



**NICWA**  
National Indian Child Welfare Association

**AMERICAN INDIAN/ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE IN THE HOME**

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I would like to start by thanking the Attorney General's Task Force on Children Exposed to Violence. It is because of their important recommendation that this Task Force on American Indian and Alaska Native Children Exposed to Violence has been convened. It was their final report which stated:

**“1.2 Appoint a federal task force or commission to examine the needs of American Indian/Alaska Native children exposed to violence.**

A federal task force or commission should be developed to examine the specific needs of American Indian/Alaska Native (AI/AN) children exposed to violence and recommend actions to protect AI/AN children from abuse and neglect and reduce violence. The management of this task force or commission, and the selection of its members, should be carried out through an equal collaboration between the Attorney General and the Secretary of the Interior” (pg. 9).

This Task Force has been convened, as recommended above, to address this important issue: American Indian children exposed to violence in the home, a topic essential to improving the well-being of our AI/AN children who face violence in their homes, schools, and communities at alarmingly high rates. For this reason I would like to thank this Task Force and its chairs, Senator Byron Dorgan and Joanne Shenandoah, for the commitment they have made to better understand these issues at the practice, program, and policy levels, and to provide recommendations to ensure that the violence AI/AN children face is first and foremost prevented and, if these efforts fail, that the violence is adequately addressed and the trauma it creates is appropriately treated.

The focus of today's hearing is American Indian children exposed to violence in the home. Violence in the home includes both intimate partner violence as well as child maltreatment. At the National Indian Child Welfare Association (NICWA), we understand that the intersection of these two issues cannot be ignored. Partners who engage in violence are more likely to perpetrate violence against their children; children who witness or live in a home where intimate partner violence is present face the long-term effects of trauma; and children who are maltreated are more likely to later perpetrate violence against others, including intimate partners. Recognizing these important relationships and NICWA's expertise, this testimony will focus predominately on child maltreatment— the physical and sexual abuse and neglect of children in the home at the hands of their caregivers and family members.

This testimony will present:

- the historical context of, and past government responses to, child maltreatment in tribal communities;
- the current research available on the risk factors for, and rates of, AI/AN child maltreatment;
- the challenges and barriers to the current legal and programmatic framework designed to address AI/AN child maltreatment;
- the collaborative responses, including multi-disciplinary teams and child protective teams, to child maltreatment; and
- solutions that are working in tribal and urban AI/AN communities.

We also want to note that child maltreatment comes in a variety of forms, including sexual abuse, physical abuse, and neglect, among others. Among these different forms of child maltreatment, neglect is the most frequent occurring within AI/AN families. While the focus of this testimony and hearing will highlight abuse that is considered to be more violent in nature, such as physical and sexual abuse, neglect can have serious effects upon children's self-esteem and outlook for the future; some of these effects are longer lasting and more profound than abuse by itself (Ney et al., 1993). Neglect can also increase a child's vulnerability to becoming a victim of abuse and, when abuse follows neglect, children are more deeply traumatized.

It is my intent to highlight the common systemic challenges in Indian Country and urban areas; to provide examples of strategies and programs that are effective; then to offer recommendations to improve the prevention, intervention, and treatment of AI/AN children who face violence at the hands of their caregivers at the practice, program, and policy levels.

NICWA is a national American Indian/Alaska Native nonprofit organization located in Portland, Oregon. NICWA has over 24 years of experience providing technical assistance and training to tribes, states, and federal agencies on issues that impact Indian child welfare and children's mental health. NICWA provides leadership in the development of public policy that supports tribal self-determination in child welfare and children's mental health systems as well as compliance with the Indian Child Welfare Act. NICWA also engages in research that supports and informs improved services for AI/AN children and families. NICWA is the nation's most comprehensive source of information on AI/AN child maltreatment, child welfare, and children's mental health issues.

### **Understanding Child Maltreatment in Indian Country**

"The diversity of American Indian and Alaska Native tribes and villages cannot be overemphasized when thinking about child maltreatment in Indian Country. Tribes, villages, reservations, and urban Indian communities have vastly different resources, social and economic conditions, and cultural and traditional practices. These differing conditions affect child abuse and neglect and mean that no statements about child maltreatment can apply to all tribes, villages, and urban communities across the country" (Crofoot, 2005).

#### **The Historic Context**

To understand the context of child maltreatment for AI/AN children, it is essential to understand that AI/AN communities are at high risk for child maltreatment because of disparate treatment of AI/AN families and communities by federal and state governments. It is equally important to understand the lingering effects of historical governmental policies and practices—including the removal of tribes to reservations, the relocation of AI/AN peoples to major cities, and specific attempts to assimilate AI/AN children—on AI/AN children and families.

Prior to contact with European immigrants, tribal child-rearing practices and beliefs allowed a natural system of child protection to flourish. Traditional Indian spiritual beliefs reinforced that all things had a spiritual nature that demanded respect, including children (Cross, Earle, & Simmons, 2000). Not only were children respected, but they were also taught to respect others. Extraordinary patience and tolerance marked the methods that were used to teach Indian children self-discipline (Cross et al., 2000). Behavior management or obedience was obtained through the fear and respect of something greater than the punishment of a parent (Cross et al., 2000).

At the heart of this natural system were beliefs, traditions, and customs involving extended family with clearly delineated roles and responsibilities. Child-rearing responsibilities were often divided between extended family and community members (Cross et al., 2000). In this way, the protection of children in the tribe was the responsibility of all people in the community. Child abuse and neglect were rarely a problem in traditional tribal settings because of these traditional beliefs and natural safety net (Cross et al., 2000).

As European migration to the United States increased, traditional tribal practices in child rearing were often lost as federal programs sought to systemically assimilate AI/AN people. Efforts to "civilize" the Native population were almost always focused on Indian children. It began as early as 1609, when the Virginia Company, in a written document, authorized the kidnapping of Indian children for the purpose of civilizing local Indian populations through the use of Christianity (Cross et al., 2000). The "Civilization Fund Act" passed by Congress in 1819 authorized grants to private agencies, primarily churches, to establish programs in tribal communities designed to "civilize the Indian" (Cross et al., 2000).

From the 1860s through the 1970s, the federal government and private agencies established large boarding schools, far from reservations, where Indian children were placed involuntarily (Crofoot, 2005; Cross et al., 2000). Indian agents had the authority to withhold food and clothing from parents who resisted sending their children away (Crofoot, 2005; Cross et al., 2000). The boarding schools operated under harsh conditions: Children were not able to use their Native languages or traditional customs, were required to wear uniforms and cut their hair, and were subjected to military discipline and standards (Crofoot, 2005).

In the 1960s and 1970s, the child welfare system became another avenue that state and federal governments used to force the assimilation of AI/AN children. It was during this era that the Child Welfare League of America and the Children's Bureau, a federal government agency, sponsored the Indian Adoption Project, which removed hundreds of Indian children from their homes and communities out west and placed them in non-Indian homes on the east coast (Cross et al., 2000). At the same time, AI/AN children were unofficially being removed from their homes and placed in non-Native homes in large numbers. The Association on American Indian Affairs conducted a study in the 1970s that found between 25% and 35% of all Indian children had been separated from their families (Jones, Tilden, and Gaines-Stoner, 2008). This study also found that 90% of the removed Indian children were placed in non-Indian homes (Jones et al., 2008).

The outcome of these assimilation efforts is heightened risk factors for child maltreatment in AI/AN communities. These policies left generations of parents and grandparents who were subjected to prolonged institutionalization and who do not have positive models of family life and family discipline (Crofoot, 2005). These individuals, many of them current parents and grandparents of AI/AN children, may subject their own or their relatives' children to the harsh discipline and sexual abuse they endured in boarding school. Further, boarding schools and relocation efforts have resulted in the destruction of kinship networks and traditional understandings of child rearing and protection, damaging the natural safety net that was in place traditionally (Crofoot, 2005). It was not until 1978, with the passage of the Indian Child Welfare Act (P.L. 95-608), that the federal government acknowledged the inherent sovereign right of tribal governments and the critical role that they play in protecting their children and maintaining their families—meaning that for two centuries the United States usurped tribes' rights to care for their families, further eroding the traditional and natural child protection systems of tribal communities.

Other federal policies, including the removal of tribal populations and creation of reservations as well as the relocation program, have had major effects on AI/AN communities and increased the risk for child maltreatment. Removing and relocating American Indian people onto reservations between 1830 and 1871 forced tribes to leave behind customs tied to their traditional lands, adjust their economies, and change their way of life without the support promised by the federal government (Crofoot, 2005).

As the federal government began to recognize how the removal and reservation of tribal communities was hurting AI/AN people, it instituted the Indian Relocation Act of 1956. This Act offered to pay moving expenses and provide vocational training to AI/AN individuals willing to move from their reservations to certain government-designated cities (Pevar, 2012). This program not only broke down family systems but also left families and individuals stranded away from their communities and natural support systems in unfamiliar environments. Similarly, AI/AN individuals who moved to urban areas were far from traditional support networks and faced difficulty economically succeeding while adjusting to the high price of living and Western value system of cities, meaning that many urban AI/AN communities and families were also at an increased risk for child maltreatment. Nearly one third of all relocated AI/AN people eventually returned home because of these problems (Pevar, 2012).

The effects of these programs are long standing. Challenges in AI/AN communities today, including poverty, mental and physical health problems, poor housing, and violence, are directly related to reservation and relocation policies. Socially and economically isolated reservations and urban Indian communities are fraught with disadvantage, including heightened risk for child maltreatment (Crofoot, 2005).

The pattern of mistreatment of AI/AN people and communities over the course of the centuries, as described above, has had an additional effect on AI/AN families that creates a heightened risk for child maltreatment: historical trauma. The concept of historical trauma in AI/AN people and communities originates from studies that examined the lingering effects that the German Holocaust had on the children and grandchildren of families affected (Brave Heart & DeBruyn, 1998). Researchers and experts believe that the shared experience by AI/AN people of historic traumatic events such as displacement, forced assimilation, suppression of language and culture, and boarding schools creates a legacy of unresolved grief that, when left untreated, is passed down through generations (Cross, 2006; Brave Heart & DeBruyn, 1998), and experienced in ways that reflect reactions to trauma, such as increased mental health disorders, substance abuse, stress, and social isolation—all risk factors for child maltreatment. In a

review of the literature on risk factors specific to AI/AN maltreatment, authors speculated about the influence of boarding schools, cultural identification, and extended family supports, as described in the section above which details governmental policy and practices, which have had a direct effect on AI/AN families (Landsman, Cross, & Tyler, 1994; Cross, 1986; Hull, 1982).

Risk Factors for Child Maltreatment

There is little information on the risk factors for child maltreatment in AI/AN families specifically (Bigfoot, 2005). This is problematic because national policy and child welfare practice focus on the prevention of child maltreatment, and successful prevention programming requires an understanding of culturally specific risk factors. Collectively, the scientific and child welfare practice communities recognize a series of child, parent, family, and community risk factors associated with an increased incidence of child abuse and neglect that include:

<p><u>Parental Risk Factors</u></p> <ul style="list-style-type: none"> <li>• Young age of parent</li> <li>• Low educational attainment by parent</li> <li>• Single parenthood</li> <li>• Low- or poverty-line family income</li> <li>• Parental history of child maltreatment in family of origin</li> <li>• Substance abuse and/or mental health issues in the family</li> </ul> <p><u>Child Characteristic Risk Factors</u></p> <ul style="list-style-type: none"> <li>• Children younger than four years of age</li> <li>• Special needs that may increase caregiver burden (e.g., disabilities, mental retardation, mental health issues, and chronic physical illnesses)</li> </ul>	<p><u>Family Risk Factors</u></p> <ul style="list-style-type: none"> <li>• Social isolation</li> <li>• Family violence, including intimate partner violence</li> <li>• “Disorganized” families</li> <li>• Parental stress</li> </ul> <p><u>Community and Structural Risk Factors</u></p> <ul style="list-style-type: none"> <li>• Concentrated neighborhood disadvantage (e.g., high poverty and residential instability, high unemployment rates, high rates of community violence)</li> </ul>
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(Centers for Disease Control, 2012; Children’s Bureau, 2011; Administration for Children and Families, 2003)

Without an accurate, nuanced understanding of the complex interaction of risk factors for child maltreatment in AI/AN families, prevention, identification, and intervention may be ineffective. For instance, although mainstream research points to “disorganized” families as a potential risk factor for abuse and neglect, AI/AN families often thrive and are most healthy when they take the form of codependent kinship networks. These co-dependent networks may be seen by a mainstream case manager as “disorganized” and thus a risk factor—when it is actually a protective factor and its disruption could only further hurt the family in question.

Although not ideal, mainstream child maltreatment risk factors can be used to provide a general understanding of the likelihood of risk of child maltreatment in AI/AN communities. The following national statistics show that AI/AN families appear to be particularly vulnerable to child maltreatment.

### *Parental Risk Factors*

- AI/AN children are more likely to live in households that are below the poverty line. 34% of AI/AN children live in households with incomes below the poverty line as compared to 20.7% of children nationwide (Maternal and Child Health Bureau, 2012).
- AI/AN parents are more likely to struggle with substance abuse. 18% of AI/AN adults needed treatment for an alcohol or illicit drug use problem in the past year compared to the national average of 9.6% (SAMHSA, 2009).
- AI/AN parents are more likely to struggle with mental health issues and distress related to unresolved trauma. Among U.S. adults ages 18 and over who reported only one race, AI/ANs had the highest rate of serious psychological distress within the last year (25.9%), and the highest rate of a major depressive episode within the last year (12.1%) (Urban Indian Health Institute, 2012).
- AI/AN children are more likely to live in families where no parent has full-time year-round employment than the national average. 49% of AI/AN children are in homes where no parent has full-time year-round employment compared to 25% of White homes (Annie E. Casey, 2012).
- AI/AN mothers are likely to be a young age at the birth of their children. AI/AN women on average have their first child at age 21.9, younger than all other races and ethnicities; the average age of first birth for the U.S. population is 25.0 years (Mathews & Hamilton, 2011).
- AI/AN parents are less likely to have high educational attainment. In 2007, 20% of AI/AN adults over 25 had not completed their high school diploma; 36% of AI/AN adults over 25 had completed high school but did not continue on to postsecondary school (DeVoe & Darling-Churchill, 2008). In 2006, 74.7% of AI/AN graduation-aged students, compared to 87.8% of the general population, received their high school diploma (DeVoe & Darling-Churchill, 2008).
- AI/AN families are more likely to be single-parent than the average family. 52% of AI/AN children are raised in single-parent households, while nationally only 34% of children are raised in single-parent households (Annie E. Casey, 2012).

### *Child Characteristic Risk Factors*

- AI/AN children are more likely to have special needs than the average child. AI/AN children are served by the Individuals with Disabilities Education Act (IDEA) at a higher percentage than any other group of children; 14% of AI/AN children receive services under the Disabilities Education Act (IDEA) compared to 9% of the general student population (DeVoe & Darling-Churchill, 2008).

### *Family Risk Factors*

- Many AI/AN families are socially isolated. Reservation communities are located in remote and sparsely populated areas, and often the housing within those communities is spread out over a large area. Because of this, the health care community has recognized that a major barrier to quality medical care for AI/AN individuals is social isolation, including the cultural barriers, geographic isolation, and low income common in reservation communities (Office of Minority Health, 2012).
- AI/AN women are more likely than any other single racial group to experience intimate partner violence (IPV, also known as domestic violence; 39% of AI/AN women report having experienced IPV at some point in their lives (Black & Breiding, 2008).

### *Community and Structural Risk Factors*

- AI/AN individuals are more likely to live in communities where they will experience high rates of criminal victimization and where there is *under-policing* of the community (Wells & Falcone, 2008; Wakeling, Jorgensen, Michaelson, & Begay, 2001).
- AI/AN families are more likely to live in communities where there is a high level of unemployment. The rate of joblessness on or near reservation communities is 49% (BIA, 2005).
- AI/AN families are more likely to live in areas of high poverty than the average family; 24% of AI/AN children live in areas of highly concentrated poverty compared to the national average of 11% (Annie E. Casey, 2012).

- AI/AN individuals are less likely than the average American to own their homes, one guarantee of housing stability. Only 56% of AI/AN households were homeowners, compared with 66% of total households (Ogunwole, 2006).

#### The Prevalence of Child Abuse and Neglect in AI/AN Families

National data on AI/AN children who experience child abuse and neglect are limited. The National Child Abuse and Neglect Data System (NCANDS) collects comprehensive data on the rates and characteristics of child abuse and neglect in all families. The data input into this system, however, is only for families who interface with *state* and *county* child welfare systems. Tribal programs, Bureau of Indian Affairs (BIA) or Indian Health Services (IHS) programs, or tribal consortia are often the primary service providers for AI/AN children and families, yet NCANDS does not include AI/AN children who come to the attention of and are served by tribal child welfare systems.

Research has shown that state and county workers are only involved in approximately 61% of all tribal abuse and neglect cases (Earle, 2000). These findings would lead to the conclusion that abuse and neglect of AI/AN children are underreported (Fox, 2003). Other issues, however, such as the definition of child abuse and neglect, the process for counting incidents of abuse and neglect in NCANDS, or the fact that reporting is primarily based on non-Native perceptions and substantiation of maltreatment would lead to the opposite conclusion—that numbers of AI/AN abuse and neglect cases in NCANDS are artificially high (Bigfoot et al., 2005).

It is also important to note that national research studies of the child welfare system have found biased treatment of AI/AN families in the state system. Although these studies tend to focus on out-of-home placement, one recent study found that, due in part to systematic bias, where abuse has been reported, AI/AN children are two times more likely to be investigated, and two times more likely to have allegations of abuse substantiated (Hill, 2007). This, too, affects the data presented in national data systems like NCANDS.

Furthermore, tribes are underrepresented in many major data collection efforts and statistical analyses (National Congress of American Indians, 2009). For example, the 2010 National Incidence Study of Child Abuse and Neglect 4 (NIS-4) stated that ‘other’ race categories “had too few sample children to support independent estimates for those groups (i.e., American Indian or Alaska Native, Asian, Native Hawaiian or other Pacific Islander, and mixed race), so analyses excluded those” (Sedlak, 2010).

Although there may be methodological adjustments necessary to work with smaller data sets, the knowledge and information that a report like the NIS-4 provides should not be denied to stakeholders for convenience reasons (Sahota, 2011). Studies and reports, like the NIS-4, in which AI/AN data are collected (NIS-4 does not use a national data set but engages in independent data collection) but are not analyzed for use by the public, policy makers, and practitioners, are problematic and paint an incomplete national picture.

Nonetheless, the limited data that are available do provide some basic understanding of the prevalence of child maltreatment in AI/AN families and communities:

- AI/AN children are 1.1% of all child maltreatment victims reported to state and county child welfare agencies (Children’s Bureau, 2012).
- AI/AN children experienced a rate of child abuse and neglect of 11.4 per 1,000 AI/AN children. This rate compares to the national rates of victimization of 9.1 per 1,000 (Children’s Bureau, 2012).
- AI/AN children are more likely than children of other races/ethnicities to be confirmed as victims of neglect (59.7%) and are least likely to be confirmed as victims of physical abuse (6.4%) (Children’s Bureau, 2008), which suggests a causal link between leading risk factors and incidences of maltreatment.

Although NCANDS is the primary source of data on the abuse and neglect of children, there are a few other sources of data for AI/AN children, such as select BIA regional offices, IHS, and other agencies

concerned with this information that may collect data on the prevalence of child maltreatment in the tribal communities with which they work (Bigfoot et al., 2005; Earle, 2000). This data, however, is not kept consistently or nationally.

### Effects of Child Maltreatment

Facing trauma in the form of child maltreatment has long-term effects on the well-being of AI/AN children, particularly when it goes undetected and untreated. Studies have shown that children who have been abused or neglected have higher rates of mental health and substance abuse disorders, are more likely to be involved in the juvenile justice system, have worse educational outcomes (truancy and grade repetition), and are more likely to have early pregnancies (Office of Planning, Research and Evaluation, 2012). It is also important to understand that individuals who experience abuse and neglect are more likely to be perpetrators of intimate partner violence and child maltreatment, creating a cycle of violence that is difficult to break (Child Welfare Information Gateway, 2013). In addition, child abuse and neglect can have a long-term effect on physical health. One study has shown that at up to three years following a maltreatment investigation, 28% of children were diagnosed with a chronic long-term health condition (Office of Planning, Research and Evaluation, 2007).

Child maltreatment does not just have long-term effects on the victims; it also comes at a great cost to society and the communities it touches. According to the Centers for Disease Control, to manage all of the services associated with the immediate response to all child maltreatment costs \$124 billion a year (Child Welfare Information Gateway, 2013). Although AI/AN children are only a small fraction of child maltreatment victims nationally, that would still equate to billions of dollars a year being spent to respond to child maltreatment of AI/AN children. For tribes who are already under-resourced in the area of child welfare, and who do not have access to federal child abuse prevention funding (with the exception of two small, competitive grant programs), responding to child maltreatment can be a huge drain on available resources.

Beyond the direct or immediate costs of child maltreatment there are also many long-term indirect costs. These include long-term economic consequences to society such as an increased likelihood of employment problems, financial instability, and work absenteeism. In addition, child maltreatment creates long-term economic consequences related to increased use of the healthcare system, increase cost due to juvenile and adult criminal activity, and increased use of mental illness, substance abuse, and domestic violence services (Child Welfare Information Gateway, 2013).

Chronic social problems like child maltreatment hold back communities. When they are unaddressed, they ultimately interfere with efforts to create and encourage economic development by taking from tribal resources that could be used for economic and infrastructure development to “manage” these chronic and persistent social problems. Furthermore, as Cornell and Kalt (1998) discuss, “nation building,” an approach to successful economic development for Indian tribes, requires a community where both businesses and humans must flourish because they are in relationship with one another. Cornell argues that success in economic development is more than just jobs—it also includes social impacts and making a community a place where investors want to do business and where the community is healthy enough to engage successfully with the economy.

### **Challenges with the Legal and Programmatic Framework for Addressing Child Maltreatment in Indian Country**

The following chart provides an overview of the complexity of dealing with child maltreatment in Indian Country. As evidenced by the chart, the prevention of, and response to, child abuse and neglect in Indian Country involves many different governments, service providers, and governmental systems. Therefore without coordination at each step, families’ needs can go unmet and children are left in danger (Cross, 2005).



SYSTEM ELEMENT	POSSIBLE PROVIDER	VARIABLES
Reporting child abuse or neglect	Mandatory reports under state, federal, or tribal law; on or off reservation; or concerned individuals	Tribal and/or state laws, P.L. 280
Intake and screening Initial response Initial assessment	Tribal Child Protective Service (CPS), tribal law enforcement, state CPS, county law enforcement, BIA social services, BIA law enforcement, IHS or tribal health care providers	Tribal law, P.L. 280 status, P.L. 93-638 or self-governance status, local agreements or protocols
Civil court actions	Tribal court, state court	Jurisdiction, tribal law, P.L. 280 status, P.L. 93-638 or self-governance status
Treatment <ul style="list-style-type: none"> <li>• Psycho-social assessments</li> <li>• Service plans</li> <li>• Family and care services</li> </ul>	Tribal CPS, state CPS, BIA social services, IHS or tribal health care providers	Resources, capacity, P.L. 280 status, P.L. 93-638 or self-governance status

*This chart is limited to those considerations relevant to civil jurisdiction—the child welfare system’s response to child maltreatment. It does not include the complexities relevant to the criminal system and perpetrator prosecutions, which will be discussed in a separate section.*

#### Issues in Reporting

Effective reporting of child abuse and neglect is the first step in helping address existing incidents, preventing further trauma, and connecting victims with treatment.

Prior to the passage of the Indian Child Protection and Family Violence Prevention Act (P.L. 110-630, ICPFVPA) in 1991, there were no consistent standards for how suspected incidents of child maltreatment in Indian Country were to be handled. Many tribes depended upon the BIA or state agencies to provide direction resulting in a variety of standards and practices—few of which were developed with tribal input or tribal community needs and values in mind. Furthermore, under these protocols, the BIA and state agencies taking reports rarely worked to involve tribes in assessments or responses. For a tribal community member or professional it was difficult to know who should report, who should be notified, and under what conditions which agency or government would respond to the report. This led to confusion about what an individual’s responsibility was and stood in contradiction to the traditional belief that caring for and protecting children was a community responsibility.

The ICPFVPA, among other things, requires coordination between local law enforcement and child protection service agencies whenever a report of child abuse or neglect in Indian Country is received, but still allows for tribes to create their own reporting requirements and systems and/or to work collaboratively within state and federal systems. Today, 23 years after the passage of the ICPFVPA, there is more information available and tribes have more of their own systems and protocols in place. As a whole, the standards for reporting child maltreatment in Indian Country have improved, the responses are more integrated, and in turn, more incidents are being reported and therefore investigated. In addition, Indian Country’s awareness of child abuse and neglect in general, and the need to report, has also increased. Problems have arisen in the implementation of the Act, most notably due to the absence of funding for implementing its provisions and the need for better coordination of services and information between tribal governments, the BIA, IHS, Federal Bureau of Investigation, and U.S. Attorney’s Office, among others (Trope, 2005).

However, barriers still remain to developing effective reporting systems in Indian Country and building the community support they need to succeed. One barrier is a lack of education about mandatory reporting. Many mandated reporters in Indian Country receive little to no training on relevant laws and jurisdictional issues. This requires service providers to develop their own interpretations and attempt to fulfill their reporting obligations without a real understanding of the law.

Another barrier may be related to the dynamics of small tribal communities. In small communities people know each other well and their social and economic lives are intimately intertwined. The well-being of children is very important to all tribal communities; however, situations where a tribal member suspects child abuse creates a dilemma for the individual who may know the child's family, may know that the child is the relative of a respected community leader, or may work with or for the child's family. Additionally, in small communities it may be very difficult to ensure confidentiality of the reporter regardless of the measures taken by agencies to safeguard their identity. The dilemma for the individual suspecting abuse or neglect is only heightened by misunderstandings about the reporting system.

A third possible barrier is an unclear understanding of what constitutes child abuse and neglect. While most professionals that work with children get extensive training in their area of expertise, not enough get good training in how to recognize or respond to suspected incidents of child abuse or neglect. Furthermore, it is not just professionals required to report but all individuals who work with children who may have no exposure or training in official definitions of and criteria for child abuse and neglect. False reports of abuse or neglect can have long-standing ramifications on the parent or guardian accused—something professionals and community members are acutely aware of, making thorough education in this area essential.

Tribal and state relationships are also a barrier. Sometimes state agencies may not be prepared to address reporting issues on tribal lands for a variety of reasons, including questions about who has jurisdiction and resources available to respond effectively, or because conflict between the tribe and state on other issues, like natural resources management or economic development, may damage important relationships in child protection and child welfare. In these situations reporting may be ineffective, and as communities recognize this inefficacy, they are less likely to report.

Finally, the historical context of reporting must be considered. AI/AN communities do not regard formal child protection systems favorably, especially those operated by state or federal entities. Rather than being viewed as a system designed to protect children and strengthen families, tribal communities see child protection systems as “assimilation agents.” This is because, as discussed above, for much of the 1900s child protection was used as an excuse to remove AI/AN children from their homes and place them in “better” non-Native homes. This disturbing and traumatic practice was fraught with racism, bias, and cultural incompetence and has left an indelible mark on Indian Country. For this reason people in Indian Country are sometimes reluctant to report suspected maltreatment because of their mistrust of child protection systems—particularly non-tribal systems. To compound this problem, due to the structure of available funding sources, there are few resources available for tribes to create and operate their own child protection services and child abuse prevention services; this means that in many tribal communities child protection work is done by the state, and tribal child welfare does not step in until after the initial determinations are completed, further perpetuating misperceptions and biases.

#### Issues in Investigation

Unlike most child abuse and neglect investigations involving non-Indian children, knowing who is involved and what their roles are can be complicated in an investigation involving an Indian child. An investigation on tribal lands may involve tribal, state, and federal authorities from law enforcement and child protection. The roles may not be clear, and it is not uncommon for an investigation to get sidetracked because of questions regarding jurisdictional authority and service responsibility.

For example, one interpretation of P.L. 83-280, known as P.L. 280, is that the state has concurrent jurisdiction with the tribe for the investigation of child abuse and neglect, unless the tribe decides to reassume exclusive jurisdiction on tribal lands. Under this view of concurrent jurisdiction (held by several states), the state and tribe share authority and responsibility for the investigation of child abuse and neglect. However, P.L. 280 does not spell out how that jurisdiction or responsibility is to be shared. Thus, in some cases, the state may perform almost all of the investigative functions; in other situations, the tribe may participate as an equal partner, providing child protection and law enforcement personnel for the investigation. Similarly, in some cases investigations by tribal workers may lead to action in state court, or investigations by tribal workers may lead to action in tribal court. In order to keep investigations running smoothly, tribes and states must define their authority and their roles. This is most successfully done through an intergovernmental agreement, but in the absence of an agreement, problems can and often

do arise very quickly. Lack of clarity about the intent of P.L. 280 and very different interpretations of the law contribute another layer of confusion and complexity that could be resolved with clarifying federal legislation.

In a non-P.L. 280 state, where tribes clearly have exclusive jurisdiction on tribal lands, it is still not uncommon to see a variety of governmental agencies involved in investigations. As described before, the tribe may have its own child protection or law enforcement personnel who do investigations or may rely on the BIA law enforcement and/or social services. It is also possible that state child protection officials may be involved in a non-P.L. 280 state depending upon the role that has been established for them with the tribe. Agreements, or Memoranda of Understanding (MOUs), that clarify authority and responsibilities are important here too, but are not always present.

Thus, a primary barrier that tribes face in pursuing effective investigations is a lack of coordination. Investigations in Indian Country as described above can involve a variety of agencies, some of which are from different governmental entities (tribal, state, or federal) as well as different court systems. Each has a different experience, role, and authority. If efforts are not carefully coordinated, allegations may go uninvestigated or follow-up services and treatment may not occur in a timely fashion or at all. When these mistakes occur, the consequence is often that children become victims of the system as well as of the abuse. Getting the relevant government authorities to the table, creating coordinated protocols when each agency has their own policies and procedures, and working between systems with different values and worldviews can be a complicated and time-intensive task.

In addition, it is problematic that the tribe's perspective often is not sought out when other governmental entities have the authority or agree to take the lead in investigations. When other governmental entities lead the development of protocols and techniques, tribes have the least amount of control over how investigations occur. This is especially true in P.L. 280 states. Methods of investigation are at a higher risk for being unresponsive to the needs of the children, families, and the tribal community. Tribal governments have unique knowledge and qualifications needed in performing effective investigations; however, in many cases, they are not fully consulted. Without tribal input, the risk for a CPS investigation not interpreting tribal child-rearing and associated risk to the child's safety correctly, or ordering an unnecessary removal of the child, increase significantly.

Varying definitions of child abuse and neglect can also be a problem. Federal law requires that states establish definitions for a variety of different types of abuse and neglect without specifying exactly what these definitions should contain. The Indian Child Protection and Family Violence Prevention Act also provides definitions for those involved in investigating child abuse and neglect in Indian Country, and tribes may also have developed their own definitions detailed in tribal codes. When a state agency is involved in investigating child abuse and neglect of an Indian child on tribal lands, it is most likely going to be operating from the definitions it uses, even if the tribe and federal law have different definitions. Inappropriate judgments of what constitutes child abuse can easily occur when state or county officials do not understand tribal child-rearing or family practices. Historically, mainstream definitions of child neglect have been used to find child neglect and remove children from parents that the AI/AN community believed to be exceptional parents (H.R. Rep. No. 1386, 95<sup>th</sup> Cong. 2<sup>nd</sup> Session (1978); S. Rep. No. 597, 95<sup>th</sup> Cong. 1<sup>st</sup> Session (1977)). For example, children who were left by their mother or father with a fit auntie or grandparent for prolonged periods of time were often deemed to have been neglected or abandoned, when this type of shared parenting is very common in extended kinship networks in AI/AN communities.

Issues with current definitions of abuse or neglect that are particularly problematic in AI/AN communities are described by Earle and Cross (2001) as follows:

- The importance of the parental role in mainstream society, which is based on a mainstream American understanding of nuclear family and other class-based social preferences.
- The importance of socioeconomic status, family circumstances, and race when determining whether or not abuse occurred; levels of reporting vary and are higher in lower socioeconomic and racially different homes, both commonalities with AI/AN communities.

Thus, although varying definitions of child abuse and neglect will have similar elements, they create unnecessary confusion, which can lead to differing standards, some of which may not be valid for application on Indian lands and which inevitably make investigation more difficult.

Training and technical assistance for tribal child protection personnel is another potential barrier. The proper investigation of child abuse and neglect is very sensitive and requires critical skills in interviewing, observation, interpretation, and evidence collection. The importance of these skills is magnified in Indian Country, where years of inappropriate investigation by non-Indian agencies have created a strong skepticism of child protective services in general. For example, law enforcement personnel are often chosen as the first responders to complaints of child abuse and neglect; their primary training is in law enforcement techniques, which may not include sufficient training on how to carefully interview an Indian child who has been the victim of child abuse. Inappropriate techniques can lead to further trauma for the child and his/her family and possibly taint the evidence needed to prosecute offenders. Tribes also need help in developing or enhancing their capacity to investigate, which can include training in protocol and cross-agency agreement development.

#### Issues with the Jurisdictional Framework

Indian tribes have long been recognized as sovereign political entities possessing sovereign authority. Congress has the authority to limit the exercise of this sovereignty, and the courts have held that tribes have been implicitly divested of certain powers by reason of their "dependent status." As sovereign nations, tribes have the right to regulate personal and domestic relations according to tribal customs and laws. States, therefore, have no jurisdiction over such matters that involve members of the tribe domiciled or resident on the reservation.

With the passage of Public Law 83-280, Congress and the courts intruded upon tribal exclusive jurisdiction. This law provided for certain states to exercise criminal jurisdiction over all AI/AN people living within the state as well as over "civil causes of action" involving AI/AN people residing in the state. Of the 16 states that acquired jurisdiction under P.L. 280, 6 were mandated to take jurisdiction, while 10 opted to take jurisdiction.

There are several ways in which jurisdictional issues affect the treatment of abused or neglected AI/AN children. Trope in collaboration with NICWA (2005) summarizes those issues most relevant to child protection in a report commissioned by the BIA. They are as follows:

1. *When does a tribe have exclusive jurisdiction over child welfare matters?* Tribal courts have the inherent right to exercise jurisdiction over children who are tribal members resident and domiciled on the reservation based on their inherent sovereignty. Tribes have always had systems for addressing their internal conflicts and relationships. Historically, these systems were informal, unwritten, and based on a holistic philosophy and a way of life. Although a few tribes continue to operate such systems exclusively, the vast majority of tribal court justice systems today operate pursuant to written codes and procedures and resemble, in many respects, their federal and state counterparts. Today, tribal courts play a critical role in the exercise of sovereignty. In fact, the federal government enacted the Indian Tribal Justice Act (P.L. 103-176) to encourage the development of more tribal courts. This law authorized funding for tribal courts and tribal judicial conferences, recognized inherent tribal sovereignty and the right of tribes to choose their own court systems, and created an Office of Tribal Justice Support in the BIA.

Tribal courts have a variety of forms. Some are traditional in nature, while others are hybrid systems based largely upon the American model but which try to incorporate tribal laws, customs, and mores in various ways. Tribal codes governing these courts also have a variety of forms and cover a range of subjects, including, but not limited to, membership, health and safety issues, family law, land use, conservation and environmental protection, hunting and fishing, commercial codes, education, health care, and housing.

2. *When do states and tribes share jurisdiction over such cases?* The Indian Child Welfare Act (ICWA P.L. 95-608) recognizes that tribes have concurrent jurisdiction over their member children when children not located on tribal land. In addition, in many Public Law 280 states, the language of ICWA and P.L. 280 has been read together to suggest that even on tribal land tribes have concurrent jurisdiction with states over child welfare matters. Disputes between the two concurrent jurisdiction sovereigns occur in two basic ways: 1) there are differences concerning when ICWA applies, which court proceedings should start in, and when as well as how state courts should transfer jurisdiction to tribal courts; and 2) there are disputes about what constitutes “good cause” (as ICWA provides an exception to presumptive transfer to tribal court for “good cause” even if the state court should not have jurisdiction) for a state court to decline a motion to transfer a proceeding to tribal court.
3. *In exercising sovereignty, when and how must state courts defer to tribal courts or standards?* ICWA requires that state courts give full faith and credit to official acts of tribes, which means both court orders and tribal codes, which could include recognizing an ongoing tribal child custody proceeding of a member who has left the reservation and has come to the attention of state CPS authorities. States should also defer to tribal standards in the context of ICWA compliance. For example, states should use definitions of extended family members and Indian custodians as well as placement preferences determined by tribes.
4. *What funding issues that affect the availability of services to American Indian/Alaska Native children and families arise from the multiple jurisdictions that are involved?* Two noteworthy funding issues arise from a jurisdictional context. The first involves funding for foster care. Because tribally licensed or approved foster families on or near the reservation meet the Title IV-E definition of “foster family home” for purposes of IV-E eligibility, states may place children in tribally licensed and approved homes and still receive Title IV-E funds. However, unless a tribe is approved to directly operate the Title IV-E program, the tribe must have an agreement with the state to receive these funds for children placed by a tribal agency.

The second funding issue involves non-discriminatory access to state services for children who are under the jurisdiction of the tribal court. Although American Indian/Alaska Native people living on reservations are entitled to non-discriminatory access to state services, disputes have arisen concerning whether it is the tribal, federal or state government’s responsibility to pay for services when the need arises in connection with a legal proceeding outside of the state’s jurisdiction.

As evidenced above, jurisdictional issues are important in determining how incidents of abuse and neglect of Indian children are handled. Coordination of jurisdiction is best done in clear tribal-state agreements as authorized under the Indian Child Welfare Act of 1978. Although approximately 20 states have these agreements with tribes, there remains uncertainty in many tribal communities about jurisdictional issues and responsibilities.

#### Issues with Funding for Child Abuse Prevention and Child Protection

Funding for child maltreatment, prevention, and child protection efforts is limited in Indian Country. Most funding for child welfare services comes from federal sources, such as the BIA or Department of Health and Human Services (DHHS). Tribes do have access to some funds that are flexible (e.g., BIA ICWA Title II funds, or DHHS Social Security Act Title IV-B funds) and can be used to prevent and intervene in child maltreatment cases. However, due to the fact that tribal funding in child welfare overall is very limited, available flexible funding sources are often used to support non-prevention non-child protection crisis management services, such as foster care or child welfare case management. States, while not having access to adequate prevention funding, still receive proportionately more funding as well as funding from two major sources that tribal programs are not eligible for—the Title XX Social Services Block Grant, and the Child Abuse Prevention and Treatment Act (CAPTA) State Grants (child protection services funding).

CAPTA, reauthorized by the CAPTA Reauthorization Act of 2010 (P.L. 111-320), is the only federal law that focuses solely on prevention, assessment, identification, and treatment of child abuse and neglect. Tribes are eligible for the two discretionary grant programs under CAPTA: the Community-Based Grants for Prevention of Child Abuse and the Discretionary Funds (which support research and demonstration grants and training programs). Tribes, however, are not eligible for CAPTA State Grants used to improve child protective service programs, which provide a small foundation of funding for child protection services to every state. Thus, tribal funding to prevent and address child abuse is almost nonexistent. Under the entire CAPTA program tribes have received less than \$300,000 a year from the almost \$100 million a year in appropriated funds.

Although all tribes recognize the importance of prevention, and many provide programs that incorporate child abuse prevention activities, they do so with little or no federal support. Furthermore, the prevention work they do is in communities with families that are very high risk for child abuse and neglect. While the funding levels for states are low under this program, every state still receives some level of funding to conduct these activities, whereas funding for tribal governments under this program does not even reach 1% of the tribes nationwide. Furthermore, CAPTA provides support in the form of matching funds for state Child Abuse Trust Funds, which provide support for advocacy and child abuse prevention services. Tribes receive little or no benefit from these state trust funds, and there is no provision for support to local or a national tribal child abuse prevention trust fund under CAPTA.

The Title XX Social Services Block Grant is a capped entitlement that, among other things, supports programs that strive to prevent and remedy abuse, neglect, or exploitation of those who cannot protect themselves by promoting community-based care. Recipients (states and territories) are afforded a great deal of flexibility in terms of how they use the Title XX funding to meet these goals. These funds are often used to fill service gaps that exist in other more restrictive federal child welfare programs—specifically child abuse prevention and child protection services. The Social Services Block Grant is currently one of the only major sources of federal funding used for child welfare services by states to which tribes do not have access.

To fill gaps in funding due to underfunding and lack of access to other federal sources, Congress enacted the Indian Child Protection and Family Violence Prevention Act (P.L. 101-630, ICPFVPA), which contains three separate grant programs designed to address child abuse prevention, investigation, and treatment services. The Act authorizes Indian Child Resource and Family Service Centers at BIA regions staffed by multidisciplinary teams with experience in “prevention, identification, investigation and treatment” of child abuse and neglect (AI/AN tribes may contract to run these centers), and also authorizes funding for grant programs for the development of an Indian child protection and family violence prevention program, and for the treatment of victims of child abuse and neglect. These grant programs have never received any appropriations, and the BIA and IHS, which have oversight authority for this law, have not made any budget requests in over 10 years. Tribes are not different from states in their need to respond to child abuse and neglect in their communities, and they need additional funding to develop a continuum of services and programming to prevent and respond to child abuse and neglect.

There are a few other funding sources that are worth noting. These include: (a) the Consolidated and Technical Assistance Grant Program to Address Children and Youth Experiencing Domestic and Sexual Violence, which supports communities’ abilities to increase collaboration among nonprofit victim services, violence prevention, and children- and youth-serving organizations to create programming and activities specific to children who have been exposed to domestic or interpersonal violence and their non-offending parents; (b) the Safe Havens: Supervised Visitation and Safe Exchange Grant Program, which supports supervised visitation and safe exchange of children in situations involving domestic violence, dating violence, child abuse, sexual assault, or stalking; and lastly (c) the Family Violence Prevention and Services/Grants for Battered Women’s Shelters Program which support efforts to increase public awareness about prevention of family violence, domestic violence, and dating violence as well as shelter care necessary to support victims and their families in shelter care. Although these programs provide important monies to tribal communities and address the intersection of child welfare and domestic violence, more could be done to support and fund other important cross-agency collaborations with relevant government and community partners on issues such as substance abuse, housing, and general welfare.

### Issues with Data Collection

Tribal governments need reliable mechanisms for collecting their own data and the ability to access data for their tribal members who are under federal or state jurisdiction. Accurate, reliable, well-coordinated, and accessible data collection is critical to understanding the scope and trends of child maltreatment in Indian Country. Data must include AI/AN children under tribal, state, and federal jurisdiction to paint an accurate picture and highlight unique issues within each of these systems.

The Indian Child Protection and Family Violence Prevention Act identifies the federal requirements for reporting and investigating child abuse in Indian Country. If the alleged abuse, such as child sexual abuse, is considered to be a criminal violation, the agency receiving the report is to notify the Federal Bureau of Investigation. In a scenario where child sexual abuse of an AI/AN child on tribal land is reported and then investigated, there could be as many as three different government and/or law enforcement authorities responding (tribal, federal, or state) and each collecting different or similar data. While theoretically each of these entities could share this data with each other, this may be complicated by conflicting policy mandates or each government's principles regarding confidentiality and the sharing of information.

Many tribes have established Memoranda of Understanding with local child protection agencies and law enforcement in their area to address issues of coordination, but this is a complicated and often long process that is not well resourced and contains several collaboration challenges. One primary challenge can be misperception by health agencies, whether they are tribal, federal, or privately operated, that due to the Health Insurance Portability and Accountability Act (P.L. 104-19, HIPAA), they cannot share client information with other outside agencies. Agencies or individuals that operate under this assumption have often not received accurate information or training on the discretion allowed under the law, the law's application in child abuse reporting and investigations, and/or the interaction of federal Indian law with HIPAA. While the Indian Child Protection and Family Violence Prevention Act implies that information pertaining to a report or investigation can and should be shared, it does not provide additional incentives or resources to assist tribes as they negotiate these complex relationships and roles.

Tribal and urban AI/AN organizations struggle with data collection regarding child maltreatment and access to existing data sources. As mentioned previously, states submit their child maltreatment data to NCANDS, which was established in amendments to CAPTA in 1988 (P.L. 100-294). NCANDS is a data system that collects child abuse and neglect information both at the aggregate and case level. The aggregate data is used by DHHS to publish annual reports on the characteristics of child abuse and neglect in the United States titled *Child Maltreatment*. Although data on AI/AN children are included in this report, the data reflected does not include those children in tribal child welfare systems. In addition, many data elements specific to AI/AN children that would be helpful to urban and tribal programs are not reported for this publication. Tribal governments do not currently submit to NCANDS nor do they have a similar central repository to which they can submit their data for analysis and annual report.

A few tribal governments have been able to develop their own databases and accompanying infrastructure in this area, but the vast majority of tribes do not have the resources to build and maintain such a system. The ability to develop these tools and activities has been primarily tribally funded work with little investment from federal sources. However, tribes that have been able to develop a child abuse and neglect database are often looking to develop a system that not only helps them collect data on individual cases, but also serves as an electronic case management system, a tool for tracking client and service trends, and program evaluation. Tribes that develop and operate these systems are more likely to be able to develop carefully thought-out responses to children's needs in their community and engage in larger systems reforms efforts.

In 2003, NICWA was funded by the Department of Health and Human Services through the Office of Child Abuse and Neglect to help a group of five tribes develop and pilot tribal definitions of child abuse and neglect and examine issues for tribes that may arise if they were to submit child maltreatment data to NCANDS. This project recognized tribal government authority, similar to that of states, to develop their own definitions of child abuse and neglect with guidance from existing federal definitions. Tribal pilot sites developed approximately 110 data measures regarding child abuse and neglect, many similar to

NCANDS data elements, but with cultural differences and more focus on measures that describe the attributes of healthy families (strengths-based indicators). Tribal participants reported that the project gave them important information and opportunities to use a community-participatory process to develop more responsive definitions that reflected tribal cultural values.

This project found that much more work needs to be done to support tribal processes that develop tribal definitions of child abuse and neglect and the development and maintenance of tribal data systems that coordinate with a federal system. Four specific recommendations were identified: 1) Any child welfare data collection and reporting effort involving a tribal community must be respectful of tribal sovereignty and ownership of data; 2) research and other initiatives involving tribal communities should be participatory in nature; 3) tribal communities should be provided with the supports needed to integrate the strengths-based data elements into current child welfare practice; and 4) tribal communities should be given access to resources to build, enhance, and/or sustain their ability to collect and use child welfare data.

It is worth noting that the BIA and IHS may collect some limited data based on their roles as funders or service providers for children affected by child maltreatment, but this data is not readily available to tribes, is not coordinated with other data sources, and lacks the comprehensiveness necessary to inform policy and practice.

In addition to accurate systemic data, tribal child protection and prevention teams also need research specific to child maltreatment in Indian Country to create and promote effective prevention strategies, interventions, and policy change. There is little information on the cultural interventions and assessments that are being used with AI/AN children. This is largely due to the fact that tribal and urban AI/AN communities lack the resources necessary to establish evidence-based practices and create cultural adaptations of evidence-based practices. There is no national focus and very limited support for funding these types of projects at the federal level. Much of the federal research on child maltreatment has been funded by demonstration and discretionary grants authorized under CAPTA. Typically, these grants are awarded to large public and private universities, hospitals, or private organizations with extensive research capacity and infrastructure. These grants support some of the key research on the effects of child maltreatment; characteristics of abuse and neglect; and effective prevention, intervention, and treatment practices. Until the recent reauthorization of CAPTA in 2010, tribes were not eligible to apply for these demonstration or research grants, and since that time no tribe has been awarded a grant. Another consequence of this lack of research is that as federal, state, and private funders increase their focus on projects that contain evidence-based practices, tribes and urban AI/AN organizations are increasingly finding themselves left out since many evidence-based practices have not established program effectiveness with AI/AN populations, and tribes may deem some evidence-based programs culturally inappropriate for the families and children they serve.

#### Training Issues for Professionals Working with AI/AN Children

AI/AN communities and urban centers struggle to ensure that they have a qualified AI/AN workforce that does not burn out in the face of challenging child protection and trauma treatment work. When tribal culture is the framework for training models, practitioners in Indian Country can more readily utilize the information and apply new skills in efforts to improve outcomes for tribal clients participating in prevention and treatment programs. This, in turn, pays dividends for the greater Native community, as the availability of tribal-specific training and education creates stronger incentives for AI/AN people to enter the human services field and supports broader dissemination of existing training models and the development of new ones.

While the number of qualified Native professionals that work with AI/AN children and families has increased over the last three decades, the overall number is still insufficient to ensure that AI/AN children and families can work with qualified and/or licensed AI/AN practitioners. Non-Native professionals often work for tribal child protection and trauma treatment programs, but this often requires tribal programs to shoulder the responsibility and cost of training new professionals in the culture of the tribe as well as the skills necessary to develop critical relationships and successfully engage tribal families. Even for qualified AI/AN professionals there can be a steep learning curve when working in a tribal community that is not their community of origin.



Adapting mainstream trainings for local use is very expensive and time consuming and not feasible for most tribal or urban AI/AN programs. Instead, professionals within tribal communities often go without training or struggle to implement mainstream methods on which they were trained in college. This can often result in program or service development that is not sufficiently responsive to tribal family needs and discourage additional resource investment by tribal leadership. These educational needs are not, and in some ways cannot, be met by formal schooling at state and private colleges, but can be filled by partnerships with tribal colleges and collaborative relationships between tribes and universities. But resources to develop more tribally specific training for professionals are scarce, and the pace of development of culturally appropriate trainings and adaptations of evidence-based practices and treatments is not keeping pace with the larger movement focused on more mainstream and conventional practices.

Further, tribal and urban AI/AN professionals looking to enhance their skills often have difficulty obtaining training that is tailored to their practice environment. While training is offered for a variety of professionals by universities, state and private training providers, federal agencies, and professional groups, very seldom are there offerings that speak to practicing within a tribal community or specifically to AI/AN culture. In addition, many of these trainings are offered far from tribal communities, adding an element of hardship for tribal professionals that cannot afford to be gone for extended periods of time or do not have funding for training related expenses.

As tribes and urban AI/AN programs are encouraged to expand their services and funding, they can run into barriers related to funding requirements that call for licensed or credentialed professionals. For example, Medicaid requires that certain services are provided by a licensed clinician or, at a minimum, provided by someone supervised by a licensed clinician. In many tribal communities, securing a qualified professional, such as a licensed clinical social worker or psychologist, is very difficult, especially if they want to hire an AI/AN professional. This barrier becomes even more pronounced when the program is seeking someone with specialized experience and training, such as a trained child and adolescent psychologist or psychiatrist. In many cases, tribal communities have longstanding traditions of interdependence, natural support systems, and traditional methods of healing; for these reasons tribal communities often choose or prefer paraprofessionals with knowledge of the community and culture over non-Indian professionals from outside the community.

However, where resources have been available, there are strong signs that tribal cultural practices can be successfully integrated into training curricula on both the local and national level. Tribal colleges often offer associates degrees in human service-related fields that are specifically focused on child and family practice in Indian Country. While the vast majority of these tribal colleges do not offer four-year degrees, they can be a stepping stone for Native students that want to learn more about human services and community-based practice. Organizations like NICWA and many others are rigorously working to improve the availability of culturally specific training and strategies for practitioners in Indian Country. For example, NICWA has the only certification program for tribal Indian child welfare workers in the country. This certification program is grounded in the specialized knowledge and understanding regarding the history, traditions, values, and family systems of the tribal groups served. NICWA also provides beginning and advanced training in tribal child welfare practice through our *Heritage and Helping* curriculum. Other culturally based NICWA trainings focus on the development and operation of child protection teams, cultural competence for non-Indian professionals and organizations, and training for professionals working with Native parents using our *Positive Indian Parenting* curriculum. These programs have been well received by professionals who work in AI/AN communities and have helped build a more competent and skilled work force.

Issues in Criminal Prosecution

<b>SYSTEM ELEMENT</b>	<b>POSSIBLE PROVIDER</b>	<b>VARIABLES</b>
Criminal court actions	Tribal court, state court, federal court	Jurisdiction, P.L. 280 status, tribal membership of accused, type of offense (Major Crimes Act and Indian Country Crimes Act)

In the case of criminal matters, states have concurrent jurisdiction with tribes in P.L. 280 states over crimes committed by AI/AN people in Indian Country. In non-P.L. 280 states, the federal government has concurrent jurisdiction with tribes over most criminal activity committed by AI/AN people in Indian Country and exclusive jurisdiction over non-Indian crime in Indian Country in some circumstances based on two federal statutes—the Major Crimes Act (18 U.S.C. 1153) and the Indian Country Crimes Act (18 U.S.C. 1152).

The Indian Country Crimes Act provides concurrent federal criminal jurisdiction in Indian Country, except over:

- Crimes committed by one American Indian against another American Indian;
- Crimes that by treaty remain under the exclusive jurisdiction of a tribe; and
- Crimes where an American Indian defendant has already been punished by tribal law.

The federal government has concurrent jurisdiction over crimes that are committed by an Indian against a non-Indian and by a non-Indian against an Indian. The Major Crimes Act provides the federal government with concurrent jurisdiction over AI/AN perpetrators, *regardless of the victim*, when the crime is a “major” crime. Relevant major crimes include murder, manslaughter, kidnapping, rape, incest, sexual abuse of a minor, and felony child abuse or neglect.

Finally, *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) determined that regardless of whether a state is a P.L. 280 state, case law recognizes that tribes **do not** have the authority to exercise criminal jurisdiction over non-Indians committing crimes in Indian Country unless they have been given jurisdiction by Congress. Additionally, *United States v. McBratney*, 104 US 621 (1881) determined that that states have exclusive jurisdiction over crimes committed by non-Indians against non-Indians in Indian Country.

This complicated jurisdictional scheme for crimes in non-P.L. 280 states committed in Indian Country can be summarized by this chart:

**Not “Major” Crimes**

Persons Involved	Jurisdiction
Indian accused, Indian victim	Tribal government only
Indian accused, non-Indian victim	Tribal government and federal government
Non-Indian accused, Indian victim	Federal government only
Non-Indian accused, non-Indian victim	State government only

**“Major” Crimes**

Persons Involved	Jurisdiction
Indian accused, Indian victim	Tribal government and federal government
Indian accused, non-Indian victim	Tribal government and federal government
Non-Indian accused, Indian victim	Federal government only

The complexity of this scheme often allows prosecutions in all forums to fall through the cracks. Furthermore, the major gap in the jurisdictional scheme is that any crime committed by a non-Indian against an Indian cannot be prosecuted under tribal jurisdiction, only federal. Unfortunately, the federal government declines to prosecute the majority of these crimes. According to figures compiled by the Transactional Records Access Clearinghouse at Syracuse University, prosecutors declined 52% of cases involving serious crimes in Indian Country. Specifically, the government rejected 61% of cases involving charges of sexual abuse of children; in contrast, the Justice Department declined 20% of drug trafficking cases nationwide (Williams, 2012). In 2013, the Violence Against Women Act extended criminal jurisdiction to tribes to ensure that non-Indian perpetrators of interpersonal violence would not fall through this gap. Currently, there is no such similar jurisdiction to protect the victims of child abuse and child sexual abuse.

In addition, under the Indian Civil Rights Act (25 U.S.C. §§ 1301-1304), and as amended by the Tribal Law and Order Act (25 U.S.C. 2801 et seq.), tribes have sentencing limits of three years per offense (with a

maximum of nine years for a single criminal proceeding). With federal prosecution rates low and sentencing limits in place, in cases of child abuse and child sexual abuse justice often is not served, and victims are left at risk of future violence at the hands of previous abusers.

### **Collaborative Responses to Child Maltreatment in Indian Country**

Interagency collaboration within a tribal or urban community requires that agencies have a common understanding of the issues that contribute to risk of child abuse and neglect and a shared commitment to addressing those issues together. Families that experience child abuse and neglect are often involved in more than one service delivery system. They may need assistance to secure basic needs, such as housing, employment, food, clothing, healthcare, and transportation. Families in the child welfare system may also require services to address trauma, mental illness, domestic violence, school performance, dysfunctional interpersonal relationships, or juvenile delinquency. The providers of these services are often distinct as well as physically separated from each other and operate in silos in many places.

Child protection teams (CPTs) and multidisciplinary teams (MDTs) can help provide a coordinated response to child protection issues, but more is needed to truly have an integrated and well-functioning service delivery system for all children in the child welfare system. Frameworks like the System of Care provide guidance on how these services and service providers can be better organized to serve the multifaceted needs of families in a more cohesive and collaborative manner. The process of developing these frameworks for coordinated systems is time consuming, requires new commitments, and requires skills and knowledge that may not be part of many service providers' regular skill sets. It also requires resources to support staff time; development of protocols, training, analysis, and adaptation of policies that impede collaboration; and community engagement activities. Few federal programs provide sufficient resources to support these types of structural changes without diminishing the direct services needed on a daily basis, and tribes are less likely to have the advantages of a robust infrastructure and discretionary revenue to contribute to these types of efforts than states. The benefits of developing these coordinated systems are many and can provide long-term gains in child and family outcomes. Additional benefits that can accrue are:

- Increased confidence and community engagement in services;
- Less duplication of services;
- More targeted allocation of program resources;
- Quicker response times and more effective responses to child and family needs;
- Higher client satisfaction with services and service providers;
- Improved data collection;
- Improved processes for addressing interagency disagreements; and
- New opportunities to secure additional resources and support that may grow from shared achievements.

Barriers to collaboration in addressing child maltreatment in Indian Country and urban AI/AN programs can be significant, but as the self-governance and self-determination movement in Indian Country continues, many tribes better understand the need for and benefits of increased interagency collaboration. This is especially true given the overall reduction in federal funding for tribes and urban programs, availability of new models and information of how to construct collaborative service systems within Indian Country, and calls from tribal and urban AI/AN communities to improve services.

Some of the key barriers to interagency collaboration within Indian Country include:

- Lack of resources and infrastructure to support and maintain systems change;
- Limited skills and knowledge of how to organize and conduct collaborative systems change;
- Lack of available culturally specific training and technical assistance resources;
- Program mandates that impede collaboration with other agencies, especially in the areas of information sharing and discretionary authority to alter program services;
- Perceptions that agencies must compete with each other and protect their "turf;"
- Political and community leadership that are resistant to change;

- Overwhelming community need for basic services that distracts programs and leadership from pursuing change; and
- Lack of community ownership and engagement.

Tribal community planning efforts to create systems change must examine these potential barriers and have proactive plans to address them if they are to succeed. It is a given that the effort involved in true systems reform requires intensive examination, planning, and revision, but long-term success depends upon tribal communities and programs having the support they need to develop sustainable and coordinated systems of care.

### Child Protection Teams

The role of CPTs is to ensure cross-disciplinary coordination, to improve assessment and decision-making, and to ensure families' access to necessary resources to support the family and keep children safe. These teams may be involved in community-based prevention activities, investigation, coordination of services for victims and families, and policy change efforts. They are not the agency of statutory authority and, thus, have no investigative power. Rather, they assist the agency of statutory authority by bringing together a team of professionals whose joint judgments extend the capacity of the agency to protect the child and expand the knowledge of available resources. Child protection teams keep the eyes of multiple service providers on the child and contribute resources and services to meet diverse needs of children and families. Further, a CPT does not have the decision-making power of the court. It advises the court and, in so doing, increases the confidence of the court that it has reached the appropriate conclusions. It is a cross-agency collaboration designed to ensure that services wrap around a family and help them find stability in a coordinated fashion.

Following passage of the Indian Child Protection and Family Violence Prevention Act, the BIA and IHS entered into a joint memorandum of agreement establishing child protection teams at the area (regional) level and the agency level. These teams are advisory in nature and are primarily designed as information resources for tribes. While they are called "child protection teams," they do not function as described above and are not CPTs as defined by the field of child protection. Since they are not organized by the agency of statutory authority, they have none of the functions or authority usually granted by that agency to ensure the protection of children. In addition, the members of the team identified in the MOU between the BIA and IHS were heavily weighted toward federal representatives, with few positions for tribal representatives. These mandated child protection teams look different from area to area, have been of limited success, and most operate only sporadically. While these teams can provide a venue for important coordination or information exchange, they are neither sustainable nor effective in their current form.

In some locations, tribes have developed their own CPTs in line with national standards and have incorporated them into tribal policy or code. Such teams do operate as true CPTs but are difficult to form, train, and maintain due to the void in federal funding to support them.

### Multidisciplinary Teams

MDTs are groups of professionals that work together to provide a well-coordinated response to reports of child abuse or neglect and that bridge the gap between civil and criminal jurisdiction coordinating all investigations, prosecution, and treatment of victims. The members of MDTs represent the various governmental agencies and private agencies responsible for preventing, investigating, and treating victims of child abuse and neglect. This would typically include representatives from law enforcement, mental health, child protection, medical services, and the prosecutor's office. The core purposes of an MDT are to reduce trauma to victims and families, improve the accuracy of information obtained during investigations, improve responses to children and families involved, and reduce strain on member agencies and investigators. MDTs can be facility-based, as is often the case with child advocacy centers or hospitals that have specialized child abuse victims' services, or they can operate outside of an independent or dedicated facility, possibly in more than one location.

In Indian Country, you will often see MDTs used in places where child advocacy centers have been established, such as Mashantucket Pequot, Eastern Band of Cherokee, and Crow Creek Sioux Tribe, or in places where tribes are actively working with the U.S. Attorney General's office and Federal Bureau of Investigation on the investigation and prosecution of child sexual abuse on tribal lands. The 1995 U.S.

Attorney General Guidelines for Victim and Witness Assistance states that federal prosecutors must consult with local MDTs (United States Department of Justice, 2011). MDTs may also be based in IHS health care facilities. Other tribes, often those located within P.L. 280 areas that do not have tribal courts and rely on state agencies and law enforcement for child protection services, may choose to participate in local or regional MDTs sponsored by county or state agencies. Non-tribally sponsored MDTs or CPTs can present challenges for tribes as they may include a number of non-tribal entities that may have interests outside of the tribe's and may not fully understand federal Indian law or tribal sovereign status.

Key elements of successful tribal MDTs and CPTs are community ownership and involvement, resources to support the teams' functions, integration of tribal culture and tradition in team process and decision-making, development of clear protocols, participation and commitment of MDT members, adequate training support, confidentiality, and individual member and team accountability.

#### Other Collaborative Responses to Child Maltreatment

Child protective teams that are based on a System of Care philosophy can be found in several tribal settings that work with child maltreatment victims. The System of Care approach, used across mainstream and tribal children's mental health and child welfare services, is based on a set of values and principles that include community-based, individualized, culturally competent, family-driven, and youth-guided services (SAMHSA, n.d.). In this system, services are collaborative and well-coordinated with the understanding that many different service providers may be involved in helping address child abuse and neglect issues within a family.

In 2011, the Nome Eskimo Community (NEC) in northwestern Alaska developed an in-home services model based on the System of Care values and principles. Within NEC's service area is a child protection team, multidisciplinary team, state Office of Children Services, tribal child welfare services, and other child and family programming. Child protection services are provided by the state, and cases are adjudicated within state court. Beginning in 2009, NEC participated in a project sponsored by the Western and Pacific Implementation Center and NICWA that brought together Alaska Native villages and organizations; state Office of Children Services; state courts; and a variety of other funders, service providers, and advocacy organizations to identify critical barriers that lead to high numbers of removals of Alaska Native children that had been reported as abused and neglected. NEC, along with several other Alaska Native villages and organizations, developed in-home service models that identify their local in-home services for children at risk of being placed in foster care or who have been recently reunified with their families. The models were based on the System of Care values and principles, as well as tribal standards and values that protect children and strengthen families. The model addressed several key elements of basic in-home services, which are parenting support, supporting recovery and sobriety, confronting domestic violence, case management, resource access, traditional/culturally based services, life skills development, and supporting healthy relationships. The state Office of Children's Services was a partner in this process and agreed to support Alaska Native villages and organizations, educate state child welfare staff, and promote utilization of tribal in-home services for Alaska Native children in their custody. NEC could not have developed a successful collaborative program without the partnership of state agencies such as the Office of Children's Services. The quality of tribal-state relationships are a major determinant of the ability of AI/AN children and families in the child welfare system to receive the protections, supports, and services they need.

#### Tribal-State Relations

Because of the direct federal government-to-tribal government relationship, historically, tribal-state interaction has been limited. The direct tribal relationship with the federal government led to the sense that there was little role for state governments in tribal affairs. Although states have no authority to pass laws that interfere with the federal-tribal relationship, the development of tribal-state relationships is critical to providing appropriate services to Indian children and families. Additionally, with the increase of federal devolution also comes the need for increased intergovernmental coordination and cooperation among state, county, and tribal governments.

Tribes and states have identified a variety of mechanisms and models to improve intergovernmental relationships and to provide more accessible, culturally relevant, and/or more effective services to AI/AN

children and families. These mechanisms include, but are not limited to: 1) coordinating internal tribal child welfare resources; 2) engaging in discussions about key child welfare issues such as ICWA implementation or child abuse/neglect investigations; 3) educating one another on respective perspectives regarding key issues; 4) negotiating respective governmental responsibilities; and 5) developing cooperative strategies for intergovernmental relationships and service delivery agreements.

It is extremely important for tribes and states to utilize these successful mechanisms and models to develop and maintain positive relationships with one another. Poor tribal-state relationships can negatively affect the prevention and treatment of child abuse and neglect on Indian lands. With the federal government serving a supporting role, tribal-state relationships can be successfully developed and improved. When tribes and states are unwilling or unable to develop cooperative relationships, it is children and families who suffer the most.

In areas where tribal-state relationships in child welfare are the most successful there is a policy infrastructure in place, such as intergovernmental or interagency agreements, that outlines the roles and responsibilities of tribes or urban AI/AN organizations and states in responding to reported child maltreatment of AI/AN children. While these agreements are not mandatory, they have proven to be extremely helpful in clarifying expectations and responsibilities for each of the parties as they carry out their designated roles in child welfare services. The agreements provide tribes and urban AI/AN organizations with opportunities to participate in child protection activities and provide their expertise and resources, even when they cannot directly provide the services themselves. Tribal and state governments in 20 states have developed these agreements on child welfare procedural issues and more are needed.

### **Solutions Tribes and Urban Centers Are Employing**

Tribal rights and responsibilities to protect children are based in international law, the United States Constitution, treaty law, and numerous federal laws and policies. Tribes, like states, have sovereign authority over and responsibility for the protection of children. Unfortunately, tribal governments have not always had the opportunity to be involved in protecting their children despite having sovereign authority. Exercising that sovereignty has been the tribes' greatest challenge, with resources and authority being given to other governmental entities, such as states or the BIA. Based on treaty law and the Constitution, the federal government has a "trust responsibility" to American Indian tribes—a formal obligation to protect and provide for their health, education, and welfare. Historically, this concept formed the legal basis for federal operation of child protective services on reservations. Over time, this federal role created a sense of hopelessness and dependency in many tribal communities. As a result, tribal responsibility for children's well-being was diminished. Nonetheless, since the 1970s, there has been a rapidly increasing trend for tribal governments to seek out solutions to child abuse and neglect that embrace their culture and recognize their sovereign rights to be involved in their children's protection. However, the legacies of the past mean that many tribes today are unable or unwilling to assert their sovereign authority in this area, due to a lack of resources and/or capacity, their deference to state authority, or their belief that these services should be provided under the federal trust responsibility.

Child protection is a very complex and very important responsibility for any government. To be successful, it requires a commitment to involve people from all areas of the government and community in planning and implementation. This requires community ownership of the problem and support for the solutions. In American Indian communities, new approaches are being developed, and community support is increasing, despite a difficult and complex set of circumstances surrounding the work. The complexity of this field is a result of the combined histories of Indian culture, child welfare policy, and federal Indian policy. Understanding the context set by the intersection of these histories is important in developing an understanding of current successful programming in tribal and urban Indian programs.

### **Elements of Successful Responses to Child Maltreatment in Indian Country**

In order to effectively address child maltreatment in Indian Country, tribal governments and urban programs have drawn on the wisdom of their communities and culture. Programs and services that have been successful are designed with input from the community and implemented by those with intimate knowledge and deep understandings of the unique community needs and the tribal culture. Services are based in cultural beliefs, teachings, customs, and traditions and aligned with trauma-informed care that

treats both the symptoms of child maltreatment and also the causes and effects of trauma on all family members. It may include formal services like we see in many government structures, informal helping systems such as extended family or peer networks, traditional practices that incorporate spiritual beliefs, and cultural adaptations of mainstream models of service.

Another common element of effective child maltreatment prevention and treatment services is successful collaboration, whether across different governments (tribal, federal, state, and local) or within a particular governmental structure. Collaborative relationships help leverage funding, clearly define roles and responsibilities, incorporate cultural resources, eliminate service disparities, and improve overall communication between agencies serving the same children and families. Tribal governments, in their efforts to address child maltreatment, are subject to a variety of jurisdictional challenges and varying service delivery and funding schemes that can impact their ability to provide prevention and treatment services. The ability to form successful collaborative relationships with various governmental entities outside of tribal lands is critical to addressing these jurisdictional, funding, and service delivery challenges. Urban AI/AN programs also experience many of these challenges, especially those related to funding and service delivery. They will often develop partnerships with local, state, and sometimes tribal governments. Successful tribal and urban AI/AN programs work within their respective governance structures to coordinate between agencies as well.

A third common element of successful child maltreatment programming for AI/AN children is a strong understanding of the importance of familial connections as a protective factor for AI/AN children. While removal may be necessary to protect children in more serious abuse and neglect circumstances, the removal itself is traumatic for children who can be separated from their family, community, and culture. A balanced approach to child protection can keep children safe from harm while nurturing family and community relationships. By keeping family relationships intact, children remain connected to their culture, have a positive sense of belonging, and gain an understanding of their identity as an individual as well as a member of the collective community. Tribal and urban AI/AN programs serve an important role in facilitating these connections through both formal services and access to informal helping networks.

A fourth element is the location of appropriate community-based services for AI/AN children and families. Families struggling with child maltreatment often have multifaceted needs and treatment plans that require access to different service providers. AI/AN populations on tribal lands are very often located in rural areas where access to affordable and timely public transportation can be extremely limited, if available at all. With high unemployment rates on tribal lands other modes of reliable private transportation can also be out of reach. Services that are located in off-reservation areas and operated by other public and private entities generally do not incorporate the values and culture of tribal families and consequently are limited in their ability to do successful outreach and services for these children and families. Community-based services ensure that tribal child protection responses can be accessible, tailored to the needs of children and families, and incorporate tribal culture.

Lastly, making the most of available funding sources by blending and braiding funding when possible is an essential element to successfully addressing child maltreatment in Indian Country. Blended funding is that funding from multiple sources which have the same or a similar purpose, support the same or similar activities, and can therefore be pooled together to support one program. Blended funding may need to be distinguished within a program for the purposes of grant reports or audits through staff time studies, cost allocations, or other methods that track funding, but these measures are easy to put in place and allow for a program to accumulate enough grant funding to support itself. Braided funding is that funding which brings together multiple funding streams that have different purposes and different objectives and are therefore separate, but each funding stream is used to pay for specific components of a service plan that are in line with the purpose or objective of each source. When using braided funding, it is often helpful to create memoranda of agreement (MOAs) between different agencies that assure certain programs or funding streams can be used to pay for the services in the coordinated plans of care. Braided funding can ensure that a coordinated strategy is being used that spreads the responsibility of funding support between multiple agencies, ensuring that no one program is overburdened and each is able to maintain stability. As tribal and urban providers increase their access to funding and their knowledge of how to effectively utilize it by blending and braiding, they increase their capacity to design and operate programs

that can address the unique and complex issues present in preventing and treating child maltreatment in AI/AN communities.

The following section will describe several tribal and urban AI/AN programs that have been successful in addressing child maltreatment. This includes prevention of child maltreatment, community engagement, healing trauma in adult family members, providing supports to family members to help keep children safely in their homes, and treating the trauma in child victims. These examples do not constitute an exhaustive list, but instead seek to provide some brief examples of how tribal communities and Indian organizations are using limited resources to creatively and effectively address child trauma issues, especially child maltreatment.

#### Primary and Secondary Child Abuse Prevention

The National Indian Child Welfare Association is a leader in helping tribes build capacity to address the complex issues surrounding child abuse and neglect in their communities and develop effective prevention strategies that utilize cultural resources and traditions. *Grassroots Child Abuse Prevention* is a NICWA training curriculum that helps tribal communities develop community-wide child abuse and neglect prevention campaigns (NICWA, n.d). Trainees are provided information about child abuse and neglect, community organizing techniques, cultural adaptations of mainstream prevention strategies, and social marketing to develop and support community-based prevention strategies for AI/AN communities. NICWA also provides on-site technical assistance to help tribal communities implement their prevention strategies. School settings can provide an effective environment for prevention efforts. NICWA provides a training curriculum that helps Native parents, administrators, and teachers develop a child sexual abuse prevention program for their Head Start and pre-school programs. *Children's Future: A Child Sexual Abuse Prevention Curriculum for Native American Head Start Programs* covers program administration, recognizing indicators of abuse, reporting procedures, and parent and community involvement (NICWA, n.d.). It also includes a nine-month lesson plan for use in the classroom.

As I discussed earlier, the Child Abuse Prevention and Treatment Act (42 USC § 5116) provides funding authority for small grants to tribal grantees to fund child abuse and neglect prevention activities (Community-Based Child Abuse Prevention). The amount of funding has allowed one or two grantees to be funded every three years. However, these grantees have developed activities and programs that have been very successful. In the most recent year information is available, 2008, two tribal grantees used these funds to develop and operate primary and secondary prevention activities. The grantees were the Mississippi Band of Choctaw Indians in Mississippi and the Cahuilla Band of Mission Indians in California. The projects utilized cultural adaptations of mainstream models of prevention with additional cultural activities included.

Each project sought to address both primary and secondary prevention strategies targeting both offending and non-offending parents, as well as other families within their communities that showed interest in the activities. Below are some additional elements of these projects:

- Utilized a combination of education, parent support, and outreach activities;
- Included activities for both children and parents separately and together;
- Nurtured protective factors in non-offending parents who remain with the children (Choctaw);
- Empowered parents to reduce risk and incidence within their own families, while also becoming mentors or coaches to other parents in the community (Choctaw);
- Conducted regular sessions for the community at large on parenting, marriage, and strengthening cultural connections (Cahuilla);
- Provided intensive referral and case management for parents to help them secure needed family supports and services; as much as possible, these services will be provided in the home (Cahuilla);
- Culturally adapted mainstream, evidence-based models (Incredible Years parenting program—Cahuilla); and
- Integrated family advocate model for case management (Choctaw).



As this list suggests, the importance of culture and family was a key part of many interventions as was systems collaboration. A common thread noted in the assessment of each project was a recognition that historical trauma and past government efforts to assimilate AI/AN people have had a negative effect on parenting, and important traditional values and parent strategies had been replaced with less effective and sometimes abusive interventions and care.

### In-Home Services

In-home services can be an effective method for reducing risk and still protecting children without creating additional stressors by placing children in out-of-home care. In-home services are intensive by definition and require regular contact with parents and children. To create an in-home service plan, family members contribute to the risk assessment, help identify formal and informal services to alleviate stressors that contribute to risk behaviors, and engage with a case manager as well as a network of identified support. These services allow parents and siblings to maintain their family and cultural connections, which is critical to the successful rehabilitation of AI/AN families, while intervening early on any issues that could lead to child maltreatment.

#### *Denver Indian Family Resource Center*

The Denver Indian Family Resource Center (DIFRC) in Denver, Colorado, has been providing in-home supportive services to AI/AN families who are involved in the child welfare system since 2000. They serve a very diverse urban AI/AN population that lives in the Front Range in and around Denver, Colorado. In their first 10 years they have served over 750 families. To help families meet their basic needs and provide safe homes for their children, DIFRC provides supportive services that include job search assistance, life skills education, housing assistance, and health advocacy (Medicaid/CHP enrollment). For some families, stabilization begins with learning how to keep a monthly family budget, maintain a household schedule, and procure transportation to work or school. Many of these core services are provided in the home, including coaching for improved communication and parenting skills, behavior and anger management, consultation with other social services providers, supervision of home visitation, and helping families acquire basic needs. DIFRC programs, like the Strong Fathers and Strong Mothers Parenting Program, are based on American Indian values and promote the development of positive parenting skills and the cultivation of cultural resources. Teri Haymond, child welfare supervisor at DIFRC, explains that as much as 80% of the case management process at DIFRC involves helping families meet basic needs and balance responsibilities. Based on data compiled by the Colorado Disparities Resource Center, DIFRC has reduced the overall number of AI/AN children in Colorado being removed from their families and placed in foster care by 33% (NICWA, 2010).

#### *Central Council of the Tlingit and Haida Indian Tribes of Alaska*

The Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA) has been working closely with the state and their own Temporary Assistance to Native Families (TANF) department to better support families at risk of child maltreatment and keep children in their homes. In Alaska, Alaska Native (AN) children make up over 62% of the state foster care system while only representing 15% of the state's youth population (Summers, Wood, & Russell, 2012). There, as elsewhere, structural risk factors such as poverty, joblessness, inadequate housing, substance misuse, and untreated mental health problems contribute to reports of maltreatment and are often conflated with neglect. Although neglect, not abuse, is the primary form of child maltreatment reported, the most common intervention for AN families is the removal of their children, not in-home services. Efforts to address these issues by Alaska Native communities have been ongoing, but state efforts to utilize tribal in-home services have been slow in many areas based on a lack of understanding and trust in tribal services.

The CCTHITA Preserving Native Families department provides services to member families and children in both rural southeast Alaska and in the urban boundaries of Juneau designed to keep children at risk of maltreatment safely in their homes. CCTHITA also operates a TANF program. Over half of the families that are served by TANF are also involved with the Preserving Native Families program or state Office of Child and Family Services.

The CCTHITA TANF program was often the first program with which CCTHITA families at risk of abuse or neglect came into contact. At the same time, referrals from the state Office of Children's Services to Preserving Native Families were low, despite significant risk factors within the CCTHITA community and

the availability of robust tribal in-home services. The Preserving Native Families department uses a cultural adaptation of an evidence-based assessment tool, Structured Decision Making, to evaluate families at risk of maltreatment and develop plans to protect children and rehabilitate families. The Preserving Native Families department saw an opportunity to increase early identification of at-risk families and offered training and support to TANF staff on the Structured Decision Making tool. The Preserving Native Families program also used the assessment tool as a platform to educate the state Office of Children's Services staff on how to improve referrals of CCHITA families and help them access in-home services that can eliminate the need for removal of children into out-of-home care. These efforts have led to earlier and more frequent referrals of families at risk and a decrease in the number of children removed from their homes.

#### *Tribal Home Visiting Program Grantees*

Home visiting programs have shown to be effective at helping children and their families prevent, reduce, and seek timely treatment for child-related ailments, including child maltreatment. In 2010, as a result of NICWA's advocacy, tribal communities became eligible for the newly authorized Tribal Maternal, Infant, and Early Childhood Home Visiting Program. This program aims to improve outcomes in a range of critical areas of child well-being such as maternal and prenatal health; infant health; child health and development; reduction in child maltreatment; improved parenting practices; school readiness; improved family socioeconomic status; improved referral and coordination with community resources and supports; and reduced incidence of injuries, crime, and domestic violence. To reach these outcomes, the program provides funding to tribal grantees to culturally adapt conventional evidence-based models of home visiting programs, or to use national in-home service models that have included AI/AN clients in their test population in their communities (Del Grosso et al., 2011). Tribal grantees have elected to focus on a number of different evidence-based models and integrate cultural traditions and practices into their newly designed tribal programs. A number of the tribal programs combined home visiting services with other services to create more complete in-home service models. Many of the programs sought to incorporate cultural teachings and utilize paraprofessional staff indigenous to the community being served. Through the use of these culturally adapted models, tribal participants have reported outcome measures related to reduction of child maltreatment, family violence, juvenile delinquency, and crime (Del Grosso et al., 2011).

#### *Indian Country Child Trauma Center*

Over the last 30 years we have seen increasing efforts by AI/AN professionals and tribal programs to develop treatment approaches that are rooted in an intimate knowledge of the characteristics of trauma in Indian Country, historical trauma, and the criticality of using culture in developing effective interventions. One of the leaders in this movement has been the Indian Country Child Trauma Center (ICCTC). Located at the University of Oklahoma Health Sciences Center, the ICCTC strives to develop trauma-related treatment protocols, outreach materials, and service delivery guidelines specifically designed for AI/AN children and their families. ICCTC has developed an array of culturally based trainings and resources for treatment professionals that are working with AI/AN children and families affected by trauma. A number of their resources are grounded in evidence-based practices, such as Project Making Medicine, which is a national clinical training program designed around *Honoring the Children, Mending the Circle*, a cultural adaptation of trauma-focused cognitive behavioral therapy. In *Honoring the Children, Mending the Circle*, clinicians are taught to use cognitive behavioral techniques within a traditional Native framework that supports the Native belief in spiritual renewal as a core element of healing from trauma. Similarly, *Honoring Children, Making Relatives* is a culturally adapted curriculum based on parent-child interaction therapy where clinicians are taught to coach parents with traditional Native ways of teaching that move from observation to active teaching to promote positive interactions and enhanced parenting skills. It is resources like these that clinicians across Indian Country are using to effectively treat trauma and decrease the risk factors for child maltreatment.

#### *American Indian Life Skills Development Curriculum*

AI/AN youth are at high risk for suicide. Childhood maltreatment is a traumatic experience that increases the likelihood of suicidal behavior. Developing skills and supports for AI/AN youth that confront suicide risk factors is essential to reducing risk and addressing associated trauma. *American Indian Life Skills Development Curriculum*, the only evidence-based suicide prevention program in Indian Country, incorporates features of risk and protective factors specific to tribal youth to support suicide prevention strategies (SAMHSA, 2007). The curriculum, designed to be used with middle- and high-school-age

youth, teaches life skills such as communication, problem solving, depression and stress management, anger regulation, and goal setting. Youth are taught to seek out cultural knowledge within their communities as they learn positive strategies for reducing risk for suicide. This curriculum has been adapted by several tribes across the United States.

#### *Native Aspirations Program*

The Native Aspirations Program provides tribal communities with help to build their capacity to prevent violence, bullying, and youth suicide (One Sky Center, 2008). The program provides resources and training to tribal communities on how to utilize and culturally adapt evidence-based treatment and practices. Community mobilization and planning events are central components of Native Aspirations, along with identification of tribal cultural interventions that can be utilized in the development of prevention programming. As tribal communities grapple with the violence that can hurt young people, there is a need to develop new approaches to addressing the risk factors that can increase threats to safety. In order to do that, tribal communities need education about the issues impacting their children, a structured process for identifying and developing culturally based solutions, and resources to improve their capacity to successfully implement change.

## Recommendations

### Training and Technical Assistance

1. Ensure that all federal agencies are providing culturally based training and technical assistance to tribal partners and grantees. This would require an assessment of current training and technical assistance resources with tribal and urban AI/AN organization partners, and recommendations on how to enhance current offerings and develop new resources where needed.
2. Improve federal assistance to tribes and urban AI/AN organizations that want to engage in developing systems of care and other collaborative systems change. Currently, there are only a few agency initiatives that support broad child- and family-serving systems change efforts (e.g., Circles of Care and Systems of Care). Additional support, in the form of training and technical assistance, is needed to help tribes better understand the opportunities, benefits, challenges, and existing tribal models in operation.
3. Support additional training and technical assistance resources that facilitate and promote peer-to-peer support. Tribes and urban AI/AN communities learn best from their peers and AI/AN organizations that have experience and expertise in child maltreatment issues.
4. Examine current federal support for training new professionals in the health and human services field, and identify strategies to increase awareness of these opportunities in tribal communities, increase AI/AN participation, and be more supportive and inclusive of tribal colleges.

### Data Collection and Research

1. Every government needs the ability to track critical data involving their citizens across different service areas. Tribal governments are no different in this regard, but have benefited little from federal resources dedicated to data collection in child and family services; tribes therefore lack capacity to collect, analyze, and report data. The lack of relevant data on tribal children and families means that they are often “invisible” during policy development and resource allocation discussions and decision-making at the federal level. By increasing tribal capacity in this area, and supporting tribes as they develop their own definitions of child abuse and neglect, we can increase tribal engagement and federal responsiveness to AI/AN children’s needs. A further step would be to help tribes explore opportunities to submit their data to a national database, such as NCANDS, that could track national trends in child maltreatment with this population. This database would need to be coordinated with current data collection efforts by states, the BIA, and IHS to avoid duplication and address other data quality issues. Our recommendation is to increase federal support and resources so that every tribe can have the ability to track basic child maltreatment data for their member children and families.
2. Federal leadership is needed to break down barriers to data sharing between tribes and states. The reality is that in most cases, tribes, and many times urban AI/AN organizations, are co-case managing state child welfare cases involving AI/AN children and families, but access to state data at the case and aggregate level is inconsistent at best in many states. This impedes efforts to improve the quality of the data, planning to improve services, and responding to critical needs or trends more quickly. Examples of how states can share this data with tribes exist and could be used to stimulate additional access for other tribes and urban AI/AN programs.
3. Current research on risk factors for abuse and neglect in mainstream communities abounds, but little has been done to document how this plays out in tribal communities. A tribally driven research agenda designed to investigate current causes of abuse and neglect in AI/AN communities would provide tribal groups, policymakers, and other organizations involved in child protection in Indian Country with information about how and when to intervene. CAPTA-funded research priorities could be designated specifically to address unmet research needs for AI/AN communities, including culturally specific risk factors, warning signs and identification of child abuse and neglect, and culturally appropriate definitions of child maltreatment. Support of these efforts should involve not only the federal government but also tribal governments and organizations as well as states and private entities. Partnerships between these stakeholders should be encouraged, but tribal governments and Indian organizations must be significant partners in any effort to stimulate improved research methods and ensure that research findings are interpreted carefully and accurately.

4. The National Incidence Study of Child Abuse and Neglect-4 did not include AI/AN data because the data was too small to be significant and because study methods did not lend themselves to such a small data set. In situations like this, it is essential that study methods be adjusted, for instance by oversampling, to ensure that AI/AN child maltreatment can be either included in the national report or in a supplementary report that details the unique methodology and considerations required. Historically, AI/AN populations have been ignored because of their size, but without inclusion in these major studies, AI/AN populations that face elevated levels of maltreatment and high incidences of risk factors are ignored, and funding and appropriate policies are not created.

#### Collaboration

1. Increase federal support and resources for tribal governments developing tribal-state agreements or protocols on child welfare and domestic violence programming coordination. Improve monitoring of tribal-state relations in child welfare, and increase efforts to educate states about the benefits of tribal-state collaboration and best practice models that are working. Incentivize state participation in these efforts to improve service coordination and collaboration.
2. Assist tribes in developing relationships with child advocacy center funders and advocates to encourage the development of tribally sponsored child advocacy centers. State and local governments and private entities that operate child advocacy centers using federal funds should be encouraged to respect the government-to-government relationship by seeking input from, and collaborating, with tribal governments, as well as coordinating with urban AI/AN programs, to ensure that programming meets the unique needs of AI/AN children and families and that entities across all possible jurisdictions (tribal, federal, and state) are integrated.
3. Increase funding to support tribal child protection team and multidisciplinary team development within Indian Country.
4. Revise the BIA-IHS Memorandum of Understanding on Child Protection Teams to reflect current understandings of recommended practices in establishing child protection teams.

#### Funding

1. Fully fund the grant provisions of the Indian Child Protection and Family Violence Prevention Act (P.L. 101-630). Since the passage of this law in 1991, no federal agency has ever requested funding for the three authorized grant programs, and consequently Congress has never appropriated funds for these critical programs. These grant programs are the only dedicated funds for tribal governments to support: 1) child abuse treatment; 2) child abuse prevention and investigation of child abuse reports; 3) family violence prevention and treatment services; and 4) the establishment of Indian child resource and family service centers to assist tribes with the investigation, prevention, and treatment of victims of child abuse and domestic violence.
2. Increase the set-aside under the Child Abuse Prevention and Treatment Act (P.L. 93-247) for tribal community-based child abuse prevention grants from 1% to 10%. Tribes share these funds with migrant populations, resulting in only two small tribal grants per grant cycle being funded (once every three years). Funding under CAPTA is extremely limited; the overall appropriation should be raised so state community-based prevention grantees are held harmless.
3. Starting with the passage of the Fostering Connections to Success and Promoting Adoptions Act in 2008 (P.L. 110-351), Congress has been engaged in discussion on how to reform federal child welfare financing. Currently, the finance system is weighted heavily towards funding primarily directed at the removal of children from their homes. Prior to the passage of the Fostering Connections Act, attention was focused on improving relative care support and providing tribes with direct access to the Title IV-E program for the first time. More recently Congress reauthorized authority for the Child Welfare Waivers program (P.L. 112-134) to continue from FY 2012 to FY 2014. Most of the proposals that have been submitted from states are focused on ways to use Title IV-E funds to improve in-home services and supports to families at risk of abuse or neglect to reduce the possibility of children being removed from their homes and the stressors for children and families that accompany those actions. While only tribes that operate Title IV-E (four so far) are eligible, the ability to strengthen in-home services and family supports is also of great interest to tribes. Federal agencies should work with tribes and Congress to advocate for federal finance reform that will provide a more balanced federal child welfare finance system that adequately funds tribal in-home and family support services.

4. Establish a national Native Children's Trust Fund for tribal children. Children's Trust Funds are found in almost every state, and they provide a resource for child abuse and neglect policy development, service improvements, and prevention. These trust funds are a federal, state, and private partnership w the federal government matches funds raised by states and private sources (e.g., tax deductible donation options on state tax forms). Unfortunately, very little of the funds received by these state Children's Trust Funds ever benefit AI/AN children. Tribes are typically not included in trust fund activities and receive almost none of the funding allocated for special projects. By establishing a national Native Children's Trust Fund for tribes, the federal government and private donors could be assured that funding to assist tribal child abuse prevention activities would reach tribes and benefit AI/AN children.

#### Policy

1. Tribal governments in P.L. 280 states can have significant challenges in establishing an effective working relationship in child welfare regarding jurisdiction and service responsibility with the states in which they reside. While the issue of whether states have concurrent jurisdiction with tribes on tribal lands in P.L. 280 areas has not been fully resolved, many states believe they have concurrent jurisdiction, and some courts have affirmed this position. Where concurrent jurisdiction has been asserted there can be uncertainty between tribes and states about who is responsible for dealing with child abuse and neglect. This can often result in delays in responding to reports of child abuse involving AI/AN children on tribal lands. While tribes in some P.L. 280 areas have been able to develop intergovernmental agreements to address these jurisdictional and service responsibility challenges, large numbers have not been able to, largely due to their state's reluctance or unwillingness to negotiate agreements. The federal process for reassumption of jurisdiction of child welfare services for tribes under the Indian Child Welfare Act (25 USC § 1918) is very burdensome and can take two or more years to complete. Our recommendation is twofold: 1) reform the BIA process for reassumption of jurisdiction, with the consultation of tribal governments, to establish a more efficient and effective process; and 2) establish a mandate for states to negotiate in good faith with tribes in P.L. 280 areas regarding the development of intergovernmental agreements that address jurisdictional and service responsibility challenges in child welfare that impact AI/AN children and families. Similar requirements are contained within the Social Security Act (42 USC § 671(a)(32); 42 USC § 677(b)(3)(G)) requiring states to negotiate agreements with tribes on the operation of the Title IV-E Foster Care and Adoption Assistance program and the Chafee Independent Living program.
2. As with domestic violence, child abuse incidents on tribal lands present unique challenges, especially with regard to the ability to effectively deter criminal behavior in this area and address criminal prosecution of suspected perpetrators. Congress passed legislation, the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4 § 904), that provided a much-needed remedy to the inability of tribes to successfully deter and prosecute criminal acts of domestic violence involving non-Indians living within tribal lands. Prior to enactment of this legislation into law, non-Indian domestic violence perpetrators on tribal lands were able to escape prosecution, leaving them to commit additional assaults with no legal consequences. Similarly, tribes need the authority to address criminal acts of child abuse by non-Indian perpetrators on tribal lands. While there is limited data on this issue, there are countless anecdotes of sexual predators assaulting children on tribal lands, with little or no consequence, due to tribal lack of authority to prosecute and extremely low numbers of federal prosecutions occurring in this area. Federal agencies and Congress must work with tribal governments to pass legislation, similar in concept to the provision contained within P.L. 113-4, that would clarify tribal authority to prosecute criminal child abuse of AI/AN children on tribal lands which occurs at the hands of non-Indian individuals.

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