



**NICWA**  
National Indian Child Welfare Association  
*Protecting our children • Preserving our culture*

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**TESTIMONY OF THE NATIONAL INDIAN CHILD WELFARE  
ASSOCIATION AS PRESENTED BY CONNIE BEAR KING BEFORE  
THE SENATE FINANCE COMMITTEE REGARDING**

**KEEPING AMERICA'S PROMISE: HEALTH CARE AND CHILD  
WELFARE FOR NATIVE AMERICANS**

**MARCH 22, 2007**

The National Indian Child Welfare Association submits this statement on improving child welfare services to Native American children and families. Our constituents, tribal children and families, face many health challenges and child abuse and neglect is certainly one of the most critical. Our testimony will focus on the risk factors that exist in tribal communities, the current state of tribal child welfare service delivery systems, and two important solutions that can improve outcomes for Native American children and families. At the end of our testimony is a brief description of the work of our organization.

### **Native American Children and Families At-Risk**

Native American children and families are disproportionately represented in the child welfare system, particularly the foster care system. Nationally, Native American children represent over two percent of the state foster care population while only representing one percent of the overall population in the United States (National Data Analysis System, 2004). This data is reported from state systems. This statistic is even more significant when you factor in the exclusion of the numbers of Native American children in tribal foster care systems. Data for Native American children in tribal foster care systems is not available in a national aggregate total, but estimates have placed the rate in several larger tribal foster care systems at or above the national figures.

Other known risk factors for child abuse and neglect include poverty, unemployment, alcohol and substance abuse, family structure, and domestic violence. In Native American communities the rates of these risk factors are very high and do contribute to Native American children being placed in out-of-home care in high numbers.

Although these rates are very high great progress is being made by tribal governments to confront these issues. The strengths of tribal governments are their knowledge and skills in developing long term solutions that will reduce or eliminate these community problems. New models for research, service delivery, community involvement and prevention are developing in tribal communities every year. The process and outcomes from these models are increasingly being disseminated to other tribes and when possible they are being adapted for implementation in other tribal communities too. Even

with these great strides, Native Americans still lag behind the general population on all of these important indicators.

**Poverty and Unemployment** - Overall poverty rates in tribal communities have been very high for many years. While the overall poverty rate in the United States is 12.4 %, the poverty rate for Native American people nationally is over double that rate at 25.7 % (U.S. Department of Commerce, 2006).

Related to poverty rates is unemployment. The majority of tribal communities have little opportunity to establish viable economies that are diversified and can provide gainful employment for their citizens. Other than the few tribes that have benefited from tribal gaming or natural resource dividends, most tribal governments have little ability to raise significant amounts of tribal revenue. According to the 2000 United States Census, the unemployment rates among Native American people nationally was 15% compared to 6% for the general population (U.S. Department of Commerce, 2003). Family poverty levels are also high with almost 26% of Native American families, with children under the age of 18, from the largest 25 tribes living in poverty compared to 12% for the general population. The unemployment rate and poverty rates reported by the Bureau of Indian Affairs for Indian reservation areas are much higher than those reported by the Commerce Department. For instance, the Bureau of Indian Affairs 2003 Labor Force report shows a national average of 49% unemployment for Indian people living on or near reservations. Of those employed 32% are still living below the poverty level.

**Alcohol and Substance Abuse** - Alcohol and substance abuse is prevalent in many tribal communities. NICWA estimates that 85% of child welfare cases involving Native American families involve some form of alcohol or substance abuse. Nationally it is estimated that approximately 65% of all child welfare cases involve alcohol or substance abuse. Methamphetamine abuse is rising in many tribal areas and has jumped to the second most reported substance identified during treatment admissions among pregnant Native American women as reported by state agencies (Substance Abuse and Mental Health Services Administration, 2003).

**Family Structure** - Family structure issues that correlate to higher risk for child abuse and neglect are primarily related to the rate of single head of

household figures. Families that only have one parent present in the home experience increased stress and often have fewer resources to call upon to help address challenges. Just over 12% of all families are headed by a female householder with no male present (U.S. Department of Commerce, 2006). For Native American families from the largest 25 tribes that figure is 26%.

**Domestic Violence** - Domestic violence in Indian Country is difficult to quantify, but studies done since the 1990's and local data have suggested that the rate of domestic violence among Native American women is approximately twice that of the general population. Congress recognized this and has, in fact allocated ten percent of Violence Against Women Act grants for tribes. When domestic violence occurs, the victim is less likely to be able to address the immediate needs of her children due to the trauma of the assault. In addition, domestic violence can create a higher risk for child welfare authorities to become involved, especially if it is determined that the children are experiencing harm or are in an unsafe situation.

### **Child Welfare Services to Native American Children and Families**

As tribal governments and communities try to address the risk factors for children being placed in out of home care they share in the consequences from this risk as families are separated and communities struggle to maintain their identity and shape their future. Reducing the number of Native American children and families in the child welfare system will require solutions that utilize the extended family more and increase the ability of tribal governments to contribute their knowledge and skills.

Until 1978, tribal children were removed from their families in shocking numbers, many times not because the removal was necessary, but because of the lack of understanding and bias private and public agencies had regarding tribal families. Prior to 1980, it was estimated that 25% of all Native American children were in some form of substitute care, most often away from their tribal communities and extended families (Select Committee on Indian Affairs, 1977). During this same period, most of the child welfare services that were provided to tribal children and families came not from tribal government programs, but from federal Bureau of Indian Affairs (BIA) programs located on tribal lands or by state child welfare agencies. Tribes had very

little say in how these programs were designed or operated, and few tribal juvenile courts were in operation.

During this same time, tribal governments also had access to very few federal funding sources to combat this critical community health issue. In most cases, tribal governments only had access to Title IV-B Child Welfare Services funding, which resulted in grants of less than \$10,000 for the vast majority of tribes or BIA Social Services funding, which was discretionary and not available to large numbers of tribes across the United States. This resulted in tribes most often not being involved in tribal child welfare matters and other agencies deciding how and when their children and families should be served. This created a negative sense of dependency upon these outside agencies and was a barrier to tribal governments and their communities to develop a sense of ownership over these problems and exercise their authority and responsibility to their children and families.

With the passage of ICWA in late 1978, Congress set out to reduce the number of Native American children and families that were removed from their homes by implementing new standards on how public and private agencies worked with this population. In addition, Congress also made it clear that tribal governments were in the best position to provide child welfare services to their members by acknowledging tribal authority to be involved in child welfare matters concerning their member children and families, and providing small grants (ICWA) to support tribal child welfare programs. Congress also acknowledged that tribal governments should be eligible to receive funding from other federal sources to support child welfare services. New funding was made available to tribes to exercise their authority and responsibility in child welfare. However, the Indian Child Welfare Act grant program was discretionary and never funded above \$13 million until 1993. This only allowed for a competitive grants process in which the majority of tribes never received any grant funds.

Today tribes receive direct federal funding from Title IV-B Child Welfare Services and Promoting Safe and Stable Families programs. The grant size has not increased significantly under Title IV-B Child Welfare Services; most tribes are still receiving grants under \$10,000 with the annual outlay to tribes at about \$5 million per year. Under the Title IV-B Promoting Safe and Stable Families program there are now approximately 120 tribal grantees

eligible for funding, up from 89 in 2005. This increase in eligible grantees comes after Congress increased the tribal set-asides to 3% under both the mandatory and discretionary programs under this law as it was reauthorized in 2006. This has the total amount of funding tribes are eligible for at approximately \$12 million annually.

The ICWA grant program is still a discretionary program, but in 1993 it became available to all tribes with the majority of grants being just under \$50,000 a year. Some tribes are eligible for BIA Social Services funding, which can support child welfare services, but the list of tribes that are eligible for this discretionary program does not include over 200 tribes nationally. The funds are also not available to support administration or training costs associated with foster care or adoption services, like those reimbursed under Title IV-E.

While the amounts and number of federal funding sources available to tribes has increased some since 1978 tribes still are considerably behind where states are in their ability to address child abuse and neglect. Parity for tribes regarding the amounts and types of federal funding sources available to states has still not been achieved. While more tribes are eligible for federal funding sources, such as Title IV-B, no tribes are eligible for the larger federal child welfare related funding sources such as Title IV-E Foster Care and Adoption Assistance and Title XX Social Services Block Grant. The small number of tribes that have been able to access some of these federal child welfare program funds have only been able to do so because the state they reside in has passed through a portion of these funds, which is not a mandatory requirement for states.

What tribes do not have access to is a stable source of non-discretionary funding to support the vulnerable children that need foster care or adoption assistance services, such as in the Title IV-E program. Without this funding, tribes are forced either place children in unsubsidized homes, which can lead to instability and failure of the placement, or turn them over to state agencies whenever possible, which burdens state governments and reduces the chance that tribal children and families will have access to services that are specifically geared to their needs. As Arlene Templer, director of human resource development for the Salish and Kootenai Tribes, describes it, without direct funding her tribe cannot be guaranteed they will be able to

provide every child that needs foster care a safe and stable home. Even with a Title IV-E agreement with the State of Montana, she notes that she is restricted from seeking IV-E reimbursement for tribal children that come home to be cared for by relatives based upon restrictions the state has included in their agreement with the tribe.

### **Title IV-E Foster Care and Adoption Assistance Access for Tribes**

Former representative Bill Frenzel, in his role as chair of the Pew Commission on Children in Foster Care, said in his introductory remarks in releasing the 2004 Pew Commission report that "in the name of justice" we need to provide Title IV-E services to Indian children. The Pew Commission recommended, as do we, that tribes be authorized to directly administer this \$7 billion federal entitlement program which is designed to protect and provide permanent loving and safe homes for abused children.

We are appreciative of the support of the Senate Finance Committee to amend the Title IV-E statute to put this program on a government-to-government basis with regard to tribes. Over the course of the last few Congresses, Senators Daschle and Smith—both members of the Finance Committee—introduced legislation to accomplish this goal. The Finance Committee, in approving its welfare reform reauthorization bills in the 108<sup>th</sup> and 109<sup>th</sup> Congresses, included provisions to allow tribes to apply to Department of Health and Human Services to directly administer the Title IV-E program. We thank Senators Baucus and Grassley for inclusion of the tribal IV-E provisions in those bills. Unfortunately, those bills were not enacted into law.

Thank you also for the recommendation in this year's Finance Committee's "Views and Estimates" letter to the Budget Committee that the Title IV-E Foster Care and Adoption Assistance law be amended to provide direct access to this program for tribes.

Tribal governments, certainly no less than state governments, have the legal and moral responsibility to provide protection and permanency for the children under their jurisdiction who have been subjected to abuse and neglect. But the Title IV-E law extends only to state governments and to entities with which states have agreements. There are some 70 tribal-state Title IV-E agreements, many of which do not afford the full range of services

to children in tribal custody that children in state custody receive. Many such agreements provide only the maintenance payment for the foster home, but not the training, administrative and other court-related work, and data collection that states receive. And most tribes have no access to the Title IV-E program at all. States remain the grantee under tribal-state Title IV-E agreements and thus are liable for all expenditures. In some cases states will not allow Title IV-E funding to be used for foster homes that are tribally, rather than state, licensed.

Direct access to the Title IV-E program for tribes would provide those governments with much needed funding for their child welfare systems, would improve tribes' ability to recruit and retain Indian foster and adoptive homes, would provide improved and greater permanency services for tribal children, and would provide better support both in terms of training and subsidies to tribal foster care and adoptive families. We also support continued authority to continue existing tribal-state IV-E agreements and to establish such agreements in the future.

### **Relatives as Caregivers for Native American Children**

In addition to providing direct funding to tribes under the Title IV-E program, we urge Congress to make available resources to relatives who are primary caregivers for members of their family. Some states have child welfare waivers to provide funding for subsidized guardianship. This needs to be made available to all states and tribes. Traditionally and today the extended family system is the core of a natural helping system in tribal communities that protected children and participated in their upbringing. Even though this system was under attack by intrusive federal policies and forced placement of Native American children in boarding schools into the 1900's, the extended family still plays a critical role in tribal communities everywhere in helping care for Native American children. Indian grandparents comprise the largest percentage of any racial/ethnic group with regard to being primary caregivers for their grandchildren. Of households with grandparents living with grandchildren, 56% of those grandparents were the primary caregiver for their grandchildren - this compares with a national rate of 42% (Department of Commerce, 2006). Regina Littlebeaver, director of human services for the Winnebago Tribe on the Nebraska and Iowa border, says the first place she looks for a foster care or permanent placement is with a



relative. Going outside the child's extended family systems is uncommon and risks alienating the child, their family, and other community members in the healing process. She also describes her experience in working with relative care providers who live off the reservation in Iowa.

*"It was almost unimaginable to not consider our relatives first when a child needed a foster care home. Typically, the extended family would come together with the tribe to identify someone who could care for the child. Our greatest barrier was not finding an appropriate relative, but trying to find a way for the local child welfare agency to support these relatives who were caring for these Native American children."*

While Title IV-E and other federal policies encourage the use of relatives, many times the only permanent placement option provided to relatives is adoption. This pits family members against each other and often results in further deteriorating family relationships. This has a profound affect upon the children in most cases. If family members will not adopt and there is no subsidized guardianship program available to them, the placement agency will most likely move the child to a non-relative home that will adopt. This severs the child's important family connections and leaves the family extremely distressed.

Where subsidized guardianship placements have been available tribal children have benefited greatly. Relatives that could not afford to care for additional children in their home were supported and Native American children were given the opportunity to retain and nurture those important family connections.

States, such as Iowa and Montana, that have child welfare waivers to offer subsidized guardianship placements and have included tribes have found that these placements are a very important permanent placement option for relative caregivers. However, federal requirements for the waivers and the temporary nature of the waiver have created some concerns about how these will work with Native American families. Arlene Templer, director of human resource development for the Salish and Kootenai Tribes, described a situation where a tribal member aunt was caring for a niece and nephew in her home. She wanted to provide a permanent placement for the relative children and was excited

about the possibility of the guardianship program in Montana. However, when Arlene applied for her to be a part of the program they were told that this aunt would be in the "control group" and therefore would not receive any subsidy and limited support services if they chose a guardianship placement. The aunt said she could not continue the placement without a subsidy and support services, so she had to return the children to a foster care placement where Arlene says they will likely stay until they age out of foster care. Between 2001 and 2003 the national average for the number of foster care children living with relative caregivers was 23%. In several states where federally-recognized tribes reside this rate was below the national average - Alabama (13%), Colorado (12%), Idaho (14%), Iowa (1%), Kansas (14%), Maine (17%), Massachusetts (17%), Minnesota (18%), Mississippi (19%), Nebraska (12%), New Mexico (20%), New York (17%), North Carolina (19%), North Dakota (14%), Oregon (20%), South Carolina (5%), Texas (17%), Utah (4%) and Wyoming (13%). While no figures were available specific to Native American children in relative placement these figures demonstrate the challenges that many states have to utilize relative placements.

This example illustrates the need for ongoing and reliable support for relative caregivers. Not just for the caregivers themselves, but the best interests of the children they are caring for too. Many other tribal governments are interested in this permanency option and would welcome the opportunity to offer this to their community caregivers.

## **Conclusion**

In tribal communities, family relationships are the most important relationships people will ever have. The sense of responsibility to those family members and their children within the community is enormous. Tribal governments have waited for the day when they will be able to fulfill their responsibility to their children too, and all they need are the resources and opportunities to exercise this responsibility and ensure that all the tribal children and families under their care are provided the supports they need. By providing greater opportunities for tribes to be able to utilize their network of extended family members and providing direct funding from this nation's most prominent child welfare funding source, that promise can be kept. Please join us in bridging that divide. Thank you.

## REFERENCES

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## **The National Indian Child Welfare Association**

The National Indian Child Welfare Association (NICWA) is a national, private non-profit organization dedicated to the well-being of American Indian children and families. We are the most comprehensive source of information on American Indian child welfare and work on behalf of Indian children and families. NICWA services include (1) professional training for tribal and urban Indian child welfare and mental health professionals; (2) consultation on child welfare and mental health program development; (3) facilitation of child abuse prevention efforts in tribal communities; (4) analysis and dissemination of public policy information that impacts Indian children and families; (5) development and dissemination of contemporary research specific to Native populations; and (6) assisting state, federal, and private agencies to improve the effectiveness of their services to Indian children and families.

In order to provide the best services possible to Indian children and families, NICWA has established mutually beneficial partnerships with agencies that promote effective child welfare and mental health services for children (e.g., Substance Abuse and Mental Health Services Administration; Indian Health Services; Administration for Children, Youth and Families; National Congress of American Indians; Federation of Families for Children's Mental Health; and the Child Welfare League of America).

If you have questions regarding this testimony or other public policy issues impacting Indian children and families, please contact:

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