



AMERICAN INDIAN/ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE IN ALASKA

**PANEL #1: AN OVERVIEW OF ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE IN THE HOME, THE
COMMUNITY, AND THE JUVENILE JUSTICE SYSTEM**

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The National Indian Child Welfare Association (NICWA) is a national American Indian and Alaska Native (AI/AN) nonprofit organization located in Portland, Oregon. NICWA has over 30 years of experience providing technical assistance and training to tribes, states, and federal agencies on issues pertaining to child maltreatment, Indian child welfare, children’s mental health, and juvenile justice. NICWA provides leadership in the development of public policy that supports tribal self-determination in these systems, as well as compliance with the Indian Child Welfare Act (ICWA). 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.

I would like to start by thanking the original Attorney General’s Task Force on Children Exposed to Violence. Specifically, I would like to thank them for the following important recommendation:

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. (p. 9; emphasis added).

It was this recommendation that served as the impetus for the convening of this Task Force on AI/AN Children Exposed to Violence. At the direction of this second Task Force, today’s hearing has been convened to collect information on a topic very important to me personally—the unique issues faced by Alaska Native (AN) children who are exposed to violence. I would like to thank this Task Force and its chairs, Senator Byron Dorgan and Joanne Shenandoah. I appreciate their commitment to understanding the complex and multifaceted issues related to AN children exposed to violence and their recognition of AN children’s unique circumstances.

In accordance with the topic of today’s hearing, “An Overview of Alaska Native Children Exposed to Violence in the Home, the Community, and the Juvenile Justice System,” and with NICWA’s expertise, this testimony specifically recommends actions to protect AN children from abuse and neglect (child maltreatment) and from the trauma AN children face in the child welfare system. In addressing this topic my testimony will cover:

- Current data on the violence AN children face in their homes and in the child welfare system—including the effects of removal from home and family on AN children;
- NICWA’s experience working with the Children’s Bureau’s Western and Pacific Child Welfare Implementation Center (WPIC) on effective collaborative responses to AN children who experience violence and trauma in their homes;
- How current federal child welfare program financing perpetuates child maltreatment by incentivizing removal and underfunding primary and secondary prevention efforts in both tribal communities and states; and
- Recommendations on how best to address the challenges noted throughout this testimony.

Thank you for this opportunity to discuss these difficult but important issues and to share NICWA’s recommendations, which are informed by decades of practice with AI/AN child-serving systems in state and tribal communities.

Data on Alaska Native Children Exposed to Violence

General Data

The following data is provided for reference and comparison.

- **Nationally**, AI/AN children make up 1% of the total child population of United States (Summers, Woods, & Donovan, 2013).
- **In Alaska**, AN¹ children make up 17.3% of the total child population of the state (Summers, Woods, & Donovan, 2013).

Child Maltreatment²

“Respect for children and self-discipline, coupled with an extended family system where parenting responsibilities were spread among many individuals, meant child abuse and neglect were seldom problems in traditional tribal settings” (Cross, 1995a, p. 8) Today, however, abuse and neglect is a concern in tribal communities and urban Indian settings nationwide. Theories about how punitive child rearing practices became a part of AI/AN parenting include: 1) abuse, neglect, and exploitation was a concept learned by AI/AN peoples via the abusive, paternalistic, and authoritative treatment of tribes and Native people by the federal government; 2) government policies that attempted to assimilate AI/AN people separated them from traditional practices and supports which minimized social problems now rampant in tribal communities and the risk factors for abuse and neglect; and 3) abuse and neglect is a learned behavior indoctrinated when entire generations of AI/AN people who were “parented” in boarding schools and foster homes where discipline was often harsh and devoid of nurturing (Cross, 1995a). It is likely a combination of these theories that has brought the problem of child abuse and neglect to AI/AN communities nationwide and AN communities in Alaska.

Nationally, AI/AN children make up a slightly higher percentage of substantiated reports of abuse or neglect than their percentage in the general population. In Alaska, the data for AN children are more concerning. Nevertheless, when assessing this data it is important to recognize concerns that cultural and racial bias influence which allegations of abuse and neglect are substantiated, and thus, the data on maltreatment that states report on AI/AN children.

- **Nationally**, AI/AN children were 7,770 of the 666,924 substantiated reports of children physically abused, sexually abused, and neglected in 2012 (U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau [CB], 2013a). This means that AI/AN children make up approximately 1.2% of all substantiated reports of maltreatment.
 - **Nationally**, of all AI/AN cases of maltreatment, 79.4% are neglect, 10.6% are physical abuse, and 5.2% are sexual abuse (CB, 2010).³ This finding is troubling because legal definitions and worker decisions to substantiate allegations of neglect are far more susceptible to cultural bias, racism, and a misunderstanding of poverty than other forms of maltreatment (Earle & Cross, 2001).⁴
- **In Alaska**, AN children were 1,481 of the 2,928 substantiated reports of children physically abused, sexually abused, and neglected in 2012 (CB, 2013a). This means that **in Alaska**, AN children are 50.1% of all substantiated reports of maltreatment.

¹ Data on AN children in Alaska includes those children who may identify as AI, however the percentage of children in Alaska identifying as AI so small in comparison to the number of AN children we have chosen to identify this group of children as AN.

² Data is only available on AI/AN children in state child welfare systems. The data presented, therefore, does not include reports of abuse or neglect to tribal child welfare programs that are not recorded by the state, nor does it include out-of-home placements made by tribal child welfare programs.

³ These numbers do not total 100% because some children face multiple forms of abuse, each of which are accounted for in these numbers.

⁴ Problems with current state definitions of 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.

- **In Alaska**, AN children were 669 of the 1,325 (50.5%) *alleged* reports of child maltreatment in April 2014, (Alaska Department of Health and Human Services, Office of Children’s Services [OCS], 2014a), yet they were 130 of the 230 substantiated reports of child maltreatment (56.5%) (OCS, 2014b).⁵ This data illustrates how AN families may be prone to biased treatment in the Alaska state child welfare system. Although AN children were 50.5% of reports, they were 56.5% of those cases substantiated, meaning these cases were disproportionately substantiated. Bias is noted as a factor in disproportionate substantiation of maltreatment in AI/AN families in state systems nationwide, and this data shows evidence of its presence in Alaska as well (Hill, 2007; Cross, 2008; Carter, 2009a; Carter, 2009b; Carter, 2010).

Violence and Trauma in the Child Welfare System

Although maltreatment is the reason that children and families enter the child welfare system, AI/AN children in the system, specifically those children placed in foster care, face additional violence and trauma in the form of removal and abuse at the hands of out-of-home care providers.

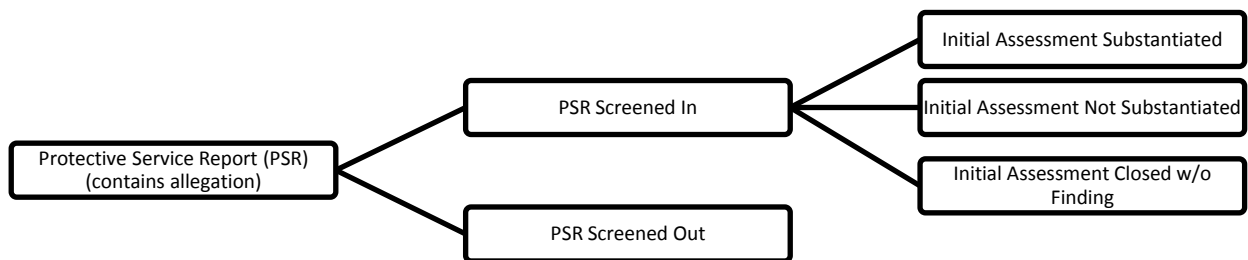
Removal and Out-of-Home Placement

Family “is the single most important survival mechanism of [AI/AN] culture; it follows that Indian child welfare practice should focus on the home and family as its most important point of intervention” (Cross, 1995a, p. 3). Yet AI/AN children continue to be removed from their homes at alarming rates, even though “formal foster care services are still foreign to Indian culture” (Cross, 1995b, p. 3). This culturally inappropriate intervention is extremely traumatic for AI/AN children and families; these services should be “the last line of defense after all attempts have been made to strengthen the family so that a child can remain in his or her own home” (Cross, 1995b, p. 5). However, this is not yet the practice in state systems, and specifically the Alaska state system, for a variety of reasons, including current federal funding mechanisms.

Added to this equation is the legacy of removal that AI/AN peoples, and specifically children, have faced. The historic trauma that systemic removal has generated in AI/AN societies makes each removal of an AI/AN child from her home, family, and community a unique a form of violence to the child, family, and community. Unfortunately, AI/AN children are particularly subject to this violence, because they are disproportionately represented in foster care at rates that exceed all other populations of children in the United States (Summers, Woods, & Donovan, 2013). AN children are especially vulnerable to this trauma and violence, as Alaska has the 10th highest disproportionality rate for AI/AN kids in foster care nationwide.

- **Nationally**, in 2011, AI/AN children were 2.1% of all children in out-of-home placements (Summers, Woods, & Donovan, 2013).
 - **Nationally**, this describes a disproportionality rate of 2.1 for AI/AN children in foster care (Summers, Woods, & Donovan, 2013). This means that higher percentages of AI/AN children are found in the child welfare system than in the general population. Stated differently, when comparing the percentage of AI/AN kids in the foster care system to those in the general population they are represented in foster care at 2.1 times their rate in the general population.

⁵ For reference, this chart describes the decision points in how a report of child abuse is substantiated by OCS.



(OCS, 2014c)

- **Nationally**, and also of note, is the fact that 56% of all AI/AN children living in adoptive homes are in non-Native homes (Kreider, 2011). This shows that AI/AN children are not only facing the trauma of temporary removal at alarming rates, but also potentially permanent removal from their homes, families, and communities.
- **In Alaska**, in 2011, AN children made up 51.1% of all children in out-of-home placements in the state (Summers, Woods, & Donovan, 2013).
 - **In Alaska**, this describes a disproportionality rate of 2.9 (Summers, Woods, & Donovan, 2013). Stated differently, comparing the percentage of AI/AN kids in the foster care system to those in the general population, AN children are represented in foster care at a rate 2.9 times greater than their rate in the general population.
 - **In Alaska**, in April 2014—just two months ago—AN children were 1,319 of the 2,106 children in out-of-home placements (OCS, 2014d). **This is 62.3% of the foster care population.** Although a disproportionality study has not been done with this more recent data, it is clear that the disproportionality rate for AN kids in Alaska has risen in recent years, as the percentage of AN children in foster care has risen by more than 10% since the last national disproportionality study, which was done in 2013 and used 2011 data. It is worth noting that this number varies greatly from region to region in Alaska. In April 2014, across the five OCS regions, the percentage of AN children out of the total number of children in out-of-home care ranged from 42.8% to 99.4% (OCS, 2014d). In part this is reflective of the variation in the proportion of Alaska Native children in the total child population of each region.

Maltreatment in Out-of-Home Care

Unfortunately, a small percentage of children who are removed from their homes by state child welfare systems because of abuse or neglect then face abuse or neglect in their out-of-home placement. AI/AN children are particularly susceptible to this abuse because of the high rates at which they are placed in foster care. This problem is more prevalent in Alaska, where the percentage of abuse in foster homes is well above the national average. Unfortunately, data specific to AI/AN children could not be located.

- **Nationally**, 0.32% of children in foster care are abused or neglected by their foster parents (CB, 2012). Because AI/AN children are overrepresented in foster care, they are more likely to be victims of this maltreatment.
 - Looking at the data differently, **nationally**, 0.3% of all children who are abused are abused by foster parents, 0.1% of all children abused are abused by staff at an institution or group home, and 0.7% are abused by adoptive parents (CB, 2013).
- **In Alaska**, of *all* children in foster care, 0.91% are abused or neglected (CB, 2014). Because AI/AN children are overrepresented in foster care, they are more likely to be victims of this maltreatment.

Violence and Trauma in the Criminal Justice System

As evidenced by the statistics shared above, AI/AN children suffer abuse and neglect at elevated rates. Violence in the home is a problem that AI/AN *women* also face, and one that often traumatizes children who are unsuspecting witnesses. Unfortunately the jurisdictional framework in Alaska leaves many tribal communities without the ability to protect their women and children.

- **Nationally**, 39% of AI/AN women report having experienced intimate partner violence at some point in their lives (Black & Breiding, 2008). This makes AI/AN women more likely than any other single racial group to experience intimate partner violence.
- **In Alaska**, AN women suffer from sexual assault at the highest rate of forcible sexual assault of any population in the United States—an Alaska Native woman is sexually assaulted every 18 hours (Alaska Safe Families Act, S. 1474, 113 Cong. §2 (2013)).
- In the general population, we know that partners who engage in violence against each other are more likely to perpetrate violence against their children (Carter, 2000; DHHS, 2003). Also, children who witness intimate partner violence (IPV) or live in a home where IPV is present face the long-term effects of trauma (Carter, 2000; DHHS, 2003).

This status quo is unconscionable. Presently, the federally recognized tribal governments operating within AN villages are not able to carry out local, culturally relevant solutions to effectively address the lack of law enforcement and prosecution in villages that allows perpetrators to slip through the cracks. The law enforcement and judicial systems created and administered by Indian tribes or tribal organizations within the State of Alaska will be more responsive to the need for greater local control, local responsibility, and local accountability in the administration of justice than centralized State of Alaska systems.

As this data demonstrates, AN children and families need effective, culturally appropriate interventions that prevent child abuse, support families at risk of child abuse, and work with families who are struggling with abuse and neglect to keep children out of foster care whenever safe and possible.

Addressing Systemic Barriers and Promoting Systems Changes in the Alaska Child Welfare System: A Five-Year Child Welfare Implementation Project

Child welfare systems face immense challenges to prevent abuse and neglect, reduce the number of children and youth who are removed from their homes into foster care, and ensure children are safely reunified or find a permanent place to call home. From prevention to permanency, many child welfare systems fall short of meeting these challenges, and the systemic barriers they face cannot be fully addressed by simply adding a new program, policy, or practice. A more comprehensive approach is required to achieve and sustain change: one that both addresses systemic issues as well as implementation of practice innovations (Western and Pacific Child Welfare Implementation Center [WPIC], n.d.a).

In 2009, the Western and Pacific Child Welfare Implementation Center (WPIC), a service of the Children's Bureau, in collaboration with the National Resource Center for In-Home Services and NICWA, embarked on the Alaska Child Welfare Disproportionality Reduction Project, a five-year project that sought to significantly reduce disproportionality and placement of AN children in out-of-home care and build tribal capacity to provide a culturally competent continuum of services to keep AN youth in their communities. The project involved a consortium of 16 tribal entities from across Alaska that was built on more than 17 years of efforts and a larger child welfare initiative to develop, implement, and improve tribal child welfare practice for AN youth and their families. The project required strong collaboration with the Alaska Office of Children's Services (OCS) so that tribes would play a more significant role in initial decision-making and service delivery. The project focused on:

- Addressing systemic barriers and biases plaguing the Alaska child welfare system in order to effectively engage all tribal and state entities in systems changes at the systems level, policy level, program level, and practice level by utilizing the WPIC System of Change theory.
- Development of a culturally responsive system of care tribal in-home services model that increased the capacity of tribes to provide in-home services as the preferred option over placement, increased the availability and use of tribal families as relative and foster care providers, and enhanced the skills of tribal staff working with the courts.
- Effectively and actively engaging AN foster care youth to impact child welfare systems change at all levels.
- Enhancing tribal capacity to license resource families in order to expand the use of tribal resource families and increase the number of AN children with safe, stable connections to their birth family, siblings, extended kin, community, and tribe.

The willingness of tribal partners, state partners, and other stakeholders to seriously and honestly address common issues and devise collaborative solutions is an unprecedented opportunity to impact disparity.

WPIC Systems Change Theory

Improving child and family outcomes depends on strengthening the services families receive. This requires a transformation of the system. People and organizational structures need to change in order to implement improved practices and policies successfully. This requires a change in attitude (about the problem and the

solution), behavior (in planning, assessing, and implementing practices), and relationships (interactions between people and systems).

Systems change involves losses for those involved, including the loss of current, familiar ways of doing business. Some resistance to change is to be expected. WPIC learned the importance of building strong partnerships, improving communication, and taking the time to establish trust among stakeholders as part of the systems change process. Lasting systems change requires an understanding of the relationships and the whole context of the individuals; organizations; and the political, economic, and social environment. Sustaining system, practice, and program changes that will result in improved outcomes for children, youth, and their families requires a comprehensive approach (WPIC, n.d.a).

WPIC's theory of systems change centers on five key elements for creating sustainable change:

- Vision and values;
- Leadership and commitment;
- Environment;
- Stakeholder involvement; and
- Capacity and infrastructure.



The process for enhancing each of these elements of systems change is not linear, as they are interconnected. Each element influences and is influenced by the other elements, and creating change in one element will likely impact the others (WPIC, n.d.a).

Tribal-State Relationships

More than 250 Alaska Native villages are located across Alaska, a state twice the size of Texas. The remote location of many of these tribal villages and Alaska's vast expanse create challenging access, often only by sea or air. In addition, unpredictable and often harsh weather conditions further complicate access to necessary resources, services, and supports. Consequently, tribal villages had been thought to lack sufficient resources to deal with complex child welfare issues. Further complicating matters, Alaska frequently seeks to ignore or interpret various provisions of ICWA in a manner that severely limits tribal jurisdiction over matters concerning tribal member children. This in turn creates a situation where Alaska tribal courts are treated differently than tribal courts in the rest of the country. As a result, hundreds of AN children are removed from their homes and placed in urban communities in non-Native care with poor prognosis for reunification or family permanency.

AN children constitute 17.3% percent of the state's child population (Summers, Woods, & Donovan, 2013). However, they are currently 62.3% percent of all children in out-of-home placement in Alaska (OCS, 2014d). Disproportionate out-of-home placement of AN children was predominantly linked to child abuse and neglect reports, initial decisions to investigate child abuse and neglect, and decisions to place in out-of-home care. Consequently, this project focused on key practice changes that impact decision points at the front end of the child welfare system, such as initial safety assessments and placement decisions.

To accomplish these goals, WPIC needed to, first and foremost, address the systemic issues that existed between OCS and AN tribes and build the capacity for effective tribal-state relations. This required acknowledging and addressing decades of misunderstandings, mistrust, and miscommunication between tribal and state child welfare programs and staff while simultaneously addressing race relations, decolonization, and unconscious bias. Support was provided to engage in courageous conversations for fostering mutual problem-solving and for building leadership capacity to address the challenge of disproportionality.

WPIC partnered with Casey Family Programs to convene annual summits for tribal partners to cover specific topics of interest. The summits allowed tribal and state partners and other key stakeholders within the community time

to practice building personal skills, build relationships with other system stakeholders, and connect with OCS staff in regional workgroups to address specific regional issues.

Overall, many policies to support tribal-state collaboration are now in place. Specifically, at the system-level, policies promote positive state and tribal collaborative relations; enhance collaboration with state and tribal courts; and establish sustainable agency policies, procedures, and protocols necessary to maintain a state and tribal family-centered in-home services model. An example of this is tribal representation on the Alaska Court Improvement Project, which did not initially include tribal representatives. At the program level, agencies continue to build tribal and state capacity to work collaboratively to meet child and family safety needs and avoid unnecessary placements, and to build tribal capacity to deliver effective child welfare services. It is now best practice for OCS and tribal ICWA workers to jointly participate in the child protection process and proceedings in order to facilitate the process in a culturally appropriate manner and to better serve the child and family. At the practice level, OCS fully acknowledges and adheres to the sovereign right of tribes to take care of their citizens through each respective tribe's principles, values, and traditions to implement a tribal family-centered in-home services model to enhance decision-making and service delivery to Alaska Native children and families and promote cultural competence in the delivery of child welfare services. OCS utilizes tribal child welfare workers as a resource and partner in all child protection proceedings. Additionally, through decolonization efforts and a reaffirmation of tribal sovereignty, AN villages are actively engaging their Indian Reorganization Act councils, traditional councils, and community members in incorporating traditional knowledge into their system of care tribal in-home services model. There is acknowledgement of the power behind traditional knowledge in healing AN communities. In sum, policies are largely in place, but some challenges remain in implementation at the regional and local levels.

Tribal In-Home Services

As the project progressed, five of the tribal partners agreed to participate in the pilot implementation of the in-home services model: the Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA) in Juneau; the Association of Village Council Presidents (AVCP) and Orutsararmiut Native Council (ONC), both in Bethel; Kawerak, Inc. in Nome; and the Maniilaq Association in Kotzebue.

An understanding of historical and generational trauma and its manifestations is essential to conceptualizing, developing, and implementing a tribal in-home services model. AN children, families, and communities were adversely impacted by the forced mass removal of AN children during the boarding school era through the passage of the Indian Child Welfare Act in 1978. The federal policies that encouraged these removals were among many others that sought to assimilate Native peoples. Today, AN communities are keenly aware of the impacts these damaging and disruptive policies had, and they are working to address the needs of their people. In doing so, it is acknowledged that historical trauma impacts the needs and the solutions that should be employed in child and family welfare situations (WPIC, n.d.b).

WPIC developed and implemented a tribal in-home services model based on extensive review and assessment of tribal services and capacity and a peer-to-peer learning event on the in-home services model implemented in Hawaii. WPIC created an in-home services system of care planning template consistent with the Alaska OCS safety assessment model, which served to ensure fidelity to the model in each of the five tribal pilot sites. WPIC also developed a common assessment framework to enhance the referral process and help tribes assess community services, as well as a data dashboard to measure progress monitoring referrals to tribal in-home services by OCS.

WPIC supported the convening of the Title IV-E Foster Care and Adoption Assistance tribal licensing workgroup and provided input into the development of tribal licensing standards with a focus on cultural considerations. WPIC developed and conducted training on the new Title IV-E tribal licensing process and standards. To further enhance the overall implementation of the tribal in-home services model, in-depth trainings with specific tribal organizations were conducted to build tribal staff capacity in leadership and court practice. Trainings allowed time to teach strategies for effective representation of and advocacy for AN children in court as well as documentation of services and placement recommendations for AN youth. WPIC also developed online court training for

continued professional development for tribal child welfare staff to effectively advocate on behalf of tribal children and families.

Youth Engagement

In collaboration with Facing Foster Care in Alaska (FFCA), AN youth shared their personal stories and experiences in the Alaska child welfare system. The stories shared by foster care youth informed tribal and state partners about the barriers to access and gaps in services that AN youth face in the child welfare system. Youth shared their frustrations and the development of mistrust that grew from having multiple placements. Five FFCA youth shared that they were involved in 2–14 placements in their short lifetimes. These youth, who were 15–25 years old, had been in the Alaska child welfare system for a range of 2–14 years (WPIC, 2013b). The realities of experiences and traumas faced by AN youth highlighted their disconnection from tribal communities, kinship networks, tribal culture, identity, and trust. The FFCA and youth involved in WPIC have been effective in changing the foster care system in Alaska through legislative efforts. In September 2012, thanks to FFCA advocacy, the Alaska Foster Family Protection Act was enacted to provide “new legal and practice provisions for youths in the custody of the Office of Children’s Services, according to a notice from the agency.” The act provided “the option for youths to extend custody until their 21st birthday and a requirement that reasonable efforts must be made to place siblings together” (Staff Report, 2012). FFCA continues to work collaboratively and actively within the state to address concerns of foster care youth. In 2014, FFCA supported the introduction of HB 54, a bill “relating to the identification, location, and notification of specified family members and family friends of a child who is in state custody” (Open State, 2013). FFCA brings youth voices to the table and shares the experiences of foster care youth as a tool to change, enhance, and advocate for effective and long-lasting changes to the Alaska child welfare system.

Outcomes

The Alaska Child Welfare Disproportionality Reduction Project was designed to significantly reduce the disproportionality of AN children in the Alaska child welfare system through the implementation of an array of policy and practice changes to establish a continuum of culturally responsive services for AN children and families. Though this was a time-limited project that did not include sufficient resources to support all AN communities that wanted to participate, and despite the significant time lag between policy change and real outcomes for children, the impact of WPIC work in Alaska goes well beyond the disproportionality data. At the beginning of the project, tribal and state staff members were at an impasse on how to move their work forward together. Through various technical assistance approaches, courageous conversations, implicit bias training, and modeling tribal and state leadership, WPIC was able to break down barriers of mistrust and fear and to move toward achieving positive outcomes for children and families. WPIC afforded the time to build relationships and gave state and tribal representatives safe spaces to have difficult conversations and learn to trust each other (WPIC, 2013a).

By strengthening state and tribal collaboration, many practice changes have resulted. For example, OCS and tribal staff are now undertaking child abuse and neglect investigations together in some regions, and collaborate in making decisions regarding safety and placement options. OCS has found that tribal staff serve as buffers, which creates a less adversarial approach. Tribal staff introduce OCS staff to families, which reduces the “us-versus-them” mentality in the tribal villages. OCS staff have also made office space available for tribal members in regional offices, and tribes have done the same for OCS staff who visit the tribes. In addition, OCS data are being shared with tribes and being used for the first time by tribes and OCS to drive conversations about successes, barriers, and progress in identifying placement choices and service options (WPIC, 2013a).

Although Alaska tribes had a hard time explaining the work that they do in their villages and how that translates into Western culture systems language, through technical assistance and consultation, WPIC was able to help them articulate their strengths, traditional cultural values, and practices and to make recommendations regarding placement decisions and strategies for reducing out of home placement. Leadership training gave tribal members a greater understanding of their voice and role in the larger child welfare system. Bringing elders to the table allowed state staff to understand tribal and village leadership and how their voices affected the work in communities (WPIC, 2013a).

Through WPIC meeting facilitation and on the basis of the trust that was developed, tribes could be open and transparent about their staffing issues and their skill- and capacity-building needs without fear of reprisal. By identifying these issues, WPIC was able to provide targeted training and coaching in specific areas of need. Understanding the roles of various tribal members in the community and how they could serve to stabilize families was a critical function of the in-home services model that WPIC helped the five tribal pilot sites adapt in their communities. The model continues to be implemented and identifies the service array in the community so OCS can understand tribal safety procedures and placement options available in the villages (WPIC, 2013a).

Establishing a Child Welfare Finance System That Matches the Needs of Children and Families

Federal Policy in Child Welfare

Federal child welfare policy plays a central role in the capacity of tribes and states to meet the unique needs of AI/AN children and families in care. Going back several decades, we can see how the major changes in federal policy have influenced the availability and types of services available to help families rehabilitate and protect children from abuse or neglect. Beginning with the creation of the Social Security Act in 1935 was support of what is now known as Title IV-B Child Welfare Services, the first federal program designated for child welfare services. Funding amounts were very small—as they are today—but they helped states establish public child welfare agencies. Later, in the 1960s, the Aid to Families with Dependent Children (AFDC) program was created. AFDC provided funding to states for children that had been removed from their homes. This program grew out of the Aid to Dependent Children program established under the original Social Security Act, and it was one of the first federal child welfare open-ended entitlement programs that continued to provide funds to states as long as an eligible child was in need of out-of-home services and supports. AFDC was the precursor to the current day Title IV-E Foster Care program, and the basic funding structure and eligibility contained in AFDC are still visible in the Title IV-E Foster Care program today. While the Temporary Assistance for Needy Families program replaced the AFDC program in 1996, many of the former AFDC requirements were carried forward in the Title IV-E Foster Care program.

In 1974, Congress enacted the first child welfare statute to specifically address prevention of child abuse and neglect, known as the Child Abuse Prevention and Treatment Act (CAPTA, P.L. 93-247). This law put into place several new requirements for states regarding child abuse reporting and investigation. State funding was very limited in comparison to the funding available through AFDC. Shortly after the passage of CAPTA, increases in the number of children placed in foster care occurred based upon new mandatory reporting laws and expansion of the AFDC program.

In 1978, Congress passed the Indian Child Welfare Act (P.L. 95-608) in response to the alarming numbers of AI/AN children being placed in foster care and adoptive homes by public and private agencies, often with non-Indian families. This law provided some of the first funding for many tribes to provide child welfare services in their communities and intervene in state child welfare proceeding involving their children and families. Unfortunately, Congress provided very little funding for the tribal grants authorized under Title II of the statute, preventing tribes from fully actualizing the purposes of the law as intended by Congress.

As a result of the increasing numbers of children entering state foster care in the 1970s, Congress became concerned that not enough was being done to help prevent removals of children from their homes, rehabilitate families so their children could be returned to them, and establish timely procedures for children securing permanent placements when they could not be returned home. In 1981, Congress passed the Adoption Assistance and Child Welfare Act (P.L. 96-272), which established the Title IV-E Foster Care and Adoption Assistance program under the Social Security Act and several new federal requirements addressing the concerns listed above.

Federal spending on child welfare, primarily under the Title IV-E Foster Care and Adoption Assistance program, grew throughout the 1980s as states increased the number of children placed in foster care. In the early 1990s, Congress heard from the child welfare advocacy community that there was a need to increase federal funding for services to rehabilitate families or otherwise risk continued increases in the numbers of children being placed in foster care. Recommended services were often connected to the family preservation or family support movements

in child welfare, which focused on services to strengthen families through in-home services and supports that reduced the risk of abuse and neglect and subsequent removal of children from their homes, and helped strengthen families so their children could safely be returned to them. In 1994, Congress responded by enacting the Family Preservation and Family Support Services program (P.L. 103-66) authorized under Title IV-B of the Social Security Act (later renamed the Promoting Safe and Stable Families program). This legislation funded both tribes and states to provide family preservation and family support services. However, the funding paled in comparison to the funding being spent on Title IV-E foster care, leaving states and tribes short of the funding needed to create sustainable in-home services and supports for all child welfare families.

Later in the 1990s, Congress revisited the issue of rising numbers of children being placed in foster care. The focus was different from prior efforts; Congress was concerned that foster care was too often thought of as something other than a temporary placement, and that states were often spending too much time working with families to reunify, sometimes placing children in unsafe situations. Congress addressed these concerns by speeding up the process for establishing permanency with new timelines for key child welfare decisions and revising the purpose of court hearings to move children into permanent homes more quickly. These new requirements were packaged under the Adoption and Safe Families Act of 1997 (P.L. 105-89), but came with no new funding to help ensure that families had the services they needed to meet the new timelines and requirements.

During the 1990s, Congress also provided states with new authority to apply for Child Welfare Waivers (P.L. 103-432). These waivers allowed states to experiment with new methods to reduce the number of children in foster care and secure permanent placements more quickly by using Title IV-E funds in ways that were not currently authorized under the statute, such as supporting guardianship and treatment services to substance-abusing parents with children in the child welfare system.

New federal funding for state juvenile court improvement projects became available in the mid-1990s; tribes gained access to these funds in 2011. This funding helped state and tribal juvenile courts address improvements to data collection, court procedures, and training necessary to increase court performance issues in juvenile court systems.

In 2008, the Fostering Connections to Success and Promoting Adoptions Act (P.L. 110-351) became law, providing tribal governments with direct access to the Title IV-E program for the first time. In addition, new requirements necessitated that states and tribes identify and engage relatives of children in care much more vigorously. These new requirements regarding relative engagement also coincided with the option for states and tribes operating Title IV-E to receive federal funds to subsidize relative guardianship placements of children that were Title IV-E eligible.

State foster care caseloads began to decrease after the passage of the Adoption and Safe Families Act in 1997, but caseload reductions did not affect all children equally and concerns were raised about how states were achieving these reductions. Disproportionality in foster care placement for AI/AN children was on the rise in many states, with rates that are currently anywhere from 1.4 to 12 times higher than their population rate in a particular state. Many child welfare and tribal advocates have raised concerns about how states make decisions in child welfare cases that lead to higher numbers of children being placed in out-of-home care. National data indicates that at key decision points in the process of responding to reports of child maltreatment, AI/AN children are much more likely to have their cases investigated after a report, have the alleged abuse or neglect substantiated, and be removed from their families and placed in foster care (Hill, 2007; Cross, 2008; Carter, 2009a; Carter, 2009b; Carter, 2010). Bias is certainly a factor in why these decisions favor more intrusive interventions in the lives of AI/AN children and families, but there are also concerns related to the availability of services that could help children safely stay within their homes and strengthen their families so further abuse or neglect would not occur. Federal child welfare policy and the accompanying finance system play a role in the capacity of states and tribes to address these concerns.

The Federal Child Welfare Finance System and the Need for Reform

Federal spending for child welfare services in the most recent year data is available (2010) was approximately \$13.6 billion. Because federal funds comprise the foundation of child welfare funding for both states and tribes, eligible uses of funding constrain, and in large measure dictate, programming. States and tribes have to match

these federal child welfare funds with their own governmental funds, which often require that the state and tribal investments have to mirror federal requirements as to what types of services can be supported. In addition, state and local match towards child welfare services in 2010 was slightly higher than the federal investment at \$15.8 billion. In rural Alaska, where the cost of removing a child from their home can be substantially higher than in most states, supporting a family with in-home services will often be a much less expensive alternative, as well as a much less traumatic experience for the child.

The primary federal sources of child welfare funding and the proportion of the total federal child welfare investment are as follows:

1. Title IV-E Foster Care and Adoption Assistance: 52%
2. Temporary Assistance to Needy Families (TANF): 22%
3. Social Services Block Grant (SSBG): 12%
4. Medicaid: 7%
5. Title IV-B (both programs): 5%
6. Other (CAPTA, Children's Justice Act, Adoption Opportunities, and other discretionary grants): 3%

Tribal participation in these federal child welfare programs is limited in both amounts of funding and basic access. Even with changes to federal law over the last 20 years that have allowed tribes to directly access Title IV-B, TANF, and Title IV-E funding, tribes are receiving less than 1% of the total funds available despite their total population being much higher⁶ and their community needs much greater than general population in the United States.

The top two federal programs currently being used to support child welfare services (Title IV-E and TANF) are almost entirely used to support services for children who have been removed from their homes. Funding under SSBG is more flexible and is often used for a variety of purposes, particularly child protection services (initial responses to reports of child maltreatment). Medicaid supports case management and treatment services for children who are in the foster care system as well as other health services. Title IV-B and CAPTA are the only federal programs targeted specifically to helping protect children from child maltreatment and strengthening families where child maltreatment has occurred. Even when adding SSBG funds to the amounts provided under Title IV-B and CAPTA, less than 20% of the federal investment in child welfare is specifically designed to help reduce the flow of children into out-of-home care.

It is clear that the current federal child welfare finance system will not be able to reduce the flow of children into out-of-home care without substantial changes. The imbalance between funding to prevent child maltreatment and strengthen families and funding which can only be used to support out-of-home placement services has created a federal child welfare finance system at an impasse that cannot be resolved by tinkering around the edges or redirecting existing funds. While a few states have been able to significantly reduce the number of children in out-of-home care, this is attributable to large investments they have been able to make in preventive and in-home services. In addition, an increasing number of children are being placed in relative homes supported by TANF funding, which is not counted as a foster care home placement.

Many tribes are in a position to make significant reductions in their foster care populations because of the intimate knowledge they have of the families in their communities and the resurgence of culturally based services, but the federal funding to integrate this knowledge in tribal child welfare systems and support more effective culturally based services is in very short supply. Tribes have limited access to federal programs that support services to prevent child maltreatment and strengthen families; less than \$500,000 is available to tribes under CAPTA through two tribal grants per year, and less than \$15 million is available to tribes from both Title IV-B programs combined. Two-thirds of tribes receive less than \$10,000 under the Title IV-B Child Welfare Services program, and almost 40% of tribes are not eligible for funding under the Title IV-B Promoting Safe and Stable Families grant. Tribes are also not eligible to receive either Medicaid or SSBG funds.

⁶ AI/AN people are reported as representing approximately 1.7% of the total United States population in the 2010 Census.

In 2003, Pew Charitable Trusts saw the problems facing the nation's child welfare system and convened a blue ribbon commission to examine how to improve outcomes in the nation's foster care system and avoid unnecessary removals of children from their homes. The Pew Commission on Children in Foster Care (Commission) was bipartisan and included some of the nation's most well-known federal policymakers with in-depth knowledge of the federal budget process and how it impacts the funding of child welfare services. The Commission also included child welfare experts from the many different entities involved in the field of child welfare, such as the courts, researchers, and public agency officials. Over the course of two years the Commission took input from a variety of stakeholders, including youth and parents who had been involved in the child welfare system, to examine the issues, barriers, and recommendations on how to best reform the child welfare system. Upon completion of their work, they published a report that acknowledged the imbalance in the federal child welfare finance system and the need to correct this imbalance through several strategic policy initiatives (Pew Commission on Children in Foster Care, 2004). Among these recommendations were the following:

- 1) Because every child needs a permanent family, the Commission recommends allowing states to "reinvest" federal dollars that would have been expended on foster care into other child welfare services if they safely reduce the use of foster care. States could use these funds for any service to keep children out of foster care or to leave foster care safely.
- 2) Children need skillful help to safely return home to their families, join a new family, or avoid entering foster care in the first place. For caseworkers to provide this help, states need flexible, sufficient, and reliable funding from the federal government.

Since publication of the Commission's report, several other leading child welfare organizations have either published their own blueprint for federal child welfare finance reform or have signaled their support for these changes. While Congress has yet to take up the unfinished business of child welfare reform, there are a growing number of advocates, policymakers, and experts in the field asking for change. AI/AN children and their families continue to be at greater risk of being placed into out-of-home care than almost any other population, and thus are more likely to incur the trauma associated with being in the child welfare system. As many have acknowledged, this is a national problem. A balanced federal child welfare finance system can change these dynamics, help both states and tribes provide more effective responses to the risk for child abuse and neglect, and bring healing to AI/AN victims.

Recommendations

With this backdrop of data on the violence AN children face in their homes and in the child welfare system, NICWA's experience working with WPIC on effective collaborative responses to AN children who experience violence and trauma in their homes, and how the federal child welfare program financing perpetuates child maltreatment by incentivizing removal and underfunding primary and secondary prevention efforts in both tribal communities and states, I offer several concrete recommendations:

1. Provide additional support and flexibility in federal child welfare programs for the use of tribal cultural practices by both tribes and states with AI/AN children in their care.
2. Increase incentives for states that reduce the number of AI/AN children in out-of-home care by safely returning them to their families. This should be coupled with the creation of incentives which are provided to those states showing improvements in ICWA compliance.
3. Assist tribes and states in their efforts to address the barriers to reducing the number of AI/AN children in state foster care through in-depth technical assistance and demonstration grants. Support and increase the number of tribal experts available to provide culturally competent training and technical assistance that centers on affirming and validating the incorporation of traditional tribal values and teachings in child welfare practice.

4. Advocate for comprehensive federal child welfare finance reform that creates a balanced and sustainable base of funding for tribes and states that can support child abuse and neglect prevention, treatment services for children and parents to address substance abuse and trauma, and in-home services that can help strengthen families to reduce the need for out-of-home placements and help children safely return home.
5. Utilize and adapt the WPIC systems of change theory framework as a model for tribes and states across the nation as an effort to effectively address violence and trauma in Indian Country.
6. Take a more active role in monitoring and enforcing federal laws that concern tribal children. In instances where the federal government provides the funding for specific state programs, the implicated federal agency and DOJ should actively work with the state to better understand the relevant federal laws and the state's obligations under them. In addition, in litigation in which the interpretation of ICWA is at issue, DOJ should take a greater role in submitting amicus briefs.
7. Affirm, via memorandum from the DOJ, that tribal courts in Alaska are no different than tribal courts in the rest of the country.
8. Swiftly amend VAWA to recognize the jurisdiction of AN tribes over certain crimes of domestic violence and expand jurisdiction to include child abuse and neglect. The existing "Special Rule for Alaska" contained in Section 910 of the Violence Against Women Act must be repealed and the powers of Alaska tribes to protect their most vulnerable members be affirmed.
9. Increase the capacity of tribal youth voice in decision-making efforts to better inform systems change in the child welfare system.

Thank you for the opportunity to share this testimony and these important recommendations.

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