

Child Abuse and Neglect

An Examination of
American Indian Data

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December 2000



Acknowledgements

Casey Family Programs and the National Indian Child Welfare Association gratefully acknowledge all of the input and feedback received from individuals, tribal and state child welfare programs, and federal agencies in connection with this publication. Their contributions have helped us to provide accurate and reliable information on the needs of Indian children through the National Indian Children's Alliance.

The National Indian Children's Alliance (NICA) was formed in 1999 between Casey Family Programs and the National Indian Child Welfare Association. The goal of the Alliance is to increase permanency options for Indian children through three targeted project areas: 1) the conduct of research that can contribute to policy development on issues that impact Indian children; 2) the provision of on-site technical assistance and training to tribes to enhance service options for their children and families; and 3) the development of tribal adoption codes that incorporate historically and culturally defined practices and the implementation of a campaign to develop additional foster, kinship or adoptive homes. Together, these three components will provide Indian children with a stronger foundation for achieving the permanency that all children deserve.

Design, typography, and pre-print production: Design Studio Selby

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Contents

| | |
|--|----|
| Abstract | 5 |
| Executive Summary | 7 |
| Literature Review | |
| Background: The Problem of Child Abuse and Neglect in Indian Country | 11 |
| Introduction | 11 |
| History of Child Care Among Native People | 13 |
| Policies Regarding the Assimilation of Native Children | 15 |
| Problems of Definition: Cultural Misinterpretation | 18 |
| The Complicating Factor of Alcohol Abuse | 20 |
| The Effectiveness of Child Abuse Reporting Laws in Indian Country | 22 |
| Child Welfare Abuse/Neglect Policies for Native People | 23 |
| Early Efforts at Tribal Control: Setting the Stage | 23 |
| The Indian Child Welfare Act of 1978 | 24 |
| Barriers to Compliance with ICWA | 25 |
| Addressing the Need for Data | 25 |
| Methodology | 27 |
| Research Design | 27 |
| Subjects | 27 |
| Procedures | 27 |
| Data Analysis | 28 |
| Results | 29 |
| Who is Included in the Survey? | 29 |
| Who Investigates Cases of CA/N? | 30 |
| Are the Tribes Equipped to Do Their Own CA/N Investigations? | 33 |
| Who Maintains CA/N Data? | 36 |
| Relationship Between States and Tribes | 37 |
| Suggestions About How to Improve the CA/N System | 38 |
| Summary | 44 |
| The Under-reporting of Data | 44 |
| Issues Related to Data Collection | 45 |
| Conclusion | 48 |
| References | 49 |
| Appendices | 52 |

LIST OF TABLES

| | |
|--|----|
| Table 1. Results of Question: Who Is Involved in CPS Investigations? | 32 |
| Table 2. Sharing of Data Between States and Tribes | 37 |
| Table 3. Suggestions for Improvement in Tribal CA/N | 38 |

LIST OF FIGURES

| | |
|---|----|
| Figure 1. Location of Sample | 29 |
| Figure 2. Elements of CPS at the Tribal Level | 33 |
| Figure 3. Who Provides Social Services/Police Services? | 34 |
| Figure 4. Members of the Child Protection Team | 35 |

ABSTRACT

Child Abuse and Neglect An Examination of American Indian Data

Current national statistics on the abuse and neglect of American Indian children suggest that rates are higher than among the general population. This study, a 10% sample of American Indian tribes and the states in which they are located, identified an under-reporting of data regarding the abuse and neglect of tribal children. At best, only 61% of the data on child abuse and/or neglect (CA/N) of American Indian and Alaska Native children are reported. The primary investigators of CA/N at the tribal level are the tribes themselves (65%), followed by the states (42%), the counties (21%), the Bureau of Indian Affairs (19%), and a consortium of area tribes (9%). There is some overlap in investigations, with tribes solely involved in only 23% of investigations. A lack of technical resources at the tribal level forces most tribes to rely on state and county reporting mechanisms for the conveyance of tribal data. This system is inefficient, as it misses those cases in which the states are not involved. A coordinated effort is needed to provide a clear, consistent reporting system for tribes, with the necessary technical and monetary support included. The locus of such a system needs to be decided by a group with representation from all parties including the tribes, and the federal, state, and local agencies. Clear guidelines must be issued regarding the roles and responsibilities of all participants, and penalties for non-compliance should be enforced. This system appears to work for the collection of CA/N data from the states; a similar system needs to be put in place for the tribes.

EXECUTIVE SUMMARY

Child Abuse and Neglect An Examination of American Indian Data

Introduction

The purpose of this research project was to obtain data regarding the current status of child abuse and/or neglect of Native children in the United States. Specifically, this project researched the path of child abuse and/or neglect (CA/N) data for Native children beginning with American Indian/Alaska Native tribes and the states in which they are located. This study was designed to gauge the accuracy of national statistics on child abuse and neglect which, it was assumed, must ultimately draw on data from the tribal level. States were surveyed in order to ascertain if they collect data from the tribes for entry into state or national data systems.

Methods

A proportional stratified sample of American Indian tribes recognized by the federal government, stratified by tribal enrollment into four groups, was sampled to equal 10% of each group, which would total 10% of all American Indian tribes (estimated at approximately 570). Tribes in Alaska, which number above 200, were purposefully under-represented, leading to an over-representation of tribes with an enrollment under 1,000 in the rest of the country. Final numbers of tribes included in each group were:

| | |
|----------------|----|
| Under 1,000 | 33 |
| 1,000 – 5,000 | 14 |
| 5,000 – 10,000 | 5 |
| Over 10,000 | 5 |

Each tribe chosen for the sample was sent a letter of introduction from the National Indian Child Welfare Association (NICWA) and Casey Family Programs. A week later, each tribe was telephoned and asked several questions related to the investigation of child abuse and/or neglect and the maintenance of CA/N data. Additional questions included a rating of the state/tribal relationship and open-ended questions regarding what works and what does not work for the process of CA/N investigation and reporting on the tribal level. If a sampled tribe could not be contacted after several tries (17 tribes could not be reached), another tribe was chosen within each group until a total sample of 10% of each group was reached (total of 57 tribes).

Workers at the state level, in the states where the tribes sampled for the study were located, were also telephoned and asked similar questions about the tribes within their state. State workers were also asked about data collection and storage at the state level. All of the states where the sampled

tribes were located (20) were reached except one, and two additional states were telephoned before it was determined that the tribes in those states could not be reached, leading to a final sample of 21 states.

Results

Based upon the findings of this study, it appears that child abuse and/or neglect of Native children is under-reported. This study found that, at best, only 61% of the data on child abuse and/or neglect of American Indian and Alaska Native children are reported. The primary investigators of CA/N at the tribal level are the tribes themselves (65%), followed by the states (42%), the counties (21%), the Bureau of Indian Affairs (19%), and a consortium of area tribes (9%). There is some overlap in investigations, with tribes solely involved in only 23% of investigations.

States report data they collect to data systems such as the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis and Reporting System (AFCARS). However, only 42% of the tribes reported that states are involved in their CA/N investigations and only 10.5% reported that the state was the sole investigator. Counties investigate CA/N for 19% of the tribes (the additional 2% includes the states), and it may be assumed that counties give their data to the states. Thus the maximum possible percentage of tribal data

which is entered into national statistics by the states would be 61% (42% gathered by states and 19% by counties).

When asked directly if tribes give CA/N data to them, 38% of the state workers said “no,” and 33% said “some do, and some don’t.” This would translate (again, at best) to approximately the same percentage of data, 62%, available to the states for entry into a database.

Although it is unclear how much of the data from American Indian tribes does reach the reporting systems, the responses of both tribal and state workers indicate that data collected on American Indian CA/N is incomplete. The figure of approximately 60% includes several assumptions. They are:

- States and counties collect data on all of the tribal cases in which they are involved, even if they are not the sole investigator.
- Tribes allow both states and/or counties to collect tribal data, even if the tribes are also involved.
- Counties collect and give tribal data to the states.
- States enter tribal data they collect into the national data systems.

Tribal workers do not generally enter data on CA/N into a computerized record keeping system. Only 19% of the tribes reported that they do so. Only 3.5% of the tribes reported that they send data to a national data system.

Conclusions

Most tribes are not involved directly in the collection and maintenance of data on child abuse and/or neglect of tribal children. A lack of technical resources at the tribal level forces most tribes to rely on state reporting mechanisms for the conveyance of tribal data. This system is inefficient, as it misses those cases in which the states are not involved. In addition, it challenges tribal sovereignty, as states have not, in most cases, been given a clear mandate for involvement in tribal affairs. Consequently states must rely on the tribes to give data on child abuse and neglect to them voluntarily.

Although only 65% of tribes are involved in the investigation of CA/N, 81% have Child Protection Teams, and 86% have protocols for the investigation of CA/N. Over half of the tribes have their own social and police services. Clearly, they are positioned to be able to take control of their own services, with or without the assistance of the states.

Both tribal and state workers were asked for suggestions regarding ways to improve the system. Recommendations for change include improved communication, the development of computerized tribal data tracking systems, additional training, more resources, and clear guidelines at all levels regarding what is the possible and expected role of the federal government, the states, the

state Indian Child Welfare (ICW) workers, the tribe, and the tribal ICW workers.

A coordinated effort is needed to provide a clear, consistent reporting system for tribes with the necessary technical and monetary support included. The locus of such a system needs to be decided by a group with representation from all parties, including the tribes and the federal, state, and local agencies involved. Clear guidelines must be issued regarding the roles and responsibilities of all participants, and penalties for non-compliance should be enforced. This system appears to work for the collection of CA/N data from the states; a similar system needs to be put in place for the tribes.

BACKGROUND:

The Problem of Child Abuse and Neglect in Indian Country

Introduction

Current national statistics and published reports suggest that child abuse and/or neglect (CA/N) is a serious problem among American Indian people, with prevalence and risk potential higher than among the general population. However, published journal articles and small population based reports are fragmented and there is concern among people interested in the issue of abuse and neglect of Native children that information in the large national data bases is not accurate.

It is widely believed that there are no comprehensive, all-inclusive figures available that identify the true numbers of Native children who are abused or neglected in the United States. In 1991, the National Indian Justice Center reported there were no reliable statistics regarding the prevalence of abuse or neglect among Native people. Although recent reports from the U.S. Bureau of Justice, the National Child Abuse and Neglect Data System (NCANDS), and the Child Welfare League of America (CWLA) include estimates of these rates, the accuracy of these data is unknown.

United States Bureau of Justice statistics for 1995 reported a per capita rate of one substantiated report of a child victim of abuse or neglect for every 30 American Indian children aged 14 or younger. This compares to one report for every 58 children of any race, approximately half the

rate for Native children. In addition, American Indians and Asians were the only racial/ethnic groups to experience increases in the rate of abuse or neglect of children under age 15 from 1992 to 1995 (Department of Justice, 1999).

More recent data are available from the National Child Abuse and Neglect Data System (NCANDS) and the Child Welfare League of America (CWLA). Data from the NCANDS show that child maltreatment victimization rates by race and ethnicity in 1998 (40 states reporting) were highest for African Americans (20.7 cases per 1,000 children) and Native children (19.8 cases per 1,000 children). This compares to a rate of 3.8 for Asians/Pacific Islanders, 8.5 for Whites, and 10.6 for Hispanics (U.S. Department of Health and Human Services, Children's Bureau, 2000).

The CWLA reports that although Native children made up one percent of all children in 41 states for whom data were available, they made up 1.6% of substantiated/indicated child abuse cases (CWLA, 1999). CWLA's figures were based on the NCANDS data for 1996.

Articles in professional journals also include relevant, though incomplete, data. Fischler reported that rates of validated cases of CA/N were higher

for Native children, both nationally and as reported in studies among the Navajo and Cheyenne people. Using data from the American Humane Association (1978), and studies by White (1977) and Wichlacz (1978), Fischler reported a rate of 5.7 child abuse and neglect cases per 1,000 children per year among off-reservation Indian children, 13.5 per 1,000 among the Navajo, and 26 per 1,000 among the Cheyenne River children. This compared to a rate of 4.2 per 1,000 per year for the total U.S. population (Fischler, 1985, p. 97).

In 1998, Robin, Chester, and Rasmussen reported that among 104 adult victims of family violence in a southwestern tribe, 36% of the women and 5% of the men reported that children were involved in the violent incident. Both male and female participants reported nearly equivalent rates of lifetime (75%) and recent (32%) verbal and physical family violence.

A 1989 study of Native children in treatment for mental health found that 67% were abused or neglected (Piasecki, Manson, Biernoff, Hiat, Taylor, and Bechtold, 1989). This compares to other studies cited by the authors in which from 30% to 42% of children in mental health care in the general population have experienced abuse and/or neglect. This survey, completed by federal employees working with Indian people in Arizona and New Mexico, found that traumatic events in

the child's family such as parental alcoholism, divorce, death of a parent, and chaotic family situations were closely related to abuse/neglect (Piasecki et al., 1989).

The study reported here was an attempt to gauge the accuracy of nationally maintained statistics regarding CA/N of Native children by finding out the source and extent of reports to the national data systems. Barriers to the collection of data were also identified, with an eye to reforming the system, if possible, so that the needs and desires of both the information systems and the tribes were met.

Information was obtained from a telephone survey of American Indian tribes/nations regarding who collects data on CA/N, where it is maintained, and where it is sent. State Indian Child Welfare workers were also asked the same questions for state-wide American Indian CA/N data. Both tribes and states were asked related questions regarding who is involved in CA/N investigations at the tribal level, and what elements of the child protective system are in place. "Child Protective System" (CPS) refers to the organization of staff and related services put in place at local or state levels to investigate and treat cases of child abuse and/or neglect.

Other questions included an estimate of the professional relationship between states and tribes, and open-ended questions as to how to improve

the child protective system at the tribal level.

These questions were designed to both locate the sources of national data on American Indian children, and to identify barriers to obtaining accurate data from the tribes. Two possible barriers, for example, are

- lack of a tribal court, and
- poor relationship between tribes and states.

Tribes may not have accurate data because they do not do their own investigations. In many cases, the reason that they cannot do their own investigations is that they do not have a tribal court that can handle child protective cases.

The relationship between tribes and states was thought to be a possible barrier to the collection of accurate data, as states currently are the major data reporting source. Historically, relationships between states and tribes have been poorly defined and frequently problematic. States may, therefore, be unable to obtain accurate data directly from the tribes.

A major factor which must be included when considering American Indian compliance with the reporting of any type of data to federal or state governments is the long, complicated, and frequently difficult relationship between Native people and the dominant society.

History of Child Care Among Native People

Abuse and neglect are defined by societal norms, and the enforcement of laws regarding CA/N is based on those norms. In order to understand the true extent of child abuse and/or neglect among Native people, it is necessary to view the historical relationship among the tribes, the federal and state governments, and society as a whole.

Throughout U.S. history, many American Indian tribes/nations have attempted to maintain a separate identity. This separate identity was confirmed by the U.S. Constitution and Supreme Court (*Cherokee Nation v. Georgia*, 30 U.S. [5 Pet.] 1; 1831), who defined American Indian tribes as sovereign nations. Nevertheless, pressure from state governments, persons desirous of Indian lands and resources, and an intolerant society have continued to press Native people to give up their unique status.

An important aspect of the unique status of tribal nations is that they have historically related not to the states in which they are located, but directly to the federal government. This is an important consideration when viewing the investigation of CA/N and the collection of CA/N data, as the states bear the primary responsibility for CA/N in the U.S.

Despite a nationally defined, nation-to-nation relationship between the U.S. and American Indian tribes/nations, past efforts by the United

States federal government regarding the welfare of Native children have focused on assimilation of the children or even termination of the tribes of which they were a part, with disastrous results. This began to change in the 1960s. After years of taking child care out of the hands of Native people, the Indian Self Determination and Education Assistance Act (1975) and the Indian Child Welfare Act (1978) were designed to return control over social service and child welfare programs to the tribes. These initiatives have attempted to reverse two centuries of policy that has led to the victimization of Native children and the destruction of Native families.

An observant conqueror who came upon an Indian village in the early years of European “discovery” of the American continent may have noted that the Native traditions of childcare were different from those practiced in Europe. Among many tribes, these traditions have remained the same as in those early years of European exploration and conquest.

In the extended Native American family system, fathers who can no longer do heavy work watch over the little ones and teach them as they have been taught; grandmothers and siblings share childcare with mothers who work. Children are found in the homes of aunts and uncles as often as in their own, “sometimes to the confusion of a social agency inquisitor ignorant of Indian culture” (Attneave, 1977). In American Indian

communities, childcare has long been the responsibility of the extended family, not an isolated task of one or two people. Ironically, the old ways of distributing childcare among members of the community are now touted as a “new” and “modern” approach to childcare in the United States (Andrews and Ben-Arieh, 1999).

Apart from the security and comfort of an extended family system, many American Indian communities provided expectations for parental behavior tied to tradition and religion. In this system, community disapproval was used to enforce proper behavior. Storytelling, consisting largely of moral and ethical tales, was frequently used to teach children. In at least one tribe where physical punishment was used, the burden of physical retribution was placed not in the hands of parents or caregivers, but was given to a “whipperman” who was called upon to mete out punishment and to tell the children stories at the same time. Tribal expectations were passed along through stories, myths, and the teachings of elders and wise ones, and were reinforced by ritual. Child rearing was in keeping with spiritual belief, sometimes tied to beliefs in supernatural beings. In a society with such clear rules and expectations, child abuse was rare (Cross, 1986).

As the European-based civilization spread westward, customs that had worked to protect and nurture children for centuries were replaced or muddled by the influence of what quickly became the dominant culture.

Policies Regarding the Assimilation of Native Children

Historically, the locus of care for Native children has been a matter of some dispute. The unique, sovereign status of American Indian tribes has been described in the U.S. Constitution and reaffirmed through various court decisions and legislation; yet policies enacted by the federal or state governments have disputed or ignored the implications of this status. National or state policies have attempted, instead, to bring American Indian tribes and people into the mainstream and to abolish differences from other residents of the United States.

The crusade to assimilate Native people has periodically focused on the indoctrination of Indian children. As early as the 1560s, the Spanish established a school for Indian children on the island of Cuba. Early in the 1600s, the Virginia Company was encouraging White settlers to adopt and tutor young Indians. Many Native people resisted. The Iroquois, for example, when urged in the 1700s to turn over their sons to be taught “in the best manner,” responded that they had tried this already, “but the youngsters had come home ‘absolutely good for nothing, being neither acquainted with the true methods of killing deer, catching beaver, or surprising an enemy.’ However, they would be willing to rear some English lads ‘in what really was the best manner and make men of them.’ The colonists declined” (Nabokov, 1991, p. 214).

In 1819, the Civilization Fund Act gave money to “benevolent societies” to “introduce among (Native people) the habits and acts of civilization” (Prucha, 1990, p. 33). The intent of this act was to “put into the hands of their (Indian) children the primer and the hoe ... and they will grow up in the habits of morality and industry” (Nabokov, 1991, p. 215). By 1838, about 3,000 Native children were attending boarding schools.

From the 1800s through the mid-1900s, Native children were removed from their homes in large groups and placed in either private or, increasingly, federal institutions. This was made possible, prior to the 1930s, under a system of control of Indian reservations by Indian agents, usually Caucasian males, who held vast, federally conferred power over the lives of Indian people (George, 1997).

Coolidge provides a first person account of the practice of the removal of Indian children in the 1930s:

The heartbreak and misery of this compulsory taking of children was never more fully exemplified than on my recent visit to (a Western area) where old Jodie ... lives. He is the last of his people in that part of the country and he and his wife had ten children. But as they came of school age they were taken away from him and of the first eight all but one died at school. One daughter survived But like all of them she was given a White person's name, her Indian

name was not adequately recorded, and though he had tried to find where she was, the school had lost all track of her Jodie informed me that the truck was soon coming over to take his little boy and girl, the last two children of ten. His wife, he said, sat and cried all the time and he asked me what he should do. I told Jodie and I tell the world that a mother has a right to her children. They are hers, and since the others had all died or been lost he should take these and his little band of sheep and hide far back in the mountains (Coolidge, 1977, p. 20).

The boarding schools began closing in the mid-1930s with the passage of the Indian Reorganization Act of 1934 (also known as the Wheeler-Howard Act. 25 U.S.C.A. § 461 et seq.), which set up legal structures to allow tribes self-government and permitted greater tribal control over reservations¹ (Canby, 1998).

Some boarding schools remained, however, for the treatment of children who were reported to be neglected or abandoned (George, 1997). In 1971 the Bureau of Indian Affairs (BIA) school census reported that 34,538 children were living in boarding schools; this was over 17% of the Indian school-aged population on federally recognized reservations and 60% of all Indian children attending BIA sponsored schools (Byler, 1977). The total BIA boarding school population declined from "24,051 boarding students in 1965 to 11,264 boarding students in 1988," as boarding schools were closed or converted to day schools (Prucha, 1990, p. 310).

The boarding school experience deprived generations of Native people of exposure to normal Indian family life. Many Indian people raised in boarding schools reached adulthood without the intergenerational transmission of family and parental knowledge, behavior, and values. Perversely, the positive parenting skills learned in most Native communities were replaced, for many of those who attended boarding schools, by new and dysfunctional learned behaviors such as sexual abuse and the use of physical punishment, almost unknown in Native communities before the European conquest (Horejsi et al., 1992; Meriam, 1977).

Placing Indian children out of their homes and communities continued with the Indian Adoption Project, initiated by the CWLA and the BIA. Between 1958 and 1967, 395 Indian children were placed for adoption with non-Indian families in eastern metropolitan areas (Fanshel, 1972). In his research regarding this mass effort at assimilation, Fanshel states:

The placement of these children represents a significant effort to use the vehicle of adoption as a possible solution to the life-long dilemma faced by minority group children whose parents have been defeated by life's circumstances (Fanshel, 1972, p. iii).

Although Native people took exception to Fanshel's view, this highly publicized project led to a great demand for Indian children for adoption by White, middle class couples, and

stimulated the additional adoption of thousands of Indian children. A survey of states with large Indian populations by the CWLA identified 90 agencies that had placed 696 Native children in 1965, six times more than the number placed by the Adoption Project (49 adoptions) in the same year.

These initiatives led to the wide scale breakup of Native families and communities. In Minnesota, in the years 1971 and 1972, nearly one in four Native youngsters under the age of one year was placed for adoption, and 90% of these were in non-Indian homes. Surveys of states with large Indian populations conducted by the Association on American Indian Affairs in 1969 and 1974 revealed that 25% to 35% of all Indian children had been separated from their families and placed in foster homes, adoptive homes, or institutions (Byler, 1977; George, 1997).

A much-quoted statement, cited in the legislative hearings to support the passage of the Indian Child Welfare Act, is that: "In 16 states surveyed in 1969, approximately 85 per cent of all Indian children in foster care were living in non-Indian homes" (Byler, 1977, p. 2).

The main thrust of federal policy toward Native people from the mid 19th century until the 1970s had been to break up the extended family and the clan structure and to destabilize and assimilate Indian populations. Even after the years of covert conquest and dispersal had ended,

Native people had a difficult time reestablishing effective childcare communities. The reasons for this were many, and included, apart from the removal of children, such historical factors as:

- the introduction of alcohol, which led to family disintegration, fetal alcohol syndrome, and a high rate of alcohol related accidents and death;
- loss of a land base, leading to difficulties in providing viable, culturally appropriate, adult role models;
- changes from traditional to largely Christian religions, in which different child rearing concepts such as "spare the rod and spoil the child" were practiced; and,
- government policies such as the relocation policy of Native people from reservations to urban centers, leading to the loss of traditional supports and customs for those who had been separated from their community (Cross, 1986).

By the time of Fanshel's (1972) report on the Indian Adoption Project, Native people had begun to speak out against the removal of their children and the wholesale destruction of their culture. A new era for Native children and families had begun.

Problems of Definition: Cultural Misinterpretation

In 1977, Byler reported that, although up to 99% of cases where Native children were removed from their homes were argued on vague grounds of neglect, social deprivation, or emotional abuse, many of the parents declared unfit by non-Indian social workers were considered to be excellent caregivers by the tribe. In addition, the relative permissiveness of many individual tribes or Indian nations may have led to a label of “wildness” on the part of some children and the subsequent removal of the child due to “behavior problems.” This reflects the ethnocentric and biased viewpoints inherent in differing cultural concepts of child rearing.

In reviewing the treatment outcome for eight Indian families in crisis in the 1970s, Westermeyer (1977) found that police were used to remove the children from these families despite the fact that the families had voluntarily requested assistance and no child abuse was alleged. Members of these Sioux and Chippewa families were caught in a sequence of events that spiraled from unemployment and problem drinking to insufficient funds to marital discord. Before seeking help, the families had demonstrated strengths in several areas: the fathers all had jobs and supported the family, none of the parents had been institutionalized in prison or psychiatric facilities, and all were literate and fluent in English. Rather than providing supportive services such as temporary homemaker,

financial relief, treatment for chemical dependency, a job, or marital counseling, the children were removed by force and the families were destroyed.

Ishisaka (1978) reported similar patterns in the original decision to remove Native children from 26 families admitted to a special program designed to avert child placement. The most frequent complaint about the families was abandonment associated with alcohol abuse, and the most common alcohol use pattern among family parental figures was binge drinking. The majority of these families were making a rural to urban move and family members were suffering from an urban adjustment problem.

Over the course of treatment, it was observed that there were very few instances of abusive or neglectful behavior towards the children. Rather, the most frequent pattern for parents who were drinking was to leave the children with siblings or on their own while the parents were drinking. These behaviors are in keeping with cultural practice, based on a workable and functioning extended family, and with cultural values of self-determination and non-interference. The younger children who were in these situations appeared to be well cared for, and there were adults in the vicinity that could be called upon in an emergency. The author suggests that differences in norms of parenting for Native and mainstream families may lead to cross-cultural misunderstandings: “Parenting customs may be brought to the urban environment from cultural settings in which they are common practice, but in the city such practices

are viewed by social agents as deviant and evidence of faulty parenting” (Ishisaka, 1978, p. 303).

Ishisaka also reported that cultural differences, such as the use of silence toward a child who has been away from home for a long time, may be easily misinterpreted by an outsider. Among the Western Apache people, for example, Ishisaka (1978) reported that silence is the appropriate response at times of role ambiguity. But a non-Indian social worker witnessing silence at what would be an occasion for embraces and verbal intimacy (such as a return from school) among Anglo people may misperceive this as a sign of coldness by the parents.

Other authors since the 1970s have reported similar misunderstandings between Native people/nations and the social agencies responsible for removing children. Horejsi, Heavy Runner Craig, and Pablo (1992) suggest several factors that may lead to the hasty and inappropriate removal of children. Native parents who take a “fight or flight” approach to child protective actions may be labeled uncooperative, unmotivated, resistant, or hard to reach, unwittingly getting themselves into deeper trouble with the courts and social authorities. These authors suggest that negative reactions by Native parents are due to interrelated, situational, cultural, and community factors that lead to a “fight or flight” reaction when faced with allegations of abuse and/or neglect. The authors state that:

Generally, the parent is directly or indirectly affected by alcoholism and/or co-depend-

ency; is young, lacking in parenting skills, and easily overwhelmed by parental responsibilities; is emotionally overtaxed by a history of loss and incomplete grieving; is overwhelmed and exhausted by the daily grind of poverty ... feels embarrassed and shamed by the community’s knowledge of abuse or neglect ... is fearful and distrustful of child welfare agencies and of social workers who place children in foster care; believes that once a child goes into foster care the child will always remain in care; ... is easily confused or intimidated by complex organizations, government programs, laws, and agency procedures (Horejsi et al., 1992, p. 340).

In American society, the extent of child maltreatment is frequently based on an assessment by a worker or a judge of the nature of the parent-child relationship. In evaluating the parent-child relationship, Wasserman and Rosenfeld suggested, as recently as 1986, that judges, when making decisions regarding whether or not abuse or neglect has occurred, look at such factors as the amount of structure and order a parent provides in a child’s life and the methods the parent uses to maintain control over the child.

As stated by Horejsi et al. (1992), Native parents faced with an allegation of abuse may appear to non-Native workers to react as though the touted child-parent bond does not exist. These reactions, explainable within the Native community and culture, are easily misinterpreted by an outsider. In addition, the extended family and kinship network characteristic of many tribes may lead

to an appearance of lack of control or even lack of affection by Indian parents.

Fischler (1985) identifies several areas of cultural misunderstandings of child-rearing patterns that may lead to the mislabeling of behaviors as abuse or neglect. These include misinterpretation of the importance of the extended family network and sibling care taking, poverty, alcohol abuse, and depression due to disruptions and separations from family and community. In addition, he describes two other complicating factors present in some Indian homes that are not typically found in the general population. These are an ascribing of evil properties to children based on Indian mythology, and the symbolic significance of handicaps or sexual abuse in some Native cultures. Both may be addressed with traditional indigenous methods.

The Complicating Factor of Alcohol Abuse

In several studies, the abuse of alcohol is a commonly cited reason for removal of children from Native homes (Fischler, 1985; Ishisaka, 1978; Johnston, 1983; Westermeyer, 1977). According to the U.S. Department of Justice (1999), American Indian victims of violence are the most likely of any racial group to indicate the offender committed the violent offense while drinking. Fifty-five percent of American Indian victims of violence (1992–1996) reported the offender was

under the influence of alcohol, drugs, or both, compared to 44% for Whites and 35% for Blacks (U.S. Department of Justice, 1999).

The rate of arrest for alcohol-related violations (e.g., Driving Under the Influence, liquor law violations, and public drunkenness), for Native people is double the national rate, and half of American Indian inmates in local jails in 1995 were consuming alcohol at the time of their offenses (U.S. Department of Justice, 1999). Peer-related binge drinking on a regular basis among American Indians has been found to be associated with high rates of alcohol related criminal activity, death and accidents (Mail and Johnson, 1993; May, 1994; Robin, Long, Rasmussen, Albaugh, and Goldman, 1998). In Robin, Chester, and Rasmussen's 1998 study, heavy alcohol use was reported as having occurred in 62% of the violent incidents involving men and 74% of the incidents involving women. Binge drinking has also been found to be related to risky vehicular-related behavior such as drinking-and-driving and lack of seat belt use (Oken, Lightdale and Welty, 1995). Under age driving is another source of risky behavior.

As with other social problems reported as being high among Native people, recent efforts by tribes and communities have had an impact on the use of alcohol, leading to voluntary sobriety of many Native individuals and Native tribes/nations (Butterfield, Boyer, and Reddish, 1992). Although some studies report a higher

than average use of alcoholic beverages by Native people, there are wide variations in rate among different Indian tribes (Mail and Johnson, 1993; May, 1994). Johnston (1983) suggests that the perception of high alcohol abuse shown by the “drunken Indian” stereotype may be an unwitting factor in higher removal of Indian children from their homes than from White homes in which alcohol is also present.

Knowledge of the contrast between American Indian tradition, practice and belief, and federal policy regarding Native people is necessary in order to understand the status of CA/N investigation, reporting, and compliance in Indian Country today.

The Effectiveness of Child Abuse Reporting Laws in Indian Country

The Federal Child Abuse Prevention and Treatment Act (Public Law 93–247) was passed in 1974. It established mandatory reporting guidelines for all fifty United States and mandatory procedures for handling cases of abuse or neglect. The 1974 Act established broad parameters describing child maltreatment for all children in the United States and allowed states to develop their own definitions. The resulting definitions vary from state to state, perhaps reflecting local societal values and views of child protection. As a result, apart from the most serious and obvious cases, there is “no universal agreement on what constitutes child abuse or neglect” (Howing and Wodarski, 1992, p. 330), and data that are collected are not always indicative of the true extent of abuse/neglect (Winefield and Bradley, 1992).

The 1974 Federal Child Abuse Prevention and Treatment Act did not apply directly to sovereign tribal nations because they did not receive funding under its provisions and because many Native communities lacked laws that require reporting (National Indian Justice Center, 1991). Since most Indian tribes/nations do not have formal relationships with the states where they are located, both states and tribes have been reluctant to pursue state mandates regarding CA/N on Indian land. However, if an abuse case regarding a Native child occurs outside of Indian territory, most states consider that case within their jurisdiction.

To address the perceived lack of reporting by Indian nations, in 1990, the Indian Child Protection and Family Violence Prevention Act of 1990 provided for mandatory reporting of child abuse and neglect in “Indian country” (Pub. L. No. 101–630, 18 U.S.C. 1169 [a]). However, no regulations have been adopted implementing the act, and no funding has been provided for its implementation.

Even among non-Indians, difficulties in the enforcement of child abuse reporting laws are prevalent throughout the United States, at all levels of government and agency responsibility and among all types of mandated reporters (Wolock, 1982; Zellman, 1990, 1992). The reporting of child abuse and neglect under the 1974 reporting Act has come under increased scrutiny throughout the U.S. based on angry outbursts from mainstream parents regarding the invasion of privacy, on one end of the continuum, to the vociferous concerns of child welfare advocates when, for example, a case “slips through the cracks” and a child dies (Guyer, 1982), on the other end. Increasingly, this has led to calls for more family and community support in the fractured mainstream society, which consists primarily of independent and isolated family units (Miller and Whittaker, 1988). Ironically, the extended network of support recommended by current professionals is the same type of system present in Native communities, frequently criticized by mainstream workers and labeled neglectful.

Child Welfare Abuse/Neglect Policies for Native People

Early Efforts at Tribal Control: Setting the Stage

By the 1970s, several different groups were providing overlapping services to Indian children. These included state, federal, county, and private agencies, and the tribes themselves. In an effort to clarify roles and encourage cooperation, the federal Children's Bureau of the Social and Rehabilitative Services Agency (SRS), in 1970, instructed state child welfare agencies to follow tribal court directives when dealing with Indian children on reservations. Implementation was hindered by the relationship between states and Indian tribes/nations. For example, tribes did not have the resources to implement child welfare services, and states were unwilling to honor tribal court orders (Mannes, 1995).

The issue of who provides CA/N and other child welfare services has been further complicated in states affected by Pub. L. No. 280, 67 Stat. 588 (1953). This statute extended state civil and criminal jurisdiction to reservations in five states (California, Nebraska, Minnesota [except Red Lake Reservation], Oregon [except Warm Springs Reservation], and Wisconsin). Alaska was added in 1958, and any other state could assume such jurisdiction by statute or state constitutional amendment. Consent from the tribes was not required and sometimes not sought (Canby, 1998). This law affected the ability of some tribes to maintain control of their own child abuse and/or neglect cases, as tribal court jurisdiction is central to Child Protective Services (CPS).

Although Public Law 280 left tribal authorities with a greatly diminished role, the law was not readily accepted by the states or the tribes, and enforcement was lax. Central to the lack of enforcement was the issue of tribal consent. In 1968, the Indian Civil Rights Act (25 U.S.C.A § 1301 et seq.) was passed, imposing most of the requirements of the Bill of Rights on the tribes. This Act also amended Public Law 280 so that states could no longer assume civil or criminal jurisdiction without tribal permission, bringing such extensions of state jurisdiction to a halt (Canby, 1998). However, the state control of court matters has crippled the ability of many tribes to prosecute matters of child abuse and neglect among their own tribal members to this day.

In 1974, SRS produced another instruction to states, this time requiring them to collaborate with tribes when reservation children were involved and asking them to develop special licensing standards for Indian foster homes and day care centers. Once again, lacking any enforcement mechanism, these policy statements had little impact (Mannes, 1995).

The Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. No. 638, 25 U.S.C.A. § 450 et seq.) authorized the federal government (Departments of Interior and of Health, Education and Welfare) to enter contracts

under which tribes could assume responsibility for the administration of federal Indian programs. Under this legislation, many tribal governments have taken control of various formerly federally (BIA, IHS) operated services (social services, health, etc.). This has improved the ability of tribes to investigate and treat CA/N, by providing additional tribal workers, resources, and tribal autonomy in internal matters.

The Indian Child Welfare Act of 1978

The Indian Child Welfare Act (Pub. L. No. 95-608, 25 U.S.C.A. §§ 1901-1963) was passed in 1978. The passage of this legislation was set in motion in 1968 by the Devils Lake Sioux Tribe of North Dakota. In response to the routine removal of their children from their families for placement in foster care and eventual adoption by White families, the Devils Lake Sioux requested assistance from the Association on American Indian Affairs (AAIA). AAIA's involvement ultimately led to the passage of the Act. Senate hearings in 1974 consisted of the recounting of personal stories of removal and consequent loss and anguish by American Indian parents and children. Mental health experts testified as to the psychological and social crisis of removal. The AAIA produced a set of recommendations that were entered into the Senate Hearing records. The Indian Child Welfare Act (ICWA) was introduced in 1976 and

passed two years later, after much debate (Mannes, 1995).

Under ICWA, state courts have no jurisdiction over adoption or custody of Indian children who live on a reservation unless some federal law such as Public Law 280 provides to the contrary. Tribes also have jurisdiction over proceedings involving any Indian child who is a ward of the tribal court, regardless of where the child lives (Canby, 1998).

For those cases in which the state courts do have jurisdiction, there are important qualifications put upon that jurisdiction.

- In matters of adoption or termination of parental rights, the state must transfer the proceedings to tribal court upon petition by the parent, custodian, or tribe.
- The state must follow priorities in the placement of Indian children, with first preference given to extended family members, then to members of his or her tribe, and then to Indian families generally.
- Child-placing agencies must provide remedial, culturally appropriate services for Indian families before a placement occurs.
- Tribes must be notified regarding the placement of Indian children.

Barriers to Compliance with ICWA

Compliance with ICWA has been mixed. McMahon and Gullerud (1995) found, in a national study, that requirements for Indian foster homes, a basic tenet of the law, were not being met. Between 1980 and 1986, these authors report, the number of Native children in substitute care increased 25%, with length of time in care longer for Native than for other children. Half of the Native children in care are in public care. Public welfare agencies, which are responsible for 52% of the Native children in care, place only 35% in Indian homes.

However, Matheson (1996) reports that, although there are still problems with compliance in many areas, there are some encouraging figures. Notification of parents when children are about to be removed has increased “from nearly 0% of the time in the years before 1978 to 65% to 70% of the time. Tribes are now notified up to 80% of the time, and Indian children who are removed are placed with relatives 47% of the time” (Matheson, 1996, p. 234).

The largest barriers to compliance with ICWA are at the federal and state policy levels. These include the following (Cross, Earle, and Simmons, 2000):

- Lack of funding
- Jurisdictional barriers (relationship between states and tribes)

- Lack of trained personnel
- Lack of information about the extent of the problem
- Lack of appropriate service models
- Community denial

Current efforts by federal and private Indian child welfare organizations are focused on removing these barriers. The various solutions proposed have a few elements in common. These are: ensure that child care is returned to the Native communities; allow direct, flexible funding for programs to tribes; focus on prevention as well as treatment; and obtain reliable measures to determine and track the true extent of child abuse and neglect in Indian Country.

Addressing the Need for Data

The issue of child abuse and/or neglect in Indian Country has been muddied by difficulties in definition and lack of data regarding the true extent of the problem. A first step in addressing the problem is to ascertain its depth and severity. Data are needed to ascertain the true numbers of American Indian children who are abused and neglected.

Before data are collected and analyzed, it is necessary to find out what data are available, and where to locate them. This was the purpose of this survey. In addition, related information was

obtained in order to identify possible barriers to gathering data on CA/N at the tribal and state levels. Possible barriers, based on the literature, were thought to include, for example, the inability or unwillingness of tribes to do the CA/N investigations, a poor relationship with those who report data (thought to be primarily the states), and possible continued misunderstandings between tribes and the state and federal governments. A benign approach to American Indian people and tribes is a relatively new development in the U.S., dating only from the 1970s. The long history of miscommunication and misunderstanding could easily lead to disinterest among Native people in complying with yet another effort by the federal and state governments to interfere in their internal affairs, and to possible distrust of the entire process of CA/N investigations, given the history of abuse of Indian people and tribes at the hands of the dominant society and its institutions.

Questions were designed to allow responses that would reflect and perhaps address the issue of tribal sovereignty. Sovereignty affects not only data gathering, but also the ability of tribes to make their own decisions regarding the welfare of American Indian children. This issue, although not directly stated, was addressed primarily by open-ended questions about ways to improve the CA/N system as a whole.

Methodology

Research Design

This was a descriptive study. The intent of the study was to identify and make recommendations regarding

- who reports where, and what data are maintained at the tribal and state levels,
- the extent to which tribes are involved in CA/N investigations for their own children,
- barriers to CA/N investigations and work at the tribal level, and
- possible solutions to barriers to the collection of accurate CA/N data.

Subjects

Subjects consisted of tribal ICW workers at a 10% proportionate stratified sample, based on tribal enrollments, of tribes in the U.S., and state ICW workers (or the equivalent) in the states where tribes had been randomly chosen. To choose a sample, federally recognized Indian tribes/nations listed alphabetically on the BIA website (<http://www.doi.gov/bia/areas>) were each assigned a number, and a table of random numbers was used to sample 10% of the approximately 570 American Indian tribes/nations in the United States.

As each case was chosen, it was assigned to one of four groups based on tribal enrollment. These are as follows:

| | |
|----------------------------|-----------|
| Enrollment over 10,000 | 5 tribes |
| Enrollment 5,000–10,000 | 5 tribes |
| Enrollment 1,000–5,000 | 14 tribes |
| Enrollment less than 1,000 | 33 tribes |

The number of tribes in each category reflects 10% of the approximate number of tribes of that size. The total number of tribes chosen was 57, or approximately 10% of all tribes listed on the BIA website. Due to the large number of tribes in Alaska (over 200), most of which have enrollments less than 1,000, a decision was made by the National Indian Children's Alliance at an early Authors' Meeting to limit the number of Alaskan tribes in the sample. This led to an over-sampling of tribes with enrollments under 1,000 from other states.

Procedures

A letter explaining the National Indian Children's Alliance initiative from the National Indian Child Welfare Association (NICWA) and Casey Family Programs was sent to each of the tribes chosen for the initial sample. Each tribal ICW worker in the sample then received a telephone call from project staff asking him or her to participate in a 15–20 minute anonymous telephone survey and arranging a time for the interview. Tribes/nations were called in the order in which they were chosen for the sample. None of the

tribes declined to be interviewed, but some workers were not available after several attempted contacts.

After all of the tribes in the sample were telephoned, an inventory was taken. For the tribes that could not be contacted after several tries, replacement cases were chosen using the same method described above. Additional letters from NICWA/Casey were then sent to these tribes, and they then received telephone calls. This process resulted in a proportionate stratified sample of 10% of the tribes, stratified by tribal enrollment.

Questions were asked regarding the presence of elements of a Child Protective Service (CPS) system such as a tribal court and Child Protective Team (CPT), whether or not the tribe conducted its own child abuse and/or neglect investigations, the involvement of other agencies or groups in the investigations, if data were entered into a computer system, if data were shared with other groups or agencies, if the tribe had agreements with the states, and what was included in the agreements. Workers were asked to rate the professional relationship of the tribe and state from 1 (very poor) to 5 (excellent). The survey also included three open-ended questions regarding the strengths of the tribal CA/N system, the needs of the system, and what one change the worker would suggest to improve the system (see Appendix A).

Telephone calls were also made to the state offices, for those states where the original sample

of tribes/nations was located. State workers were not sent a letter from NICWA/Casey, but were telephoned and asked if they would participate in a 15–20 minute anonymous survey regarding data collection for Indian Child Welfare cases. State workers were asked questions similar to those asked of the tribal workers, but from the state perspective rather than the tribal (see Appendix B).

Both state and tribal workers were sent a shortened version of this report requesting their feedback. No feedback or comments were received.

Data Analysis

Survey data were analyzed using the Statistical Package for the Social Sciences (SPSS). Chi-square tests and t-tests were used to determine statistical significance of the results. In addition, comments of the state and tribal workers were included in order to provide a depth and richness not found with the quoting of frequencies, percentages, and statistical significance.

Results

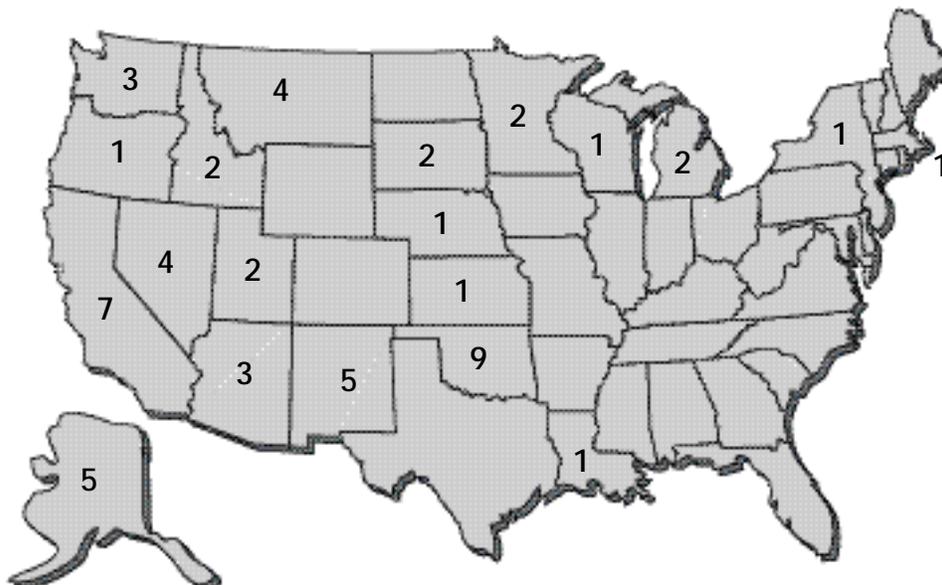
Who is Included in the Survey?

Of the 57 tribes drawn for the sample, 40 were successfully contacted and surveyed in the first round of phone calls. Seventeen additional cases were randomly selected, to replace the tribes that could not be contacted, so that a complete proportionate stratified sample of 57, or 10% of all tribes recognized by the federal United States government was obtained. The total number of tribes is in flux, as new tribes are recognized, and is under 570 tribes at present; however, the number was rounded to 570 in order to provide a sample of at least 10%.

State ICW workers were also interviewed, based on a tribe in their state being chosen for the stratified sample. The final sample of twenty-one state surveys includes two states where the tribe ultimately was not contacted (due to scheduling conflicts). Of 22 states, only one state person was not available. The overall return rate for tribal and state interviews was 77% (61 surveys/79 attempted).

The map illustrated in Figure 1 shows the location of the tribes that were included in the survey. As shown on the map, the sample of 57

FIGURE 1. LOCATION OF SAMPLE – CHILD ABUSE AND/OR NEGLECT DATA PROJECT, 10% SAMPLE



tribes/nations was located in 20 different states, with most of the tribes in California, Oklahoma, and Alaska. This reflects the approximate location of tribes in the United States, with Alaska being under-represented.

The following results are grouped in areas related to the research questions asked. A question that is central to the ability of tribes to collect CA/N data is: Who investigates CA/N? Whoever does the CA/N investigations is in the best position to collect CA/N data. Related to this question is: Do tribes have the ability and resources to do their own investigations? If they do not, they may have to rely on the states or others to complete the investigations and gather data. Closely related, and central to this study, is the question: Who maintains CA/N data? If tribes conduct their own CA/N investigations, then barriers may exist in terms of the equipment they have to enter data themselves, and their access to national data systems.

Given the role of states in both CA/N investigations and reporting, a related question is: What is the relationship of tribes to the states? A poor relationship between tribes and states may create a barrier to the collection of accurate data, if states collect the CA/N data for the national systems.

Who Investigates Cases of CA/N?

When tribal workers were asked if the tribe does its own child abuse and/or neglect investigations, 65% said “yes.”

Investigations of CA/N are completed by:

| | |
|-------------------------|------|
| Tribe alone | 23% |
| Others without tribe | 33% |
| Tribe as well as others | 42% |
| No CA/N investigations | 2% |
| TOTAL | 100% |

23% of tribes investigate CA/N alone

Twenty-three percent of tribal workers reported their tribe investigates child abuse and/or neglect and that no one else besides tribal staff investigates cases of child abuse and/or neglect. These thirteen tribes were from seven states, and varied in size from 200 to 30,000 enrollment.

33% of tribes do not investigate their own CA/N cases

Approximately one-third of the tribes are not involved in CA/N investigations for their own children. These 18 tribes are from 12 different states, and three-quarters of them have enrollments less than 1,000. Enrollment varies from 40 to 17,000. Two-thirds of them do not have a tribal court that can handle CA/N cases. Although there may be more than one agency or group investigating allegations of CA/N for these

tribes, the group with the primary role for investigations is:

| | |
|-------------------------------------|------|
| State investigates | 14% |
| County investigates | 9% |
| BIA investigates | 7% |
| Area tribal consortium investigates | 3.5% |

42% of tribes report investigations by the tribe and/or others

Twenty-four tribes (42%) from 16 states reported that they conduct CA/N investigations, and that others also conduct CA/N investigations. Twenty-nine investigators were listed as involved by the twenty-four tribes, as the tribe, county, state, BIA, and others may all investigate the same cases. When re-adjusted for the total of 42% of cases, the following percentages apply:

| | |
|-------------------|------------|
| State | 20% |
| County | 11% |
| BIA | 7% |
| Tribal consortium | 4% |
| TOTAL | 42% |

2% do not do CA/N investigations

One tribe (2%) reported that no one does CA/N investigations at the tribal level. This tribe is located in a state where few tribes do their own CA/N investigations, and where the state is primarily responsible. It is a medium sized tribe (enrollment between 1,000–5,000). The reasons that this tribe does not participate were unclear

from the survey, but the tribal worker did report that information is shared with others when asked.

Data readjusted to reflect the relative involvement of different agencies

In answer to the question “Do others besides tribal staff investigate cases of child abuse and/or neglect?” 42 tribes (75%) responded “yes.” This total percentage includes the 33% of tribes where CPS does not involve the tribe, plus the 42% that involve the tribes as well as others (to equal the total sample of 100%, we must add the 23% of tribes who do their own investigations alone, and the 2% who do not do investigations).

When tribal workers were asked who was involved in investigations, surveyors checked all that apply. As stated above, there was some overlap in investigations, as more than one group may investigate incidents of CA/N.

Table 1 shows who was involved in investigations of child abuse and/or neglect of Indian children, as reported by tribal workers. The diagonal figures in boldface show the percentage, for each group, who were the only ones involved in investigations for that tribe; the final column shows the total percentage of investigations in which tribes, the states, the BIA, counties, and area tribal consortiums were involved.

Tribal involvement: Workers at the tribal level reported that tribes are involved in 65% of all CA/N investigations regarding tribal children. As stated above, 23% of the tribes stated they carry the sole responsibility for investigations, and 42% report that others investigate as well. Twelve percent of the tribes listed more than one additional investigator. These included, along with the tribes, state and county (3.5%); state and BIA (2%); state and tribal consortium (2%); BIA and county (2%); county and tribal consortium (2%).

State involvement: The states were involved in 42% of all investigations, 17.5% of investigations without the tribes, and 24.5% of investigations with the tribes.

BIA involvement: The BIA was involved in 19% of all investigations, 10.5% of investigations

without the tribes, and 8.5% of investigations with the tribes.

County involvement: Some of the states delegate child protective services, including the investigation of CA/N, to the counties. In these states, data gathered at the county level is sent to the states for inclusion in state and federal data systems. State workers are minimally involved in these states, with a small or no administrative staff at the state level. The counties were involved in 21% of all investigations, 9% of investigations without the tribes, and 12% of investigations with the tribes.

Involvement of Area Tribal Consortium: Five tribes reported that a group of area tribes conducted CA/N investigations. Two of these (3.5%) reported that the tribe was not involved; and three (5.5%) that the tribe was involved.

TABLE 1. RESULTS OF QUESTION: WHO IS INVOLVED IN CPS INVESTIGATIONS?

| Who is involved? | TRIBE | STATE | COUNTY | BIA | TRIBAL GROUP | TWO OTHER AGENCIES | TOTAL |
|------------------|------------|--------------|-----------|-----------|--------------|--------------------|------------|
| TRIBE | 23% | 17.5% | 5% | 5% | 2% | 12% | 65% |
| STATE | 17.5% | 10.5% | 0 | 3.5% | 3.5% | 7% | 42% |
| COUNTY | 5% | 0 | 9% | 0 | 0 | 7% | 21% |
| BIA | 5% | 3.5% | 0 | 7% | 0 | 3.5% | 19% |
| TRIBAL GROUP | 2% | 3.5% | 0 | 0 | 0 | 3.5% | 9% |

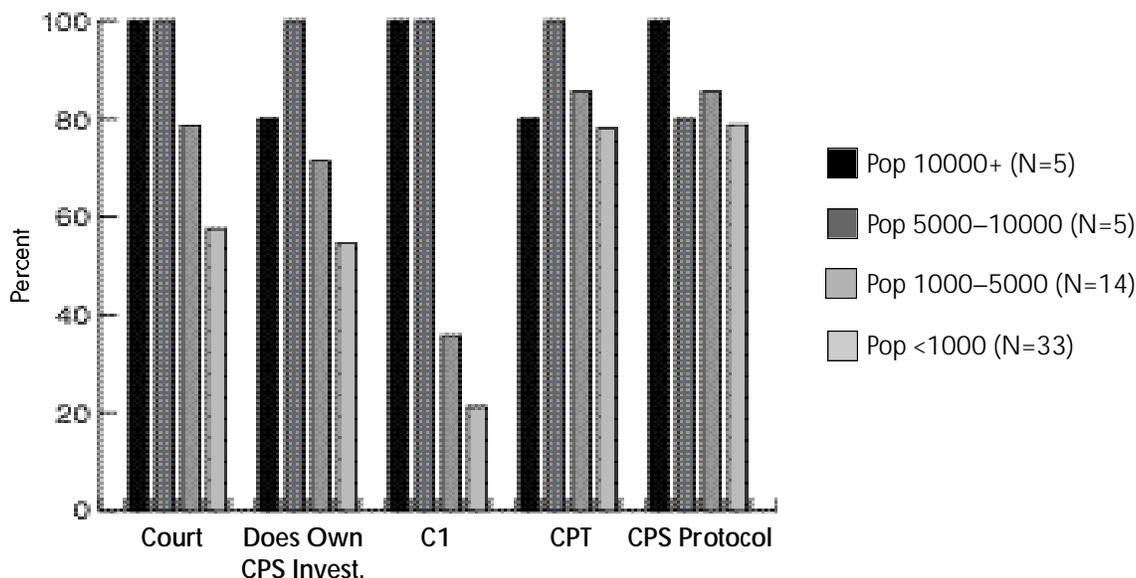
It was anticipated that the Indian Health Service (IHS) may be involved in the investigation of child abuse and/or neglect. However, the IHS was not mentioned as being involved in CA/N investigations. When directly asked, 77% of the tribes reported they do have access to an IHS facility if needed for an investigation (physical exams, etc.). When an IHS facility is not available, 17.5% of the tribes said they use a local hospital, 7% local doctor, and 3.5% a state specialist. The IHS was included on the Child Protective Team (CPT) by 42% of the tribes, and the IHS provides social services to 9% of tribes.

Are the Tribes Equipped to Do Their Own CA/N Investigations?

Investigations of child abuse and neglect are done by staff in a Child Protective Services (CPS) unit. Tribal and state staff persons reported that they have the following elements, which are part of CA/N investigations: tribal court: 70%; criminal investigator: 39%; child protective team (CPT): 81%; and child protective services protocols: 86%. Sixty-five percent do their own CPS investigations.

These figures were broken down by tribal enrollment. As shown in Figure 2, the larger tribes have

FIGURE 2. ELEMENTS OF CPS SYSTEM AT TRIBAL LEVEL



most of the elements needed to do CPS, and the smaller tribes have fewer. Fewer of the smaller tribes, as would be expected, do their own investigations.

Chi-square was used to assess the relationship among these variables, and the presence of a tribal court was the one element found most likely ($X^2=13.40$, 1 df, $p < .001$) to determine whether a tribe did their own CA/N investigations. Eighty percent of tribes with a tribal court reported that they do their own investigations, while only 13.5% of those who do not have a court are involved in their own investigations.

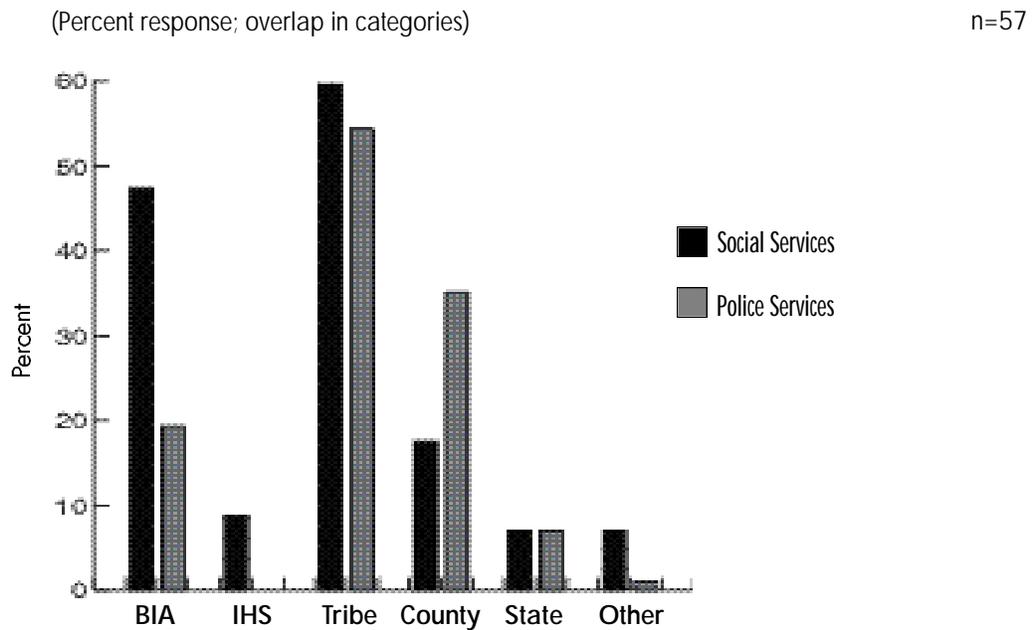
These figures suggest that most tribes are able to do their own investigations of CA/N. The

majority already have elements such as a CPT (81%), and protocols for the investigation of CA/N (86%) in place. Those tribes lacking elements of a child protective system are primarily the smaller tribes who have, it is assumed, fewer resources to spend on CA/N.

Who Provides Police and Social Services to the Tribes?

The ability to provide services related to the investigation of child abuse and/or neglect cases is an indication of the possible ability of tribes to complete their own investigations. Social work and police staff are central to investigations. As shown in Figure 3, tribes are primarily responsible for providing police and social

FIGURE 3. WHO PROVIDES SOCIAL SERVICES / POLICE SERVICES?



services to their tribe, with tribal workers reporting that the BIA provides social services to 46% of the tribes, and 35% reporting that the county or other local police provide police services. Other service provision is less than 20% in all categories.

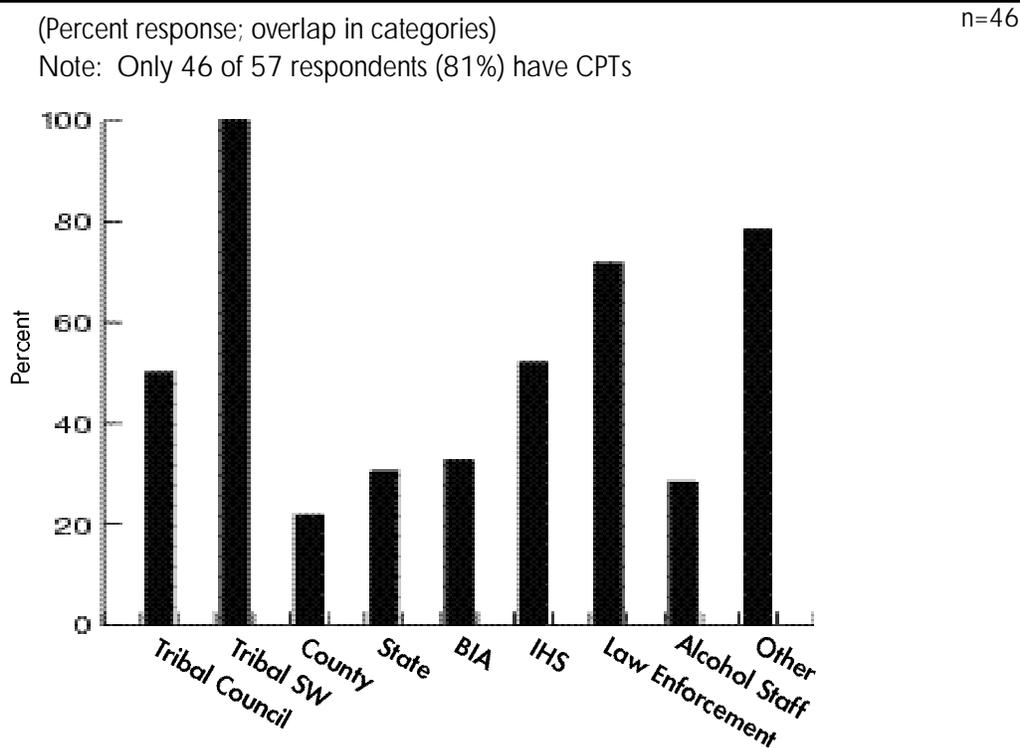
Presence and Makeup of Child Protective Teams (CPTs)

Eighty-one percent of the tribes reported that they have a Child Protective Team (CPT), and that members include (shown as a percent of those that have a CPT) Tribal Council (50%); tribal workers (100%); county (22%); state (30%); BIA (33%); IHS (52%); law enforcement (72%); alcohol services (28%); and others (78%).

Forty-four percent of the teams (percent of those with a CPT) meet once a month, with the rest meeting once a week (12%), twice a month (12%), every two months (2%), every three months (4%), and as needed (5%).

The presence of child protective teams (CPTs) reported by 81% of the tribes suggests that all of these tribes are concerned with and ready to address problems of child abuse and neglect. Many of these teams include personnel from the state and county levels as well as members of the BIA, IHS, law enforcement, and other tribal groups such as alcoholism counselors and members of the tribal council.

FIGURE 4. MEMBERS OF THE CHILD PROTECTION TEAM



Who Maintains CA/N Data?

A central question of this study was where and by whom CA/N data are maintained. All of the state workers surveyed (n=21) reported that they participate in mandated, federal, computerized reporting systems such as the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis and Reporting System (AFCARS). These systems provide data regarding the numbers and types of abuse reported nationwide.

In response to the question of whether tribal CA/N data are entered into a computer, a majority (65%) of the tribes said “no.” Only 19% of the tribes reported that they enter their data into a computer, with the remainder of data either missing (9%) or unknown (7%). Computers for entering CA/N data are maintained by: tribes: 10.5%; states: 2%; BIA: 2%; and other: 3.5% (law enforcement and non-profit Native organization). One response (2% of total) was missing (totaling 19% of the tribes who enter CA/N data).

Sharing of Data Between States and Tribes

The surveyors asked tribal workers whether tribal CA/N data are sent to anyone else. In response to this question, 49% of the tribes responded “yes.” When asked, “If, yes, where?” the workers responded as follows (shown as percent of the total sample):

| | |
|--|-------|
| State | 14% |
| BIA | 19% |
| Federal Reporting System | 3.5% |
| Other (includes police, court, and District Attorney’s office) | 12.3% |

Tribes were asked whether they “share information on child abuse and neglect cases with any other agency.” This was intended to capture general information, not data to be entered into a computerized record keeping system. Responses may refer to information on ICWA cases rather than to all CA/N cases. The responses were:

| | |
|---------|-----|
| Yes | 68% |
| No | 25% |
| Missing | 7% |

Tribal workers were then asked with whom the information was shared. They reported that they share information with the state (21% of total), county (5%), BIA (26%), IHS (2%), and other (12%) (plus 7% missing and 25% who do not share information are equal to 100% of the sample). As shown above, only 21% of the tribes reported they share data with the state, and one-quarter reported that they do not share data with anyone.

It was felt that in order to get information from the tribes, states should be willing and able to share any data they have with the tribes as well. State workers were asked if they shared CA/N data with the tribes. Results are shown in Table 2.

State workers reported that they share aggregate data when asked (33%), and that whether or not they share information depends on the tribe (24%). Twenty-four percent said they do not share data with the tribes.

State workers were also asked if the tribes shared data with them, and 38% said “no,” 33% said “some do and some don’t,” and 9.5% said “yes.” The remainder responded the tribes do not do investigations (19%)², and one (5%) response was missing. These findings begin to suggest the importance of the state/tribal relationship to the ability of states to obtain accurate data. Clearly, states are reluctant to share information with all tribes, and just as clearly, not all tribes are comfortable with giving data to the states or to others.

TABLE 2. SHARING OF DATA BETWEEN STATES AND TRIBES

| | STATE Response (n=21) |
|---------------------------|--------------------------|
| Do you share CA/N data? | |
| YES | 9.5% |
| NO | 24% |
| Aggregate data when asked | 33% |
| Depends on the Tribe | 24% |
| Don't know | 5% |
| Missing | 5% |

Relationship Between States and Tribes

Both state and tribal workers were asked to rate the state/tribal relationship from one (very poor) to five (excellent). Ratings of the state/tribal relationship by both groups averaged between 3 (neutral) and 4 (good) overall, with state workers having a higher average (3.45) than tribes (3.29). Ten percent of state workers and 24% of tribal workers rated the relationship “negative” or “extremely negative.”

Ratings by tribal workers were higher when the states shared information with tribes (average 3.3), than when they did not share information (average 2.4, [t=1.817, 41 df, p=0.08]). Ratings were also higher when state/tribal agreements were in place (average 3.5) compared to when they were not (average 2.9, [t=1.966, 49 df, p=0.06]). These were the only results that approached statistical significance using the student’s t-test.

Ratings were higher when only one entity was responsible for CA/N regardless of whether it was the state, tribe, county, BIA, or tribal consortium who was responsible. An above average (above 3, which is neutral) score was given to the state/tribal relationship by 54% the tribes when there was only one investigator, while a below average score (below 3) was reported by 71% of tribes when there was more than one investigator of CA/N (X²=3.57, 1 df, p=0.06).

Using Pearson's correlation, a significant negative relationship (-0.469 , $p < 0.01$) was found between tribal enrollment and the state worker's estimates of the state/tribal relationship. In other words, state workers felt there was a less positive relationship with the larger tribes. Tribal workers also reported an inverse relationship between size of the tribe and state/tribal relationship, although these results were not significant.

The few statistically significant results related to the relationship between the states and the tribes suggest that a better relationship is possible when roles are clear (only one agency is responsible for CA/N investigations, and state/tribal agreements are in place) and when the state has a more open

relationship (is willing to share information) with the tribes. It is possible to speculate that a less positive relationship with the larger tribes may be related to questions of autonomy, as it is assumed larger tribes would be less willing to follow state dictates. However, there are no data to support this assumption.

Suggestions About How to Improve the CA/N System

In addition to the quantitative questions on the surveys, both state and tribal workers were asked for suggestions regarding how to improve the CA/N reporting system. Workers' suggestions are summarized in Table 3.

TABLE 3. SUGGESTIONS FOR IMPROVEMENT IN TRIBAL CA/N FROM TRIBAL AND STATE WORKERS

| AREA TO BE IMPROVED | Tribe (n=57) | State (n=21) |
|--|-----------------|-----------------|
| Better communication and coordination | 25% | 43% |
| Data tracking system | 18% | 14% |
| Training of tribal workers | 12% | 14% |
| Training of state workers | 9% | 24% |
| More independence/tribal sovereignty | 9% | 19% |
| More participation on the tribal level | 9% | – |
| More resources | 7% | 29% |
| State agreement (Title IV-E, etc.) | 7% | – |
| More confidentiality | 4% | – |
| Need a tribal court | 2% | – |
| Don't need help; system works as it is | 19% | 10% |

The need for improved communication and coordination among the agencies involved in CA/N was cited most frequently by both tribal and state workers. A data tracking system was also cited as a priority. As mentioned previously, only 19% of the tribal workers reported they enter data into a computer, although all of the state workers have access to a large computerized record keeping system.

Both groups felt that training state workers was needed; more state personnel reported the need for training state workers than tribal personnel did. Both called for more resources. Individual comments of workers at the state and tribal levels were as follows:

State Worker Suggestions

The system needs:

“... mandated involvement of Indians in the decisions that affect them. The state is very controlling, narrow minded, and slanted. They (should not be able to) ignore the Indians.”

“... a tribal state advisory board that gives tribes a voice at a higher level on big issues —policy, not cases.”

“... a model ICWA unit, to show everyone how it works.”

“... more resources to give tribes technical assistance. Many tribes don't have the population base, the numbers, to develop expertise in order to develop their own system and track it.”

“... consistency, a clear understanding of what's available from the feds. The state could be a party at the table, with more open communication around money issues, what's available and what the issues are.”

“Jurisdictional issues require more guidance from the federal level on how funding is divided. The state should not be in a position to decide, as the relationship can get ugly with the tribes.”

As shown by the above comments, many state workers saw their roles as that of facilitators rather than overseers, and felt that the state bureaucracy was an impediment to their ability to work with the tribes in a meaningful way. The old dragon of jurisdictional issues discussed at the beginning of this paper is still an issue for these state workers, many of whom are Native people working for a system that is frequently at odds with the tribal governments. Except in the states affected by Public Law 280, as stated above, most of the tribal governments do not have to relate to the states under current law and precedent.

Most state workers felt that they could help the tribes in CA/N work, and saw their roles as that of sympathetic (to the tribes) go-betweens from the federal to the tribal level. Some state workers, however, felt the tribes were able and willing to handle their own affairs, and should be allowed to do so without state interference. These states not only left internal, on-reservation CA/N affairs to the tribes, but immediately turned over any off-reservation cases when they were found to involve a member of a recognized tribe.

Tribal workers were asked to identify strengths and needs of their current system for investigating and treating CA/N, and for one suggestion as to how to make the system better. Some of the tribal workers' suggestions and comments are included as follows.

Tribal Worker Suggestions

Personnel and resources: Lack of resources is clearly an impediment for tribes who are trying to do their own work in the area of CA/N. Workers felt that the work load is too much for the personnel that they are currently able to hire, and also felt the need to have their own specialized staff such as a criminal investigator, rather than using non-tribal outsiders for these functions. Issues of funding are crucial, as there has been no money to support legislation already passed requiring tribes to handle abuse and neglect cases.

“We need workers to just do paperwork, it is too much. Sometimes we don't get enough time in the field.”

“We need extra workers, because we are overloaded with work. We also need more funding. When we don't have funds, we have to do referrals out to the state, outside of our community.”

“We need stability of personnel, not the rapid turnover.”

“We would like our own criminal investigator.”

“We need workers and a director.”

“ ... more funding for the children. We do not have the funding to provide the services they need. They are ending up in group homes where they are getting medicated. We need to heal them ourselves without the use of drugs.”

“More funding for intervention and prevention that is not income based. We also need more grants to hire staff.”

“We need more funding for everything so we wouldn't have to depend on state and their money.”

“We need more money to follow up on programs.”

“Logistics—we cannot hire enough staff, and we need more funding.”

“We need a court system, because sometimes cases are not handled, and perpetrators are not prosecuted.”

Training: The Indian Child Welfare Act is difficult for many to understand and to enforce correctly. Recent legislation such as the Adoption and Safe Families Act (Public Law 105–89, 1997) have further complicated issues related to the treatment of American Indian children who have been abused and/or neglected. Workers rightly call for more training of anyone dealing with child abuse and neglect of Indian children, including state and county personnel, law enforcement, courts, and even tribal council members in order to ensure the laws are interpreted and followed correctly.

“ ... education of the state, county, and law enforcement. The law enforcement and

social workers do not know anything about ICWA, and they are just putting Native children in non-Native homes. They need to learn the tribal rights.”

“Tribal courts, Law Enforcement, Social Services need to have a better understanding of ICWA, and laws. Sometimes the courts and Law Enforcement have limited knowledge of laws. Everyone needs same education on procedures. Things get delayed.”

“We also need more education in the county parole officers when dealing with felonies.”

“More training for council members, and money for them so they can understand.”

“There is a need to train State workers on the Indian Child Welfare Act.”

“Sometimes Tribal Councils stand in the way, and they need to give support and need more education on ICWA.”

Foster Care: A major shortcoming of the CA/N system in Indian Country is the lack of Indian foster care homes in which to place children who must be removed from their family of origin. Under the ICWA, Indian foster care is an option that must precede the placement of an American Indian child in a home with a non-Indian family; yet the demand for Indian foster families exceeds the supply. Workers also see the need for related services, primarily in the area of prevention, for which there the funding is almost non-existent.

“There is a shortage of foster families.”

“There is a need for on-reservation tribal

licensing, recruitment and training of foster homes, and also a residential facility on the reservation.”

“We need more Indian foster homes.

“More funding for the children like for: extra counseling, transportation, and therapeutic foster care.”

“More emphasis on prevention, and intervention, and less on foster care.”

Improved relationships: Tribal workers’ responses echoed the need for positive relationships between tribal and state or other non-Indian workers, some of whom are not culturally sensitive and aware of the unique status and value base of American Indians. Workers also echoed the importance of sharing data and information, and of maintaining an open relationship and more open communication with such disparate groups as the FBI, the county, and even those within the reservation.

“The state needs to understand that tribal people need to be understood. They do not understand Native values and they come from a different world. All of the liaisons for the tribe are middle class white and we consider that a great challenge.”

“Find a way to help people be more open, so that they will reach out.”

“ ... more participation on the tribal level between ICWA and the tribe, like sharing resources.”

“Agencies need to communicate more with each other.”

“When dealing with in-state it is ok, but when dealing with out-of-state, it gets difficult. Increased cooperation with State agencies.”

“We need consistent services.”

“We need the state to enter into a tribal/state agreement.”

“Confidentiality would help, everyone knows everyone else’s business. They are afraid.”

“Need more education in community about the services.”

“We would like a finalized agreement to have Indian child cases stay with Indians, instead of being dealt with on state levels, (like those raised on reservation, but not enrolled).”

“ ... information about state policies and procedures.”

“ ... providing our own services to our own people.”

“We would like the FBI to share information on cases that they have, when dealing with Native Children.”

“Less involvement from tribal council, and politics.”

“We need more county responsiveness (from law enforcement).”

Data reporting system: Workers were aware of the need for a data reporting system to track and

maintain data on CA/N. This included not only an internal reporting system, but a system across tribes so that perpetrator of abuse or neglect could be followed from one reservation to another.

“We need to refine statistical reporting.”

“We are a large tribe, and our biggest need is a data base for information, and not just for child abuse and neglect, but total child welfare.”

“A computer data system could track kids, and families. Geographical data could help too, because we are so spread out.”

“ ... a reporting of child abusers through a network between reservations, for any abusers, especially when people move from reservation to reservation.”

“We need any information on good tracking systems.”

“One common reporting system.”

“We need a centralized data information.”

“We need better connections with tribes, through background checks.”

“Small tribes don’t have many cases of child abuse and neglect and sometimes surveys generalize us with the larger tribes and those statistics do not reflect us.”

Changes to ICWA: Tribal workers had suggestions as to how to fine-tune the ICWA and the way it is carried out, in order to best meet the

needs of the children they serve. Most of these involved increased tribal control over the process.

“It would be easier if there was a better system of confidentiality.”

“We would also like a local hotline. When someone called the National Hotline in (large city), it took three days for us (tribal ICWA) to get information about the call.”

“We need a juvenile prosecutor, and a more intensive law and order code. We need to protect our children, and our prosecutor is not doing that.”

“We would like to help the descendants of Native families. We have children who live on our tribal lands, but cannot receive our services, and are adopted out into white homes. We would like the ICWA law to be applied to them, because these children have only known their Native families.”

“Changing the amendments to ICWA, and strengthening ICWA guidelines and making the processes go more promptly.”

Importance of tribal control: The issue of tribal sovereignty, a slim thread through the quantified survey, became a full-blown issue for discussion in the open-ended responses. Workers stated that their current strengths and needs include:

“Providing our own services to our own people.”

“We are proud of our system because we worked 15 years to perfect it.”

“We like to work within our traditional value system.”

“The strength of our program is the fact that we are able to take care of the children, and just being there to support them is our strength. We are always continuing to grow strong and heal the children.”

These individual comments clarify and support the quantified responses reported above, although they are primarily related to barriers to the abilities of tribes to control the process of CA/N investigations and treatment for tribal children.

Summary

This proportionate stratified sample of federally recognized American Indian tribes in the U.S. was analyzed in order to gauge the current status of the reporting of data on child abuse and/or neglect in Indian Country, and to identify ways in which the CA/N system can be improved. The high response rate to the survey (77%) and the additional selection of cases to equal a 10% sample of all tribes suggests that these results provide an accurate picture of the current status of the reporting of incidents of CA/N in Indian Country.

The under-representation of Alaska in these results biases the results slightly away from the system followed for CA/N investigations in Alaska. Alaska is a Public Law 280 state in which few tribes are larger than 1,000 enrollment, the majority do not have a reservation, and the state, as well as a tribal consortium, was involved in CA/N work.

The Under-Reporting of Data

Based upon the findings of this study, it appears that much of the information related to the abuse and/or neglect of Native children does not reach national data sources. Estimates on the extent of child abuse and neglect among Native people, including those quoted at the beginning of this report, are based on under-reporting.

Tribal CA/N data are sent to national data systems by the states rather than the tribes themselves. Although primary investigators of tribal

CA/N are the tribes themselves (65%), followed by the states (42%), the counties (21%), the BIA (19%), and a consortium of area tribes (9%), only 19% of tribal workers reported that they enter CA/N data into a computer, while only 3.5% of the tribal workers said that they send data to the national reporting systems.

All (100%) of the state workers surveyed reported that they enter CA/N data into systems such as the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis and Reporting System (AFCARS).

States are involved in only 42% of investigations of CA/N at the tribal level. Counties are involved in an additional 19% of investigations in which the states are not involved (the additional 2% includes the states). It may be assumed that counties give their data to the states. Thus, the maximum possible percentage of tribal data that is entered by the states would be 61% (42% gathered by states and 19% by counties). This figure further assumes that all investigations by the states and counties result in accurate data, and that this information is always entered in the national data systems. An underlying, and crucial assumption is that the states are able to obtain tribal data for all of the cases in which they are involved. The state is the sole investigator of CA/N for only 10.5% of the tribes, and the county is the sole investigator for 9% of the tribes. The tribe or another group is also involved in the rest of the state or county investigations. Does the state then collect the data, or does

someone else? These questions were not directly addressed by this study.

When asked directly if tribes give data to them, 38% of the state workers said “no,” and an additional 33% said “some do and some don’t.” This would translate, at best, to approximately the same percentage of data, 62%, available to the states for entry.

Not only are the data incomplete, but the data path to the central reporting systems (tribe → [county] → state → reporting systems) raises additional questions regarding the accuracy of the data, given the historically documented strained relationship of American Indian tribes with the state and federal governments. Comments and data regarding state/tribal relationships in this study support the assumption that relationships continue to be strained in some instances.

Issues Related to Data Collection

Issues of data collection are similar to related problems regarding abuse and/or neglect of Native children. It is thus useful to review the issues around compliance with ICWA that have been highlighted by the National Indian Child Welfare Association (Cross et al., 2000) and others. These are, as stated at the beginning of this report, lack of funding, jurisdictional issues, lack of trained personnel, lack of information about the extent of the problem, lack of appropriate service models, and community denial. The

absence of accurate data regarding CA/N on the tribal level is due to many of the same reasons.

ISSUE: FUNDING

The great majority (81%) of tribes reported that they have child protective teams (CPTs), and that over half of these teams meet once a month or more frequently. Eighty-six percent of the tribes have protocols for the investigation of CA/N in place and over half of the tribes provide their own social and police services. Thus, it appears that most of the tribes are ready and willing to take control of the process of CA/N investigations and treatment. As expected, the larger tribes (enrollment over 5,000) are more likely to have most of the elements in place to provide their own CA/N services. As stated in the open-ended questions, one of the major reasons why tribes do not provide their own CA/N services is lack of personnel and resources, including a tribal court. Both tribal and state workers stressed the need for additional resources at the tribal level, although some state workers felt the state needed additional resources to help the tribes.

ISSUE: JURISDICTION

Although most (65%) of tribes participate in CA/N investigations for their own tribe, only 23% are the sole investigators, and 35% percent are not involved at all. For one of these tribes (2% of the total), no one is involved in CA/N

investigations or treatment. This tribe is located in a state where the state has taken primary responsibility for child protection. States, which have historically been discouraged from interfering in tribal affairs, are expected and encouraged under current law relating to CA/N to be involved in tribal cases.

This study found that states are currently involved in 42% of tribal investigations of CA/N, a surprisingly high percentage given the state/tribal history of distrust and sometimes hostile relationships. Tribal workers reported a more positive relationship with the states when jurisdictional issues (one agency does the investigations, jurisdiction defined in agreements) were clearly defined. Almost one-quarter (24%) of the tribes reported that they have a negative relationship with the states, while 10% of the states reported a negative relationship with the tribes.

The lack of involvement by some of the tribes and the heavy involvement by the states may be seen, and was identified as such by some tribal and state workers, as not in keeping with the sovereign status of American Indian tribes in the U.S. Neither is it in keeping with the nation-to-nation historical relationship of the tribes to the federal government, with states being specifically excluded from a relationship with the tribes in most cases (except, for example, when Public Law 280 has been applied).

Various other groups may be involved in CA/N at the tribal level. Counties are involved in a total of 21% of investigations, 19% without the states also being involved. According to the state workers, the counties work closely with the states. As stated above, county data may then be included in data entered by the states into the national data systems.

A new vehicle for CA/N investigations has emerged in a few states, where a tribal consortium has assumed responsibility for CA/N investigations among several tribes. The tribe being investigated is part of the team, and other investigators (state, county) are usually involved as well. This group takes the lead for investigations among 4% of all tribes (this percentage would be higher if all of the Alaska tribes were included in the sample). Using a tribal consortium to investigate CA/N may be a solution for future CA/N work, as it relieves many of the small tribes from the financial burden of providing services but does not interfere with their sovereign status.

The lack of clarity regarding jurisdiction could be rectified by federal policy that clearly defines responsibilities at the tribal and state levels and gives the tribes (or the states, or a tribal consortium) the financial and personnel resources to support tribal child protective services.

ISSUE: LACK OF TRAINING

The need for training of state workers, tribal workers, and other tribal, local law enforcement, and court personnel was identified by asking participants directly what is needed to improve the tribal CA/N system. Both groups stressed the need for additional training in child protection and ICWA, not only for state and tribal workers, but also for others, including outside groups and members of the tribal councils.

ISSUE: LACK OF DATA

The states have been given the resources to participate in a large, computerized, data gathering system that feeds into national databases of child protective cases. There appear to be clear guidelines and requirements related to entering data into these systems, and all of the state workers interviewed reported that their states participate in this system.

States appear to be the major route for tribal, as well as state data, to be included in these systems. When the states obtain data on Indian children, this information may be entered into the centralized databases. As stated above, it can be estimated, based on the percentage of tribes where the states or the counties are involved in tribal investigations, that only 61% of tribal data, at best, are entered by the states. This lack of data is a major barrier to the provision of relevant services to American Indian children, and is a major finding of this study.

ISSUES: LACK OF APPROPRIATE SERVICE MODELS AND COMMUNITY DENIAL

Community denial was mentioned as a problem related to the need for training by some of the tribal workers in response to the open ended questions. The possible use of a model ICWA program to be studied and perhaps duplicated was suggested at the state level.

Conclusion

This study found that, at best, only 61% of data on child abuse and/or neglect of American Indian and Alaska Native children are reported. Workers at the state and tribal levels suggested ways to improve both the investigation and treatment of child abuse and/or neglect and the reporting mechanisms. Their suggestions were supported by the quantitative results of this study.

The policy issues identified at the beginning of this report related to funding and jurisdiction, training needs, lack of appropriate service models, and community denial are still issues at the tribal and state levels. As with overall compliance with the Indian Child Welfare Act, these problems need to be addressed before CA/N investigations, treatment, and reporting can maximally benefit Indian children and families.

Recommendations for change include improved communication, the development of computerized tribal data tracking systems, additional training, more resources, and clear guidelines at all levels regarding what is the possible and expected role of the federal government, the states, the state ICW workers, the tribe, and the tribal ICW workers.

It is clear from this study that although most (65%) of the tribes in the United States are participants in the investigation of child abuse and neglect, much of the CA/N tribal data does not show up in the national reporting systems. Furthermore, the tribes are not the source of these data. Although it is unclear how much of the data from American Indian tribes does reach the reporting systems, the responses of both tribal

and state workers indicate that data collected on American Indian CA/N is incomplete.

This may lead to a lack of attention and resources to CA/N problems at the tribal level, as these national data are used to set priorities in services and funding.

In order to improve services, gaps in service and the needs of individual tribes need to be identified. Improving the collection of data is a necessary first step in this process. A lack of technical resources at the tribal level forces most tribes to rely on state reporting mechanisms for the conveyance of tribal data. This system is inefficient, as it misses those cases in which the states are not involved. In addition, it challenges tribal sovereignty, as states have not, in most cases, been given a clear mandate for involvement in tribal affairs. Consequently, states must rely on the tribes to give data on child abuse and neglect to them voluntarily.

A coordinated effort is needed to provide a clear, consistent reporting system for tribes with the necessary technical and monetary support included. The locus of such a system needs to be decided by a group with representation from all parties including the tribes, as well as the federal, state, and local agencies. Clear guidelines must be issued regarding the roles and responsibilities of all participants, and penalties for non-compliance should be enforced. This system appears to work for the collection of CA/N data from the states; a similar system needs to be put in place for the tribes.

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APPENDIX A

Tribal Worker Survey

Tribal Survey – Child Abuse/Neglect Data Project

Telephone Survey Introduction

READ TO PERSON WHO SUPERVISES CHILD PROTECTIVE WORK

Good Morning.

My name is _____. I am doing a survey for the National Indian Child Welfare Association (NICWA) and the Casey Family Foundation.

We are trying to find out how information on Child Abuse and Neglect is collected at the tribal and state levels. We want to help Indian (Native) tribes (nations) to take control of their own data systems, and to best serve their own children.

I have a survey which will take about 15 minutes to complete. Your tribal leaders have already received information about the survey from NICWA.

Your answers will be completely confidential and anonymous. We are putting code numbers on each survey without the tribe's name so that the data will not be directly linked to you or to your tribe (nation). Your name and the name of your tribe will not appear in any of this data.

We will send a copy of the report to anyone who we have interviewed.

BEGIN SURVEY

GROUP #

CASE #

Tribal Survey – Child Abuse/Neglect Data Project

1. Does the tribe have a tribal court that can handle reported cases of child abuse and or neglect?
 Yes
 No
Comments: _____
2. Does the tribe conduct its own CPS (Child Protective Services) investigations?
 Yes
 No IF NO: Who conducts CPS investigations for the tribe?
Comments: _____
3. Does the tribe have a CI (Criminal Investigator) to conduct an investigation of a reported case of child physical abuse when it is a felony?
 Yes
 No
Comments: _____
4. Does the tribe have a protocol for the investigation of reports of suspected child abuse and or neglect?
 Yes
 No
Comments: _____
5. Who provides police services to the tribe?
 BIA
 Tribe
 FBI
 County
 Other: (specify:) _____
6. Are CPS reports shared with Law Enforcement for purposes of prosecution?
 Yes
 No
Comments: _____
7. Does the tribe have a Child Protection Team (CPT) to advise on reports of suspected abuse and or neglect?
 Yes
 No
Comments: _____

IF YES ask the following:

List the different agencies who are represented on this team:

How often does the team meet? (Circle)

1x a week

1x a month

every two months

every three months

twice a year

once a year

8. Does the tribe have access to an IHS hospital or any other medical facility to perform examinations for children involved in suspected child abuse and neglect cases?

Yes

No IF NO, who provides medical care? _____

Comments: _____

9. Who provides social services to the tribe?

IHS

BIA

Tribe

State

County

10. Do others besides tribal staff investigate cases of child abuse and or neglect ?

Yes

No

IF YES ask the following:

a. What are these positions? (List)

b. Do they share the information they get with the tribe?

Yes

No

Comments: _____

11. What happens to information on child abuse and neglect cases that is obtained by the tribe?

a. Is it sent to another location?

Yes IF YES: Where is it sent? _____

No

Comments: _____

b. Does anyone enter this information into a computer for further analysis?

Yes IF YES, go to question c

No

Comments: _____

c. If yes, who maintains that computer information on child abuse/neglect? (tribe? state? other?)

Tribe

State

Other (specify) _____

12. Does the tribe share information on child abuse and/or neglect cases with any other agency?

Yes IF YES: Shared with: _____

No

Comments: _____

13. Is there a tribal/state agreement in place that defines the roles of the tribe and state?

Yes

No

IF YES: what areas does it cover?

14. How would you describe your professional relationship with state officials in terms of service delivery for tribal families and children?

a. Please rate this professional relationship on a scale from one to five, with 1 being "extremely negative relationship" and 5 being "Excellent relationship" (circle response).

1 _____ 2 _____ 3 _____ 4 _____ 5

Middle

Comments: _____

15. Is there any other information you would like to share with us to help make the reporting and investigation of child abuse and neglect cases easier for your tribe or nation?

16. What do you consider to be the strengths of your child abuse and/or neglect program?

17. If you were asked to list one major thing you would want to change in your child welfare system, what would it be?

Thank you for taking time to answer these questions. This information will be completely confidential, and your name or the name of your tribe will not be used in connection with these answers. If you would like to call me back later, my name is _____ and you can reach me at 207-780-5879.

State Worker Survey

Survey – Child Abuse/Neglect Data Project

Telephone Survey Introduction

STATE

READ TO PERSON WHO SUPERVISES CHILD PROTECTIVE WORK

Good Morning.

My name is _____. I am doing a survey for the National Indian Child Welfare Association (NICWA) and the Casey Family Foundation.

We are trying to find out how information on Child Abuse and Neglect is collected at the tribal and state levels.

I have a survey which will take about 15 minutes to complete. We are also surveying at least one Native American tribe/nation in your state and asking similar information.

Your answers will be completely confidential and anonymous. We are putting code numbers on each survey without the state's name so that the data will not be directly linked to you or to your state agency. Names of states or tribes will not appear in any material related to this study; we are only interested in nationwide trends.

We will be sending copies of the survey results to all of those we interview.

BEGIN SURVEY

Survey – Child Abuse/Neglect Data Project

STATE

1. Do most of the tribes in your state have a tribal court that can handle reported cases of child abuse and or neglect?
 Yes
 No
Comments: _____

2. Do most of the tribes conduct their own CPS (Child Protective Services) investigations?
 Yes
 No IF NO: Who conducts CPS investigations for the tribe?
Comments: _____

3. Do most of the tribes have a CI (Criminal Investigator) to conduct an investigation of a reported case of child physical abuse when it is a felony?
 Yes
 No
Comments: _____

4. Who provides police services to the tribes?
 BIA
 Tribe
 FBI
 County
 Other: (specify): _____

5. Who provides social services to the tribes?
 IHS
 BIA
 Tribe
 State
 County

6. Do others besides tribal staff investigate cases of child abuse and or neglect for Native children?
 Yes
 No
If yes, who are they?

Is there a different process for children living on or off the reservations?

Yes

No

If yes, what are the differences?

7. If STATE: does the state share child abuse/neglect information about tribal members with the tribe?

Yes

No

Comments: _____

8. Is information on child abuse and neglect cases collected by the State?

Yes

No

Comments: _____

Is it shared with: other state agency (specify)

federal agency (specify)

private agency

local agency (specify)

Comments: _____

b. Does the state enter it into a computerized record keeping system?

Yes

No

Comments: _____

c. If yes, who maintains that computerized record keeping system?

d. Is data for Native children handled differently than data for other groups?

Yes

No

If yes, what are the differences?

9. Is there a tribal/state agreement in place that defines the roles of the tribe and state?

Yes

No

IF YES: what areas does it cover?

10. How would you describe your professional relationship with tribes (Indian nations)?

Please rate this professional relationship on a scale from one to five with 1 being "Extremely negative relationship" and 5 being "Excellent relationship" (circle response).

1 _____ 2 _____ 3 _____ 4 _____ 5

Middle

Comments: _____

11. Is there any other information you would like to share with us to help make the Indian child abuse and neglect system work better?

Thank you for taking time to answer these questions. This information will be completely confidential, and your name or the name of your state will not be used in connection with these answers. If you would like to call me back later, my name is _____ and you can reach me at 207-780-5879.

Footnotes

¹ Although the intent of the Reorganization Act of 1934 was to assist the tribes in securing control of their own affairs, the type of government set up by them mirrored the non-Indian pattern of divided executive, legislative, and judicial authority, and was inappropriate for many Native groups.

² This compares to 35% of the tribes who said they do not do investigations. Within the same state, some of the tribes may and some may not do their own investigations; the 19% is based on responses from states in which none of the tribes do their own investigations.