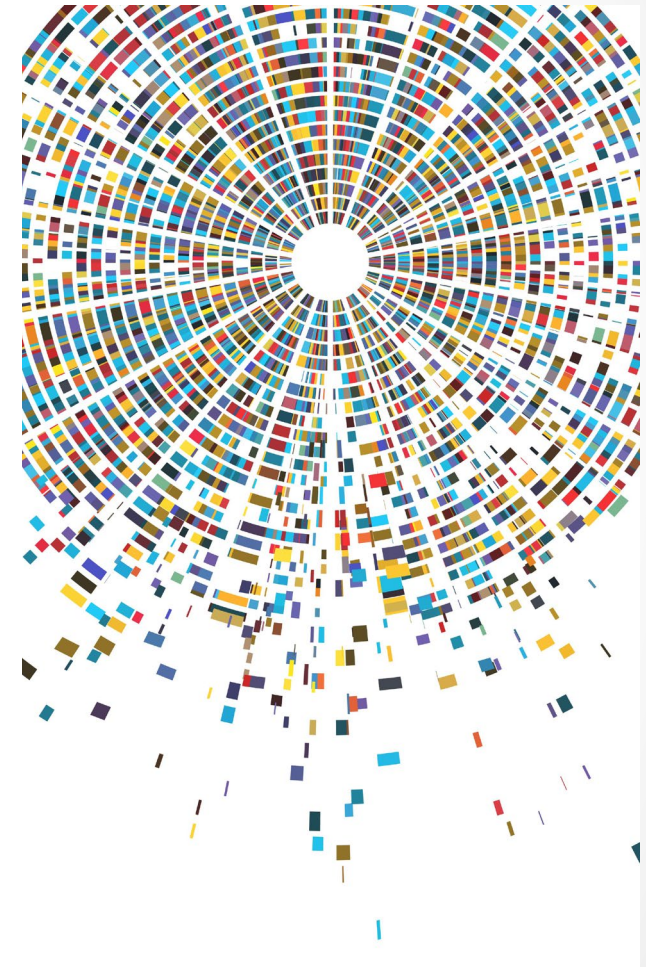
- Tribal health organizations (THOs) responsible for a range of services to variety of individuals

Figure 3 TYPE OF INDIVIDUALS RECEIVING PUBLIC HEALTH SERVICES FROM THOS (N=134)



PHICCS I: THO 101

- Service delivery may be affected by location
 - 18% (n=23) have service areas that overlap 2+ states
- Majority of THOs reported 1 or more non-Tribal PH departments in service area (85%, n=112)

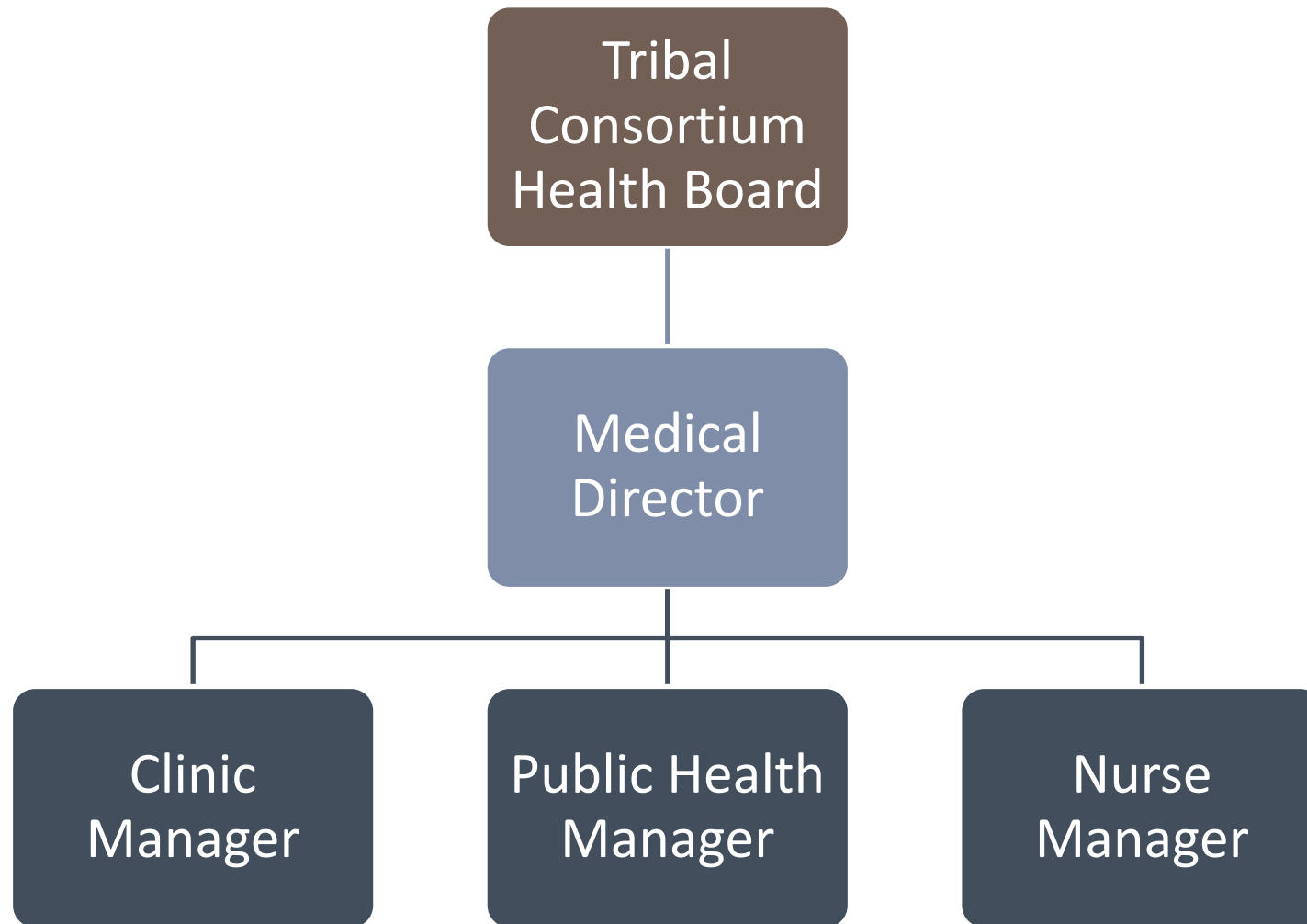


PH Governance Structures

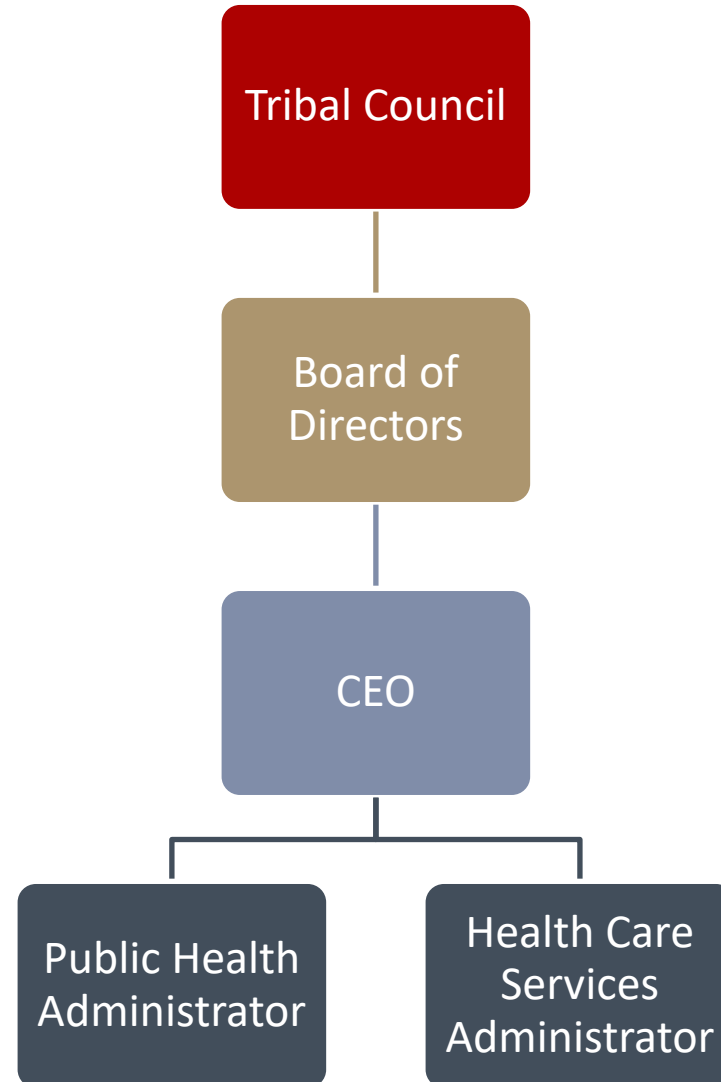
- Describe how the entities responsible for public health matters relate
- Important for Tribal service delivery
 - Level of Tribal and non-Tribal systems providing PH services often complex and overlapping



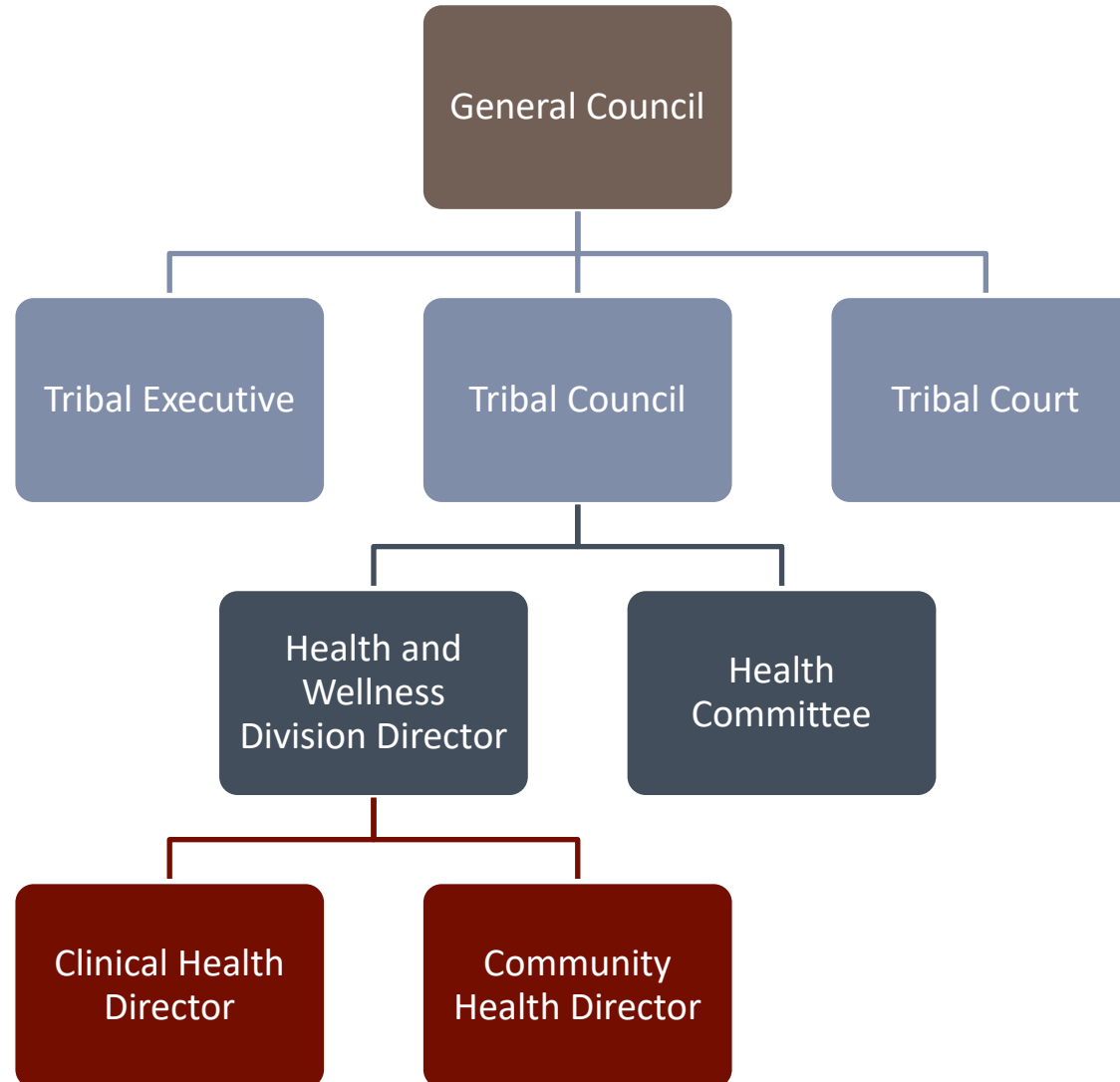
Examples of Tribal PH Governance Structures



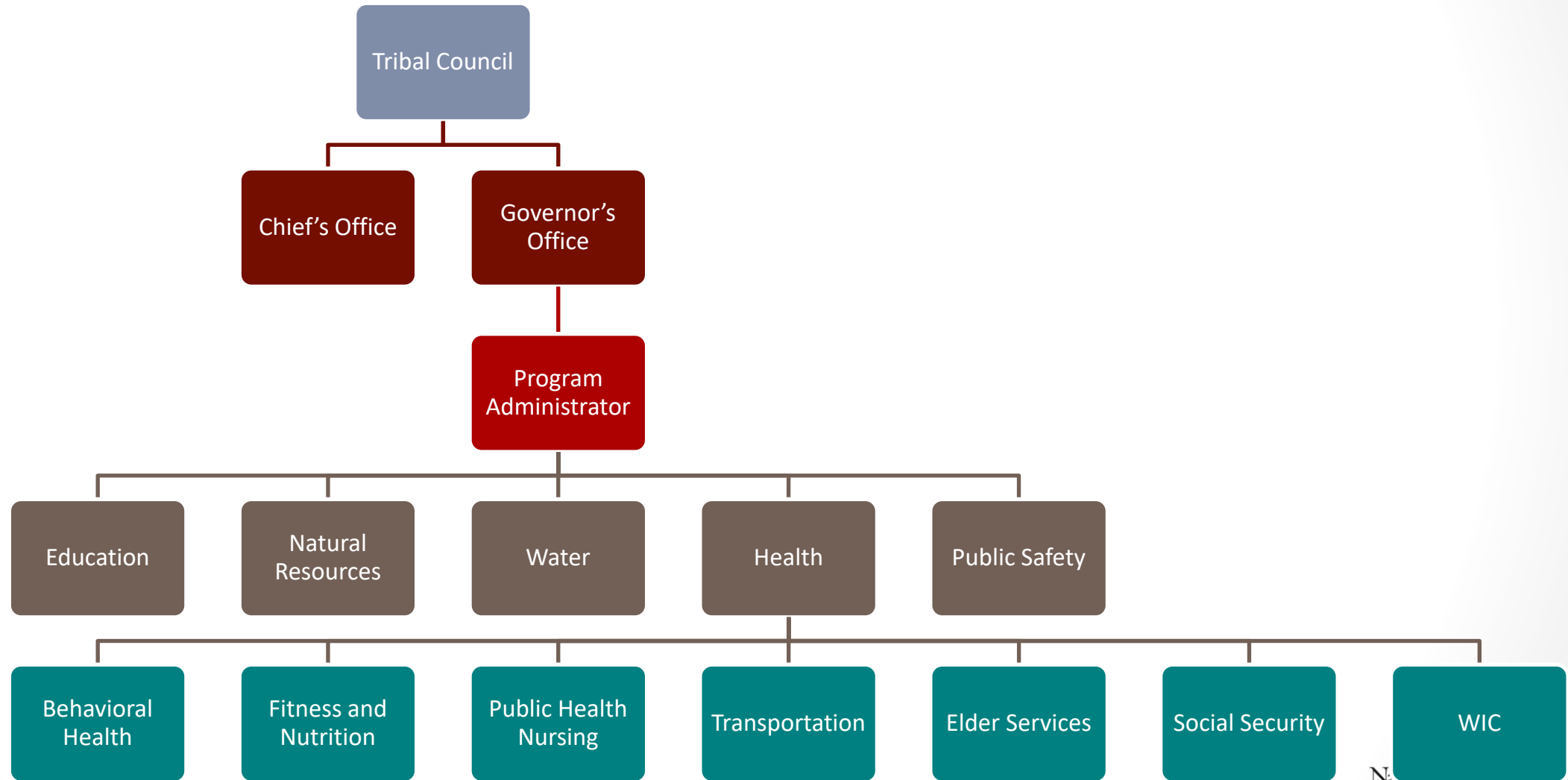
Examples of Tribal PH Governance Structures



Examples of Tribal PH Governance Structures



Examples of Tribal PH Governance Structures



Discussion break!

- 5 minutes
- Use the “Annotate” or Chat features
- Will not be recorded
- Advantages of different governance structures/models



Figure 6 NUMBER OF PUBLIC HEALTH GOVERNANCE STRUCTURES (N=123)

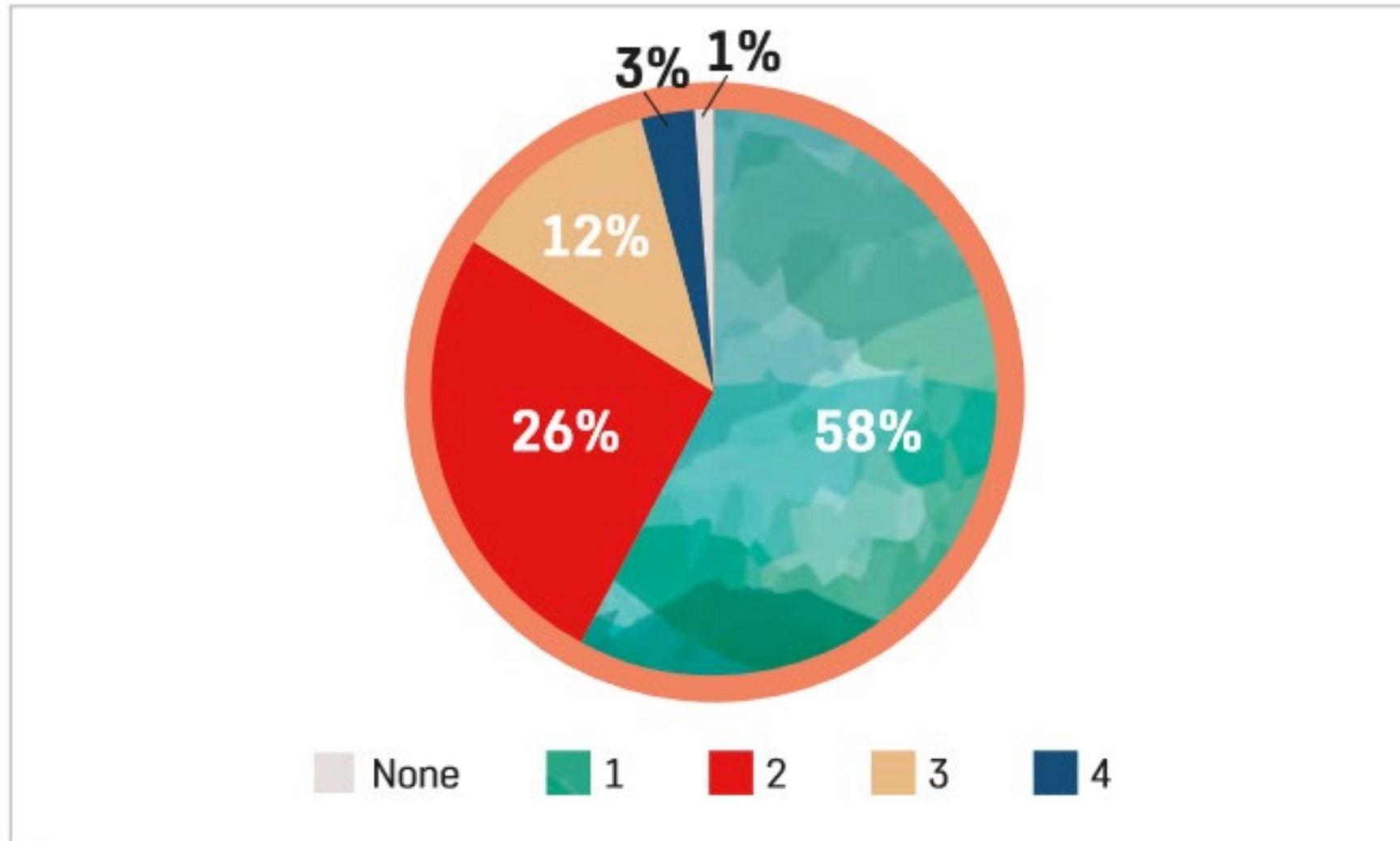


Table 3 PUBLIC HEALTH GOVERNING ENTITIES BY GOVERNANCE STRUCTURE

Governing Entity	THOs with Single Governance Structure (n=71)		THOs Overall (n=123)	
	N	%	N	%
Board of Health/Health Board	11	15%	45	37%
Board of Directors	12	17%	24	20%
Tribal Chief Executive Officer (CEO)/Tribal Chair	10	14%	45	37%
Tribal governance organization (such as consortium)	17	24%	34	28%
Tribal Council	10	14%	27	22%
Other	11	15%	21	17%
We do not have a governing entity	N/A	N/A	1	1%





STRENGTHENING TRIBAL PUBLIC HEALTH AUTHORITY AND GOVERNANCE

Expansion of ISDEAA

- Currently IHS is only agency in HHS with authority to compact and contract
- Tribes and Tribal organizations have called for expansion of self-determination and self-governance authority
 - NIHB 2021 Legislative and Policy Agenda
 - Resolutions submitted to Self-Governance Communication and Education Tribal Consortium



Supporting Tribal Programs through Funding

- Tribes have also called for non-competitive funding and set-asides
 - [NIHB Board Resolution 20-05](#)
- Direct funding with flexible restrictions places control in hands of Tribes



TPHI Conversations at CDC TAC

- CDC Tribal Advisory Committee has advocated for Tribal-led infrastructure at recent TAC meetings
 - Aug 2021: Secretary Bradley urged CDC to share a position paper recognizing Tribal public health authority,
 - Feb 2022: Tribal leaders encouraged CDC to establish a dedicated assessment to address Tribal infrastructure priorities
 - Requested direct funding for Tribes for TPHI, in addition to TECs and other orgs



Why Governance?

- Tribal public health governance underpins all public health services
 - Controls the laws, codes, policies, and regulations
- Tribal public health authority and resulting structures are **expressions of Tribal sovereignty**



Questions?



Questions

- What has helped you grow Tribe exercise their public health authority? What would you like to see to support it?



Now is The Time to Create
a Comprehensive,
Tribally-Driven,
National
Tribal Public Health
Strategic Plan for
Infrastructure Development

*Stacy A. Bohlen, 2020 National Tribal Health Conference Closing
Plenary*

National Indian
Health Board



COMING SOON!!

PHICCS *II*

**Public Health in Indian
Country Capacity Scan**

National Indian
Health Board



VIRTUAL
NATIONAL INDIAN HEALTH BOARD
**NATIONAL TRIBAL
PUBLIC HEALTH
SUMMIT**
MAY 9-12, 2022
50 YEARS NIHB

*Submit
now!*

**Call for
Presenter
Abstracts**

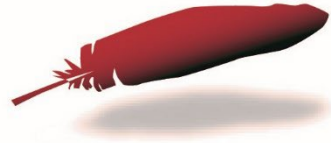
SUBMIT ABSTRACTS AT:
[HTTPS://BIT.LY/NIHB_TPHS1](https://bit.ly/NIHB_TPHS1)

5 Topic Areas:

- COVID-19 and Vaccines
- Tribal Public Health Infrastructure, Policy and Systems
- Climate Change and Environmental Health
- Health Promotion and Disease Prevention
- Mental and Behavioral Health

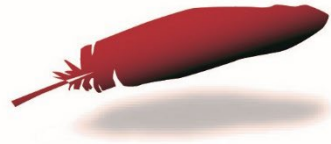
**Submit Abstracts
here!**

National Indian Health Board



This webinar is supported by the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$325,000 with 100 percent funded by CDC/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by CDC/HHS, or the U.S. Government.





Thank you!

Nina Martin
202-548-7299
nmartin@nihb.org

