



# **Child Abuse and Neglect and American Indians Overview and Policy Briefing**

## **Risk of Child Maltreatment in Indian Country**

Risk factors for child abuse and neglect have been widely researched in the general population, but little of this research is specific to Indian populations. Nonetheless, current studies have demonstrated correlations between increased risk for child abuse and neglect when families live in poverty, households have only one parent, alcohol and substance abuse are present, families are geographically isolated, and domestic violence occurs. We know from the U.S. Census and published research that disproportionately large numbers of Indian children experience factors that increase risk for child abuse and neglect and that these risk factors are prevalent in most tribal communities. Forty-five percent of Indian mothers have their first child when they are under the age of 20, compared to 24% for mothers of all races in the United States (Indian Health Service, 1997). Thirty-eight percent of Indian children ages 6 to 11 live below the poverty level, more than twice the number of the national average (18%) in the United States (Indian Health Service, 1997). The U.S. Bureau of the Census reported in 1993 that 34.2% of Indian households in the 25 largest Indian tribes were headed by a single parent. Earle and Cross (2001) found in their examination of existing data that there was more violence among Indian families, more abuse related to alcohol, and higher rates of public assistance in Indian families compared to White families.

Child neglect is serious, large scale, and persistent among Indian populations in the United States. NICWA estimates that neglect endangers American Indian children over four times more often than physical abuse and far more often results in fatalities. Indian children die almost three times more often of accidents than other children. In fact, according to the Indian Health Service (1990), the leading cause of death for Indian children under the age of 14 is accidents and the majority of these accidents are alcohol-related.

In a review of the literature, Paget, Phillip, and Abramczyk (1992) cited studies linking alcohol abuse as a consistent correlate with child neglect in Indian families. While several authors have speculated about the influence of boarding schools, cultural identification, or extended family supports, none of these ideas have been tested (Nelson et al., 1994; Cross, 1986; Hull, 1982). Findings in a study by Nelson et al. (1994) confirmed that substance abuse and poverty were the two key contributing factors to child neglect in a sample of 77 Indian families.

Special stress or dysfunction, alcoholism, and/or any type of violence place American Indian children at risk of sexual abuse. Also, geographically or socially isolated families are at higher risk for child sexual abuse. Unrecognized and untreated child victims are at a high risk of growing up to become dysfunctional adults, and the repeated risk of sexual abuse greatly increases, generation after generation, within the community. The victims themselves become used to being victimized and see victimization as a fact of life.

Overall, the impact of child maltreatment in many Indian communities has been devastating. It has disrupted extended family support networks, broken up families through placements outside the community, and contributed to the cycle of violence and substance abuse that continues to hamper positive development.

## Child Abuse and Neglect Data on Tribal Children

Data on American Indian/Alaskan Native children who experience child abuse and neglect and who are in the foster care system is limited. Currently, there is no unified, national data system that tracks these statistics for children under tribal jurisdiction and care. This is in part due to tribal governments being left out of the federal child welfare programs, such as Title IV-E, where this data collection is required and reported to the federal government. According to experts in the field, reports of child abuse and neglect and foster care involving American Indian/Alaskan Native children are underreported in many state child welfare systems. Nonetheless, current data for tribal children in state care does provide some understanding of the experiences of American Indian/Alaskan Native children and their families.

Child Abuse and Neglect. The National Child Abuse and Neglect Data System (NCANDS) provides information on only those American Indian/Alaskan Native families and children who are reported to state child protection authorities, whose cases are investigated by state child protective service systems, and who self-identify as American Indian/Alaskan Native. NCANDS does not include American Indian/Alaskan Native children who come to the attention of and are served by tribal child welfare systems. It is estimated that 40 percent of all cases of child abuse and neglect among AI/AN children are not reported to the NCANDS (Earle & Cross, 2001). The limited data that are available indicate that:

- In 2005 American Indian/Alaskan Native children experienced a rate of child abuse and neglect of 16.5 per 1,000 American Indian/Alaskan Native children. This rate compares to 19.5 for African American children, 16.1 for Pacific Islander children, 10.8 for White children, and 10.7 for Hispanic children (US Department of Health and Human Services, 2007).
- In 2005 American Indian/Alaskan Native children were more likely than children of other races/ethnicities to be confirmed as victims of neglect (65.5 percent) and were least likely to be confirmed as victims of physical abuse (7.3 percent) (US Department of Health and Human Services, 2007).
- American Indian/Alaskan Native children are over-represented in the population of child maltreatment victims, at more than 1.6 times the expected level, with the highest rates of overrepresentation in states that have larger American Indian/Alaskan Native populations (Maple & Hay, 2004).

Nationally, American Indian/Alaskan Native children are overrepresented in foster care – at more than 1.6 times the expected level – and are overrepresented among the children in foster care who are awaiting adoption – at two to four times the expected level (Maple & Hay, 2004). American Indian/Alaskan Native children are even more significantly overrepresented in foster care in a number of states with higher American Indian/Alaskan Native populations.

These statistics illustrate that levels of reported abuse and neglect, which can lead to foster care placement, are well above national averages. This demonstrates the need for Congress to ensure that there are adequate resources available to front line tribal programs to effectively reduce the incidence and address the needs of these children.

## Overlap in Data Collection from Tribal Communities

Although NCANDS is the primary source of data on the abuse and neglect of children, there are a few other sources of data for American Indian/Alaska Native children. A comparison of two of these sources is instructive as to the accuracy of abuse and neglect data from Indian Country. In 1999, data on Indian child abuse and neglect were available from three states through two different sources: the Western Regional Office of the BIA and the DHHS National Child Abuse and Neglect Data System. The following charts compare the numbers of cases and the rates of abuse and neglect from three states reported by these two federal agencies.

Figure 1: Number of Substantiated Cases of CA/N for American Indian Children 1999

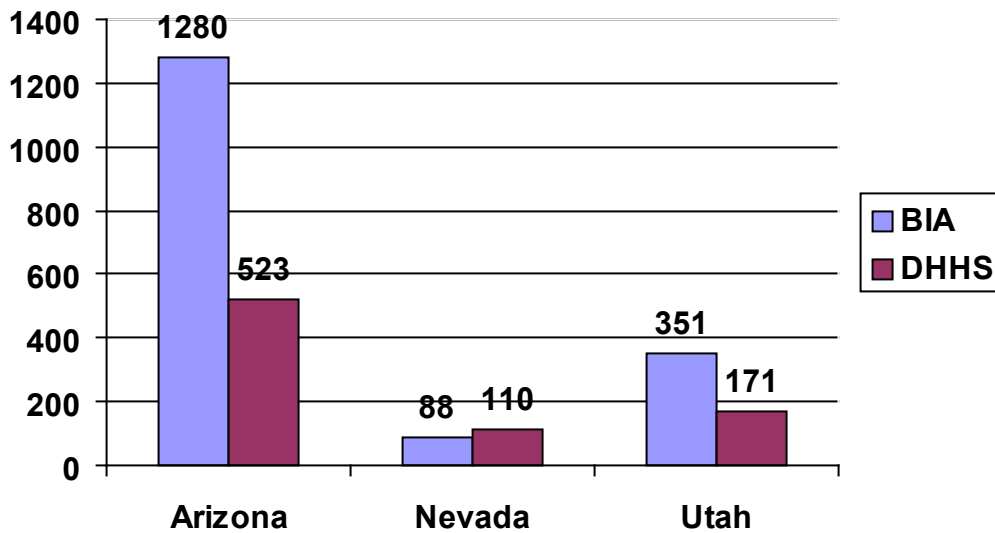


Figure 1 shows the numbers of substantiated cases of American Indian/Alaska Native child abuse or neglect reported by the states of Arizona, Nevada, and Utah in 1999. As this figure shows, the numbers differ dramatically in Arizona, somewhat in Utah, and to some extent in Nevada. There is no way to determine if information from the two sources is separate or overlapping. Adding together the figures for each state would lead to reports of higher rates of abuse and neglect much higher from Indian Country than those reported in current national statistics and featured in the reports of the U.S. DHHS, the CWLA, and the U.S. DOJ. If overlapping, there is no way to determine which cases have been reported by both the BIA and DHHS and, therefore, no way to remove or add cases to the official count. In addition, we do not know how these three states define abuse and neglect or whether their definitions differ to an extent that would preclude comparisons across states (Earle & Cross, 2001).

## **Federal Use of Data**

Data on Indian children, as previously stated, are collected primarily by DHHS as part of the national reporting system and to a lesser extent by the BIA, IHS, and the FBI. Yet, there is little reporting of these data back to Congress.

House and Senate subcommittees on interior appropriations would be the first to see child welfare data from Indian Country, since programs that fund tribal child abuse and neglect prevention primarily come from BIA administered programs. However, due to the administrative and jurisdictional issues mentioned above, the BIA usually provides very little descriptive data to the Senate or House subcommittees when they testify on their budget. The bottom line is that federal policymakers do not now have a very informed picture of what the issues and needs are in Indian Country.

Data from NCANDS are not presented to the subcommittees on interior appropriations, although they may be provided to other appropriation subcommittees (e.g., House Labor, Health and Human Services, and Education) that have jurisdiction over the Title IV-B and IV-E amendments to the Social Security Act. However, it is doubtful that Indian children are distinguished in the data.

## **The Child Abuse Prevention and Treatment Act**

During the 1960s and 1970s, the federal government recognized the need for uniform national policies to address child abuse and neglect (Helfer & Kempe, 1968), and policymakers began creating funding strategies to enforce those policies through the power of the purse strings. The Child Abuse Prevention and Treatment Act authorized grants to states to address child abuse issues with no regard for the welfare of tribal children who were not directly covered under this legislation.

The goal of CAPTA was two-fold: first, to protect children from harm through the identification, reporting and investigation of child abuse and neglect and second, to publish materials useful for persons working in the field through the research and compilation of information on child abuse and neglect. CAPTA made progress toward these goals through state grants to develop programs to identify and prevent child abuse and neglect; government-funded research to prevent and treat child abuse; the creation of the NCCANI; and state grants for personnel training and the funding of innovative programs to prevent and treat child maltreatment. Because of American Indian/Alaska Native tribes' sovereign status and the fact that they did not receive funding under CAPTA, CAPTA did not apply to American Indian/Alaska Native tribal governments (Cross et al., 2000; Earle & Cross, 2001). As a result, American Indian children do not receive the basic protections of CAPTA.

In 1988, the Prevention, Adoption, and Family Services Act (Pub. L. 100-294) amended CAPTA to establish a national data collection system to allow for the analysis of child abuse and neglect data. All states are required to report data to the system, known as the National Child Abuse and Neglect Data System (NCCANI, 2003). Again, because tribes did not receive these

grants, they were not required to report data to the system. As a result tribes have no consistent data regarding child abuse and neglect and federal policy makers have little data to inform decisions.

With a total fiscal year 2003 appropriation of \$89 million, tribes receive less than \$1 million only in the form of competitive discretionary grants. The bulk of this funding is under the Family Resource and Support Program, which has a 1% allocation that is shared between tribes and migrant populations. Only one grant is made annually to a tribe, tribal consortia, or Alaska Native Corporations under this program. In fiscal year 2003, approximately 33% of the CAPTA appropriation was for discretionary research and demonstration grants, none of which were awarded to tribes. CAPTA Basic Grants, which are allocated to states on a formula basis, amounted to \$21.9 million in fiscal year 2003. Again, none of this funding went to tribes. CAPTA, while a modest source of funding even for states, is not reaching tribal children. As a result tribes are largely unable to operate prevention programs.

## **Indian Child Protection and Family Violence Prevention Act**

In 1990, Congress passed the Indian Child Protection and Family Violence Prevention Act (ICPFVPA) in response to revelations of child sexual abuse perpetrated by federal employees in Bureau of Indian Affairs facilities. However, the law was passed with little consultation with Indian tribes and without regard to existing federal policy under CAPTA. ICPFVPA established federal investigation and reporting requirements for American Indian/Alaska Native communities. Despite provisions in the law, Hinkle (2003) notes, “no national registry [for offenders was] established. No database. No toll-free number was ever connected . . . Tougher background checks were put in place, but . . . years went by before agency officials . . . applied the new standards.” Although it was estimated that \$120 million was required to implement the act, Congress failed to appropriate any funding. In fiscal year 1992, only \$1.5 million was appropriated, barely more than 1% of the amount necessary for implementation.<sup>1</sup> Since then, there has never been an appropriation of more than \$1.5 million annually (K. Funk, personal communication, August 16, 2004). In 1997, only \$5 million was appropriated, which was only 4% of the amount necessary for implementation. Since then, there has never been an appropriation of more than \$5 million annually (Hinkle, 2003). Furthermore, program regulations focused almost entirely on criminal background checks, ignoring many key issues for tribes that were developing child abuse and neglect prevention and treatment programs for the first time.

Despite advocacy efforts by Indian organizations the competition for funding in the BIA and IHS has been too great for child abuse to even make it into any administration’s budget since its passage.

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1 This statement, based on Funk’s August 2004 in-depth examination of ICPFVPA funding, contradicts Hinkle’s (2003) earlier statement on ICPFVPA funding. Funk’s analysis tracked funding authorized under the ICPFVPA, beginning in fiscal year 1992, the first year of authorized appropriations. She noted that between fiscal year 1992 and fiscal year 1996, Congress never appropriated more than \$1.5 million in ICPFVPA. Moreover, in fiscal year 1996, ICPFVPA funding was combined with BIA Social Services, making it impossible to specifically identify ICPFVPA funding. Even after combining the two line items, appropriations never even approached \$2 million (K. Funk, personal communication, August 16, 2004).

## **Children's Trust Funds**

Through the advocacy efforts of many organizations in the 1980s, a national system of state children's trust funds dedicated to child abuse prevention was developed. These trust funds have become one of the key funding sources for prevention efforts in each state. All states have established trust funds, which raise public and private prevention funding through a variety of methods including partnerships with private foundations, private donors, and state tax return donations (check-offs) to name a few. These trust funds together raise \$100 million dollars annually through their fund-raising efforts and leverage even more. They also have been effective at keeping prevention as a priority of the communities, policymakers, and service providers. Additionally, these trust funds are a strong voice for prevention efforts, and millions of non-Indian families have benefited from them, as these trust funds have supported the development and testing of many forms of prevention. The federal government, under the CAPTA, provides a limited match to states' efforts in preventing child abuse. American Indian tribes are not eligible for these matching funds and, under the legislation, are not recognized as governments providing such services. While tribes, like local jurisdictions or non-profits, may apply for children's trust fund dollars in their respective state, only one tribe has ever receive such state children's trust fund grant.

## **National Resource Centers and Clearinghouses**

Tribal communities need technical assistance and training resources to effectively engage in prevention efforts. While some tribes have developed prevention strategies, this information is not widely available to other tribes who may want to learn from and replicate them. Historically, technical assistance that has been available was created with mainstream communities in mind and had limited application to diverse tribal communities. Some of the National Resource Centers in Child Welfare have tried to meet some of the need, but are not well equipped to provide ongoing technical assistance in Indian Country and have often not utilized tribal people in the development of their trainings and technical assistance. In particular, the National Resource Center on Child Maltreatment has failed to be responsive to tribal issues since its development despite a requirement for such expertise by the funding agency.

The National Clearinghouse on Child Abuse and Neglect has minimal information specific to tribal needs. No Indian-specific services have been offered by the Clearinghouse since the 1998. Without a legislative mandate, its capacity to deal with tribal needs is limited.

Tribally specific legislation, including the Indian Child Protection and Family Violence Prevention Act, should, but does not remedy this situation. CPFVPA authorizes the establishment of Indian Child Resource and Family Services Centers and Indian Child Protection and Family Violence Prevention Programs, which include technical assistance and prevention activities respectively. Unfortunately, neither program has received appropriations from Congress.

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# NICWA

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*Protecting our children • Preserving our culture*

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